

## Letting the Sinner Back In: Is Teshuva Enough?

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### A. Teshuva and Reacceptance of Offenders - In the Press

#### 1. Bernie, Sully and Me

Rabbi Avi Shfran  
Matzav, April 3, 2009 (<http://matzav.com/bernie-sully-and-me>)

Something tells me I won't make any new friends (and might even lose some old ones) if I confess to harboring some admiration for Bernard Madoff...

Mr. Madoff committed a serious economic crime on an unprecedented scale for such wrongdoing, and in the process ruined the financial futures of numerous people and institutions, including charitable ones, worldwide. There can be no denying that...

Yet I can't quite bring myself to join the large, loud chorus of those who have condemned him... I think the revulsion may say more about the revolted - and our money-obsessed and vengeance-obsessed society - than it does about Madoff. His crime, after all, was really remarkable only for its longevity and its scope. The Torah teaches that stealing is a sin, but it doesn't differentiate between misappropriating a million dollars and pilfering a dime...

None of that, though, is to belittle the great pain Mr. Madoff caused, and is certainly no cause for affording the iniquitous investment broker respect. No, what I admire about him has to do with his owning up to his crime.

Think about it. The man knew for years that his scheme would eventually come apart and that prosecution loomed, yet he took no steps to flee, huge bribe in hand, to some country lacking extradition treaties... Instead, though, he chose to essentially turn himself in and admit guilt. He apologized to his victims, acknowledging that he had "deeply hurt many, many people," and adding, "I cannot adequately express how sorry I am for what I have done."

No one can know if those words reflect the feelings in his heart, but I don't claim any right

to doubt that they do. And facing one's sins and regretting them is the essence of *teshuvah* - which we are all enjoined to do for our personal aveiros, however small or large.

#### 2. Madoff Essay Blasted, Shafran Apologizes

Ben Harris  
JTA, April 6, 2009

... Shafran apologized today for "errors in both the content and tone of the essay," though without specifying what those errors were...

My recent Am Echad Resources essay "Bernie, Sully and Me" has generated substantial criticism from many readers, including people whose opinions I deeply respect. I have come to the conclusion that that there were errors in both the content and tone of the essay, for which I apologize.

The Shafran piece generated two blistering op-eds in response from writers at opposite ends of the religious spectrum. Rabbi Eric Yoffie, president of the Union for Reform Judaism, went first, saying Shafran's views demonstrate "stunningly ignorance of Jewish tradition." Ouch.

Here's Yoffie:

Shafran completely misinterprets Jewish teachings on repentance. A few pious words in a courtroom are not enough. Our tradition sets out clear standards by which the validity of teshuvah is to be judged. Words of confession and regret are sufficient for ritual infractions, which are considered sins against God; for ethical sins, such as stealing, words must be accompanied by sincere efforts to repair the harm done to the victims, including providing compensation and a direct, personal apology. (See Yoma 85b, and Maimonides, Hilchot Teshuva, 2:9.)

Madoff, of course, has met none of these standards. His true intentions are best measured by the fact that he continued his thievery until the day before his arrest. He has not cooperated with prosecutors in locating stolen assets so that compensation can be provided to the victims. He has not assisted authorities in identifying others who worked with him. He has avoided direct apologies to the victims; indeed, his pathetic display in court was notable primarily for his refusal to address the victims who were present. In short, based on the evidence to date, Madoff's teshuvah is not teshuvah at all.

Rabbi Tzvi Hersh Weinreb concurs with Yoffie about the inadequacy of Madoff's penitence, then goes further:

Shafraun argues that Madoff's initial intentions were good, but that he became "inextricably trapped" in his own machinations. From the Jewish perspective there is no such thing as "inextricably trapped" -- there are always choices -- and he had numerous occasions, indeed daily opportunities, to end the scandal and thereby at least mitigate the losses of his victims.

There is another dimension to Madoff's treachery. As a Jew, and as one who identified himself strongly with Jewish causes, he created a chillul HaShem, a profanation of the name of the Almighty, of historic proportions, reflecting disastrously on the reputation of all Jews, Judaism, and the Jewish God. ... Furthermore, reaction to his crimes not only sullies the name of Jews the world over, it endangers them everywhere. It provides confirmation for the most venomous anti-Semitic propaganda. For this, forgiveness is impossible.

### **3, Lanner A ttorney Deplores 'Guilt By Innuendo'**

Gary Rosenblatt  
The Jewish Week, 2/14/2003

Rabbi Blau said he did recommend Rabbi Lanner for a position as principal of a school in Australia in 1991, two years after the bet din

met.

"It was a mistake on my part," Rabbi Blau said, "and part of the learning process for me to understand how sick Baruch was."

Rabbi Blau said he was motivated by the belief in teshuvah, or repentance, and noted that Maimonides instructs a person seeking to repent to start over in a new environment.

"I thought it would be a good idea for Baruch to start over, far from here, but I was wrong. It was very hard me as a rabbi to accept that a person, especially a rabbi, probably is incapable of changing," Rabbi Blau said.

...  
Rabbi Tzvi Hirsh Weinreb, executive vice president of the OU and a clinical psychotherapist, said scientific evidence makes clear that sex abusers cannot be rehabilitated.

### **4. Preventing Future Lanner Cases**

Judy Klitsner  
The Jewish Week - March 1, 2002

If the report was of abuse in the distant past, Rabbi Lanner was assumed to have been rehabilitated, or to have "done teshuvah" since then. "What proof do you have that he's still doing these things?" was asked of me more times than I care to recall. In other words, you, the victim, must prove to me, the ranking rabbi, that his abusive pattern has not been broken.

### **5. "The Day the Rabbi Went to Jail"**

Panel at Makor, Protocols, 12/07/2003

"Many of us are not trained to understand the nature of abuse, and how pernicious it really is." He [R. Blau] said that when abuse occurs, often, "We think it's an accident, someone slipped once, and they can do *teshuva*," where a concept of repentance overwhelms a sense of caution, especially with rabbis, because of the assumption that, "If [the abuser is] a rabbi, certainly *he* repented." Blau said of abusive rabbis, "He or she is still a danger to others," and, "I think there's no serious question that *mesirah* does not apply."

