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***Bein Adam Le-chavero*: Ethics of Interpersonal Conduct**

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**Shiur #25: *Geneiva* and *Gezeila —* Much More than Theft**

**The Importance of the Prohibitions**

We have spent a number of lessons developing the philosophical backdrop for the Torah’s interpersonal directives. Though many of the *mitzvot* may be logically deducible, the fact that God commands us to fulfill them serves a dual purpose: this not only provides a ritual basis for that which is rational, but also extends the parameters of these laws by providing guidelines that uphold the standards of *kedusha* (holiness) that God so desperately wants us to embrace. With this in mind, when approaching the individual interpersonal *mitzvot*, it is important for us to note how the Torah defines the prohibitions and requirements; it will quickly become obvious that the directives are not only meant to guide our actions, but also to shape our religious outlook. Following the example of the verses in *Parashat Kedoshim*, we will start by discussing the prohibition of *geneiva*, commonly translated as stealing.

It is not surprising that the Torah forbids *geneiva*. It is quite evident that it is improper, possibly immoral, for anybody to steal from somebody else. Unfortunately, there are those who baulk, both in practice and in mindset, at the proscription of stealing, to the point that the Midrash claims that the descendants of Yishmael were unwilling to accept the Torah simply because it dares to forbid *geneiva* (*Eikha Rabba* 3). Notwithstanding the detractors, it is not astonishing that the Torah prohibits *geneiva*; still, it is remarkable how much prominence it gives to this seemingly obvious prohibition. The Torah mentions the injunction against stealing in the Ten Commandments, “*Lo tignov*;” even though our Sages (*Sanhedrin* 86a) explain that it in fact refers to kidnapping; it is significant that the root of *geneiva* appears in the Decalogue.

Moreover, we also find “You shall not steal” (this time “*Lo tignovu*,” in the plural) as the first in a long list of interpersonal directives in *Parashat Kedoshim* (*Vayikra* 19:11), where it seems to be an essential step in creating a holy people. Furthermore, only a few verses later, the prohibition seems to be restated with slightly different terminology. It is contained in a chapter that mentions numerous different forbidden actions which seem to be akin to *geneiva*, such as the prohibitions of cheating workers or not paying them on time. What does this mean?

**The Verses and Their Message**

A careful look at the sources of the prohibitions of different types of theftindicates that the Torah does much more than merely forbid stealing. As in many situations, in order to gain a clearer picture of the nature of these concepts, we must analyze the verses in context and with an open mind.

In the first chapter of *Parashat Kedoshim,* which famously opens with *“Kedoshim tihyu*,” the imperative to sanctify one’s life ([see lessons 21](http://www.vbm-torah.org/archive/chavero/21chavero.htm)and [22](http://www.vbm-torah.org/archive/chavero/22chavero.htm)), we find a whole slew of interpersonal *mitzvot* which express the elements of *kedusha* in one’s life. The first interpersonal mitzva mentioned in this context is the prohibition of stealing, with the language *“Lo tignovu,*” alongside prohibitions of falsehood. A couple of verses later we find the seemingly similar prohibition of *gezeila* (commonly translated as robbery) amongst the prohibitions of mistreating workers.

You shall not steal, you shall not deny falsely and you shall not lie to one another: You shall not swear falsely by My Name, thereby desecrating the name of your God; I am God. You shall not cheat your fellow and you shall not rob (*lo tigzol)*; you shall not keep a worker’s wage with you until morning: (*Vayikra* 19:11-13)

A careful analysis of the verses seems to invite a number of questions. For instance, what are the differences between the various prohibitions mentioned, and why are they all necessary? The first thing that the commentators comment on is the placement of the prohibitions. They wonder why they appear in *Kedoshim* altogether, specifically after the laws of leaving parts of the harvest to the poor. Regarding the latter issue, the Ibn Ezra comments:

“You shall not steal” follows the laws of the gifts to the poor in order to stress the gravity of the crime of stealing. If one is commanded to give to the poor from that which is his, certainly he is forbidden to rob his fellow man.

The terminology of the prohibitions is also of extreme importance. At times, the concept of theft is referred to as *geneiva*; at others, it is referred to as *gezeila*. Due to the importance of defining these terms adequately and appropriately, we will use the terms discussed in the Torah in order to portray the distinction between the two separate prohibitions.

