



### **Hilkhot Teshuva 2:3**

#### ***Tovel Ve-sheretz Be-yado: Verbal Confession Without Repentance***

By David Silverberg

"Whoever verbally confesses but had not resolved in his heart to abandon [his sinful conduct] resembles one who immerses with a rodent in his hand, for whom the immersion is ineffective unless he casts the rodent."

(Hilkhot Teshuva 2:3)

Maimonides here draws an analogy comparing an unrepentant sinner who declares verbal confession to a *tovel ve-sheretz be-yado* – a person who seeks to obtain ritual purity by immersing in a *mikveh* while holding the source of the impurity. He refers here to the category of *tum'a* (ritual impurity) called *tum'at sheretz*, which one contracts through direct contact with the remains of one of eight rodents listed in the Book of Vayikra (11:29-30). A person divests himself of this status through immersion in a *mikveh*, but obviously this procedure is ineffective if the individual continues holding the carcass during his immersion. Similarly, a person who wishes to erase a past sin cannot hope to do so unless he "casts the rodent," meaning, he sincerely repents. If he goes through the motions of declaring confession without undergoing the process of repentance, his confession is as valueless as immersion while holding a *sheretz*.

Maimonides' comments are taken from a Talmudic passage in Masekhet Ta'anit (16a):

Rav Ada Bar Ahava said: A person who is guilty of a sin and confesses but does not repent – to what may he be compared? To a person who holds a rodent in his hand – for even if he immerses in all the waters in the world, his immersion is ineffective. But if he casts it from his hand – once he immerses in forty *se'a* [the minimum required volume of water in a *mikveh*] his immersion is immediately effective.

Regardless of how many verbal confessions a sinner declares, he cannot achieve absolution without "casting away" the sin through the process of *teshuva*.

#### ***Teshuva and Immersion***

This analogy must be understood in light of Rabbi Akiva's famous exclamation cited in the final Mishna of Masekhet Yoma (86b):

Rabbi Akiva said: Fortunate are you, O Israel! Before whom are you purified, and who purifies you? Your Father in Heaven, as it says (Yechezkel 36:25), "I shall sprinkle purifying waters upon you, and you shall be purified," and it says (Yirmiyahu 17:13), "The Lord is the *mikveh* of Israel" – just as the *mikveh* purifies the impure, so does the Almighty purify Israel!"

Rabbi Akiva here establishes a kind of correspondence between the processes of *teshuva* and ritual purification. Just as immersion in a *mikveh* is effective in removing the status of *tum'a*, so does the process of *teshuva* – returning to the Almighty – remove one's status as a sinner. It "cleanses" the individual much as a *mikveh* eliminates the status of ritual impurity.

This analogy between repentance and immersion perhaps underscores the transformative nature of the *teshuva* experience. The process of repentance entails not merely a change of conduct, but a change in one's character and very essence. The occurrence of sin affects an individual's personal status that must be restored to its initial condition through the experience of *teshuva*. Maimonides describes this element of repentance in the subsequent passage:

Included in the ways of repentance is that the penitent sinner constantly cries before God with weeping and supplication, performs charity to the best of his ability, distances himself very much from the matter in which he sinned, and changes his name, as if to say, "I am somebody else, and I am not that person who committed those acts. And he changes all his conduct for the better and to the proper path... (2:4)

The objective of repentance is reaching the point where one can honestly avow, "I am somebody else, and I am not that person who committed those acts." As sin is generally reflective of a fundamental flaw in one's spiritual character, *teshuva* requires correcting that flaw, changing oneself internally to the point where he could be described as a different person. "Just as the *mikveh* purifies the impure, so does the Almighty purify Israel." Repentance means changing one's status and identity, just as immersion transforms a person's status from *tamei* (ritually impure) to *tahor* (ritually pure).

### **An Imprecise Analogy?**

A number of later commentators addressed the question of whether this analogy is indeed an accurate one. From a strict halakhic standpoint, it would seem that these two cases – the sinner who repents without resolving to improve, and a person who immerses while holding a *sheretz* – do not appear comparable to one another. When a person contracts *tum'at sheretz* and then immerses in a *mikveh* while holding the carcass, the immersion is, in fact, effective in eliminating his status of impurity. However, as he maintains direct contact with the source of impurity, he immediately reassumes that status upon emerging from the purifying waters. Technically speaking, the presence of

the *sheretz* does not undermine the validity of the immersion, but rather reintroduces *tum'a* the moment it is lifted.

