

## 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

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...

... 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

... 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, *Hilkhot 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.

#### 3. "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 *teshuvah*," 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

### 4. 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". And God, who knows all hidden things, would be prepared to testify that he 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.

### 5. 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.

### 4. 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

### 5. 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

### 6. 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.

### 7. 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".

### 8. 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

### 6. רמב"ם הלי' 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.

### 7. רמב"ם הלכות עבודת כוכבים ב: ה

וכן האפיקורסים מישראל אינן כישראל לדבר מן הדברים ואין מקבלים 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.

### 8. 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

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.

דין בדבר מה שבינם לבין בוראם, וזה הראשון בדבר מה שבינם לבין בני האדם.

9. 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.

9. 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 ולמהר 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:

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

10. 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.

10. בבלי, קידושין דף מט :

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

11. Babylonian Talmud, Sanhedrin, 25b

Dice-players include the following: Those who play with checkers, and not only with checkers, but even with nutshells 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

11. בבלי, 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

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. 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.

חיה ועוף, ואימתי חזרתן - משישברו את פגמיהן, ויחזרו בהן חזרה גמורה, דאפילו במדבר נמי לא עבדי.

סוחרי שביעית - אלו שנושאים ונותנים בפירות שביעית, ואימתי חזרתן - משתגיע שביעית אחרת ויבדלו. ואמר רבי נחמיה: לא חזרת דברים בלבד אמרו, אלא חזרת ממון. כיצד? אומר: אני פלוני בר פלוני כינסתי מאתים זוז בפירות שביעית, והרי הן נתונים במתנה לעניים.

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

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." ...

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... 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...

## 13. 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?

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.

14. Mishnah 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.

14. משנה מכות פרק ג: ט"ז

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

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...

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 ממון שחמסו או שגזלו אף על פי ששלמו צריכין תשובה והרי הן פסולין עד שיוודע שחזרו בהן מדרכן הרע.

[ה] מאימתי חזרת מלוים 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.

16. רמ"א, שולחן ערוך חו"מ לד: כ"ב

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

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.

17. נתיבות המשפט, ביאור, שם, ס"ק י"ג

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

18. Shlukhan Arukh, YD, 119

[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].

18. שולחן ערוך יורה דעה סימן קיט

[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...

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

Considerations: Degree of Risk; How 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 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."

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"ה וי"א דטבח ומלמד אע"פ שאין צריכין התראה מ"מ בעינן חזקה דעד שיהיו מוחזקים או עד שיתרו בהם לא מסלקינן להו עכ"ל כבר תירץ הריב"ש בס"ק קי"ג וז"ל זהו באותן המזכרים 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.

21. 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. 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 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.

20. רמ"א שו"ע יורה דעה סימן קיט:י"ח

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

21. אור זרוע ח"א - הלכות שליח ציבור סימן קיב

ולענין ליעשות לו שליח צבור... הילכך מתת' 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 שפרקו נאה ה"ו. לא פרקו נאה היינו שמזיד ומועד לדברים שלא כהוגן אבל אדם שבאת לידו שגגה ומתחרט הרי זה צדיק גמור לכל התור'.

22. שו"ת הרא"ש כלל יז סימן א

וכן ראיתי בתשובה, דמסור לשקר, אף שלא בשעת מעשה, מותר לשכור עליו עובדי אלילים לענשו; ויש מי שאוסר שלא בשעת מעשה לענשו ע"י עובדי אלילים. וראיתן מדאמרינן בפ' האיש מקדש (מט:): על מנת שאני צדיק, אפילו הוא רשע גמור מקודשת, שמא 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.

23. 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.

24. 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 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

23. שו"ת רדב"ז חלק ו סימן ב אלפים  
עח

ואעפ"י שהרב ז"ל מהדר אזכותא דת"ה שאין מורידין אדם מגדולתו ומנויו מ"מ מודר /מודה/ הוא שאם עבר עבירה בענין מינויו 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.

24. 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 וכעת 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 שלח 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.

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

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.

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 לפסלו 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 אוי 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 דהוא קל ע"כ צריכין אנו להרחיקו שישב בתשובה שלימה...