

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Fifty-Five



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Introduction

Monetary Law I: Introduction & Concepts

Lesson

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Presenting the monetary laws of the Torah includes several unique challenges. For one, this is a large body of material that continues to grow ever larger as we invent and adapt new mechanisms of trade, payment, commerce, and investing. Because of the size and ever-changing application of these laws, it is virtually impossible to present them point-by-point. Instead, we will have to introduce only general concepts of monetary law. To successfully fulfill the God's expectations requires regular study and reflections on the specific business and monetary situations we encounter in our daily lives.

Another difficulty in teaching this subject is the Torah's monetary laws, for both Jews and Noahides, are often much stricter than what secular law permits. This means many business practices we consider acceptable, possibly even essential, are actually prohibited by the Torah! Sadly, because of the tremendous *yetzer hora* (destructive desire) for money, it is common for Jews and Noahides to ignore, sidestep, or outright reject the Torah's strictures. A believing Jew or Noahide must be willing to lose money, pass on deals, and even lose everything he has to uphold the Torah's monetary laws. Indeed, one of the *Gedolim* (leading Torah sages) once said "Anyone who has never walked away from a valuable deal or who has never lost a tremendous amount of money because of his religious convictions has not yet upheld the Torah's monetary laws."

By the same token, some of the Torah's monetary laws are more lenient than secular monetary law. In these cases, one cannot transgress secular law using the Torah as his justification. Believe it or not, this happens a lot.

Monetary *Mitzvos* for Jews vs. Noahides

Looking at the Torah closely, we see that God commanded Jews in many specific monetary *mitzvos*, yet only commanded non-Jews against theft. Nevertheless, the Talmud is thick with exhaustive analyses and examinations of monetary laws and business ethics as they apply to both Jews and non-Jews, apparently extending non-

Jewish monetary concerns well beyond the basic issue of theft. How do we explain this apparent disparity?

Answering this question requires a comprehensive grasp of the Talmudic literature involved. Thankfully, many Sages with just such a grasp have provided answers.

Maimonides & Others

Maimonides in *Hilchos Melachim* UMilchamos 9:9 summarizes the Talmud's various discussions of non-Jews and theft as follows:

*A non-Jew is liable for transgressing the prohibition of theft if he stole from another gentile or from a Jew. This applies to one who forcefully robs an individual or steals money, a kidnapper, an employer who withholds his worker's wages and the like, even a worker who eats from his employer's produce when he is not working. In all such cases, he is liable and is considered as a robber. **With regard to Jews, the law is different.***

The concluding line of this passage is mysterious: **With regard to Jews, the law is different.** In what way is the “law different for Jews?” Indeed, the Torah specifically forbids a Jew in all of these prohibitions!

The [Kesef HaMishnah](#) and many other commentaries explain the difference as being in the source of their obligations. Jews are obligated in all of these acts from a number of specific, separate commandments given at Sinai. Noahides, however, are equally obligated in all of these acts, yet from the simple injunction against theft.

All of the various, specific Jewish monetary laws which are conceptually linked to theft are included within the general Noahide prohibition of theft.

Note the structure of the passage:

A gentile is liable for violating the prohibition against theft whether he stole from another gentile or from a Jew. This applies to one who forcefully robs an individual or steals money, a kidnapper, an employer who withholds his worker's wages and the like, even a worker who eats from his employer's produce when he is not working. In all such cases, he is liable and is considered as a robber. With regard to Jews, the law is different.

It is clear that Maimonides is defining theft very broadly and only naming a few examples of what is included therein. What actions fall under the umbrella of “theft” for Noahides? The Talmud, Sanhedrin 57a appears to equate the definitions of theft for Noahides to

those for Jews. This understanding, that acts of theft are the same for both Jews and Noahides, is the *Halacha*.¹

The Minimum Amount Considered Theft

Maimonides, in *Hilchos Melachim UMilchamos* 9:9 concludes with the following:

***Similarly, a gentile is liable for stealing
an object worth less than a perutah.***

Jews are only liable for theft for stealing an amount more than a *perutah*, which is defined as the smallest usable amount of money. As discussed in an earlier lesson, Noahides were not commanded in *shniurim*, limits and amounts for liability. Therefore, a Noahide is liable for taking any amount to which he was not entitled. We should make clear, however, that this means liability for committing a sin, not necessarily liability for capital punishment. Most of the situations of theft we will discuss here do not incur capital punishment even though they are forbidden.

However, taking an item or amount that is too small to quantify monetarily is permitted. This permit applies to amounts truly insignificant such that the owner would neither notice, miss, nor prevent one from taking it. The classic example is taking a tiny sliver of wood from another's wood pile to use as a toothpick. Such a small item has no quantifiable monetary value and its absence makes no difference to the owner.

In some situations, however, even this is prohibited. For example: if it is common practice for many people to wantonly take slivers of wood then eventually all those little slivers will amount to a big loss to the owner! In such a case even taking a small sliver is considered theft. A pious person will refrain even from taking such a small amount in permitted circumstances.²

One Who Has Stolen – Restitution?

