

על פי התורה אשר יורוך

# Yorucha

## weekly overview

A TRANSCRIPTION OF THE YORUCHA CURRICULUM WEEKLY OVERVIEW VIDEO

### GEZEL PART 2

## Practical Applications of the Prohibition of Stealing

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### Alternative Forms of Gezel:

#### FORCED COMPROMISE

It is forbidden to withhold money or property for the purpose of forcing a compromise. Doing so constitutes two violations:

1. The initial delay of payment is a violation of the rabbinical obligation to pay debts as soon as one can. This is derived from the *pasuk* "leich v'shov."
2. Secondly, just as one violates *Lo Sachmod* when pressuring another to agree to a sale, so too, one certainly violates *Lo Sachmod* when pressuring someone to agree to a compromise. If the debt in question was for wages, it is possible that one also violates *Lo Sa'ashok*, even though *mechila* is obtained.

#### MECHILA DUE TO EMBARRASSMENT

The Sefer Chasidim (316) writes that one who visits [even] a wealthy person and overstays his welcome because the owner is embarrassed to evict him, the guest has thus violated *gezel bidei shamayim*. He reasons that if it is forbidden to lend another

Jew money with interest (due to the prohibition of *ribbis*) even if the interest is being paid willingly, certainly it is forbidden to remain as a guest against the will of the host. Sefer Chasidim says that this is even more severe than actual *gezel* since the owner would certainly refuse to accept payment from his guest, and, as such, the guest can never compensate him.

#### EMPLOYEES

##### ● Using items that belong to the company

An employee that uses items that belong to the company can easily be in violation of *gezel*. Although, in most cases, it would be entirely permitted for an employee to use the pen, take a paper clip, or print one or two pages for personal use since the employer is likely not *makpid* on these minor things, however, if taken too far at a certain point it would be considered *gezel*. Even if the employer is aware it may be he is simply reticent to say anything, which would constitute *mochel machmas bushah*. As mentioned above, such *mechila* would not be valid, at least not concerning the *bidei shamayim* obligations. Certainly, taking more valuable items for personal use would be forbidden.

- **Using work time properly**

With regard to use of time, the employee must be *medakdek* to work the entire time for which he was hired. He may not waste time or do his own work during work hours.

Likewise, he must provide high quality work to the best of his ability. We see from the Shulchan Aruch that as a general rule, an employee must take steps to ensure he will be capable of working properly, e.g. coming to work refreshed, well-fed, and with a positive attitude. One who is not careful about these matters will potentially violate *gezel* with regard to the quality of the work performed.

There are exceptions. For example, it is obvious that if one's child gets married it is acceptable for him to stay up late celebrating until the end of the wedding. Also, in certain professions, it is understood that an employee may have to take an additional job at night in order to earn a sufficient livelihood. However, where it isn't called for, it may be violation of *gezel* when the employee underperforms in his duties.

## GEZEL SHEINAH

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The Shevet HaLevi (7:224) notes that logically, one cannot actually violate *gezel* through "stealing" another's sleep, because according to the halachic definition, *gezel* refers to the appropriation of an item [or value] from another and bringing it into one's own possession, unlike sleep which is intangible. However, the Shevet HaLevi stresses that making loud noises that disturbs other people's sleep is forbidden because it violates *ona'as devarim*, *v'ahavta l're'acha kamocha*, and the rules of *nizkei shecheinim*.

## SHO'EL AND SOCHEIR SHELO MIDA'AS

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It is forbidden to borrow or rent items without permission because it constitutes *gezel*. According to the Ketzos it is biblically forbidden, but according

to the Nesivos it is only rabbinically forbidden.

Besides the violation involved, such a borrower or renter also has greater monetary obligations than a standard borrower or renter if the item died or got damaged, stolen, or lost. However, Shulchan Aruch (O.C. 14:4) rules that it is permitted to borrow some mitzvah items because it may be assumed a person does not mind another Jew borrowing these items in order to perform a mitzvah.

Essentially, the guiding principle is that whenever most people in that specific time and place do not mind letting others use those types of items for a mitzvah [due to the minimal chance of damage], it would be permitted to borrow it without asking.

## COPYRIGHT

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The consensus of the *poskim* is that one does have ownership over their intellectual property, and one may not cause a loss to the owner by taking their intellectual property. According to Rav Moshe Feinstein, such a practice would appear to be actual *gezel*. The Kitzur Shulchan Aruch and Chafetz Chaim seem to take this approach, as well. Others argue that it is *assur* due to *dina d'malchusa dina* (Bais Yitzchak) or *hasagas gevul* and ruining someone else's *parnassah* (Chasam Sofer). Thus, all of these *poskim* agree that one may not use or copy someone else's intellectual property in a manner that will harm the producer or the publisher (e.g. earn a profit from it, plagiarize it).

However, Rav Shmuel Vozner writes that a student may photocopy one page for his learning. Pischei Choshen is not entirely convinced of this, though he concedes that if one purchases a *sefer*, it is usually assumed that permission is given to lend it to another temporarily. Consequently, allowing someone to photocopy a page or two should also be permitted. The Pischei Choshen also comments that if the material in question is already publicly available (such as music on the radio that anyone can record off the radio), then it may be permitted due to a concept known as *zuto shel yam*.