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PASSING FOR CHRISTIAN DURING THE HOLOCAUST: A NEW LOOK AT RABBI EPHRAIM OSHRY'S RESPONSA

I - The Obituary¹

Rabbi Ephraim Oshry (1914 – 2003) served for fifty years as the rabbi of Beth Hamedrash Hagadol of New York City's Lower East Side – from 1952 until shortly before his passing. *The New York Times* included the following information in his obituary:

Rabbi Ephraim Oshry, whose interpretations of religious law helped sustain Lithuanian Jews during Nazi occupation and were buried in tin cans for retrieval and publication after the Holocaust, died on Sept. 28 at Mount Sinai Hospital in Manhattan. He was 89.

Rabbi Oshry was a young rabbinical scholar in Kaunas, the second-largest city in Lithuania, when the Nazis invaded on June 23, 1941.

After the city's Jews were herded into the ghetto, the Nazis made him custodian of the warehouse where Jewish books were stored for a planned exhibit of 'artifacts of the extinct Jewish race.' Rabbi Oshry used them to make interpretations of religious law, traditionally called responsa, to help people continue to live as Jews in seemingly impossible circumstances....

Indeed, he saw the persistence of Jewish life as the highest kind of resistance against the Nazis. Many Jews might not survive, he said, but Judaism would.

"One resists with a gun," the rabbi said in an interview with *The New York Times* in 1975, "another with his soul."

To offer a glimpse into the heart-rending matters R. Oshry was forced to address, the obituary also listed summations of several of his Holocaust-era

¹ I thank *Tradition's* editorial staff for their helpful suggestions, R. Dr. Jacob J. Schacter for his important comments on earlier versions of this article, and my father – Mr. U.H. Males – for his invaluable editing assistance.

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rulings.² Prominently featured in that list of responsa is one in which “he determined that even to save his life, a Jew could not buy a Christian baptism certificate.”³

II - The Baptismal Certificate Responsum

The baptismal certificate responsum⁴ to which *The New York Times* referred⁵ appears in *She'eilot u-Teshuvot mi-Ma'amakim* 1:15. It is listed as question 33 in “Responsa From The Holocaust”⁶ where it is translated and abridged as follows:

Question: On the first of Nissan 5702 – March 19, 1942 – I was asked whether one could purchase a baptismal certificate which – if he could escape into the forest – would enable him to join the partisans.

Response: A baptismal certificate has only one connotation: that the owner of this certificate has, G-d forbid, forsaken his Creator and denied his people, the people G-d chose as His treasure. It is absolutely forbidden for a Jew to use one even though he believes wholeheartedly in the Rock of Israel and its Redeemer. He is commanded to sanctify G-d. I concluded that there was absolutely no way to allow using a baptismal certificate, even if one expected to save his life with it.

Unfortunately, the matter of concealing one’s Jewish identity in the face of persecution is a well-documented feature in Jewish history. Halakhic

² R. Oshry went on to publish five volumes of his Holocaust-Era responsa entitled *She'eilot u-Teshuvot mi-Ma'amakim* (“Responsa from the Depths” – an allusion to Psalm 130). The five volumes were published in New York in 1959, 1963, 1968, 1975, and 1979, respectively. A highly condensed one volume English language version of R. Oshry’s work was later published as *Responsa From The Holocaust* (New York: Judaica Press, Inc., 1983).

³ Douglas Martin, “Ephraim Oshry, 89, a Scholar in Secret During the Holocaust, Dies,” *The New York Times*, October 5, 2003, Obituaries.

⁴ Two more places where this responsum is cited include: A) a lesson plan on Holocaust responsa available on Yad Vashem’s website: <http://www1.yadvashem.org/download/education/conf/KayeResponsa.pdf>, and B) this OU publication: <http://www.ou.org/torah/tt/5765/miketz65/featuretidbit.htm>.

