

Part IV – Understanding *Onnes Rachmana Patrei*

1. When is it relevant to apply the exemption of *Onnes Rachmana Patrei*?

Rav Moshe Shmuel Shapiro, *Rosh Yeshiva* of *Be'er Yaakov*, explains:¹

We have all been influenced by the heretical psychological poison [which surrounds us]. In today's world, after every murder or spilling of blood which, according to Torah law, would be the greatest degree of evil and cruelty, the press quickly describes this as a psychological problem of the murderer. And, of course, they speak about various difficulties the murderer went through during his childhood. Very soon this murderer ends up appearing as the one who deserves compassion, more so than the person that he killed. However, in the eyes of the Torah, he is a lowly murderer who deserves to be executed, since he violated one of the three most serious transgressions, which one should rather be killed for than violate.

According to our exalted Torah, in the end, every single person has free will. Even one who had a difficult childhood has equal ability to choose good or bad. And even one who was given every advantage in his upbringing and received a wonderful education, still has the ability to, G-d forbid, choose evil. And, while there is certainly a mitzvah of *chinuch* (education) on the parents to give the best tools to the child, at the end of the day, the child still has an equal ability to choose.

Rav Moshe Shapiro, the well-known Rav and speaker,² explains in a *shiur* which was given to a group of Rabbis and therapists:

It is incumbent upon the therapist to show the patient the degradation and the damage he caused to his very humanity through his actions. This will return him to being a person again, in terms of being able to choose and be responsible. The *da'at* is the chooser, as we say, "*b'tzelem Elokim asah et ha'adam* — man was made in the image of G-d" — this is the power of *bechira*. When someone says, "I am not able to stand up to this," we need to show him that he is *b'tzelem Elokim*... And if he would not have the ability to choose, then he would not be *b'tzelem Elokim*. It is not possible for a person to willfully and consciously forgo their *tzelem Elokim*.

We need to explain and emphasize that a person is required to choose constantly, in all cases and in all situations. And it is always forbidden to destroy the possibility of choice. There is no reality or situation where a person loses *bechira* unless he is a *shoteh* ("legally insane") or [literally an] *onnes* (compelled). There is no possibility, therefore, to hide behind the pitiful excuse — "I didn't choose this," or "I am not capable of choosing." Since the responsibility is constantly upon us, we can't escape from it.

And, therefore, the guidance needs to be in this direction, when a person complains that his actions are being compelled, and he is unable to avoid bad behavior. We need to explain the simple truth to him that in *Beit Din*, he could be lashed for [negative behavior]. And even though we lack the (judicial) power today, the therapist may still be required to directly confront him with a vision of how he appears. This will awaken his self-respect, which is the essential element within a person's internal reality. This will help him to accept personal responsibility for his actions and to [begin] behaving like a normal person.

¹ *HaTorah HaHagasah v'Hashkafasah — U'Barchartah B'Chaim — Odot Shitot HaPsikologia*

² *Shiur Pesicha Gimmel — Takanas Cholei HaNefashos — Koach HaBechira*

This is the power of [what is called] “tough love,” as the verse³ says – “The one who spares the rod *hates* his child, while the one who loves him gives regular corrective discipline.” This keeps a person in his place, by showing him the full impact that his errors had on him. This will straighten out his ways and help him return to the full awareness of making choices in his life. [After all,] making choices in life is the true meaning of a human being who was created *b’tzelem Elokim*... [These words are based on the Rambam and the *Radvaz*.⁴]

Rav Moshe Meiselman, *Rosh HaYeshiva of Torat Moshe*, explains:⁵

If someone was, G-d forbid, abused or molested when he was a child, he obviously cannot be blamed for acting out due to the deep psychological scars that he received. But as time goes on and the person matures, he needs to realize that his entire life cannot be defined by his victimhood. At some point he has to realize that he can be strong enough to take his life into his own hands, and move on to live life in the way that he chooses, despite what has been done to him. There are tools that have been designed for victims of trauma and abuse to regain control of their lives and become responsible for their behavior. At that point, if he uses his molestation as a child as an excuse for simply doing whatever he wants, he is responsible. Only Hashem knows when a child victim or an addict has reached that point. But the person himself knows it, too.

