Forgiving a Terrorist

By: GIL STUDENT

On October 7, 2023, Hamas terrorists invaded Israel and committed horrifying acts of sadistic brutality, murder, rape and kidnapping against thousands of people. As religious people striving to do the right thing, should we forgive the terrorists? There are those in the culture who believe we must always forgive, turn the other cheek, resist the urge to endlessly pursue revenge and justice. Is that the approach of Jewish tradition? Even just asking this question is offensive. The attacks move us on such a basic level of emotion that this question can only evoke powerful feelings. This, too, is part of the question but here we will engage in a legal and theological discussion that only tangentially addresses its important emotional aspect.

I. The Source of Forgiveness

In general, forgiveness is a powerful tool to move forward, to overcome the past, to repair broken relationships. We can better understand how and when to use it in our lives if we explore what forgiveness means and why it is necessary. Perhaps most importantly, to understand when to and when not to forgive, we need to understand why forgiveness works. We can begin our discussion with the first recorded case of forgiveness in history.

R. Jonathan Sacks argues that Yosef's forgiveness of his brothers is the first time in history we find someone forgiving others. While we will later discuss an earlier case implied in the Bible, this is the first explicit example. After testing his brothers and finding that they had truly changed, Yosef can no longer hold himself back and reveals his identity to them. He tells them, "And now, do not be distressed and do not be angry with yourselves for selling me here, for God sent me ahead of you to preserve life" (Gen. 45:5).

R. Sacks contrasts this with Avraham arguing on behalf of the people of Sodom. Avraham argues out of justice, not forgiveness. When Ya'akov confronts Esav, he asks not for forgiveness but for appeasement. Ya'akov

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gives Esav gifts, and, in exchange, Esav does not mention his grievances against Ya'akov, after which they go their separate ways. In neither interaction do we see forgiveness.[1]

However, I believe in these earlier analyses R. Sacks misses an important distinction that explains the double passage of Yosef's forgiveness of his brothers. In Gen. 45, Yosef pardons his brothers for their actions, as noted above. In Gen. 50, after Ya'akov dies, the brothers fear Yosef's retribution. To save themselves, they send a message to Yosef in Ya'akov's name, asking for forgiveness. "Your father left these instructions before he died: 'This is what you are to say to Yosef: Please forgive your brothers' wrong and the sin they committed in treating you so badly.' Now please forgive the sins of the servants of the God of your father" (Gen. 50:15–17). Yosef replies, again absolving them of guilt for the entire episode. Why is this repeated in the text? Ephraim Speiser claims that these two passages emerge from different authors.[2] However, this approach fails to see the depth in the narrative, the important message about human nature and reconciliation. In his final writing on the subject, in the posthumously published *Judaism's Life-Changing Ideas*,[3] R. Sacks differentiates between these two passages by saying that the first passage looks like forgiveness but is not — in fact, the term is not even mentioned. Only the second passage reflects forgiveness. We can expand on that distinction by defining our terms more precisely and exploring the different motivations for forgiveness.

II. Forgoing and Forgiving

One way to think about forgiveness is by noting how its language is used in finance. When you forgive a loan, you allow someone not to repay you. You lent him money, which he owes you. He has an obligation to you. You forgive the loan, removing that obligation. In this framework, forgiveness is the removal of an obligation. If someone hurts you, whether intentionally or negligently, he has an obligation to repay that offense, to make you whole. Even if the offense entails no tangible loss, he needs to

1 R. Jonathan Sacks, *Covenant & Conversation* (Jerusalem, 2009), Genesis, p. 323ff.; idem., *Essays on Ethics* (Jerusalem, 2016), p. 65ff.; idem., *Ceremony & Celebration: Introduction to the Holidays* (Jerusalem, 2017), p. 33ff.

2 E. A. Speiser, *Genesis* (Anchor Bible), (Garden City, NY, 1964), p. 378.

3 R. Jonathan Sacks, *Judaism's Life-Changing Ideas* (Jerusalem, 2020), p. 59.

restore your sense of completeness, your emotional state.[4] When you forgive him, you remove that obligation. You might be financially whole without his restitution, or you might accept the loss and write it off as the cost of doing business. Either way, your forgiveness tears up the note of obligation.[5]

While we use the language of forgiveness in this case, really it is an example for forgoing. You, the victim, declare that you are willing to pardon him, to forgo the debt due you. He owes you money, owes you repair to your property or to yourself, and you remit the obligation. You unilaterally wipe the slate clean without his involvement. When you forgo, you declare that you are willing to live with the damage.[6]

Your willingness to live with the injury may be due to a recognition that this world is temporary, money and honor are illusions, and people are works in progress who sometimes stumble. Or perhaps you want to release your hate and anger to soothe your emotional pain.[7] For all these reasons and perhaps others, you overlook the misdeed. Imagine living in a world in which everyone is held accountable for every misdeed. Who would be able to stand in such an exacting environment? We would have no friends, no family, no community. God originally created the world with the trait of judgment but then added the trait of mercy because the world cannot exist with judgment alone.[8]

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4 *Yoma* 87a: "R. Yitzchak said: One who angers his friend, even only verbally, must appease him (apologize to him)."

5 For a similar idea regarding ritual sins, see R. Joseph B. Soloveitchik, *Al Ha-Teshuvah: Devarim SheBe'al Peh* (Jerusalem, 1974), pp. 263–264.

6 See the Mishnah on *Nedarim* 63b, paraphrased: "Someone who says to another, 'You are prohibited from deriving benefit from me if you do not come and give my son one measure of wheat and two barrels of wine,' this individual who took the vow can dissolve his own vow by saying: 'I hereby consider it as though I have received the gift.'"

7 Solomon Schimmel, a professor of Jewish education and psychology, writes: "When you hold on to an anger that consumes you without satisfying you in any way, you are, in effect, allowing the individual who hurt you to injure you continuously. Often, anger and a desire for revenge or for justice so dominate a victim's consciousness that they prevent her from pursuing a satisfying and constructive life. To dissipate anger and hatred through forgiveness allows you to resume an emotionally healthier life." *Wounds Not Healed by Time: The Power of Repentance and Forgiveness* (New York, 2002), p. 73.

