

# 24

## Benefit of Doubt

### ∞ 24.1 ∞

The Torah commands,<sup>1</sup> בצדק תשפוט עמיתך — “With righteousness you shall judge your fellow.” The Gemara<sup>2</sup> says that this includes the mitzvah to judge your fellow Jew favorably, and to give him the benefit of the doubt.<sup>3</sup> If you are accustomed to judging others favorably, you will be judged favorably in Heaven.<sup>4</sup>

Through loving your fellow as yourself and judging him favorably you may reach such a high level of holiness that you will be considered a *Kadosh* (holy person).<sup>5</sup>

Judging your fellow favorably is an actual obligation.<sup>6</sup> One

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1. *Vayikra* 19:15.

2. *Shavuos* 30a.

3. Rambam, *Sefer HaMitzvos* — *Essin* 177; Smag; Smak; *Chafetz Chaim*; *Essin* 3.

4. *Shabbos* 127a. Although in Heaven there is no element of doubt as to what you did or did not do, you may still be judged favorably through mitigating your wrong by blaming it on your difficult situation, your background, your problems etc., just like you try to mitigate the wrongs of others by trying to find excuses for them in order to view them in a more favorable light.

5. *Yesod Ve'Shores Ha'Avodah*, *Sha'ar* 1 ch. 7.

6. Rambam, *Hilchos De'os* 1:6. The Rambam in his commentary on the

reaps the fruits of this mitzvah in this world and the principle remains for him in the next world.<sup>7</sup> {Others say that it is not a separate mitzvah, but is an issue of character, and is included in the mitzvah of *והלכת בדרכיו* — “And you should go in His ways,” which obliges you to refine your character as much as possible.<sup>8</sup>}

*Someone asked Rav Chaim Ozer Grodzensky z”l, since we know that everything in the world was created for a purpose, what is the purpose of a קרומע קאפ — an illogical mind? The Rav answered that the purpose of an illogical mind is to use it to judge another person favorably and to give him the benefit of the doubt. (Some attribute this statement to the Kotzker z”l.)*

## ∞ 24.2 ∞

Much *lashon ha-ra* is the direct result of not fulfilling this mitzvah, as was the sin of Miriam who spoke to Aharon about Moshe. Even though she had good intentions, it was considered *lashon ha-ra* because she should have judged Moshe favorably.<sup>9</sup>

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Mishnah in *Avos* 1:6, and *Bartenura*, who write that it is a measure of *chassidus* (extreme piety), were referring to someone who is unknown to you. If he is known to you to be a proper Jew, you are absolutely obliged to give him the benefit of the doubt. This will be discussed further, as there is a disagreement among Poskim with regard to a person who is unknown to you.

7. *Shabbos* 127a.

8. Rabbeinu Yonah. This seems to be the opinion of the *Chinuch* 235, who writes that it is befitting, and he did not use the word obligatory, as Rambam did.

9. This is why Hashem reprimanded her, saying: “Why did you not fear to speak about My servant, about Moshe?” This rebuke was directed to the fact that she did not judge Moshe favorably. See *Chafetz Chaim* in *Be'er Mayim Chaim* 3:11.

∞ 24.3 ∞

*Chazal* say that one who wrongly suspects a proper Jew of improper conduct receives corporal punishment from Heaven.<sup>10</sup> He must appease the person he wrongly suspected and must bless him.<sup>11</sup> This is true even if he did not sin by judging him unfavorably, as when the situation does not require one to judge him favorably.<sup>12</sup>

∞ 24.4 ∞

Judging someone's deeds favorably is referred to in the Torah as *צדק* (*Tzeddek*), which means justice. This is truly justice, provided the story is plausible considering the person in-

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10. *Shabbos* 97a, *Yoma* 19b. This is learned out from Moshe Rabbeinu, who in *Shemos* 4:1 petitioned to Hashem, "But they (the Israelites) will not believe me..." Hashem then told him, "Bring your hand to your bosom," and when he withdrew his hand it was leprous like snow. This was because he had pre-judged the Jews unfavorably and said that they would not believe him.

11. *Berachos* 31b. This is learned from the fact that when *Eili HaKohen* realized that he had wrongfully suspected that Chana was under the influence of alcohol, he blessed her that Hashem should answer her prayer.

12. This can be learned from the fact that *Eili HaKohen* blessed Chana because he suspected she was drunk, when she was not. Eili was not obliged to judge her favorably because given the way it looked, he had logically thought that she was drunk. He did not know who she was or that she was distraught. She answered his accusation "no my master etc." The *Yalkut Shimoni* says that Rabbi Yossi B'reb Chanina said that she told *Eili* that he is not the master in this issue, and that *Ruach HaKodesh* (holy spirit) is not resting on him, and therefore he judged her unfavorably and did not know that she was a distraught woman. She did not say that he was wrong for judging her unfavorably, but that he did not have *Ruach HaKodesh*, and did not know that she was distraught. She confirmed that he was right for judging her unfavorably, but if he had *Ruach HaKodesh* he would have known better. Even so, he blessed her, because he had made a mistake in his judgment.

volved.<sup>13</sup> *Targum Onkelos* translates “Tzeddek” as “Truth.” When judging someone favorably, you must remain faithful to the element of truth.

