



**Hilkhot Teshuva 1:
The *Mitzva* of *Teshuva*
By David Silverberg**

In the beginning of each section of *Mishneh Torah*, Maimonides introduces the section by briefly listing which of the 613 Biblical commands are addressed in that section. He introduces Hilkhot Teshuva by writing, "There is one affirmative command, namely, that the sinner must repent for [literally, 'return from'] his sin before God and confess." Maimonides appears to define the *mitzva* of *teshuva* as including two components: repentance ("that the sinner must repent") and confession ("and confess"). The second component, "confession," obviously refers to a verbal declaration, which Maimonides in fact dictates in the opening passage of Hilkhot Teshuva, whereas the first, "repentance," likely involves an emotional process. Maimonides describes this process in the second chapter of Hilkhot Teshuva (*halakha* 2): "What is *teshuva*? It is that the sinner abandons his sin, removes it from his thoughts, and resolves in his heart that he will never commit it again... He likewise feels remorse over the past..."

But whereas in his introduction to Hilkhot Teshuva Maimonides indicates that this *mitzva* entails both the emotional process of repentance as well as confession, in the opening passage of Hilkhot Teshuva a much different definition of this *mitzva* emerges:

All commandments of the Torah...if a person transgresses one of them, whether intentionally or unintentionally, when he performs *teshuva* and repents for his sin he is obligated to confess before the Almighty, as it says (Bamidbar 5:6-7), "A man or woman who commits...they shall confess their sin that they committed" – this refers to verbal confession. This confession constitutes an affirmative command.

As many writers have noted, Maimonides here appears to define the *mitzva* in terms of confession, and not in terms of repentance. He writes that the Torah requires one who repents to verbally declare confession; this requirement does not, however, pertain to the repentance itself. This inference from Maimonides' comments was made most famously by Rabbi Yosef Babad (1800-1874), author of *Minchat Chinukh* (364), who likens Maimonides' definition of this *mitzva* to the *mitzva* of *geirushin*, or divorce. Needless to say, the Torah does not obligate a husband to divorce his wife. Nevertheless, Maimonides lists as the 222nd of the Torah's affirmative commands the obligation to follow the Torah's guidelines when one wishes to divorce. Divorce is classified as a *mitzva* in that it requires an individual to follow a certain procedure should he wish to achieve a certain result. Similarly, Maimonides understands the commandment of

repentance to mean that "when he [the sinner] performs *teshuva* and repents for his sin," he must follow the procedure dictated by the Torah: "he is obligated to confess before the Almighty."

This is also the implication of Maimonides' definition of this commandment in his *Sefer Ha-mitzvot* (*asei* 73): "He commanded us to confess the misdeeds and sins that we committed before the Almighty and to mention them along with *teshuva*." Here, too, the *mitzva* is defined as a procedure that a sinner must follow when performing *teshuva*, rather than *teshuva* itself.

Different Biblical Sources

This understanding of Maimonides' position also emerges from the verse to which he points as the Biblical origin of this command. Both in *Sefer Ha-mitzvot* and the opening passage of *Hilkhot Teshuva*, Maimonides cites as the source of this *mitzva* a pair of verses in the Book of Bamidbar (5:6-7): "A man or woman who commits any of the sins of man, to transgress against the Lord...they shall confess their sin that they committed." Clearly, this verse speaks specifically of verbal confession, and not of the emotional process of repentance. Nachmanides, by contrast, in his Torah commentary (Devarim 30:11), points to different verses as the source of this *mitzva*: "It shall be, when all these things come upon you...you shall return unto your heart...You shall return unto the Lord your God and heed His voice...with all your heart and with all your soul" (Devarim 30:1-2). In his view, the *mitzva* of repentance is not limited to verbal confession, as Maimonides appears to have held, but includes the entire process of returning to Torah observance.

This debate between Maimonides and Nachmanides hinges on the interpretation of the aforementioned verses in the Book of Devarim. Nachmanides, of course, understood these verses as commands – "you shall return unto your heart"; "you shall return unto the Lord your God" – and thus cited them as the source for the Torah obligation of repentance. Maimonides, however, later in *Hilkhot Teshuva* (7:5), cites these same verses as proof to the fact that the Jewish people will one day achieve full repentance. He writes: "The Torah has already promised that Israel will ultimately perform *teshuva* at the end of their exile, and they will then immediately be redeemed, as it says, 'It shall be, when all these things come upon you...you shall return unto the Lord your God...'" Maimonides clearly understood these verses as foretelling, rather than commanding, *Benei Yisrael's* ultimate repentance. In his view, the Torah never commands a sinner to repent; it rather instructs that a person who chooses to repent should do so through verbal confession.