8 See Rashi, Gen. 1:1, s.v. *bara*.

III. Two Sides of Forgiveness

Forgiveness goes further than forgoing. It takes two to forgive. The offender must repent and attempt to undo the harm, if possible. And he must apologize. Taking responsibility for an offense involves apologizing and trying to heal the harm he has caused. Additionally, a sinner must undergo personal change. Maimonides lists four steps of repentance: regret, cessation of the sin, confession and commitment to refrain from this sin in the future.[9] These are the practical manifestations of a profound personal change. As Maimonides writes,[10] the sinner must think, "I am not the same person who committed this act." However, all this suffices only for sins between God and man. The Mishnah[11] says that the combination of repentance and Yom Kippur atone for most sins between God and man. Even this powerful combination of personal change and Divine mercy cannot atone for interpersonal sins without also the forgiveness of the victim.[12] An apology is the culmination of a moral transformation called repentance.

We understand why we want forgiveness—because we want atonement, wholeness before God, relief from Divine punishment in this world and the next. But why should we forgive someone who committed an offense against us? The most basic reason to do anything is selfishness. As a survival method, we take care of our own physical needs before we take care of others. "And your fellow shall live with you" (Lev. 25:19). The Talmud infers that you must take care of yourself first and then others. For your fellow to live with you, you have to be alive.[13] This is not permission for uncaring selfishness but rather for survival. Put on your air mask first so that you can then put an air mask on others.

"Whoever forgoes his reckonings (with others), they (the Heavenly Court) in turn forgo his punishment for all his sins."[14] In forgiving the misdeeds done to you, you hope that others treat you similarly. As Yogi Berra notably said, "Always go to other people's funerals, otherwise they will not come to yours." Or as the Talmud puts it, "One who eulogizes others will be eulogized; one who weeps for others will be wept for; and one who buries others will himself be buried."[15] If we all stand firm on

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9 *Mishneh Torah, Hilchos Teshuvah* 2:2.

10 Ibid., 4.

11 *Yoma* 85b.

12 See R. Yosef Cohen, *Sefer HaTeshuvah* (Jerusalem, 2021, ch. 2 n. 100), for a debate over whether interpersonal sins that are undone also require forgiveness.

13 *Bava Metzia* 62a.

14 *Rosh Hashanah* 17a.

15 *Nedarim* 83b.

justice, we will all be guilty. Put differently, the decision to forgive should involve seeing yourself in the other. We all suffer, in varying degrees and manifestations, from many of the same spiritual maladies. We treat others with mercy because we all need the mercy of others and of God. In this sense, the selfless act of forgiving an offense is done for selfish reasons. The selfish approach applies both to forgoing and forgiving. Either way, we help others overcome their sins so that we, too, will be helped in overcoming our sins.

However, perhaps we forgive not for ourselves but for the sinner. We want to see everyone live in wholeness and in harmony with God. If our forgiveness removes the barrier between a sinner and God, how can we stand in the way? We forgive not out of self-love but out of love for the other. Even someone who wronged us deserves our love, especially after he engages in transformative repentance and apologizes. We forgive to help someone else achieve atonement.

There are practical differences to these different reasons to forgive. As we described above, forgoing means waiving the sinner's obligation. Should you waive that obligation, should you forgo, if the sinner has not apologized? If you forgive for the sake of the sinner, why should you help someone who remains unrepentant and untransformed, who has not even acknowledged his guilt and asked for forgiveness? Because he has not repented, he still will be Divinely punished, and your forgiveness will not help him. He might even continue harming others. On the other hand, if the reason to forgive is selfish, then you should forgo and forgive regardless of the sinner's contrition. You forgive offenses committed against you so that you will be forgiven for offenses that you committed. This is true regardless of the offender's atonement.

Is there value to forgiving someone who died, if you learn that he had repented before his death and truly regretted his misdeeds against you? If the reason to forgive is for the sake of the sinner, to help him achieve atonement, then the proper path depends on the theological question of whether there is atonement after death.[16] If there is no atonement after death, then there is no benefit to him in your forgiveness. On the other hand, if the reason to forgive is for yourself, then you should forgive even a deceased offender. Your forgiving attitude will be duly noted in Heaven regardless of whether your forgiveness helps the sinner. It is noteworthy, therefore, that the Talmud (*Yoma* 87a) requires an offender whose victim

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16 I discuss this in "Atonement for the Deceased," *Torah Musings*, May 24, 2021 https://www.torahmusings.com/2021/05/atonement-for-the-deceased/ (retrieved January 1, 2024).

has died to go to the cemetery with a group of ten people and publicly apologize at the victim's grave.

In the Jewish tradition, a child is not punished for his religious sins. Divine punishment only begins at the age of twenty.[17] If a child or teenager harms you and then apologizes, should you forgive him? If the reason to forgive is for yourself, then you should forgive even a child who is not subject to Divine punishment. If the reason to forgive is to save the sinner from punishment, there is no need to forgive a child who will not be Divinely punished for his offense.[18]

If a drunk driver crashes into a car carrying four people, injuring all of them, but for whatever reason decides to apologize only to one victim, should the recipient accept the apology? If you forgive the offender to save him from Divine punishment, the single victim's forgiveness will be ineffective because the offender will still be punished for three other victims. But if you forgive for your own benefit, then the single victim's forgiveness still has value for himself.

IV. Forgiveness and Reconciliation

Perhaps there is a third reason to forgive, which we can use to resolve a sixteenth-century practical debate. R. Ya'akov Ibn Chabib (16th cen., Spain/Turkey) edited a condensed version of the Talmud, titled *Ein Ya'akov*, that excludes all legal passages and retains only the stories and theological discussions. He also wrote occasional commentary to this classic work. In his commentary to the Talmud Yerushalmi (*Yoma* 10:4), he takes the opportunity to denounce a practice he observed. He argues that someone apologizing may not send a messenger requesting forgiveness. Rather, the offender must face his victim and humble himself by apologizing directly. In response, a few decades later, the great commentator on Midrash, R. Mordechai Yaffe Ashkenazi, disagrees. He quotes a Midrash[19] that explains why Aharon was called by the rabbis "a seeker of peace." In the desert encampment, when two people argued, Aharon would speak to each privately and say that the other person apologized. Then the two would meet, thinking the other apologized, and become reconciled. R. Ashkenazi points out that for each person in the argument, Aharon served as a messenger for apology. This text serves as a precedent and proof that you can send a messenger to apologize.

