



לא תוכל להתעלם

“You May Not Ignore It”

The Laws of Returning Found Items

■ Regulation, Justice, Kindness

The weekly Torah portion of Ki Tetze abounds in various interesting commandments. These include the ban on cross-dressing, sending away the mother bird before taking her eggs, building a fence on one’s roof, and many more. In this lesson, we will concentrate on the mitzvah of returning a found object.

Let us begin with two stories from the Talmud that illustrate, in the context of this mitzvah, the extraordinary ethical heights that our Sages attained. The first one is from the Medrash (D’varim Rabba 3, and in abbreviated form in the Jerusalem Talmud, D’mai 1,3):

Rabbi Pinchas ben Yair lived in a city in the southern region of the Land of Israel. It happened that two poor people arrived to try to make a living there. They had two *se’ahs*’ worth of barley, which they deposited with Rabbi Pinchas – and later forgot them there. Rabbi Pinchas ben Yair planted the barley, harvested it, and stored it, repeating the process for several years and amassing a large profit.

After seven years, the two poor men returned and demanded their barley back. Rabbi Pinchas recognized them and said, “Bring camels and donkeys, for you will need them to cart away all your treasure...”

The second story is about Rabbi Chanina ben Dosa (Taanit 25a):



A man passed by Rabbi Chanina's house and left some chickens there. Rabbi Chanina's wife found the chickens, and her husband told her, "Don't eat their eggs." But the eggs kept piling up, to the consternation of Rabbi Chanina and his wife, until he finally sold the chickens and the eggs, and bought goats with the money he made.

After a while, the man passed by Rabbi Chanina's house and told his friend, "I once left some chickens here." Rabbi Chanina heard him and asked him, "Do you remember any identifying sign on the chickens?" The man mentioned such a sign, and Rabbi Chanina gave him the goats that he had purchased.

The two "losers" in this story – the owners of the barley and the chickens – were fortunate to have lost their objects to such righteous rabbis, who returned not only the lost items, but also the profits that resulted from them. Not only that, but the rabbis did not charge them for their efforts, even though they would have been well within their rights to do so.

The Torah does not require that we meet the high ethical standards set by these two giants. Hashem only requires that when we encounter a lost object, we not ignore it or make believe that we do not see it. As is written:

לֹא תִרְאֶה אֶת שׂוֹר אֲחִיךָ אוֹ אֶת שֵׂי וְנִדְחִים וְהִתְעַלְמָתָּ מֵהֶם,
הַשֹּׁב תְּשִׁיבֵם לְאֲחִיךָ.

*You shall not see your brother's ox or sheep go astray,
and ignore them;
you must surely return them to your brother.* (D'varim 22,1)

The law in most countries demands less than the Torah demands of the Nation of Israel. Secular law states that a finder is permitted to ignore the object, and only if he actually picks it up must he deposit it with the police or make other efforts to find the owner.

There are thus three levels: The law of the nations strives simply to instill order among people so that chaos will not reign. It thus makes the most minimal demands. Torah law, on the other hand, strives to raise people up to the level of real "justice," and as such, we are obligated to restore a misplaced item to its owner as soon as we see it.

The third and highest level is that of the truly pious, those who wish to surpass mere "justice." They seek to do "kindness" to others – even at their own expense.



The motivation behind secular law is the personal benefit of each individual, dictating the need for order and regulations. A perfect example is the system of traffic lights, designed simply to ensure that everyone gets a turn and that traffic flows smoothly without collisions or undue delays.

The Torah, on the other hand, is motivated by the desire for “ethical life,” one that uplifts man past his simple personal needs, to a life of justice.

But the desire of the truly righteous reaches even beyond that. His is the yearning to be like G-d, to act with kindness and compassion just like the Creator – kindness that requires nothing in return. It is just like the sun that gives off almost infinite energy, in the form of warmth and light, with no rest; would anyone dream of trying to repay the sun?!

The levels, from bottom up, are thus:

1. Order
2. Justice
3. Kindness and Compassion

We find a similar gradation in the commandment to “*Love your neighbor as yourself*” (Vayikra 19,18). We read in the Talmud that Hillel the Elder explains the meaning of this commandment to the Gentile who approaches him: “What is hateful to you, do not do to your friend.” But, is that really what this means? Is “loving your neighbor” reduced to merely not hurting him?

