



Hilkhot Teshuva 1:1
Confession for Unintentional Sins; the Confessional Text
By David Silverberg

A. Confession for Unintentional Sins

Maimonides opens Hilkhot Teshuva by establishing that the obligation of repentance and verbal confession applies when one transgresses any *mitzva*, be it the neglect of an affirmative command or the violation of a negative command. He emphasizes that repentance is required regardless of whether the transgression occurred *be-zadon* – with willful intent – or *be-shgaga* – mistakenly. In halakhic terminology, the term *shegaga* refers to sins committed due to some misinformation, such as ignorance or a misunderstanding regarding a certain precept, or a misconception with regard to the situation, such as one who forgot it was Shabbat and performed forbidden activity. The Torah holds a sinner responsible even in such cases, as it is a Jew's obligation to educate himself in Torah law and to exercise proper vigilance to avoid mistakes. The obligation of *teshuva* thus applies even in cases of *shegaga*.

A number of writers noted that Maimonides makes no mention of cases of *oness*, or circumstances beyond one's control. Although he requires repentance for sins committed out of ignorance or misinformation, he does not appear to obligate performing *teshuva* for sins committed due to circumstances entirely beyond one's control. A common modern example of this kind of sin is a person who stumbles on Shabbat and knocks into a light switch, thereby activating the light. Other examples include situations where one must commit an otherwise sinful act to save his life, such as cases involving religious persecution. In these and similar circumstances, where the individual committed the act neither with sinful intent nor out of ignorance, but rather due to extenuating factors, it appears that *teshuva* is not required.

Indeed, Maimonides writes this explicitly in his commentary to the Mishna, at the end of Masekhet Yoma: "All this applies when one transgresses knowingly; but [in cases of] *oness*, he is exempt [and does not require expiation]."

Maimonides' position in this regard appears to run in direct opposition to a comment of *Torat Kohanim* (halakhic commentary to the Book of Vayikra from the times of the *Tanna'im*), which makes explicit reference to expiation for sins committed in situations of *oness*. This comment concerns a verse in the Book of Vayikra (16:21) which describes the confession declared by the *kohen gadol* during the Yom Kippur service as he symbolically "places" all the nation's sins on the *se'ir ha-mishtalei'ach*, the scapegoat sent away and killed in the wilderness. The Torah requires the *kohen gadol* to confess "all the iniquities of the Israelites, and all their misdeeds, and all their sins." *Torat Kohanim* understands the verse's repeated emphasis on the word *kol* ("all") as alluding to "*sefeikoteihem, onseihem, ve-shigegoteihem*" – the nation's "uncertain"

violations, as well as their sins committed due to *oness* or *shegaga*. According to this passage, even sins committed due to *oness* require expiation, and we would naturally assume that the "sinner" in such a case must perform *teshuva*.

In fact, our liturgical tradition seems to have adopted this position. In the "*al chet*" confessional recited numerous times throughout the Yom Kippur service, we confess even sins committed in situations of *oness*: "...*al chet she-chatanu lefanekha be-oness u-ve-ratzon*" ("for the sin we have committed before You under extenuating circumstances and with intent"). It seems, at least at first glance, that tradition has not accepted Maimonides' view that situations of *oness* do not require repentance, perhaps due to the aforementioned passage in *Torat Kohanim*.

In truth, however, one might suggest reconciling Maimonides' view with the comment in *Torat Kohanim* and the reference to *oness* in the Yom Kippur confessional. After all, his position seems undeniably correct. Why would atonement be necessary for sins committed in circumstances of *oness*? While we can readily understand why a person is faulted for cases of *shegaga*, of sins violated due to ignorance or inattentiveness, how can one be blamed for circumstances beyond his control?