2. Understanding the Exemption of *Onnes Rachmana Patrei*

Rav Asher Weiss⁶ discusses the concept and parameters of *Onnes Rachmana Patrei* (One Who Is Compelled Is Exempt)

Aleph — B’makor HaPatur

1. The essential source that one is exempt from all actions which were coerced is the *possuk*,⁷ “*Ul’naarah lo ta’aseh davar* — Do nothing [whatsoever] to the girl” who was raped. Based on this *possuk*, therefore, the *Gemara*⁸ states the principle, *Onnes Rachmana Patrei* – One Who Is Compelled Is Exempt.

2. Interestingly, the Rambam actually codifies this as a *mitzvat lo ta’aseh*⁹ — “We are prohibited from punishing those who were forced to transgress, since their actions were coerced.”

3. And he writes:¹⁰

Whoever is coerced to do something which would [normally be] liable for *mitat Beit Din* (capital punishment), is not killed by the *Beit Din*, even if it was a *mitzvah sh’yehareig v’al ya’avor* (a mitzvah one was required to be killed for and not violate). Even if this person profaned G-d’s Name [by violating and not being killed], he is not put to death, since he was forced.

³ *Mishlei* 13:24

⁴ *Hilchot Mamrim* 6:10

⁵ From a question-and-answer session and featured in a publication from Toras Moshe

⁶ *Minchat Asher, Ki Teitzei, Siman 57*

⁷ *Devarim* 22:26

⁸ *Nedarim* 27a, *Baba Kama* 28b, *Avodah Zara* 54a

⁹ Torah prohibition #294

¹⁰ *Hilchot Sanhedrin* 20:2

4. And he adds:¹¹

Every case where it says — *yehareig v'al ya'avor* (be killed and don't violate) —but one [wrongly] *does* violate and is *not* killed, he has profaned G-d's Name... However, since he was forced to violate, he is not lashed, and certainly not killed by *Beit Din*, even if he was forced to kill. [This is because] we give lashes or death only to one who transgressed willfully, plus with witnesses and a warning. The source for this is,¹² "*V'samti ani et panai b'ish hahu* — And I will place My face against that man."

5. Rav Weiss points out that we see there are two different sources for this principle of *onnes Rachmana patrei* — "*Ul'naarah lo ta'aseh davar* — Do nothing [whatsoever] to the girl," and "*V'samti ani et panai b'ish hahu* — And I will place My face against that man."

6. If we only had the verse of "*Ul'naarah lo ta'aseh davar*," we might have imagined that the *onnes* was only *patur* from *Beit Din*, but the person would still be *chayav* (liable) in *Shamayim*. The second verse, "*V'samti Ani et panai b'ish hahu*," therefore teaches that the *onnes* is *patur* even in terms of *Shamayim*.

Beit — B'geder Onnes

1. There are two different *gedarim* (categories) of *onnes*.

2. The first is when one's body is used to do an *aveirah b'al karcho* (against his will). For example, non-kosher food is literally forced down a person's throat. In this case, he is *patur* even on the action itself, and there is no *aveirah* whatsoever.

3. The second is where someone is compelled to do an action, for example, worshipping an idol or violating Shabbat, due to the fear that if he doesn't do it, he will be killed. In these cases, it is considered as if he *did* do these actions, but he is not punished, since his actions were compelled. As the Rambam writes,¹³ one is *patur* for all cases of *onnes*, including the *gimmel chamurot* (three strictest prohibitions) — where one was obligated to have been killed and not violate.

