

Genaivat Daat – Falsely Propping Oneself Up and Putting Others Down

by Rabbi Dr. Nachum Amsel | July 8, 2019

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There are two unethical ways that people often make themselves feel superior to others. They get others to look up to them, even though they do not deserve the attention or praise. Or, these people say or do something to make others feel bad about themselves. Essentially these are two sides of the same coin. Therefore, this chapter will investigate both of these Jewish concepts and transgressions. The first, gaining favor in the eyes of others without deserving it, is called *Genaivat Daat*. The second, making a person feel pain by intentionally saying or doing something to that person is the sin of *Onaat Devarim*, or “hurting another person through words.” This chapter will concentrate on the former (there is a separate chapter in this volume on the latter). What exactly is the sin of telling somebody something that he or she should feel better about you? Why is it a sin at all? How can we define this concept? What exactly is forbidden and permitted to do or say in this area? Finally, how severe is this sin on the scale of Jewish transgressions?

THE DEFINITION AND TORAH PRECEDENTS OF FALSELY PROPPING ONESELF UP

The Hebrew term for falsely propping oneself up is called *Genaivat Daat*, which technically means “stealing someone else’s thoughts.” It signifies a conscious effort by an individual to look better in the eyes of another person or people than he or she actually deserves to be viewed, or, similarly, it means making an object for sale appear more desirable and valuable than it really is. There are two places, one in the Torah and the other in the Prophets, where this phrase is used. The first relates to evil Lavan, after his son-in-law Jacob, who lived in Lavan’s home for twenty years, and then snuck away at night because he was afraid that Lavan would never let him leave. Lavan’s reaction to Jacob’s leaving (when he caught up to him) was to say, “What did you do? Why did you *steal my heart*?” In the next verse he again says “*you stole me*” because you escaped and ran away.¹ Rashi says these phrases in the verse refer to *Genaivat Daat* – i.e., that Lavan accused Jacob of appearing to be friendly, appreciative and satisfied with his life in Lavan’s house, when he obviously was not. Chatam Sofer comments that this feigning by Jacob to Lavan would generally be forbidden for a Jew, even towards a non-Jew like Lavan, but he explains that Jacob legitimately did this only because he was afraid for his life.²

Later on, Absalom, King David’s son, wanted to ingratiate himself with the people. He took chariots and horses and placed fifty people in front of him in order to impress the masses. When some individuals had a lawsuit against another person, and there was no one to hear the case, Absalom would stand by the gates of the city (the place of judgment) and tell people that if he were made a judge (though what he really meant was if he were king), he would hear their case and give them justice. When anyone came to bow to him, Absalom would kiss the person’s hand. (He did all of this to make the people feel he was on their side and cared about them, when in truth he was not and did not). The verse says that Absalom “stole the hearts of the people” through these actions.³ Absalom made the people feel that he was a better person and more deserving than he really was, and that he cared about them much more than he actually did. This is *Genaivat Daat* – i.e., propping oneself in the eyes of others when it is undeserved.

¹ Genesis 31:26-27

² Rashi and Chatima Sofer commentaries to Genesis 31:26-27

³ II Samuel 15:1-6, with Ralbag commentary

These stories and phrases are reflected in Jewish law. The original source in the Mishna forbids taking objects for sale and making them appear better and more worthy than they actually are, in order to be sold at a higher price. This is forbidden by the prohibition *Genaivat Daat*. Thus, the Mishna says that a vendor of fruit may not mix up fruit of better value with fruit of lesser value since it will all appear to be of better quality (and more expensive) than it really is.⁴ The Mishna continues with other cases, where it is forbidden for the same reason to mix less expensive wine, with more expensive wine unless the combination made it superior wine. Similarly, it is forbidden to dilute the wine with water (lowering the quality) without informing the customer that this was done to the wine. In the same vein, the Mishna forbids the mixing of five different qualities of grain, making it appear as though the best quality was present throughout the grain. One may not take the refuse (the non-edible part) of the fruit from the top and put it in the middle, and then sell the entire bin of fruit by weight, making it appear that the entire amount is all edible fruit, thereby deceiving the customer. Finally, it is forbidden to take used items and paint to them in order to make them appear (and sell) as new. This is true with cattle and even people who are servants. The principle remains: it is forbidden to present something as better than it really is. This is the basic law, but the implications for daily life go far beyond the marketplace and laws of Jewish commerce.

