

Enabling a Jew to Sin: the Parameters

Michael Broyde and David Hertzberg

I. Introduction

Lifnei iver, the prohibition of aiding, enabling or leading a person into sin, is one of the fundamental rules regulating Jews in their interactions with others. It determines our ability to earn a livelihood in those fields whose products or results can be used for good or evil. For example, lawyers are frequently involved in facilitating transactions prohibited by halacha, storekeepers frequently sell merchandise whose use is prohibited, and doctors prescribe medicine whose purpose is forbidden. Do such actions violate *lifnei iver*? How does the ready availability of others who will freely help the person do¹ the prohibited action, if the religious Jew does not, affect the result? These situations all fall under the rubric of *lifnei iver*.

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1. There are major differences between being an aider and a principal. For example, while it is possible that there are situations in which one may be an anesthesiologist for a prohibited abortion, certainly none of the potential liberalities (*kulot*) in that situation apply to the doctor who is actually performing the abortion. The abortionist, unlike the anesthesiologist, is not aiding in the commission of an abortion – he is actually committing one. That is not covered by the rules of *lifnei iver*. There are, however, some situations where this distinction is blurred; see Part IV:B.

Both authors are recent musmachim of Yeshiva University, Rabbi Isaac Elchanan Theological Seminary. Rabbi Hertzberg is a member of the Judaic Studies faculty of Yeshiva University High School for Girls.

This article is divided into four parts. Part one quotes the relevant portions of Torah and commentaries, as well as relevant Gemara and other Talmudic sources. Part two explains how *Rishonim* and early *Acharonim* understood the essential² rules of *lifnei iver*. Part three collects and analyzes applications of *lifnei iver* by modern *Acharonim*. Part four applies the rules developed previously to a number of modern questions that have not yet been fully addressed. In particular, the issues discussed are — being a waiter or a cashier in a non-kosher store or restaurant; the relationship between *lifnei iver* and *kiruv* work; and the application of *lifnei iver* to aiding conduct whose status in halacha is disputed.

Part I

The Torah records the prohibition of placing a stumbling block in front of a blind person in Leviticus 19:14.³ “Thou shall not curse a deaf person and before a blind person thou shall not put a stumbling block; you should fear your Lord, I am G-d.” Rashi explains that a “blind” person is one who is “blind” to the consequences of his actions, and not only to one who is suffering from actual physical blindness.

The *Siftei Chachamim* comments that Rashi must have based this definition upon his explanation of the phrase “fear your Lord, I am G-d.” This phrase is used only with respect to actions whose moral standing are dependent upon intent rather than result.⁴ However, placing a stumbling block before a person who physically cannot see is so clearly impermissible that the warning as to intent is not needed. The admonition “fear your Lord” would, therefore,

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2. This article will not address a number of distinct rabbinic decrees which prohibit certain specific conduct, though they may be based in part upon *lifnei iver* concerns. For example, it is explicitly forbidden to sell weapons to non-Jews for their personal use, although others will sell them the weapons if Jews do not (see *Avodah Zarah* 14a).
 3. Absent any specific indication of source, all references to the Torah and to its commentaries are to Leviticus 19:14; to the Talmud and its commentaries are to *Yoreh Deah* 151:1.
 4. See also Leviticus 19:32; 25:17; 25:36; 25:43 for the other times this term is used.

be unnecessary. Hence, the term "blind" must have a different and less apparent meaning encompassing acts whose sinfulness is less apparent.

Rashi's source for this approach is the *Sifra*, which delineates several examples of contextual blindness. The first example concerns misleading a Cohen into a marriage prohibited to him, thus endangering his religious well-being. The second and third examples relate to the offering of bad advice. The former describes the case of giving false directions which will lead a person to a dangerous roadway. The latter describes the case where poor financial advice is given.⁵

In all the cases discussed by the *Sifra* the victim is unaware of the lurking dangers while the "adviser" is aware of them. There is no doubt that the moral depravity assigned to the adviser in the *Sifra* is meant to parallel the moral depravity of the culprit in the verse as it is understood literally. In both instances, one person purposely hurts another, at best for his own personal gain and at worst for the sake of being malicious. This is one distinct aspect of *lifnei iver*.

Although not the primary focus of the *Rishonim*, some do comment on the "bad advice" aspect of *lifnei iver*, as opposed to its more common application as a prohibition of aiding a sinner. Rambam maintains that this is the primary purpose of the prohibition. He states regarding *lifnei iver*:

By this prohibition we are forbidden to give misleading advice. Thus, if one asks your advice on a matter which he does not really understand, you are forbidden to mislead or deceive him; you must give him what you consider the correct guidance. The prohibition is contained in His words, "before a blind person thou shalt not put a stumbling block", on

5. Merely giving advice whose end result is bad does not violate *lifnei iver*; bad intent by the advisor is needed as well. See *Maharam Schick al Taryag Mitzvot*, Mitzvah 233:2 for a discussion of whether the "advisor" or "facilitator" is in violation of *lifnei iver* if the *Nazir* chooses not to drink the wine or, in the case of the bad advice, the recipient decides not to follow it.

which the *Sifra* says: "If one is 'blind' in a matter, and asks you for advice, do not give him advice which is not suitable for him."

In addition, Rambam entitled his summary of the commandment of *lifnei iver* as "Giving Bad Advice", rather than "Aiding Sinners".

The *Sefer HaChinuch* also understood this to be the primary focus of the prohibition. The *Chinuch* writes:

Not to bring Jews to grief by giving them bad counsel, but we should rather guide them correctly when they ask advice, by what we believe to be an honest way and a good plan — as it is stated, "before a blind person thou shalt not put a stumbling block" (Leviticus 19:14).

In the language of the *Midrash Sifra*: This means that before one who is blind about some matter, and he would take advice from you, do not give him counsel that is not suitable for him. And our Sages said: "Let a man not tell his fellow, sell your field and buy a donkey, so that he can then scheme around him and take the field from him." (Negative Commandment 232)⁶

This aspect seems to be the major focus of Rashi on Torah as well, since he explains Leviticus 19:14 based only on the examples found in the *Sifra*, all of which involve bad advice.