4. There is a difficulty in the words of the Rambam where he seems to contradict himself. In *halacha daled* [where one was threatened with being killed if he wouldn't violate] he writes that even one who violated and was not killed in a case where he was required to have been killed and not violate — "since he was compelled to violate, he is not lashed, and certainly not killed by the *Beit Din*, even if he killed through *onnes*." However, in *halacha vav*, he says that if one was critically *ill* and (wrongly) transgressed one of the *gimmel chamurot* in order to live, *Beit Din* *does* give him the (capital) punishment that was fitting for him. What is the difference between the two cases? With both of them, the person is only violating the *gimmel chamurot* to save his life. So why should the *choleh* be punished more than the one who was forced by another person?

7. Based on a *Gemara*¹⁴ [which discusses one who reluctantly sold property due to financial pressure], we see a distinction between compulsion of oneself and compulsion from others. The conclusion there is that *compulsion of oneself* [even in a very pressed financial situation] is not considered to be *onnes*, since he is [ultimately] the one who decided to sell his own property to ease his difficulties. But where one was *forced by another person* to sell his property, this a complete *onnes*, and, therefore, [the property being sold is] not acquired by

¹¹ *Hilchot Yesodei HaTorah* 5:4

¹² *Vayikra* 20:5

¹³ *Hilchot Yesodei HaTorah*

¹⁴ *Baba Batra* 47b

the other person. From this discussion we see the difference between compulsion from others, and one who chooses to do something in order to be released from some particular difficulty himself.

8. [Based on this, Rav Weiss says,] we can explain the words of the Rambam. In a case where someone was forced to worship idols, because if not he would be killed, there is no *ma'aseh issur* (forbidden action). Therefore, the Rambam rules that he is not killed or lashed. However, a *choleh* (sick person) who violates the Torah in order to be healed, was never forced to do this action. This is rather *onnes d'nafshei* (forcing himself). And *onnes d'nafshei* (self-compulsion) is not considered an *onnes* [to exempt one from liability]. Therefore, the Rambam rules that (even) a *choleh* in critical condition, who is healed through idolatry gets whatever he is liable for.

Onnes Rachmana patrei also applies with monetary issues, as we see that the Mishnah¹⁵ discusses cases of what are called *nidrei onsin* (compelled vows).

3. *Shoteh or Insane*

It is important to keep in mind that the Torah has a category known as a *shoteh* — a type of insanity — who is not considered responsible for his actions. And as is well known, the Western world also has an exemption from punishment in cases of what are judged to be legally insane.

A “Not Guilty by Reason of Insanity” plea is entered by approximately 1% of defendants charged with a felony offense. Of those who raise such a defense, 15%–25% are actually found (adjudicated) legally insane in a court of law. Juries are much less likely to render an insanity verdict than judges...A defendant who is adjudicated “Not Guilty by Reason of Insanity” is technically acquitted of the offense; the court may not punish defendants who are acquitted. Insanity acquittees are not sentenced to prison or probation, as there is an element of punishment in these dispositions. Indeed, the disposition of an insanity acquittee focuses on treatment for the defendant’s mental illness and protection of the public from any risk that the defendant’s mental illness may present. In most jurisdictions, a legal finding of “Not Guilty by Reason of Insanity” results in a referral for commitment to a psychiatric inpatient facility; however, a small number of insanity acquittees are placed on conditional release to the community without psychiatric hospitalization.

History of the Insanity Defense

References to the insanity defence date to biblical times. The Babylonian Talmud¹⁶ refers to the insanity defence in the following statement: “A deaf mute, an imbecile or a minor — contact with them is negative; one who wounds them is liable, [but] if they wound others, they are not culpable.”

Roman law also did not hold children or mentally ill persons responsible for their actions: “...the one is excused by the innocence of their intentions, the other by the fact of their misfortune.”