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17 See Rashi, Gen. 23:1 and the supercommentaries. R. Matis Blum collects many sources on the subject in his *Torah Lodaas*, vol. 4 (Brooklyn, 1988), pp. 53–56.

18 This assumes that he will not be punished later for his youthful sins, which is subject to debate.

19 *Avos De-Rabbi Nasan*, version A ch. 12, version B ch. 24.

The disagreement between R. Ya'akov Ibn Chabib and R. Mordechai Yaffe Ashkenazi can be perceived as a disagreement as to whether you apologize for yourself or for the offended party. Above we discussed whether you forgive for yourself or for the sinner. Here we can ask the same about your own apology. If you apologize as an act of repentance, to change and improve yourself, then you must humble and humiliate yourself by apologizing personally. If you apologize to make the offended party feel better, why should it matter whether you do it yourself or through a messenger?[20] Perhaps we can suggest a third explanation. Maybe both an apology and forgiveness are not about any specific party but rather about reconciliation between the two parties. Meaning, we forgive not only for the sake of the sinner and for the sake of the victim. We forgive also for the sake of peace between the two.

The Mishnah (*Pe'ah* 1:1) includes among the list of actions for which you receive reward in both this world and the next: "Honoring father and mother, works of kindness, making peace between man and his fellow; and the study of Torah is worth all of these." Making peace between people, like Aharon did in the desert, is an important achievement with this-worldly and other-worldly benefits. When you apologize for offending someone, you accomplish the same in your own life. Rather than needing a third party to intervene, you make peace yourself. When you apologize, you take the important step to reconcile with the person you offended. Similarly, when you forgive, you make peace with someone who wronged you. Note that forgiveness does not exempt the offender from criminal punishment, when applicable. Forgiveness is an act that is personal and not institutional.[21]

Put differently, forgiveness consists in repairing a broken relationship. This formulation highlights the difference between forgoing and forgiving. Forgoing is a one-sided act; forgiving is a bilateral reconciliation.

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[20] It is worth noting here the words of my teacher, R. Dr. Tzvi Hersh Weinreb, an accomplished rabbi and experienced psychologist, in his August 23, 2023, column, "The Rich Fruits of Forgiveness": "My approach rests upon my own observations during my career as a psychotherapist. It was during those years of psychotherapeutic practice that I learned that forgiveness changes the behavior of the person who is forgiven. People who have offended others are often so moved by the fact that those others have forgiven them that they commit to a future of exemplary behavior. The experience of having been forgiven by the others signals them that those others trust them. They are so inspired by that new experience of being trusted that their behavior improves radically." https://outorah.org/p/31463/ (retrieved January 1, 2024).

[21] I discuss this in "The Limits of Teshuvah," *Torah Musings*, September 24, 2014 https://www.torahmusings.com/2014/09/the-limits-of-teshuvah/ (retrieved January 1, 2024).

When you forgo, you erase the offender's obligation even though the sinner himself has not changed. He may not even be aware of everything that is going on in your thoughts about him. For him, life continues as before. In contrast, forgiveness involves change on both sides. It is progress away from the broken relationship and the reasons it broke. Each person has grown in understanding and in action as a response to the offense. You forgo an action; you forgive a person. Additionally, forgoing is an event. Once you remit a loan, you permanently free the borrower from the obligation. The transaction is over. Forgiveness is a relationship which, like all relationships, has its ups and downs. Forgiveness is a process, a spectrum. The victim's feelings toward the offender can fluctuate as he explores his own feelings in relation to the offender. Even after you forgive, you can grow in your forgiveness and sometimes shrink.

Let us look back at the story of Yosef and his brothers. At first, on revealing his identity to his brothers, Yosef tells them, "And now, do not be distressed and do not be angry with yourselves for selling me here, for God sent me ahead of you to preserve life" (Gen. 45:5). Later, after Ya'akov dies, the brothers say to Yosef, "Your father left these instructions before he died: 'This is what you are to say to Yosef: Please forgive your brothers' wrong and the sin they committed in treating you so badly.' Now please forgive the sins of the servants of the God of your father" (Gen. 50:15–17). To this, Yosef responds favorably.[22]

We see in this double passage the important differences between forgoing and forgiving. At first, Yosef forwent the brothers' terrible treatment of him. He told them not to worry about it because he did not hold it against them. But they never had a chance to apologize before the events moved forward very quickly. There was never a real reconciliation. The brothers never fully talked through with Yosef what had transpired and their roles in it, and therefore there were still unanswered questions within the relationship. Yosef removed the moral obligation from the brothers, but he never repaired their relationship. (We will revisit this below regarding Yosef's actions toward his brothers.)

Only later, through the artificial medium of their deceased father Ya'akov, did the brothers convey their apology: "Please forgive your brothers' wrong and the sin they committed in treating you so badly." By speaking what had remained unsaid until that point, the brothers and Yosef were able to reconcile. They asked for forgiveness and Yosef forgave them. At the end of Genesis, the relationship between Yosef and his brothers is finally repaired.

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22 For a similar analysis, see R. Shalom Carmy, "Did Joseph Forgive His Brothers?" in *First Things*, Aug/Sept 2018.

Returning to an earlier question, can you ask for forgiveness through a messenger? According to this explanation of forgiveness, yes, if it works. If the messenger can adequately convey that you, the offender, have changed and wish to repair the broken relationship, then it might work. But can a relationship really be repaired by proxy? It might be a step toward reconciliation, perhaps necessitated by the circumstances of life, but the hard work of reconciliation usually needs a face-to-face encounter. In other words, perhaps both R. Ibn Chabib and R. Ashkenazi are correct in practice. The key is that the relationship is repaired. If that can be done via messenger, then it will work.[23] Most of the time that will be insufficient. A text message apology rarely makes a significant impact on the recipient. In the case of Yosef and his brothers, the brothers asked for forgiveness through their father's supposed last words. If an artificial method of apology works to repair the relationship, as it did with them, then it enables true forgiveness. Often it will not.

