

## **THE IMPERFECTION OF TESHUVAH**

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### **Too Perfect to Know the People?**

By Richard Cohen

I sometimes think the best thing that ever happened to me was, at the time, the worst: I flunked out of college. I did so for the usual reasons -- painfully bored with school and distracted by life itself -- and so I went to work for an insurance company while I plowed ahead at night school. From there I went into the Army, emerging with a storehouse of anecdotes. In retrospect, I learned more by failing than I ever would have by succeeding. I wish that John Roberts had a touch of my incompetence.

*Instead, the nominee for chief justice of the United States punched every career ticket right on schedule. He was raised in affluence, educated in private schools, dispatched to Harvard and then to Harvard Law School. He clerked for a U.S. appellate judge (the storied Henry J. Friendly) and later for William H. Rehnquist, then an associate justice. Roberts worked in the Justice Department and then in the White House until moving on to Hogan & Hartson, one of Washington's most prestigious law firms; then he was principal deputy solicitor general, before moving to the bench, where he has served for only two years. His record is appallingly free of failure.*

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Appallingly free of failure.

Indeed, failure can often be a badge of honor, even a segue to success but is it *obligatory*? To be sure, one of the elements that sets our religion apart from others is the honesty it brings when discussing mistakes our heroes may have made. In fact we are told<sup>1</sup> “There is no man so perfectly righteous that he does only good and never sins”. But it is difficult to say that this makes transgressions acceptable. In fact the Talmud praises those who died without sins<sup>2</sup>. And although there is a concept of<sup>3</sup>

מקום שבעלי תשובה עומדים צדיקים גמורים אינם עומדים

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<sup>1</sup> Koheles 7:20

<sup>2</sup> See Shabbos 55b

<sup>3</sup> See Berochos 34b

this is obviously not the preferred method to reach lofty heights.

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The Torah speaks often about Teshuvah - Repentance, but only in one instance does it seem to imply it as a commandment: “<sup>4</sup> For this **commandment** that I give you today – it is not hidden from you and it is not distant.....” . The Ramban, arguing with Rashi, explains this Pasuk as referring to the Mitzvah of Teshuvah. After proving his view he adds the following; “*It (Teshuvah) is a Mitzvah in which we are commanded to perform...*”

Is this not obvious? Why must the Ramban go out of his way here (as opposed to, let's say, Shabbos) to tell us this? Even according to Rashi, Teshuvah, after all is so fundamental that it would seem redundant for a commentator to teach that it is a Mitzvah.

But if we consider Teshuvah for a moment, and add to it the word “commandment”, we may find to have created some intriguing questions; some Halachik and some Hashkafic.

#### HASHKAFIC:

1) Adam, Noach's generation, Reuvain and even the entire city of Ninveh were given the opportunity to repent although they were not Jewish and /or the Torah was not yet given<sup>5</sup>. Teshuvah is not one of the Seven Noachite laws and it would seem could only apply to non-Jews if it is an *institution* rather than a Mitzvah. Indeed, Rabbi Moshe Feinstein explains the merit of a non-Jew's prayer in a similar vein<sup>6</sup>: the concept of prayer exists for non- Jews not in the province of a requirement (in fact for Jews as well there is significant debate if prayer is an actual commandment) but as an off-shoot of Faith in a G-d.

2) What is even more troubling though is that by calling Teshuvah a Mitzvah- a commandment- there seems to be a peculiar sense of **institutionalizing mediocrity**. Perhaps we may want to explain this as no different then the Yifas Toar, were the Torah does allow for our flaws. But such a comparison is faulty because there we are transforming the act itself into a Mitzvah whereas here we are given a way to repair the damage done *after the fact*.