It is sinful, irresponsible, and sometimes dangerous, to judge the deeds of an unworthy person favorably.

### Rav Avraham Sha'ag

*In 1942, an elderly Hungarian woman came to Yerushalayim to the home of R' Yechezkiel Tzvebner, and said that she wanted to visit the grave of his grandfather, Rav Avraham Sha'ag who passed away in 1876 and was buried on the Mount of Olives. The woman, over eighty years old, disclosed why she was determined to visit his grave. This was her story:*

*Her mother had been a maid in the home of Rav Avraham Sha'ag. One day, someone asked him, as a favor, to watch a large sum of money. The money was in an envelope, and the rabbi noted its owner and intended to place it in the special drawer he had reserved for such purpose. Since he was involved in his Torah study at the time, he placed the envelope into a sefer (a book) and forgot all about it.*

*The owner finally came to retrieve his money, and Rav Avraham Sha'ag could not find it in his drawer. He suspected in his heart that it was the maid who had taken it, but did not say anything to her about it. Instead, Rav Avraham repaid the sum, borrowing from others in order to return the missing money. He told his Rebbetzin to keep an eye on the maid.*

*During Pesach cleaning, when Rav Avraham was cleaning his seforim he found the envelope of money in one of his seforim. Instead of rejoicing over the fact that he now had his money back, Rav Avraham was terribly pained over the fact that in*

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13. See *Shabbos* 127b.

his heart he had suspected the Jewish maid of stealing. He called her and told her over the entire story and begged her forgiveness for having thought that she was guilty of stealing the money. He appeased her and told her that he would allow her to take any single article in his possession.

The maid told him that fifteen years had passed since she had married and she was childless and wanted his blessing to have a child. Rav Avraham blessed her that she would have a child and also live a long life.

The elderly woman said that she was the daughter of that maid and was born because of Rav Shaag's blessing. Her mother had wanted to visit his grave, but was unable to come to Eretz Yisrael. She had come in her place to fulfill her mother's wish.

### Rav Zalman of Volozhen

Once Rav Zalman of Volozhen saw a talmid chacham speaking to somebody on Shabbos. It looked as if he was speaking plain talk on Shabbos, which is not permitted, and he softly reprimanded him. The man answered that they were discussing a certain mitzvah that had come up, and it was not prohibited talk. Rav Zalman blanched. He begged forgiveness for having wrongly suspected him. The man forgave him, and then Rav Zalman blessed him with the blessing of the kohanim.

### Your Shadow

#### ☞ 24.5 ☞

Rav Levi Yitzchak of Berditchev z"l, cites the words of the Midrash about the *pasuk* that is written (*Tehillim* 121:5) ד' צלך (Hashem Tzilcha) — "Hashem is your shadow." This means that you receive from Hashem in a manner similar to the way you act toward others. If you are merciful toward others, you receive mercy from Hashem.

∞ 24.6 ∞

When passing judgment on someone, be sure your own actions are not similar to his. The verdict you reach for him may very well be your own.

*When Nosson HaNavi (the prophet) reprimanded King David regarding the incident with Bat-Sheva, he began by telling him the story of a fabulously wealthy man who stole a poor man's only lamb. When King David announced his verdict against the wealthy man, Nosson said to him, "You are the man!"*

The story Nosson had told him was merely a parable to demonstrate the impropriety of King David's conduct in the matter of Uriah and Bat Sheva. King David had unwittingly condemned himself.<sup>14</sup>

Often, when a person is going to be judged by Heaven about a certain issue, he is shown a somewhat similar situation involving somebody else, in order to see how he will judge the other person. He himself is then judged in accordance with the way he judged the other person.<sup>15</sup>

∞ 24.7 ∞

Also, when you are rigid to the letter of the law with regard to how others treat you, Hashem will closely scrutinize your actions. If you are not demanding and exacting with others, Hashem will not be demanding and exacting with you.

This is yet another reason why the sin of hatred is so destructive. When people react unduly with hatred, Hashem, as their shadow, will act toward them in a similar manner even if they engage in Torah, mitzvos and *chesed*, as He did

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14. See *Ba'al Shem Tov, Parashas Kedoshim*.

15. *Toldos Yaakov Yosef — Ba'al Shem Tov z"l*.

when He destroyed the second Beis HaMikdash.

### Limits on Benefit of Doubt

#### ∞ 24.8 ∞

The following Halachos define how much benefit of the doubt you are obliged to give and to whom. These Halachos require clarification because they are often misconstrued. Even if illogical thinking was created to be used to judge your fellow favorably, there are still guidelines and limits.