V. What Does Forgiveness Entail?

As we mentioned above, there is another example of forgiveness in the Bible. Genesis 20 tells the story of Avraham and Sarah traveling to Gerar where, out of fear, they hid their marriage. Avimelech, king of Gerar, takes Sarah, for which he is Divinely smitten with illness. God tells Avimelech in a dream to return Sarah and ask Avraham to pray for his recovery. Avraham does so and Avimelech and his household are cured.

The Mishnah (*Bava Kamma* 92a) says:

> Even though he [an assailant] gives him [the victim, payment for the injury], he is not forgiven until he asks [for forgiveness], as it says: "And now, return the wife of [this man, Avraham], etc." (Genesis 20:7). And from where is it derived that the forgiver [the victim] should not be cruel? As it says: "And Avraham prayed to God and God healed Avimelech, etc." (ibid., 17).

The rabbis of the Mishnah see this encounter between Avraham and Avimelech as an important example of forgiveness. Avimelech had made his peace with God, but he still needed to ask Avraham for forgiveness before God would halt the punishment. It was not enough for Avimelech to release Sarah. The victims—Avraham, apparently speaking for himself and for his wife, Sarah—needed to forgive the assailant, as well.

Two twelfth-century Provençal scholars ask how the rabbis see that Avimelech asked for Avraham's forgiveness and that Avraham acceded.

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[23] See R. Chaim David Halevy, *Aseh Lecha Rav* (Har Bracha, 2024), vol. 4, no. 36.

Their answers offer us different visions of forgiveness. According to Ri (R. Yonasan) of Lunel,[24] the fact that Avraham was willing to pray for Avimelech's recovery shows that he forgave him for taking Sarah. In other words, the apology and the forgiveness are assumed in the text. Perhaps this could be seen not as an apology but as appeasement—Avimelech gives Avraham valuable gifts. However, the rabbis see from God telling Avimelech to speak with Avraham that this was an apology and from Avraham's prayer on Avimelech's behalf that the apology was accepted and the offense was forgiven. For Ri of Lunel, the prayer is a sign that there was forgiveness.

Ri of Lunel's colleague and friend, Ra'avad (R. Avraham ben David) of Posquières, understands this passage differently.[25] He sees in this exchange a fundamental lesson about forgiveness. When you forgive someone, you do not just waive his obligation. You have to pray for him. Avraham's prayer on behalf of Avimelech was not just a sign of forgiveness but was the very act of forgiveness. Ra'avad sees forgiveness as a reconciliation between foes. They had been opposed, but now they are allied. The prayer of the victim is a statement to God that he has reconciled with the assailant and regards him as a friend deserving of atonement. According to Ri of Lunel, Avraham's prayer is a sign that he has forgiven. According to Ra'avad, prayer is an act of forgiveness. Both agree that a victim does not have to become the best friend of his assailant. Rather, there must be enough of a reconciliation that the victim can see his way to praying for the benefit of the offender.

When R. Jonathan Sacks said that the story of Yosef and his brothers was the first Biblical story of forgiveness, he was somewhat imprecise. According to the Mishnah, Avraham's forgiveness of Avimelech preceded Yosef and his brothers by three generations. However, R. Sacks could have interpreted the Mishnah like Ri from Lunel, that the apology and forgiveness are only implied in the text. From the fact that Avraham prayed for Avimelech, we can infer that Avimelech apologized, and Avraham forgave him. The story of Yosef and his brothers is more explicit. But is Yosef's forgiveness of his brothers explicit? At no point do we see Yosef forgiving the brothers. Instead, he says "But now, do not therefore be grieved or angry with yourselves because you sold me here; for God sent me before you to preserve life" (Gen. 45:5).

In eleventh-century France, a fight between two Jewish men got physical and, in the heat of the disagreement, one party vowed not to forgive

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24 Commentary to *Bava Kamma*, ad loc.

25 Ibid.

the other. After time healed some of the wounds, the man who took the vow regretted doing so and asked whether he is obligated to live up to his words. If the man vowed to neglect a mitzvah, the vow is null and void.[26] Even if not, perhaps they can hug without a formal apology to signal a quiet peace. The matter was raised to the highest religious authority in France, Rashi (R. Shlomo Yitzchaki). We will shortly discuss Rashi's answer about the vow.

Does forgiveness have to follow a specific formula? Rashi points to the Biblical story of David's reconciliation with his son Avshalom. After years of estrangement, David finally relents and agrees to see Avshalom. "He came to the king and bowed himself on his face to the ground before the king; and the king kissed Avshalom" (II Sam. 14:33). David forgave Avshalom not by saying anything but by silently kissing him. Forgiveness comes in many forms without any specific formula. Therefore, concludes Rashi, someone who vowed not to forgive his friend may not hug or kiss him in a conciliatory way because that constitutes an act of forgiveness. "There is no greater forgiveness than that."[27]

With Rashi's insight, we can see that when Yosef revealed himself to his brother, he wanted to forgive them. Indeed, he kissed each one of them (Gen. 45:15). However, this was a unilateral act because they never apologized or asked for forgiveness. It was an act of forgoing, not forgiving. Forgiveness needs the participation of two parties, although not with any specific words. Contrary to contemporary writers who demand specific keywords in an apology, Rashi tells us that precise wording is irrelevant. All that matters is sincere reconciliation, even with all its complex emotions and degrees of feelings.

VI. Are You Obligated to Forgive?

The main question facing Rashi is whether forgiveness is a religious obligation. If someone who wronged you regrets his actions, attempts to undo the damage and asks for forgiveness, do you have to accept his apology and forgive him? The Mishnah quoted above asks, "And from where is it derived that the forgiver (the victim) should not be cruel?" Rashi infers that there is no religious obligation to forgive because the Mishnah does not say that someone who fails to forgive violates a commandment.[28] For-

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26 *Nedarim* 15a.

27 *Responsa Rashi* (New York, 1943), no. 245.

