

Yom Kippur and Mitzvot *Ben Adam LeHaber* (Man to Man)

Communal and Business Concerns for the 21st Century

Rabbi Moses Haber

HaRambam writes in his *Mishne Torah Hilkhot Teshuba* 2:9 that:

Teshuba or the day of Kippur itself atone only for sins committed against the Almighty (*Ben Adam LaMakom*) like eating non-kosher or having illicit sexual relations and the like, but have no efficacy on sins committed against one's fellow man (*Ben Adam LeHaber*), like physical damages, cursing/disgracing ones fellow, theft and the like. These transgressions are **not** forgiven until one returns what one owes (monetarily) and appeases his fellow (*viyrasehu*). Even the returning of money cannot fully atone for the sin; one must appease the person he wronged (*LeRašoto*) and ask him for forgiveness..."

The words of HaRambam above help to clear up a commonly held misconception that confession and subsequent commitment to abstain from repetition of a sin during Yom Kippur is a panacea for 'all' sins committed during the past year. To clarify, Yom Kippur is a day to atone for ones sins both against God and against Man, but while the *Vidui* we say includes both sections of transgressions (man against God and man against man) one receives atonement only for sins committed against God, while those sins against man are not atoned for unless one has received prior forgiveness from that man directly. Simply put, even God himself cannot forgive you for a sin you committed against your neighbor!

The prayers we read on Yom Kippur itself help to facilitate proper confession if they are properly utilized.

While the *Vidui HaGadol* ('*Ase* and *Lo-Ta'ase*) leaves little room for elaboration because of its already detailed form, the *Al Het* said during the '*amida* allows more time for introspection. The *Al Het* is a listing of 25 ways of transgression. Being quite ambiguous in tone this prayer lends itself to being defined more freely/personally than the specific sins listed in the *Vidui HaGadol*.

In his book, *Al Chet: Sins of the Marketplace*, Dr. Meir Tamari seeks to break the complacency that might have settled in over many years of repetition and expand an understanding of the *Al Het* to include sins of *act* and *mind* that are committed against one's 'fellow neighbor' and not only against God. By exploring the *Al Het* in this way, Dr. Tamari brings to light transgressions that are committed in the marketplace that at times might not be seen as going against the values of the Torah. While many topics are dealt with in his book, one stands out as being appropriate to introduce when talking about sins committed against one's fellow neighbor, namely *Al Het shehatanu lefanecha begalui ubaseter* – on sins we committed before you in the "open" and in "secret."

An example of how this statement can be used as a confession for a sin committed against one's fellow neighbor (*LeHaberu*) follows. According to Jewish law, a *ganab*, a thief who steals in secret (e.g. by night) (*Mishne Torah Hilkhoh Genebah* chap. 1) is penalized by having to pay a fine equal to 100% of the value of the stolen item *in addition* to returning the stolen property itself (Exodus 22:3), while a *gazlan* (a thief who does not steal under the cover of darkness or in secret) simply must return the stolen item. The *Hakhamim* (*Talmud Babli, Baba Qamma 79b*) explain that the *ganab* is penalized the extra 100% for making the crucial error of thinking that he committed a secret crime, namely from the Almighty.

Awareness that there is above us an all-seeing eye and hearing ear should prevent most sins that are committed

behind closed doors. In actuality, it is precisely behind those closed doors of conference rooms that unethical practices are committed. Planning and care is taken to perform secret corporate malfeasance, tax evasion and questionable management decisions. Documents are shredded, hard drives wiped and emails erased all in order to protect the secrecy of illegal practices.

It is exactly this point that one needs to have in mind when repenting to the Lord on Yom Kippur. “Have I made the mistake of thinking that I can hide from my Creator? Have I committed the offense of believing that I can get away with an illegal activity if I cover my tracks well enough?”

With the competitive business style that is currently all pervasive in today’s society, a young businessman or woman new to a company needs to do all it takes to succeed. But at what point does one say, “enough, something I did in private (without the knowledge of the customer) borders on the unethical or even the illegal. And if not totally *assur*, should I not go *lifnim mishurat hadin* (go the extra mile) and be *maḥmir* and take a personal loss financially, instead of spiritually?” The *Hida* states (see *Sede Hemed ma’arechet kaf*) that *ḥumrot* should be applied to laws of *Ben Adam LeḤabero* (man to man) and not to *Makom* (man to God) for God does not need our *ḥumrot*, our fellow neighbors do!

An example of a questionable business practice that is dealt with in Jewish law is one of weights and measurements/balances. It is no less applicable to a woman shopping in a supermarket or a multi-millionaire businessman producing goods for a customer. The Torah takes the issue of weights and measurements so seriously that it states in the Talmud (*Babli Baba Mesi’a 61b*) that the purpose for the Exodus from Egypt was to enable the Jews to observe the laws of just weights and balances, and that one who transgresses this mitzvah is equated with

those who deny the entire event of *Yesiat Misrayim*. This halakha applies to even the smallest amount (*mashehu*) of discrepancy, in contrast to that of *geneba/gezela* (theft), which has a minimum quantity of *shaveh peruta* (*Hilkhot Geneba ch. 8; Shulhan Arukh Hoshen Mishpat 231*) and likewise does not distinguish between Jew and non-Jew.