#### ∞ 24.9 ∞

When someone's action can be interpreted either as sinful or not sinful, your conclusion must be appropriate for the situation and the person involved.

#### ∞ 24.10 ∞

If the person involved is imbued with fear of Hashem, even when circumstances appear to be somewhat incriminating you are obliged to judge him favorably and to assume that he did not sin.<sup>16</sup>

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16. Rabbeinu Yonah. *Chafetz Chaim, Essin 3* says that the source for this must be the Gemara in *Berachos 19a* that says, if you see a *talmid chacham* sin at night you should not think ill of him the following day, because he has surely repented.

This source is questionable because it only proves that you should assume that he must have repented, but not that he did not sin. These are not quite the same. Also, the Gemara says even this rule is not applied with regard to monetary issues where you do not assume he repented until he returns the money to its rightful owner. There can be no proof from there that when in doubt, you must assume that the *talmid chacham* did not sin.

{Rav Yitzvhak Hutner z"l said that the rule in the Gemara that he has surely repented is reserved for the *talmid chacham* and not for a God-fear-

∞ 24.11 ∞

If circumstances are highly incriminating, you do not have to judge him favorably even if he is a *talmid chacham*,<sup>17</sup> but it is virtuous to do so, and you should not feel that he has sinned.<sup>18</sup> However, you should not go so far in being virtuous as to create a leniency in Halachah.<sup>19</sup>

### Suspecting a Talmid Chacham

∞ 24.12 ∞

A *talmid chacham* deserves to be given the benefit of the doubt much more than an upright person who is not a *talmid chacham*. If he is a *talmid chacham*, even if the evidence against him is heavily incriminating, you should not rebuke him, since even if he sinned, we assume that he will certainly repent very soon if he hasn't already.

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ing person who is not a *talmid chacham*. The rule of judging him favorably in spite of incriminating evidence applies also to a God-fearing person who is not a *talmid chacham*.)

However, Rabbeinu Yonah also cites the Gemara like the *Chafetz Chaim*. It is only logical that although the circumstantial evidence might be incriminating, when combined with the fact that the person is God-fearing, the evidence should not be considered incriminating, and you must judge him favorably.

17. See Rabbeinu Yonah. *Mitzvos HaLevavos, Diyun le-Kaf Z'chuss* ch. 4.

18. *Chafetz Chaim, Essin 3, Be'er Mayim Chaim*.

19. See *Sanhedrin* 26a, where Resh Lakish suspected Rabbi Chiya bar Zarnuki and Rabbi Shimon ben Yehotzaduk of not keeping the laws of *Shevi'is* (the Sabbatical year), because they tried to defend those who appeared to have been violating its laws. He considered the evidence against them to be strong, and although they were saintly Torah sages very much imbued with Torah knowledge and fear of Hashem, Resh Lakish chose to suspect them, and even suggested to R' Yochanan that they are not to be relied upon for calculating the calendar. Giving the benefit of the doubt, as virtuous as it may be, does not allow for leniency in Halachah.



☞ 24.13 ☞

Therefore, even if you know that he did something wrong, you are forbidden to hate him or to disgrace him, because he certainly repented immediately.<sup>20</sup>

☞ 24.14 ☞

According to everyone, the mitzvah to judge the *talmid chacham* favorably is not an act of righteousness but an act of law and justice.<sup>21</sup>

☞ 24.15 ☞

If one does not judge him favorably he is guilty of more than just being a *חושד בכשרים* — one who suspects the innocent of wrongdoing, because the *talmid chacham* has to be judged favorably by the standards of justice. The Gemara relates that Rav Huna fasted forty days because he wrongfully suspected Rav Chisda of slighting the honor of his Torah.<sup>22</sup> (See further, Halachah 27 regarding the difference between judging a *talmid chacham* favorably and judging others favorably).

☞ 24.16 ☞

To be considered a *talmid chacham* in this respect, one must excel in both Torah and fear of Hashem.

☞ 24.17 ☞

Some say that in our days (and even a few hundred years ago) no one is considered a *talmid chacham* with regard to being

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20. *Berachos* 19a; *Sha'arei Teshuvah* 3:215.

21. See Rabbeinu Yonah in *Avos* 1:6 and in *Sha'arei Teshuvah* 3:218.

22. *Bava Metzia* 33a.

certain that he has repented after a wrongdoing,<sup>23</sup>

☞ 24.18 ☞

If you see someone do something wrong, you should not learn to do wrong from his actions. This is true even if the person who is doing the wrong is a *talmid chacham*, and especially when you observe an apparent violation of a mitzvah that is between man and his fellow. Do not use this as an excuse to do the same.