## B. General Requirements for Teshuva

### Rambam. Laws of Repentance, ch. 2

(2) What constitutes repentance? Repentance consists of the sinner abandoning his sin, and removing it from his thoughts [i.e., no longer entertaining thoughts of such actions] and resolving firmly never to do it again, as it is written, "Let the wicked man forsake his way, and the unrighteous man his thoughts, and let him return to the Lord". One should also be remorseful over what one has done, as it is written, "For after I had returned away I repented". One also has to testify to God that one will never return to that sin... And one has to confess verbally and declare all these matters that he has resolved in his heart to do.

(3) Anybody who verbally confesses but does not resolve in his heart to abandon his sin, is like someone who ritually immerses himself with a vermin in his hand, for the ritual immersion is useless until he casts away the vermin. And so the verse states. "The one who confesses and forsakes his sins shall be shown mercy". One also has to detail one's sin...

(9) Repentance and the Day of Atonement atone only for sins between man and God, such as eating a forbidden food and the like... But sins against ones fellow man, such as one who physically injures or curses or steals from another, and all similar actions, such are never atoned for until one has pays compensation to the person according what he owes him [for the injury, loss, etc.] and has appeased him [i.e., received the injured party's forgiveness]. Even though one may have paid back any due money, one still has to appease the person he sinned against, and ask for forgiveness.

### Bavli, Berakhot, 19a

It was taught in the school of R. Ishmael: If you see a scholar who has committed an offence by night, do not suspect him by day, for perhaps he has done penance. 'Perhaps', say you? — Nay, rather, he has certainly done penance. This applies only to personal sins, but if he has misappropriated money, [he may be suspected] until he restores it to its owner.

### רמב"ם הלכות תשובה פרק ב

[ב] ומה היא התשובה הוא שיעזוב החוטא חטאו ויסירו ממחשבתו ויגמור בלבו שלא יעשהו עוד שנאמר יעזוב רשע דרכו וגו', וכן יתנחם על שעבר שנאמר כי אחרי שובי נחמתי, ויעיד עליו יודע תעלומות שלא ישוב לזה החטא לעולם שנאמר ולא נאמר עוד אלהינו למעשה ידינו וגו', וצריך להתודות בשפתיו ולומר עניינות אלו שגמר בלבו.

[ג] כל המתודה בדברים ולא גמר בלבו לעזוב הרי זה דומה לטובל ושרץ בידו שאין הטבילה מועלת לו עד שישליך השרץ, וכן הוא אומר ומודה ועוזב ירוחם, וצריך לפרוט את החטא...

[ט] אין התשובה ולא יום הכפורים מכפרין אלא על עבירות שבין אדם למקום כגון מי שאכל דבר אסור ... אבל עבירות שבין אדם לחבירו כגון החובל את חבירו או המקלל חבירו או גוזלו וכיוצא בהן אינו נמחל לו לעולם עד שיתן לחבירו מה שהוא חייב לו וירצהו, אע"פ שהחזיר לו ממון שהוא חייב לו צריך לרצותו ולשאול ממנו שימחול לו

### תלמוד בבלי מסכת ברכות דף יט.

תנא דבי רבי ישמעאל: אם ראית תלמיד חכם שעבר עבירה בלילה - אל תהרהר אחריו ביום, שמא עשה תשובה. שמא סלקא דעתך? אלא: ודאי עשה תשובה. והני מילי - בדברים שבגופו, אבל בממונא - עד דמהדר למריה.

## C. Repentance and Rehabilitation - A Contradiction in Rambam

### 1. Rambam. Laws of Repentance, 3:14

People who do any of these things do not have a share in the World To Come if they died without having repented, but if they had returned from their wickedness and repented before dying they will receive a share in the World To Come, for there are no sins for which repentance does not atone. Even if one had denied God throughout one's life but in the end repented on will still get a share in the World To Come, as it is written, "Peace, peace, both for far and near", says the Lord, "and I will heal him".

All wicked people, apostates and others, who repented, whether publicly or privately, still get a share in the World To Come, as it is written, "Return, faithless children," - even if one is still faithless and one repented privately and not publicly, one will enter the World To Come in a state of repentance.

### 2. Rambam. Laws of Idolatry 2:5

Similarly, a Jewish heretic is not considered as a Jew in any respect, and is never accepted in repentance, for it is written, "None that go to her return, nor do they regain the paths of life". Heretics are those who follow their own foolish counsel so much so that they transgress the key commandments of the Torah in contempt and brazenness, and they will say that they are not sinning. It is forbidden to converse with them or make them repent at all, for it is written, "...and don't approach the door of her house".

### 3. Rambam. Responsum 264 (Blau ed.)

Regarding what you consider to be a contradiction in the matter of heretics [whether their repentance is accepted] – there is no contradiction whatsoever. For regarding statement, "We do not accept their repentance," the intent is that we do not accept their repentance and we will not look upon them one who has repented, but rather treat them as if they are [still] heretics, as they were in the past, and [we assume that] the righteousness that they are displaying is either due to fear or to dupe and deceive people. Whereas the intent of the last statement [that their repentance is accepted] is that if they have, in fact, genuinely repented regarding matters between them and their Creator, they will have a portion in the World to Come. This ruling regards matters between them and their Creator, while the first statement regards matters between them and other people.

### 1. רמב"ם הלכות תשובה פרק ג הלכה יד

במה דברים אמורים שכל אחד מאלו אין לו חלק לעוה"ב כשמת בלא תשובה אבל אם שב מרשעו ומת והוא בעל תשובה הרי זה מבני העולם הבא שאין לך דבר שעומד בפני התשובה, אפילו כפר בעיקר כל ימיו ובאחרונה שב יש לו חלק לעולם הבא שנאמר שלום שלום לרחוק ולקרוב אמר ה' ורפאתיו

כל הרשעים והמומרים וכיוצא בהן שחזרו בתשובה בין בגלוי בין במטמוניות מקבלין אותן שנאמר שובו בנים שובבים, אע"פ שעדין שובב הוא שהרי בסתר שב ולא בגלוי מקבלין אותו בתשובה.

### 2. רמב"ם הלכות עבודת כוכבים ב:ה

וכן האפיקורסים מישראל אינן כישראל לדבר מן הדברים ואין מקבלין אותם בתשובה לעולם שנאמר כל באיה לא ישובון ולא ישיגו ארחות חיים, והאפיקורסים הם התרים אחר מחשבות לבם בסכלות דברים שאמרנו עד שנמצאו עוברים על גופי תורה להכעיס בשאט בנפש ביד רמה ואומרים שאין בזה עון, ואסור לספר עמהן ולהשיב עליהן תשובה כלל שנאמר ואל תקרב אל פתח ביתה.