As with all of the Noahide laws, the punishment for transgression is death. However, most acts of theft will not actually warrant capital punishment. What is to be done in these situations? Even though the Torah commands Jews to return

¹ See Maimonides *ibid.*; *Minchas Chinuch* 516; *Shulchan Aruch HaRav Hilchos Gezeilab* 23.

² See [Ben Ish Chai](#) on *Ki Seitzi*.

stolen objects and to make restitution, no such commandment was given to non-Jews. Or, was it?

The Torah specifically commands Jews in making restitution:

When he becomes guilty of such a sin, he must return the stolen article...³

Is this positive commandment considered part of the body of legislation common to both Jews and Noahides? Or, perhaps, positive commandments regarding theft are not included in the general Noahide negative prohibition against theft.

**Talmud, Eruvin
62a**

The Talmud states:

*A Noahide is punishable by execution for theft of an amount less than one peruta;
he cannot return it.*

This statement may be read a number of ways. Perhaps it is only discussing a case involving less than a *Peruta*. Or, maybe it means that a Noahide can never return a stolen item. Since it is discussing a case of capital liability, maybe it only exempts a Noahide from restitution in cases of capital punishment; however, in a case when capital punishment is not administered the perpetrator should return the item.

The Rishonim have discussed this passage in detail and generally reached two conclusions:

- **Rashi** – There is no need for a non-Jew to make restitution because the verse commanding restitution⁴ was only commanded to the Jews. A court cannot either force him to do so because it would be imposing a penalty of which they have no right to administer.
- **Tosafos and Other Rishonim**⁵ – The point is that restitution does not exempt a Noahide from capital liability. He must make restitution in any case and the court has the right to force him to do so.

It would appear, according to **Tosafos** and the **Other Rishonim** that a thief must make restitution for what he stole even in a case where capital punishment is not

³ Leviticus 5:23.

⁴ Leviticus 5:23.

⁵ *Rabbeinu Chananel, Ritva, Ran, and Rashba to Eruvin* ibid. See also *Ritva* to Avodah Zarah 71b. These commentaries are in general agreement on this principle.

given. The disagreement between **Rashi** and **Other Rishonim** may be viewed as a disagreement over one or all of three issues:

- **Positive Commandment of Restitution** – Is the positive commandment of restitution included in the Noahide prohibitions against theft? Rashi clearly says no. However, the Other Rishonim hold it is. As we have seen, Noahides are commanded in all of the Jewish *mitzvos* related to theft, which may include the positive commandment to make restitution.
- **Restitution is a Positive Implication of the Negative Commandment** - Or, perhaps, Tosafos agrees with Rashi that Noahides are not explicitly required to make restitution; the Jewish positive commandment from Lev. 5:23 is not included under the general umbrella of the Negative Noahide prohibition of theft. However, Tosafos may hold that restitution is a positive implication of the negative injunction against theft.
- **As Repentance** – Transgressions of civil law are also spiritual transgressions: one who steals commits a crime as well as a sin. The court may impose a penalty for the criminal aspect, yet the thief must return the item as part of his repentance for the spiritual aspect of the transgression.⁶ This idea has some support from the Talmud in Taanis 16a. In describing the repentance of Nineveh⁷ the Talmud tells us that the citizens demolished their houses in order to remove and return the wooden beams and joists they had stolen from others. The implication is that full repentance was not possible as long as the stolen items remain in their possession.⁸

The *Halacha*, as we may have deduced by now, follows the majority who hold a Noahide must make restitution. This is the case when a Noahide steals any amount from either a Jew⁹ or another Noahide.

⁶ *Shu"t Yad Elyahu* 40.

⁷ The city of sin to which the prophet Jonah was sent.

⁸ The Talmud understands this as the meaning of Yonah 3:8 that each man "... repented from the *chamas* that is in their hands."

⁹ According to some understandings of the aforementioned Rishonim, a Noahide is not required to make restitution to a Jew for less than a *perutah*. According to them, this is because the Jewish threshold for liability is a *perutah* and Jews are not particular to demand restitution for less than that amount (such a view is not, therefore, imposing the *perutah* as a measure for liability for Noahides). This might be a valid leniency in certain pressing situations. .

Summary

1. Jews are commanded in a number of specific mitzvos pertaining to theft and monetary propriety. Noahides are also obligated in all of these specific commandments; however their *mitzvos* are all included in the general injunction against theft.
2. Noahides are liable for stealing even an amount less than a *perutah* – the minimum usable amount of money.
3. Nevertheless, there is no prohibition on an amount so small as to be impossible to quantify monetarily and that the owner would certainly forgive.
4. If the taking of such a small amount will over time result in a definite loss, and people commonly take such small amounts, then it is prohibited to do so.
5. A pious person will refrain even when it is permitted to take such small amounts.
6. One must return the item that he stole. This is the opinion of the majority of Rishonim. The details of how restitution is to be made will be the subject of a future lesson.