☞ 24.19 ☞

With regard to mitzvos between man and his fellow, even *talmidei chachamim* are sometimes prone to err, as was the case with Rabbi Akiva's 24,000 disciples, and as was true of many Torah scholars in the era of the second Beis HaMikdash, whose hatred was responsible for its destruction, according to the *Netziv* in *Ha'amek Davar*.

Other times, you may not see the entire picture, and you may not know the details of the story. Thus, your evaluation might well be incorrect.

☞ 24.20 ☞

If you see a *talmid chacham* eating non-kosher food, and this was the first time you saw him doing so, you are obliged to believe that he surely repented shortly after, and you are not allowed to suspect him in the future.

☞ 24.21 ☞

Since many maintain that in our times you cannot be sure that a *talmid chacham* who sinned will soon repent, this assumption

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23. *Chavos Yair*, responsa 62.

would have to be reserved for only the greatest *talmidei chachamim*. In the event of a truly great *talmid chacham* eating non-kosher food, you would have to assume, if possible, that he is not well, and for health reasons was obliged at that time to eat certain food even though it was not kosher. This would be more logical than saying he decided to eat non-kosher food.

### Suspecting Your Student

#### ☞ 24.22 ☞

Although a teacher is permitted to punish his student,<sup>24</sup> this is only if the teacher is absolutely sure that the student is guilty. If the teacher just strongly suspects that he is guilty, he is no better than *beis din*, and he is absolutely forbidden to give the student any punishment whatsoever. However, the teacher only has to be sure that his student is guilty, but he need not hear it from two kosher witnesses.<sup>25</sup>

### The Occasional Sinner

#### ☞ 24.23 ☞

If someone is usually careful not to sin but occasionally sins, when circumstances are inconclusive, you must judge him favorably.<sup>26</sup>

#### ☞ 24.24 ☞

If there is slight circumstantial evidence that he has sinned, you should let it remain undecided in your mind rather than

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24. *Makkos* 8a.

25. See *Igros Moshe, Yoreh Deah* vol. II ch. 103.

26. This is the case the Torah means in *Vayikra* 19:15: בצדק תשפוט עמיתך – “With righteousness shall you judge your fellow.”

assume that he has sinned.<sup>27</sup> However, since the doubt does exist, this is not an obligation but only pious behavior worthy of adoption.<sup>28</sup> You are allowed to assume that he has sinned and to hate him, but you should reproach him ever so gently, given the fact that he might not have sinned.

∞ 24.25 ∞

Some include all average people in this category.<sup>29</sup> Others divide this group into two subdivisions: (1) Those who are closer to being considered *tzadikim*, whom you are forbidden to hate in the face of slightly incriminating evidence, and (2) Those who are closer to being considered wicked, whom you should hate in such an event.<sup>30</sup>

∞ 24.26 ∞

When assessing the Jews as a nation, it is proper to always find merit no matter how far fetched. It is written, וּשְׁפֹטוּ אֶת הָעָם, משפט צדק — “And they shall judge the people with righteous judgment.”<sup>31</sup>

The Midrash relates that Rabbi Yehudah b’reb Simon said that they shall defend their merit before Hashem as did Gideon the son of Yoash. In his days, the Jews were in distress, and they were also lax in their observance of mitzvos and in performance of good deeds. Hashem was waiting for somebody to accentuate their virtue and mitigate their vice.

27. Rabbeinu Yonah in *Sha’arei Teshuvah* 3:218.

28. Rabbeinu Yonah. *Chafetz Chaim, Be’er Mayim Chaim* 3:10.

29. *Chavos Yair* ch. 62 (in *Hashmata*).

30. *Yad HeKetanah, Hilchos De’os* ch. 9.

31. *Devarim* 16:17.

When Gideon did this,<sup>32</sup> Hashem informed him that since he spoke well of them, He was now giving him the power and the mission to save them from the Midianites. Speaking of their merit caused him to become their leader.

Avraham Avinu was the first person with whom Hashem spoke since Noah, ten generations earlier. Hashem spoke with Avraham because he loved to vindicate people rather than incriminate them.<sup>33</sup> This was mentioned with regard to his praying for the people of Sodom.

### Issue of Character

#### ∞ 24.27 ∞

The character trait of judging someone favorably is related to humility. A humble person will usually judge others favorably,<sup>34</sup> but humility must not be confused with being naive. Furthermore, one must always be careful not to confuse judging others favorably with judging their deeds favorably. There is a world of difference. Even if someone sinned, you may find excuses for his wrongdoing in order to make him appear less evil, but his actions must still be viewed accurately. Otherwise, one might forget how to differentiate between right and wrong.

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32. It was Pesach, and he said that “his father told him yesterday of the miracles that Hashem performed for the Jews when taking them out of Egypt. Now we do not see these miracles. If our forefathers were righteous, Hashem should show us miracles in their merit. If they were not righteous, then he should show us miracles anyway, just as he did for them. And where are His miracles?” Just mentioning the righteousness of their forefathers and the fact that his father had told him of the miracles in Egypt, which is also a mitzvah, he merited becoming their leader.