The Talmud (*Bava Kamma* 79b) defines the difference between *gezeila* and *geneiva* thusly: *gezeila* is a public act of thievery, wherein one plucks an object out of the hands of another with his awareness. *Geneiva,* on the other hand, is taking from another in secrecy, by the concealment of the night or through a devised scheme. This leads to a distinction between two types of thieves, the *gazlan* and *ganav*, respectively. The Talmud then explains why a *ganav* is treated more severely than a *gazlan*, being obligated to pay double if caught red-handed.

The disciples of Rabban Yochanan ben Zakkai asked him why the Torah treats a *ganav* more severely than on a *gazlan*. He replied: “The latter equates the honor of the servant with the honor of the Master, while the former does not equate the honor of the servant with the honor of the Master.”

The simple understanding of this passage is as follows: as far as the act of theft is concerned, both *geneiva* and *gezeila* are identical, but they differ in the degree of the audacity of the method chosen for this criminal endeavor. In either case, the Master (God) sees the evil that one is committing; however, the *ganav* compounds his error by demonstrating that he is worried about the servant (human beings) and what he may do. The *gazlan*, on the other hand, is simply and universally heedless. Moreover, other passages seem to indicate that the prohibition of *geneiva* even includes acts that do not include a loss of money for the other.

 The Talmud (*Bava Metzia* 61a-b) deals with the Torah’s list of similar restrictions, all of which forbid the taking of other people’s money illegally. The Talmud asks why the Torah delineates so many distinct prohibitions rooted in not taking advantage of others monetarily, such as usury (*ribbit*), overcharging (*onaa*) and robbery.

After a lengthy discussion, the Talmud states that even though many of the prohibitions could in fact be derived from each other, some of them could not. The underlying assumption of the Talmud seems to be that all of these prohibitions are really rooted in the monetary loss caused by the perpetrator. However, the Talmud then continues and asks the same question about *geneiva;* why do we not derive *geneiva* from *ribbit* and *onaa*? The Talmud tells us that the added prohibition comes to include injunctions against acts we might never have thought to forbid.

What is the need for the injunction “*Lo tignovu”?* In order to teach us that one may not steal even in order to cause pain to another and that one may not steal even in order to incur a double penalty.

The Talmud introduces a new level of the prohibition of *geneiva*. The Torah forbids taking another’s property secretly not only for nefarious, selfish ends, but even if one has no intention of causing a monetary loss. Taking another’s property in order to annoy them, even with the intent to return it, is included. However, even more astoundingly, the act of *geneiva* is forbidden even when one knows a friend is in need of money and unwilling to take charity. A possible means of benefiting the other is to steal their possessions and to be caught red-handed; then one is obligated to pay back double the value. Though the motives are positive, we learn, the act of *geneiva* is not to be permitted in any way, shape or form.

What is the gravity of the prohibition of *geneiva*? Let us return to the uniqueness of the Torah’s description of the prohibition. The commentators take note of the various different prohibitions of dishonesty mentioned in the verses prohibiting *geneiva*. Rashi (*Vayikra* 19:11) comments:

If you steal, you will come to deny the truth; then you will lie and eventually perjure yourself.

The commentatorRav Chayim Paltiel (*Vayikra* 19:11) takes this idea one step further, explaining the connection of the prohibition of *geneiva* to the previously mentioned requirements to leave part of the yield for the poor. One who fails to meet his responsibilities will enter into a life of deception and dishonesty, leading to *geneiva* and various lies.

Not everyone involved in *geneiva* begins as a thief; some evolve into it. A little act of pilfering ushers one into a world of deception that is very difficult to get out of. This is what the Torah wants us to be aware of. The warning of the Mishna in *Avot* (4:2), “One sin leads to another sin,” is very true regarding *geneiva*.

***Geneiva* in Plural**

 The commentators also question why the prohibition of *geneiva* is stated in the plural, “*Lo tignovu.*” Many explain that the basis of the Talmud’s interpretation of stealing in order to annoy others or to pay double is in fact due to the plural language. This is indicative of an expansive prohibition, which indicates the uniqueness of this prohibition.

The commentators take note of the opinion of Ben Bag-Bag. This Tanna deals with the case of one who sees an item of his (which has been taken without his knowledge) on his neighbor’s property. May he sneak (see Rashi *ad loc*.) into the other’s yard, or is it preferable to “break his teeth,” i.e. to confront and challenge him directly?

Ben Bag-Bag said: “Do not enter into your fellow's premises for the purpose of appropriating without his knowledge anything, even if it belongs to you, lest you appear to him as a thief. You may, however, break his teeth and tell him, ‘I am taking possession of what is mine.’”

