

**YESHIVAT HAR ETZION**  
**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**TALMUDIC METHODOLOGY**  
**by Rav Moshe Taragin**

The htm version of this shiur for easy printing is available at:  
<http://vbm-torah.org/archive/metho65/09metho.htm>

**Shiur #09: *Pesik Reisha* – (part 2)**

The previous *shiur* outlined various approaches to understanding the absence of prohibition when committing an *aveira* in a manner of *eino mitkaven* (without intent). The *shiur* also raised the prospect of *pesik reisha* (inevitable consequences) and demonstrated two distinct options for understanding why this particular situation of *eino mitkaven* might be universally forbidden – even according to Rabbi Shimon who normally permits *eino mitkaven*.

In assessing the effect of *pesik reisha* and in examining examples of *pesik reisha* several interesting examples spring to mind, the first of which is a situation of *lo nicha lei* - an inevitable outcome which is not just unintended, but also undesirable. The gemara in *Ketuvot* (6a) allows using a rag to seal a hole in a barrel of wine - even though it seems inevitable that the wine absorbed in the rag will be squeezed (thereby violating the prohibition of *sechita*). The *Arukh* explained that although, indeed, this result is inevitable, it is also unwanted. It is therefore not forbidden, even though Rabbi Shimon typically forbids desired *pesik reisha*. This type of *pesik reisha* - known as "*lo nicha lei*" – surfaces in numerous other situations, as well. For example, when one pours wine on the *mizbei'ach* as part of a *korban's* offering, he automatically extinguishes the altar's fire, in violation of the prohibition against quenching the altar's eternal flame (*Zevachim* 91b). Even though the dousing is inevitable, since it is also undesirable, the *Arukh* permits pouring the wine on the altar. Perhaps the *Arukh* viewed *pesik reisha* as a condition which establishes "universal intent." Intent is absolutely vital to establishing the violation, but the *pesik reisha* principle dictates that inevitable results are probably intended, and one cannot claim that he did not intend unavoidable results. If, however, these results are unwelcome, perhaps full intent does not exist. Had *pesik reisha* been a method of establishing authorship of action DESPITE lack of intent, the desirability of the outcome would be immaterial; if a given result is unavoidable, it would be attributed to the one performing the action even if it is unwelcome.

An additional question of *pesik reisha* might pertain to situations where an individual act does not convey unavoidable results, but when repeated within a process may indeed yield a *pesik reisha*. For example, a single stroke of hair combing will not necessarily detach hair, but brushing repeatedly will almost certainly result in detached hair. Should we, therefore, forbid brushing hair on Shabbat? Presumably, if *pesik reisha* constitutes intent, since the person is aware of the inevitable, forbidden outcome, then

*pesik reisha* should be measured in an overall manner. Since the person brushing was undoubtedly aware of the inevitability of hair removal, intent exists. However, if *pesik reisha* attributes inevitable consequences to non-intending authors, *pesik reisha* should be gauged PER action. If each stroke will not necessarily detach hair, it may not be considered *pesik reisha*. The Rivash was asked this very question and berated a Rav who wanted to permit hair brushing because each 'atomic' act of brushing does not necessarily remove hair. He responded that, as the overall process will detach hair, it is considered *pesik reisha* and forbidden. Based upon this logic, the *Mishna Berura* forbids hair brushing on Shabbat.

What would occur in a reverse situation – where the result is NOT inevitable, but the manner in which the act was performed does constitute a *pesik reisha*? Do we assess the overall situation (which is not *pesik reisha*), or the particular method chosen to perform the act? For example, Rashi in Zevachim allows pouring large quantities of wine on the *mizbei'ach* since it is POSSIBLE to pour miniscule drops without quenching the fire. Since it is possible to avoid extinguishing, one may pour even large quantities, despite the unavoidable outcome. A similar position emerges from Rashi's comments to the gemara in *Ketuvot* (5b) which allows performing *bi'a rishona* – initial sexual intercourse – on Shabbat, even though it will inevitably create a wound. Since there are people capable of performing the act without causing a wound, ANYONE may perform *bi'a rishona* – even those without the skills necessary to avoid creating a wound. Rashi's position, that *pesik reisha* is measured based on general context, rather than the particular incident, might depend on our understanding of *pesik reisha*. Perhaps, if *pesik reisha* establishes intent by virtue of its inevitability, we might not define this situation as inevitable since the result could have been avoided through some alternative method. If it is not inevitable, no intent exists. However, if *pesik reisha* attributes actions to their authors despite the lack of will, we should perhaps assess the specific action itself, rather than the overall lack of general inevitability. Thus, for example, if one poured wine in a manner which would inevitably quench the fire, the action is attributable to him, and a violation has occurred.

Another interesting *nafka mina* may stem from an intriguing application of *pesik reisha* to a very different context. Foodstuffs receive *tuma* only after they have been moistened by one of the seven standard liquids. This moistening renders the food item susceptible to *tuma* only if it occurs with the knowledge of the food's owner. The mishna in *Machshirin* 4:1 describes a scenario where the owner inclines his head to drink water from a spout, and as the water dribbles off his moustache, it falls onto some food. Even though he was unaware of this falloff water and its encounter with the food, the food is nevertheless considered primed for *tuma*. In his comments to this mishna, the Rosh claims that this rule is based upon the principle of *pesik reisha*: just as inevitable consequences are forbidden on Shabbat, so can unavoidable moistening prime food for *tuma* susceptibility.

Undoubtedly, the Rosh viewed *pesik reisha* as creating universal or objective intent. Just as objective intent establishes a Shabbat violation, so may it create a situation in which the moistening is considered acknowledged. If *pesik reisha* attributes unintended

consequences to the person performing the act, it should have no relevance or impact upon the laws of *tuma*. Shabbat violation demands authorship of particular acts – authorship which typically depends upon intent. In the absence of intent, consequences may still be attributed if they are inevitable. By contrast, *tuma* requires acknowledgment, and in the absence of actual acknowledgment no attribution of consequences will have any effect.