33. Rabbi Levi in *Midrash (Vayeira)*.

34. *Orchos Tzaddikim, Gate of Humility*.

∞ 24.28 ∞

Although the Chafetz Chaim writes that it is a good trait to judge a person favorably even if the evidence strongly indicates otherwise,<sup>35</sup> we only find such stories in reference to judging a saintly Torah sage.<sup>36</sup> In such an instance it is not merely a good trait, but the Halachic requirement.<sup>37</sup>

Probably the following is the most well-known story about judging someone favorably and is related in the Gemara:

*A man from the Upper Galilee hired himself out as a farm worker to someone in the southern part of the country. After three years, before Yom Tov, the worker wanted to return home, and he asked for his wages. His employer told him that he had no money. He asked for produce, and his employer said that he had*

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35. *Be'er Mayim Chaim* 3:10. See *Shabbos* 127b that whoever judges his fellow favorably will in turn be judged favorably. The Talmud cites three far-fetched examples to demonstrate this concept. The first case does not disclose the identity of the persons involved, while the second two cases involved Rabbi Yehudah ben Bava (or Rabbi Yehudah b'reb Ilayi) and R' Yehoshua, respectively. Although the Talmud does not differentiate between judging your fellow and judging the saintly Torah sages, the Halachah clearly makes such distinctions, and common sense must be employed.

*Chasam Sofer* and *Maharatz Chiyus* cite the Sheiltos, *Parashas Shemos* ch. 40 and *Ramah MiPanno* in *Assarah Ma'amoros*, that relates that the first story occurred between Rabbi Akiva and his great mentor, Rabbi Eliezer Hagadol. If so, there may be reason to assume that judging someone favorably in the face of tremendous suspicion is good practice when you are judging saintly Torah sages, but may be foolish and naive with regard to ordinary people. See *Tanna D'vei Eliyahu* cited in footnote 38). Whatever the exact circumstances, a little stretch of the imagination is good character and sometimes even mandatory. Total foolishness is unforgivable.

36. See previous footnote. This also follows more exactly the wording of Rabbeinu Yonah in *Sha'arei Teshuvah* 3:218.

37. Rabbeinu Yonah, *Avos* 1:6.

no produce. He asked for land, and he said that he had no land. He asked for livestock, and he replied that he had no livestock. He asked for sheets and pillows, and the employer answered that he had none. The worker returned home despondent and empty handed.

After Yom Tov, the employer came to him with his wages and three donkeys laden with food, drink, and delicacies. After they ate together, he gave the worker his wages and asked him, "When I told you I had no money, what did you think?" The worker answered, "I presumed that you found merchandise for cheap and invested your money in it."

"When I said I had no livestock, what did you think?"

"I thought perhaps they were rented out to others"

"When I said I had no land, what did you think?"

"I imagined it was rented out"

"When I said I had no produce, what did you think?"

"I thought perhaps they were not tithed."

When I said I had no sheets and pillows what did you think?"

"I thought maybe you had vowed all your belongings to Heaven"

His employer revealed to him that he indeed had vowed all his belongings to Heaven because his son Horkinus did not engage himself (properly) in Torah study. When he came to his friends in the South, they annulled his vow, so now he could pay his wages.

This story demonstrates a great stretch of the imagination in order to believe that the employer was not cheating and lying. However, many say<sup>38</sup> that the "employer" was none

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38. Chasam Sofer and Maharatz Chayus cite the Sheiltos, Parashas Shemos ch. 40 and Ramah MiPanno in Assarah Ma'amoros, Ari z"l. (In Tanna

other than the great Sage, Rabbi Eliezer Hagadol, and the “worker” was his *talmid*, Rabbi Akiva. That being the case, it is no wonder that the “worker” judged him favorably. If the employer were the Chafetz Chaim, wouldn’t one judge him favorably and stretch his imagination rather than think he is cheating and lying? All the more so, if the employer was Rabbi Eliezer Hagadol, who was Rabbi Akiva’s rebbi. One would have to stretch his imagination even further in order to believe that he was cheating and lying. If so, it would seem that this story cannot serve as an example to apply to regular people who are not so far from dishonest behavior.

However, since the Gemara cites the story as occurring between an anonymous worker and an anonymous employer, one might argue that the Gemara wants to teach you that it is a worthy character trait to judge others favorably even if you must greatly stretch your imagination to vindicate the average person. However, this is not an obligation, and one cannot accuse someone of not judging him favorably if all indications support his suspicions.

[Others say<sup>39</sup> that it is a positive commandment (*mitzvas asseh*) to judge a person favorably no matter what he does, and no matter how much you need to stretch your imagination. Although heartwarming and inspirational, this is not the Halachah.]