The "bad advice" aspect of *lifnei iver*, however, was not the primary focus of either the Gemara or most *Rishonim*. Rather the Gemara advanced a more expansive definition of the prohibition of *lifnei iver lo tetain michshol* in that the parameters of "blindness"

6. It is interesting to note that it appears from various *Rishonim* and *Acharonim* that perhaps actually placing a stumbling block in front of a physically blind person does not violate the prohibition of *lifnei iver*. Nonetheless, such conduct is prohibited by many other commandments, such as the prohibition of injuring another person, loving one's neighbor, or others. See generally, *Minchat Chinuch*, Negative Commandment 232.

are defined broadly. The Gemara in *Pesachim* (22a) quotes the following statement of R. Natan:

R. Natan said, "From where do we know that one may not extend a cup of wine to a *Nazir* nor a limb from a live animal to a Noahide? The source is from the verse 'Thou shalt not place a stumbling block before a blind person.' "

Since the Gemara does not distinguish between an intentional and an unintentional sinner, it may be inferred that this conduct is prohibited even when the *Nazir* or Noahide is aware that his actions are prohibited. Thus, in certain circumstances, the Gemara prohibits aiding even an intentional sinner.

Support for this inference can also be found in *Moed Katan* (17a) which states that a father should not strike his grown child because the child may retaliate physically — an act which is a capital offense (Exodus 21:15). The Gemara bases itself on the verse of *lifnei iver*, although the child is fully aware of the consequences of his action. The Gemara has thus expanded the prohibition to include actions which although permissible, may precipitate or lead to transgressions. A "blind" person, hence, includes one who voluntarily sins as a result of a "stumbling block". Such a "stumbling block" can include actions essentially permissible, (striking one's child) but which potentially lead to prohibited actions (the child's hitting back).

In *Bava Metzia* (75b) we see yet a further application of this prohibition. The Torah proscribes both the charging and payment of interest. In addition to the standard prohibitions (see Exodus 22:24 and Leviticus 25:36-37), the Gemara states that all people who participate in or facilitate this illicit transaction — including the guarantor, witnesses and even the scribe of the document — violate *lifnei iver*. The concept that even the ancillary and supportive participants are in violation of *lifnei iver* broadens even further our understanding of the scope of the prohibition. Their participation in such a transaction violates *lifnei iver* only because by enabling the transaction to occur they are helping deliberately "blind" people sin.

From the above sources it becomes clear that the form of

“blindness” which it is prohibited to take advantage of is not limited to the case where the sinner is blinded by ignorance or naivete’ but also to the case where the person is blinded by desire.⁷ *Lifnei iver* not only prohibits one from maliciously misguiding another, but also prohibits cooperating with one who is misguided by his own (improper) sense of morality or religious commitment.

However, there are certain cases where there is no violation of *lifnei iver*. In *Avodah Zarah* (6b) the Gemara quotes R. Natan’s statement (as recited above) and limits its application to an instance of *trei ibra d’nahara* (literally “two sides of a river”). Thus, when a *Nazir* is on one side of a river and wine is on the other side so that he cannot obtain the wine on his own, the one who extends it to him is in violation of *lifnei iver*. On the other hand, according to the Gemara, if the *Nazir* and the wine are on the same side of the river (*chad ibra d’nahara*), so that he could procure the wine on his own, then the person who gives it to him is not in violation of *lifnei iver*. The assumption is that the prohibition will be violated in any case. The Gemara, in *Avodah Zarah* 14a, also states that it is permitted to aid an aider (*lifnei delifnei iver*), i.e., help a person whose action is itself only prohibited because he is an aider.⁸ These Talmudic texts serve as the basis for various strands of thought among the *Rishonim*.

Part II

The *Rishonim* focused primarily on one aspect of *lifnei iver*: aiding one who wishes to violate the laws, and who can do so

7. For an interesting parallel to this, see *Mishneh Torah, Gerushin* 2:20.

8. Most *Rishonim* limit this rule to situations where the first recipient of the aid is not himself obligated in the prohibition of *lifnei iver*; (i.e. a non-Jew); see Tosafot, *Avodah Zarah* 15a, 22a and RaN, *Avodah Zarah* 15a. The rationale for this is that *lifnei iver* prohibits aiding in the commission of a prohibited act — even if the prohibited act is itself only a violation of *lifnei iver*; see *Minchat Chinuch* 231:2. For example it is permitted under this rationale to sell wine to a non-Jewish wine salesman who is then going to sell it to a *Nazir*.

Others have developed a different understanding of when *lifnei delifnei* does not apply; see *Chidushei Anshei Shem Avodah Zarah (Rif blot 4a) #1* and *Iggerot Moshe, Orach Chaim* 4:79.

unaided or with the aid of those not obligated by the law. This was, and still is, the critical application of *lifnei iver* from a practical economic perspective. The *Rishonim* may be divided into three groups.

The first maintains that one may never aid a person who is attempting to violate the law even if, when one declines to aid him, another will do so. This is true whether or not the next person who aids him is also obligated to observe the law. Thus, this position rejects the approach taken by Rabbi Natan in *Avodah Zarah* 6b and makes no distinction between one or two sides of the river. The authors believe this to be the position of Rambam. Although he does not state so explicitly, it can be inferred from a number of his comments. First, in *Sefer HaMitzvot*, negative commandment 299 (quoted above), Rambam does not limit the scope of the Torah's rule to situations where others cannot help. Secondly, he never quotes this limitation in any of the instances he deals with *lifnei iver* in his primary work, the *Mishneh Torah*.⁹

The second position is taken by Rabbenu Nissim (RaN). He asserts that even though according to Torah law, *lifnei iver* is violated only when the aider's assistance is necessary for the commission of the prohibited act, rabbinic law prohibits this conduct even when the aider's assistance is not needed¹⁰ (RaN, *Avodah Zarah* 6b). The *Mishneh LaMelech* (*Malveh ve'loveh* 4:2) adds to this position (perhaps reflecting his understanding of the Rambam) and states that in order for the action to become

9. Rambam would maintain that the statements by R. Natan in *Avodah Zarah* 6b represent only R. Natan's opinion, and are not accepted by most of the *Amoraim*; to support this he would cite the fact that this limitation on R. Natan is not quoted in the Talmud in any other place.

This understanding of Rambam is found in *Minchat Chinuch*, Negative Commandment 232:3, and *Melamed LeHoil* 1:34. Thus, in all likelihood, Rambam maintains that a *deorayta* is violated in all circumstances. It is possible that Rambam thinks that there is never any rabbinic prohibition of *lifnei iver*; see *Teshuvot RaDVAZ* 5:1579.