#### HALACHIK:

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<sup>4</sup> Devarim 30:11-14

<sup>5</sup> Even the Avos, according to some opinions, were not yet considered “Jews” per se. See Ramban Vayikra 24:10

<sup>6</sup> Igross Moshe A.C. 2:25

1) <sup>7</sup>There is a concept in Halacha that although in most cases a transgression on a negative commandment is punishable with lashes, a *ללא הניתוק לעשה* is not. For example: We are commanded by the Korban Pesach<sup>8</sup> not to leave it over to the morning. Typically if one would not fulfill this he would be punishable with lashes, yet that Torah states immediately after that if one *does* leave it over he is then required to burn it. The Talmud teaches us<sup>9</sup> that anytime the Torah gives us the remedy to a negative commandment (do not leave it over) through a positive one (to burn it) it has thereby replaced lashes. Now, if we consider Teshuvah a *Mitzvahs Aseh*, and it works for all transgressions, then the institution of lashes would disappear! All Negative commandments have a Torah prescribed remedy – Teshuvah! What greater example of a *ללא הניתוק לעשה* then Repentance?

The simple answer to this question is just that; since it would eliminate lashes -which the Torah records as a punishment - this Klal of *ללא הניתוק לעשה* would have to be ignored when considering Teshuvah<sup>10</sup>. We will return though to this question later.

2) The most basic Halachik ramification that follows from the approach of Teshuvah being a Mitzvah is that now, one who had sinned, until he repents, has **two** sins on his hands; 1) the original crime 2) the failure to perform the positive commandment of Teshuvah. This seems troubling; considering that Teshuvah is a gift from the A-lmighty (it goes against the entire premise of Din<sup>11</sup>) it now, seemingly, has the potential to do us harm<sup>12</sup>.

The alternative to all of the above is to take out the Mitzvah from Teshuvah. This is by no means groundbreaking. Indeed the Rambam himself writes the following<sup>13</sup>: “...*all commandments... if one transgresses any... when one repents and returns from his sin he is required in Viduy....this Viduy is a Mitzvahs Aseh*”, thereby implying that Teshuvah is *not* a commandment. Later<sup>14</sup> The Rambam states the following: “*All Prophets are required in Teshuvah....and the Torah promised that the Teshuvah of Bnei Yisroel will be done...* ”. This is by no means a contradiction<sup>15</sup> rather the Rambam is telling us that only for *Prophets* is there an obligation to repent. For the rest of Knesses Yisroel it is only a *הבטחה*. What is clear though in the Rambam’s opinion is that although Viduy – confession is a Mitzvah, a commandment, Teshuvah is not. Rabbi A.I. Kook puts this concept as follows: <sup>16</sup> *מצות עשה אינה מ' ואע"פ שהיא סגולה יקרה לכפר על העונות* .....

<sup>7</sup> The following question has been raised by a number of Achronim. See Sefer Hayalkut (back of Frankel edition of Rambam) 1:1 for some explanations.

<sup>8</sup>Shmos 12:10

<sup>9</sup> See Makkos 4a

<sup>10</sup> A similar approach can be used to explain why *מצות עשה* would not apply to Talmud Torah, there is never a time we are not supposed to learn, *ולילה הגיתה*, and all Mitzvos then would become void. See Mishpat Kohen *ibid*.

<sup>11</sup> See Mesilas Yisharim chapter 4.

<sup>12</sup> See Kovetz Maamarim 2. See also Shabbos Shuvah 03.

<sup>13</sup> Hilchos Teshuvah 1:1

<sup>14</sup> *Ibid* 7:5

<sup>15</sup> This is based on Shaarei Aaron pg. 987

<sup>16</sup> Mishpat Kohen 128

This may answer some of our previous questions, but not all.

Even considering Rambam's view independent of our earlier discussion, one might find other difficulties.

Consider the following stitch of Talmud<sup>17</sup>: “*If a man says to a woman ‘become betrothed to me on the condition that I am righteous’, even if we know him to be wicked – she is betrothed, because maybe he repented in his heart*”. Now, if the Rambam is correct that the essential part of Teshuvah is the Vidoy, how did this man become a Tzadik from Teshuvah alone without confession<sup>18</sup>?