EXAMPLES OF GENAIVAT DAAT IN THE TALMUD AND IN JEWISH LAW

Deceiving people to make them think you or your objects are better than they actually are, is defined in the Tosefta as a form of stealing, the verb used in the Scripture. In fact, the Tosefta says that of the seven types of theft in Judaism, this kind of theft – making people think that you or your items are better than the really are – is the worst type of theft possible.⁵ The Talmud gives several examples of this, (some of which were brought in the chapter on *Advertising*).

Many of the examples cited in the Talmud⁶ describe situations where *Genaivat Daat* is violated today as common practice in 21st century society. For example, a person may not invite a friend over for a meal if he knows in advance that the friend cannot or will not accept the invitation. The reason that the person doing the inviting violates *Genaivat Daat* is that he or she receives undeserved good will from the invited guest. The invited person thinks that the seemingly potential host really cares about him or her, when the truth is that the person had no real intention to invite the guest at all. (If the inviter truly wants the person to be his guest, even if he knows the friend cannot, it is not a violation.) This can prompt undeserved good will that may cause the invited person to unnecessarily go out of his way to do a favor in the future, and so this is a violation of *Genaivat Daat*, which is improper and forbidden in Judaism. This concept is further demonstrated by another case on the same page in the Talmud.

It was the custom at that time to store wine in large barrels. Apparently, once a barrel was opened, the wine started to gradually deteriorate. Thus, it was a truly great honor for a guest when a host opened up a new barrel of wine just for him. The Talmud records that Rabbi Judah had on one occasion just sold a number of bottles of wine and would soon need to open up a new barrel anyway. When Ulla came over as a guest, Rabbi Judah opened the barrel of wine and served Ulla. The Talmud says this violates the principle of *Genaivat Daat* because Ulla assumed the barrel was being opened specifically for him due to his importance (and not because he just depleted a barrel from the previous sale). Here we see that even when a person does not say anything misleading, it can violate the principle of undeserved good will. In order not to violate the prohibition, Rabbi Judah would have had to tell Ulla that he had sold wine and that's why he is opening up the barrel.

Similarly, a Jew may not sell non-kosher meat to a non-Jew at non-kosher meat prices without specifically indicating that the meat is not kosher. The non-Jew will think it is kosher meat being sold by the Jew and believe that he is getting a bargain price for this more expensive meat. Therefore, he will naturally

⁴ Mishna Bava Metzia 4:11-12

⁵ Tosefta, Bava Kama 7:3

⁶ Chullin 94a with Rashi commentary

think better of this Jew. That is a violation of undeserved good will, unless the Jew informs the non-Jew that the meat is not kosher. In this case, the Jew violates the principle even though he technically does nothing wrong. As long as the wrong impression is being created and the good will gained is undeserved, it is a violation of Jewish law. In a modern example of this case, a Jew would not be able to give away a delicious cake (full of Chametz-leaven) to his non-Jewish neighbor on the day before Pesach without informing the non-Jew that because of the upcoming holiday he must get rid of the cake. Otherwise, the non-Jew would feel indebted (undeservedly so), and may, therefore, feel obligated to do something good for this Jew in the future.

There are many other examples of the violation of this principle in the Talmud and later commentaries, but since many aspects of *Genaivat Daat* are discussed in greater detail elsewhere in this volume (see chapters on Advertising and Cheating), they will not be presented again here. However, normative Judaism does codify this concept into Jewish law.

Maimonides cites the general concept and many of the specific cases mentioned in the Talmud.⁷ But then he adds that even one word which will falsely enhance a person's image or possession in the eyes of someone else, violates this Jewish law. Shulchan Aruch codifies each case of the Talmud into normative Jewish law.⁸ The *Sema* commentary on the Shulchan Aruch explains that anytime a person will be favorably judged in a situation which is undeserved, he violates this law.⁹ Thus, full disclosure is required any time the buyer or friend may have a false sense of enhancement of the person or product – i.e., it is required to inform a customer when a seller paints used goods, which then may appear as new (but the seller need not inform the customer if he paints new merchandise).