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*D’vei Eliyahu* it says that the employer was not a Torah sage, but was a man of good deeds. It is quite possible that he was a man well-known for his good deeds and his sterling character, and it would have been sharply incongruous with his personality to cheat Rabbi Akiva, his righteous employee out of three years of pay).

39. See *Sefer Yesod VeShoresh HaAvodah* 1:7.



### Judging One Who Is Not God Fearing

#### ∞ 24.29 ∞

If most of his deeds are wicked or if his heart is void of fear of Hashem, you should judge his deeds and his words to the side of guilt,<sup>40</sup> even if it looks like he is not guilty in that particular case.<sup>41</sup>

#### ∞ 24.30 ∞

You are forbidden from *divrei kabbalah* to judge him favorably since most of his deeds are improper. It is a mitzvah to judge him unfavorably, because that will help ensure that you shun him.<sup>42</sup>

#### ∞ 24.31 ∞

Even when he truly does a good deed, you should assume that his intentions are not good, and that he is trying to appear righteous when he really is not.<sup>43</sup>

*When such a person gives charity, you must assume that he gave it for his own honor, and not really for the mitzvah, even if does not appear that way.*

#### ∞ 24.32 ∞

You should only judge a person favorably if most of his deeds and intentions are proper.<sup>44</sup> If you can clarify the issue you

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40. Rabbeinu Yonah, *ibid.*

41. See *Chafetz Chaim (Asseh 3)*.

42. *Midrash Shmuel* on *Avos* 1:7. This is also in accordance with law and justice like judging the *talmid chacham* favorably (as described earlier).

43. Rabbeinu Yonah on *Avos* 1:6.

44. See Rabbeinu Yonah in his commentary on *Mishlei* 21:12 that the

should do so, in order to correct him if he has sinned.<sup>45</sup> If he is among those whom you are not supposed to offer rebuke (e.g. a scoffer) you need not clarify the issue. See 25.13.

### ∞ 24.33 ∞

Although the deeds of the *rasha* should be judged as sinful, we find in a rather well-known school of *chassidus* that there is a place to judge even the most wicked favorably.<sup>46</sup> This means that you should try to find one good thing about even the most wicked Jew, and if you find and awaken within him even one redeeming feature, this may raise his general level to that level, and from there he will repent and become righteous.

However, as mentioned many times before, the Halachah prohibits you from praising the wicked, and their wickedness is not to be swept under the carpet or whitewashed. Looking for that one good thing about the wicked person is an activity which should be left to the few, like the *Berditchever*, who are cut out for that, and they should do it between themselves and Hashem, and not confuse others.

Even if most of his deeds are wicked, the gates of repentance are open, and as soon as he regrets his past ways he is considered righteous, and you have to give him the benefit of the doubt.

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righteous person sees and understands the ultimate intent of the wicked and recognizes their nature, and therefore judges their actions and words unfavorably.

45. *Sheloh*.

46. *Likutei Maharan* (*Kama* ch. 282).

## Specificity

### ☞ 24.34 ☞

Be specific in your assessment. If you know that someone keeps Shabbos, but does not come to Shul regularly, or he shaves with a razor, or wears *sha'atnez* (wool and linen), or violates other Halachos, then if you see him driving a car on Shabbos you must assume that it is because of a life or death emergency, and that he is not desecrating the Shabbos. Although he is not God-fearing, given who he is and how he generally conducts himself, it is unlikely that he is desecrating the Shabbos and you must judge him favorably in this respect.

### ☞ 24.35 ☞

If you see the same person doing something that might be a violation of a mitzvah that he is lax about, you should judge him unfavorably in that respect. If you see him do something that might be a violation of something about which he is like the average person, you should judge him on that issue as the average person deserves to be judged on the same issue.

## A Person Unknown to You

### ☞ 24.36 ☞

Some say that if you do not know the person, and you have no idea if he is a righteous, wicked, or average person, you are not obliged to judge him favorably,<sup>47</sup> but it is piety and proper to

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47. Understanding of *Chafetz Chaim*, *Essin 3*, *Be'er Mayim Chaim* in the words of the Rambam in his commentary on the Mishnah in *Avos* (1:6). If so, it is difficult to understand why the Rambam totally omits the main Halachah regarding the average person in his commentary on *Avos*. See the next footnote.

do so, and such is the character of *talmidei chachamim*.<sup>48</sup>

Others say that you are obliged to judge him as favorably as you should judge the average person.<sup>49</sup>

### ∞ 24.37 ∞

Either way, you are supposed to take all necessary precautions to protect yourself from an unknown person, as *Chazal* have instructed<sup>50</sup>: כבדהו וחשדהו — “Honor him and suspect him

48. Rambam, *Hilchos De'os* 5:7. *Chafetz Chaim, Essin* paragraph 3 explains that the Rambam maintains that when the person is unknown to you, you are not obliged to judge him favorably, but the pious *talmidei chachamim* do so. Nonetheless, the Rambam will agree with Rabbeinu Yonah that if you recognize him to be an average person, it is your obligation to judge him favorably, and that is the most common application of the Halachah of judging someone favorably. It is difficult to understand why the Rambam omits this main Halachah, and only refers to the Halachah regarding the person whom you do not recognize.