10. The rabbinic prohibition of *lifnei iver* is sometimes called *mesayeha yeday over'ray averah* (aiding the hand of those who sin); see RaN, *Avodah Zarah* 1b, *Minayin* (*Rif blot*).

permissible according to Torah law, it has to be able to be done by a non-Jew, or a person otherwise not obligated in this commandment of *lifnei iver* generally, rather than be able to be done by any person. The *Mishneh LaMelech's* approach is based upon his understanding of Tosafot (*Hagigah 13a, Ein Mosrim*) that *chad ibra d'nahara* ("one side of the river") means when the principal can do it on his own or through the assistance of a non-Jew. This makes sense only within the conceptual framework of Tosafot and the RaN, as it seems irrelevant that others can aid in the prohibited act if they too are obligated not to do so.

The third position is taken by Tosafot (*Avodah Zarah 6b, Minayin*). Tosafot accept that the Torah's prohibition of *lifnei iver* encompasses only situations of "two sides of the river", i.e. when the sinner needs the help of the aider to accomplish his goal. Furthermore, Tosafot state that in "one side of the river" situations (i.e., where the principal can do the act himself or with the assistance of others) there is no prohibition to help him – either according to Torah law or according to rabbinic law.¹¹ According to Tosafot, this type of conduct is absolutely permitted.¹²

Thus, three approaches can be found with regard to aiding one who wishes to sin. Rambam maintains that a Torah prohibition is always violated by aiding him. RaN believes that only Torah law is violated when others cannot also do the act; all other situations violate only rabbinic law. Tosafot maintain that when there are others who can and will aid the sinner, neither rabbinic nor Torah law is violated.¹³

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11. Obviously, if one accepts Tosafot's framework, the ability of the principal alone to do the complete act unassisted would remove the prohibition of aiding him, as the sinner himself is his own aider. Perhaps even the RaN accepts this rule. See Ramban quoted by RaN, *Avodah Zarah 6b-7a (Rif blot)*.
 12. This position is also found in the Mordecai on *Avodah Zarah*. While Tosafot explicitly maintain that this is the law vis-a-vis non-Jews, they maintain also, in that same note, that there is no difference between Jews and non-Jews vis-a-vis *lifnei iver* in areas where both are obligated to obey the law.
 13. One other approach is worth mentioning. Rabbenu Tam maintains that many *lifnei iver* prohibitions can be avoided through the use of a non-Jewish "straw man" as an intermediary on all sales between two Jews. For example, when a

The classical codifiers of the law have taken a number of approaches to this topic. The *Shulchan Aruch*, in *Yoreh Deah* 151:1, when discussing whether one can sell items to a non-Jew which might be used in his (idolatrous) religious practice, apparently adopts the approach of Rambam (or at least RaN) and concludes that it is prohibited to aid a person in the commission of a sin, although others will aid him if one does not. Furthermore, it makes no difference whether the motives of the aider are pecuniary or other. While it is without dispute that a violation of *lifnei iver min haTorah* occurs when a violation of Torah law is aided, it is a matter of great dispute whether a Torah or rabbinic violation of *lifnei iver* occurs when one aids another in the violation of rabbinic law.¹⁴

The Ramo does not agree with this position. He quotes the position of Tosafot that when others can aid the sinner, it is totally permissible for any other individual to aid him as well. Additionally, he quotes the position of the RaN, that this is prohibited according to rabbinic law. He concludes, "The tradition is in accordance with the first opinion [Tosafot]; pious people (literally: spiritual people) should conduct themselves in accordance with the second opinion [RaN]."¹⁵

Jew wishes to lend money with interest to another Jew, a transaction fraught with many halachic problems including *lifnei iver*, he could avoid those problems by using a non-Jewish worker as a middle man — even though the middle man must follow the wishes of the principal. See Tosafot, *Bava Metzia* 71a, *kegon*.

14. See Tosafot, *Avodah Zarah* 22a, *Tepuk*; *Minchat Chinuch* 231:3 (in the *hashmatot*); and *Sdei Chemed* 9: 36 (p.6).

The analytical basis for the opinion that one violates only *lifnei iver miderabanan* when the underlying prohibition is only *miderabanan* is that the aider cannot violate a biblical prohibition if the principal is not also. The second approach, which labels all aiding in violations of the halacha, whether *min hatorah* or *miderabanan*, as violations of *lifnei iver min haTorah*, maintains that giving bad advice violates *lifnei iver*, and advising or aiding a person who is doing a rabbinically prohibited action is a form of bad advice and thus biblically prohibited.

15. It is most unlikely that the Ramo was referring to the Rambam as the basis for the second opinion; the RaN is a more likely candidate. However, the source

The *Shach* (*Yoreh Deah*, 151:6) adds yet another interpretation. He states that when dealing with a person whom one is not obligated to prevent from sinning (i.e., either a *mumar* (apostate) or a non-Jew) all (Rambam, RaN and Tosafot) agree that if others will aid him to sin if you do not or if he can do the whole act himself, it is entirely permissible to aid him. The basis of the rabbinic prohibition to aid sinners is to separate them from sin and sinning. Thus, according to the *Shach*, it is permissible to aid a non-Jew or a *mumar* in sin when others can aid him since there is no obligation to prevent such a person from sinning. It is only in the case of observant Jews, according to the *Shach*, that the two opinions of the Ramo are relevant.

The *Dagul Merevavah* in his commentary adds yet another leniency. He states that according to the *Shach*, any time a person knowingly violates a particular rule, that person is to be classified as a *mumar* for the purposes of *lifnei iver*. Thus, according to this opinion, one can sell to a generally religious Jew non-kosher foods for him to eat if the purchaser knows they are not kosher but still wishes to eat them.

Thus, in summary, four positions are taken in the *Shulchan Aruch*:

1) One may never aid a person in committing a sin (*Mechaber* and Rambam). (This approach is generally rejected by Ashkenazic authorities.)

2) It is rabbinically prohibited to aid one in sinning when others will aid him if you do not. This is prohibited according to Torah law when no one else can (RaN).

3) It is permitted to aid one in sinning if others will do so if you do not (Tosafot and Ramo).

4) It is permitted to aid a sinner in sinning when one is not obligated to separate him from sinning (*Shach* and *Dagul Merevavah*).

Rabbi Akiva Eiger advances an extremely important principle in reference to the relationship between these rules and their application to minimizing sin. His additional rule, and its many applications, will be discussed extensively in part IV:B.

