

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

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**TALMUDIC METHODOLOGY  
By Rav Moshe Taragin**

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In memory of Joy Rochwarger Balsam z"l, a talented and dedicated educator on three continents, who devoted herself wholeheartedly to Am Yisrael, Torat Yisrael and Eretz Yisrael. Though her life was tragically cut short, she left behind a rich legacy of commitment and hundreds of students and friends whose lives were touched by her. Yehi zikhrah barukh.

To her husband, parents and siblings: May you receive some consolation from knowing how many people were inspired by her, and how much of a difference she made in her too-brief life.

Ha-Makom yenachem etchem be-tokh shear avlei Tzion vi-Yerushalayim.

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**Sinning to Save Others From Sin**

The gemara in Masekhet Shabbat (4a) describes a situation where a person places a loaf of bread into an oven on Shabbat. Eventually, when the bread fully bakes, that person will have violated Shabbat. The gemara considers the prospect of another individual taking the bread out of the oven before it bakes, thereby preventing the violation from emerging. This action of stripping the bread from the sides of the oven (where bread was placed to bake during Talmudic times), known as rediyat ha-pat, constitutes a Rabbinic prohibition. The gemara first acknowledges the possibility that one person could willingly violate a Rabbinic prohibition to rescue another from a more severe, Biblical prohibition. Immediately thereafter, however, the gemara wonders, "Is it feasible that we would encourage one to willfully sin to profit another?" The gemara seems quite confident that such "halakhic engineering" is unacceptable. But the gemara's certainty in this regard seems questionable in light of several gemarot (cited by Tosafot) which, at least to some degree, sanction the willful violation of an issur to rescue another from sin. This shiur will address this very interesting scenario.

Tosafot cite a gemara in Eirubin (36) which describes a person who neglectfully sold untithed crops to an ignorant person, who would not independently separate the necessary terumot and ma'asrot. The gemara cites an opinion that in this situation, the seller would be willing to designate teruma and

ma'aser from the grain, even though declaring teruma upon crops which are not proximate (shelo min ha-mukaf) violates the rules of hafrashat teruma. Supposedly, he would be willing to commit this minor violation to spare the recipient from the far graver prohibition of eating tevel (untithed crops). This seems to directly contradict the gemara in Shabbat, which did not allow someone to strip the bread before it bakes to rescue the baker from Shabbat violation!!

Tosafot supply two very different solutions - each of which presumes a completely different approach to this halakhic dilemma. Their first solution claims that, normally, an issur should not be violated to protect another person. The Gemara in Eiruvim, however, provides an atypical situation since the owner had facilitated the recipient's potential sin by not previously designating teruma, or by not specifically informing the buyer to designate himself. In this instance, a person is allowed to intervene by committing a sin to spare another. But, generally, when the second party did not contribute to the aveira, he is not allowed to intercede by committing an aveira of his own.

Tosafot does not fully explain the halakhic difference between the two cases. Indeed, from a purely psychological standpoint, the facilitator feels a greater sense of guilt and thus has a vested interest in repairing the damage he caused. But why should this psychological interest provide a halakhic warrant to commit a violation?

The Meiri slightly modifies Tosafot's position and is suggestive of a more concrete halakhic warrant. He claims that since the seller misled the recipient, the owner has a 'share' in the aveirah. Though the Meiri does not actually employ the term "lifnei iver," one can imagine that such an issur would apply to a situation of confusing the recipient. Taken as such, Tosafot's distinction becomes more compelling: if the original owner has himself committed a sin, his intervention is geared toward rescuing himself from violation. Though we might not warrant prohibited intervention to rescue another, we would certainly sanction it to protect oneself from a pending issur.