Rabbi Moshe Leib Shachor (20th century, Israel), in his commentary to Hilkhot Teshuva entitled *Ko'ach Ha-teshuva*, suggests two possible explanations for why *Torat Kohanim* requires atonement for sins committed in situations of *oness*. The first possibility emerges from Maimonides' comments in Hilkhot Yesodei Ha-Torah (5:4) regarding the three sins from which one must refrain even at the expense of his life (adultery, murder and idolatry). Maimonides famously rules that if a person succumbs to religious persecution and commits one of these transgressions to save his life, he is not liable to punishment. Even though he did not fulfill the command of martyrdom, the act of sin was committed due to *oness*, under duress, and hence no punishment is administered. "However," Maimonides adds, "if he could flee for his life and escape from the evil king but fails to do so...he is considered an intentional idol worshipper and is banished from the next world, and descends to the lowest depths of *Gehinom*." In other words, a violator is free from liability in situations of *oness* only if he was unable to escape that situation. But if an individual had the opportunity to escape the situation, but instead chose to remain and subject himself to governmental coercion or other religious pressure, then he is not considered to have transgressed *be-oness*. Since he could have escaped the given situation, the circumstances leading to sin were not entirely beyond his control, and he is therefore liable to punishment.

Possibly, Rabbi Shachor suggested, when *Torat Kohanim* speaks of situations of *oness* requiring expiation, it perhaps refers to the kind of circumstance described above, where a person sinned due to an *oness* from which he had the ability to escape. However, under circumstances where one faces no alternative to committing the sinful act, no atonement is necessary.

Secondly, there are situations where circumstances require committing a wrongful act, but the individual responds joyfully to the "opportunity" presented to transgress. Even though the circumstances that caused him to sin indeed arose against his will, he nevertheless requires atonement for committing the given act happily.

Either way, *Torat Kohanim* speaks of a type of *oness* that entails a degree of guilt for which the individual requires expiation. It therefore does not contradict Maimonides'

position that one who sins due to circumstances entirely beyond his control is not required to confess or repent.

B. The Confessional Text

"*Ana Hashem...*"

Later in the first *halakha* of Hilkhot Teshuva, Maimonides writes: "How does one confess? He says: Please, O God, I have sinned, acted wrongly and acted disloyally before You, and I did such-and-such. I am hereby ashamed and embarrassed by my actions, and I will never repeat this."

Maimonides rules that one must introduce his verbal confession by declaring, "*Ana Hashem*" – "Please, O God." The source of this introduction is the *kohen gadol's* confessions during the Yom Kippur service, which he begins with "*Ana Hashem*" (as we know from the *avoda* section of our Yom Kippur prayer service). The Gemara in Masekhet Yoma (37a) explains that this preface is modeled after Moshe's confession on behalf of *Benei Yisrael* after the sin of the golden calf, in which he declared to God, "*Ana, chata ha-am ha-zeh chata'a gedola*" ("Please – this nation has committed a grave sin" – Shemot 32:31).

It should be noted that from the Gemara's discussion it does not necessarily emerge that the introduction of "*Ana Hashem*" must precede every verbal confession. It is possible that the Gemara refers here specifically to the confessions of the *kohen gadol* during Yom Kippur, which differs from standard verbal confession in a number of ways. For one thing, they are included as part of the unique Yom Kippur ritual service, and thus do not necessarily establish a model for verbal confession all year round. Secondly, the *kohen gadol* confesses not only for himself, but for all *Am Yisrael*. His confession thus closely resembles Moshe's entreaty to God after the incident of the golden calf, where he beseeched the Almighty not for himself, but for the entire Jewish people. It therefore does not necessarily follow that the formula of "*Ana Hashem*" must be incorporated into each individual's private confession after committing a wrongful act. Indeed, a number of scholars noted that Rashi, commenting on the Gemara's inquiry into the source of "*Ana Hashem*," explains the question as, "From where do we know that *this confession* must be with *Ana*?" Rashi appears to emphasize that "*this confession*" of the *kohen gadol* must begin with the word "*Ana*," to the exclusion of all other confessions declared as part of the process of individual repentance. Maimonides clearly disagreed, and incorporated this preface into the standard formula of confession required of every sinner.

What exactly does "*Ana Hashem*" mean in this context? Why must verbal confession begin with this prefatory phrase?

A number of writers, including Rabbi Yisrael Rappaport, in his work *Le-Teshuvat Ha-shana* (Israel, 5746), suggested that the introduction "*Ana Hashem*" expresses the request for forgiveness. In defining this *mitzva* in *Sefer Ha-mitzvot* (asei 73), Maimonides writes that in addition to confessing his sin, one must also beg God for forgiveness; this, too, is included under the obligation of *teshuva*. Indeed, the Talmud Yerushalmi (end of Masekhet Yoma), in formulating the confessional text, concludes with the prayer, "May it be Your will that You grant me atonement for all my wrongdoing..." The prayer for forgiveness is required as a reflection of the anxiety the

sinner feels as a result of his misdeeds. Verbal confession includes expressing the emotional unease one feels knowing that he has violated the word of God, that he understands the gravity and potential repercussions of sin and desperately seeks to eliminate any trace of his offense. Maimonides does not require the articulation of an explicit prayer of this type, but does obligate the sinner to at least briefly allude to such a petition by pleading, "*Ana Hashem*."