28 Some scholars believe that the Tosefta, *Bava Kamma* 9:11, requires forgiveness even if the offender does not request it. However, I find the language ambiguous

giveness is a moral obligation rather than a religious obligation. The difference is important. A religious obligation requires obedience and may be set aside only under very specific, legally defined circumstances. A moral obligation allows for a broader calculation. It allows for such questions as: What is best for the offender? How will onlookers perceive the situation? The entire moral context can be considered, which generally is not possible when following Divine orders.[29]

The Midrash describes someone who refuses to forgive a wrongdoer with language that suggests a religious obligation:[30] "From where do we see that if someone offends another and [the second party] does not forgive him that he is called a sinner? As it says, 'Moreover as for me, far be it from me that I should sin against God in ceasing to pray for you' (1 Sam. 12:23)." Rashi could interpret the word "sinner" here as referring to someone who commits a moral sin rather than a religious sin. However, this seems forced and really the language suggests a religious sin, which implies a religious obligation to forgive. Presumably based on this, Maimonides writes that someone who fails to forgive is considered a sinner.[31]

Perhaps this disagreement between Rashi and Maimonides connects to their disagreement regarding the prohibition against bearing a grudge. The Talmud[32] says that the prohibition only applies to monetary offenses, but if someone hurts you physically or otherwise non-monetarily, you are allowed to bear a grudge. Rashi and most authorities take at face value this limitation on the prohibition. Maimonides does not limit the prohibition, leading some commentators to suggest that he had a different text of the Talmudic passage.[33] In Rashi's responsum, he explicitly says that the victim is not obligated to forgive his offender due to the prohibition against

and inconclusive. See R. Shmuel Avigdor of Karlin's *Minchas Bikkurim* commentary (in the Vilna edition of the Talmud) for two readings of the text.

29 R. Chaim of Volozhin, *Nefesh HaChaim*, section 1, chs. 21–22; section 3b, ch. 7.

30 *Bemidbar Rabbah* 19:23.

31 *Mishneh Torah*, *Hilchos Teshuvah* 2:9. R. Yoel Sirkes (*Responsa Geonim Basra'i* [Jerusalem, 2015], no. 40) addresses a case very similar to Rashi's and concludes likewise that the vow not to forgive is still in force. However, he explicitly says that there is a religious obligation to forgive. Despite this obligation, the vow remains in effect for other reasons. See also R. Yosef Engel, *Gilyonei HaShas* (Vienna, 1924), *Pesachim* 4a; *Yoma* 87a.

32 *Yoma* 23a.

33 R. Yerucham Fishel Perlow, *Sefer HaMitzvos LeRasag* (Jerusalem, 1973), vol. 2, pp. 52–53. R. Perlow points out that Maimonides' son quotes this alternate version.

bearing a grudge because the offense was verbal, i.e., not monetary.[34] Maimonides does not allow this limitation on the prohibition and therefore obligates a victim to forgive his offender to avoid bearing a grudge. Significantly, R. Yosef Caro, in his authoritative legal code *Shulchan Aruch*, only uses the language of "cruel" and not "sinner," apparently following Rashi that forgiveness is a moral obligation rather than a religious obligation.[35]

However, whether the obligation to forgive is moral or religious, it only applies if the offender has undergone the repentance process.[36] The Mishnah says that it is cruel to refuse to forgive someone who paid for the damages. If he did not rectify his sins by paying for the damages, his apology is insufficient and does not merit a moral obligation for forgiveness. Words cannot heal actions. An offender must change his ways via repentance and attempt to fix the harm he caused before his request for forgiveness carries meaning. We might call this a need for restorative justice if that term had not become so burdened with additional contemporary meanings. Be that as it may, the underlying idea is that an offender must rectify his sins when possible.

What if the offender lacks the resources to pay for the damages he caused? We tend to think that the idea of an insult "going viral" is a new phenomenon of social media. However, it existed in newspapers and books long before the Internet was born. Sadly, people's desire to sin is so strong that it sparks creativity and innovation. In sixteenth-century Poland, Maharshal (R. Shlomo Luria) addressed the question of an insult song.[37] Apparently it was not uncommon for someone in a quarrel to write a satirical song, mocking and insulting the other person. If the song was catchy, others would sing it and pass it on, moving from city to city. In other words, the song went viral. How does the writer of such a song repent for his sin?

Maharshal distinguishes between a song that contains accurate insults and one that is slanderous. If the song contains only true insults, then the

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34 Ritva, in his commentary to *Rosh Hashanah* 17a, also says that the prohibition against bearing a grudge does not lead to a requirement to forgive. He seems to distinguish between bearing a grudge, which applies to a person, and forgiveness, which applies to an act.

35 *Shulchan Aruch, Choshen Mishpat* 422:1. See also Rema's gloss to *Shulchan Aruch, Orach Chaim* 606:1.

36 See R. Chaim David Halevy, *Aseh Lecha Rav* (Har Bracha, 2024), vol. 6, no. 42 that there is no obligation to forgive if the offender will continue his sins after the forgiveness is granted.

37 *Yam Shel Shlomo* (Jerusalem, 1987), *Bava Kamma* 8:48.

songwriter must apologize and pay a fine to the offended party, as well as repent to God for the violation. But if it contains falsehoods, then he must travel (or send messengers) to every city where the song spread and declare that the song was untrue and merely part of a quarrel. You cannot undo embarrassment, and therefore you can only apologize and pay a fine. You can, to some extent, undo the spread of falsehoods and therefore an apology and even a payment will not suffice; you must attempt to right your wrong by correcting the public record.

However, in a later comment, Maharshal contradicts this idea.[38] He quotes the Talmud Yerushalmi,[39] which says that someone who slanders another can never attain forgiveness. Medieval commentaries explain that, most likely, someone hears the slander but not the apology. People enjoy and share scandalous stories. Factual corrections lack the same attraction and do not travel anywhere near the same distance as the original, false story. Therefore, if someone slanders you, you are not considered cruel if you refuse to accept his apology. Since the sinner cannot undo the damage he caused, you do not have even a moral obligation to forgive him. However, adds Maharshal, if you are somehow able to curb your anger despite the enduring offense and forgive the apologetic sinner, you display great humility and moral spirit.

