

# Getting Away with Theft for the Sake of Teshuvah • Shabbat Shuvah 5778

## **1. *Punishment Fails. Rehabilitation Works*, James Gilligan, New York Times**

If any other institutions in America were as unsuccessful in achieving their ostensible purpose as our prisons are, we would shut them down tomorrow. Two-thirds of prisoners reoffend within three years of leaving prison, often with a more serious and violent offense... How could we change our prison system to make it both more effective and less expensive?

We would need to begin by recognizing the difference between punishment and restraint. When people are dangerous to themselves or others, we restrain them – whether they are children or adults. But that is altogether different from gratuitously inflicting pain on them for the sake of revenge or to “teach them a lesson” ... so the only rational purpose for a prison is to restrain those who are violent from inflicting harm on themselves or others, while we help them to change their behavior from that pattern to one that is nonviolent and even constructive, so that they can return to the community.

## **2. *Teshuva and its Limits*, Simon Jackson**

The ability of a former criminal to begin his life afresh is an important social principle, which the courts have recognized throughout the generations. The possibility that a person’s past sins may revisit and haunt him many years after their commission, even after the person has changed his lifestyle, sends the wrong message to would-be penitents.

However, beyond the wish to enable a person to turn over a new leaf in his life, the danger may exist that others in society may receive the wrong message: they may misconstrue society’s recognition of a person’s ability to change, and regard it as an act which undermines the severity of their misdeed. Society’s willingness to forgive and forget may be interpreted as a weakness and a willingness to compromise on its principles. The desire to protect the individual is thus in danger of injuring the community as a whole.

- Why is *teshuvah* so hard? What gets in our way?
- What are some ways that we might encourage *teshuvah*? With family and friends? With society as a whole?
- Is there a point where the value of individual *teshuvah* might compete with communal standards that deter crime? Can you think of examples where this might be difficult?

### 3. Leviticus 5:21-23

[21] When a person sins and commits a trespass against the Eternal by dealing deceitfully with their fellow in the matter of a deposit or a pledge, or through robbery, or by defrauding their fellow, [22] or by finding something lost and lying about it... [23] when one has thus sinned, realizing their guilt, they must return what they got through robbery...

[21] נָפֶשׁ כִּי תִחְטָא וּמַעֲלָה מַעַל בֵּיהוָה וְכַחֵשׁ בְּעַמִּיתוֹ בְּפִקְדוֹן אֶו־בְּתִשּׁוּמַת יָד אֶו בְּגִזְל אֶו עָשָׂק אֶת־עַמִּיתוֹ: [22] אֶו־מִצָּא  
אֶבְדָּה וְכַחֵשׁ בָּהּ... [23] וְהָיָה כִּי־יִחְטָא וְאָשָׁם וְהָשִׁיב אֶת־הַגִּזְלָה אֲשֶׁר גָּזַל

### 4. Babylonian Talmud: *Gittin 55a*

Rabbi Yochanan testified about a stolen beam that was already built into a building, and said that the injured party receives the value of the beam but not the beam itself. With regard to this, the Sages taught: If one robbed another of a beam and built it into a building, Beit Shammai says: "Let him tear down the whole house and return the beam to its owner" And Beit Hillel says: "The injured party receives only the value of the beam but not the beam itself, due to *Takanat Ha-Shavin* (an ordinance instituted for the sake of the penitent)."

תנו רבנן: גזל מריש ובנאו בבירה, ב"ש אומרים: מקעקע כל הבירה כולה ומחזיר מריש לבעליו, וב"ה אומרים: אין לו אלא דמי מריש בלבד, משום תקנת השבין.

- How do Rabbi Yochanan and Beit Hillel change what is taught in Leviticus?
- What values do you think Beit Hillel might be working with? Why would they want to change the Torah's law?
- What do you think is "the greater good," for the rabbis?

### 5. Babylonian Talmud: *Bava Kamma 94b*

The Sages teach: With regard to robbers or usurers that returned either the stolen item or the interest to the one from whom they took it, one should not accept it from them. And with regard to one who *does* accept it from them, the Sages are displeased with them, since by doing so he discourages those who wish to repent.

Rabbi Yochanan says... There was an incident with regard to one man who desired to repent after having been a thief for many years. His wife said to him: "Empty one! [*reika*] If you repent you will have to return all the stolen items to their rightful owners, and even the belt that you are wearing is not yours!" And he refrained and did not repent.

At that time, the Sages said: With regard to robbers or usurers that returned either the stolen item or the interest to the one from whom they took it, one should not accept it from them. And concerning one who does accept it from them, the Sages are displeased with them.

תנו רבנן הגזלנין ומלוי ברבית שהחזירו אין מקבלין מהן והמקבל מהן אין רוח חכמים נוחה הימנו אמר רבי יוחנן בימי רבי נשנית משנה זו דתניא מעשה באדם אחד שבקש לעשות תשובה א"ל אשתו ריקה אם אתה עושה תשובה אפילו אבנט אינו שלך ונמנע ולא עשה תשובה באותה שעה אמרו הגזלנין ומלוי רביות שהחזירו אין מקבלין מהם והמקבל מהם אין רוח חכמים נוחה הימנו