Part III

While the scope of the understanding of *lifnei iver* is fairly broad in the *Rishonim* and *Shulchan Aruch*, later rabbis (*Acharonim*) have taken a somewhat narrower view of the halacha. The first subsection collects the decisions of various commentaries on *Shulchan Aruch* and compares them with the approaches taken in Part II; the second subsection collects responsa of various *Acharonim*.

A. Commentaries on Shulchan Aruch

Among the *Acharonim*, only the *Chavat Yair* accepts as halachically normative the approach of the Rambam as we interpret him above (*Chavat Yair* 137). All other *poskim* agree that when others can provide the services or goods needed, there can be no Torah violation. Thus, on a *halacha lema'ase* question, one is almost always faced with only a rabbinic prohibition since in the current economic climate it is very rare that a single person is the unique supplier of a commodity within a given geographic area.¹⁶ Hence, most *Acharonim* discuss the approaches of Tosafot, RaN, and the *Shach*. Different approaches are taken when the underlying

notes for the Ramo provide no guidance as they were not written by the Ramo; see *Sdei Chemed*, *Clalei HaPoskim* 14.

There is some tension between the Ramo on *Yoreh Deah* 151 and on *Orach Chaim* 163. In *Orach Chaim* the Ramo states that it is prohibited to feed ["*Le'heachil'*"] bread to a person who does not wash before he eats. This seems to accept the RaN's approach, whereas in *Yoreh Deah* he accepts Tosafot as correct. The *Mishnah Berurah* explains the tension by stating that the Ramo in *Orach Chaim* is referring to actually feeding — placing food in the person's mouth. That situation almost always involves the person not being able to feed himself "*trei ibra d'nahara*", which even Tosafot agree is prohibited to do.

16. This is less true in the providing of services related to Orthodox Judaism. The correctness of the *Mishneh LaMelech's* approach (that the other actors must be non-Jews in order for the situation to be considered *chad ibra d'nahara*) is very important in this context. Some *Acharonim* appear to accept the *Mishneh LaMelech*; many do not. (See Rav Ovadiah Yosef, *Yechaveh Da'at* 3:38.) Even if one accepts the *Mishneh LaMelech*, in most situations involving the sale of commercial goods (except for religious supplies), it is most unlikely that, outside of Israel, all of the potential suppliers would be Jews.

prohibition is a Torah or rabbinic prohibition, or even only a violation of *minhag* (custom).

Thus, while the *Shach* does not himself distinguish between whether the underlying act is biblical or rabbinic when he excludes *mumarim* from the obligation of rebuking, many *poskim* only accept the *Shach* when the act itself is only a rabbinic prohibition. For example, while participating in an interest-paying transaction violates *lifnei iver*, when payment of the interest is by check (which most *poskim* think makes it only a rabbinic violation¹⁷) many *Acharonim* will rely on the *Shach's* approach, as the underlying action is at most a rabbinic prohibition (see *Pri Magadim, Aishel Avraham, Orach Chaim* 163 (2)). This is true even more so, when the underlying act violates only traditions or *takanot* after the close of the Gemara.

Others, however, appear not to accept Tosafot or the *Shach's* approach but embrace the RaN as the better approach.

Thus, the Vilna Gaon (*Gra, Yoreh Deah* 151:8) accepts the RaN.¹⁸ He appears to do so based upon the fact that in other places in Gemara, Tosafot themselves explicitly accept the RaN's approach. The *Magen Avraham (Orach Chaim* 347:4) as well accepts the approach of the RaN. The *Levush*, on the other hand, accepts Tosafot's approach (*Yoreh Deah* 151:3) as do both the *Beit Shmuel (Even HaEzer* 5:18) and the *Machatsit HaShekel* (163:2). The *Birchei Yosef* appears to accept the *Shach's* approach; at the very least, he accepts Tosafot as opposed to the RaN (*Yoreh Deah* 151). Thus, it appears that Tosafot, and the *Shach's* further addition to the RaN's rule, are subject to various degrees of acceptability among the classical early commentaries on *Shulchan Aruch*.

Teshuvot

It is interesting to note the wide range of approaches found in

17. For an excellent article on checks in halacha, and their status as money or its equivalent, see Rabbi J.D. Bleich, *Survey of Recent Halachic Literature: Checks*, 24 Tradition 74 (1989).

18. Rav Aharon Kotler also accepted the RaN as the better approach; see *Mishnat Rav Aharon* 1:6.

the responsa literature as to how the *poskim* dealt with issues of *lifnei iver* with regard to normative practice. For example, Rav Yaakov Ettlinger, in a classic responsum (*Binyan Zion* 1:15), addresses the question as to whether one may use a non-Jewish printer who has Jewish employees who might do the printing on Shabbat. Immediately, he establishes that there is no violation of the biblical prohibition since the printer has many customers, thus making it a case of *chad ibra d'nahara* ("one side of the river"). However, the rabbinic prohibition of aiding a sinner might still exist.

If one were to assume the position of the *Shach*, it would surely be permissible since he would ostensibly be dealing with *mumarim*.¹⁹ In fact, however, Rav Ettlinger rejects this distinction. Nonetheless, he renders a lenient decision based upon his understanding of the parameters of the rabbinic prohibition. According to Rav Ettlinger, only when one aids the person at the actual time of transgression or if the sinner explicitly requests one's aid to perpetrate the sin at a later point in time is the aider guilty. However, if one has even the slightest reason to suspect that the sin will not be violated or if the aid is not explicitly asked for, there is no rabbinic prohibition. It therefore follows that one is permitted to give the material to the printer to print, notwithstanding the possibility that Jews may do the printing on Shabbat, as it is not certain that the printing will take place on Shabbat nor for that matter that Jews will do the printing even if it is done on Shabbat.

Rabbi Naphtali Tzvi Yehudah Berlin, the *Netziv*, (*Meshiv Davar* 2:32) was asked to respond as to the permissibility of officiating at a marriage where it is known that the couple will not observe the laws of family purity. As in Rav Ettlinger's case, the issue at hand is whether such action would be in violation of the rabbinic prohibition. The fact that there are other people who could officiate eliminates the biblical prohibition.

19. Though if the Jewish workers are considered *shogegim* or economic *anusim* this leniency would not apply. See, *Binyan Zion* 2:23; *Melamed LeHoil* 1:29 *Chazon Ish*, *Orach Chaim* #2 16; *Sridei Aish* 2:156; see also note 29.