The first clear-cut acquittal due to insanity occurred in England, in 1505. William Lombarde (1536–1601) expressed the sentiment common in the 16th century toward accused children and mentally ill persons when he said, “If a madman or natural fool, or a lunatic in the time of his lunacy, or a child that apparently hath no knowledge of

¹⁵ *Nedarim 27a*

¹⁶ *Baba Kama 8:4*

good nor evil do kill a man, this is no felonious act — for they cannot be said to have any understanding will.”

Table 1 — Insanity Standards [over the centuries]

Wild beast test (1724) — A man must be totally deprived of his understanding and memory so as to not know what he is doing, no more than an infant, a brute, or a wild beast.

Irresistible Impulse Test (1840) — If some controlling disease was, in truth, the acting power within him which he could not resist, then he will not be held responsible.

McNaughtan Rule (1843) — A mental disease or defect at the time of the act which caused the defendant not to know the nature and quality or the wrongfulness of the act.

Durham Rule — US (1954) — The accused is not criminally responsible if his unlawful act is the product of a mental disease or defect.

Model Penal Code — US (1955) — A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity to appreciate the wrongfulness of his conduct (cognitive arm), or to conform his conduct to the requirements of the law (volitional arm).

Diagnoses such as personality disorders, paraphilias (types of perversions and deviations), and *voluntary* substance intoxication do not usually qualify as mental diseases for the purposes of insanity.¹⁷

4. Emotional Responsibility

Rabbi Jonathan Sacks, in an essay on *Parshat Chukat*, makes a fascinating point about emotions:

Emotions were at one stage called the “passions,” a word that comes from the same root as “passive,” implying that they are feelings that *happen to us* rather than reactions we *choose*. Despite this, the Rambam believed that with sufficient training it is possible for us to overcome our destructive emotions and reconfigure our affective life.

The Rambam¹⁸ tells us very clearly that we are responsible for our character traits, which often include our emotions.

A person should not think that *teshuva* is necessary only for *aveirot* (transgressions) that involve action, such as illicit relationships, robbery, or theft. Rather, just as a person is obligated to return from these, he must [also] search after the evil character traits that he has. He must return from anger, hatred, envy, frivolity, the pursuit of money and honor, the pursuit of gluttony, and the like. He must return from all [of them].

Rav Yosef Beer Soloveitchik¹⁹ also emphasizes our emotional responsibility:

¹⁷ “Insanity Defense Evaluations,” Stephen G. Noffsinger, MD, and Phillip J. Resnick, MD

¹⁸ *Hilchot Teshuva* 7:3

¹⁹ *Aveilut Yeshanah and Aveilut Chadashah — Old Mourning and New Mourning*, from *Out of the Whirlwind* — a collection of his essays

Man, Judaism maintains and insists, is capable of determining the kind of emotional life he wants to live. Man has both actions and emotions at his disposal. Man must never be overwhelmed by his emotions...In the same manner in which man has the freedom to abstain from engaging in an act to which his conscience objects on moral grounds, he can also disown emotions which the same conscience assesses as unworthy of being integrated into his personality. Likewise, he can assimilate such emotions which bear the stamp of moral approval — constructive noble feelings. Bachya ibn Pakuda wrote a famous book called *Chovot haLevavot (Duties of the Heart)*, in which he discriminates between *chovot ha'evarim*, the duties of our limbs, and *chovot ha'levavot*, the duties of the heart. But how can one speak about *chovot ha'levavot* if the heart succumbs hysterically to emotions, such as love for a person, object, goal, or idea which is in reality unworthy of one's love and appreciation? [And, in fact,] many precepts in the Torah deal exclusively with human emotional attitudes and not physical actions — “Love your neighbor”; “You shall not covet”; “You shall rejoice on your holiday”; “You shall not hate your brother”; “You shall love the stranger,” etc.²⁰

The *Shulchan Aruch*²¹ tells us that emotional responsibility is even relevant with the painful feelings of grief when a close relative passes away:

A. On the one hand, “*Ein mitkashin al hameit yoteir midai* — Don't pain yourself excessively for the deceased.”

B. But, at the same time, “*Kol mi sh'eino mitabeil k'mo she'tzivu Chachamim, harei zeh achzari* — Whoever does not mourn as the Sages commanded is considered cruel.”