⁵ As referenced in the above-cited obituary, *The New York Times* interviewed R. Oshry for an article on Jewish responsa in 1975. R. Oshry’s baptismal certificate responsum also caught the attention of the author of that article who wrote: “R. Oshry usually opts for leniency. But he ruled that even to save his life a Jew should not buy a baptismal certificate.” See Shenker, I. L. (1975, May 5). Responsa: The Law as Seen By Rabbis for 1,000 Years. *The New York Times*, International Section, p. 33. (As an aside, that article also contains a short – but fascinating – interview with R. Moshe Feinstein.)

⁶ See n. 2.

literature deals extensively with the circumstances under which one must forfeit his/her life rather than renounce the Jewish faith.

In his unabridged responsum, R. Oshry based his restrictive ruling primarily on a teaching of Maimonides found in his *Sefer ha-Mitsvot* (Positive Commandment 9):

The ninth *Mitsvah* is that we are commanded to sanctify God's name. As He stated (Leviticus 22:32), "that I may be sanctified amidst the Jewish people." ...And even if a powerful oppressor were to come upon us and ask us to deny our exalted God, we may not listen to him. Instead, we must submit ourselves to death, and not deceive him to think that we have denied Him – even if we still believe in Him in our hearts.

In this ruling, Maimonides clearly stated that one could not attempt to save his/her life by deceiving his/her oppressors into believing he/she had denied God and forsaken the Jewish faith.

III - The Christian Identity Papers Responsum

R. Oshry's ruling which forbade one to pose as a Christian via a baptismal certificate — even in order to save one's life — is consistent with another one of his Holocaust-era responsa. In *She'eilot u-Teshuvot mi-Ma'amakim* 4:12⁷, an individual who had purchased false papers indicating that he and his family were all Christians by birth turned to R. Oshry for guidance. After the war ended, the man feared that he was considered an apostate for having purchased those potentially life-saving papers. R. Oshry answered that his questioner was not considered an apostate and required no penance for his actions. This was because A) his purchase of those Christian identity papers was never known to the Jewish public,⁸ and that B) he never ended up needing to make use of those papers. R. Oshry's answer implies that what his questioner had done was in fact potentially problematic. If his purchase of those Christian identity papers had been known to the Jewish public, and if he had ended up using those fraudulent documents, he would have been considered an apostate in need of penance for having 'declared' himself a Christian.

⁷ Listed as question 105 in "Responsa From The Holocaust". See n. 2.

⁸ R. Oshry explained that since his questioner did not obtain those identity papers before ten adult Jewish men, his actions were not considered 'public' as far as Halakhah was concerned.

IV - The Passport Responsum

R. Oshry's restrictive rulings in both of the above cases seem to be at serious odds with another one of his rulings involving a Jew who wanted to save his life by posing as a Christian. R. Oshry dealt with a third related life-and-death question in *She'eilot u-Teshuvot mi-Ma'amakim* 5:3.⁹

A German Jew whose name was not Jewish-sounding at all lived in the Kovno Ghetto. This person had an official German passport issued to him prior to the outbreak of the war. As life in the ghetto grew worse, this Jewish man planned to escape and hide among the gentiles. He asked R. Oshry if Jewish law allowed him to maximize the effectiveness of his passport by writing the letters "R.C." in it. Those letters would indicate that the passport's bearer was a Roman Catholic – a gentile by birth.¹⁰ Since writing those two letters might indicate that he had accepted a deity other than the God of the Jews, R. Oshry's questioner sought assurance that this was in fact halakhically permissible.

R. Oshry's lengthy response to this question can be summarized as follows:¹¹

Based on Talmudic and early rabbinic rulings, the following guidelines can be found in the *Shulhan Arukh* and *Ramo*:¹²

It is forbidden for a Jew to declare that he is an idolater¹³ so that he will not be killed. However, in times of religious persecution, one is permitted to change his clothing so that he will not be recognized as a Jew – since he has not declared that he is an idolater. [**Ramo**] He is even permitted to wear clothing containing forbidden mixtures of wool and linen. Even though it is forbidden for a Jew to clearly state that he is an idolater, it is permitted for him to make an ambiguous statement that can be understood in more than one way, so that the idolaters will think that

⁹ A translated and abridged version appears as question 58 in "Responsa From The Holocaust". See n. 2.