In the first part of the responsum, the Netziv agrees with Rav Ettlinger's analysis and resolution of the apparently contradictory rulings of Tosafot and Rabbenu Asher (Rosh) in *Avodah Zarah* 6b and *Shabbat* 3a.²⁰ He states that according to Tosafot and Rosh, even where it is known for sure that the couple will violate Jewish law, since it is considered a case of *chad ibra d'nahara* and the action of the rabbi comes prior to the transgression of the sin, it is permissible to officiate at such a wedding. In the second part of the responsum the Netziv discusses the approach of the RaN and concludes that according to this approach it would be permissible since it is prior to the transgression, as long as the rabbi charges a fee.²¹

Rav David Zvi Hoffman in *Melamed LeHoil* (1:34) discusses a common Shabbat question that involves certain *lifnei iver* issues as well. He was asked regarding a business that has both religious and non-religious Jewish partners where the non-religious partners, who control a majority of the partnership, now wish to open the business on Shabbat. The religious partners asked whether they were required to sell their share of the partnership. Along with many other issues, Rav Hoffman discusses whether *lifnei iver* is violated when the religious partners allow the business to operate on Shabbat. After stating that he does not agree with Rav Yaakov Ettlinger's approach as quoted above, he provides a new insight into *lifnei iver*. He states that there is no prohibition of *lifnei iver* when the prohibited "action" is not an action at all but only an inaction (*shev ve'al taseh*). Since in this case the only question was

20. The Ramo in *Yoreh Deah* 151 quoted them as two opinions. The *Shach* claimed that the Gemara in *Shabbat* was discussing an observant Jew whereas the Gemara in *Avodah Zarah* was discussing a *mumar* or non-Jew. Rav Ettlinger differentiated between the cases by stating that the Gemara in *Shabbat* was discussing extending aid during the actual time of transgression whereas the Gemara in *Avodah Zarah* was discussing the extending of aid during a time prior to the transgression.

21. According to the Netziv, the charging of a fee is done in order to earn a living. Whenever an action, such as officiating at a wedding, may be done in order to promote peace (*darchei shalom*), the Netziv thinks it also may be done in order to earn a living.

whether the religious partners must divest themselves of this asset, as the initial investment was already made, Rav Hoffman thought that they need not do so.

Rav Moshe Feinstein in an early responsum (*Iggerot Moshe, Yoreh Deah 1:72*) discusses whether one may cater an affair where there will be mixed dancing. After establishing that the biblical prohibition is not in violation, he rules that in accordance with the *Shach* and *Dagul Merevavah* the rabbinic prohibition is not in violation either. Although it is true that the *Magen Avraham* argues with the *Shach* and prohibits aiding a *mumar*, Rav Feinstein avers that in this case the *Magen Avraham* would agree with the *Shach*. Rav Feinstein states that the reason the *Magen Avraham* concedes that the caterers' actions are permissible is that if these caterers would not supply these affairs, the people would go to other caterers who are less reliable with regards to their Kashrut standards. Thus, by furnishing food for these affairs, the caterers are saving people from an even worse sin.²² Rav Feinstein further argues that the rabbinic prohibition only applies when the primary purpose of the item given to the "blind" person, i.e., the potential sinner, is for prohibited purposes. However, in this case the primary purpose of the catering is to serve the meal, which is entirely permissible.

In a later responsum, (*Iggerot Moshe, Even Haezer 4:61 2*) a question was asked of Rav Feinstein by the Chinuch Azmai Network of Hebrew Schools in Israel concerning the procurement of produce from areas which rely on the *heter mechira*²³ (which has the effect of making usable food grown in Israel in the Sabbatical Year) to students in their schools. The Chinuch Azmai system did not rely on the *heter mechira*, but had no other food to give the students and feared that if it wouldn't provide food, the students would go to non-religious schools. The basic thrust of the question

22. This line of reasoning is similar to R. Eiger's approach discussed below. See part IV:B.

23. See Dayan I. Grunfeld, *The Jewish Dietary Laws*, 2:177-229 for a detailed discussion of the topic.

is whether the rabbinic prohibition of aiding a sinner exists if the aider maintains that a certain action is prohibited, but other recognized authorities maintain that it is permissible.

Rav Feinstein rules leniently for the following reason: the *Shach* and *Dagul Merevavah*, in his explanation of the *Shach*, maintain that there is a rabbinic prohibition of aiding a sinner only if the sinner is a *shogeg* (unintentional). If he is a *maizid* (intentional), the prohibition does not exist. Rav Feinstein explains that according to these opinions the rabbinic prohibition is a function of the commandment to give rebuke — *tochacha*. During the actual time of transgression, if the person is sinning on purpose, it can safely be assumed that rebuke will be of no avail as the conduct is deliberate. Therefore in a case where a biblical prohibition does not exist, neither will a rabbinic prohibition.²⁴ So too, when a person is doing a certain action based upon rabbinic support, it can be assumed that the person will not heed the rebuke; after all he feels that his action is correct. Based upon this analysis and coupled with the facts that *Shmittah* (Sabbatical Year) regulations according to the majority of *poskim* are presently only rabbinic in nature and the case at hand constitutes a great necessity, Rabbi Feinstein rendered a lenient decision.

Rav Ovadiah Yosef, in *Yechaveh Da'at*, has two responsa dealing with *lifnei iver*. The first of the responsa (3:38) is to a butcher who inquired as to the permissibility of his supplying meat during the "nine days" to customers who he suspects will eat the meat during that time period. The questioner's fear was that if he failed to provide these people with meat he would lose them as customers. Rav Yosef rendered a lenient decision based upon several factors. Firstly, the status of the prohibition under discussion is a *minhag* which is lower than a rabbinic law. Secondly, the RaDVaZ (*teshuva* 5:1579) maintains that the rabbinic prohibition of aiding a sinner exists only when the principal prohibition involved is biblical in nature. However, in this case since only a *minhag* is

24. This understanding of the rabbinic prohibition is in stark contrast to Rav Ettlinger's and the Netziv's understanding as discussed above.

involved, the rabbinic prohibition of extending aid would not apply. Although many argue with the RaDVaZ's thesis, since a strict ruling in this case would result in a financial loss to the purveyor and in addition the Ramban²⁵ maintains that there is no rabbinic prohibition of aiding a sinner when the biblical prohibition of *lifnei iver* does not apply, Rav Yosef ruled that the butcher may provide meat to his customers even during the "nine days". In principle Rav Yosef seems to be concerned with the opinion of the *Mishneh LaMelech*; nevertheless, Rav Yosef feels that since only a *minhag* is involved, and since many *poskim* argue with the *Mishneh LaMelech* and maintain that even if the only way to violate the sin is through the help of another Jew no prohibition of *lifnei iver* exists, it is appropriate to be lenient.

