

# BETTER INNOCENT THAN GUILTY

by Rabbi Yissocher Frand

*These divrei Torah were adapted from the hashkafa portion of Rabbi Yissochar Frand's Commuter Chavrusah Torah Tapes on the weekly Torah portion Ki Seitzei: Tape # 65, Polygamy and the Cherem of Rabeinu Gershom. Good Shabbos!*

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## Common Denominator Between Shiluach HaKein and Kibbud Av V'Em

This week's parsha contains the mitzvah of 'Shiluach HaKein'. The Torah says if one finds a bird's nest with mother is sitting and watching the eggs or the chicks, the finder is not allowed to take both the mother and the eggs, but must first send away the mother and then take the eggs. The reward for this is "length of days". [Devarim 22:6-7]

As we all know, there is only one other place where the Torah uses the expression "in order that it be good with you and you will have length of days" and that is concerning the mitzvah of honoring one's parents.

I heard an observation from Rav Weinberg, zatz"al, that there must be some kind of common denominator to these two mitzvos which otherwise appear totally dissimilar and unrelated.

Rav Weinberg explained that the common denominator is that the Torah recognizes and grants great reward for mitzvos which involve recognition of mesiras nefesh (self-sacrifice). When the Torah tells us that we must honor our parents, the Torah is telling us that parents exhibit tremendous mesiras nefesh for their children. One is entitled to the reward of "length of days" as a reward for honoring one's parents, in order to cause people to appreciate the mesiras nefesh that parents exhibit for children. In other words the Torah is giving this rewards so that we will be come to appreciate the great mesiras nefesh of our parents -- and to act on that appreciation.

This is exactly the same concept we find concerning Shiluach HaKein. Anyone who has ever tried to catch a bird knows that it is a virtually impossible task. So why will a person ever encounter a situation where he about to catch a bird? Won't the bird fly away? The answer is that the bird is being a mother. Like all mothers, she is willing to sacrifice and give over her own freedom in order to remain with her children. For one to grab that bird and take advantage of the mesiras nefesh of the maternal instinct from mother to offspring is prohibited. By sending away the mother and not taking

advantage of this mesiras nefesh, one shows his appreciation for it. Here too, for that recognition and appreciation of the mesiras nefesh of parents towards offspring, one is entitled to "length of days".

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## Giving Kingship to One's Fellow-man

This week's parsha contains the pasuk [verse] "If a man commits a capital crime and is put to death; you shall hang him on a gallows" [Devorim 21:22]. But the pasuk admonishes, "Do not leave his body overnight on the gallows, rather you shall surely bury him on that day, for a hanging person is a curse of G-d...".

Rash"i explains that to leave him hanging would be degrading to the "King" (i.e. -- it would be a disgrace to G-d). The reason, Rash"i says, is that a person is created in the Divine image of G-d. To leave a person in such a state and not show respect for the human image, is in fact degrading to G-d himself. Rash"i cites the famous parable of a set of twins. One was the King and one was a thief. The thief was caught, killed, and left hanging. People walked by and said, "The King has been killed!".

This law teaches us, therefore, that we cannot leave a human being hanging on the gallows because every single human being is created in the image of G-d. Disgracing a fellow human being is a disgrace to G-d himself.

Perhaps we tend to throw around this concept, that a person is created in G-d's image, too lightly. Therefore, Chazal are emphasizing this concept. Even when one sees a criminal -- one who was executed in Beis Din -- one must look at him and recognize that he too is created in the likeness of his Creator.

There is a braisa in Masseches Kallah, that teaches us a very strong message. I once heard this message from Rav Meir Bergman, shlit"a, the son-in-law of Rav Shach. The braisa teaches that one who immediately repeats the recitation of Krias Shma is acting in an unseemly fashion. (This is also a gemara in Megila [25a].)

What does this mean? If a person is reciting Shma Yisroel and he repeats the words -- "Shma, Shma; Yisroel, Yisroel; ...", the Talmud says this is undesirable because it sounds as if there are "two dominions". The very next words of the braisa are that if a person is tovel (immerses himself in a mikveh) two times, that is also undesirable. Why? Because he may splash water on his friend's clothing (that was left by the side of the mikveh while he immersed) and that is undesirable.

