Reflections on Yovel and on the Prohibition of Ona’a (oppression);

I. A Monumental Year
   A. Parameters

   יַעֲקֹב פְּרִים כָּה
   וְקִדַּשְתּ עַתָּה חֲמִשֵּׁים שָׁנָה יָקְרַאת דְּרוֹר אֶת כָּל־יֹשְבֵּי יֹבֵל הָאָּלָּלֶם בִּשְׁבָּטֵךְ אִישׁ.

   And you shall hallow the fiftieth year; and you shall proclaim release throughout the land for all its inhabitants; It shall be a jubilee for you; each of you shall return to his holding and each of you shall return to his family.
   1. Another shmita
   2. Liberty for avadim ivri’im
   3. Return of property

   B. A strange exception:

   יוֹרָה פְּרֵיס כָּה
   (ט) אוֹדוּס כי־יָמַר בִּית־מָשָׁב עַר חָמִשֵּׁים שָׁנָה יָקְרַאת דְּרוֹר אֶת כָּל־יֹשְבֵּי יֹבֵל הָאָּלָּלֶם בִּשְׁבָּטֵךְ אִישׁ.
   (לא) אוֹדוּס לִא־יָמַר לְעֹּד־מָלַט לְעָשָׁה תִּימַלֶת וּלְעָשָׁה בֵית אֲשֶׁר־בָּא עַל־אֶשֶׁר־לָוָהוּ [ל] בָּא עַל־דְרַתָּו לַקְּנָה
   (כט) אוֹדוּס לִא־לֹא יָהוּ בָּא

   If a man sells a dwelling house in a walled city, it may be redeemed until a year has elapsed since its sale; the redemption period shall be a year.
   If it is not redeemed before a full year has elapsed, the house in the walled city shall pass to the purchaser beyond reclaim throughout the ages; it shall not be released in the jubilee.

Concern for the seller:
   a. In cities: sentiment, embarrassment
   c. Fields: concerns for livelihood
Rabbi Shmuel Goldin

חצוקין

ובית משוב עיר חומה דין שניאשר מוקף חומהakhir קרקע הבית עמיד לזריעה לעלם זkąביה לאבד

להחוריו ביוול רק בקרך שחיין האדמה תתחיה. ד“א סמוך חתונה בתי עיר חומה לעלם זכרון קי

ובית אחרוןawi מי עדיש לעתה ששם לעילות בון לייפיק כה 플 לא יאיב בוב, באב שדה

ובית היישרמ שיאם רגיל ליקח אקריוב ובחיכרת חכם ביואיב

a. Concern for the seller: field-livelihood

b. Concern for the buyer: city-putting down roots

Hirsch

Rabbi Shimshon Raphael Hirsch sees in the complex and divergent laws of land-sale and redemption a Divine societal ‘grand plan’ designed to create "an urban population occupied with agriculture." Rural dwelling places attached to agricultural property are protected, like the properties themselves, from permanent sale. The return of these properties to their original owners with the onset of the Yovel Year would insure that, as a rule, "every field and vineyard would have as its proprietor a householder in the neighboring town." Jewish society would thus be characterized in the main by a blend of "town-bred intelligence" and the natural, uncomplicated outlook on life fostered by connection with nature and the land.

Only in walled cities would a population develop experientially divorced from the land; focused on trade and industry, as opposed to agricultural work. In such cities, land itself becomes less significant as an educational, stabilizing force and may, therefore, be sold in perpetuity. Population centers of this nature, however, were clearly regulated in both size and number; limited to those locations which were walled at the time of Joshua, before they were inhabited by the Israelites.

משר חכמה

ואיש כימוך בית משוב עיר חומה etc. יتمع קץ, דועה המבצר גם העיר המגננות יספיק את

ומתחדשים אואר במשטר. נמלי דואמה יד נישים מושב מגן etc. והיה יחד, ובית ביבא

מבצר הזורש יבש, במשר המלשות של היד יקר ימי זכר ההרבohen יבש אש

ללא放手, יתייכן הלשון והזרם וfontName ידע תומך ומאז ידוע יעה ויאון לקור

והיא, כי ידע מכיר ומינו אום כי, ולכד הלשון להאונה, לטתי הנורה והזנה זמן לא יאיב יוחל. והזדה

דריש הספר פ' תמאים מים עמק ישב אל בית עמוד פירוש בורי המוקפת חומת, בכרוב את

בוסר, פירוש שמי מפת השכינה, שלח יתחברו לזר לזר לאוני, זכרו שיבורה עוציב השכונה לسفر

אף על עמק קש ותיב מתקל השבת. זה מושכל.

Walled cities: the first line of defense
II. Ona’ah: A Multilayered Prohibition
A. The Sources

When you sell property to your neighbor, or buy any from your neighbor, you shall not oppress one another. In buying from your neighbor, you shall deduct only for the number of years since the jubilee; and in selling to you, he shall charge you only for the remaining crop years: According to the more such years, the higher the price you pay; and according to the fewer such years, the lower the price; for what he is selling you is a number of harvests. Do not wrong one another, but fear your God; for I am HaShem, your God.