The Minchas Chinuch<sup>19</sup> is bothered by these as well as other questions in following Rambam's view. He therefore explains the Rambam and ergo Teshuvah in a way that is nothing short of stunning. “*.....but of course Teshuvah alone, even in ones heart, if one has regret in his heart completely, the A-lmighty accepts his repentance. Just there is as well a Torah decreed positive commandment to say an outward confession and if one does not, he has went against this precept, but nevertheless regarding his Teshuvah on the crime itself the Teshuvah alone atoned for him*”.

In fact the Chelkas Michokek<sup>20</sup> says that a thief who is *מהרהר בתשובה* before he pays his victim back is *נקרא צדיק*.

Although this sheds a new light on Teshuvah, it does not answer our questions on the Rambam: How is it that *Vidoy* is ignored? And if *Vidoy* is essential, is it not as well a לאו? הניתוק לעשה?

The Minchas Chinuch continues later: “*From the words of the Rambam....it seems clear that Teshuvah is not a positive commandment because he (Rambam) does not write that to do Teshuvah is a Mitzvah, only that if he comes to do this (Teshuvah), he is then required to openly confess.... Therefore if one does not repent he does not transgress again rather he remains only with his original crime. Similarly if one does not even confess there is no crime and there is no punishment since all the more so if Teshuvah (if ignored) does not carry a penalty. Therefore it (confession) is not a מצוה מחוייבת כלל and without it one can atone for his sin, he just did not perform this additional Mitzvah. And Furthermore, perhaps even this positive commandment of Vidoy we can say, if ignored, is no crime, like many Mitvos where there is no commandment to do them or not to...*”

רק העשייה ל נחשבה מצוה ד תואר כך וכ

כמו גירושין וטוען ונטען ודיני טומאת המת

...so it seems clear to me....”.

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<sup>17</sup> Kiddushin 49b

<sup>18</sup> Of course we could ask as well that the Teshuvah itself seems incomplete, but that is a different discussion.

<sup>19</sup> Mitzvah 364

<sup>20</sup> E.H.E. 38:44

What we see from this Minchas Chinuch is the following: Teshuvah is not a “Mitzvah”. Therefore to not repent is no offense. When/if we do repent, we *may* fulfill the Mitzvah of Vidoy if we wish.

The Meshach Chochmah<sup>21</sup> takes this one step further and explains that the concept of Teshuvah does not stand alone rather it is incorporated, and works in concert with, each and every Mitzvah, so that within each Mitzvah we are commanded to keep *and return to it* if we should fail<sup>22</sup>.

Perhaps we can further this theme set by the Meshech Chochmah by explaining Teshuvah not as bettering ourselves but as transforming that past deed itself. In fact the Rambam himself writes<sup>23</sup> “*What is complete Teshuvah? When the same potential for wrong comes your way and you refrain...*” This is Teshuvah! Repenting is a part of that Mitzvah to which you are returning, transforming that exact action into good.

Now we could better understand the Talmudic dictum<sup>24</sup> that Teshuvah takes past sins and is נעשה כזכירת – makes them past merit: Teshuvah does not just compensate for the sin rather it *returns* you to the original commandment in which you failed.

Let us now revisit our questions:

The question of לאו הניתוק לעשה falls away; Teshuvah and perhaps even Vidoy are not separate entities that remedy past actions, but are one in the same within the very commandment itself - there is no separate עשה that fuels Teshuvah. Continuing on this theme, there is no reason to repent for the sin of not repenting (as we had wondered) for repenting for the crime alone speaks to the lack of Teshuvah as well.

The fact that Teshuvah applies to non-Jews is no longer questionable according to the Rambam and others who understand repentance as a promise, הבטחה, rather than a commandment, ציוי. In this regard it would be no different than Tefillah for non-Jews. What is more, seeing Teshuvah in this light, a הבטחה rather than a ציוי, explains how mediocrity is not expected or justified rather frowned upon yet repairable.