Rabbi Yosef Dov Soloveitchik (as cited in *On Repentance*, pp. 77-78), took a much different approach in explaining the meaning and purpose of the words "*Ana Hashem*," claiming that the sinner must petition the Almighty for the very right to repent:

If we listen attentively, we can actually discern in these pleading words a heart-rending cry – "Oh, I beseech Thee," do not slam the door in my face, do not close the gates...allow me to speak...I beseech Thee, accept our prayers and ignore not our supplications!

If the Holy One, blessed be He, does not "open the gates for those who come knocking in repentance," they remain closed and locked.

"Oh, I beseech Thee" is a clarion call that the gates be unlocked, that our confession be allowed to enter within and be heard, though we know it is forbidden to approach the King while clothed in the sackcloth of sin and transgression.

According to Rabbi Soloveitchik, "*Ana Hashem*" expresses not a plea for forgiveness, but a plea for an audience with God. The right to approach the Almighty after betraying Him must never be taken for granted; in fact, as Rabbi Soloveitchik proceeds to explain, it defies logic and eludes human comprehension. In principle, a sinner – even after regretting his act – is undeserving not only of forgiveness, but of an audience with God, to have his words enter the heavenly chamber. *Halakha* therefore requires one to begin his confession by begging, "*Ana Hashem*," by tearfully and fearfully petitioning God to at very least hear his admission of guilt.

"*Chatati, Aviti, Pashati*"

In formulating the required confessional text, Maimonides follows the view that a sinner must declare, "*Chatati, aviti, u-fashati lefanekha*," which we translated above as "I have sinned, acted wrongly and acted disloyally." This formula is based on the Gemara's discussion in Masekhet Yoma (36b), from which it emerges that these three verbs – *ch.t.a.*, *a.v.h.* and *p.sh.a.* – refer to three distinct categories of sinful conduct. *Ch.t.a.* denotes an inadvertent violation, *a.v.h.* refers to intentional transgressions, and *p.sh.a.* signifies a conscious act of rebellion against divine authority.

As the Gemara discusses, all opinions require the inclusion of all three terms in confession, though there is disagreement concerning their sequence. Rabbi Meir maintained that one should follow the sequence of "*aviti, pashati, chatati*," confessing first intentional acts of sin and betrayal, and only thereafter acknowledging the *chata'im*, inadvertent violations. This is the view accepted by Saadia Gaon, as cited by the *Tur* (O.C. 621). Maimonides, however, follows the majority position of the *Chakhamim*, who disagree with Rabbi Meir and advocate the sequence of "*chatati, aviti, pashati*,"

mentioning first inadvertent violations, followed by intentional sins and then, finally, acts of rebellion and betrayal.

The obvious question that arises from this *halakha* – regardless of which sequence one follows – is why a sinner must include all three categories in his confession. The Gemara addresses the text of confession in the context of the *kohen gadol's* confessions on the nation's behalf during the Yom Kippur service, and we therefore understand full well why reference must be made to all kinds of transgressions. The high priest seeks expiation for all sins committed by every member of *Am Yisrael*, and therefore specifies in his declaration the three different categories of sin. Maimonides, however, very clearly requires declaring this confessional text even upon the violation of a single precept:

All commandments in the Torah, both affirmative and negative commands – if a person transgressed one of them...when he performs repentance and returns from his sin he is obligated to confess before the Almighty... How does one confess? He recites, "Please, O God, I have sinned..."

Maimonides applies the obligation of *viduy* (confession) to a person who transgressed even "one of them," a single Biblical command, and he then presents the required formula of *chatati, aviti, pashati*. (See also *Hilkhot Ma'aseh Ha-korbanot*, 3:14-15.) Rabbi Yosef Babad (1800-1874), in his *Minchat Chinukh* (364), raises the obvious question of why a person who committed a single violation must confess to all three categories of sin. Seemingly, he should make reference only to the category to which his sinful act belongs: if he sinned inadvertently, he should declare, "*Chatati*"; if he sinned intentionally, he should confess, "*Aviti*," and so on. Why does Maimonides insist upon the generic formula of *chatati, aviti, pashati* for all sins, regardless of the category to which it belongs? Rabbi Babad leaves this question unanswered and proposes no solution in Maimonides' defense.

