

## When is Stealing Permitted?

In this week’s portion, *Yitro*, we learn the Ten Commandments. One of them is:

לֹא תִגְנוֹב: -- *Lo tignov* -- You shall not steal. [Ex. 20:13]

### Joke: Let's hear it for the thief!

The doctor hopes you get sick.  
The dentist hopes your teeth decay.  
The lawyer hopes you run into legal problems.  
The policeman hopes you become a criminal.  
The mechanic hopes your car breaks down.  
The plumber hopes your toilet overflows.  
The landlord hopes you can never afford to buy a house.  
The military hopes your country is threatened by evil empires.  
The undertaker hopes you die soon.

Only the thief wishes you great prosperity and sound sleep.  
At last, someone who cares!

### What is “stealing”?

The Torah says here: “You shall not steal.” But what does “stealing” mean? It could mean either:

- “Don't take another's private property, material or intellectual” or
- “Don't kidnap another person” (for ransom, for enslavement, or for selling as slave).

Jewish tradition interprets it as the latter.

Reason: The 12<sup>th</sup> of Rabbi Yishmael's 13 rules of hermeneutics (how to interpret the Torah) is: When a verse is ambiguous, deduce its meaning from the context.

Now, around it are commandments that carry the death penalty. The full verse is:

You shall not murder. You shall not commit adultery. You shall not steal. You shall not bear false witness against your neighbor. [Ex. 20:13]

(False witness gets penalty reserved for defendant.)

So “You shall not steal” must refer to something that carries the death penalty. Stealing property doesn’t, but kidnapping does:

And he who steals a man, and sells him, or if he is found in his hand, he shall surely be put to death. [Ex. 21:16]

The commandment “Don't take another's private property” comes later:

You shall not steal [*Lo tignovu* -- plural], nor deal falsely, nor lie to one another... [Lev 19:11]

You shall not defraud your neighbor, nor rob him. The wages of he who is hired shall not remain with you all night until the morning. [Lev 19:13]

The context is clearly theft of money or possessions.

Talmud text on this interpretation: [Sanhedrin 86a]

From where do we know that the Torah warns us against kidnapping?

Rabbi Yoshiyah said: From the verse [in Exodus] “You will not steal.” [Ex 20:13]

Rabbi Yohanan said: From the verse [in Leviticus] “They shall not be sold as slaves.” [Lev 25:42]

Now, there is no dispute. One Master states the prohibition against kidnapping itself, and the other the prohibition against selling the kidnapped person.

Our Rabbis taught: [The Torah says in Exodus] “You will not steal” [Ex 20:13]. This refers to kidnapping -- the stealing of human beings.

You say, the Torah refers to the stealing of human beings; but perhaps it is not so, perhaps it speaks of the theft of property [or money]? I will tell you: Go and learn from the 13 principles whereby the Torah is interpreted, [one of which is that] a law is interpreted according to its context. What does the Torah speak of in that verse? Of crimes that carry capital punishment. Hence, this too refers to a crime that carries capital punishment.

[The Rabbis taught in] another Baraita: [The Torah says in Leviticus] “You [all] shall not steal”. [Lev 19:13] The Torah [there] refers to theft of property.

You say so, but perhaps it is not so, perhaps the Torah refers to the theft of human beings? I will tell you: Go and learn from the 13 principles whereby the Torah is interpreted, [one of which is that] a law is interpreted according to its context. What does the Torah speak of in these verses? It speaks of matters of money. Therefore, this, too, refers to matters of money.