¹⁰ R. Oshry used the Hebrew letters *reish* and *kuf*, which I have translated into English as 'R.C.' for Roman Catholic. The actual letters in question, however, must have been "R.K." -- as "*Römisch-Katholisch*" is German for "Roman Catholic."

¹¹ R. Oshry wrote nearly thirteen pages of complex argumentation and reasoning in responding to this question. I thank R. Barry Nussbaum of Harrisburg, PA for thoroughly studying this responsum with me during Hurricane Sandy on October 29-30, 2012.

¹² *Yoreh De'ah* 157:2.

¹³ The matter of whether or not Christianity (in any/all of its many forms) is classified as idolatrous in the eyes of Halakha is quite complex. For simplicity's sake, this article classifies all forms of Christianity as idolatrous – as it is clear from R. Oshry's responsa (which are the subject of this article) that this was the position he followed.

the Jew declared himself to be an idolater – when in fact, the Jew meant something else. Similarly, if he is able to deceive them, so that they believe he is an idolater, it is permitted...

What seems to emerge from the *Shulhan Arukh* and *Ramo* is that during times of religious persecution, a Jew cannot openly declare him/herself to be an idolater – even if such a declaration would be life-saving. However, in order to save his/her life, a Jew can make use of any number of subterfuges so that others will incorrectly believe that he/she is, in fact, an idolater.

R. Oshry wonders how *Ramo* could have issued a ruling which clearly contradicts the previously mentioned ruling of Maimonides, who preceded *Ramo* by hundreds of years. If Maimonides ruled that a Jew must forfeit his/her life rather than make a statement that would fool his persecutors into thinking he/she had renounced Judaism and accepted idolatry, how could *Ramo* rule that making such a statement was permissible so long as it was ambiguous?!

R. Oshry answers that there are two types of deceptive statements one can make: A) a deceptive statement which has but one meaning, and B) a deceptive statement which can be understood in more than one way. Accordingly, Maimonides and *Ramo* are in perfect agreement. Under no circumstance could a Jew faced with the threat of death or apostasy save his/her life by making the first type of deceptive statement. However, both Maimonides and *Ramo* agree that one could save his/her life by making the second type of deceptive statement – that is, an ambiguous one.

That being the case, R. Oshry wondered what *Ramo* was adding with his next statement of:

Similarly, if he is able to deceive them, so that they believe he is an idolater, it is permitted . . .

In his previous statement, *Ramo* had already ruled that one could save his/her life using an ambiguous, deceptive statement. As such, what was *Ramo* adding in his subsequent ruling? This second statement of *Ramo* prompted R. Oshry to develop a novel idea regarding the permissibility of saving one's life via a statement which indicated apostasy.

According to R. Oshry, until this last ruling of *Ramo*, the discussion in the *Shulhan Arukh* and *Ramo* regarding which verbal statements a Jew could make in order to save his/her life were limited to scenarios where the Jew's persecutor knew that he/she was, in fact, a Jew. One recognized as a Jew and given the awful choice of death or apostasy had extremely

limited options. Renouncing his/her Jewish faith outright and accepting an idolatrous one – even while remaining a loyal Jew at heart – was clearly forbidden. The only halakhic option for a Jew in such a scenario was to offer an ambiguous statement – one that his/her persecutors would understand as apostasy, while carrying a very different meaning for the Jew who uttered it.

What if, however, a Jew was not recognized as a Jew by his/her oppressors? What if he/she was seized and asked to state which faith community he/she belonged to? R. Oshry claimed this is precisely the case which *Ramo* is addressing in his final statement. In such a scenario, according to R. Oshry, *Ramo* is teaching us that there is no need for ambiguity at all. If a Jew is not recognized as such, and merely asked to identify his/her religious affiliation, in order to save his/her life that Jew can overtly identify him/herself as an idolater.