Rabbi Yisrael Rappaport, in the aforementioned work *Le-teshuvat Ha-shana*, suggests that Maimonides perhaps required the inclusion of all three categories of sin because very often a wrongful act does not squarely or definitively fit into one of these categories. He draws our attention to an insightful comment of the *Chafetz Chayim* (Rabbi Yisrael Meir Kagan, 1839-1933) in his work *Torat Ha-bayit* (chapter 12), concerning the text recited in the daily *amida* prayer, "*Selach lanu Avinu ki chatanu, mechal lanu Malkeinu ki fashanu*" ("Pardon us, our Father, for we have sinned inadvertently; forgive us, our King, for we have acted disloyally"). The *Chafetz Chayim* explained this formulation by noting that sometimes a person commits an act that can be viewed from different angles. When seen from one perspective it may be classified as unintentional, but from a different, stricter viewpoint it could be classified as a willful act of sin, or even an act of betrayal. We therefore ask God to pardon our wrongdoing from either perspective – whether He assesses our conduct from the perspective of "our Father," with compassion and understanding, in which case the sins are deemed "*chata'im*," or if He judges us strictly, as "our King," such that our misdeeds are classified as "*pasha'im*" – acts of betrayal and defiance.

Thus, not always does every wrongful act fit neatly into one of the three categories of *chata'im*, *avonot* and *pasha'im*. Some misdeeds can be seen from either of

three angles, and others perhaps contain elements of all three. For this reason, Rabbi Rappaport suggests, Maimonides requires that one confess to having committed all three categories of sin, even when declaring *viduy* for but a single violation.

Others, however, suggest a different explanation, namely, that even when repenting for a single, specific violation, a person must confess to all his past misconduct. Rabbi Moshe Leib Shachor (in the aforementioned work *Ko'ach Ha-teshuva*) notes in this context the debate recorded in the Gemara (Yoma 86b) as to whether it is appropriate for one to confess his sin again long after he has confessed and repented. In the second chapter of *Hilkhot Teshuva* (*halakha* 8), Maimonides codifies the view of Rabbi Eliezer Ben Yaakov advising one to confess on Yom Kippur even transgressions for which he had repented in prior years. In his view, it is appropriate and even advisable to repeatedly confess one's wrongdoing, even long after his initial acknowledgment of sin and repentance.

Quite possibly, then, as Rabbi Shachor and other suggest, Maimonides felt that a sinner who confesses even a single misdeed must make reference to his prior violations, as well, even those for which he had confessed and repented long ago. For this reason, Maimonides held that even when confessing a single sin one should declare, "*Chatati, aviti, pashati*," referring to all three categories of sin.

Why would it be necessary for a sinner to confess prior sins, in addition to the one for which he now repents? Why should one not focus his attention entirely on the specific transgression for which he now seeks expiation?

One reason, perhaps, is that a sinner must avoid giving the impression that he bears guilt for only this particular infraction. When a person declares before God that he is guilty of a certain misdeed, he implicitly avows his otherwise impeccable obedience. Since no man can honestly affirm this kind of near-perfection, it is necessary for a sinner to humbly acknowledge that even prior to, and aside from, this most recent infraction, he has failed numerous times in fulfilling his religious duties.

Additionally, the declaration of *chatati, aviti, pashati*, which, as discussed, refers to prior sins, is perhaps intended to place the specific transgression committed within the broader context of the sinner's general imperfections and negative tendencies. *Teshuva* must not be limited to individual actions; it pertains as well to one's overall spiritual character. The penitent therefore acknowledges that he has not only committed a particular offense, but also – as this offense attests – failed to develop himself to the point where such conduct becomes unthinkable. He is to realize that the sin he committed did not emerge out of a vacuum, but rather resulted from his general state of imperfection which he has yet to correct. Thus, the confessional text of *chatati, aviti, pashati* signifies that the process of *teshuva* must relate not merely to particular acts of sin, but to the overall, spiritual imperfections that the sinner now commits himself to overcome.