(*Bava Kamma* 27b)

Though Ben Bag-Bag’s position, preferring confrontation to stealthy retrieval, is disputed, the Or Ha-chayim (*Vayikra* 19:11) points out that the simple understanding of the verse may come to include a prohibition of stealing back one’s own property. According to the idea seen in these sources, the prohibition of *geneiva* has almost no exceptions. It precludes not only the result of taking another’s money, but even the method, even when the money is not an issue.

This idea is expressed very clearly by the MinchatChinnukh (Mitzva 228). He explains that the prohibition of theft is expansive because it is designed to prevent one from developing a character flaw reflected and reinforced by acts of *geneiva*:

From the fact that the Torah prohibits stealing as a prank and stealing one’s own property, it seems clear that the Torah does not forbid all forms of theft simply to prevent one from taking that which belongs to others. Rather, it is the expression of a despicable trait that the Torah proscribes. Thus, even when one is allowed to take from another by right, doing so stealthily is prohibited… so that one will not acquire this terrible trait.

These ideas are presented by Rav Hirsch in his commentary on the Torah (*Vayikra* 19:11-12). He argues that the verses here are not telling one not to steal, but rather not to be involved in anything close to it; these are the social laws for a holy nation:

Had Scripture stated here “*Lo tignov*,” these words would have addressed the individual, as in the Ten Commandments. The discussion, then, would have been of actual stealing, lying and swearing falsely. However, the prohibition against these has no relation to the chapter of holiness. A person is far from being holy if he simply refrains from stealing or swearing falsely….

Rather, the discussion here is of those types of theft, lies and false oaths that can permeate the entire business life and social life of the people; indeed, these may become dominant national characteristics. Because everyone takes them so lightly, these offenses lose the stigma of being a crime, and they are even considered to be a form of art, deserving of praise and respect. Nevertheless, in God’s sight, they are low and despicable; they are truly theft, lies and false oaths. It is against such offenses that God’s Word warns here; He seeks to sanctify His people in business and social life.

**A Crime against Society and a Societal Crime**

The Keli Yakar (19:11) points out that there is a textual difference between *geneiva* and *gezeila*: “You shall not steal, you shall not deny falsely and you shall not lie to one another” versus “You shall not cheat your fellow and you shall not rob.” In the former case, the Torah does not speak of “your fellow,” while in the latter case it does. This, the Keli Yakar explains, is because the *ganav* attempts to “steal from the mind of God” by acting as if God does not see, thus making him a universal offender, but the *gazlan* is focused only on wronging his fellow man.

One might offer another explanation: the *ganav* steals not only from a specific individual whom he victimizes; he also steals from society. In a society of deception, there can be no sense of security. People start to lose trust in each other.

Rav Hirsch explains the expansive plural language in a way that underscores the importance of the prohibition of *geneiva,* strengthening our resolve for honesty

*“Lo tignovu” —* do not act with cunning to gain unlawful advantage. This is the essence of *geneiva* in the broader sense of the term… The basic character of *geneiva* is that of stealth and illegality. Hence, if one cunningly and unlawfully extracts the equivalent of even a penny from another and expropriates it for himself, he violates “*Lo tignovu*.”

Our Sages in *Torat Kohanim* go even further in their interpretation of “*Lo tignovu.”* Not even as a practical joke, to tease, may we take something that does not belong to us, nor even with the intention of paying double or four- or five-fold. To avoid even the appearance of *geneiva,* we may not even “steal” back from the thief that which belongs to us. And so we find in *Choshen Mishpat* (348:1) regarding stealing as a joke or just to annoy another temporarily: it is forbidden, in order to avoid becoming acquainted with robbery.

What applies to business dealings applies also to social life. An upright Jew acquires friends and earns their affection, but he does not deceive them. He does not employ deceit to fool others; he does not deceive them — through words or deeds — in order to gain undeserved gratitude.

Thus, the prohibition of stealing is not merely a negative command, but a positive command, an obligation to create a just society where stealing of any kind is not tolerated. Most of are not involved in outright theft or deception, but here and there we may not be as careful as we should be.

Rav Soloveitchik (*Shiurei Ha-Rav, Sanhedrin*) is quoted as explaining that many of the additional prohibitions of *geneiva* are forbidden even when no money is taken because *geneiva* represents a a cruel trait. He points to the language of the Rambam *(Hilkhot Geneiva* 1:2), who rules that it is forbidden to steal even when no money is actually taken from the other “so one does not become accustomed to this practice.”

All of us may freely recite the text of *Vidui*, the alphabetical confession which unequivocally states “We have robbed.” We have caused losses to others, even in little things, such as costing a driver in fuel and time by crossing illegally in front of his vehicle. Though we may not openly steal, we do have to wonder whether our practices here and there have any connection to this “cruel trait” which may infect our personalities.