Above we saw that Maharshal insists that a slanderer must attempt to correct the record, as hard as that may be. Here he says that a slanderer has no hope and will never be forgiven. Which view did Maharshal actually hold? I believe that Maharshal here is responding to an irony of sins. A sinner is required to undo the damage he has caused, even if he can only do so partially. "Then it shall be, if he has sinned, and is guilty, he shall restore that which he took by robbery, or the thing which he has gotten by oppression, or the deposit which was committed to him, or the lost thing which he found" (Lev. 5:23). The Talmudic Sages were concerned that this obligation might stand in the way of a repentant sinner. What if he used the stolen object in the construction of his house? It might be too big a burden for most sinners to destroy their homes to repay their theft and repent, which might discourage thieves from turning their lives around and becoming productive, religious individuals. Therefore, the rabbis instituted the "Enactment for Penitents" (*Takanas HaShavim*), which allows thieves to return the monetary value of a stolen item

38 Ibid., no. 63.

39 *Bava Kamma* 8:7.

rather than the item itself, in certain circumstances.[40] This enactment enhances an offender's ability to offer restitution to his victim that restores the loss—when possible. However, it is not always possible.

The rabbis of the Talmud understand the verse, "What is twisted cannot be made straight" (Ecc. 1:5), to mean that some acts are final and irrevocable.[41] Sins of this nature are more severe because they cannot be remediated. Ironically, in the short term, they are also easier on the sinner because he has no restorative work to do. It is what it is. To repent and achieve forgiveness, you have no option other than skipping the step of restoring the victim to his previous state. You cannot undo rape. You cannot re-hide someone's embarrassing secret that you previously revealed. All you can do for the victim is pay for damages and related expenses, and apologize.

In contrast, those sins which can be fixed, must be fixed. Slander is almost impossible to undo—"almost" being the key word. It takes enormous effort, but it is still possible. Therefore, you have to try to correct the record before asking for forgiveness. Since the chances are slim of someone doing everything possible to fix the damage of slander, of putting in the embarrassing and time-consuming effort, the Talmud Yerushalmi somewhat exaggeratedly says that you cannot attain forgiveness. However, the fearless and tireless person who sincerely tries his best, can achieve forgiveness. Because it is possible, it is necessary. Because it is so hard, it is assumed you will fail to do it properly. But if you truly try your best, you have fulfilled the requirement. This approach can also be seen in the rulings of the nineteenth-century halachist, R. Yechiel Michel Epstein, who says that if a slanderer does everything possible to undo his sin and publicizes that he said false things about his victim, then the victim is obligated to forgive him.[42]

The message here is two-fold. First, true repentance requires undoing the wrong as much as possible, including returning a stolen object and paying for damage. Second, we should encourage someone who wants to correct a wrong. It is our job to help a sincere penitent. Failing to do so, refusing to accept an apology, is cruel. As a society, we encourage reconciliation. Assuming the offender reaches out to the victim sincerely and

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40 For a comprehensive discussion of this subject and its application to modern rehabilitation of criminals, see Prof. Nahum Rakover's *Takanas HaShavim—Rehabilitation of Criminals in Jewish Law*. A PDF of the 600+ page Hebrew book is available online https://www.daat.ac.il/daat/vl/tohen.asp?id=424 (retrieved January 1, 2024).

41 Mishnah on *Chagigah* 9a.

42 *Aruch HaShulchan, Orach Chaim* 606:2.

genuinely attempts to undo the harm he caused, we encourage the victim to forgive and repair the damaged relationship.

VII. When There Is No Forgiveness

When sins can be undone only with great difficulty, forgiveness is not required but is proper in recognition of the offender's effort. Even when forgiveness is morally required, a victim cannot be forced to forgive. Every victim has the right to choose not to forgive. An offender still has to try. The Talmud (*Yoma* 87a) says that an offender must ask for forgiveness three separate times. Later authorities explain that each time, he must try to appease and convince the victim in a different way.[43] The offender must show his remorse in a way that convinces the victim, that restores their relationship. After three times, authorities disagree whether an offender may continue to apologize. According to R. Yoel Sirkes, an offender is permitted to continue to apologize.[44] The limit of three times is something like an enactment for penitents. For practical reasons, we limit the extent to which a repentant sinner must go in appeasing his victims. If there is no other avenue to righteousness, some people might stay on the path of wickedness. However, the penitent can still benefit from forgiveness and therefore may, if he chooses, continue apologizing. R. Chizkiyah de Silva sees three apologies as an absolute limit. God will forgive you if you sincerely attempt to secure forgiveness by apologizing.[45] How can that be? Did we not say above that the victim holds the key to the offender's atonement? The offender has an obligation that only the victim can waive.

The recently deceased Israeli scholar, R. Shalom Yosef Elyashiv, explains that, indeed, without forgiveness the offender retains the obligation to the victim.[46] The sin cannot be forgiven without the consent of the victim. However, after the offender does everything he is supposed to do in changing his ways and making amends, he is considered someone who was coerced to commit a sin. He does not succeed in removing the sin, but he succeeds in removing his culpability because the only barrier to atonement is beyond his control. According to R. Sirkes, he can keep trying to apologize because the sin is still there. According to R. Da Silva, he should not apologize anymore because he has already done everything in

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43 *Bach, Orach Chaim* 606; *Magen Avraham*, 606:1.

44 *Bach*, ibid.

45 *Peri Chadash, Orach Chaim* 606.

46 Quoted by his son-in-law in R. Yitzchak Zilberstein, *Chashukei Chemed* (Jerusalem, 2006), *Yoma* 87b, p. 611.

his power to appease the victim. It takes two to repair a relationship. Without both the offender and the victim cooperating, forgiveness is not possible. Forgoing is the unilateral waiving of the responsibility by the victim. The lack of culpability after three sincere apologies constitutes the flip side of forgoing—the offender has done all he can to repair the relationship and therefore bears no more guilt.

Around the year 1720, a Jewish man in Germany ran away with a married woman and her husband's money, leading to an important series of responsa about forgiveness. The adulterous couple initially moved to Spain, where they lived as Christians because it was still illegal to live there as Jews. After their money ran out, they moved to London and returned to the Jewish community. The abandoned husband learned of their location and traveled there to give his wife a divorce. He then moved in with a brother and lived off charity as his physical and mental health quickly declined until he died in poverty and humiliation. On his deathbed, he declared that he forgave anyone who ever wronged him except his ex-wife and her paramour. Over time, the new couple established themselves in the Jewish community until the man was recognized and his sin publicized, leading to threat of excommunication. Wishing to remain in the community, the man asked his rabbi what he could do and was given a prescription for penance—publicly ask forgiveness from God and the community, grow his beard for a time and come to pray in the synagogue daily in a place in the synagogue reflecting low communal status.[47] After a time, a communal functionary signed an affidavit confirming that the man had satisfied the requirements and was allowed back into full standing within the community.

