

The JEWISH Spin on Current Events

PRESIDENTIAL POWER TO PARDON

Is justice being served?

c OVERVIEW d

1. DOES G-D PARDON US WHEN WE REPENT?
2. WHAT IS THE PURPOSE OF PUNISHMENT?
3. DOES REPENTANCE ALWAYS ABSOLVE ONE FROM PUNISHMENT?
4. WHEN DOES G-D PARDON EVEN IN THE ABSENCE OF A PETITION?
5. WHAT ETHICAL CONCERNS ARE THERE IN EXECUTIVE PARDONING?

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July 23, 2008

(Next class will be held on August 6)



A Project of the

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c SOURCES d

1. Does G-d pardon us when we repent?

c 1A d

QUOTE FROM TANYA, IGERES HATESHUVA, CHAPTER 6

...it is he, the sinful individual, who draws the flow of vitality into [the chambers of the *sitra achra*], it is he who receives the greatest portion from them...

This is an expression of the “Exile of the Divine Presence,” as it were, [during which time the life-force emanating from the latter *hei* flows into the *kelipot*], viz., [G-d’s] granting [supplementary measures of] life-force to the chambers of the *sitra achra* that He despises.

But when the sinner repents appropriately, he then removes from them the life-force that he had drawn into them through his deeds and thoughts, for by his repentance he returns the flow issuing from the Shechinah to its proper place.

This, then, is the meaning of [the teaching of the Zohar, quoted in ch. 4, that “*teshuvah* is] *tashuv hei*, the return of the lower *hei* from exile”.

As the verse states, “The L-rd, your G-d (the source of your soul), will return (i.e., bring back) those of you who return”; this means [that G-d Himself will return] with your return. As our Sages have commented on this verse, “Scripture does not say, ‘He shall bring back,’ [but that He Himself will return].”

c 1B d

BASED ON A TALK OF THE REBBE, ROSH HASHONA 5750

The *mitzva* of repentance is greater than all *mitzvot*. Therefore *teshuvah* helps correct all blemishes [caused by the transgressor] of the rest of the *mitzvot*, since it reaches greater heights than the rest of the *mitzvot* reach.

Perhaps we may say, that it is for this reason that Maimonides did not innumerate the *mitzva* of *teshuvah* with the rest of the 613 *mitzvot*, since it is greater than them, and encompasses them, and ‘encompassing’ *mitzvot* are not included in the numeration of the 613 *mitzvot*.

c 1C d

MAIMONIDES, LAWS OF REPENTANCE, CHAPTER 7 LAW 4

A *Baal-Teshuvah* should not consider himself distant from the level of the righteous because of the sins and transgressions that he committed. This is not true. He is beloved and desirable before the Creator as if he never sinned.

Furthermore, he has a great reward for he has tasted sin and yet, separated himself from it, conquering his [evil] inclination. Our Sages declared (Berachot 34b): “In the place where *Baalei Teshuvah* stand, even the completely righteous are not able to stand.” The level of *Baalei Teshuvah* transcends the level of those who never sinned at all, for they overcome their [evil] inclination more.

2. What is the purpose of punishment?

c 2A d

MAIMONIDES, LAWS OF REPENTANCE, CHAPTER 2 LAW 9

Teshuvah and Yom Kippur only atone for sins between man and G-d; for example, a person who ate a forbidden food or engaged in forbidden sexual relations, etc. However, sins between man and man; for example, someone who injures his fellow man, curses his fellow man, steals from him, or the like will never be forgiven until he gives his fellow man what he owes him and appeases him.

c 2B d

TALMUD, YUMA 86A

If one transgressed a positive commandment and repented, he does not move from there until he is forgiven... If one transgressed a negative commandment and repented, the repentance suspends [punishment] and Yom Kippur atones.... If he committed sins that are punishable by Kares or sins that are punishable by judicial execution, repentance and Yom Kippur suspend, and suffering purges the sin... but as for one who bears the sin of Desecration of the Name, repentance does not have the capacity to suspend, nor Yom Kippur to atone, nor suffering to purge. Rather, all of them together suspend, and death purges the sin...

3. Does repentance always absolve one from punishment?

c 3A d

TALMUD, SANHEDRIN 43B

When he was approximately ten *amos* [far] from the stoning grounds, they say to him, “Confess,” as it is the practice of all those who are to be executed to confess, because anyone who confesses has a share in the World to come.

4. When does G-d pardon even in the absence of a petition?

c 4A d

MAIMONIDES, LAWS OF REPENTANCE, 1:3

The very aspect of the Day of Atonement atones for penitents, for it is written, "For on that day He will forgive you".

c 4B d

LIKKUTEI SICHOT, VOL. 4, P. 1149

Yom Kippur has a special power, for "whether one repents or does not repent, Yom Kippur atones." To quote Rambam, "The essence of the day atones."

Atonement is not simply averting punishment, but also purifying the soul—"kaparah" is an expression of 'scrubbing,' scrubbing off the dirt of sin." The "essence of the day" accomplishes two things: cancellation of punishment and the removal of "stains" and "dirt."

Yom Kippur has the power to purify (even if presumably this requires repentance) because then the bond between the essence of the soul and G-d's essence is revealed. This bond is not created by human service, but exists naturally: the soul's essence is literally a part of G-d, which "Clings and cleaves to you . . . the one people to affirm Your oneness." Just as this bond is not formed by human service, so, too, it is not weakened or blemished by sin.

Clearly, then, when the bond between G-d and the Jewish people becomes revealed, all the "stains" are nullified automatically. For on those levels blemished by sin, atonement requires repentance, which nullifies everything opposing attachment to G-dliness.

The atonement of Yom Kippur, however, is achieved by revealing the level of the soul that sin cannot affect or harm to begin with.

5. What ethical concerns are there in executive pardoning?

c 5A d

RESPONA OF THE NODA BEYEHUDAH, ORACH CHAIM (FIRST ADDITION), CHAPTER 35

And you should know, that without a doubt, repentance completely forgives the person... And also, without a doubt, in the time that the Sanhedrin [Jewish court] was active, if one transgressed one of the violations which the Beth Din would give death penalty... even if the witnesses waited and didn't come to Beth Din for many years, and in the time being the person repented... and then the witnesses came to Beth Din and testified, definitely, the Beth din would not consider his repentance and they would... [execute him],

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according to the sin he transgressed. And this is a shocking thing, since it's definite that his repentance was accepted and his sin has been removed and forgiven, why should he be killed?...

Most definitely, it is a written rule. For if not so, the punishments of the Torah would totally vanish, and there wouldn't be a man that would be executed by Beth Din, for he would say, 'I sinned, but I've repented'. And since G-d wanted to give capital punishments on some sins in order to scare the person from violating them, therefore it is important that repentance shouldn't help to save one from execution by Beth Din.