### 3. תשובות הרמב"ם סימן רסד

ומה שאתם חושבים לסתירה בדבר המינים, אין בו סתירה כלל, לפי שאחד משני המאמרים (הוא) אין מקבלין אותן בתשובה, ר"ל בזה, שאנו לא נקבל מהם תשובה ולא נראם בחזקת בעלי תשובה, אלא בחזקת מינים, כפי שהיו, והצדיקות שהם מראים היא או מסיבת הפחד או לגנוב דעת הבריות. וזה המאמר האחרון הוא, שאם שבו באמת במה שבינם לבין בוראם, יש להם חלק לעולם הבא, וזה דין בדבר מה שבינם לבין בוראם, וזה הראשון בדבר מה שבינם לבין בני האדם.

**4. Responsa Radbaz, 5:45** (b. 1479 Spain, d. 1573 Israel)

But there is a difference between other sins and heresy (regarding accepting someone's repentance) ... and the reason for this is that heretics follow their own counsel and willfully transgress the words of the Torah, because the *mitzvot* are inconsequential in their eyes. Today his heart tells him to repent, and tomorrow it tells him, "What is the point of repentance?", and he will revert to his previous evil behavior. Since he follows his own counsel, we can not place our trust in him. .. And when he writes "We do not accept their repentance forever" what he means is that we do not accept them to treat them lasting *baalei teshuva*. And perhaps this was Rambam's intent with the word "forever", that is to say, we do not believe that their repentance will last forever.

**5. Responsa Noda BiYehuda, Kama, OH: 35** (1713-1793, Prague)

The matter is absolutely clear that in the time when the Sanhedrin was in operation, if a person transgressed a capital sin and was given the appropriate warning, then even if the witnesses waited many years before coming to the court, and in the interim this person repented and afflicted himself and fasted innumerable times, far beyond what is normally indicated for repentance for such acts, and then, after all these acts of [sincere] repentance, the witnesses came to court and testified against him – there is no doubt that the court would pay no heed to his repentance, and they would execute him according to his sin. Now this is astounding – since it is without question that his repentance was efficacious, and his sin has now been removed and forgiven, why should he be put to death? Behold the verse states, "And the innocent and the righteous you shall not execute!" But, nevertheless, it is explicitly taught in *Makkot* that repentance does not save those who are deserving of execution from their fate. The explanation of all this is that it is a Divine decree, for otherwise all the punishments of the Torah would be nullified, and the court could never execute someone, for the person would just say, "I have sinned, and I now repent". And since God wanted some sins to be punishable by execution – in order that a person should fear, and not transgress – therefore it was necessary to establish that repentance could not save someone from execution by the court.

**6. Responsa Tashbetz, 1:63** (1361-1444, Algiers)

And all of these [extenuating circumstances] apply to the case of these *anusim* (forced apostates). For logic dictates that since at the outset it was clear that they were forced to convert, we should afford them their presumptive status (that they are not willful sinners), until we witness that they transgress Torah law without any threat... And we can ascribe their remaining there (in Morocco, although there is

**4. שו"ת רדב"ז חלק ה סימן מה**

אבל יש חילוק בין שאר עבירות למינין... וטעמא דמלתא כיון שהם תרים אחר מחשבות לבם ועוברים על דברי תורה בשאט נפש לפי שהמצות בזויות בעיניהם היום אומר לו לבו לשוב בתשובה ולמחר אומר לו מה בצע בתשובה ויחזור לסורו ונמצא כיון שהוא תר אחר מחשבות לבו אין אנו בטוחים בו... ומה שכתב אין מקבלין אותם בתשובה לעולם ה"ק אין מקבלין אותם להחזיקן בבעלי תשובה ואיפשר שלזה כיון הרב ז"ל במלת לעולם כלומר אין מקבלין אותם להיות תשובתם לעולם. הנלע"ד כתבתי:

**5. שו"ת נודע ביהודה מהדורה קמא - או"ח סימן לה**

וגם זה אין ספק בו בזמן שסנהדרין היה נוהג אם עבר על חייבי מיתות ב"ד אחר ההתראה אף אם שהו עדים ולא באו לבית דין שנים רבות ובין כך עשה זה תשובה והרבה סיגופים ותעניות לאין מספר יותר ויותר מתשובת המשקל הנזכר ברוקח ושוב אחר כל התשובה באו עדים לב"ד והעידו הא ודאי שאין הב"ד משגיחין על תשובתו ושורפין וסוקלין לפי עונש החטא, והדבר יפלא כיון שודאי שהתשובה הועילה וכבר סר עונו וחטאתו נתכפרה למה יומת ונקי וצדיק אל תהרוג כתיב. ובהדיא אמרו בריש אלו הן הלוקין חייבי מיתות עשה תשובה אין בית דין מוחלין לו. אלא ודאי גזירת הכתוב הוא שאלמלא כן בטלו עונשי תורה בכללן ואין אדם שיומת בב"ד כי יאמר חטאתי והנני שב וכיון שהקב"ה רצה ליתן עונש מיתה על קצת עונות כדי שיתירא האדם מלעבור לכן נחוץ הוא שלא תועיל התשובה להציל ממיתת ב"ד.

**6. שו"ת תשב"ץ חלק א סימן סג**

וכל זה יש לנו לומר באנוסים אלו לפי שהדין נותן כן דכיון שתחלתן הוכיח כי אנוסי הן העמידם על חזקתם עד שתראה אותם עוברים על ד"ת שלא במקום סכנה... ויש לתלות עמידתן

*shemad*) due to some compulsion that is not known to us.

שם לאיזה אונס בלתי נודע לנו.

But because such matters (the nature of the exact circumstances) are only known in people's hearts – and who knows if people are sincere or are deceitful – therefore Rambam wrote that if a person is able to escape a country of *shemad* and says, "I am not able to escape," he should not think that just because he was initially forced that God will not count his [continued residence in such a place] as a sin, but rather he will be excluded from the World to Come and descend to the lowest depths of Gehennom, because he will be considered a willful idolater. [That is said insofar as such a person's own conscience and relationship with God,] but as for us – we do not need to be concerned in a normal case [that such is the case] – because perhaps he has some compulsion [that is making it impossible for him to leave.] And the heart knows its own suffering. This distinction can be inferred from Rambam's language, for he called him an idolater to be excluded from the World to Come,,, something that is given over to the innermost thoughts of the individual. But as for something that is given over to [other] people [to judge] – we would not say such a thing until presumptive status is demonstrably undermined.