According to what we learned above, the explanation is clear. Hillel was speaking to a Gentile, in a language that he could understand: “It’s all about personal benefit. In order for you not to be hurt, don’t hurt others.”

But the Torah itself was speaking on the higher level that it demands for us. Personal benefit is not enough; one must strive for much more, for a truly ethical life. When things are good for you, try to make them good for others as well. Increase the circle of goodness, not just for yourself but for the others around you as well.

And the highest level – above what the Torah demands, and certainly higher than what Hillel explained to the Gentile – is that of the truly pious, who are willing to endure difficulties so that others will benefit.



■ Ignoring

Let us return to what the Torah demands of us “regular” people. Our Sages learned, via the tradition of the Oral Law, that there exist exceptional cases in which it is permitted to “ignore” a lost object. The Talmud notes three such cases, which we will list here in order of descending importance:

1. The finder is a Cohen (priest) and the object is inside a cemetery, where a Cohen is not permitted to enter.
2. Returning the object is liable to cost the finder more money than the object is worth.
3. Returning the object is liable to cause humiliation to the finder.

We will elaborate on these cases later, but for now let us understand the principle behind the exemptions. The idea is that the Torah obligates the finder to invest efforts into returning the object – but does not obligate him to bear a financial loss, or to forego his own honor, or to violate other Torah commandments in the process.

Why not? Why is the commandment to return lost items suspended in these cases? Let us delve further into the depth of the matter.

When a person loses something, and his father has lost something, and his rabbi, and his friend – whose should he try to find first? The answer is that he must first deal with his own loss. The Talmud learns this law from the following verse:

אָפֶס כִּי לֹא יִהְיֶה בְּךָ אֶבְיוֹן...

There shall be no poor among you... (D'varim 15,4)

From this verse of blessing, the Sages derive: “Your lost object comes before that of others” (Bava Metzia 33a). This teaching emphasizes that the blessing to Israel is, first and foremost, that **you**, the individual, should not be poor – meaning that your property takes precedence over that of others. Just as adults on an airplane know that in an emergency, they must grab air masks for themselves before trying to do the same for their children, so too, one must ensure that he himself does not fall into poverty, and only then can he help others.

We find a similar concept in the Halakhic principle that stipulates the priorities for giving charity:

“When you lend money to any of my people, to the poor with you”

(Sh'mot 22,24) - **this teaches that if the choice lies between ... the poor**



of your city and the poor of another city, the poor of your own town are given priority. (Bava Metziah 71a)

We see again that the “closer circles” precede those that are further away. What can be closer than one’s own needs? Our own lost objects therefore take precedence even over those of our father and teacher.

Let us proceed even deeper.

The Torah, in commanding us to return lost objects, gives this example: If you see your friend’s ox roaming or running around with abandon, you can assume your friend has lost it. In order to catch it and then return it to its owner, you will certainly have to stop what you are doing and invest time and energy, adding up to a monetary loss for you. In the spirit of what we said above, it would seem that you are not obligated to do so - for why should you cost yourself money in order to help your friend, if your own property comes first?

The solution is to have the owner of the lost object pay the finder back for all his expenses.

The question then arises of itself: What happens if the expenses are more than the worth of the object? The answer is that since the owner would certainly not want to pay for his lost object more than it is worth, the finder is exempt and may ignore his find.

And what happens if a very respectable, well-dressed man finds a pile of coals? Must he dirty his clothes and himself by gathering up the coals in order to fulfill the commandment of returning a lost item? It depends: Would the finder agree to get down on his hands and knees if it were his own coals that he found? If to recover his own coals he would dirty himself, he must do the same for his friend; if not, he is exempt from dealing with someone else’s lost coals.

That is to say, an injury to one’s dignity is sufficient justification for exemption from the mitzvah of returning a lost object.

