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Ona'as Devarim by Rabbi Mordechai Fleisher

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Are practical jokes included in ona'as devarim?

Can one transgress ona'as devarim inadvertently?

The Torah (Vayikra 25:17) states, "And a man shall not wrong his fellow, and you shall fear from your G-d, for I am Hashem, your G-d." Chazal (Bava Metzia 58b) understood this verse to be discussing a prohibition against verbally wronging another person. This article will explore some of the areas included in this prohibition.

The basic prohibition and its definition: The Mishna (ibid.) states that just as there is a Torah prohibition against *ona'as mamon* (see Vayikra 25:14), wronging another monetarily by overcharging or underpaying, there is also a Torah prohibition against wronging another verbally. A *beraisa* cited in the Gemara (ibid.) expands upon some situations included in this prohibition: One may not tell a *ba'al teshuva* to recall his past (inappropriate) deeds; one may not tell a descendant of a convert to recall the deeds of his forebears; one may not tell a convert who wishes to study Torah, "A mouth that ate non-kosher food is now coming to study Torah, given from the mouth of the Almighty?!"; if a person is experiencing suffering or tragedy, he should not be told that he must deserve the punishments he is receiving; if donkey drivers seek grain to transport, one may not direct them to someone whom he knows does not have any grain for transport; one may not show interest in an item that is for sale if he has no intent to purchase it. The *beraisa* concludes that since this matter often depends on one's intent, and it is not clear to observers whether one is transgressing this prohibition or if he is acting appropriately, the verse concludes "and you shall fear from your G-d," a term used by the Torah for any mitzvah that depends upon one's intent and thus known only by G-d Himself.

The Rambam (Hilchos Mechira 14:14) adds that one may not ask another for information that he knows the person does not know.

While these are a number of possible scenarios, the prohibition is succinctly described by the Rambam (Sefer Hamitzvos Negative Commandment 251) as "any statement that will anger and confuse (the victim) and he will be unable to withstand (the verbal assault) due to embarrassment." The Sefer Hachinuch (338) similarly states, "Things that will cause pain, and distress him, and he will not have strength to be saved for them." From these and many other sources it is clear that words that will cause another person embarrassment, pain or distress are included in this prohibition.

Rabbi Shmshon Raphael Hirsch, in his commentary to the Torah, adds to the above definitions. He wonders what the connection is between *ona'as mamon*, overcharging or underpaying, and *ona'as devarim*, verbally hurting another – the Torah uses the same term for both, and the aforementioned Mishna clearly links the two. Rav Hirsch explains that the term *ona'ah* means "exploitation." *Ona'as mamon* is exploiting a person who doesn't know better by overcharging or underpaying, while *ona'as devarim* means exploiting a person's shortcomings through verbal

assault. This definition helps explain many situations that are included in *ona'as devarim*, some of which will be discussed below, even though they seemingly have little to do with speaking or acting toward another in a hurtful fashion.

Broadening the scope of *ona'as devarim*: Most of the cases cited above are fairly straightforward, but some of them need further explanation. The different approaches of the halachic authorities create practical ramifications as to the scope of *ona'as devarim*.

How is sending donkey drivers to a person with no grain to sell *ona'as devarim*? The Kesef Mishna (Hilchos Mechira 14:14) explains that sending donkey drivers to a person who has no grain to sell can cause embarrassment to both the purported seller and to the donkey drivers themselves. The Kesef Mishna is essentially describing this as a practical joke; it would thus emerge that pulling a prank on another that will cause the victim embarrassment is included in this prohibition.

However, there are some contemporary sources who explain that the issue of sending the donkey drivers to the "grain seller" is due to causing unnecessary bother for the parties (see Mishpatei Hashalom 7:fn. 15). According to this approach, playing a prank that would not embarrass anyone but would cause another person unnecessary bother would be forbidden. An "innocent" prank phone call could be included in this category (see *ibid.*)¹. By the same token, frightening someone as a joke could be included, as well.

The exact problem of looking at an item for sale when one has no money to make a purchase is the source of a great deal of discussion. The Meiri (Bava Metzia *ibid.*) explains the case is discussing where one asks the seller for the price of the item² but has no intention of buying the item. When the seller responds with the price and the person declines to purchase it, its value falls in the eyes of other would-be buyers³. The Rashbam (Pesachim 112b s.v. *al ta'amod*) explains, in a similar vein, that while the person is examining the item, other potential buyers cannot examine it, and so he is driving away business. These approaches indicate that doing something which will indirectly cause a financial loss to another is included in *ona'as devarim*.

The Meiri offers a second approach, explaining that the seller will be disappointed when he fails to make a sale; it is forbidden to deliberately create such a situation with no intent to purchase. The Ra'avad (Commentary to Sifra Behar 4) understands that the problem is that

¹ "Innocent" pranks can also sometimes have serious consequences, such as financial loss or even danger to life.

² Indeed, this is how the case is described by the Shulchan Aruch (Choshen Mishpat 228:4), and not as merely examining the item for sale.

³ According to this approach, there is only a prohibition if there are other potential buyers in the vicinity, and their willingness to pay the asking price will be influenced by the exchange.

the person is deceiving the seller, making him think he's interested in buying when he's just playing games with him. The Ra'avad seems to thus include a broad area of halacha known as *geneivas da'as* (lit., "stealing the mind"), which includes many cases of deceiving others even when there is no financial loss involved, in the prohibition of *ona'as devarim*.

The Shulchan Aruch Harav (Choshen Mishpat Hilchos Ona'a Ugineivas Da'as 28) explains that the seller may well realize that the "buyer" never intended to make a purchase and will be hurt. According to this approach, looking at or asking about an item for sale without any intent to buy is merely another scenario of hurting another's feelings.