In R. Oshry's own words:¹⁴

In order to save himself from the threat of death it is permissible to trick the gentiles so they will not recognize that he is a Jew. This [case] is not at all similar to [the case which] Maimonides wrote of in *Sefer ha-Mitsvot*. For Maimonides was dealing with a scenario in which the gentiles know him and recognize him as a Jew, and to save himself, he wants to declare that he is an idolater, i.e., that he renounces his ancestral faith. In such a case, Maimonides rules that it is forbidden. However, if the gentiles do not recognize him, and are not aware that he is a Jew, he may deceive them using any trick and means – even declaring that he is no different from them [i.e., an idolater]¹⁵ then or always...

R. Oshry backed up his novel approach with the opinions of several major Halakhic authorities,¹⁶ and concluded that, in this case, writing the letters “R.C.” in one's passport posed no halakhic problem. Since this questioner's “appearance and name concealed his Jewish identity,” his would-be persecutors would have had no idea that he was Jewish. As such, he could have openly declared himself to be a Roman Catholic.¹⁷ Therefore, merely writing the letters “R.C.” in his passport was certainly permitted.

¹⁴ *She'elot u-Teshuvot mi-Ma'amakim* 5:3, p. 49.

¹⁵ Earlier in the responsum, R. Oshry expressly states that in this scenario, a Jew can claim straightforwardly that he is an idolater: “But where they [i.e. the persecutors] do not know him or recognize him as a Jew, there is no prohibition at all in deceiving them by stating that he is an idolater...”

¹⁶ *Terumat ha-Deshen* 196, *Shakh* to *Shulhan Arukh*, *Yoreh De'ah* 157 n. 17, and *Nimmukei Yosef* to *Bava Kamma* (page 40a in the *Ran*).

¹⁷ In Esther Farbstein, *Hidden In Thunder*, (Jerusalem, Israel: Mossad Harav Kook,

Before ending his responsum, R. Oshry offers a second reason why writing “R.C.” in his questioner’s passport posed no problem. Even without his aforementioned novel approach, R. Oshry had shown that Ramo and Maimonides agreed that, when faced with the threat of death, it was permissible for a Jew to make an ambiguous statement possibly asserting apostasy. R. Oshry argued that including the letters “R.C.” was in fact an ambiguous declaration. To the would-be persecutor, those letters identified the passport’s holder as a Roman Catholic. The passport bearer, however, could see the letters “R.C.” as a transliteration of the Hebrew word “*rak*” – as in Deuteronomy 4:9 in speaking of the Divine Revelation, the Torah states: “*Just [rak]... be greatly aware for your soul not to forget the matters...*”

Since the letters “R.C.” could mean “*Rak*” to the owner of the passport, R. Oshry felt this case met Ramo’s criteria for an ambiguous assertion of apostasy, which even Maimonides would agree that a Jew was permitted to make if threatened with death.

V - The Problem

In light of this permissive passport-related ruling, the two other above-mentioned responsa of R. Oshry (dealing with a Jew who wished to make use of baptismal certificate and Christian identity papers) are difficult to understand.

In his response to his questioner who wondered if he was considered an apostate for purchasing Christian identity papers for himself and his family, R. Oshry answered that if A) his questioner’s actions had, in fact, been known to the Jewish public, and if B) he had, in fact, used those papers, he would indeed have been considered an apostate in need of penance. Yet, in the above-discussed passport responsum, R. Oshry had ruled that when a Jew’s life was in danger, as long as one’s persecutors

2007), 260. the author explains why some Holocaust-era rabbis allowed Jews to falsely claim to be Christians. In doing so, Dr. Farbstein mentions another early Halakhic authority who addressed this matter:

The permission may also have been based on the opinion of the Rosh, who wrote that the prohibition stems from concern that this statement would be interpreted by the gentiles as conversion; when a Jew who is forced to convert says he is not Jewish, he is acknowledging their religion. After all, “he is definitely an apostate. Since they want to kill him unless he switches to their religion and becomes a gentile like them, when he says he is a gentile he is certainly acknowledging their religion and adopting their god.” It may be concluded that if the gentiles do not know the person is Jewish, the statement is not a desecration of God’s name and is permitted in a life-threatening emergency.