Also, the *Gra* on the Mishnah in *Avos* of זכות לכף האדם לךך זכות cites the Gemara in *Shavuos* 30a בצדק תשפוט עמיתך, which is not like the *Chafetz Chaim* who differentiates between אדם כל אדם and הוי דן את חברך.

49. See *Tosafos Yom Tov, Yoma* 1:6 citing the Rambam that the sin of suspecting a proper Jew refers to a Jew whose actions are unknown to you. See Rabbeinu Yonah in his commentary on *Avos* 1:6. This might also be the intention of the Rambam in *Avos*. When he refers to not knowing if the person is a *tzaddik* or a *rasha*, he means that you do not know if he is a *tzaddik* or a *rasha* at that moment. That includes both the person who is unknown to you and the average person.

It might be that this was the reason why *Eili HaKohen* suspected that Chana was drunk. Since he did not know who she was, he only had to judge her like an average person. Since she looked like she was drunk, he rightfully suspected her of being drunk. Even though he was a *talmid chacham*, he was not expected to judge her any differently, given the impression that she made.

50. In *Kallah Rabbassi* ch. 9. See *Derech Eretz Rabbah* ch. 5 that “you should view everyone as bandits, but honor them like Raban Gamliel.” Rashi, *Ta'anis* 23b quotes this to explain Abba Chilkiya's actions where

(as a (possible) bandit)."<sup>51</sup> Suspect that he is a bandit, but honor him like Rabban Gamliel.<sup>52</sup>

This is clearly demonstrated in the following story about Rabbi Yehoshua:<sup>53</sup>

*Once a stranger came to the home of Rabbi Yehoshua. Rabbi Yehoshua graciously served the man dinner and brought him up to the attic to sleep. After settling him in the attic to spend the night, Rabbi Yehoshua climbed down the ladder and left the man to sleep. As a precaution, he removed the ladder so that the man would not be able to climb down and possibly steal things from the house and leave in the darkness of the night.*

*His suspicions proved to be well-placed. In the middle of the night, the stranger gathered many things in the attic, put them in his sack and went to escape under the cover of the night.*

*In the heavy darkness, he did not notice that the ladder was no longer there, and he fell from the attic to the ground, breaking his bones. In the morning, Rabbi Yehoshua found him lying*

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he suspected the *Chachamim* who came to visit and would not leave his wife alone with them until he verified their integrity.

51. This is true especially when it regards the fulfillment of a mitzvah as we find in *Yoma* 19b that in the times of the second Beis HaMikdash the *Kohen Gadol* had to swear that he would perform the service of incense in the holy of holies on Yom Kippur in accordance with the Halachah and not like the Sadducees. He turned aside and wept because they suspected him, and they turned aside and wept because they suspected someone whose deeds were unknown, as Rambam writes in *Hilchos Avodas Yom HaKippurim* 1:7 (and maybe there was no reason to suspect him).

Evidently, they were allowed to suspect him even though his deeds were unknown, and especially given the fact that the *Avodah* of Yom Kippur was at stake, and there were many Sadducees. However, they still turned aside and wept, because it shows good character to judge someone favorably even if his deeds and ways are unknown to you.

52. *Derech Eretz Rabbah* ch. 5. (Rabban Gamliel was the Nasi).

53. *Derech Eretz Rabbah* ch. 5.

there, and said to him, “empty person! Is that how people like you should act?” The man responded, “Rabbi, you did not tell me that you removed the ladder!” Rabbi Yehoshua answered, “Did you not realize that even yesterday we were wary of you?”

Rabbi Yehoshua’s guest was unknown to him, and he took the necessary precautions in case he might be a thief.<sup>54</sup> From this it is clear that if you invite an unknown guest into your home, there is nothing wrong with hiding your valuables as a precaution against his possibly stealing them. This might be the prudent thing to do.

The story about Rabbi Yehoshua seems to support the opinion that one is not obliged to judge favorably a person who is unknown to him, but this can be easily refuted. As we shall see, some say that you do not have to judge your fellow favorably and assume that he will not sin. The mitzvah of judging him favorably applies only after the event took place. In the case of Rabbi Yehoshua and his guest, Rabbi Yehoshua’s suspicions regarded the man’s future behavior, and he did not have to judge him favorably.

### The Past, Not the Future

#### ∞ 24.38 ∞

Some say that even if you know the person, you must judge him favorably and give him the benefit of the doubt only after a wrong was possibly committed. Before anything happens, you may suspect that he might do something wrong.<sup>55</sup>

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54. Similarly, see *Ta’anis* 23b where Abba Chilkiyah suspected the *Chachamim* who came to visit and would not leave his wife alone with them until he verified their integrity.