Some time later, a brother of the deceased came to town and saw that his brother's tormentor was treated with great honor in the community. When he learned of the circumstances of the man's penance, he was offended by the light sentence received. Not only that, but the man's repentance was clearly insincere. Once he had received a letter approving his return, he stopped attending synagogue regularly and opened his business on the Sabbath. Appalled by the light sentence, the victim's brother appealed to a leading rabbi and religious polemicist, R. Moshe Hagiz. R. Hagiz, in turn, sent the question to leading rabbis for their feedback. A selection of material, all confirming R. Hagiz's instincts, is included in his 1732 collection of responsa.[48] R. Yaakov Reischer, the oldest and most

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47 In those times, seating placement in the synagogue was an important measure of communal standing.

48 *Shtei HaLechem*, no. 31.

prominent rabbi to respond, briefly declares that this man must be treated like a wicked person and pushed away from the community until he sincerely repents.

The longest response is from R. Yaakov Emden, another well-known religious polemicist.[49] R. Emden objects strongly to the situation. First, the offender never apologized to the deceased victim, even at his grave, nor to the victim's family, whose reputation he injured. Additionally, he never paid back the money he owed. Even if he does not have the funds available, R. Emden insists that the offender must commit to repaying the theft. There is a limit to what a penitent can undo, but he must try to make amends. The Talmud[50] says that if a man betroths a woman on condition that he is righteous, the betrothal is effective even if his wickedness is well established because he might have repented in his heart. Commentators ask many questions about this. Among them is how he can be righteous if he has not done anything to undo the wrongs he perpetrated. R. Emden infers from this passage that just committing in your heart to fix the damage you caused is sufficient. Undoing harm takes time and is not always possible. It is sufficient for a repentant offender to sincerely desire to fix his mistakes and to commit to using the best of his ability to restore his victims to their prior state.[51]

R. Emden notes the long-standing debate about how to balance the need for a sinner to show his remorse and the possibility that too harsh a punishment may push people out of the community. In the modern world, people voluntarily affiliate with a religious community. In the premodern world, Jews could leave the community through conversion to Christianity or Islam to escape a harsh verdict. To prevent defections from the faith, religious leadership needs to respect the victims' pain while encouraging the offenders to repent. The correct formula should vary based on the time, place and individuals involved. However, only a prophet can know what is right in each case and only an adept politician

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49 Also published in R. Ya'akov Emden, *She'eilas Ya'abetz* (Lemberg, 1884), vol. 1 no. 79.

50 *Kiddushin* 49b.

51 See the Rema's gloss to *Shulchan Aruch*, *Choshen Mishpat* 34:22 from the Maharik (85) and the commentators, ad loc; R. Moshe Di Trani (Mabit), *Beis Elokim* (Kiryat Sefer, 2018), *Sha'ar HaTeshuvah*, ch. 2; R. Chaim Yosef David Azulai (Chida), *Tov Ayin* (Jerusalem, 1961), no. 6. See also Rakover, *Takanas HaShavim*, pp. 347–354. See also R. Efraim Zalmanovitz, *Society & Halachah: Alcoholism & Drugs in Judaism* (Hebrew) (Mazkeret Batya, 1981), pp. 12–19 that a high school student turned drug dealer who wants to repent from introducing some of his classmates to drugs must do everything possible to help them recover from addiction and regain their former spiritual lives.

can avoid accusations of unfairness. In this case, R. Emden states that the punishment was not only insufficient but inappropriate because the offender had not apologized to the victims nor committed to return the money he stole. He cannot undo adultery or death, but he must at least express sincere remorse and apologize for those offenses. This conclusion reflects the consensus of respondents to R. Hagiz's query.

Someone who is truly repentant—who regrets and apologizes for his sins, who commits to not repeating them, who attempts to restore the damage he caused—is accepted by the merciful God. R. Emden quotes the verse, "For He is gracious and merciful… and He relents from doing harm" (Joel 2:13). A murderer or a rapist can turn his life around. He can find God, recognize the wickedness of his actions and attempt to restore the damage to the best of his ability. This requires tearfully apologizing to the victims, including at the grave of the deceased, and attempting to the best of his ability to repay the damage he caused.

VIII. Third-Party Forgiveness

Simon Wiesenthal published a literary account of his experiences with a repentant Nazi.[52] Lying on his deathbed during the Holocaust, the Nazi called in Wiesenthal as a representative Jew, described his terrible crimes and begged for forgiveness. Wiesenthal responded with silence. He later sent his description of this situation to an assortment of Jewish, Christian and other thinkers for their thoughts on how to respond to such a request. The responses generally do not relate to the halachic approach taken here. However, Prof. Abraham J. Heschel responded with a story which, uncharacteristically, was not a Chasidic tale but rather about a rabbi from the Lithuanian stream. Prof. Heschel told about the time the rabbi from Brisk, presumably R. Chaim Soloveitchik,[53] was treated disrespectfully by fellow train passengers who did not recognize him. When they arrived in town and realized he was a famous rabbi, the other passengers repeatedly begged for his forgiveness to no avail. R. Soloveitchik explained that he can forgive an insult against the rabbi of Brisk, but this insult was against a common man, which he has no right to forgive. Prof. Heschel's implied message from R. Soloveitchik is that we cannot forgive offenses that were committed against others. Since this repentant Nazi had not harmed Wiesenthal, the latter could not forgive him.

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52 *The Sunflower: On the Possibilities and Limits of Forgiveness*, revised and expanded edition (New York, 1997).

