



Confession & Repentance  
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Maimonides identifies a verse in Parashat Naso as the Biblical source for the obligation of *viduy* – verbal confession as part of the process of *teshuva* (repentance). We will devote this week's discussion to Maimonides' position in this regard, focusing first on the context of the verse which, according to Maimonides, introduces this obligation, and then on the precise definition of this *mitzva* as it is portrayed in Maimonides' writings.

**The Context of *Asham Gezeilot***

The section in Parashat Naso with which we are dealing (5:5-8) presents the concept of *asham gezeilot* – the guilt-offering required of a thief who confesses his crime after having initially denied it on oath. In describing the thief's change of heart, the Torah writes, "And they confess their sin that they committed..." According to the straightforward reading, this verse simply describes the sequence of events that yields an obligation of *asham gezeilot* – a thief who regrets his crime and initial denial, and now comes forth to confess. Maimonides, however, in his *Sefer Ha-mitzvot* (positive commandment 73), cites from the Tannaitic work *Sifrei Zuta* (to which he refers as the *Mekhilta*) a different reading of this clause, whereby it imposes an obligation to confess. Rather than interpreting this phrase as, "And they confess their sin," Maimonides understands it to mean, "And they *shall* confess their sin" – in the imperative form. From here Maimonides deduces the obligation "to confess before the Almighty the iniquities and sins that we have committed and declare them together with repentance." He likewise cites this verse in his opening remarks to *Hilkhos Teshuva* (1:1).

In essence, according to Maimonides, it is here that the Torah requires a sinner to repent. Later we will elaborate on the precise relationship between confession and repentance in Maimonides' view; for now, suffice it to say that nowhere does he cite any other Biblical source for the obligation of *teshuva*. It is thus here, in Parashat Naso, amidst the Torah's discussion of *asham gezeilot*, that the Torah establishes the *mitzva* to repent for one's sins.

The seeming peculiarity of this position can be appreciated by contrasting it with the Nachmanides' view concerning the Scriptural source of the *teshuva* obligation. In his commentary to the Torah, Nachmanides points to a verse towards the end of *Chumash* as the origin of this obligation. Moshe warns *Benei Yisrael* of the catastrophic consequences of disobeying God's law and foresees the time when the nation will be exiled from their land on account of their idolatrous worship. His admonition continues, "It shall be when all these events befall you – the blessing and the curse that I have placed before you – you shall return unto your heart, among all the peoples to where the Lord your God has banished you. You shall return unto the Lord your God and heed His voice..." (Devarim 30:1-2). Moshe then proceeds to promise God's acceptance of the nation's repentance, and their return to their land and previous condition of prosperity. According to Nachmanides, it is here that the Torah introduces the obligation to repent for one's transgressions.

At first glance, the verse chosen by Nachmanides appears to be a far more suitable candidate for the Biblical source of the obligation of *teshuva*. After all, this entire section deals with the fundamental precepts of reward-and-punishment, exile, repentance and return. Moshe here devotes several chapters to emphasizing the consequences of sin, and in this context, impresses upon his audience the urgent need to repent. It is only natural for this section to serve as the Biblical source of the obligation of repentance. Yet, Maimonides points specifically to the

section of *asham gezeilot*, which addresses a very particular situation of a crime followed by remorse. Why would the Torah choose such a narrowly confined context to introduce the concept of *teshuva*, which is, of course, among the most fundamental and all-embracing principles of Judaism? (In his *Guide for the Perplexed* – 3:36, Maimonides speaks of repentance as "one of those principles which are an indispensable element in the creed of the followers of the Law.")

For one thing, Maimonides adopted a much different approach in interpreting the verses in Devarim. Later in *Hilkhot Teshuva* (7:5), Maimonides writes, "The Torah has already promised that Israel will ultimately repent at the end of their exile, at which point they will immediately be redeemed, as it says, 'It shall be when all these events befall you... You shall return unto the Lord your God... And the Lord your God will restore...' " Thus, we have here an explicit exegetical debate between Maimonides and Nachmanides with regard to these verses. Nachmanides interprets them as imposing an obligation, whereas Maimonides prefers viewing them as a divine promise of Israel's ability to repent. Regardless of how far the nation strays from the authentic service of God, we are guaranteed of our national potential for repentance and return, which will render us worthy of complete redemption and the restoration of our previous condition of prosperity and prominence.