See *Piskei ha-Rosh, Avoda Zara*, chap. 2, section 4.

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were unaware of that Jew's identity, he/she could openly claim to be an idolater. Why, then, did R. Oshry rule that it was permissible for a person to pose as a Christian using a passport with "R.C." written in it, but felt that it would have been prohibited to do so via Christian identity papers?¹⁸

In the same vein, how are we to understand why R. Oshry ruled that it was permissible for a person to pose as a Christian using a passport with "R.C." written in it, but that it was forbidden to try and save one's life by obtaining a baptismal certificate? In the case of the passport, R. Oshry stated, "*If the gentiles do not recognize him, and are not aware that he is a Jew, he may deceive them using any trick and means – even declaring that he is no different from them [i.e., an idolater] then or always.*" Why, then, did he rule so differently in the case of the baptismal certificate?¹⁹

VI – An Attempted Solution

At first glance, one might try to reconcile R. Oshry's passport and baptismal certificate responsa by claiming that in the latter, the questioner wanted to make use of a conversion document rather than a standard baptismal certificate. A standard baptismal certificate states that an infant was born to Christian parents and was then baptized. A conversion document, however, states that its bearer was born into another faith community (in this case Judaism), renounced that faith, and converted via baptism to Christianity. If this was the type of document R. Oshry's questioner asked him about, it would be quite understandable why he did not issue a permissive ruling.

However, I do not think this resolution is plausible, for two reasons:

1) By March of 1942 (when R. Oshry was asked this question), the Jews of Kovno's ghetto certainly realized that a document stating that a Jew had converted to Christianity would not save anyone from the Nazi's deadly plans. Furthermore, if a Jew was able to escape from the ghetto, would a conversion document have enabled him/her to join a band of partisans (as mentioned in the question) which was unwilling to accept Jews into its ranks? Would such a group of anti-Semitic partisans welcome

¹⁸ Based on R. Oshry's permissive ruling in the passport case, the only issue that should have been a factor in the Christian identity papers case was whether or not his questioner's actions had been considered 'public' in the eyes of halakha (see n. 8). As such, R. Oshry's questioner should have had absolutely no problem actually 'declaring' that he was a Christian by making use of those fraudulent identity papers.

¹⁹ Surprisingly, the only source I found that briefly notes the contrast between these two rulings is an OU Torah Tidbits page on *Parshat Vayeishev* 5766. See the comments to *shevi'i* at "Torah Tidbits #699," December 23-24, 2005, accessible at <http://www.ou.org/torah/tt/5766/vayeishev66/print.htm>.

a Jew who claimed to have shed his/her faith and converted? While one can imagine how false baptismal papers – stating that one was born into a Christian family – could help a Jew who might escape the Ghetto, it is hard to believe that by 1942 any Jew would think that false conversion papers could help him/her at all.

2) In the original Hebrew version of this responsum, R. Oshry refers to the document in question as a *teudat hitnatsrut* – a certificate stating that its bearer became a Christian. While such a term could be translated as both a standard baptismal certificate (for a baby born to Christian parents), or a conversion certificate (issued to an adult who began life as a member of a different faith), the descriptive term which R. Oshry used for this certificate does not seem ambiguous at all. In the original Hebrew responsum, after the words *teudat hitnatsrut*, R. Oshry included the following term in parenthesis: *Taufschein*. That is the German word for a baptismal certificate.²⁰

In an effort to learn more about the document referred to as a *Taufschein*, I reached out to numerous Pennsylvania German Christian associations and experts. I learned that, since a convert to Christianity must undergo baptism, the conversion certificate he/she received could theoretically be referred to as a *Taufschein*. However, that term was not used to describe such a document. Traditionally, *Taufschein* was the name used to describe the record of an infant's birth and baptism. This document was often artistically designed and stored by families for their records.