Is There No Obligation to Repent?

Although this understanding of Maimonides' view indeed appears to emerge from his comments in the opening passage of *Hilkhot Teshuva* and in *Sefer Ha-mitzvot*, it raises a number of questions. For one thing, as mentioned earlier, Maimonides explicitly includes *teshuva* as part of the *mitzva* in his introduction to *Hilkhot Teshuva*: "There is

one affirmative command, namely, that the sinner must repent for his sin before God and confess." Furthermore, later in Hilkhhot Teshuva, Maimonides makes explicit reference to an obligation to repent: "Yom Ha-kippurim is the time for repentance for everyone – for individuals and the nation... Therefore, everybody is obligated to perform repentance and to confess on Yom Ha-kippurim" (2:7). Maimonides does not list a separate *mitzva* of repentance on Yom Kippur, and he must therefore refer here to the standard *mitzva* of repentance, which requires that one undergo a process of repentance at least once a year, on Yom Kippur. Clearly, then, he acknowledged a *mitzva* to not only verbally confess one's sins, but to repent, as well.

Moreover, focusing on the act of verbal confession, as opposed to the rest of the process of *teshuva*, seems very difficult to justify. Why would the Torah not demand of a sinner that he repent? What would be the rationale for acknowledging a commandment to confess should one choose to perform *teshuva*, but not to actually perform *teshuva*?

One approach that has been taken, which has its origins in *Kiryat Sefer*, one of the earlier commentaries to *Mishneh Torah* (by Rabbi Moshe of Trani, Israel, 1505-1560), claims that in truth, Maimonides viewed the emotional process of repentance as part of this *mitzva*. Although he points to verbal confession as the formal definition of the *mitzva*, the required confession must serve as an expression and culmination of a sincere process of remorse and resolve. In the second chapter of Hilkhhot Teshuva (*halakha* 3), Maimonides writes, "Whoever verbally confesses but has not resolved in his heart to abandon [his sinful ways] – such a person resembles one who immerses with a rodent in his hand, for whom the immersion is ineffective until he throws away the rodent." Clearly, then, the *mitzva* of confession necessarily entails a sincere process of repentance, as well; the Torah obligates the sinner not merely to make a verbal declaration, but to express through words his feelings of contrition and commitment to improve.

If so, then it should not surprise us to find conflicting indications as to whether the *mitzva* relates specifically to verbal confession, or to the entire process of repentance. Formally, the Biblical command is defined in terms of confession, as indicated by the verse cited by Maimonides as the Torah source of this *mitzva*. In practice, however, this *mitzva* requires the overall process of repentance, as well, as the "confession" of which the Torah speaks refers to a sincere expression of one's feelings, which is of course possible only if the confession is preceded by genuine *teshuva*.

The inherent difficulty in this approach, however, is that it reverses the roles of repentance and confession within the overall *teshuva* process. Instinctively, we would certainly afford primary status to the emotional process of repentance, and point to verbal confession as but one detail, a secondary requirement, mandated by this process. According to the approach presented above, however, confession constitutes the primary obligation, and internal repentance is included in the *mitzva* only insofar as it is necessary for one to properly declare confession. Intuitively, it would seem that *teshuva* represents the dominant aspect of this obligation, and confession serves the secondary role of expressing one's feelings through a concrete declaration.

Others, therefore, explain Maimonides' view differently, suggesting that although the Torah casts upon the sinner both the obligation of *teshuva* and that of verbal confession, due to technical considerations Maimonides could not list the former as one

of the 613 Biblical commands. Rabbi Moshe Leib Shachor, in his work *Ko'ach Ha-teshuva*, suggests that the religious precept of repentance is too fundamental and encompassing to be formally categorized as an individual *mitzva*. As King Solomon famously declares, "Indeed, [among] men there is no righteous one in the world who does [only] good and does not sin" (Kohelet 7:20). To a large extent, religious life is all about working to perfect oneself, overcoming vices and wrongful tendencies. Thus, *teshuva* is simply too broad an obligation for us to classify it as an individual *mitzva*.