In this sense, it appears, the case of immersion differs significantly from the situation described by Maimonides of verbal confession. Maimonides speaks here of a person who confesses "but had not resolved in his heart to abandon" his misconduct. In a number of earlier passages in *Hilkhot Teshuva*, it emerges clearly that Maimonides deemed *azivat ha-chet* – resolving never to repeat the sin – an integral part of the *teshuva* process. Maimonides' text for confession includes the affirmation "and I will never repeat this act" (1:1), and, in his definition of the essential components of *teshuva*, he writes, "And what is *teshuva*: that the sinner abandons his sin, removes it from his thoughts, and resigns in his heart never to commit it again..." (2:2). Undoubtedly, then, resolve never to repeat the offense constitutes an inseparable part of the *teshuva* process, and even of verbal confession.

One might question, therefore, the precision of the analogy drawn between insincere confession and immersion while holding a *sheretz*. In the former case, the procedure is altogether meaningless; no purpose is served whatsoever by declaring confession without an accompanying commitment to improve. In the latter case, by contrast, as mentioned, the procedure is indeed effective in removing the undesirable status, but that status is immediately reinstated due to the continued presence of its catalyst. This subtle distinction gives rise to the question of whether Maimonides intended to present this comparison as a precise analogy. Does he make this comparison merely to underscore the ineffectiveness of insincere confession, and thus we need not account for the precise features and mechanics of these two procedures? Or, did he see repentance and immersion as very closely related or corresponding processes, thus compelling us to somehow reconcile the discrepancy noted above?

### **Is There Value in Insincere Confession?**

In the anonymous *Yad Ha-ketana* commentary to *Mishneh Torah* (first published in 5558) we find the startling suggestion that Maimonides in fact acknowledged some value in verbal confession not accompanied by resolve for future improvement. The *Yad Ha-ketana* claims that the Torah established the concept of *viduy* (verbal confession) as a component of the *teshuva* process in appreciation of the emotional difficulty entailed in character change. Many sinners truly and genuinely wish to repent, in every sense implied by this term. They are repulsed by their own shortcomings and long for the day when they discontinue their path of sin and begin a new chapter of full Torah observance. Currently, however, they are overpowered by internal or external pressures that impel them to repeatedly commit the given act(s) of sin, and prevent them from achieving self-improvement.

The Torah, which addresses itself to imperfect mortals and recognizes their failings and weaknesses, established a means whereby even sinners of this kind can at very least take one important step towards complete *teshuva*. The *viduy* declaration, according to the *Yad Ketana*, is a worthwhile experience for a sinner even if he is as yet incapable of sincerely committing himself to never repeating the wrongful act. Insofar as

verbal confession expresses the individual's awareness of his inadequate spiritual performance, it marks a critical first step towards the realization of full repentance. It enables even those who find themselves overwhelmed by forces such as passions, habit, or social pressures to at least begin the *teshuva* process and take a step towards self-improvement.

Accordingly, the *Yad Ha-ketana* contends, Maimonides' analogy is indeed an accurate one. The sinner who confesses without a commitment to improve is indeed comparable to a *tovel ve-sheretz be-yado*, in that he, too, has performed a meaningful act of "purification." Of course, like the individual who immerses while holding a *sheretz*, he must repeat the procedure after casting away the "rodent" – the sin – in order to achieve the desired result. However, just as the *tovel ve-sheretz be-yado* achieves momentary purification despite the presence of the *sheretz*, similarly, the sinner described here by Maimonides has performed some small measure of *teshuva*, even if his confession was made before a firm, sincere commitment to change.

Others, however, disagreed, and claimed that Maimonides does not afford any value whatsoever to verbal confession made without a genuine, resolute commitment to avoid the transgression henceforth. This is indeed the clear implication of Maimonides' comments towards the beginning of Hilkhot Teshuva (cited above), where he explicitly includes future resolve under the required text of *viduy*. Furthermore, Maimonides rules (1:1) that sacrificial offerings yield atonement only when accompanied by repentance, and bases this ruling on a verse that appears in the context of sin-offerings: "he shall confess that which he had sinned" (Vayikra 5:5). Although the verse mentions only verbal confession, Maimonides infers from here the indispensability of full *teshuva* as part of the atonement process of sin-offerings. As Rabbi Yaakov Karchin notes in his *Eikev Anava* commentary to Hilkhot Teshuva (Jerusalem, 5752), Maimonides draws an *ipso facto* association between confession and full-fledged repentance, because *viduy* by definition must express sincere feelings of *teshuva*. If a sinner confesses without a sincere commitment to change, the confession has no value at all.

How, then, can we explain the analogy drawn between confession without a resolution to change and the case of *tovel ve-sheretz be-yado*? If such confession is bereft of any meaning or value, then how can it be compared to immersion while holding a *sheretz*, which at least yields a temporary state of purification?

Rabbi Karchin answers this question by boldly asserting that in Maimonides' view, immersion while holding a *sheretz* is entirely ineffective. The presence of the carcass does not merely reintroduce *tum'a* immediately following the immersion, but rather invalidates the immersion altogether. Hence, these two situations are indeed comparable to one another, in that both involve procedures that yield no effect at all due to the presence of that which caused the undesired status in the first place.