**Some commandments against stealing property [Maimonides' numbering]:**

467. Don't steal [*Lo tignovu* -- plural] [Leviticus 19:11]  
 468. The court must implement punitive measures against the thief [Exodus 21:37]  
 469. Ensure your scales, weights and measures are accurate [Leviticus 19:36]  
 472. Don't move a boundary marker to steal someone's property [Deuteronomy 19:14]  
 474. Don't withhold wages or fail to repay a debt [Leviticus 19:13]  
 475. Don't covet and scheme to acquire another's possession [Exodus 20:14]  
 477. Return the robbed object or its value [Leviticus 5:23]  
 479. Return the lost object [Deuteronomy 22:1]

## Rabbis take stealing property very seriously

-There is no petty theft:

Rabbi Yoḥanan said: When a person robs his fellow even of the value of a penny, it is as though he had taken his life away from him, as it is said [in Proverbs]:

כֹּן אֶרְחוֹת כָּל-בֹּצֵעַ בֹּצֵעַ אֶת-נַפְשׁ בְּעָלָיו יָקָח

Such is the fate of all who pursue unjust gain. It takes the life [soul] of its [lawful] owner. [Proverbs 1:19]

[Bava Kamma 119a]

Strong statement, for emphasis.

-It is theft even if you think the object belongs to you – witness Rabbi Huna's story:

Once, four hundred jars of wine belonging to Rav Huna turned sour. The sages came to visit him and said, "Let the master examine his [past] actions."

He asked them, "Am I suspect in your eyes? [Do you believe what happened to me is punishment?]"

They replied, "Is the Holy One suspect of imposing judgment without justice?"

He said to them, "If anyone has heard something against me, let him speak up."

They replied, "We have heard that the master does not give his tenant his [lawful share of] vine shoots."

Rav Huna replied, "Does he leave any of them for me? He steals them all!"

They said to him, "That is exactly what the proverb says: Even if you steal [what is your own] from a thief, you are also a bit of a thief."

He said to them, "From now on, I pledge myself to give them to him."

Some say that, then and there, the vinegar turned back into wine. [Berakhot 5b]

-Theft is theft, whether the victim is Jewish or not:

The Sages said, a person should keep away from dishonesty in dealing, whether with Jew or Gentile; indeed with anyone in the marketplace. Besides, a person who steals from a Gentile will in the end steal from a Jew; a person who cheats a

Gentile will in the end cheat a Jew; a person who swears [falsely] to a Gentile will in the end swear [falsely] to a Jew; a person who acts deceitfully toward a Gentile will in the end act deceitfully toward a Jew....." [Tanna de-Vei Eliyahu]

All agree that it is biblically forbidden to steal from a non-Jew.

-Penalty for theft varies. In some cases, value of restitution must exceed value of stolen item. Torah:

When a man steals an ox or a sheep, and slaughters it or sells it, he shall pay five oxen for the ox, and four sheep for the sheep... But if what he stole, whether ox or ass or sheep, is found alive in his possession, he shall pay double. [Ex. 21:37, 22:3]

-If you catch a thief in the act, you may kill him only if you are certain he would try to kill you if caught. [Exodus 21:37-22:1]

Talmud: In those days the expectation was that the thief *would* try to kill you. [Sanhedrin 72a] Today, that may not be so, so killing him automatically is considered murder. [Maimonides, Laws of Theft 9:10-12]

-Stealing something with the intention of returning it soon is still theft.

Talmud: It is prohibited even if you intend to repay twice the value of what was stolen. [Bava Metzia 61b, Shulhan Arukh Harav, Laws of Theft 1]

-Do not buy stolen goods. [Bava Kamma 118b-119b]

-At work, do not use employer's property or time for yourself without his permission.

-Intellectual theft is also theft:

One should repeat Torah ideas in the name of the person who originally said them, for the theft of such ideas is worse than the theft of money. The soul of a Jew and the Torah are one, thus stealing Torah ideas is tantamount to wounding the soul. How great is the sin of one who repeats an explanation of a verse, or something else he has heard and does not mention the name of the person who originally said it or wrote it. [Rabbi Yeshayahu Horowitz, 17<sup>th</sup>-century Germany, in Shelah HaKadosh 183]

The ancient Sources are scrupulous about giving credit for insights. The Talmud says twice:

He who reports a saying in the name of its author brings deliverance to the world. [Megillah 15a; Hullin 104b]