You shall not oppress a stranger or torment him, for you were strangers in the land of Egypt. When a stranger resides with you in your land, you shall not oppress him. You shall not turn over to his master a slave who seeks refuge with you from his master. He shall live with you in any place he may choose among the settlements in your midst, wherever he pleases; you must not oppress him.

Four Categories
Ona’at Mammon: Financial Oppression
Ona’at Devarim: Verbal Oppression
Ona’at Ha’Ger: Oppression of a “stranger”
Ona’at Ha’Eved: Oppression of a slave

What unites these categories? What is the halachic definition of oppression? Halacha will be eminently practical and concrete:

Example of another practical set of laws: Revenge and Grudge-Bearing

לֹֻֽׁא־תִקַֹ֔ם וְלֹֻֽׁא־תִטֹר֙ א ת־בְנ ֵ֣י עַמ ָ֔ך וְאָֻֽׁׁהַּבְתֶָׁ֥ לְר עֲךָ֖כ אֲנִָ֖י יְק וָֻֽׁׁ ק׃
Definition of Oppression: Taking advantage of, honing in, on someone else’s weakness

B. Ona’at Devaram: Verbal Oppression

Any verbal behavior that causes mental anguish by highlighting an individual’s weak point falls into the prohibited category of Ona’at Devaram, verbal oppression, recorded in Parshat Behar.

Practical examples of Ona’at Devaram, mentioned in the Talmud, include:
1. Disparaging the background of a penitent
2. Misleading a prospective customer about the nature of a specific merchant’s business (in order to embarrass the merchant or the buyer)
3. Inquiring about the price of a specific object without any intention to buy
4. Soliciting technical advice from someone who you know lacks the necessary knowledge or expertise.
5. Suggesting to someone that his suffering is due to his own evil deeds.

Three reasons for the severity of ona’at Devarim over ona’at mammon

C. The Ger and the Eved: Society’s Uniquely Vulnerable:

גָּרָא צְדֵק, גָּרָא תֹּשֵׁב, עֶבֶד בְּנֵעָן:
רַבִי יוחָנָן הַרְמֵם הַלְוָתָם כְּפָרֵךְ: הלְוָתָה שְׁמַעְתָּן, לְכָל הָאֵמוֹנָה אֲחַדֶּגֶּר, הָאֶל הָאֵמוֹנָה, שְׁמַעְתָּן, לְכָל הָאֶל הָאֵמוֹנָה, שְׁמַעְתָּן, לְכָל הָאֶל הָאֵמוֹנָה.
עָמֵד עָמָד, מֻפֵּשֵׁה לא נוֹסֵעַ, נוֹסֵעַ מֻפֵּשֵׁה, מֻפֵּשֵׁה.

Adding responsibility upon responsibility

Look who’s Talking....
IV. Ona’at Mammon: Financial Oppression

As understood by the Rabbis, the biblical prohibition of Ona'at Mamon fundamentally forbids deceptive pricing. Both the buyer and seller are enjoined against capitalizing on the lack of knowledge of the other concerning the market value of a specific commodity. The seller is forbidden to ‘deceptively overcharge’ and the buyer is forbidden to ‘deceptively underpay’. Dependent on the extent of the deceit, different paths of recourse are offered to the victim by Jewish law.

While the Tannaim, Amoraim and later authorities debate the exact parameters of Ona’at Mamon, the majority of halachists codify the basic laws as follows:

1. If the difference between the price paid and the actual market value of the item is less than 1/6, the sale is final and no recourse exists.
2. If the difference between the price paid and the actual market value of the item is exactly 1/6, the over/undercharged amount is returned to the victim.
3. If the difference between the price paid and the actual market value of the item exceeds 1/6, the sale can be invalidated.
4. Dependent on the case, the computation of the Ona’a amount is based either on 1/6 of the actual value of the item or 1/6 of the money paid.
5. The time period during which the buyer can reclaim his overpayment or invalidate the sale is not open-ended, but lasts until the time necessary to show the item to an expert merchant or a family member. The time period during which a seller can reclaim underpayment, however, depends on the item. If the item is common and its actual price can be easily determined, the time period during which the seller can demand payment lasts until the time necessary to make such determination. If, however, the object is unique and comparisons with similar items cannot be easily made, the seller’s time period remains open-ended.
6. The laws of Ona’a are not dependent on intent. Even if the ‘deceit’ is inadvertent the rules of repayment apply.
7. The laws of Ona’a only apply to cases where the injured party is consciously or inadvertently misled by the other due to his own lack of knowledge. If, however, both parties enter into the deal with a full awareness of the facts and are willing to accept either the overcharge or underpayment involved, there is no Ona’a in the transaction and the deal is final.
8. Certain transactions, including the purchase of real estate, are exempt from the laws of Ona’at Mamon.
9. The market value of commodities is determined through the factoring of a wide array of variables including overhead, geographic location, personal service offered, etc.