5. When is *Onnes Rachmana Patrei* Relevant with our Emotions?

As important as emotional balance is when it comes to the grief one feels when losing a close relative, there may, however, be times when one is simply incapable of achieving it. In other words, the concept of *onnes Rachmana patrei* (when one is forced [by the situation], he is exempt) can even apply to our emotions.

Rabbi Wiederblank brings a striking example of this²² with the Rambam's personal reaction to tragedy, specifically to the news that his brother David had drowned while traversing the Indian Ocean. In 1177, Rambam wrote the following moving letter describing severe depression over the loss of his brother:

The greatest misfortune that has befallen me during my entire life, worse than anything else, was the demise of the saint, who drowned while journeying in the Indian Ocean. [In addition,] a considerable fortune belonging to us and to others also went down with him...

On the day I received the terrible news I fell ill and remained in bed for about a year, suffering from a sore boil, fever, and depression, and was almost given up. Close to eight years have now elapsed and I still mourn for him, for there is no consolation...My greatest joy was to see him. Now, every joy has been dimmed. He has passed away and left me confounded in a strange land. Whenever I see his handwriting on one of his books, my heart turns upside down and my grief reawakens.

He concludes his recollections of David with the sad note:

²⁰ *Vayikra* 19:18, *Shemot* 20:14, *Devarim* 5:18, *Devarim* 16:14, *Vayikra* 19:17, *Devarim* 10:19

²¹ *Yoreh De'ah* 394:1,6

²² *Illuminating Jewish Thought*, p. 161–2

Were it not for the Torah that is my delight, and the study of philosophy to divert my grief, I should have succumbed in my affliction.

This idea that man cannot be blamed for excessive anguish is a central theme in the book of *Iyov*. Throughout the book, *Iyov* rails against G-d and denounces the injustice of his travails.

The *Gemara*,²³ however, tells us that *Iyov* received no punishment for saying these blasphemous things. Rava, therefore, declares:

“*Mi'kan, she'ein adam nitpas b'sha'at tza'aro*” — “From here we see that one is not held accountable [for harsh words spoken] during the time of his pain.”

Rashi explains that this person is not held accountable for having spoken harshly, because he spoke out of *tza'ar* and *yissurim* (pain and difficulties), not from *da'at* (clarity).

While Judaism holds us responsible for our emotions, including even the painful emotions of grief and anguish with the loss of someone close to us, it also recognizes that there may be times when we are simply incapable of living up to that difficult requirement. *Onnes Rachmana patrei*, therefore, tells us that we are never held liable for what is beyond our ability, whether with our actions, or even with our emotions.

6. Conclusion

We saw that the Rambam,²⁴ refers to free will as a fundamental principle which is the basis of [the entirety of the] Torah and *mitzvot*. Our lives, our legal system, and our society are all based exclusively on the presumption of free will. And yet, it has been challenged on many levels all throughout history.

Rav Dessler makes a fascinating observation which may address this puzzle, at least to some degree. Perhaps one of the reasons why so many doubt or challenge the reality of free will may simply be that they themselves have so rarely experienced its power and scope. He writes:²⁵

Free will is entirely in our hands...and this has been tested and confirmed by anyone who has overcome his desire even one time. This person clearly felt that he distanced himself from that which he had imagined to be good, in favor of the truth. But someone who never overcame his desires cannot understand this matter, for his experience tells him that every time he wished to do something wrong, he in fact did do it. And therefore, he cannot accept this concept of true freedom, for in his own actions he sees only external causes.