As such, it seems clear that the type of baptismal certificate being discussed by R. Oshry was one which stated that its bearer was born into a Christian family. Such a document obtained by a Jew would allow him/her to completely conceal his/her Jewish identity. If so, the case of the baptismal certificate (like the case of the Christian identity papers) seems perfectly analogous to the case of the individual who wanted to conceal his Jewish identity by writing "R.C." in his passport. Why, then, did R. Oshry offer such a permissive ruling in the passport case, as opposed to the other two cases where Jews wished to obtain documents which would identify them as Christians by birth?

VII - A Sound Solution

In theory, there are two approaches to resolving these conflicting Holocaust-era responsa of R. Oshry:

A) Assume that all three responsa can be reconciled with one another

²⁰ In German, *Tauf* means 'dip,' and *Schein* means 'certificate.'

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and suggest an approach allowing for this resolution.

- B) Recognize that R. Oshry's ruling in the passport case cannot be reconciled with the other two related responsa. However, of those three cases, R. Oshry dealt with the passport case last. Thus, the novel and permissive ruling he arrived at in the passport case, assuming it represented his final position, in fact radically changes the rulings in the two related cases which preceded it.

After spending much time pursuing the first approach, I became increasingly convinced that it was the second one which made more sense.

As mentioned earlier, R. Oshry published five volumes of his *She'eilot u-Teshuvot mi-Ma'amakim*. They were printed in the years 1959, 1963, 1968, 1975, and 1979, respectively. R. Oshry's restrictive responsum concerning obtaining a baptismal certificate appears in Volume I. His restrictive responsum involving Christian identity papers was published in Volume IV. R. Oshry's permissive ruling on writing "R.C." in one's passport was printed in Volume V.

In his introduction to the fifth volume of his responsa, R. Oshry states:

The majority of the responsa that are published in this volume were taken from a pamphlet entitled *me-Emek ha-bakha* which was printed as an appendix to my book *Divrei Ephraim*. Those were the first of the responsa which I merited through God's kindness and wonders to publicize from what I had been asked in the Kovno Ghetto – and what I had been successful – thank God – at saving.

After explaining that all copies of his *Divrei Ephraim* had long been sold-out, R. Oshry writes:

Behold, I am publishing Volume Five of *She'eilot u-Teshuvot mi-Ma'amakim* which includes in it the above mentioned pamphlet *me-Emek ha-bakha*. This time it has been laid out in an orderly fashion.

Upon reading this introduction, I turned to R. Oshry's earlier work – *me-Emek ha-bakha*²¹ hoping that it would shed some light on these conflicting responsa. As it turns out, what R. Oshry published in 1979 within his fifth volume of *She'eilot u-Teshuvot mi-Ma'amakim* was far more than just a simple reprint of how he had originally dealt with the passport case in question 4 in *me-Emek ha-bakha*.

²¹ R. Ephraim Oshry, *Divrei Ephraim*, (New York, 1949).

There are five clear differences between R. Oshry's original reply to the passport question, and his answer to that same question which appeared in the fifth published volume of his responsa:

- 1) His answer in the original responsum is only two paragraphs long, whereas the answer he published in 1979 covers almost thirteen pages.
- 2) In the original responsum, R. Oshry never dealt with the apparent contradiction between *Ramo's* ruling and Maimonides' previous ruling. As we saw above, it was that tension which prompted R. Oshry to develop his novel and permissive ruling, which led to his allowing a Jew to openly claim to be an idolater, so long as his persecutors were unaware of his true Jewish identity.
- 3) In his original answer, R. Oshry only provides one reason why a Jew would be allowed to write "R.C." in his passport – its ambiguous meaning. While the Jew's enemy would understand those letters as indicating he was a Roman Catholic, the Jew could intend for those letters to mean something completely different in his own mind. This is in significant contrast to his later ruling in Volume Five of his responsa, where this idea merely served as an afterthought to a much more seriously constructed Halakhic rationale.
- 4) What could "R.C." mean to the Jew bearing that passport? In Volume Five of his responsa, R. Oshry explained how those letters could be transliterated into Hebrew to spell "*rak*" and referred to Deuteronomy 4:9. In *me-Emek ha-Bakha*, however, R. Oshry suggested that his questioner switch the order of the letters and write "C.R." While the Jew's persecutors would still think the passport's bearer was a Roman Catholic, the Jew could have in mind that those letters stood for "*Kein Romehn*" – German for "[I am] not a Roman [Catholic]."
- 5) Lastly, in his original answer to the passport question, R. Oshry concluded with the following words: "*Perhaps* this could be permitted for him with such an intent." That is very different from R. Oshry's concluding words to his ruling in Volume Five of his responsa, where he stated: "From all the points I have raised, it appears the ruling for our case is that it is *certainly* permissible for this Jew to inscribe these two letters in his passport."²²

To this writer, it seems clear that in the years following the Holocaust, R. Oshry revisited the question of whether or not a Jew without a Jewish-sounding name or appearance could write the letters "R.C." in his passport.

²² Emphasis mine.

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The lengthier responsum which he published on the matter in 1979 was not just a wordier version of what he had first published in 1949. At some point during the thirty years between the printing of those two responsa, R. Oshry carefully re-examined his original ruling on the matter. The newer, fully developed, and permissive answer to the passport question which R. Oshry published in the fifth volume of his responsa was different in its size, reasoning, and conclusion from the original answer he had first published in 1949.²³

With his fully developed 1979 ruling on the passport question, R. Oshry introduced a new concept which he had yet to arrive at in his previous rulings: “If the gentiles do not recognize him, and are not aware that he is a Jew, he may deceive them using any trick and means – even declaring that he is no different from them [i.e., an idolater] then or always.” It was this concept – only introduced in his later treatment of the passport case – which created a conflict with his rulings in the cases of the Christian identity papers and the baptismal certificate.

During the Holocaust, in dealing with questions regarding Christian identity papers and baptismal certificates, however, R. Oshry had not yet formulated the category distinguishing between whether or not a Jew’s persecutors recognized him/her as a Jew. As such, he saw no way for a Jew to ‘declare’ via such documentation that he was a Christian. That could only (possibly²⁴) be done if such a ‘declaration’ was made in an ambiguous manner, such as by writing “R.C.” in one’s passport.²⁵ The ‘declaration’ made by papers identifying one as a Christian, however, was unfortunately not ambiguous at all.

As such, in the dark years of the Holocaust, R. Oshry’s responsa concerning Jews who wanted to make use of unambiguous Christian identification documents of one form or another were perfectly congruent with each other – it was not a Halakhically permissible option. Only once R. Oshry revisited the passport case – at some point after the Holocaust – and arrived at a far more developed and permissive ruling was a conflict created. Hence, only when one factors in R. Oshry’s post-Holocaust

²³ Perhaps R. Oshry was partially hinting to this in his introduction to Volume Five of his responsa where he wrote: “Behold, I am publishing Volume Five of *She’eilot u-Teshuvot mi-Ma’amakim* which includes in it the above mentioned pamphlet *me-Emek ha-Bakha*. This time it has been laid out in an orderly fashion” [Emphasis mine.]

²⁴ See bullet point 5 above.