Rav Bergman asked, what is the connection between these two statements? What is the relationship between saying Krias Shma twice and dipping in a mikveh twice? Rav Bergman says that Masseches Kallah is making the following point: Saying Shma twice indicates something lacking in one's acceptance of the Divine Yoke of Heaven (Kabalas Ol Malchus Shamayim), because such action implies that there are Two Dominions.

Likewise, the braisa teaches, if one doesn't treat his friend properly that also constitutes something lacking in one's Kabalas Ol Malchus Shamayim. One who accepts and pays more than lip service to the idea that man was created "b'zelem Elokim" (in the Image of G-d), accepts implicitly the concept that every person is a microcosm, as it were, of G-d. Every individual is holy and G-dly. To not respect the property of one's friend (by immersing twice and not being concerned with splashing his clothing) is a lack of accepting the Yoke of Heaven upon oneself.

The introduction to the book "Reishis Chochmah" quotes a braisa called "the braisa of chibut haKever". It is written in that braisa that in the future, when a person comes to the Heavenly Court, he will be asked two questions: 1) Did you make your Creator your King?; 2) Did you make your friend your King?

The question is not "Did you like your friend?" The question is, "Did you anoint your friend as King?" (himlachta)!

The Talmud in Rosh Hashana [32a] contains the source for the idea that we have to recite verses of Kingship (Malchiyos). The Talmud explains that we learn it from the juxtaposition (in Parshas Emor) of the words "I am the L-rd your G-d" [Vayikra 23:22] with the parsha of Rosh HaShanah ("On the Seventh month on the first of the month..." [23:24]). The words "I am the L-rd your G-d" are written in the Parsha of Leket -- "You shall leave them for the stranger, orphan and widow, I am the L-rd your G-d."

We learn the concept of saying Malchiyot on Rosh Hashana from the words "Ani Hashem Elokeichem" that are written by the one who is impoverished or a stranger. This is the Jewish definition of accepting the Yoke of Heaven. Not only must one anoint the Master of the World as King, but one has to treat every Jew with the respect that one would give, as it were, to G-d himself.

The Rosh Yeshiva (Rav Ruderman) related an incident that happened when he was 10 years old -- more than 75 years ago -- in Dalhiniv. It was Hoshanna Rabbah. The custom is that the Chazan wears a Kittel when he davens Mussaf on Hoshanna Rabbah. The Shamash came into the shul from the mikveh and forgot to bring the kittel. A rich man went over to the Shamash in shul and asked him where the kittel was. He admitted he forgot to bring the kittel. The rich man began cursing him and shaming him in front of all present, as if the Shamash had done the worse sin in the world.

In order to fulfill a "custom", he made this Shamash feel bad; embarrassing him publicly and ruining his Simchas Yom Tov. We lose sight. We try to fulfill hidurim (exceptional ways to perform mitzvos), but in the meantime we neglect a basic obligation in our accepting the Yoke of Heaven, which is to treat every Jew with respect and with decency.

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## Glossary

**braisa** -- Tanaaitic teachings that remained outside the Mishneh.

**mikveh** -- ritual bath into which one immerses (is tovel) to remove impurity or to add a level of sanctity

**chibut hakever** -- literally 'beating of the grave', referring to punishment after death

**leket** -- individual stalks that have fallen in the harvest process; they are to be left for the poor.

**Shamash** -- synagogue Sexton.

**kittel** -- white robe worn for prayers during the High Holidays.

**Hoshanna Rabbah** -- Last day of Succos, the day on which Yom Kippur's Judgement is finally sealed in Heaven.

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Also Available: Mesorah / Artscroll has published a collection of Rabbi Frand's essays. The book is entitled:

**Rabbi Yissocher Frand: In Print**

and is available through Project Genesis On-Line Bookstore: <http://books.torah.org/>

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