This leads to cases where attribution can take longer than the saying itself, to wit [8 levels]:

Rabbi Shim'on ben Zebid said in the name of Rabbi Yitzhaq ben Tabla, who said it in the name of Rabbi Hiyya Areka, who belonged to the school of Rabbi Aha, who said it in the name of Rabbi Zera, who said it in the name of Rabbi Eleazar, who said it in the name of Rabbi Hanania, who said it in the name of Rabbi Mi'asha, on the authority of Rabbi Yehudah ben Il'ai: \_\_\_\_ [Nedarim 8b]

### -Creative interpretations of stealing:

- One who does respond to a greeting is called a robber. [Berakhot 6b]
- If a person derives benefit from this world without saying a blessing, it is as if he stole from God and the community of Israel. [Berakhot 35b]
- Stealing as a joke is prohibited, even with every intention of returning the item. [Bava Metzia 61b] Maimonides writes:  
It is forbidden to steal in jest, or to steal with the intention of returning the object or paying for it... lest one becomes addicted to stealing. [Rambam, Mishneh Torah, Theft 1:2]

-If the stolen item is returned before the victim is aware of the theft, the thief does not have to inform the victim. [Shulhan Arukh Choshen Mishpat 355:1]

-It is not theft if the owner does not mind. Examples: A tailor taking leftovers after making clothes, a carpenter taking the sawdust after making furniture [Bava Kamma 119a, Shulhan Arukh Harav, Laws of Theft 1], or someone depending on charity himself giving charity. [Tosefta, Bava Kamma 11:4]

## **Are you allowed to steal for food?**

If you or your loved ones are starving, are you allowed to steal food from those who have more than they need?

On the face of it, yes, of course: *Pikuach nefesh* says you can break any commandment to save a life, except the commandments against idolatry, sexual immorality and murder. Stealing is not on that list.

Yet I asked that question to more than one rabbi over the years and they always managed to squirm out of it without giving me a firm answer.

Rabbis are reluctant to give permission to harm somebody else.

The Talmud addresses the issue in a roundabout way:

There were stacks of barley belonging to Jews in which the Philistines were hiding, and [King David wanted to burn down the stacks to kill the Philistines and save his own life.] He raised the dilemma: What is [the law?] [Is it permitted] to save oneself [by destroying] somebody else's property?

They sent [the following answer] to him: It is prohibited to save oneself by destroying somebody else's property. But you are king, and a king may breach

the fence [of an individual] in order to form a path for himself, and none may protest his [action because he is the king]...  
[What if he intends to pay back the owner later? The Sages of Bethlehem] sent [the following reply] to him: [It says in Ezekiel] "If the wicked... gives back what he has taken by robbery ... [he shall surely live, he shall not die]." [Ezekiel 33:15]  
[This verse teaches that] even though [the robber] repays the value of the stolen item, he is nevertheless considered to be wicked, and is described as such in the verse... [Bava Kamma 60b]

Tosafot and the Rosh interpret this passage as merely requiring payment if one was forced to damage property, even though the damaging was allowed.

This passage discusses saving your *own* life with someone else's property. [מציל עצמו בממון חבירו] Indeed, if you save your own life, you must pay for the damages. But elsewhere the Talmud says that if you save another person's life, you do not have to pay. [Bava Kamma 116b] The concern is that you may decide not to save someone else's life if you had to pay for any damages done in the process. This is obviously not a concern when saving your own life.

Some contemporary rabbis say that if someone owes you money and you need that money to survive, then you may steal it from him.

## **Stealing is very common**

Talmud:

Rav Yehudah says that Rav says: Most people steal, a minority sins with regard to sexual matters, and everyone sins with malicious speech. [Bava Batra 165a]

But Rashbam softens this by saying that it doesn't mean that most people steal outright (as in shoplifting), but rather steal when they think it's their due, especially in business.

## **Conclusion**

Thou shalt not steal.

Shabbat shalom.