אבל לפי שדבריו אלו מסורים ללבו של אדם ומי יודע לבות בני האדם אם לעקל אם לעקלקלו' על כן אמר הרב ז"ל שאם הוא יכול למלט נפשו ואומר איני יכול אל יחשוב שכיון שתחלתו באונס אל /לא/ יחשוב ה' לו עון בזה אבל הוא נטרד מן העולם הבא ויורד למדרגה התחתונה של גיהנם לפי שהוא נקרא ע"ז במזיד. אבל אנו אין לחוש מסתמא דשמא יש לו איזה אונס ולב יודע מרת נפשו ולישניה הכי דייק שקראו ע"ז להטרד מן העה"ב ולירד במדרגה התחתונה של גיהנם דבר המסור לתוכן לבו ובוהן כליותיו אבל לדבר המסור לבני אדם לא עד דתתרע חזקתיה.

## D. Teshuva in Halakha – High Standards or Low Standards?

### 7. Babylonian Talmud, Kiddushin, 49b

'On condition that I am righteous,' even if he is absolutely wicked, she is betrothed, for he may have contemplated repentance in his thoughts.

### 7. תלמוד בבלי מסכת קידושין דף מט:

על מנת שאני צדיק, אפילו רשע גמור - מקודשת, שמא הרהר תשובה בדעתו.

### 8. Babylonian Talmud, Sanhedrin, 25b

Dice-players include the following: Those who play with checkers, and not only with checkers, but even with nut-shells and pomegranate peels. And when are they considered to have repented? When they break up their checkers and undergo a complete reformation, so much so, that they will not play even as a pastime.

A usurer: this includes both lender and borrower. And when are they judged to have repented? When they tear up their bills and undergo a complete reformation, that they will not lend [on interest] even to a Gentile.

Pigeon trainers: that is those who race pigeons, and not only pigeons, but even cattle, beasts, or other birds. When may they be reinstated? When they break up their traps and undergo a complete reformation, so that they will not practice their vice even in the wilderness.

Sabbatical traders are those who trade in the produce of the Sabbatical year. They cannot be rehabilitated until another Sabbatical year comes round and they desist from trading.

### 8. תלמוד בבלי מסכת סנהדרין דף כה:

המשחק בקוביא - אלו הן המשחקים בפיספסים. ולא בפיספסים בלבד אמרו, אלא אפילו קליפי אגוזים וקליפי רימונים. ואימתי חזרתן - משישברו את פיספסיהן ויחזרו בהן חזרה גמורה, דאפילו בחנם לא עבדי.

מלוה בריבית - אחד המלוה ואחד הלוה, ואימתי חזרתן - משיקרעו את שטריהן ויחזרו בהן חזרה גמורה, אפילו לנכרי לא מוזפי.

ומפריחי יונים - אלו שממרין את היונים. ולא יונים בלבד אמרו, אלא אפילו בהמה חיה ועוף, ואימתי חזרתן - משישברו את פגמיהן, ויחזרו בהן חזרה גמורה, דאפילו במדבר נמי לא עבדי.

סוחר שביעית - אלו שנושאים ונותנים בפירות שביעית, ואימתי חזרתן - משתגיע שביעית אחרת ויבדלו. ואמר רבי נחמיה: לא חזרת

Whereon R. Nehemia said: They [the Rabbis] did not mean a mere verbal repentance, but a reformation that involves monetary reparation. How so? He must declare, 'I, so and so, have amassed two hundred zuz by trading in Sabbatical produce, and behold, here they are made over to the poor as a gift.

דברים בלבד אמרו, אלא הזרת ממון. כיצד?  
אומר: אני פלוני בר פלוני כינסתי מאתים זוז  
בפירות שביעית, והרי הן נתונין במתנה  
לעניים.

### **9. Rav Soloveitchik, "Halakhic Man," pp.110-113**

Repentance, according to the halakhic view, is an act of creation – self-creation. The severing of one's psychic identity with one's previous "I," and the creation of a new "I," possessor of a new consciousness, a new heart and spirit, different desires, longings, goals – this is the meaning that repentance compounded of regret over the past and resolve for the future.

... On the one hand, Maimonides is of the opinion that *viddui*, verbal confession, is an indispensable part of the act of repentance... On the other hand, we find the following statement in the Braita: ... she is betrothed, for he may have had thoughts of repentance in his heart."... But in truth the Halakhah has posited two separate laws, two distinct principles with reference to repentance and its function. (1) Repentance may serve to divest the sinner of his status as a *rasha*, a wicked man. (2) Repentance may serve as a means of atonement like other means of atonement – sacrifices, the Day of Atonement, afflictions, death, and such like. The lack of verbal confession prevents repentance only from serving as a means of atonement, but it does not prevent it from divesting a sinner of his status as a *rasha*. Thus if one transgresses a negative commandment, for which the penalty is lashes, excision, or the judicial sentence of death, and thereby becomes ineligible as a witness, he need not make a verbal confession in order to regain his status of eligibility, but it suffices if he simply repents inwardly through regretting his past action and resolving never to sin again... "When may usurers be considered to have reformed? When they tear up their notes of their own accord..." The sinner's regaining of his status of eligibility as a witness is not at all dependent upon verbal confession, for his being divested of his status as a *rasha* has nothing to do with his obtaining atonement, but is dependant only upon the act of repentance itself consisting of regret and resolve...

The first principle of repentance is that the sinner be divested of his status as a *rasha*. This can only be attained if the sinner terminates his past identity and assumes a new identity for the future. It is a creative gesture which is responsible for the emergence of a new personality, a new self. This creative gesture is precipitated by an absolute decision of the will and intellect together... The abandonment of sin (i.e., the resolve for the future) and the regret over the past divest the sinner of his status as a *rasha*. They "sever" his spiritual continuity and transform his identity ... "I am another person and am not the same man who committed these deeds." ... When he finds himself in a situation of sin, he takes advantage of his creative capacity, returns to God, and becomes a creator and self-fashioner. Man, through repentance, creates himself, his own "I".