²⁵ Or ‘C.R.’ as R. Oshry had originally suggested. See bullet point 4 above.

passport ruling does the need for reconciliation between his responsa arise.²⁶

How would the 1979 version of his passport responsum affect the other two related responsa of R. Oshry? To this writer, it seems clear that the reasoning contained in R. Oshry's fully developed ruling to the passport question would also permit a Jew to both purchase and use life-saving Christian identity papers/baptismal certificates – so long as: A) the Jew acquired those documents in a manner that would not be considered 'public' in the eyes of Halakha,²⁷ and B) the Jew's persecutors (to whom those documents would be shown) were unaware of his/her true Jewish identity.²⁸

VIII - Conclusion

Assuming the above conclusions are correct, R. Oshry's ruling in the passport case that he published in 1979 was a completely revised version of his original responsum on the matter, which had been courageously composed under the most trying of circumstances.²⁹ That newer, fully

²⁶ Although we cannot know when R. Oshry fully developed the reasoning leading to his permissive 1979 ruling, there is proof that the process began during the Holocaust. In Responsum 3 in his above-cited *me-Emek ha-Bakha*, R. Oshry discussed the permissibility of a Jew substituting the picture of a gentile with his/her own picture in that non-Jew's passport. In such a case, the Jew's oppressors would be unaware of the passport bearer's Jewish identity. Although he began to explore the allowances such a scenario might provide, R. Oshry left the matter unresolved. From that early Holocaust-era responsum, it is clear that, while R. Oshry entertained the possibility of a Jew being able to make use of an altered non-Jew's passport, he saw no way to permit a Jew to make use of a baptismal certificate or papers identifying a Jew as a member of the Christian faith. Most certainly, at that time R. Oshry did not see any way for a Jew to openly declare that he/she was a Christian. The ruling which diverged from this approach would not be published until 1979, when he wrote: "... if the gentiles do not recognize him, and are not aware that he is a Jew, he may deceive them using any trick and means – even declaring that he is no different from them [i.e., an idolater] then or always."

²⁷ As per R. Oshry's Christian identity papers responsum (see n. 8 and 18).

²⁸ As per R. Oshry's 1979 treatment of the passport responsum. Making use of such papers would only have been permitted if the names on those documents did not indicate that their bearer was Jewish. Since a Holocaust-era Jew would have only attempted to obtain such fraudulent papers in order to hide his/her Jewish identity, one can safely assume that the names on the documents in question would not have been Jewish sounding at all.

²⁹ It is also important to note that Volume Five of R. Oshry's responsa was printed in 1979 – nearly forty years after he was first forced to address the passport question. Whenever it was after the Holocaust that R. Oshry chose to re-examine his previous ruling in that case, he certainly possessed numerous advantages which he did not previously have (i.e. time, safety, a more-complete Torah library, and additional years of

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developed, and permissive responsum is at odds with two of R. Oshry's earlier responsa concerning Jews who wanted to obtain potentially life-saving Christian identity papers during the Holocaust. In light of his permissive treatment of the passport case published in 1979, I believe that R. Oshry would agree that his earlier - and more restrictive - rulings concerning: A) the Jew who had obtained Christian identity papers, and B) the Jew who wanted to purchase a baptismal certificate also need to be revised.³⁰ Unfortunately, R. Oshry passed away in 2003, and I am not aware of this matter having been brought to his attention during his lifetime.³¹

In its obituary for R. Oshry, *The New York Times* stated that during the Holocaust, "he saw the persistence of Jewish life as the highest kind of resistance against the Nazis." May R. Oshry be remembered for encouraging so many Jews to offer that spiritual resistance, and for the heroic role he played in the preservation of Jewish life and Torah observance in the twentieth century.

Torah study). It is not hard to imagine how in the years after the Holocaust, R. Oshry was able to arrive at a novel and permissive ruling which he was not able to reach in the terrible conditions of the Kovno Ghetto.

³⁰ As such, an unfortunate unintended consequence resulted from *The New York Times'* worthy obituary of R. Oshry. By making mention of the baptismal certificate case in its obituary, *The New York Times* (and others – see n. 4 and 5) unknowingly linked R. Oshry to a restrictive Holocaust-era ruling – which this writer believes he would have wished to revise.

³¹ Sadly, my attempts to contact R. Oshry's family about this matter were unsuccessful.