

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Fifty-Seven



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Introduction

Monetary Law III: Laws of Theft Cont.



In this lesson we will complete our very general overview of the monetary laws. Remember, the main purpose of this overview is to get a sense of the underlying concepts in order to spot potential issues and know when to seek further guidance.

Workplace Theft

Deuteronomy 23:25-26 serves as the source for two *halachos* pertaining to laborers:

When you come into your neighbor's vineyard, you may eat grapes at will until you are satisfied; but you shall not put any in your vessel. When you come into your neighbor's standing wheat, you may pick stalks with your hand, but you shall not take a sickle unto your neighbor's standing wheat.

The Talmud, Bava Metzia Ch. 7, dissects and examines these two verses in great detail. At first glance, the intent of these two verses is obscure. Why is a person allowed to take grapes from another's vineyard? Why is this not theft? The Talmud explains the terminology of "coming into a field" (as opposed to "walking through a field" or any other phrasing) as meaning coming into a field to harvest.¹ These verses give workers limited rights to partake of the produce of the field while directly engaged in the harvest. However, the two phrases: *...you shall not put any in your vessel...* and *... you shall not take a sickle unto your neighbor's standing wheat...* come to teach restrictions on this right.

One is only allowed to eat while the harvest is under way. Once the harvest is completed, there is no permit to take from the produce. Additionally, one is only allowed to take of the produce while working if this does not cause a net loss to or

¹ This is also the translation of the verse according to [Onkelos](#).

harm to the employer (we will discuss specific examples in the live class). This is the implication of ... *you shall not put any in your vessel...* and ... *you shall not take a sickle unto your neighbor's standing wheat...* both of these actions would abuse the right and cause a net loss to the employer. Such actions would constitute theft.

Many *halachos* applicable to the modern workplace are implied by and derived from these verses. A complete description of these *halachos* would require many, many lessons. Therefore, we will present here only a summary. For further study, see the seventh chapter of tractate Bava Metzia (starting at 87a), Maimonides's *Hilchos Sechirus*, Chapter 12 (included as an appendix to this lesson), and in the [*Shulchan Aruch*](#), *Choshen Mishpat*.²

Summary of Laws for Employees

Hourly Wage Employees

One who is paid by the hour must be very careful not to waste time while “on the clock.” Otherwise the employee is *de facto* committing theft of his employer’s money. If one is hired to complete a specific task and is paid by the hour for his labor, then he must let his employer know when he has completed the work.³

Hourly Employees & Side Businesses

An employee paid by the hour may not engage in other work or enterprises while on-the-clock. For example, one who is employed in an office may not work on his own internet business while at work.⁴

Office Supplies & Resources

An employee cannot use office materials for his own business while off-the-clock if such usage would cost the employer money or depreciate the value or utility of the items.

Leftover Material

It often happens that a craftsman is given material by a client to complete a task. If the craftsman has material leftover, who owns the material? If the amount of the material is enough to be of use or value to the client, then the craftsman must inform the client and return the material to him. This question is practically relevant to tailors, jewelers, and other such craftsman.

Partaking of Produce

The source verses mention both a restriction and a right to the employer’s produce. Clearly, Noahides are included in the restrictions as they fall under the rubric of theft. What about the right to partake of produce during the harvest? The Talmud

² We will cite the references from *Choshen Mishpat* as appropriate below.

³ *Shulchan Aruch*, *Choshen Mishpat* 331.

⁴ *Shulchan Aruch*, *Choshen Mishpat* 337.

includes Noahides in this positive *mitzvah*. In discussing prohibitions of theft common to both Noahides and Jews, the Talmud⁵ states:

If [a vineyard worker] ate of the produce while engaged in the actual harvest, then he is permitted to do so. Yet, if he ate of it while doing other work such as pruning, then it constituted theft...

Nevertheless, some authorities⁶ are uncertain whether Noahides are merely permitted to do so (meaning it is not called theft) or have an actual right to eat of the produce during harvest. The practical difference is whether or not the employer has the right to prohibit the employee from partaking of the produce during harvest. Even according to those who hold this is only a permit and not a right, it is appropriate for the employer to allow the worker to partake of the produce.

Partaking of Office Property?

Outside of an agricultural/harvest situation, this permit/right has little application. Therefore, an employee should not take or use any of his employer's equipment or supplies for his own benefit. He must receive permission from the employer to do so.

Land

Deuteronomy 19:14 states:

Do not move your neighbor's boundary marker.

This verse prohibits the theft of real estate by moving a boundary marker.

Kidnapping

Exodus 20:15 states simply:

Do not steal.

As explained in an earlier lesson, the Torah uses this phrase in two places to teach two separate prohibitions. One is the general prohibition against theft while Exodus 20:15 teaches the specific prohibition against kidnapping.

⁵ Sanhedrin 57a.

⁶ *Sefer Sheva Mitzvos HaShem* II:13

Making Restitution

Leviticus 5:23 states:

*If he has transgressed and is found guilty, then **he shall restore that which he took** by robbery or the thing which he gained by extortion, or the deposit which was deposited with him [and he denied it]...*

As discussed in the first lesson on monetary law, a Noahide must make restitution for whatever he took. This applies to all of the aforementioned subspecies of theft.