Additionally, Maimonides may have preferred the context of *asham gezeilot* as the Scriptural source of the *teshuva* obligation because it speaks of personal, rather than national, repentance. In the Book of Devarim, Moshe describes the process of sin, exile, repentance and redemption on a nationwide scale. He speaks of the nation at large banished from their land and then undergoing the process of *teshuva* leading to their return from exile. Maimonides perhaps felt that *teshuva* is essentially a personal obligation, and is thus more appropriately introduced in the context of a personal process of sin and remorse. In his view, the discussion of *asham gezeilot*, which involves a criminal who regrets and seeks absolution for his wrong, provides a far more accurate model of the *teshuva* obligation than the sequence of events described in the Book of Devarim. For the *mitzva* of *teshuva* involves the very personal experience of failure and contrition, which is much more clearly reflected by the situation of the individual criminal, rather than the process undergone by the nation at large.

Yet another factor that may have contributed to Maimonides' selection of the *asham gezeilot* context perhaps emerges from a powerful insight of the *Sefer Ha-chinukh* (129) regarding the underlying theme of this sacrifice. The *asham gezeilot* offering comes in addition to the repentant criminal's full return of the stolen funds and payment of a 20% fine to his victim. The *Sefer Ha-chinukh* explains that the sacrifice is necessary to dispel the mistaken notion that a criminal has made full recompense once he settles his account with his victim. The Torah imposes upon the thief an additional expiation requirement – a sacrifice to God – to remind him of his outstanding balance with the Almighty. Any crime committed against one's fellow necessarily entails an offense against God, as well. As a reminder of this fundamental axiom, the repentant thief must make amends for his crime against the Almighty, so-to-speak, even after his account is settled with the owner of the stolen property.

In light of this philosophical basis of the *asham gezeilot* obligation, we can perhaps gain further insight into Maimonides' view, according to which the Torah introduces the *teshuva* obligation specifically in this context. The Torah occasionally presents a *mitzva* specifically within a context where it is less intuitive or more likely to be neglected. (We've discussed this point on several other occasions in this series.) The most obvious example, perhaps, is the prohibition against beating one's fellow, which the Torah introduces by way of admonishing a court official to refrain from exceeding the number of lashes prescribed for violators incurring corporal punishment (Devarim 25:3). Particularly in this context, where the official may likely

justify additional flogging, the Torah issues the prohibition against beating another Jew. For this same reason, one might suggest, the Torah, in Maimonides' view, selected the situation of a civil crime as the appropriate context to introduce the *teshuva* obligation. As the *Sefer Ha-chinukh* insightfully noted, one might instinctively absolve a criminal of guilt the moment he returns the stolen goods and pays compensation for the anguish caused to the victim. The process of verbal confession and repentance, one might have thought, is reserved for sins committed directly against God, as it were. Maimonides indeed emphasizes that this is not the case: "Similarly, one who injures his fellow physically or causes him financial damage – even once he pays him what he owes – does not achieve atonement until he confesses and repents" (Hilkhos Teshuva 1:1). For this reason, perhaps, the Torah introduces the *teshuva* obligation specifically within the framework of *asham gezeilot*, thereby emphasizing the *teshuva* is required for all transgressions, even those involving civil crimes.

### Confession or Repentance?

There exists yet another, far more fundamental, difference between these two different sources of the obligation. In the verse championed by Nachmanides, the Torah explicitly mentions *teshuva* – literally, "return": "*Ve-shavta ad Hashem Elokech*" – "You shall return unto the Lord your God." In the section of *asham gezeilot*, however, which Maimonides enlists as the Biblical source of *teshuva*, no mention is made whatsoever of "*teshuva*." Rather, it speaks only of *viduy* – verbal confession: "*Ve-hitvadu et chatatam*" – "They shall confess their sin." Accordingly, we might conclude that in Maimonides' view, there is, in truth, no *mitzva* of *teshuva* at all. The Torah obligates not repentance, but merely verbal confession.

Indeed, this appears to be Maimonides' implication in his opening remarks in Hilkhos Teshuva: "All commandments in the Torah... if a person violates one of them, intentionally or unintentionally – when he performs repentance and repents for his sin, he is obligated to confess before the Almighty..." Several prominent scholars, including, most famously, the *Minchat Chinukh* (the classic commentary to the *Sefer Ha-chinukh*), inferred from Maimonides' formulation that technically speaking, a sinner is not obligated to perform *teshuva*. Whether a person wishes to earn expiation for his wrong is his own decision. The *mitzva* spoken of by Maimonides refers merely to the procedure one must follow should he choose to work towards having his record cleared. In other words, the Torah here establishes the method of *teshuva*, rather than an obligation of *teshuva*.