Perhaps this is why the Rambam did not give Teshuvah the status of a Mitzvah, for it is already incorporated into all others!

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<sup>21</sup> On Devarim 31:17

<sup>22</sup> See L'Teshuvah Hashanah pg.3-4 where he uses this to explain the contradiction in the Rambam from the Klalim to the Halachah.

<sup>23</sup> Ibid 2:1.

<sup>24</sup> Yumah 45, see Kiddushin 40b. See Medresh Shir Hashirim 6:1 on how it interprets Tehilim 45:9

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The Talmud<sup>25</sup> tells us “anyone who keeps Shabbos “כהלכתה” - as the law dictates - then, even if he had served Idols like the generation of Enosh, he is pardoned”. Based on what we have just discussed, let us explore what the connection is between Shabbos and Teshuvah.

If one looks through the Talmud in its discussing the laws of Shabbos he will find a disproportioned amount of space devoted to one of the 39 forbidden acts: Hotzah – Carrying. In fact Tosffos<sup>26</sup> seems to be bothered by this and explains that this is done so people don't take this “מלאכה גרועה” lightly. The Rambam<sup>27</sup> explains that carrying does not seem like a Melachah. This is because every other Melachah goes through some change, a metamorphosis - a “creation”- whereas Hotzah does not seem to.

### **The common thread of Hilchos Shabbos – Transformation, recreation.**

This is Shabbos, the “כהלכתה” to which the Talmud refers; not the singing or the D'vaikus to the A-lmighty (although important) but the refraining from transforming, *from recreating*. If we can abstain from such activities for one day then *Midah Keneged Midah* (measure for measure) we won't need to transform our past deeds.

It is interesting that the root for שבת is the same as תשובה - “שב”.

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” חטא שחטאנו לפניך ביצר הרעעל”

The Lev Simcha<sup>28</sup> explains this seemingly odd confession (after all, all sins are committed this way, what *specific* sin could it refer to?) that we are regretting that we did not transform our Yetzer Harah into a Yetzer Hatov – the ultimate transformation, yet one not removed from us. Like Chazal teach - בשני יצרך-בכל לבבך .

This is also what we request from G-d during these days: to *transform* Midas Hadin into Midas Harachamim<sup>29</sup>.

Perhaps this is how we prepare ourselves as well.

Rosh Hashanah - Ochel Nefesh (cooking and other Melachos) is still permitted –the transformation begins.

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<sup>25</sup> Shabbos 118b.

<sup>26</sup> Shabbos 2b.

<sup>27</sup> Ibid, Pirush Hamishnayis ד"ה שתיים. See Shaarim Mitzuyanim B'Halachah Shabbos 2a.

<sup>28</sup> לך לך תשד"ם

<sup>29</sup> See Har Tzvi Rosh Hashanah 16.

Shabbos Shuvah – All Melachah is forbidden we are almost complete.

Yom Kipper – Shabbos Shabboson, the most absolute transformation.

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Let us return now to Mr. Cohen.

Leaders need *not* be imperfect. Greatness, of course, *can* be achieved by the pure and sinless. What *is* “appalling” is ***not transforming*** past mistakes into salvations, something that Mr. Cohen obviously understood and demonstrated in his life.

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We as Jews strive for perfection, and we make no excuses for ourselves if we fail. But failing never paralyzes us; we are never shut down by guilt. Rather we use our imperfection to galvanize ourselves to reach an even higher ground. We take the negative experience and convert it into a positive one. This of course is a gift from the A-lmighty, but it is ours to open.

The Talmud tells us<sup>30</sup> that if Klal Yisroel would only keep two Shabbosim כהלכתהן Mashiach will come – מייד- immediately. May the Merit of the Shabbos Shabboson, the double Shabbos of Yom Kipper, where we don't just rest from transforming, but transform ourselves as well, be that Zechus that brings our personal and communal salvation, מייד.

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<sup>30</sup> Shabbos 118b