The Talmud⁷ points out the phrase ... **he shall restore that which he took...** requires the return of the actual object that was stolen in its original condition:

If it is as it was when it was stolen, then he shall return it intact. If it is not [in its original condition] then he must pay the victim [the value of the object].

The following is a summary of the details pertaining to restitution:

- When the victim has hope of getting back his property or money, then the thief must return the actual item that was taken. One is considered to have reasonable hope of getting back his property when the perpetrator was seen or there is a good chance that he can be otherwise identified.⁸
 - In this case, the thief must return the stolen item. The rightful owner, however, has the right to demand payment in lieu of getting the item back. In such a case, the stolen item becomes the purchased property of the thief once the thief has tendered payment.⁹
 - If the stolen item no longer exists, then the thief must return the monetary value of the items.¹⁰

⁷ Bava Kamma 66a.

⁸ *Shulchan Aruch, Choshen Mishpat* 361.

⁹ [Aruch HaShulchan](#), *Choshen Mishpat* 360:1.

¹⁰ Bava Kamma 66a.

- If the thief has altered the stolen item in a permanent manner, he cannot return the item. He is considered the owner of the item, but must pay its pre-alteration value to the victim.¹¹
- If the victim has despaired of getting back his property, then the thief is only obligated to return the monetary value of the item itself. The victim is assumed to have despaired in a case when the perpetrator is not known or it is unlikely that the perpetrator will be found.¹²
- When a stolen item appreciates or depreciates of its own accord while in the hand of the thief or as a result of market forces the issue of restitution can become very complicated. One should consult with an expert in the monetary laws.
- All of these laws of restitution apply absent an established legal system. As we shall see in a future lesson, each society must establish courts and laws as needed to impose order and meet the needs of the community. Therefore, the Torah's laws of restitution may be modified or supplanted by the needs of the courts.

Summary

1. Employees may eat of the produce of their employer during the harvest. However, there are many restrictions on this right to prevent workplace theft.
2. Hourly wage employees must be very careful to make the most of their time.

¹¹ See [Hilchos Gezeilah 2:1](#); *Shulchan Aruch, Choshen Mishpat* 353.

¹² [Rema](#), *Choshen Mishpat* 368. However, it is possible that this is not the law for Noahides. Rather, it may be that Noahides are not considered to have despaired until they have witnesses who can attest to their state of mind. See *Shach, Choshen Mishpat* 368:1.

3. One should not use any office or workplace resources without the employer's permission if the use would depreciate the items or cause a loss to the employer.
4. If a person entrusts material to a craftsman for a specific purpose, the craftsman must return the excess if it is a significant amount or of value to the owner.
5. The right of partaking of produce during the harvest has little corollary outside of agricultural harvest.

Appendix: Maimonides, *Hilchos Sechirus* 12

Derivations from Deuteronomy 23:25-26

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§1 When workers are performing activities with produce that grows from the earth,' but the work required for it has not been completed, and their actions bring the work to its completion, the employer is commanded to allow them to eat from the produce with which they are working. This applies whether they are working with produce that has been harvested or produce that is still attached to the ground.

This is derived from Deuteronomy 23:25, which states: "When you enter the vineyard of your colleague, you may eat grapes as you desire," and *ibid*: 26, which states: "When you enter the standing grain belonging to your colleague, you may break off stalks by hand." According to the Oral Tradition, we learned that these verses are speaking solely about a paid worker. For if the owner of the produce did not hire him, what right does the person have to enter his colleague's vineyard or standing grain without his permission? Instead, the interpretation of the verse is that when you enter the domain of your employer for work, you may eat.

§2 What are the differences in the application of this mitzvah between a person who performs work with produce that has been reaped and one who works with produce that is still attached to the ground? A person who performs work with produce that has been reaped may partake of the produce as long as the work necessary for it has not been completed. Once the work necessary for it has been completed, he may not eat. By contrast, a person who performs work with produce that is still attached to the ground - e.g., a harvester of grapes or a reaper of grain - may not partake of the produce until he has completed his work.

For example, a person harvests grapes and puts them into a large basket. When the basket is filled, it is taken away and emptied in another place. According to Scriptural Law, the worker may eat only when the basket has been filled. Nevertheless, in order to prevent the owner from suffering a loss, the Sages ruled that the workers may eat while they are walking from one row to another and while they are returning from the vat, so that they will not neglect their work to sit down and eat. Instead, they were granted permission to eat while they are performing their work, so that they will not neglect it.

§3 When a person neglects his work and eats or eats when he has not completed his work, he transgresses a negative commandment, as [Deuteronomy 23:26](#) states:

"You shall not lift a sickle against your colleague's standing grain."

According to the Oral Tradition, it is explained that as long as the worker is involved in reaping, he should not lift a sickle in order to partake of the produce himself. Similar laws apply in all analogous situations.