### **10. Rav Soloveitchik, "On Repentance", pp. 56-58**

The above violations center on the prohibition of theft and robbery. Why, then, is not repentance considered an accomplished fact as soon as the sinner regrets his wrongdoings and ceases to engage in those fraudulent, thieving practices? Playing dice for free, lending money with interest to an idol worshipper and setting up a pigeon trap in the desert are not forbidden by law. Why is not the repentance of these sinners a "complete return" until they literally break their dice, tear up their loan contracts and dismantle their pigeon traps?

### **10. "על התשובה", הרב י.ד. סולובייציק, ע' 21-23**

התשובה של אלו [משחק בקוביא וכו'] הרי אינה  
אלא על איסור גזל ולמה אין תשובתם ברגע שהם  
מתחרטים על העבר ואינם עוסקים יותר בדברים  
אלו שיש בהם גזל? והרי משחק בקוביא בחינם,  
הלוואה בריבית לעכו"ם והפרחת יונים במדבר, הם  
דברים שבהיתר ולמה אין חזרתם "חזרה גמורה"  
עד שישברו פספסיהם, יקרעו שטרותיהם ויהרסו  
את מצודותיהם?

It is interesting to note that Maimonides did not deal with this issue under the Laws of Repentance, but rather within the Laws of Testimony. This is because readmissibility as a witness depends upon the achievement of purification from sin which involves much more than repentance which brings acquittal, dealt with in the chapter on the Laws of Repentance. All that is required for acquittal is the sinner's regret of past actions and his resolution not to return to his folly.

However, repentance of purification necessitates a complete breaking away from the environment, the contributing factors and all the forces which created the atmosphere of sin. For repentance of purification, which restores man to his primary condition of integrity, man is required to break the dice, tear up the deeds and burn all the bridges leading to the world of sin which he has left behind him.

Thus, we see that there are two levels of separation – the first, from sin and the second, divergence from the path leading to sin. Sin is not created *ex nihilo nihil*. Evil-doing is the product of a certain atmosphere, of favorable conditions – flatter of men in positions of power, indolence, imagined or real fear, weakness or spinelessness; such is the “path of sin.”... “Let the wicked man leave off his way and the man of evil deed his thoughts...”...

“A new heart and a new spirit” come about only by means of departure from the path of sin, which is considered complete return, while separation from sinful acts is all that is necessary in order to achieve *kapparah*, acquittal.

### 11. Babylonian Talmud, Bekhorot 31a

Our Rabbis taught: And all of these (an *am ha'aretz* who accepts the responsibilities of a *haver*), if they repented must never be received. [These are] the words of R. Meir.

R. Judah Says: If they repented only in secrecy, we must not receive them, but if publicly, they may be received.

Some there are who say: If what they did was in secrecy, they may be received, but if publicly, they must not be received.

But R. Simeon and R. Joshua b. Karha say: Both in the first case as in the other, they may be received because of what is said, “Return, O backsliding children.” (Jer. 3:14).

R. Isaac of Kefar Acco reported in the name of R. Yochanan: The halakha is in accordance with the view of that pair

מעניין, שבהלכות תשובה אין הרמב"ם מזכיר הלכה זו ששייכת לענין תשובה. כיוון שתשובתם של אלו, תשובה המכשירה לעדות, היא תשובה של טהרה והיא מצריכה הרבה יותר מתשובת כפרה עליה מדבר הרמב"ם בהלכות תשובה, שדיו לחוטא אם הוא מתחרט ומקבל עליו "שלא ישוב לכסלו".

בתשובה של טהרה לא מספיק לפרוש מן החטא, אלא צריך לפרוש פרישה גמורה מכל האוירה, הסביבה, הגורמים, התנאים והכוחות שסיבבו את האדם והביאוהו לידי חטא. תשובה של טהרה, המחזירה את האדם לכשרותו הראשונית, מחייבת אותו לשבור הפספסין, לקרוע את השטרות, להרוס את כל הגשרים המוליכים ממנו ולעולם החטא שמשם יצא.

ואמנם כי כן, שני מיני פרישות יש, אחת פרישה מן החטא, והשנית פרישה מדרך חטאים. אין חטא נולד "יש מאין", *Ex nihilo nihil*, החטא הוא פרי של אוירה מסוימת, של תנאים המכשירים לחטא, של חנופה לגוי, של התבטלות, של פחד אמיתי ופחד מדומה, של מורד-לב, של חוסר חוט שדרה – של "דרך חטאים".... "יעזוב רשע דרכו ואיש און מחשבותיו"...

"לב חדש ורוח חדשה" אינם באים אלא בעזיבה מוחלטת של דרך חטאים, כלשון שנאמרה בהכשרתם של הפסולים לעדות: "חזרה גמורה", בה בשעה שבכפרה מספיקה פרישה מחטא בלבד.

### 11. תלמוד בבלי מסכת בכורות דף לא.

תנו רבנן: וכולן שחזרו בהן - אין מקבלין אותן עולמית, דברי ר' מאיר

רבי יהודה אומר: חזרו במטמוניות - אין מקבלין אותן, בפרהסיא - מקבלין אותן,

איכא דאמרי: אם עשו דבריהן במטמוניות - מקבלין אותן, בפרהסיא - אין מקבלין אותן.

ר"ש ור' יהושע בן קרחה אומרים: בין כך ובין כך מקבלין אותן, משום שנאמר (ירמיהו ג') שובו בנים שובבים

א"ר יצחק איש כפר עכו אמר ר' יוחנן: הלכה כאותו הזוג.

### 12. Tosafot, Bekhorot 31a, s.v. viKulan

That is to say – that they [*amei ha'aretz* who had been accepted as *haverim*] returned to their wicked ways and corrupted their actions – then we do not accept them [*as haverim*] ever again, since they could not live up to the standards. Rebbe Yehuda says – if they did it in private – that is to say, that they reverted to their past ways in private, but in public they are careful with their actions – we do not accept them, because they are intending to deceive people. However, if they have completely reverted to their past ways even in public, then we would accept them again when they return, because it would be a complete [i.e., sincere] return.

### 13. Rashi, Bekhorot 31a, s.v. Assu

If they did their deeds in private – and did not desecrate the Divine Name in public, then we accept them.

### 14. Mishna Makkoth 3:16

All who have incurred [the penalty of] *kareth*, excision, once they are flogged obtain remission from their punishment of *kareth*; for it is said, “Forty he shall have him beaten he shall not exceed . . . Lest thy brother shall be dishonored before your eyes,” which shows that on having received the flogging he is [considered] ‘thy brother’ – these are the words of Rebbe Chanina ben Gamliel.