Indeed, in Maimonides' introduction to *Sefer Ha-mitzvot*, where he lists the guidelines on the basis of which he determined the 613 Biblical commands, he writes (as the fourth rule) that generic commands are not to be counted: "It is incorrect to list commands that encompass the entire Torah." Many times in the Torah we find that God exhorts the people, "You shall observe all My commandments." This exhortation is all-encompassing and thus cannot be classified as an individual, specific *mitzva*. Maimonides cites as an additional example Moshe's admonition in the Book of Devarim (10:16), "You shall remove the thickness of your heart, and you shall no longer stiffen your necks." In essence, Moshe here admonishes the people to repent, to open themselves to change and self-improvement. We might therefore contend that Maimonides placed *teshuva* under this category of all-encompassing commands, and for this reason he classified as a *mitzva* only the obligation of verbal confession.

Accordingly, Maimonides certainly acknowledged an obligation to undergo the process of *teshuva* after committing a transgression, and this explains his formulation in the introduction to *Hilkhot Teshuva*, where he speaks of an obligation to both repent and confess. Formally, however, *teshuva* cannot be classified as one of the 613 Biblical commands, due to its generic and all-encompassing nature.

Rabbi Meir Simcha of Dvinsk (1843-1926), in his famous work *Meshekh Chokhma* (Parashat Vayeilekh), presents a similar approach though in much simpler terms. What, after all, does repentance entail? As discussed earlier, repentance means feeling regretful for the committed act and resolving never to repeat it. In the case of Shabbat violation, for example, *teshuva* would mean that one feels sincere remorse and commits himself to observe Shabbat henceforth. Let us ask ourselves: which of the 613 Biblical commands instructs this sinner to recommit himself to Shabbat observance? Quite obviously, he is bound by the *mitzva* of Shabbat to refrain from forbidden activity on the day of Shabbat. Thus, the *Meshekh Chokhma* contends, there is no reason for a separate *mitzva* of *teshuva*. "Repentance" means recommitting oneself to observing the law that he had transgressed; hence, the obligation cast upon the sinner is the obligation that had had transgressed, and we need not list a separate commandment of *teshuva*.

This theory easily explains why Maimonides focuses on confession, rather than the emotional process of repentance, in defining the *mitzva*. The emotional process of *teshuva* is necessary by force of the commandments that this individual has transgressed; these *mitzvot* demand compliance, and hence a sinner is naturally required to recommit himself to observing those laws after having transgressed. The separate obligation of *teshuva*, according to Maimonides, entails the formal act of verbal confession. This *mitzva* adds that besides resolving to never repeat the forbidden act, which is of course required in any event, the individual must verbally express that resolution. Thus,

although *teshuva* is certainly obligatory, a separate *mitzva* is required only for verbal confession.

"Ma'aseh" and "Kiyum"

Rabbi Yosef Dov Soloveitchik, as recorded in Pinchas Peli's *On Repentance* (pp. 70-76), developed a different theory to explain Maimonides' definition of the *mitzva* of *teshuva*. Rabbi Soloveitchik famously distinguished between two different kinds of affirmative commands. The first and larger group consists of *mitzvot* that demand a certain action, through which one satisfactorily fulfills the given precept. When one takes hold of the four species on Sukkot, he has performed a *mitzva* act and has thereby completed the fulfillment of the *mitzva*. There are, however, some *mitzvot* regarding which the required act does not suffice in the fulfillment of the *mitzva*. These *mitzvot* entail not merely the performance of a concrete action, but an emotional experience that the action is to express and help engender. Rabbi Soloveitchik cites as examples of this second group the *mitzvot* of prayer and mourning. Both require certain concrete actions, but are not fulfilled unless one achieves the emotional experience of worship or bereavement. Similarly, the *mitzva* to rejoice on festivals requires, in its narrowest definition, certain actions such as partaking of festive foods. Additionally, however, this *mitzva* obligates one to experience internal happiness and to feel the joy of the occasion.