Sins committed in secret against one's fellow, beyond the scope of others (although not from the Omnipresent) can be the most damaging. Some examples to think about on Yom Kippur are: switching fabric qualities at production time without the knowledge of the customer, real estate sales made on the basis of non-disclosure of details which take advantage of the buyer's ignorance, defective goods shipped without notification, purchase of stolen goods which are then sold as new, theft of music and software CD's by illegal copying.²

Dr. Tamari states, "All these actions destroy the moral equilibrium and blur the distinction between right and wrong until lying becomes a way of life in all areas." He quotes the *Shach*, who comments on the *pasuk* in Leviticus 19:11: "'You shall not steal nor deal falsely nor lie one to another.' The verse does not detail which things one should not steal, but simply forbids it. *Nothing, not money, not other people's perceptions, and not the perception of God himself.*"

While the misconception that all sins can be atoned for on Yom Kippur, without proper recourse for those committed against one's fellow, can be easily clarified for the layperson, a larger more overwhelming issue might be more difficult to impress. That is, the equal importance placed on transgressions against a fellow man as those that are committed against God.

² I am aware that, according to some authorities, this specific issue might be *asur* because of *Dina De-Malkhuta* (the law of the country) and not *geneba*.

Unfortunately, the balance between these two types of transgressions seems to have faltered recently. Why is it that in today's society we are plagued by individuals whose profession it has become to manipulate the laws of society for personal gain? Sins against one's fellow are committed consciously with the goal of receiving more and more financial wealth. All is seen as fair game, where dog-eat-dog rules apply to everything from corporate takeovers to a simple purchase in a retail store. Unfortunately, whether consciously or not, the larger Orthodox Jewish community has been affected in more ways than one. It begs the question, how has this change occurred, where sins committed against God are given more importance than those committed *LeḤabero*? The answer can only be a lack of awareness and education.

While the increase in religious observance within the larger American Jewish Orthodox community can only be applauded, and the rabbinic leadership driving this new momentum be praised, a deeper analysis of the effects of this transformation needs to take place. That is, are the Torah classes being taught leading to an increase in observance in both types of mitzvot, both *Ben Adam LaMakom* and *LeḤabero*? While the current wealth of classes on *musar* topics are useful in stimulating better treatment of one's fellow neighbor, at what point do the classes only end up addressing issues of halakha (*mutar vs. asur*) according to the accepted halakhic opinion of the *Shulhan Arukh* on limited topics of ritual observance?³ Are specific laws of fair competition, price fraud/gouging, employer-employee relations, copyright infringement, interest, personal negligence, and tax evasion given equal time in the many classes we attend? There are many classes on the laws of Shabbat and kosher kitchens but few or none on the laws of *mekah umemkar* (business law) in general,

³ Shabbat, Kashrut, Prayer etc.

or more specifically on issues of *geneba* and *gezela*, partnerships, interest, contracts and neighbors.

While it seems as if these laws in recent times have fallen out of favor they have no less importance to the whole of the ethic of Judaism. It should be mentioned that the previous generation of men in the Syrian Jewish community of Brooklyn, NY awoke each morning to a class on the laws of business, found in the *Bet Yosef* and *Shulhan Arukh (Hoshen Mishpat)*, before setting out to work.

Judaism requires each of us “to do what is right and good in the sight of the Lord” (Deut. 6:18), and to “walk purely with Hashem our God” (Deut. 18:13). There can be no better way to achieve this height of spirituality and fervor than a balanced approach to increasing levels of observance in both worlds, both the heavenly (*LaMakom*) and earthly (*LeHabero*). Many of the *mishpatim* delineated in the Torah deal with issues of civil society and social justice. These laws run the gamut from details on how to establish court systems (in order to enforce Torah laws) to helping the downtrodden Jew and non-Jew alike (*Babli Gittin 61a; Tosefta; Mishne Torah, Hilkhos Shemittah 8:8*). In order to be a “whole” person, one needs to concentrate his efforts on the entire set of laws and values in the Torah, not only some!

To be absolutely clear, the only way to become a true *shomer Torah uMitsvot* Jew is to follow the entire corpus of the Torah *Shebe'al Peh* (e.g. every section of the *Shulhan Arukh*), both mitzvot that find favor in the eyes of God as well as in the hearts of your peers. One who wishes to increase his or her personal spiritual level cannot choose to follow only part of our halakhic tradition while ignoring the rest.

It can be said (although mistakenly) that it is simply too hard to act in accordance with the halakhot of *Ben Adam LeHabero* while trying to make ends meet. Why not concentrate on an area that I can improve upon alone

(within myself). ***This mindset only works to unhinge the whole of the Torah from within. Our Torah is concerned with the society as a whole, as well as the individual within.*** As an aside, that is precisely the reason we ask Hashem daily for the return of the kingdom of David and the coming of the *Mashiyah*, so we can live within a world society that recognizes the way of God, namely *Sedaka uMishpat* (justice and righteousness), and conducts its business so.

The current stress on some topics/mitzvot of the Torah while others have fallen into disregard is only an outcome of the society that we live in. The *galut* (exile) we live in has proved itself a true punishment from the Almighty; it has allowed us to veer off the path of balance into one of imbalance. To continue on a path that favors some of the values of Judaism and not others would only mask the true beauty of Judaism itself.

To conclude, Yom Kippur need not be the only time one thinks about the sins committed against one's neighbor. In an effort to educate oneself in these matters of the halakhot of business and building a society based on Torah values, many books and articles have been made available. Dr. Tamari's book is not the only one that speaks about business laws and issues of *halakhot* of *Ben Adam LeHabero*. Dr. Aaron Levine also writes on this subject, as well as *Dine Mamonot* (in Hebrew) by Rabbi Basri, and the more currently published *Malve Hashem* by Hakham Moshe Levi (in Hebrew). There is even a website dedicated to these issues, founded by Dr. Tamari and run out of the Machon Lev institution in Jerusalem (www.besr.org). A community of business men and women who are bent on increasing their spiritual awareness and observance cannot adopt a negligent approach to these issues and laws that are part and parcel of fulfilling the Almighty's will of building a just and righteous society.