

Onaah (Unfair Gain)

Ref: *Sefer Kinyan, Hilchot Mechirah, Chapters 12–14*



Not to cheat colleague in business transaction²

There is no punishment of *malkot* because the unfair gain can be returned.

Reminder:

Pack on Punishment for *Sefer Kinyan*.



Involves unfair gain on value of product (which can vary).

The prohibition of unfair gain (*onaah*) applies to both the purchaser and the seller i.e. if article was sold above its current value, purchaser loses and if below, seller loses.

The measure of unfair gain where the loser has a claim against the other party is $\frac{1}{6}$.

If the difference is exactly $\frac{1}{6}$, transaction is complete but the unfair gain has to be returned.

If **less than** $\frac{1}{6}$ there is no requirements to return the difference.

If **more than** $\frac{1}{6}$ the transaction is nullified.

The rules of *onaah* apply even if both parties transacted innocently. (in that a claim can still be made against the transaction).

Amount of time purchaser has to discover that he was overcharged and demand a partial or full refund (as per above).– **Sufficient time to show his purchase to an expert for appraisal.**

Amount of time granted to a seller – **no limits**, unless it's a common item with a fixed price, in which case he has the amount of time it takes to investigate its market value.

Onaah also applies to coins and money exchange (in addition to produce, animals, and items).

Exceptions.

Onaah does not apply in the following situations even if one of the parties gain excessively.

- Exchange of articles (because each wants the other article).
- Sale of personal belongings. (A person would not sell his personal belongs unless he was offered high prices.)
- Parties reveal the exact amount of “unfair” gain and parties state that transaction is to be completed without being held responsible for *onaah*. (This cannot be done if the exact gain is not specified.)
- When a person buys and sells in a faithful manner. I.e. tells purchaser, I bought for this amount and I am selling for that.
- Gentile
- Landed property
- Servants (includes hiring of workers – selling time)
- Promissory notes
- *Hekdesh* (Consecrated property)
- Rental of landed property

ONAAH REGARDING SPEECH



Not to oppress with speech.³

Just as it is prohibited to oppress or abuse a fellow in a business transaction, it is forbidden to oppress or abuse him with words. This is even more serious than harming with money.

E.g.

- Reminding a *baal teshuvah* about his past
- Hurting a person's feelings by asking inappropriate questions or giving inaccurate instructions.



Do not oppress or abuse a *ger* (convert).⁴

This includes abuse with money and words.

Verbal abuse is more serious than financial abuse because financial abuse can be repaid, but verbal abuse can never be repaid.

Whenever a sin is only apparent to the person transgressing, Torah states 'and you shall fear your G-d'.

Whenever a person calls out to *Hashem* because of verbal abuse, he is answered immediately.