In the second responsum (3:67), Rav Yosef discusses whether a clothing store may sell clothing which does not meet halachic standards of modesty and propriety. As in the first responsum, he begins with a discussion of the nature of the underlying prohibition involved, in this case dressing immodestly. Unlike the first responsum, here he concludes that the prohibition involved is at times on a biblical level. Due to this crucial distinction, the major thrust of Rav Yosef's lenient ruling in the first case becomes irrelevant, as the issue involves a much higher level of prohibition.

As a result of this difference, Rav Yosef states that even if there are other stores that will sell such clothing, it would still be considered a case of *trei ibra d'nahara* if all the other stores are owned by Jews, in accordance with the ruling of the *Mishneh LaMelech*. It is clear that Rav Yosef's concern with the ruling of the *Mishneh LaMelech* is a function of the severity of the underlying prohibition involved. When the prohibition is a biblical prohibition (or even perhaps a rabbinic prohibition) he maintains that the definition of *trei ibra d'nahara*, as opposed to *chad ibra d'nahara*, is in accordance with the *Mishneh LaMelech's* understanding.²⁶

25. As quoted by the RaN, *Avodah Zarah 6A* (Rif blot).

26. For obvious reasons, the correctness of the *Mishneh LaMelech* is very important in Israel, and less important for those living in the Diaspora.

Assuming however that there were stores owned by non-Jews, even according to the *Mishneh LaMelech* there would be no biblical prohibition; however, there would still remain the rabbinic prohibition. Here again a distinction in *psak* is evident as a function of the severity of the prohibition. In the first responsum, Rav Yosef maintained that the Ramban's opinion was a legitimate reason to render a lenient ruling. However, in this case he states that the majority of the *Acharonim* assume that there is a rabbinic prohibition, the Ramban's opinion notwithstanding.²⁷

Nevertheless, Rav Yosef concludes that if it is uncertain whether the clothing will actually be worn in an immodest manner, there is room to be lenient especially in light of the fact that the store is selling the item for profit and not to aid sinners. However, if the clothing is such that it is almost certain that it will be worn in an immodest manner, he concludes that it would be prohibited to sell such clothing.

In summary, the *Acharonim* seem to advance a number of different approaches to *lifnei iver*. Some focus on the immediacy of the assistance, or the explicitness of the request to aid. Others focus on whether the aiding is prior to or only at the time of the sin, and whether the aid is only incidental. Another factor is whether the prohibited conduct is an action or an inaction, and whether the law which is violated is a *deorayta*, a *derabanan*, or only a *minhag*. A

27. In a footnote, Rav Yosef discusses the RaDVaZ's opinion, that the *derabanan* of *lifnei iver* only applies when the underlying sin committed violates a Torah commandment. Once again, as opposed to his position in the first responsum, he is hesitant to rely on the RaDVaZ. Firstly, many *Acharonim* argue his thesis, and secondly and even more importantly, Rav Yosef believes that we are dealing with biblical prohibitions in this case. Even if one were to maintain that the actual wearing of the clothing in and of itself only constitutes a rabbinic violation, the wearer would nonetheless be in violation of *lifnei iver* for causing people in the street to have improper sexual thoughts. Therefore, the seller is in violation of *lifnei iver*. See Tosafot *Avodah Zarah*, 15b, *L'oved kochavim* and Rav Perlow, *Sefer HaMitzvot l'Rav Saadia Gaon* 1:650 for similar applications of *lifnei iver*.

Rav Yosef also entertains the possibility of relying on the *Shach*, but concludes that such an option requires further analysis.

final factor is what other alternatives are available to the sinner.

Part IV

Having summarized the various approaches, this portion of the article will demonstrate their application by analyzing three questions frequently asked: (a) Is it permissible to be a waiter or a cashier in a non-kosher restaurant or supermarket; (b) when is it appropriate to engage in activity which apparently leads people to sin in a manner which is intended, in the long run, to reduce sin, *i.e.*, invite non-observant Jews to a seder knowing they will drive to it; and (c) when may one aid religious Jews in doing an action that they think, with some justification, is permissible, even though the aider himself thinks the conduct is prohibited.

Being a Cashier or a Waiter in a Non-Kosher Restaurant or Supermarket

It seems clear that there would be no violation of the Torah prohibition if one were to be a cashier or a waiter in a non-kosher restaurant or supermarket since there are many supermarkets or restaurants for a consumer to patronize.²⁸ According to the *Rishonim* (Tosafot, Mordechai, Ramban) who maintain that there is no rabbinic prohibition, it would thus be permissible. However, according to many *Rishonim* and *Acharonim*, there does exist a rabbinic prohibition generally, and the question is does it exist in this case.

According to the *Shach* it would be permissible if the consumers are *mumarim*.²⁹ This is especially true according to the

28. In the diaspora, this would be true even according to the *Mishneh LaMelech* since there are non-Jewish supermarkets with non-Jewish cashiers. However, in Israel this might not be the case.

29. If the *mumarim* in fact have the status of *tinok shenishbah* (see footnote 19) then the *Shach's* leniency alone would not apply. However, the *Dagul Merevavah's* transformation of *mumar* to *maizid* would probably still allow for this leniency. According to the *Dagul Merevavah* so long as the person is knowingly transgressing and will not heed rebuke, there exists no rabbinic prohibition. It therefore becomes possible to consider a person a *tinok shenishbah* vis-a-vis many halachot such as being counted to a minyan, etc.,

Dagul Merevavah's understanding of the *Shach*, as well as Rav Feinstein's explanation of the overall approach. The case of being a cashier would have the additional advantage of involving a delayed violation, which would make it seemingly permissible according to the *Binyan Zion* and the *Netziv*.³⁰

On the other hand if one accepts Rav Yosef's responsa, these cases seem to resemble the more stringent of his two, as forbidden foods, a biblical prohibition, are involved. Therefore, the strictures of that case would probably apply and being either a waiter or a cashier would be prohibited, unless one could reasonably assume that the consumer is not going to violate the prohibitions of eating non-kosher food, such as when he is not purchasing the food for his own consumption.

