

## Robbery

Ref: *Sefer Nezikin, Hilchot Gezeilah, Chapters 1, 2, 6*



Not to commit robbery.<sup>1</sup>

Not to withhold a personal due.<sup>2</sup>

*Taavah* (desire)<sup>4</sup> leads to *chimud* (coveting)<sup>3</sup>, which leads to *gezel* (robbery)<sup>1</sup> which leads to *shfichut damim* (murder).

### Reminder

Pack on Misbehaviour



A robber takes by force.

It is forbidden to steal even the slightest amount. However, if it is less than a *prutah*, he is not obliged to return it. If it is more **1 prutah** he is obliged to return the article.

No *malkot* are given, even though it is a transgression of a negative command, because it can be corrected with a positive command (i.e. return the robbed article or repay).

### Reminder

Pack on Punishment for *Sefer Nezikin*



If the article has been lost or damaged, the robber must pay the value of the article (i.e. **1x**) – as opposed to a thief who must pay **2x**.

### Reminder

Key Facts *Sefer Nezikin*



If one withholds someone else's belongings forcefully, this is called *oshek*.

*Chomed* (coveting) and *taavah* (desiring someone else's property) are both transgression but there is no punishment, as no actions are involved.

*Chomed* is when one wants someone else's article and one tries to persuade or force the other to sell it to him even at a very high price. Violation only takes place when one takes the article (i.e. when successful).

*Taavah* violation takes place when a person starts to calculate how to translate his desire into action.



To return the stolen article.<sup>5</sup>

ARTICLE REMAINS UNCHANGED

When the article remains unchanged, it should be returned to the owner whether he despaired or not. If article increased in value, article is returned to owner who benefits from this increase.

ARTICLE CHANGED

If the article underwent a change while in robber's possessions, the robber acquires it.

▲ (Even when owner has not despaired of its recovery.) If he repays, he has to repay the value of article at the time of the robbery – *Mipi Hashmuah*.

[A change which can revert to original state is not called a change. (E.g. stole boards and knocked in a few nails to make it into a simple chest. The chest can be undone and boards returned.)]

#### INDIRECT ACTS OF 'ROBBERY'

Indirect acts which could be regarded as robbery but are not. (see below)

However in some cases the *Rabanan* did regard them as robbery.

The laws of retuning the lost articles still apply.

However it depends if owner has given up hope of retrieving. This is strengthened even further if article has passed to a third party.

e.g. A river washes away articles and someone found them.

Someone took by mistake articles which he thought were his, and his were taken by someone else.

Dovecotes. Males of one owner may draw females of another owner or vice versa. Or with other birds or animals.

📖 *Rabanim* made rules to try and prevent this i.e.

Not to send doves into flight in a settled area.

Not to snare doves within *4 mil* of a settled area etc. But this area is much greater if there are vineyards etc because these owners may also have doves.

- Gambling

📖 *Rabanim* classified this as robbery (i.e. taking money for nothing) – and wasting time.

- Snares for beasts etc

📖 *Derabanan* if a second party takes the trapped animal this is regarded as robbery.

Flowing rivers and wells belong to everyone.

- Bees

Unlike chickens, bees are not considered as private property.

📖 *Derabanan* they are private property, and one has to return them to owners if they come into ones domain.

With regard to these cases *Derabanan*, a person in possession of these 'robbed' articles, cannot have them expropriated by judges. (Law is more lenient.)

#### 🔔 Reminder

Pack on Expropriation of Property