Rabbi Meir Simcha Ha-kohen (Lithuania, late 19<sup>th</sup>-early 20<sup>th</sup> century), in his *Meshekh Chokhma* (Parashat Vayelekh), provides the rationale for this otherwise astonishing conclusion. What, after all, does *teshuva* mean? Assuming that there indeed exists an obligation to repent, what, practically speaking, would such an obligation entail? Seemingly, it requires a sinner to resolve in his heart never to repeat the wrong(s) he has committed and abide by his resolution. Why, Rabbi Meir Simcha asks, should we expect the Torah to issue a separate obligation requiring one to refrain from sin? If, for example, a person ate forbidden foods, then an obligation of *teshuva* would require that he firmly resign himself to never eat such foods again. But is the violator not already bound by the Torah's dietary laws to refrain from these foods? There is no reason for the Torah to present a separate obligation to refrain from activities which it has already proscribed. Understandably, then, Maimonides does not consider *teshuva* a *mitzva*. The need for repentance stems naturally from Torah's basic code of law. The Torah merely establishes the procedure available to those seeking atonement for past misdeeds – a sincere,

verbal acknowledgement of religious failure. But as for the improvement of conduct and future resolve – the Torah has no need to issue a separate command in this regard.

Nevertheless, many other scholars rejected this approach to Maimonides' position. Rabbi Yosef Dov Soloveitchik (in a lecture transcribed in Pinchas Peli's *On Repentance*, p. 68) records a family tradition that his great-grandfather and namesake, Rabbi Yosef Dov Soloveitchik of Brisk (the *Beit Halevi*), resoundingly dismissed such a notion. Rabbi Soloveitchik brought several proofs to the fact that Maimonides indeed recognizes a *mitzva* to repent, beyond the narrow obligation of verbal confession. Most compellingly, Maimonides himself makes explicit reference to such an obligation. In his prefatory remarks to Hilkhos Teshuva, Maimonides writes that this section deals with one of the 613 commandments, "that a sinner must repent for his sin before God and confess." This formulation could not be more explicit in establishing an obligation of *teshuva*. And later in Hilkhos Teshuva (2:7), Maimonides discusses the unique status of repentance during the Days of Awe (Rosh Hashana, Yom Kippur, and the interim days), and writes, "All are obligated to repent and confess on Yom Kippur." As Rabbi Soloveitchik notes, Maimonides does not list a separate obligation of repentance on Yom Kippur in his *Sefer Ha-mitzvot*. (By contrast, Rabbenu Yona of Girondi, who lived after Maimonides, indeed considers repentance on Yom Kippur an independent obligation, in addition to the standard obligation of *teshuva* – *Sha'arei Teshuva* 2:14.) Necessarily, then, this reference in Hilkhos Teshuva to an obligation to repent must be seen as a detail of the standard obligation of *teshuva*. Meaning, the Torah requires a sinner to repent for his sins, and Yom Kippur is selected as the day on which a Jew must repent for all his wrongdoing. This must mean, then, that the standard obligation of *teshuva* entails not merely verbal acknowledgment of guilt, but also the general process of repentance.

But if Maimonides indeed views the entire process of repentance as a *mitzva*, then how do we account for his formulation at the beginning of Hilkhos Teshuva ("when he repents... he is obligated to confess")? Furthermore, how should we then define the obligation of *teshuva*? As mentioned, a sinner remains bound to the original mandates of the Torah, which clearly obligate him to refrain from further violations. What, then, would a separate obligation of *teshuva* entail?

### ***Teshuva* as a Prerequisite for *Viduy***

Rabbi Yossef Kapach, in his notes to Maimonides' *Code* (and, more extensively, in an article published in the journal *Sinai*, Sivan-Tamuz, 5742), argues that in Maimonides' view, the Torah requires repentance as a preparation and prerequisite for confession. Along similar lines, a much older commentary to the *Code* entitled *Kiryat Sefer*, suggests that Maimonides saw verbal confession as the final consummation of the *teshuva* process. In articulating the specific definition of this obligation, the *Kiryat Sefer* explains, Maimonides points to the final stage of the process - *viduy*; in truth, however, the *mitzva* entails not only verbal confession, but the entire experience of *teshuva*.