CONCEPTUAL DERIVATION OF GENAIVAT DAAT

Why is *Genaivat Daat* forbidden? What is the underlying concept which forbids the practice of gaining underserved benefit? According to Ritva, "stealing" someone's thoughts or attitude is actually a form of theft.¹⁰ Rabbeinu Yonah, however, disagrees. According to him, the underlying reason this sin is forbidden is lying to others, not theft.¹¹ Chatam Sofer compares this sin to idol worship¹², and says this sin is an act of *mirma*-fraud. He then goes on to say that as terrible as the people of Shechem were in kidnapping (and raping) his daughter Dinah, Yaakov could not agree to the plan of his sons Shimon and Levi to deceive the people into circumcision – because this was an act of *Genaivat Daat*.

THE SEVERITY OF THE SIN OF GENAIVAT DAAT-UNDESERVED GOOD WILL

There are many sins listed in the Torah and by the rabbis. But this sin is especially grave. Falsely obtaining the good will of others— *Genaivat Daat* – is such a harsh sin that Rabbeinu Yonah calls it a violation of the foundation of a person's soul.¹³ The Tosefta says this kind of stealing is like stealing directly from God.¹⁴ And Rabbi Eliezer of Metz says that of all the types of thieves, he who fools others into thinking that he is entitled to more than he actually deserves, is the worst kind of thief of all.¹⁵

WHEN THIS PRACTICE IS PERMITTED AND IS NOT CONSIDERED A SIN

If a person uses *Genaivat Daat* to mislead another person for the purpose of keeping that individual away from a sin or to perform a commandment, then in this case it is permitted, according to some opinions.¹⁶ Similarly, if the purpose of misleading an individual or getting someone to think better of you

⁷ Maimonides, Hilchot Deot 2:6

⁸ Shulchan Aruch, Choshen Mishpat 228:6-9

⁹ Sefer Meirat Einayim on Choshen Mishpat 228:7, 10, 15

¹⁰ Ritva commentary on Chulin 94a

¹¹ Shaarei Teshuva 3:184

¹² Chazon Ish, Emunah Ubitachon, chapter 4

¹³ Shaarei Teshuva 3:184

¹⁴ Tosefta, Bava Kama 3:7

¹⁵ Sefer Yeraim 124

¹⁶ Pele Yoetz, "*Genaiva*"

than you deserve involves someone who hates you or someone else, and this act will bring the parties who hate each other closer together, thereby eliminating this enmity, then it is permitted.¹⁷ This is precisely what Aaron the High Priest did in order for enemies to cease their hatred of each other. He said to each person individually that the other person really wanted to make peace but was embarrassed to take the first step (which was not the case). When the two parties subsequently met, both former enemies usually made peace as a result. This clearly would normally be a violation of *Genaivat Daat* on Aaron's part, since each person's standing was falsely improved in the other's eyes after Aaron's words. But since it was for a higher purpose – promoting peace between two people – it was permitted. Finally, the Zohar states that misleading people in order to get them to learn more Torah is permissible.¹⁸ That is why in the Torah, the cantillation stop after the “Lo-Thou shalt not” before “*Tignov-steal*,” indicating that there are times that it is permitted to steal. “Stealing the heart” of a Jew in order to help him or her want to learn more Torah is one of those permitted times.

EXAMPLES OF GENAIVAT DAAT IN TODAY'S WORLD

There are numerous examples and issues related to this prohibition that have occurred in the twentieth and twenty-first centuries and were addressed by leading rabbis. One question, relevant to synagogues and fundraising today, was already discussed in the 1600's. Regarding giving *Tzedakah*-Charity publically, it is known that many people give *Tzedakah* in reaction to the amount that others give. Knowing this, is it permitted for one person to announce a larger gift than he actually will give (with the permission of the organization), in order to entice others to give larger amounts to *Tzedakah*? Rabbi Shmuel Eidels forbids this practice¹⁹ and castigates Jews and Jewish community leaders who gave less than they publicly announced they would give, since this is the classic case of *Genaivat Daat*, receiving undeserved good will for their larger than actual donations.