The Sages found a clear indication that one is exempt for the above reasons, based on a comparison between the two Torah passages that instruct us to return lost objects: a verse from Parashat Mishpatim, and another from Ki Tetze. In Mishpatim we read:

כִּי תִפְגַּע שׁוֹר אִיבָהּ אוֹ חֲמֹרוֹ תֵּעָה הַשָּׂב תְּשִׁיבֵנּוּ לוֹ.

When you encounter your enemy’s ox or donkey straying, return it to him. (Sh’mot 23,4)



The point is very clear: “If you see this, do that.” But in Parashat Ki Tetze, the wording is much more convoluted:

לא תראה את שור אחיך או את שׂוֹן נִדְחִים וְהִתְעַלְמַת מֵהֶם...

*You shall not see your brother's ox or sheep go astray,
and ignore them...* (D'varim 22,1)

Instead of saying, “If you see it, don't ignore it,” it says, “Don't see it and ignore.” What is the meaning of this awkward phraseology?

The explanation is as follows: When we read in Ki Tetze, “*Don't see it and ignore,*” we understand from this strange language that it is referring to a case when the finder might feel, “I see this ox running around, and it will certainly be difficult to catch it. Why should I trouble myself? I'll pretend I didn't see it!”

But then the Torah anticipates that the finder will have a different excuse. He may say, “I don't know the owner of this animal; how will I ever find him?” For such a case, the Torah continues in the next verse:

וְאִם לֹא קָרֹב אֲחִיךָ אֵלֶיךָ וְלֹא יָדַעְתָּ וְאֶסְפְּתוּ אֶל תּוֹךְ בֵּיתְךָ
וְהָיָה עִמָּךְ עַד דָּרַשׁ אֲחִיךָ אֹתוֹ וְהִשְׁבִּתוֹ לוֹ.

*And if your brother [who lost the item] is not [known to you],
gather the object into your house... until your brother comes
to claim it and then return it to him.* (verse 2)

That is to say, there is a solution: Take care of the animal in your home until someone comes and proves that it is his.

We thus see that the Torah indicates two situations in which we are not exempt: when we do not wish to be bothered, and when we do not know the owners of the object. Neither of these excuses are sufficient – but the implication is that more serious excuses, such as a blow to our self-dignity, a monetary loss, or a clash with another Torah law, as above – do exempt us.

We have thus closed the circle: First we understood the logical basis for the exemptions, and now we have seen how these exemptions are indicated by the wording of the Torah.

It should be noted that these exemptions apply only when one has not yet begin to deal with the object. But once he picks it up, he must continue the process of returning it until he finds the owner. This is learned from the next verse:



וְכֹן תַּעֲשֶׂה ... לְכֹל אֲבֵדֹת אַחִיךָ אֲשֶׁר תֵּאבֹד מִמֶּנּוּ
וּמִצְאָתָהּ לֹא תִוְכַל לְהִתְעַלֵּם.

*And thus must you do... for every lost object
of your brother that you find; you may not ignore it.* (verse 3)

“Finding” means not merely seeing, but having it reach your hand – and in such a case, there is no dispensation at all to “ignore” the object.

Let us conclude with the following story from the Talmud (Bava Metzia 30b):

Rabbi Yishmael, son of Rabbi Yossi, was walking along when he encountered a man carrying a load of sticks and logs. The man sat down to rest, and when he arose to get on his way, he asked Rabbi Yishmael to help him load up the wood. Rabbi Yishmael [who could have refused, because of his stature], asked him, “How much is your load worth?”

The man told him, “It is worth a half-dinar.” Rabbi Yishmael gave him a half-dinar, and told him to leave the load there. The man did so, and Rabbi Yishmael then declared the wood *hefker* - left for anyone who wished to take it.

The man saw this, came back and claimed the wood for himself. He then asked Rabbi Yishmael for help once again, and once again, Rabbi Yishmael gave him a half-dinar, and once again, was about to declare it *hefker* – but then he saw that the man was preparing to claim it yet again. So Rabbi Yishmael declared, “This wood is hereby *hefker* for everyone in the world except for you.”

Once again, we see a story of an extra-righteous man, who was exempt from the mitzvah because it was beneath his dignity to engage in loading wood – yet who tried to help anyway, beyond the letter of the law. R. Yishmael was one of those who wished to emulate “He Who commanded and the world was thus formed.”

