



Hilkhot Teshuva 1:3-4
Atonement in the Absence of the *Beit Ha-mikdash*
By David Silverberg

Our previous installment examined Maimonides' comments (1:2) regarding the atonement made available to sinners through the ritual of the *se'ir ha-mishtalei'ach*, the Yom Kippur "scapegoat" that was sent into the wilderness as a symbol of the elimination of the people's sins. In the subsequent passages, Maimonides turns his attention to the means of achieving atonement nowadays, after the Temple's destruction, when the *se'ir ha-mishtalei'ach* ritual is no longer performed. He begins by emphasizing the capacity of repentance to earn atonement: "Nowadays, when the Temple does not exist and we do not have an altar for atonement, there is only repentance. Repentance atones for all sins; even if one was wicked his entire life and finally repented, nothing is remembered of his sinfulness." There is no "statute of limitations" on the process of sin and repentance; it is never too late for a person who has transgressed to experience and express his remorse and thereby earn atonement.

In *halakha* 5, Maimonides outlines in greater detail the means by which atonement is achieved for the various categories of sin nowadays. On the basis of the Talmud's discussion at the end of Masekhet Yoma (85b), Maimonides identifies three categories of transgressions:

- 1) One who neglects a *mitzvat asei* – one of the Torah's affirmative commands – earns atonement immediately upon performing *teshuva*; no other medium is required to achieve full expiation. The exception to this rule is cases where the neglect of a *mitzvat asei* is punishable with *karet* (eternal spiritual excision from the Jewish people), namely, circumcision and the annual paschal offering.
- 2) One who transgresses a standard *mitzvat lo ta'aseh* – Torah prohibition – which is not punishable by death or *karet* earns full expiation only through the combination of repentance and the observance of Yom Kippur. In Maimonides' words, "repentance suspends [punishment] and Yom Kippur atones." Even in the Temple's absence, when the *se'ir ha-mishtalei'ach* ritual cannot be performed, Yom Kippur itself has the capacity to atone for those who sincerely repent.
- 3) For the most grievous violations, those which are punishable by death or *karet*, one does not achieve complete atonement without *yisurin*, some kind of suffering. Even repentance and the Yom Kippur observance do not suffice to provide complete expiation for such grievous sins; some degree of divine retribution is necessary to atone for this level of wrongdoing.

Maimonides then adds one final provision: one who committed a violation that entailed *chillul Hashem*, the desecration of God's Name (later we will define this term more precisely), does not achieve complete atonement until his death. So severe is *chillul Hashem* that the sin remains with a person for the rest of his life, and is erased only through the combination of repentance, Yom Kippur, suffering, and death. Maimonides appears to dispute the view famously presented by Rabbenu Yona of Girondi (*Sha'arei Teshuva* 1:47) that even transgressions of this nature are subject to atonement through repentance. Rabbenu Yona claimed that a person who caused a *chillul Hashem* can earn full expiation by investing efforts to bring *kiddush Hashem* – the glorification of God's Name – to offset the destructive effects of the *chillul Hashem* he had caused. Maimonides makes no mention of this option, suggesting that even one who devotes himself to the cause of *kiddush Hashem* cannot achieve full atonement for a *chillul Hashem* he had caused.

Maimonides lists these categories of atonement – which are often referred to as *chilukei kappara* – in his commentary to the Mishna, as well (end of Masekhet Yoma), where he specifies that this classification applies only to intentional transgressions. Sins committed inadvertently, that is, due to ignorance, forgetfulness or an oversight, are atoned somewhat more easily. Specifically, an inadvertent transgression belongs to the category above an intentional violation of that sin. Thus, if one inadvertently transgresses a severe prohibition, which is punishable by death or *karet*, then he earns atonement through repentance and Yom Kippur, just like intentional violations of the second category. Likewise, inadvertent violations of sins in the second category are atoned for through *teshuva* alone, as is the case with willful neglect of *mitzvot aseï*.

From this discussion and Maimonides' comments regarding the *se'ir ha-mishtalei'ach*, it emerges that in the Temple's absence, when the *se'ir ha-mishtalei'ach* ritual is not performed, atonement is more difficult to achieve in two respects:

- 1) For "minor" transgressions – namely, those that are not punishable by death or *karet* – the *se'ir ha-mishtalei'ach* atones even if one does not repent. In the absence of the *Mikdash*, atonement can never be obtained without *teshuva*.
- 2) Atonement achieved through the *se'ir ha-mishtalei'ach* – with or without *teshuva*, depending on the given sin's gravity – is always final and complete. After the Temple's destruction, severe transgressions cannot be atoned without some degree of suffering or perhaps even death.