In the 20th century, Rabbi Moshe Feinstein was asked if it is permitted to steal the state-wide New York Regents exams in advance of the test, so that the student will attain good grades (without learning or studying), to enable him to spend more time learning Torah and still graduate with a state high school diploma.²⁰ Rabbi Feinstein forbade this not only because of *Genaivat Daat* – i.e., that educators would mistakenly believe students learned and mastered the material when they did not (see chapter about Cheating), but it also violates the commandment not to steal. Therefore, even if this act will lead to more Torah learning it is strictly forbidden. In a book on telling the truth and lying, Rabbi Yaakov Fisch asked the question whether a person can enter a store and pretend not to be interested in an item (that he really desires) so that the seller will lower the price (in a country where the prices are can be negotiated). Since this would be fooling the seller into thinking in that this person is less interested in the item than he really is, would it be considered *Genaivat Daat*? Rabbi Fisch answers²¹ that this practice is perfectly legitimate and does not violate the prohibition of *Genaivat Daat*. In fact, Abraham did precisely this in negotiating to buy the Cave of Machpela. He did not disclose why he wanted it (for his wife Sarah's and his own burial, and because Adam and Eve were buried there). Thus, seeming disinterested in a particular product in order to lower its price is considered perfectly legal and a legitimate business practice in Judaism, and it is not the same as receiving undeserved good will.

Rabbi Shmuel Eliezer Stern, a contemporary rabbi, was asked²² by a supermarket owner who had a certain canned item that sold for 10 shekels (about \$2.50) each but they were not selling well at all. Would it be permitted for him to put the cans in a prominent large bin and write “Five cans for only 50 shekels, until supplies are gone” (even though this was the same price as before)? Since most people would assume this is a sale item, is it *Genaivat Daat* or not? Since he is not technically writing or selling anything that is not

¹⁷ Knesset Gedolah, Choshen Mishpat 228:7 (in the name of *Damesek Eliezer*)

¹⁸ Zohar 2:93b

¹⁹ Maharsha commentary on Sukkah 29b

²⁰ Igrot Moshe, Choshen Mishpat 2:30

²¹ Taitan Emet LeYaakov, 5:121

²² Responsa Shvivai Eish, Section 2, Parshat Behar

true, perhaps it would be permitted? He concludes that since most people assume that such a sign indicates a sale and a reduced price from the regular cost, this is a clear case of underserved good will and would be prohibited. It is also forbidden for someone selling a house or apartment to lie and say that there are others interested at the asking price (or at a higher price) when there are none, since this too is falsely propping up the value of the home. Similarly, a storeowner may not write a higher price on an item (higher than the regular price), then put a line through it and underneath write the normal, actual price. This, too, implies to the buyer that the item is on sale and was once selling at the higher price, which is false.

One very pertinent and important area that has been asked and spoken about at length regarding its application to this Jewish law applies to prospective marriage partners: Should the prospective bride or groom disclose a serious illness that may or will surely destroy the *Shidduch*, the potential marriage? As far back as the Thirteenth Century, this question was posed to Rabbi Yehudah HaChasid, and he rules²³ that if the sickness is serious enough for the sick person to be convinced that disclosure would definitely or most likely break off the relationship, then it is *Genaivat Daat* to hide this fact, and full disclosure must take place before the marriage is agreed upon. This is because the potential healthy bride or groom assumes his or her partner is “better” than he or she really is, the classic definition of “undeserved good will,” since the health of a person is certainly one important factor in choosing a partner.