### **The Sin of Insincere Confession**

Rabbi Yosef Kapach, in his commentary to *Mishneh Torah*, suggests a different approach to explain the correspondence drawn between insincere confession and *tovel ve-sheretz be-yado*. Indeed, the two situations differ from one another in that confession

without a commitment to improve is entirely ineffective, whereas immersing while holding a *sheretz* momentarily eliminates one's status of impurity. However, Rabbi Kapach claims, the comparison between the two cases lies in the emergence of a *tum'a chadasha* – a new status of impurity as a result of the intended procedure. In the case of immersion, of course, immediately after the individual divests himself of his *tum'a* a new state of impurity descends upon him as a result of his ongoing contact with the *sheretz*. Similarly, a sinner who confesses without resolving to improve has not only failed to achieve atonement for his wrongdoing, but has also committed an additional offense in abusing the precious asset of *viduy*. Mechanical, insincere repentance is not merely insufficient, but also offensive. It makes a mockery of the institution of confession, reducing it to a type of magical incantation that can somehow wipe one's record clean without requiring the grueling process of self-improvement. A sinner who feels he can earn God's pardon and forgiveness by verbalizing confession but without committing himself to improve undermines the integrity of the *teshuva* process and demonstrates a fundamentally flawed attitude towards religious observance. Essentially, he implicitly affirms his ability to twist the Almighty's arm, as it were, through a verbal declaration without a genuine commitment to change.

Rabbi Moshe Leib Shachor similarly presents this approach in his *Koach Ha-teshuva*, and adds that this notion appears explicitly in the *Sefer Ha-chinukh's* discussion of *viduy* (364): "This confession – one must sincerely return the theft in his hands, for otherwise, it is preferable that he does not confess for this." According to the *Chinukh*, insincere confession is worse than not confessing at all. One who fails to confess his sin certainly cannot earn atonement, but one who confesses mindlessly without any sincere intention to improve has committed an additional offense. Like the *tovel ve-sheretz beyado*, he has brought upon himself a new status of "impurity" by dishonestly expressing a desire to repent.

The idea of insincere confession as a sin unto itself likely underlies one of the confessions we recite as part of the Yom Kippur *viduy* service: "*al chet she-chatanu lefanekh be-viduy peh*" ("for the sin we have committed before You with verbal confession"). What kind of sin does one commit "with verbal confession"? The answer, it would seem, as noted by Rabbi Avraham Pam (cited in Rav Shalom Smith's *Rav Pam on the Festivals*, p.46), is that this refers to the sin of insincere confession. Included among the wrongs listed in our Yom Kippur confession is the offensive attempts we have made at earning atonement without committing ourselves to improve, presenting ourselves as sincerely remorseful *ba'alei teshuva* when in reality we had no intention of changing course.

This theory, of course, stands in direct contrast to the notion cited above in the name of the *Yad Ha-kefana*, who held that Maimonides afforded value and significance to confession declared without an immediate resolution to improve. According to the *Yad Ha-kefana*, verbal confession at very least provides an opportunity for a sinner to express his dissatisfaction with his current spiritual condition, despite his feeling as yet unable to commit himself to change. As such, it serves as a meaningful experience even while falling far short of full *teshuva*. The aforementioned writers, however, held that to the contrary, a sinner who is unprepared to make a sincere resolution to improve should

preferably refrain from confession altogether. In their view, a person cannot sincerely speak of regret and remorse while intending to repeat the offense; confession by such a sinner would amount to a disingenuous apology with no substance, which would be terribly insulting to God. If a person feels unprepared to change, he may not declare confession until he musters sufficient courage and internal strength to make such a commitment.

This view, requiring that a habitual sinner first make a firm resolution to change before declaring confession, is famously expressed by Rabbenu Yona in his classic work *Sha'arei Teshuva* (1:11):

However, the person who stands constantly on the improper path, and a man who treads in sin each day and repeats his corruption, and hastily returns [to sin] many times, and at every moment loves evil and places before him the stumbling-block of his iniquity...the first stage of this person's repentance is abandoning his path and evil thought, and to agree to fulfill and accept upon himself never to sin again. He should then regret his corrupt deeds and confess, in order to return to God.

According to Rabbenu Yona, one who has grown accustomed to sin may not declare confession until he makes a sincere commitment to change course. The function of *viduy* is to provide external, verbal expression for the internal process of *teshuva*. If it is not accompanied by a process of internal change, or at least a sincere attempt at internal change, then it becomes an insult and mockery to the institution of repentance, and to the Almighty who has lovingly afforded sinners the opportunity to restore their relationship with Him on condition that they sincerely and wholeheartedly recommit themselves to His service.