Reduction of Sin and Lifnei Iver

Rabbi Akiva Eiger, in his commentary to *Yoreh Deah* 181:6, gives his own extremely important addition to the *lifnei iver* rules. He states that when an action is prohibited, even *min haTorah*, for a person to do himself but is only prohibited for another person to do because of *lifnei iver*, it is better for the second person to do the prohibited action as that reduces the sum total number of sins committed (perhaps to zero). The aider's action do not violate *lifnei iver/mesayeha* as his conduct decreases rather than increases sins. This rule obviously only applies if the sinner can and will do the act anyway so that there is no Torah prohibition of *lifnei iver* and only the *derabanan* of *mesayeha yeday over'ray averah* (aiding the hand of sinners).

and yet consider him a *maizid* with regard to the rabbinic prohibition of *lifnei iver*. This seems possible according to the *Chazon Ish's* comments in *Hilchot Eruvin*, that a *tinok shenishbah* needs to be educated in accordance with his unique nature and needs. The mere informing of a concept such as Shabbat to a person who has lived many years without knowledge of what Shabbat is, does not remove a person from the category of a *tinok shenishbah*, even though it might make him a *maizid* vis-a-vis *lifnei iver*.

30. Being a cashier in such a restaurant appears to us to be halachically superior to being a waiter, as customers normally pay after they have eaten, and hence no *lifnei iver* prohibition is involved at all.

The precise example used by Rav Eiger best illustrates his principle. Rav Eiger was asked by a man who was going to shave himself with a razor if it would be better, instead of shaving himself, were a woman to shave him. Rav Eiger replied that it would be better for the woman to shave him, since it is prohibited according to Torah law for a man to shave himself with a razor and it is permissible for a woman to shave a man with a razor *min hatorah* (see *Yoreh Deah* 181:1,6). Furthermore, Rav Eiger posits that the woman's shaving the man is only prohibited according to rabbinic law because of *mesayeha*. Rav Akiva Eiger then reasons as follows: if the man shaves himself, Torah law is violated; if the woman shaves the man, she only violates *mesayeha* and the man violates only lesser Torah prohibitions. Thus he concludes that it should be permissible for the woman to shave the man, without violating any prohibition, if the man will shave himself anyway, as *mesayeha* does not apply when the sinner can and will perform the prohibited act himself, and doing the act for him reduces the violator's prohibitions.

The theme of Rav Akiva Eiger's analysis of *lifnei iver* problems is extremely important in many situations. R. Akiva Eiger's principle underlying his understanding of *mesayeha* is as follows: In situations where a person is going to violate the law regardless of the conduct of the aider, and if the aider does in fact "help" in the committing of the sin by actually doing the sin in a manner which reduces rather than increases the number or scope of the sins, that "aiding" is permitted providing that the aider's conduct is only proscribed by *mesayeha* and no other prohibition.³¹

The applications of this rule are both far-reaching and numerous. For example, if we accept this ruling it would be

31. *I.e.*, a personal prohibition rather than just *lifnei iver*. For example, if a violator turns to an aider and says "I would like to eat pork; however, if you will eat chicken and milk (which is only a rabbinic prohibition) I will not eat pork", such conduct by the aider is prohibited, as the aider is violating the prohibition of eating meat and milk together. If on the other hand the violator says "If you will serve me chicken and milk, then I will not eat pork" R. Eiger would allow that, as serving him is only *mesayeha*.

permissible to invite³² a person who is not at all observant for a seder or any other (holiday) meal since the prohibited conduct (driving) will take place anyway, and prohibitions are reduced in that kosher food and a religious environment are provided. No violation of the Torah prohibition occurs by the host since the host is willing to have the guests stay overnight until the holiday is over. Thus no added violations of halacha occur, and the number of violations by the sinner decrease.

An identical situation occurs anytime, when, in order to expose Jews who are not yet religious to Orthodox Judaism, it is necessary to allow sinning to happen — or even to allow the organizer to apparently encourage one form of sin — since in reality the organizer is merely encouraging one form of lesser sin as a substitute for a greater sin, in the hope that this lesser sin will lead to greater observance. If this rationale is correct, it would not violate *lifnei iver* to send an Orthodox rabbi into a non-Orthodox congregation to officiate in the hope that he will make the congregation more religious.³³ (Whether the rabbi can himself pray in this synagogue is a separate question with which we will not deal in this article.) The rabbi's "sin" is at most *mesayeha yeday over'ray averah* (aiding the hand of those who sin) because he encourages people to attend an improper synagogue. This violation disappears if the congregants would go to this, or a less religious synagogue anyway, or would equally violate the Sabbath anyway even if they were to refrain from attending any synagogue at all. According to the principle of Rav Eiger, since the Orthodox rabbi will guide the people to a more Orthodox observance than they would otherwise have, there would be no rabbinic prohibition of *mesayeha* since the total number of sins, and the severity of the sins, have decreased.

Rabbi Meir Schlessinger quotes Rav Shlomo Zalman Auerbach

32. An interesting question is whether words alone are classified as *shev ve'al taseh* and thus come within the parameters of Rav Hoffman's *heter*; see *Encyclopedia Talmudit*, 6:410 (*dibur c'maseh*).

33. There is still the question of whether this type of behavior constitutes a form of *Ze'uf haTorah*.

as being in agreement with this basic rule,³⁴ and it can be seen as well in Rav Auerbach's own work, *Minchat Shlomo*, 35:1. Rav Auerbach rules that serving food to people who do not wash prior to eating bread, at most violates *lifnei iver* and there is no prohibition of *lifnei iver* when its adherence will result in an even greater sin than is gained by observing it — in Rav Auerbach's case, encouraging hatred of religious Jews. Rav Moshe Feinstein as well appears to accept this principle when he rules that it is appropriate to provide kosher food to mixed-dancing affairs, under the rationale that providing kosher food reduces the number of sins rather than increases it — as otherwise these groups would have non-kosher food. The *Chatam Sofer*, Rav Eiger's son-in-law, in his *teshuvot* (6:14)³⁵ also agrees with this approach, as does the *Machatsit*

34. See Rav Schlessinger, *Mitzvat Chinuch, Shaalei Da'at* p.1 (5749). In this article, Rav Schlessinger, while discussing various aspects of education in halacha, states that one aspect of the rabbinic obligation to educate children is to distance children from specific sins and to familiarize them with the technical performance of mitzvot so that they can grow up to be functional Orthodox Jews. On the other hand Rav Schlessinger states that the Torah obligation of *chinuch* is limited to the general requirement to raise God-fearing and generally ethical children. It does not necessarily include the teaching of specific commandments.