Teshuva Mei-ahava, Teshuva Mi-yir'a

A number of writers suggested qualifying Maimonides' comments by distinguishing between two types of repentance: repentance performed strictly out of fear of retribution (*teshuva mi-yir'a*), and repentance performed out of love and a sincere desire to draw closer to God (*teshuva mei-ahava*). The basis for such a distinction is a Talmudic passage towards the end of Masekhet Yoma (86b), where the Gemara cites two seemingly conflicting comments by Reish Lakish regarding the transformative powers of *teshuva*. One comment asserted *teshuva's* capacity to transform *zedonot* – intentional

violations – into *shegagot* – inadvertent violations. In response to sincere repentance, God looks compassionately upon the sinner and is prepared to treat intentional transgressions as inadvertent mistakes. Reish Lakish derived this principle from a famous verse towards the end of the Book of Hoshea (14:2), "Return, O Israel, unto the Lord your God, for you have stumbled through your sin." The prophet here employs in reference to sin the term *avon*, which denotes intentional violations. Yet, he tells the people that they have "stumbled" (*kashalta*), a term commonly associated with accidental mishaps (just as one who stumbles while walking does so accidentally). The reference to intentional violations as "stumbling" alludes to the power of *teshuva* to have one's transgressions treated as inadvertent mistakes.

On a different occasion, however, Reish Lakish went so far as to say that *zedonot na'asin ke-zekhuyot* – repentance can transform one's sins – even those committed intentionally – into "merits." *Teshuva* affords a sinner the ability to not only escape punishment, but also receive additional reward that he would not have received had he not committed the misdeed in the first place. This astonishing notion is inferred from God's remark to the prophet Yechezkel (33:16) that when a person repents after committing sins, "he shall live on account of them," suggesting that he will then earn merit even for his misdeeds.

The Talmud reconciles these two passages by distinguishing between the two kinds of repentance. One who repents solely out of fear of retribution earns a lower level of acceptance before God, who will look upon his transgressions as unintended mishaps. The higher level of repentance is that which one performs out of genuine conviction and a desire to repair his strained relationship with God. *Teshuva* of this sort results in the extraordinary transformation of one's sins into *zekhuyot*.

It emerges from the Talmud's discussion that whether *teshuva* grants a sinner complete or partial atonement depends on the nature of his repentance. In cases of *teshuva mei-ahava*, when one repents "out of love," no further means of expiation are necessary. The sins are not only erased from his record, but also added to his account of merits. When, however, a violator repents solely due to his fear of his actions' consequences, he achieves only the transformation of his misdeeds into unintentional sins. As we have seen, unintentional sins also require atonement, and thus *teshuva* of this kind earns only partial expiation; additional measures are still required to achieve the complete elimination of the sin from one's record.

Accordingly, a number of writers contended that Maimonides' discussion of the *chilukei kappara* – the various categories of sin with respect to earning atonement – speaks only of cases where a sinner performs *teshuva mi-yir'a*, when one repents out of fear. Only in such cases is it possible for *teshuva* to yield the limited effect of partial atonement and require additional measures, such as the observance of Yom Kippur and a degree of suffering. Maimonides does not speak at all in this context of *teshuva mei-ahava*, purely motivated repentance, which independently erases one's wrongdoing. Regardless of how grievous the sin – and perhaps even in situations involving *chillul Hashem* – a sinner who repents out of sincere religious devotion, rather than simply to escape punishment, earns complete expiation. This view is advanced by – among other scholars – Rabbi Chayim Yosef David Azulai (the "Chida," 1724-1806), in his work

Midbar Kedeimot (400:18), and Rabbi Yoshiyahu Pinto, in his *Peirush Ha-Rif* commentary to *Ein Yaakov* (end of Masekhet Yoma).

Others, however, argued that this distinction between the two forms of repentance cannot be attributed to Maimonides. For one thing, we would certainly expect Maimonides to draw such a distinction explicitly, rather than rely on the reader's knowledge of Talmud. The fact that he makes no reference to such a distinction in delineating the various categories of sin with respect to atonement clearly suggests that he equates *teshuva mei-ahava* with *teshuva mi-yir'a* in this regard.

Moreover, as Rabbi Eliezer Ginsburg demonstrates in his commentary to Hilkhot Teshuva entitled *Ve-ata Be-rachamekha Ha-rabim* (Brooklyn, 5752), Reish Lakish's remarks concerning the two forms of *teshuva* do not appear to represent the universally accepted view. In Masekhet Rosh Hashanah (17b), the Gemara cites a comment by Rabbi Yochanan – who frequently engaged in disputes with Reish Lakish on a variety of issues – regarding the power of *teshuva*: "Great is repentance, in that it tears a person's decree." As opposed to Reish Lakish, who, as recorded in Masekhet Yoma, extolled the power of *teshuva* to transform sins into inadvertent mishaps and even merits, Rabbi Yochanan acknowledges simply the power of repentance to reverse harsh Heavenly decrees. It should also be noted that the Gemara embarks on a lengthy deliberation of Rabbi Yochanan's claim that repentance can reverse harsh decrees, and makes no mention of any possible distinction between different forms of repentance. It thus appears that he denied this distinction and disagreed with Reish Lakish on this point.