One of the greatest recognized Jewish law experts of the 21st century also dealt with this issue at length.²⁴ Unlike other cases involving the question of misrepresentation regarding profit by a storeowner, the case here deals with a very crucial Jewish value – the importance of getting married. Thus, in order to insure that women get married, Rabbi Kanievsky allows a certain amount of “fudging” of the facts, and cites a line in Rashi to support this idea. He cites the case of a desperate orphan girl who had very few marriage prospects in Europe in the 1920’s. But when she said that she was a relative of the Chofetz Chaim, she was able to receive marriage offers.²⁵ When they later asked the Chofetz Chaim if she was indeed a relative (she was not), and if this was permitted, he responded that if the entire marriage hung on this condition, then yes, it was all right to say she was his relative even though she wasn’t, because all Jews are technically related (and responsible) for one another. Rabbi Kanievsky then writes that he personally asked about this issue to another great expert in Jewish law, Rabbi Yosef Shalom Elyashiv, and Rabbi Elyashiv ruled that if the “lie” is a very small one, such as saying that she is nineteen years old when she is really twenty years old, then it is permitted in order to get married. But a greater change or lie than this is not permitted.

Rabbi Shlomo Zalman Auerbach, however, was adamant and ruled that it is forbidden to change even a small fact or truth, and withhold any important information. Rabbi Kanievsky then quotes another famous rabbi, Rav Aaron Kotler, who said that a groom who says that he is twenty-eight when he is actually thirty has not done something forbidden, and would not violate *Genaivat Daat*. After citing the Sefer Chasidim quoted above, it is clear that Rabbi Kanievsky believes that if the withheld or changed information would certainly not affect the agreement to marry, then it is permitted to slightly fudge the truth. But if there is a chance that the information would destroy the relationship had the other party known, then full disclosure must take place.

Rabbi Eliezer Waldenberg deals with a different aspect of possible fraud or misrepresentation.²⁶ Doctors who are competing for positions in hospitals are asked to submit resumes (biographical information) which include articles published in medical journals. Apparently, the number of articles published and their quality plays a significant role in hiring or not hiring doctors for certain positions. Rabbi Waldenberg was asked if a doctor may falsify the number of articles and the contents (where there is no health risk to any patient), in order to be offered the job which that doctor believes that he is most qualified for among all the candidates. This is certainly a case of receiving undeserved good will, the classic definition

²³ Sefer Chasidim 507

²⁴ Responsa Kehilat Yaakov, Yevamot 7:44

²⁵ Titain Emet LeYaakov, 5:38

²⁶ Responsa Tzitz Eliezer 15:12

of *Genaivat Daat*. It is for this reason that Rabbi Waldenberg absolutely forbids this practice and any falsification of a curriculum vitae (resume). He says that falsifying a resume is both lying and *Genaivat Daat*, and that the prohibition of *Genaivat Daat* applies to the written word as well as to the spoken word.

Finally, Rabbi Feinstein discusses another case of many people applying for a particular job. One observant candidate has (premature) gray hair and is convinced that the gray hair makes him appear older, which will disqualify him from the job, even though he knows that he is fully qualified, and the color of his hair has no impact whatsoever on the performance of the job. Rabbi Feinstein was asked if this person may darken his hair artificially for the interview, in order to get the job, as this may mislead the interviewer's impression and be considered *Genaivat Daat*.²⁷ He ruled that a person may indeed darken his hair for this purpose and it does not violate the prohibition of imitating the garb of women (who very often change their hair color), and is also not *Genaivat Daat*, because the color of the hair (unlike the articles in medical journals) is not relevant to the actual work.

There are many more cases in daily life that relate to this issue (many of these details of cheating and advertising are discussed in other chapters), and the general rule is that underserved good will is generally forbidden.

Rabbi Dr. Nachum Amsel currently works with Rabbi Berel Wein and the Destiny Foundation as the Director of Education, whose mission is "to bring Jewish history to life in an exciting, entertaining and interactive way." Rabbi Amsel has also served as a teacher, a school principal, and an adjunct professor. He has also taught over 2000 educators how to teach more effectively. Rabbi Amsel has worked in all areas of formal and informal Jewish education and has developed numerous curricula including a methodology how to teach Jewish Values using mass media. Recently, he founded the STARS Program (Student Torah Alliance for Russian Speakers), where more than 3000 students in 12 Russian speaking countries learn about their Jewish heritage for five hours weekly. Rabbi Amsel previously served as the Educational Director of Hillel in the Former Soviet Union. He lives in Jerusalem with his wife and has four children and four grandchildren.

²⁷ Responsa Igrot Moshe, Yoreh Deah 2:61