Similarly, Rabbi Soloveitchik contended, repentance is a two-tiered *mitzva*, which demands the concrete action of verbal confession as well as the emotional experience of *teshuva* – remorse and future resolve. When Maimonides defines the *mitzva* in terms of verbal confession, he refers only to the dimension of concrete action, the *mitzva* act demanded by this obligation. Undoubtedly, however, he acknowledged the additional dimension of emotional repentance, which is the *kiyum* – the essential fulfillment – of this *mitzva*.

"A Person Should Try to Perform *Teshuva*"

Later in *Hilkhot Teshuva* (7:1), we find a passage that appears, at first glance, to lend support to the *Minchat Chinukh's* contention, that Maimonides did not consider repentance an obligation:

Since every person is given the ability [to choose between good and evil], as we explained, a person should try to perform *teshuva* and verbally confess his sins and rid his hands of his sins, in order that he die having performed *teshuva* and [thereby] earn life in the world to come.

Maimonides' comments here urging that we "try to perform *teshuva*" are reminiscent of his remarks concerning the *mitzva* of *tzitzit* (*Hilkhot Tzitzit* 3:11):

Even though a person is not obligated to purchase for himself a garment and clothe himself with it in order to make *tzitzit* on it, it is not proper for a pious

person to excuse himself from this *mitzva*. Rather, he should always try to be clothed in a garment obligated in *tzitzit* in order to fulfill this *mitzva*.

The *mitzva* of *tzitzit* requires that when a person wears a four-cornered garment he must affix the *tzitzit* strings to the garment's corners, and thus a person can avoid this *mitzva* by never wearing such a garment. Nevertheless, given the value and importance of *tzitzit*, Maimonides advises one to make an effort to put himself in a situation requiring the performance of this *mitzva*.

Seemingly, Maimonides' aforementioned comments in *Hilkhot Teshuva* convey a similar notion concerning *teshuva*. Strictly speaking, as the *Minchat Chinukh* claimed, a sinner is not obligated to repent. Nevertheless, Maimonides advises one to "try to perform *teshuva*" and thus become obligated in the *mitzva* of verbal confession. If the Torah obligates a sinner to perform *teshuva*, it would seem difficult to explain why Maimonides advises that one "try" to repent.

Rabbi Avraham Gurwitz, in his *Or Avraham* commentary to *Hilkhot Teshuva*, dismisses this proof by comparing this passage in *Hilkhot Teshuva* with Maimonides' remarks concerning the *mitzva* of *tefillin* (*Hilkhot Tefillin* 4:25):

The sanctity of *tefillin* is very great, for as long as the *tefillin* is on a person's head and arm, he is humble and God-fearing, is not drawn after frivolity and idle chatter, and does not engage in evil thoughts; he rather occupies his mind with words of truth and righteousness. Therefore, a person must try to have them on him all day, for that is the *mitzva*.

The *mitzva* of *tefillin* requires minimally wearing *tefillin* once a day, but ideally demands that a person wear *tefillin* throughout the entire day. Maimonides here advises that one wear his *tefillin* throughout the day, despite the difficulty involved given the restrictions that apply while wearing *tefillin*, because of the great spiritual benefits of this *mitzva*.

Rabbi Gurwitz suggests reading the aforementioned remarks in *Hilkhot Teshuva* in a similar vein. Performing proper *teshuva*, which includes sincere feelings of remorse and a concentrated effort to improve, is difficult to achieve. Maimonides, after establishing the doctrine of *bechira chofshit* (free will), advises that since everyone indeed has the ability to repent, one should make every effort to do so, despite the hardships entailed. He speaks of "trying" to perform *teshuva* not because this *mitzva* is optional, but because it can be a daunting task to pursue.

We might add yet another point of similarity between the passage in *Hilkhot Teshuva* and Maimonides' remarks in *Hilkhot Tefillin*. As cited earlier, Maimonides codifies a specific obligation to perform *teshuva* on Yom Kippur: "...everybody is obligated to perform repentance and to confess on Yom Ha-kippurim" (*Hilkhot Teshuva* 2:7). It appears that although ideally a sinner must perform *teshuva* immediately, or at the earliest point possible, the minimal requirement of this *mitzva* is to repent on Yom Kippur. In this sense, *teshuva* indeed closely resembles *tefillin*: ideally the *mitzva* should be performed at all times (or, in the case of *tefillin*, throughout the daytime hours), but

minimally, one should perform it once a day (in the case of *tefillin*) or once a year (in the case of *teshuva*). When Maimonides advises that one should "try" to perform *teshuva*, he perhaps emphasizes the importance of performing *teshuva* regularly for all one's sins rather than waiting for Yom Kippur, just as he recommends wearing *tefillin* all day, rather than just once each the morning.