Rabbi Ginsburg finds additional evidence of Maimonides' rejection of Reish Lakish's view in his comments in the previous *halakha* (3), which we cited earlier: "Repentance atones for all sins; even if one was wicked his entire life and finally repented, nothing is remembered of his sinfulness." Maimonides cites here a comment of Rabbi Shimon Bar Yochai recorded in the Talmud (Masekhet Kiddushin 40b). This remark appears as well in the Talmud Yerushalmi (Pei'a 1:1), but with the following addition: "What more, all the transgressions become merits." We might reasonably assume that Rabbi Shimon deliberately omitted this addition because he did not subscribe to the notion of sins transforming into merits. Maimonides, as mentioned, codifies Rabbi Shimon's remark, perhaps suggesting that he followed the position that does not recognize the possibility of repentance transforming sins into merits. (It should be noted that the Talmud Yerushalmi cites this remark – "all the transgressions become merits" – in the name of, ironically enough, Rabbi Yochanan. Rabbi Ginsburg speculates that the Talmud Yerushalmi received a different tradition than the Talmud Bavli, whereby this notion of sins transforming into merits was attributed to Rabbi Yochanan, rather than Reish Lakish.)

Another possible indication that Maimonides did not accept Reish Lakish's theory arises from his formulation in establishing that grievous sins cannot be atoned without a degree of suffering. He writes that if one transgressed a severe prohibition and then repented, "repentance and Yom Kippur suspends, and the suffering that comes upon him completes the atonement for him. But he can never be atoned completely until suffering comes upon him..." A number of writers noted the redundancy in this passage, as Maimonides needlessly – it would seem – repeats the point that complete expiation is

attained only once the sinner endures punishment. Rabbi Menachem Krakowsky, in his *Avodat Ha-melekh* commentary, suggested that Maimonides here sought to emphasize the application of this rule to all cases of *teshuva* for severe transgressions, even *teshuva mei-ahava*. Regardless of the sincerity and purity of the motives underlying one's repentance, he can achieve complete expiation for severe transgressions only through the combination of *teshuva*, Yom Kippur and experiencing some form of divine punishment.

Chillul Hashem

As mentioned earlier, Maimonides rules that a sinner who causes *chillul Hashem*, who profanes the Name of God through his sinful conduct, does not earn complete atonement until death. What type of conduct constitutes a *chillul Hashem* for which one cannot achieve atonement during his lifetime?

Maimonides lists *chillul Hashem* in his *Sefer Ha-mitzvot* as one of the 365 Biblical prohibitions (*lo ta'aseh* 63), and delineates three ways in which this prohibition is transgressed. First, when a person faces a situation where *Halakha* demands surrendering one's life to avoid committing a violation, and he transgresses to save his life, he has profaned the Name of God. Secondly, Maimonides describes a person who willfully commits a transgression for no other purpose other than to defy the Torah; he transgresses not in response to external pressures or to satisfy an internal drive, but purely for the sake of rebellion. Such a person, Maimonides writes, has perpetrated a *chillul Hashem*. Finally, a *chillul Hashem* is caused when a person of religious stature acts in an unbecoming manner or in a way that can easily be misconstrued as a breach of ethics. Even if the individual's conduct did not entail any particular Torah violation, the effect it has of disgracing the Torah in the eyes of onlookers constitutes a *chillul Hashem*.

Do all these instances of *chillul Hashem* leave no room for atonement until death? Does Maimonides here in *Hilkhot Teshuva* refer to all three categories of *chillul Hashem*?

Rabbi Krakowsky suggests answering this question by carefully examining Maimonides' formulation in presenting this *halakha*: "When does this apply – if one did not desecrate the Name *at the time when he transgressed*. But one who desecrates the Name...is not granted full atonement until he dies." Maimonides appears to restrict this law to a case of a person who caused a *chillul Hashem* by committing a transgression. In the situation mentioned above, where a person of religious stature acts in a suspicious manner, no sin has been violated. Possibly, Rabbi Krakowsky asserts, Maimonides emphasizes that atonement is withheld in cases of *chillul Hashem* only when an actual transgression has occurred, when a person brings disgrace to the Almighty "at the time when he transgressed." But when a person causes a *chillul Hashem* through unbecoming or suspicious conduct, although he has transgressed the prohibition against desecrating God's Name, atonement is attainable through *teshuva*.