Similarly, a worker who carries home produce with which he had worked or who takes more than he can eat himself and gives to others transgresses a negative commandment, as *ibid*.:28 states: "You may not place in your containers." The violation of these two prohibitions is not punishable by lashes, because a person who ate when one should not have or took produce home is liable to make financial restitution.

§4 A person who milks an animal, one who makes butter, and one who makes cheese may not partake of that food, for it is not a product of the earth.

When a person hoes around onion heads and garlic heads, even though he removes small ones from the larger ones, or the like, he may not partake of them, because this activity does not constitute the completion of the task.

Needless to say, watchmen over gardens, orchards and fields where any crops are grown - e.g., cucumber gardens and gourd gardens - may not partake of the produce growing there at all.

§5 A person who separates dates and figs that have already been harvested and are stuck together] may not partake of them, for the work that obligates the performance of the mitzvah of tithing has been completed.

A person who works with wheat and the like after they have been tithed - e.g., a person was hired to remove pebbles from grain, to sift the kernels or to grind them - may partake of them, for the work that obligates the performance of the mitzvah of *challah* has not been completed. When, however, a person kneads dough, bastes loaves or bakes, he may not partake of the food, because the work that obligates the performance of the mitzvah of *challah* has become completed. And a worker may not partake of produce except when the work that obligates the performance of the mitzvah of tithing or *challah* has not been completed.

§6 If the cakes of figs belonging to a person become broken up, his barrels of wine become open, or his gourds become cut, and he hires workers to tend to the produce, they may not partake of it, for the work necessary for them has been completed and they have become obligated to be tithed. Indeed, they are *Tevel*.
If, however, the owner did not notify the workers, he must tithe the produce and allow them to partake of it.

Workers may not partake of the crops in a field that was consecrated to the Temple treasury. This is derived from [Deuteronomy 23:25](#), which speaks of "your colleague's vineyard."

§7 When a person hires workers to work with produce that is *Neta Reva'i*, they may not partake of it. If he did not inform them that it was *Neta Reva'i*, he must redeem it, and allow them to partake of it.

§8 Workers who reap, thresh, winnow, separate unwanted matter from food, harvest olives or grapes, tread grapes, or perform any other tasks of this nature are granted the right to partake of the produce with which they working by Scriptural Law.

§9 Watchmen for vats, grain heaps and any produce that has been separated from the ground, for which the work that obligates tithing has not been completed may partake of the produce because of local convention. They are not granted this privilege according to Scriptural Law, because a watchman is not considered to be one who performs an action.

If, however, a person works with his limbs whether with his hands, his feet or even with his shoulders, he is entitled to partake of produce according to the Torah.

§10 A worker who is working with figs may not partake of grapes. One who is working with grapes may not partake of figs. These laws are derived from [Deuteronomy 23:25](#), which states: "When you enter the vineyard of your colleague, you may eat grapes."

When a person is working with one vine, he may not eat from another vine. Nor may he partake of grapes together with other food; he should not partake of them together with bread or salt. If, however, the worker set a limit concerning the quantity that he may eat, he may eat the produce with salt, with bread or with any other food that he desires.

It is forbidden for a worker to suck the juice from grapes, for the verse states: "And you shall eat grapes." Neither the worker's sons nor his wife may roast the kernels of grain in a fire for him. This is implied by the above verse, which states: "You may eat grapes as you desire." The implication is that you must desire the grapes as they are. Similar laws apply in all analogous situations.

§11 It is forbidden for a worker to eat an inordinate amount of the produce with which he is working. This is implied by the above verse, which states: "You may eat... as you desire, to your satisfaction." It is permitted, however, for him to delay eating until he reaches the place of higher quality grapes and eat there.

A worker may eat even a *dinar's* worth of cucumbers or dates even though he was hired to work only for a silver *me'ab*. Nevertheless, we teach a person not to be a glutton, so that he will not close the doors in his own face. If a person is guarding four or five grain heaps, he should not eat his fill from only one of them. Instead, he should eat an equal amount from each one.

§12 Workers who have not walked both lengthwise and laterally in a vat may eat grapes but may not drink wine, for at that time they are still working solely with grapes. When they have treaded in the vat and walked both lengthwise and laterally, they may eat grapes and drink the grape juice, for they are working with both the grapes and the wine.

§13 When a worker says: "Give my wife and my children what I would eat," or "I will give a small amount of what I have taken to eat to my wife and my children," he is not given this prerogative. For the Torah has granted this right only to a worker himself. Even when a *Nazarite* who is working with grapes says, "Give some to my wife and children," his words are of no consequence.

§14 When a worker - and his wife, his children and his slaves - were all employed to work with produce, and the worker stipulated that they - neither he nor the members of his household - should not partake of the produce, they may not partake of it.

When does the above apply? When they are past majority, because they are intellectually mature, responsible for their decisions, and willingly gave up the right the Torah granted them. If, however, the children are minors, their father cannot pledge that they will not eat, for they are not eating from his property or from what the employer grants them, but rather from what they were granted by God.