Confessing "Before God"

In all three contexts where Maimonides defines the *mitzva* of *teshuva*, he mentions that one should confess or repent "before the Lord":

- "He commanded us to confess the misdeeds and sins that we committed before the Almighty" (*Sefer Ha-mitzvot*).
- "There is one affirmative command, namely, that the sinner must repent for [literally, 'return from'] his sin before God and confess" (introduction to *Hilkhot Teshuva*).
- "...when he performs *teshuva* and repents for his sin he is obligated to confess before the Almighty" (*Hilkhot Teshuva* 1:1).

To properly fulfill this *mitzva*, one must, according to Maimonides repent or declare confession "before the Almighty." To what does Maimonides refer with this expression?

Rabbi Soloveitchik (*On Repentance*, pp. 76-84) suggests three implications of this phrase with regard to the obligation of *teshuva*.

First, Rabbi Soloveitchik contends, Maimonides here describes confession as a kind of prayer. Prayer, after all, means approaching God with a humble awareness of his dependence on divine grace and compassion. Confessing "before God" means confessing in the form of prayer, begging, pleading and entreating the Almighty to accept one's cries. With these words, Maimonides indicates that the penitent must recognize the audacity entailed in asking God to forgive and to erase the past. In Rabbi Soloveitchik's words:

It is not enough for a man to come and say, "I have sinned." God is not, so to say, compelled thereby to keep the gates open for him. That is not what repentance is. He must sense and realize that the gates are locked, for the sins have already been committed; and now if he wishes to repent of his ways he must cry out and beat incessantly at the gates so that they allow him and his confession to enter within... Unless one knocks on the gates loudly and continuously, repentance and confession are impossible.

Teshuva requires that one approach God and beg for His forgiveness, realizing that he is undeserving of not only atonement, but even an audience with the King of kings against whom he has sinned. Thus, the expression "before God" establishes the attitude a sinner must have towards the process of repentance, that he must plead with the Almighty for an undeserved second chance.

Secondly, the concept of confessing "before God" requires a person to confess sincerely, out of a genuine desire to restore his relationship with God, and not for ulterior motives. Occasionally, Rabbi Soloveitchik observes, "a man may confess and declare his sins as a means of winning public approval, so that others will admire him and say, 'What a righteous man he is!'" By demanding that one confess "before God," Maimonides emphasizes that, in Rabbi Soloveitchik's words, "the penitent must have only one thing in mind: the account that is between him and God."

Finally, Rabbi Soloveitchik suggests that this expression alludes to the distance between man and God that results from the sin, and the notion of eliminating that distance through the process of repentance. The Hebrew word for repentance, *teshuva*, literally means "return," referring to the return to God. Maimonides understands the *mitzva* of repentance as requiring a sinner to stand in confession "before God," in an effort to return to his previous state of closeness with the Almighty. As Rabbi Soloveitchik explained:

Sin pushes man far away and stimulates his longing to return, so that when man comes to the point of confessing he must say, "I have sinned, I have acted perversely, I have transgressed before Thee," that is to say, free me from the tangling web of my sins and allow me to return and stand "before Thee." Restore me to where I was before.

We might suggest yet another explanation for the concept of confession "before God." In the first passage in *Hilkhot Teshuva*, Maimonides dictates for us the proper text to recite when confessing a sin: "Please, O God, I have sinned, acted wrongly and transgressed before You, and I have done such-and-such; behold I regret and am ashamed of my actions, and I will never return to this act." Confession requires not only the acknowledgement of wrongdoing, but also a sense of shame and humiliation: "behold I regret and am ashamed of my actions." For this reason, perhaps, the *mitzva* of repentance requires that one confess "before God," that one speak directly to God about what he has done. It is far more humiliating to confess one's wrongdoing to the one against whom the crime was committed, than to confess privately or to a third party. Maimonides therefore describes *teshuva* in terms of approaching God directly and confessing to Him. This serves to engender a true sense of *busha*, shame and embarrassment, an experience which helps ensure that the sinner will indeed never repeat the act and complete a successful process of genuine repentance.