### 15. Rambam, Laws of Testimony, ch. 12

[4] Whoever is liable for lashes – whether he did *teshuva* or whether he received his lashes in court, his status to serve as a valid witness is restored. But all others who are invalid to serve as witnesses – because they have stolen or cheated in monetary matters – even though they have made restitution, they must do *teshuva*, and they are invalid until it is known that they have abandoned their evil ways.

[5] When can we say that those who lend with interest have returned from their ways? When they tear up their loan documents on their own accord, and they make such a complete reversal that they do not lend with interest even to a non-Jew...

### 12. תוספות בכורות דף לא. ד"ה וכולן

כלומר שחזרו לסורם וקלקלו מעשיהם אין מקבלין אותן עולמית כיון דלא יכלו לעמוד בה ר' יהודה אומר במטמוניות כלומר שחזרו לסורם במטמוניות ובגלוי נזהרין על דברי חבירות אין מקבלין אותן שגונבין דעת הבריות ואין עושין אלא לפנים אבל אם לגמרי קלקלו מעשיהם אף בפרהסיא מקבלין אותן כשישוב דכשחזרין חזרה לגמרי.

### 13. רש"י בכורות דף לא. ד"ה עשו

עשו דברים במטמוניות - שלא חיללו שם שמים בפרהסיא מקבלין אותם

### 14. משנה מסכת מכות פרק ג משנה ט"ז

כל חייבי כריתות שלקו נפטרו ידי כריתתם שנאמר (דברים כ"ה) ונקלה אחיך לעיניך כשלקה הרי הוא כאחייך דברי ר' חנניא בן גמליאל

### 15. רמב"ם הלכות עדות פרק יב

[ד] כל מי שנתחייב מלקות בין שעשה תשובה בין שלקה בבית דין חוזר לכשרותו, אבל שאר פסולי עדות שהן פסולין משום מומן שהמסו או שגזלו אף על פי ששלמו צריכין תשובה והרי הן פסולין עד שיוודע שחזרו בהן מדרכן הרע.

[ה] מאימתי חזרת מלויים ברבית משיקרעו שטרותיהן מעצמן, ויחזרו בהן חזרה גמורה שלא ילוו ברבית אפילו לעכו"ם...

### **16. Rema, Shulkhan Arukh, HM, 34:22**

An apostate who renounces and accepts upon himself to do *teshuva*, is immediately valid as a witness, although he has not yet gone through with his repentance.

### **17. Netivot HaMishpat, Bieurim, ad. Loc., no. 13**

Although in section 31 it is explicit that he must [totally change his ways and] accept upon himself to forbid even permissible activities – when it comes to sins resulting from coveting money, the standards are different.

### **18. Shlukhan Arukh, YD, 119**

[1] One who is suspect to eat non-kosher foods, whether he is suspect regarding Biblically- or Rabbinically-forbidden foods, we cannot rely on him regarding the *kashrut* of foods.

[15] One who sells forbidden food [under the guise of it being Kosher], is removed from his position, and we put him under the ban. He may not be reinstated until he goes to a place where he is not recognized, and returns a lost object of significant value, or if he is slaughtering his own meat and declares his own animal of significant value to be non-Kosher. In such a case, we can assume that he has definitely done *teshuva* without deception, since he is not concerned for his own loss.

[16] A butcher whose actions demonstrate that he intends to cause the community to stumble by selling them (lit., feeding them) *treifot*... we remove him [i.e., do not allow him to be a butcher].

## ***E. Practical Applications – When to Embrace, When to be Wary***

### ***Considerations:***

*Degree of Risk; How entrenched and intractable; Sincerity; Community's Values - Belief in teshuva vs/ Condoning behavior*

### **19. Shakh, Shulkhan Arukh, YD, 119., no. 30**

This means, even if he only sold non-Kosher items once, he is removed from his post... Now this is different from what is ruled in HM 306:8, that a butcher or teacher can be fired for negligence without warning, but only if they are habitually negligent, otherwise they cannot be removed without a prior warning. This apparent contradiction has already been addressed by Rivash, 113, "The need for warning or repeated behavior is only for those cases when the consequence of their

### **16. רמ"א, שולחן ערוך חו"מ לד:כ"ב**

מומר שחזר בו וקבל עליו תשובה, כשר מיד, אע"פ שלא עשאה עדיין (מהר"ק שורש פ"ה).

### **17. נתיבות המשפט, ביאורים, שם, ס"ק י"ג**

ואף דבס' ל"א מבואר דבעינן שקיבל עליו לאסור דברים המותרים עבירה דחימוד ממון שאני

### **18. שולחן ערוך יורה דעה סימן קיט**

[א] החשוד לאכול דברים האסורים, בין אם הוא חשוד באיסור תורה בין אם הוא חשוד באיסור דרבנן, אין לסמוך עליו בהם...

[טו] המוכר דברים האסורים, מעבירים אותו ומשמתיים אותו; ואין לו תקנה עד שילך למקום שאין מכירין אותו ויחזיר אבדה בדבר חשוב, או ישחוט לעצמו ויוציא טריפה לעצמו בדבר חשוב, שוודאי עשה תשובה לא הערמה, כיון שאינו חס על ממונו.

[טז] טבח שמעשיו מוכיחים שהיה רוצה להכשיל הציבור להאכילם טריפות... מסלקין אותו...

### **19. ש"ך יורה דעה סימן קיט ס"ק ל**

ר"ל אפי' בפעם א' שמכר דברים האסורים מעבירין אותו כו' וכן משמע בדברי המחבר סעיף י"ז טבח שיצאה טרפה כו' ומ"ש הרב בהג"ה בח"מ סי' ש"ו ס"ח וי"א דטבח ומלמד אע"פ שאין צריכין התראה מ"מ בעינן חזקה דעד שיהיו מוחזקים או עד שיתרו בהם לא מסלקין להו עכ"ל כבר תירץ הריב"ש בס"י

actions is merely a loss of money, and, in addition, it is possible that they are unintentional or acting with a mistaken understanding. But regarding one who is suspected of intentionally feeding people non-Kosher food, he can be removed immediately and after the first offense.”