53 R. Chaim Soloveitchik's grandson, R. Joseph B. Soloveitchik, became a prominent American educator and leader.

But doesn't every sin affect each of us in some way or another? When we learn about a terrible murder, we are all distressed. The closer we are to the victim, the more pain we feel. Does not the murderer, and any sinner, owe all of us an apology for causing us distress? When a violent person attacks someone in a subway station, everyone in the city becomes fearful. Does the attacker owe an apology to the entire city in addition to his direct victim? If so, even if we cannot forgive an offender for his primary sin because we are not the victim, perhaps we can forgive him for the indirect harm we personally suffered. Could not Simon Wiesenthal have at least relieved the repentant Nazi of a little of his burden by forgiving him for Wiesenthal's own distress at the man's crimes?

After some research, my tentative conclusion is that an offender only needs to apologize to his direct victims. He does not need to apologize to people affected indirectly. The absence of mention of this requirement seems to imply that there is no requirement. It is true that R. Yaakov Emden above says that the adulterer must apologize to his lover's family for the damage he caused to their reputation. That seems to me to be an outlier, the exception to the general silence about such a requirement.

If this was not the case, then anyone who commits any sin must apologize to everyone. Even a sin between man and God requires forgiveness from the entire community. There is a general principle that everyone in the Jewish community is responsible for each other and punished to some degree for each other's sins. We are obligated to encourage each other to do good and prevent each other from doing bad. When you fail, we fail. When a Jew eats non-kosher food, I bear some of the guilt from communal responsibility. R. Yosef Teomim, an eighteenth-century Polish halachist, asks whether someone who commits a purely ritual sin must apologize to his community for bringing Divine punishment on them.[54] He concludes that you are only required to apologize for a sin that is punishable by a human court, not that which is administered by the Divine court. Since communal punishment for sins is only administered by the Divine court, it does not require an apology. While this is not completely analogous, perhaps indirect damage also does not require an apology because it is not punished by a human court. Rather, there is no third-party apology and, therefore, no third-party forgiveness.

In fifteenth-century Italy, a pregnant woman accused her ex-fiancé of raping her while she was unconscious, claiming that she had agreed to keep it secret and only revealed it after he broke the engagement. She demanded compensation for her pain and embarrassment. The man claimed the act was consensual and the accusation was due to the hurt of

54 *Secharan Shel Mitzvos in Sifrei Ba'al HaPeri Megadim* (Tel Aviv, 1966), no. 5.

the broken engagement. After reviewing the specifics of this case, R. Yosef Kolon concludes that there is insufficient evidence to obligate the man to pay the woman. However, if he did, indeed, rape her, then he must repent and sincerely apologize to her. The man should publicly reveal his sin so that others can speak with her and help her reach the point where she can accept his apology.[55] R. Kolon does not mention apologizing to the woman's parents for their indirectly caused hurt and embarrassment. This implies that an offender must only apologize to his direct victims and not everyone affected indirectly by his sins.

IX. Forgiving a Terrorist

There will come a day—we pray soon—when enemies will live together like the proverbial wolf and lamb of Isaiah. We can and should forgive the sins committed against us under the right circumstances. We welcome former terrorists to repent and become whole with God and with man. However, in this unredeemed world, repentance of that magnitude is rare. Until the time we see sincere repentance, we are under no religious or moral obligation to forgive any murderer, rapist or their enablers for the wrongdoings committed against us. Some of the crimes can be undone, such as returning captives and repaying the damage caused to homes and communities that must be rebuilt. Until an individual sincerely commits to trying to restore the damage he caused, we are not morally obligated to forgive even a sincerely repentant terrorist.

Maimonides writes that it is possible for someone to sin to such a degree that God will remove from him the ability to repent.[56] He uses this concept to explain the theological question of how God could harden Pharaoh's heart.[57] If every individual has free will, how could God harden Pharaoh's heart and prevent him from doing good by releasing the Jews from slavery? Sometimes a person can reach such depths of wickedness that he has already sealed his fate. In theory, repentance will work for him like it does for every human. However, God prevents him from repenting as punishment for his sins. Maimonides includes within this category

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55 *Responsa Maharik* (Jerusalem, 1988), no. 129, sec. 5. Presumably, the man's confession associated with his apology is inadmissible because it constitutes self-incrimination.

56 *Mishneh Torah, Hilchos Teshuvah* 6:3.

57 Ex. 4:21 and elsewhere.

Pharaoh, Sichon,[58] the Canaanites in the time of Yehoshua[59] and the Israelites in the time of Eliyahu.[60] We can only speculate, but perhaps mass murderers and barbaric terrorists also qualify among those whom God prevents from repenting.[61] If that is the case, then forgiveness would be merely an academic question because they will never be able to reach the point at which they would qualify for human forgiveness.

However, there is still room for a victim—not a third party—to forgo the offense committed against him. As discussed above, forgoing does not require repentance nor an apology. Forgoing is neither a religious nor a moral obligation, but rather a personal choice.[62] There are many reasons that a person may wish to forgo the offense, such as the psychological freedom it often provides. There are reasons that a person may wish not to forgo the offense, such as the lasting emotional and perhaps physical scars of the attack. If the offender continues in his wicked ways, a victim's forgiveness may even embolden the offender or confuse others, who let down their guard and fall prey to his violence. In such a case, there may even be a religious obligation to refrain from forgiving the offender. Ultimately, if forgiveness does not cause harm to others, it is a personal decision for a victim to make depending on his own unique circumstances.

58 Deut. 2:30 "But Sichon king of Cheshbon would not let us pass through, for the Lord your God hardened his spirit and made his heart obstinate."

59 Josh. 11:20 "For it was of the Lord to harden their hearts, that they should come against Israel in battle, that He might utterly destroy them…."

60 I Kings 18:37 "...and that You have turned their hearts back to You again."

61 Wiesenthal's Nazi may be a counter-example but some of the respondents in the book question whether he was truly repentant.

62 R. Joseph B. Soloveitchik, quoted in R. Hershel (Tzvi) Schachter, *Divrei HaRav* (Jerusalem, 2010), pp. 166–167. R. Dov Lior categorizes forgiving a sinner who has not asked for forgiveness as reflecting "*midas chasidus she-ba-chasidus*," an extra-merciful act (*Responsa Devar Chevron*, volume on four sections of *Shulchan Aruch* [Kiryat Arba-Chevron, 2019], *Orach Chaim*, no. 72).