We might follow this same general approach, only from a slightly different angle. Indeed, as Maimonides states explicitly in *Sefer Ha-mitzvot* and at the beginning of Hilkhos Teshuva, the precise definition of this obligation is verbal confession. However, when the Torah prescribed that a sinner must "confess," it refers to not merely the actual recitation of words, but a genuine expression of shame, remorse and future resolve. In defining confession at the beginning of Hilkhos Teshuva, Maimonides writes, "How does one confess? He says: I beseech You, God – I have sinned, transgressed and rebelled against You... and I hereby regret and feel shame over my actions, and I will never repeat this deed." *Viduy* thus entails not only confession of wrongdoing,

but also an expression of shame, remorse and future resolve. Obviously, if the Torah requires a person to make such a declaration before God, he must indeed experience these emotions. It turns out, then, that by its very definition, *viduy* necessitates *teshuva*. Once we define "confession" as a genuine, verbal expression of these emotions of shame, regret and resolve, *teshuva* necessarily becomes an integral part of this *mitzva*.

Yet, this explanation leaves unresolved one additional difficulty with Maimonides' definition of this *mitzva*. Even once we affirm Maimonides' recognition of an obligation of *teshuva* as part of this *mitzva*, it must be explained why he pointed to confession as the essential definition of the obligation. According to the approach we presented, the general process of *teshuva* emerges as a prerequisite to confession. But this arrangement appears to reverse the roles of these two stages. It seems far more likely that the emotional process of *teshuva* should constitute the central component of this *mitzva*, with *viduy* serving as merely the outward expression of this internal process. Why, then, would Maimonides portray verbal confession as the *mitzva*'s essential component, assigning but a secondary role to the far more substantive aspect, *teshuva*?

### **Rabbi Soloveitchik: *Ma'aseh* & *Kiyum***

To explain Maimonides' position, Rabbi Soloveitchik resorts to a distinction he developed many times between the two dimensions of *mitzva* observance, which he defines as the *ma'aseh ha-mitzva* (*mitzva* act) and *kiyum ha-mitzva* (essential fulfillment of the *mitzva*). When it comes to most of the Torah's commandments, these two elements coincide; the *mitzva* is fulfilled in its entirety through the performance of the specified act. In some instances, however, the *ma'aseh ha-mitzva* – the concrete act mandated by the given *mitzva* – does not suffice. That act must be accompanied by a certain experiential dimension for the *mitzva*'s fulfillment to be achieved.

Rabbi Soloveitchik brings several examples of this distinction, including the laws of *aveilut* (mourning). A quick survey of the mourning laws reveals that Halakha requires performing certain concrete actions and refraining from others. However, as Rabbi Soloveitchik demonstrated, these actions alone do not achieve fulfillment of the *mitzva* of mourning. For there is a second, experiential dimension of this obligation which can be observed only through genuine emotions of bereavement. Another, particularly relevant, example is the Torah obligation of prayer, which Maimonides describes in his preface to *Hilkhos Tefila* as a requirement "to serve the Lord each day in prayer." Yet, as he begins the actual body of *Hilkhos Tefila*, Maimonides writes, "There is a positive commandment to pray each day." The practical demand of this *mitzva* is the concrete act of prayer; essentially, however, the *mitzva* requires worship of the heart, which necessarily entails emotional engagement. In the actual body of the *Code*, Maimonides outlines the practical procedures mandated by Halakha. In prefacing each section of *halakhot*, however, he seeks to capture the essential definition of the *mitzva*, the sum total of what it requires of an individual. Therefore, in those rare instances when the specific actions required by a *mitzva* do not adequately reflect the essence of the obligation, we should expect some disparity between Maimonides' description of the *mitzva* in the actual text of the *Code*, and his brief definitions as he prefaces each set of laws.

This theory easily accounts for the conflicting implications regarding Maimonides' definition of the *teshuva* obligation. In *Hilkhos Teshuva* itself, Maimonides speaks of *viduy*, for in terms of the practical procedure of observance, this is what the *mitzva* entails. Essentially, however, this *mitzva* requires much more than verbal confession. It demands an internal transformation of self, a subjective experience that cannot be formally defined in rigid halakhic



terms. On the formal level of *ma'aseh ha-mitzva*, then, this obligation is defined as verbal confession; in terms of its broader demands, however, this *mitzva* involves the experience of shame and humiliation, and a genuine exertion of effort to improve and distance oneself from the violation committed.