קי"ג וז"ל זהו באותן המוזכרים שם שאינו אלא הפסד ממון וגם אפשר שהם מוטעים או שוגגים אבל בחשוד להאכיל האיסור מיד מסלקין אותו

#### **20. Rema, Shulkhan Arukh, YD 119, sec. 18**

That which is required to go to a place where he is not known and to repent [through demonstrated actions there] – that is only when he has acted willfully or when he is a repeat offender. But if it is possible that this occurred by accident, then it suffices if he accepts the standards of *haveirut* and does *teshuva* as the judge sees fit.

#### **20. רמ"א שו"ע יורה דעה סימן קיט:י"ח**

הג"ה: והוא דצריך לילך למקום שאין מכירין אותו ולעשות תשובה, היינו שעשה במזיד או מוחזק לכך, אבל אם נוכל לומר שבטעות נעשה לו, סגי בקבלת דברי חבירות ויעשה תשובה לפי ראות עיני הדיין

#### **21. Taz, Shulkhan Arukh, YD 119, no. 26**

To a place where he is not recognized – Maharshah wrote in Hullin 8:16, that nowadays when the generation is unrestrained and there is not power to enforce the law of the Talmud – if the Sages see that it is impossible for the perpetrator to relocate from his town, for he has children dependant on him... or similar concerns – then they shall give him *teshuva* [to be done] in his current place, with self-mortification, that will be equivalent to this [Talmudically-prescribed *teshuva*].

#### **21. ט"ז יורה דעה סימן קיט ס"ק ט"ז**

למקום שאין מכירין כו'. - כתב רש"ל בפ' ג"ה סי' ט"ז בסופו שעכשיו שהדור פרוץ ואין כח להעמיד על דין התלמוד אם יראה לחכמים שא"א לו לנוד ממקומו דטפלי תלוי ביה... או כדומה לזה נותנין לו תשובה במקומו בסיגוף כדי שיהיה עומד במשקל הזה עכ"ל

#### **22. Or Zaru, Laws of Shaliach Tzibbur, no. 112**

Regarding [a person who has killed unintentionally, and has done *teshuva*], whether he can be a prayer leader... This Mathais who killed this infant accidentally, is valid to be a prayer leader. Although we teach that a prayer leader must have a good reputation, and Rashi explains that this means that there was no evil reports about him in the past, this is not difficult... because we see that even some great righteous men [in the Talmud] unintentionally executed innocent people in court, and it is clear that we would not say that they do not have a good reputation, G-d forbid! Rather, not having a good reputation means that someone was intentional and habitual in doing inappropriate things, but regarding a person who once sinned unintentionally and now has remorse – such a person is a completely righteous individual in all respects.

#### **22. אור זרוע ח"א - הלכות שליח ציבור**

##### **סימן קיב**

ולענין ליעשות לו שליח צבור... הילכך מתתי' זה השוגג בזה התינוק כשר ליעשות שליח צבור. ואי משום הא דסדר תענית גבי שליח צבור דמסיק ונאה בפרקו ומפרש רש"י שלא יצא עליו שם רע. מן הא לא קשיא... הרי באת לאלו הצדיקי' שגגת מיתת ב"ד וכי משום זה לא תאמר שפרקן נאה ח"ו. לא פרקו נאה היינו שמזיד ומועד לדברים שלא כהוגן אבל אדם שבאת לידו שגגה ומתחרט הרי זה צדיק גמור לכל התור'.

See also *Shulkhan Arukh*, OH, 53:5

#### **23. Responsa Rosh, 17:1**

And so I have seen in a responsum, that someone who falsely hands over Jews to the government, even when they are not in the act of handing-over, it is permissible to hire non-Jews to use force against him. And some forbid when he is not in the

#### **23. שו"ת הרא"ש כלל יז סימן א**

וכן ראיתי בתשובה, דמסור לשקר, אף שלא בשעת מעשה, מותר לשכור עליו עובדי אילים לענשו; ויש מי שאוסר שלא בשעת

act, and they base themselves on the Talmud that states that a person who betroths on condition that he is righteous, the betrothal is binding, for he may have contemplated thoughts of repentance [and here, too, perhaps the person repented]. However, my teacher, R. Yaakov b. Yitzchak, rejected this proof, for perhaps it is only in the case of betrothal that we say such a thing, because of the stringency of the status of a married woman. In our case, however, the opposite is true – since we know that this person is someone who falsely hands Jews over to the government, we are lenient regarding his safety and strict regarding protecting these poor, innocent people from slightest chance of danger to their lives... and we do not say, perhaps he has repented and changed his ways.

**24. Responsa Radbaz, 6:2078** (Cairo and Israel, 1479-1573)

Although Rambam [in a responsum] attempts to defend a scholar [who has sinned] and states that he is not removed from his post [because he has sinned], he would nevertheless admit that if the scholar sinned in a matter relating to his post – for example, if he was a *chazzan* for women, and he sinned with one of the women, we would remove him from his post so as not to continue to place a stumbling block in front of him. And he would not be reinstated until it was made clear that he had done complete *teshuva*, and so in all similar cases.

**25. Responsa Sheol u'Maishiv I 1:185** (Lvov, 1810-1875)

In the year 1852 it occurred in a city that there was a rumor regarding a schoolteacher that was living there for 8 years, and children had studied with him when they were minors, and these children are now 13 years of age or older. These children are testifying that when they were minors, when they studied with this teacher, that he impurified them with homosexual intercourse – God save us!. Now, in the last summer, when this became known to a God-fearing man, he let out a cry, great and bitter, and the matter came before the Rabbi, the head of the Beit Din, and, behold, they did not want to accept the testimony. Now this teacher accepted upon himself with an oath and a curse that he would immediately leave the city, and behold, afterwards he wanted to be a schoolteacher in Lvov. When the rumor was heard in Lvov, a certain prestigious lay person sent a letter to the Rabbi, the head of the Beit Din, and he responded that he sat with his Beit Din to investigate the matter, and that he did not find a blemish of invalidity according to Torah law, and there was no clarification of the matter, and a judge can only decide based on what he sees... Based on this, the lay people there backed this teacher that he should remain there, because they said that he is an expert. And this impertinent person was yelling like a crane that it is a band of rebels – that they are reckless... and moreover they have a vested interest in the matter.