Rav Hutner²⁶ points out:

The *avi avot ha'tumah* (ultimate source of impurity) of our time is the degradation of *tzurat ha'adam* (the stature of man). There is additionally a deep insight regarding this. The essential meaning of *tzurat ha'adam* is the power of *bechira* which is embedded within this *tzura* (form or stature). Hashem promises us in His Torah that in the end of days (*acharit hayamim*) the quality of *bechira* will be nullified. This is how the Ramban explains the meaning of circumcising the foreskin of the heart.²⁷ Of course, there is no intention that this circumcising the foreskin of the heart would

²³ *Baba Batra* 16b

²⁴ *Hilchot Teshuva* 5:3

²⁵ *Michtav M'Eliyahu* I, p. 10

²⁶ *Pachad Yitzchak, Igrot Uk'tavim*, #42

²⁷ *Devarim* 30:6

nullify the *tzurat ha'adam* at all. Rather, the removal of *bechira*, which will come through the clarity of the end of days, will be an even greater expression of the *tzurat ha'adam*. However, since the power of *bechira* will actually be nullified in the end of days, the greatest heresy which will precede that final period will be a denial of the special quality of *bechira*. And that heresy is what will lead to all of the degradation of the *tzurat ha'adam* which we see today.

Rabbi Avi Tenenbaum,²⁸ explains that, according to Rav Wolbe,²⁹ Jews do not have “free choice” automatically. “Free choice” is something that needs to be learned, and maintained throughout one’s life with *mussar*, *tefillah*, and working on oneself. Therefore, any Jew who has not yet learned free will, will not have the full scope of what free will actually means.

Separate from this, perhaps we could speak about two different dimensions of free will. There is free will in terms of very specific decisions in our lives — whether we will do the right thing or the wrong thing in some particular situation. And then there are more global choices, such as, will I put myself into that challenging situation, or work to remove myself from it? For example, an alcoholic may have limited free will to stop drinking, while at the very same time be obligated to do whatever he can to find a therapist or a recovery program to help him to eventually stop his drinking. It is interesting that this seems to be expressed in two different statements from AA — Alcoholics Anonymous. The first of the 12 steps toward recovery is:

We admitted we were powerless over alcohol — that our lives had become unmanageable.

And yet, some AA advocates also say:

You may be powerless over your addiction but you are responsible for your recovery.³⁰

Perhaps this is also what Rav Avigdor Miller³¹ meant, when he said that it is possible for a Jew to lose free will in one area (i.e., specific decisions) while still having free will in another area (i.e., global types of choices, like seeking help).

And even in the case of Rav Amram, who seemed to be helpless in terms of desire toward the women in his attic, and where he managed to avoid transgressing only at the last minute at the cost of greatly embarrassing himself, he was still able to declare [to the *yeitzer hara*] — “Although you are fire and I am only flesh, I am still stronger than you.” In other words, although he was unable to resist the temptation within his specific situation, he was able to make a global choice to extricate himself from that particular situation.

Separate from all of this, it is obvious that Hashem would always help a Jew who is trying to avoid transgressing. In fact, the *Gemara*³² tells us this explicitly — “If a person comes to purify himself, he will get help from Heaven.

The well-known *possuk*³³ tells us, “*Ki sheva yipol tzadik v'kam, u'resha'im yikashlu b'ra'ah* — The *tzadik* falls seven times but gets up, [while] the wicked stumble in evil.” Hashem doesn’t demand or expect perfection. Our responsibility is simply to make our greatest effort to do what is right. And, ultimately, only Hashem knows, and possibly us as well, when we are truly overwhelmed. And then, in that specific case, *Onnes Rachmana Patrei* gives us the tremendous message of reassurance that we are actually exempt.

²⁸ A religious therapist who was extremely helpful for this whole presentation

²⁹ Basing himself on Rabeinu Yonah and Rav Yisrael Salanter

³⁰ Carnes, “A Gentle Path through the 12 Steps”, p.7

³¹ *Lev Avigdor, Sha'ar Habechira, siman 4, para. 43*

³² *Yoma 38b*

³³ *Mishlei 24:16*