If so, then Maimonides speaks here only of the first two instances of *chillul Hashem*: where one transgresses to save his life in a situation requiring martyrdom, and when one sins strictly for the sake of religious rebellion.

This conclusion, however, runs in opposition to Maimonides' own comments elsewhere in his writings – in his *Iggeret Ha-shemad* (also known as *Ma'amar Kiddush Hashem*), a letter which presents the guidelines relevant to periods of religious persecution. Maimonides devotes a sizeable section of that treatise to the subject of *chillul Hashem*, and begins by describing the second and third instances mentioned above: transgressions committed for the sole purpose of rebellion, and inappropriate conduct by a person of religious stature. He emphasizes the severity of *chillul Hashem* and in this context notes the provision denying the possibility of atonement for this sin during the perpetrator's lifetime. Clearly, Maimonides applied this rule even to situations of a religious personality acting unbecomingly, in direct contrast to Rabbi Krakowsky's inference discussed above.

Later in the treatise, Maimonides turns his attention to situations of sins committed to save one's life where *Halakha* requires martyrdom. Here he firmly emphasizes that although the sinner in such a case indeed causes a *chillul Hashem*, he is not liable to any punishment. (See also *Hilkhot Yesodei Ha-Torah* 5:4, and *Sefer Hamitzvot, lo ta'aseh* 63.) Since the sin was committed under duress and due to a threat to life, the perpetrator is not punished despite his having desecrated the divine Name by committing the given offense. Accordingly, a sinner in this case does not require atonement altogether, and thus here in *Hilkhot Teshuva* Maimonides certainly cannot refer to such a case in denying the possibility of atonement during one's lifetime for sins entailing *chillul Hashem*.

It emerges, then, that this rule applies to one who transgresses the Torah purely for the sake of rebellion, and to a person who disgraces Judaism by acting inappropriately, even if he commits no particular violation.

"Great is *Teshuva*, for it Brings a Person Near the *Shekhina*"

We conclude our discussion of the *chilukei kappara* with a frank question that immediately arises upon reading this passage in *Hilkhot Teshuva*: why is sincere *teshuva* insufficient even for grievous violations? The prophets speak at length of God's compassion and readiness to warmly welcome and embrace those who have strayed and now seek to return. Why shouldn't a truly penitent sinner earn complete expiation through his confession, sincere resolve, and tearful, heartfelt prayers?

In chapter 7 of *Hilkhot Teshuva* (6-7), Maimonides beautifully describes the power of *teshuva* to bring a person "near the *Shekhina*," how through the process of repentance a person who had been "despised by the Almighty, repugnant, distanced, and abominable" is now "beloved" before God. While as a sinner his prayers were ignored and his *mitzva* observance rejected, after repenting his prayers and good deeds are eagerly and lovingly accepted. Revealingly, Maimonides speaks of these effects as resulting from *teshuva* itself, even without any other means of atonement. Accordingly, Rabbi Avraham Sofer (Hungary, 1815-1871), in one of his responsa (*Ketav Sofer*, O.C. 109), asserts that a violator of even the most grievous sins becomes "beloved" to God and "near the *Shekhina*" through the process of *teshuva* alone, even before the advent of Yom Kippur or the experience of suffering. Maimonides requires Yom Kippur and suffering

to complete the formal expiation of the sin, but these events are not prerequisites to the restoration of the sinner's relationship with God.

We might draw a simple analogy to a child who commits a grave offense against his parents who respond by issuing a harsh punishment. When the parents see that the child feels and expresses genuine remorse for his wrongdoing, and he sincerely commits himself not to repeat the act, they will, in all likelihood, embrace him and treat him lovingly as they had before the incident. Still, they would insist on implementing the stipulated punishment. As part of the process of education and discipline, the child must be shown the consequences of misconduct. Therefore, even after the parent and child embrace and the warm relationship is fully restored, the punishment will not be rescinded.

Similarly, even after a sinner draws "near the *Shekhina*" and resumes his status as a dear, beloved son of the Almighty, he must be shown the severity of his offense and endure the appropriate punishment. Of course, it might be possible to lessen the punishment's severity through prayer, but, in the case of grave violations, some degree of retribution is required.

Thus, although Maimonides does not allow for complete expiation through *teshuva* in cases involving grievous sins, this in no way undermines the power of repentance to bring one closer to God. Even when one has a "debt" to pay for his misdeeds, his repentance still earns him God's grace, love and compassion, and He will treat him kindly and lovingly even if some form of punishment is still pending.