Now, behold, in Parshat Va'era a letter reached me with the

מעשה לענשו ע"י עובדי אלילים. וראיתן מדאמרינן בפ' האיש מקדש (מט): על מנת שאני צדיק, אפילו הוא רשע גמור מקודשת, שמה הרהר תשובה בלבו. ומורי, ה"ר יעקב בן ה"ר יצחק, דחה זאת הראיה: דילמא משום חומרא דאשת איש אמרינן הכי, אבל לענין מסור, מקילין ביה, כיון דידעינן שהוא מסור לשקר, ומחמרינן להציל נפשות אביונים נקיים מספק... אלמא, לא אמרינן דילמא עבד תשובה; עד כאן.

**24. שו"ת רדב"ז חלק ו סימן ב אלפים עה**

ואעפ"י שהרב ז"ל מהדר אזכותא דת"ה שאין מורדין אדם מגדולתו ומנויו מ"מ מודר /מודה/ הוא שאם עבר עבירה בענין מינוי כגון שהיה חזן לנשים ועבר עבירה עם אחת מהן מעבירין אותו ממנויו שלא לתת מכשול לפניו עד שיתברר שעשה תשובה שלימה וכן כל כיוצא בזה.

**25. שו"ת שואל ומשיב מה"ק א:קפה**

בשנת תרי"ג אירע בעיר אחד נשמע קול על מלמד אחד שמתגורר שם זה שמנה שנים והילדים אשר למדו אצלו בקטנותם וקעת הם בני י"ג שנה ויותר הם מעידים שבקטנותם כאשר למדו אצלו טימא אותם במשכב זכור ר"ל ובקיץ העבר כשנודע הדבר לאיש ירא אלקים צעק צעקה גדולה ומרה ובא הדבר לפני הרב האב"ד והנה לא רצו לקבל גבי"ע =גביית עדות= וזה האיש קבל על עצמו באלה ובשבועה שתיכף אחר הזמן יסע משם והנה אח"כ רצה להיות מלמד בלבוב וכאשר נשמע הקול בלבוב שלה בעה"ב אחד נכבד מכתב להרב אבד"ק והוא השיב כי ישב עם ב"ד לחקור ולדרוש הדבר ולא מצא שמץ פסול עפ"י ד"ת ולא הי' שום בירור על הענין ואין לו לדיין אלא מה שענינו רואות... וע"כ הבעה"ב דשם החזיקו המלמד שיהיו שם כי אמרו שהוא אומן והחצוף הנ"ל צווח ככרוכיא שהוא קשר בוגדים שהם קלי הדעת ומה גם ... המה נוגעים בדבר.

deposition signed by three respected people... and in it two young men testified, one who is now 15 and one who is now over 13, that in their youth when they were learning with this teacher and they were 9 years old or younger that he defiled them with acts of homosexual intercourse, because they were sharing a bed with him in the room where he slept. And this report had a great deal of detail, which is disgusting to repeat, and this is what I responded to them:

In truth, I have already written in a responsum that to invalidate a person [as a witness] one needs to valid witnesses... [But there are times when such witnesses will never be available.] And therefore, in this case, that it is impossible that there would ever be adult witnesses to this matter... therefore it is obvious that they would be believed. And moreover, what is the thinking? That we are trying to invalidate him for testimony or an oath?! Rather, we are saying that he might have done this thing, and the Rabbis have already said in Niddah (61a) that *lashon hara*, even if we do not accept it, we never the less must concern ourselves with the possibility that it might be true...

Thus, woe to us that in our days such a thing has occurred, that we had such a person as a teacher of small children, children whose very breath is pure, and we must be so concerned that his impure breath will impurify them. Therefore, it is my opinion that the proper thing to do is to remove from him the post (lit, the crown) of teacher, and the community must be concerned for its own wellbeing, until he does a full *teshuva*, and with self-mortification as is fitting, and then he will return to accept upon himself the proper standards of behavior, and it will be an atonement for his sins. And as long as he does not confess his sins, there is no *teshuva*... It was told to me... [that a certain verse] refers to one who sins in sexual matters, that as long as they eyes and the heart – the go-betweens for sin – are still tempted, that *teshuva* will be of no avail.

... Now, in this case, we are not saying that this person has become invalid and has lost his assumption of *kashrut*. Rather, we are saying that a teacher of small children has to be fearful and tremble from the word of God more than other people. And in this case we see that he is less scrupulous. Therefore, we have to distance him until he makes a full repentance.

והנה בפ' וארא הגיעני מכתב עם גב"ע מחותם בחתימת שלשה אנשים נכבדים... והעידו שני בחורים האחד הוא כעת בן ט"ו שנה והאחד הוא כהיום בן י"ג שנה ויותר שבילדותם בהיותם לומדים אצלו כבני ט' שנה או פחות היה מטמא אותם במשכב זכור כי היו שוכבים אצלו במטה בחדר אשר דר שם והדברים באו ברוב ענין אשר הוא מגונה להעלות על הספר וזאת אשר השבתי באמת כבר הארכתי בזה בתשובה דלפסול האדם צריך שיהיו שני עדים כשרים... וא"כ בדבר זה שבודאי א"א להיות גדולים... א"כ פשיטא דנאמנים להעיד ומה גם דאטו אנו רוצים לפסולו לעדות ולשבועה רק דאמר' דשמא עשה זאת וכבר אמרו בנדה דף ס"א האי לישנא בישא אף דלקבולי לא בעי למיחש מיהא מבעיא...

וא"כ איפוא או לנו שבימינו עלתה כך שיהיה איש כזה מלמד תינוקות של בית רבן אשר הבל פיהם טהור ויש לחוש שהבל פיו הטמא יטמא אותם וע"כ על דעתי שמהראוי להסיר כתר המלמדות מעל ראשו ויחושו לנפשם עד אשר ישוב בתשובה שלימה ובסגופים כראוי ואז ישוב לקבל ד"ח = דברי חבירות = ויהיה לו לכפרה על חטאיו וכ"ז שאינו מתודה על חטאיו לא שייך תשובה... והוגד לי... ואמר שקאי על מי שמטיל קרי ואמר שזה מן הצופים ולפנים דעינא וליבא תרין סרסורי דעבירה לזה אמר לא ישב שאינו מועיל תשובה ופניו כלפי הקדש ודפח"ח.

... אבל כאן אטו נפסל בשביל זה מחזקת כשרותו רק שאנו אומרים שמלמד תינוקות צריך להיות ירא וחרד לדבר ד' יותר משאר בני אדם וכאן אנו רואין שהוא קל ע"כ צריכין אנו להרחיקו שישב בתשובה שלימה...