In truth, this broadening of interests, namely, the recognition that sometimes another's interest is truly my own, is asserted by two other commentators to this sugya. The Ramban poses a question from a gemara in Pesachim (59a) regarding Kohanim who willingly violated the Mikdash schedule by sacrificing a korban Pesach of a mechusar kippurim after the afternoon tamid has already been offered. Generally, the afternoon tamid culminates the avoda in the Mikdash, and no additional korbanot may be brought thereafter. However, in this case, certain people were halakhically prevented from offering their korban pesach earlier, and the Kohanim accommodated them by violating the aforementioned schedule. This, too, would seemingly contradict our gemara, which does not permit a willful violation to benefit others. The Ramban claimed that since the Kohanim are summoned to act as agents of Am Yisrael, officiating over korban Pesach is in

actuality their responsibility. Thus, by slightly breaching the schedule to enable an additional korban Pesach, a kohen is actually serving his OWN interests.

Yet another example is cited by the Dagul Mei-revava (written by the author of the Noda Be-yehuda), in his comments to Orach Chayim 306. He cites a gemara in Berakhot which describes Rabbi Eliezer as emancipating his slave so that he could convert him to Judaism and complete a minyan - even though this violated the prohibition against liberating an eved kena'ani. The obvious explanation is that Rabbi Eliezer discharged the slave - in part - to serve his own interests and complete a minyan. The gemara in Shabbat only wondered about intervening to commit a issur (rediyat pat) when there is absolutely no halakhic yield for the 'sinner' himself.

Of course, Tosafot's first answer is premised upon the assumption that fundamentally, a person may not intervene by performing an aveira solely for the benefit of another. Only if the sinner derives benefit is such action endorsed.

Tosafot then provide a second resolution, which dramatically alters our perception, claiming that the gemara in Eiruvun represents the norm rather than the exception. One may ALWAYS intervene to rescue another from pending violation. The situation in Masekhet Shabbat is unique in that the original baker himself initiated the violation and is thus not a candidate to be rescued through another's violation. Innocent violators may be rescued, but intentional sinners may not.

In addition to changing the basic premise of the sugya, Tosafot may be altering the PRINCIPLE underlying this rule of intervention. What allows or mandates intervention to avoid another's sin (when sanctioned)? One might claim that intervention is oriented toward preventing or at least reducing the amount and severity of aveirot. If I sense that another will commit a grave sin, I have an obligation to "halakha" to restrict the performance of aveirot. Seen as such, the obligation can be cast as bein adam la-Makom. In fact, additional comments of Tosafot reinforce this notion, that intervention is based in large degree upon such global halakhic calculus, the interest in reducing the amount and severity of sins being committed in a general sense. Tosafot challenge the lack of intervention in Shabbat from a gemara in Gittin (38b), which requires liberating a half-slave (who is prohibited from marrying a full slave or full Jew) to enable him to fulfill the mitzva of peru u-rvu. This liberation comes at personal cost, since it is in violation of the issur to free a slave. Tosafot answer that mitzvot which benefit the public (such as peru u-rvu) are significant enough to warrant the commission of a slight sin on the part of another. Clearly, Tosafot are attuned to the general impact of the respective scenarios (to sin and facilitate a mitzvah, or to refrain from personal sin) and consider the broader "calculus" in allowing intervention.

However, from this general standpoint, Tosafot's second distinction would be dubious. How should another person's guilt exonerate me from intervening? If

anything, the greater his guilt, the greater the warrant to intervene and prevent a grievous and intentional sin from unfolding. Perhaps, Tosafot, in their second approach, viewed the warrant to intervene as based upon the rule of kol yisrael areivim zeh la-zeh. Just as the principle of arvut obligates me to assist others in the performance of mitzvot, so does it also demand that I assist in the avoidance of aveirot. Consequently, once a person has intentionally enacted an aveira, I am absolved of my arvut and no longer am allowed to intercede through the commission of aveira. Tosafot, in their two differing answers to the contradiction between Shabbat and Eiruv, might be articulating two very different views of the principle of intervention. These views led them to stake different parameters governing when a person may intercede to rescue another from sin at personal halakhic cost.