55. *Chassid Ya’avetz* (*Avos* ch. 1, also cited in *Sefer Chareidim* 9:30). This

also answers why it is not in contradiction to the Gemara in *Yoma* 9b that says that one who suspects a proper person of impropriety receives corporal punishment from Heaven. Also, see *Chareidim* ch. 66:33 who answers that you are to view everyone as bandits only to the degree necessary to protect yourself from them, but you should not actually suspect them. It is like taking precautions to protect yourself from someone in the wake of a report of *lashon ha-ra* that you heard. You are not to believe it, yet you should take the necessary precautions to protect yourself.

One may support this opinion from when Moshe Rabbeinu said to Hashem at the burning bush (*Shemos* 4:10) "But they will not believe me and they will not heed my voice, for they will say, 'Hashem did not appear to you.'" Hashem then made Moshe's hand white with leprosy as a hint that he should have not spoken negatively about the Jewish people. Moshe was not reprimanded for not having judged them favorably, and that could be because it regarded their future behavior, and one need not judge his fellow favorably with regard to his future behavior. Similarly, in *Shemos* 17:4, when the people complained about the lack of water at Rephidim, Moshe said to Hashem, "A bit more and they will stone me!" Hashem told him to pass before the people, and Rashi cites the *Midrash Tanchuma* that Hashem showed Moshe that they did not stone and he should not have slandered His people. There is no mention of Moshe's not judging them favorably, and this might also be explained in accordance with the *Chassid Ya'avetz*, that one need not judge favorably regarding the future.

(Although in *Sefer Yesh Nochalin* (brother of *Sheloh* p. 122) he says that the corporal punishment for suspecting the innocent only applies if one verbalizes his suspicions but not if he keeps it in his heart, that would still not explain why *Chazal* said that you should view people as bandits. Even though there is no corporal punishment, that does not mean that it is proper or advisable.)

As cited earlier, the Gemara In *Yoma* 19b says that the Sages made the *Kohen Gadol* swear that he would perform the ritual offering of incense on Yom Kippur as the Halachah prescribes and not like the Sadducees. It says that when making him swear, they used to cry. He would cry because they suspected him and they would cry because they suspected a proper Jew. This is not considered a suspicion related to the future, which is permitted, but is considered a suspicion related to the past – is he a kosher Jew or is he a Sadducee. It was considered a suspicion against a kosher Jew since they had no idea what his position was on the matter. This is not the case with regard to suspecting that a guest might steal something, because that does not mean that you suspect he is a thief, but that perhaps

This would apply only to the average person, but with regard to a true *talmid chacham* you would not suspect that he might knowingly do something wrong.

∞ 24.39 ∞

There are situations in which you should naturally not suspect the person unless he is known to be sinful with regard to these mitzvos. For example,

*If you see a yeshiva boy or any frum-looking person standing in line at a treifa fast-food place, you must assume that he is only standing in line to buy a soda and is not going to buy a cheeseburger.*

∞ 24.40 ∞

Telling others that you saw him at such a place would constitute slanderous *lashon ha-ra*. You do not have to approach him and tell him that the place is not kosher because he certainly knows that, and you should not tell him that you hope he is not buying a cheeseburger. One must have a certain measure of common sense in these matters as in all other matters.

∞ 24.41 ∞

You are forbidden to do something that might lead others to suspect you of sinful behavior,<sup>56</sup> as it is written, “You shall be

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he could become a thief if given the temptation. In the case of the *Kohen Gadol* it was not such an issue, but one where his future action would be determined by his position on the matter, past and present.

56. Many things are forbidden because of *מראית עין*, which means doing something that looks like it is a sin, and causes people to suspect that one has sinned. For example, one is not allowed to enter certain kinds of places or behave in certain ways because one might suspect him of immoral behavior. See *Berachos* 3a, 43b; *Shabbos* 33a; *Yevamos* 24b;



vindicated from Hashem and from Israel."<sup>57</sup> You must also not do anything that will cause somebody else to be suspected of sinful behavior.<sup>58</sup> This will be discussed further at the end of this chapter.

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*Kesubos* 22b; *Bava Basra* 98b. You must even make sure that you are not suspected of not fulfilling a rabbinic ordinance. See *Shabbos* 23a regarding Chanukah candle lighting in a house with two entrances. With regard to money matters, the one in charge of *tzedakah* money must take appropriate precautions to ensure that nobody will suspect him of misuse of the funds. Also see *Shekalim* 1:2; *Pesachim* 82a; *Bava Kama* 27b; *Bava Metzia* 58a, 90a; *Bava Basra* 8b.

57. *Devarim* 32:22, cited in *Shekalim* 3:1.

58. *Chagiga* 5a.