### **"Perhaps He Entertained Thoughts of Repentance in His Mind"**

However we understand the relationship between confession and repentance in Maimonides' view, he clearly casts confession as an indispensable component of this process. True, as we have shown, Maimonides could not have confined the *mitzva* to verbal confession alone; he does, however, explicitly require verbal confession to fulfill this obligation. In addition, he negates the possibility of achieving atonement without verbal confession, noting that even when violators incur corporal punishment, "they are not granted atonement through their execution or through their flogging until they repent and confess." He adds that even when one commits a wrong against his fellow and pays compensation, his atonement hinges on his verbal confession and firm resolve never to repeat the given crime.

Some writers have called into question the indispensable role Maimonides ascribes to verbal confession in light of a startling passage in the Talmud, which appears to downplay the importance of *viduy* within the process of repentance. The Talmud (Kiddushin 49a) addresses numerous cases where a man betroths a woman but hinges the betrothal on a certain condition. Among the more striking situations described is when a man betroths a woman "on condition that I am completely righteous." The Talmud asserts that even if the man is known to be sinful, we must nevertheless recognize the betrothal's legal standing, thus requiring a halakhic divorce should the woman wish to marry somebody else. The Talmud explains the rationale behind this ruling: "Perhaps he entertained thoughts of repentance in his mind." If a sinful man entertained sincere thoughts of *teshuva* during the moments just prior to his betrothal, we may, indeed, consider him "completely righteous," thus satisfying the condition he imposed onto the betrothal. Maimonides accordingly codifies this halakha in his discussion of the laws of marriage (Hilkhos Ishut 8:5).

This ruling raises several questions, but no matter how we explain the prospect of transforming from sinful to "completely righteous" through several brief moments of introspection, it certainly appears to negate the indispensability of verbal confession. After all, the Talmud recognizes the possibility of changing one's status from wicked to pious through even a silent *teshuva* process.

The *Minchat Chinukh*, and, later, Rabbi Yerucham Perlow (early 20<sup>th</sup>-century scholar who penned a monumental work on Rabbi Sa'adya Gaon's listing of the commandments), resolve this difficulty by distinguishing between atonement and personal status of piety. In other words, it is possible for one to earn the description "completely righteous" even before having attained expiation for previous misdeeds. The rationale would appear to be that "piety" and "sinfulness" are determined not by one's current record, but rather by the direction in which he is now headed. The moment a person sincerely commits himself to discontinuing wrongful behavior, he may indeed be described as "righteous," even before he has taken the necessary measures to atone for his misconduct and thereby escape punishment.

We might venture an analogy to a wealthy businessman with assets worth millions, who one day finds himself in a supermarket without his checkbook or charge card, and must therefore borrow some money from another consumer to pay for his groceries. Although he is technically in debt until he returns home and sends the lender a check, he may justifiably be described as



"wealthy" even during his period of arrearage. Likewise, in the case addressed by the Talmud, the individual becomes "pious" the moment he sincerely commits himself to a life of strict Torah observance, his outstanding "debts" notwithstanding.

### **Confessing "Before the Almighty"**

In order to more fully understand the prominent role Maimonides assigns to verbal confession as part of the *teshuva* process, let us return to his description of this *mitzva* at the beginning of Hilkhos Teshuva: "when he performs repentance and repents for his sin, he is obligated to confess before the Almighty." Maimonides emphasizes that a penitent sinner must declare his confession "before the Almighty." This subtle emphasis perhaps alludes to the basic principle underlying the indispensable need for *viduy* as part of repentance. A violator must acknowledge his guilt not only to himself, but, first and foremost, to the Almighty. Confession is intended as a frightening, humiliating experience. We are bidden to directly approach God, who assigned us His laws and warned us of the consequences of their neglect. Standing before Him, as it were, we must admit our failure in meeting His demands, and accept full responsibility for our delinquency.

This perspective on *viduy*, coupled with its indispensable role in Maimonides' system to *teshuva*, perhaps sheds new light on the entire process of repentance. Beyond remorse, a sinner must feel ashamed, and even frightened. By requiring the transgressor to speak to God directly, as it were, as he confesses guilt, Maimonides in effect demands that he experience the anguish and humiliation of failure and incompetence. These emotions will in turn engender a sense of revulsion and disgust towards the wrong committed, thereby helping to ensure that it will never recur. Understandably, then, Maimonides views verbal confession as an integral component of the process of repentance, as it calls upon the sinner to approach the Almighty directly to appeal for forgiveness and a chance to improve.