Rabbi Schlessinger then asks what one does when the two components conflict with each other, such as when too much pressure is exerted upon a child to conform to the details, thus perhaps causing him to abandon the religion completely. Rabbi Auerbach replies that the parameters of the rabbinic component of *chinuch* are similar to those of *lifnei iver*. If the observance of the rabbinic component in a given case will result in more bad than good, then there is no obligation to observe it. Like *lifnei iver*, *chinuch* needs an assessment of what maximizes the total amount of proper behavior rather than what fulfills the technical obligations; see also footnote 36.

35. The *Chatam Sofer* was asked whether it was permissible to bribe the secular "judicial" authorities in an anti-Semitic country if, absent the bribes, Jews will be unfairly discriminated against in secular court. He states that even though bribing any judge normally violate *lifnei iver*, since in this case the bribe is given in order to insure that justice is done, it is permissible. *Lifnei iver*, he states, is not violated by bribing the judge to do what he is commanded to do anyway — on the contrary, since more good than bad is accomplished he claims, a mitzvah is done.

HaShekel(*Orach Chaim* 163:2).³⁶

Rav Eiger's approach is also very relevant in any situation where one person is not as obligated as another or is not at all obligated in a specific commandment. This has specific applicability in many hospital situations. For example, if the nurse is a man, he can only hand a Jewish patient a razor to shave with if the patient asks for one, based on Tosafot or the *Shach's* rulings.³⁷ If the nurse is a woman, it would be preferable for her to shave the patient herself rather than hand him a razor.³⁸

In summary, Rav Akiva Eiger's approach is that *mesayeha* or *lifnei iver* does not apply any time the conduct of the aider is halachically successful; i.e., it reduces the level of violation of the sinner. When that happens it is permissible and appropriate to remain active — providing that no other violations of halacha are done by the aider.

Different Opinions within the Halacha

A somewhat related topic is the scope of *lifnei iver* when dealing with religious Jews with whose understanding of the halacha

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36. Semantics are very important in all of these cases. Rav Eiger appears to limit his rule to only the rabbinic prohibition of *mesayeha*. The *Chatam Sofer* on the other hand clearly uses this rule even to the Torah prohibition of *lifnei iver*, since his case involved a non-Jew where no *mesayeha* prohibition exists. Rav Auerbach uses the term *lifnei iver* but is not sure if this distinction works with reference to Torah prohibition of *lifnei iver*. The *Machatsit HaShekel* applies his rule only to *mesayeha*.
37. For an excellent article on the same topic, with a contrary conclusion, see Rabbi Moshe Tendler, *Iyunin BeDin Lifnei Iver*, in *Yovul Hayuvlot* (in honor of Yeshiva University's centennial) p.392 (1986).
38. Another application of this would be to a hospital intern or resident in a non-*Shomer-Shabbat* program who wishes to switch "on-call" days with a non-religious Jew so he can avoid working on Shabbat.

The only potential problem is *lifnei iver*. If R. Akiva Eiger is correct, by switching days with the non-observant Jew who would otherwise observe no Shabbat, the total number of violations of halacha are reduced (since everyone agrees that working to save people on Shabbat in a hospital is preferable to non-observance). Instead of having one person violate Shabbat by working in the hospital (if in fact that is prohibited) and another violate Shabbat through his non-observance, only one violation occurs. Since the non-religious Jew's sins

one disagrees. Both the *Binyan Zion* (1:62) and the *Sdei Chemed*, (*velifnei iver* 28) discuss whether if person *A* maintains that something is permissible to eat and person *B* thinks it is halachically impermissible, *A* may feed it to *B* without *B*'s knowledge. The consensus of opinion is that this is prohibited. (See *Chulin* 111a)

A second case occurs when *A* thinks something is prohibited, but wishes to feed it to *B* who thinks it permitted. Rabbi Feinstein's *teshuva* quoted above states that this is permissible *bede'evad*. His case, however, actually involved feeding non-religious, ignorant Jews food whose kashrut was debatable.

The authors are of the opinion that when the second group has a well established, thought out, and reasonable position, it certainly does not violate *lifnei iver* to aid them. Two justifications can be given. First, it is clear that the "rebuke" will not be successful, as the group has an opinion which it believes to be halachically correct. Thus, *Tosafot* and the *Shach* think *lifnei iver* does not apply when the situation is *chad ibra d'nahara*. Secondly, once the principal's action is itself arguably permissible, the aider's action, again assuming it is *chad ibra d'nahara*, is only a *safek derabanan*. The combination of these two reasons should make this form of aiding permissible.³⁹

Conclusion

In summary, there are two basic approaches to *lifnei iver* — that which looks at the effect aiding has on the aider and that which looks at the effect aiding has on the sinner. Many *poskim* (including *Rambam*) accept the first approach. *Lifnei iver*, they claim, prohibits conduct which aids sinners, not solely when it is efficient or induces sin, but even when it is an act of futility. This

are reduced, this action is permitted and even appropriate. Hence, no violation of *lifnei iver* occurs; see *Iggerot Moshe, Orach Chaim* 4:79. For a similar application of this rule, in a different context, see *Melamed LeHoil* 1:56:6.

39. Thus, for example, it certainly is permissible to allow the building of an *Eruv* that one does not feel is sufficiently halachically acceptable to carry in, so long as there are opinions that permit its use. It is even permissible to aid such a project. See *Iggerot Moshe, Orach Chaim* 4:89.

approach maintains that the act of aiding is itself prohibited, perhaps because assisting sin affects the aider in improper ways.

The other approach accepts that *lifnei iver* is not violated when aiding does not induce more sin. Sometimes not aiding becomes an exercise in futility, or, even worse, more is lost than gained by non-participation. When the sinner will not listen, does not care, or does not believe that he is sinning, and he can do the act without the assistance of any Jew, *lifnei iver*, this group claims, does not apply. Most Ashkenazi *poskim* follow this approach in one form or another.