The many approaches yield a number of scenarios where one reason applies and not the other. For example, asking an employee about an item for sale may cause financial loss, as the employee is unavailable to other customers, but the employee will not necessarily be upset that no sale took place⁴.

Another take-away from the prohibition against looking at an item for sale with no intent to purchase is that *ona'as devarim* is not limited to words; even an action that can cause another distress, pain or embarrassment is forbidden. The Chayei Adam (143:1) says this explicitly, as does the Sefer Chofetz Chaim (Pesicha, Be'er Mayim Chaim 14). By the same token, causing another person emotional pain through a motion or hint is forbidden (Chovas Hashemira). Indeed, the Sefer Yere'im (180; 51 in old edition) states that just as there is *ona'ah* with words, there is also *ona'ah* by showing a sour face! Based on this, behavior that others find disturbing, such as smoking in the presence of others who don't like the smell, holding an insect in front of someone who is repulsed by such things, or taking care of personal hygiene normally done in private in the presence of other people, may well be included (see Sefer Chasidim 641; see Mishpitei Hashalom 7:fn. 8 at length)⁵.

The prohibition against asking someone a question when the questioner knows the person doesn't know the answer creates new areas where one must be careful. Posing a question to a person who will be unable to answer would be forbidden; the Sefer Chasidim (312) says that one should not ask a guest about a Torah-related matter unless he feels the guest will be able to respond to the question⁶!

This prohibition raises an interesting issue for those in the field of education. An integral part of teaching students is testing them to see if they know the material being taught. It is questionable if a teacher may ask a student a question when the teacher knows the student does not know the answer. The prohibition of *ona'as devarim* applies even to children (Sefer Hachinuch 338), and so this issue can be quite relevant. However, the Sefer Hachinuch (ibid.) adds that one is permitted to

⁴ If the person tells the seller that he has no intent to purchase, there is no issue with asking the price. In addition, contemporary halachic authorities rule that since many business owners want people to browse their stores even if they don't intend to make a purchase, in the hope that the browser will be attracted to an item and purchase it, it is usually permitted to look at items that are for sale. Nonetheless, one must be cognizant not to cross the line by asking for information that indicates one is interested in making a purchase when there is no such intent.

⁵ It should be noted that behavior considered "normal" by society but which a particular individual finds disturbing is not necessarily forbidden; nonetheless, such situations usually call for sensitivity and one is advised to seek objective halachic and *hashkafic* guidance in handling such situations.

⁶ It would seem that raising a question whose clear intent is to create discussion, and no "correct" answer is expected from those present, would be permitted.

cause some emotional distress to children if that is necessary for their upbringing. However, the Sefer Hachinuch stresses "not to pain them more than necessary – only what is very necessary in order that they take a lesson⁷." As discussed at the start of this article, the Torah adds "and you shall fear from your G-d" since *ona'as devarim* is not always apparent to onlookers; only the person speaking knows his intent. A parent or teacher who is angry at a child and causes the child emotional pain may well transgress *ona'as devarim* if the motive is the adult's frustration and not the child's long-term success.

Inadvertant *ona'as devarim*: Based upon the Gemara's statement that for *ona'as devarim*, often only Hashem knows a person's true intent, it is clear that one transgresses *ona'as devarim* only if he intends to cause pain to another with his words or actions. Nonetheless, one must be very careful that his words or actions do not unintentionally cause harm to others. Many incidents and statements recorded in the Gemara make clear that when one causes another emotional pain, even if it occurred inadvertently, the person who caused it can suffer severe consequences. The Sefer Hachinuch (338) writes, "One must be very careful that his words not contain even a hint of insult toward others, for the Torah is very particular with *ona'as devarim*, for it is something very difficult for the hearts of people, and many people are more particular about it than they are about their money." This would include the many areas discussed above, including waking others or engaging in activity that others find repulsive. If one did inadvertently cause emotional pain to another, while he may not have transgressed the prohibition of *ona'as devarim* in the strict sense of the word, he should ask for forgiveness.

At the same time, engaging in normal activities are generally permitted, even if they may cause emotional pain to another. Rabbi Moshe Feinstein (Igros Moshe Even Ha'ezer 2:1) was asked whether a younger sibling may marry before an older sibling, even though the older sibling will suffer emotional pain and embarrassment. Rabbi Feinstein replied that there is no problem whatsoever, explaining that the younger sibling has a mitzvah to marry and should not abstain due to the older sibling. He goes on to say that although the older sibling will suffer shame, this shame is self-inflicted, as having the younger sibling marry first is not an inherently shameful situation. He concludes that "it is logical to say that we cannot forbid a person from engaging in his normal dealings and his other personal needs based on a claim that another may be embarrassed due to his comparative lack of success." Rabbi Feinstein thus rules that even in non-mitzvah situations, one may go about his normal life. Nonetheless, it is certainly praiseworthy for a person to avoid causing emotional distress to others to whatever degree possible; there are many, many stories of Jews who went to great lengths to avoid causing emotional pain to others, even when they were under no obligation to do so.

There are many other areas of halacha that branch off from the general prohibition of *ona'as devarim*, such as shaming other publicly, gaining honor through the shame of another, or calling someone by a nickname. This article has sought to lay out some of the basic areas of *ona'as devarim*, and the reader is encouraged to explore the topic further.

⁷ Rabbi Shlomo Zalman Auerbach (cited in Sefer Halachos Bain Adam Lachaveiro – English version pg. 64) said that the educational purpose of a test is to show the student how much he or she has learned and to provide the student with confidence.

Points to Ponder:

May one pull a prank if the "victim" will likely find it funny?

May one insult another for the purpose of improving the person's behavior?

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Please consult with a qualified halachic authority for all practical questions of halacha

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