It is not surprising that the Torah (*Bereishit* 6:11, 13) describes the iniquity of the Generation of the Flood, which leads to its destruction, as *chamas*, literally translated by some commentators as robbery. The Generation of the Flood was genuinely evil, but it was a society of theft that could not be tolerated by God, and the Flood was called for in order for humanity to begin anew.

Understanding that stealing is a societal ill may help us explain how the commentators state that the prohibition extends even to people who do not perform the actual act of theft. Certainly, the prohibitions apply to individuals who split the robber’s take, including people who choose to shop at places that are known to cheat others or are feared to carry stolen goods. The Ibn Ezra (*Vayikra* 19:11) explains that the plural language comes to include even one who remains silent upon witnessing an act of stealing, as such a person is an enabler, an accessory to a crime which unravels the fabric of the culture in the community.

The fact that the crime goes beyond the property stolen is reflected in the process of *teshuva,* repentance, for stealing. The Rambam (*Hilkhot Teshuva* 2:9-10) states that in order to repent for one’s act of robbery, it is insufficient to merely return the money. One must appease the victim, until the latter is ready to forgive the perpetrator. Based on our explanation that robbery is about much more than the money, there is an inherent affront to one’s fellow, an affront for which one cannot make monetary compensation. Obviously, the property must be returned, but true absolution is dependent on the act of showing one’s remorse and one’s resolve never to repeat such acts.

**The Temptation of *Gezeila***

Our Sages tell us that the drive and temptation to commit thievery is both unparalleled and ubiquitous. They declared that “Most people are involved in stealing” (*Bava Batra* 165a). On the other hand, the Talmud tells us that the righteous take extra care of their possessions because “they will not lay their hands on stolen property” *(Chullin 92a).*

These statements seem to indicate that without special care, everyone is bound to violate the prohibitions of *gezeila* and *geneiva*. Only special concern for the dividing line between one’s possessions and those of others will allow one to keep his hands off others’ property. Understanding the aspect of holiness in the prohibitions of *gezeila* and *geneiva* will hopefully drive this point home.

**Practical Applications**

When one thinks about the standards of morality in the Torah’s expansive prohibitions of *gezeila* and *geneiva,* one realizes that many daily *halakhot* have to be dealt with within the context of a heightened sense of justice and distaste for theft. The understanding of the sanctity of others’ possessions is an expression of living a lofty lifestyle; it is realized in the nitty-gritty of actions related to avoiding *gezeila* and *geneiva*. Some practical applications that we might not think about may serve to bring the point home.

Halakha states that “one who borrows without permission is deemed a *gazlan*” (*CM* 292:1). Though there may be an exception to this rule regarding objects of minimal value where the general custom is not to begrudge others’ use, especially when the owner is not around and is not known to be unusually restrictive regarding his property, the law is still significant.

The Shulchan Arukh Ha-Rav (*Hilkhot Metzia* 4) is of the opinion that even if one is thoroughly convinced that his friend would permit him to borrow his object, nevertheless, without explicit permission, it is forbidden to do so. Though it is customary to be lenient in this situation, in which one is convinced beyond a shadow of a doubt that his friend would permit his using the object, relying on the opinion of the Shakh (*CM* 358:1), the extreme care which we take with other people’s possessions is a sign of the holy aspect we attach to interpersonal relations.

This is not the venue for an elaborate discussion of the various questions that arise in everyday life regarding the parameters of *geneiva* and *gezeila*. The Torah’s placement of the prohibitions in the context of the Jewish people’s mandate to “be holy” is an expression of the Torah’s attitude towards other people’s possessions. However, independent of the specifics regarding the property of others, part and parcel of the biblical imperative is to ensure that one does not lead a life of deception.

The character of a *ganav* is so abhorrent in the eyes of God that even acts of *geneiva* done to benefit another are prohibited. The Torah guides us to generate and cultivate not only a personality of care for others, but also a personality of truthfulness and straightforwardness. Undisclosed motives, even for others’ benefit, are not holy, and they do not reflect the prominence which the Torah assigns to the prohibition of *geneiva* among the interpersonal laws of holiness.

In next week’s lesson, we will start to see how the Torah’s plural language of “*Lo tignovu*” includes even *geneivat daat* (literally, “theft of knowledge”), which like classical *geneiva*, is much more expansive than we might think. We will begin with the characterization of a Torah scholar as being impeccably straightforward.