

## Introduction

### *The Truth of Exchanges: The World of Ona'ah*

“Don’t take my words at face value!” “Silence is golden.” “Don’t try to put anything over on me!” What is more banal than lying? Who can truthfully claim never to have lied—even if it was for a good cause, out of compassion, tactfulness, or politeness, not to mention less noble motives? We exchange objects for money. We exchange words, and we write words about those words. This, after all, is what distinguishes us from other animal species and their societies. It is also the place where a specifically human evil can show itself, an evil whose standard-bearer is fraud. The Hebrew word *ona'ah* designates a tort or damages produced by a fraud and suffered by an individual or community. Yet curiously, the Talmud tells us that there is an *ona'ah* of words as well.<sup>1</sup> This refers to damages and misdeeds that are the result of fraud against sincerity and the truth of words, just as there is fraud against the truth of prices—in other words, there are all sorts of fraud in the exchanges among human beings. Indeed, language already bears the traces of this complicity between commerce in the strict sense and verbal exchanges, expressing the complicity in its monetary etymologies and metaphors.

But we shall see that *ona'ah* is a fraud at the very edge of what is lawful, differing in this respect from counterfeit money; by the same token, *ona'ah*, as a verbal injury, is different from lying in general, even if some lies can cause *ona'ah*. What we have here is an intermediate area between absolute truth (of the marketplace or of speech) and total disintegration into

systemic fraud and lying. In fact, talmudic legislation institutes the idea of a threshold below which the harm or damage suffered is “forgiven.” Above that threshold, the injury is unacceptable; it is then identified as theft and the transaction is canceled, even though it may leave behind something irreversible in the form of the injury undergone by the person who was initially injured, an injury to the person’s very being.

Talmudic *ona’ah*, then, generally designates harm, injury, damages caused by any kind of fraud or deception. It may affect what one has but also what one is. It may concern a commercial action but it may also, like the Latin *injuria*, be purely verbal: an *ona’ah* of words, or in words, or by means of words (or speech)—which are all interchangeable ways of translating the talmudic expression *ona’at dvarim*, which establishes this kind of *ona’ah*. It may be a matter of leading someone—voluntarily or involuntarily—into error, but also of causing a moral wrong by means of humiliating words, even if these express a certain reality. In the most general way, it has to do with a particular kind of harm that human beings, as members of society, can do to one another in the very area that is, above all others, supposed to ensure social cohesion: namely, in *exchanges* of objects and words.

The world of *ona’ah*—in which we confront a kind of intrusion that is fraudulent, hurtful, and sometimes “forgiven,” simply because it is necessary—is situated in a space in which absolute purity leads to catastrophe, and impurity that goes beyond certain hard-to-specify limits is equally catastrophic. This holds true for everything involving exchanges between human beings: words, which raise the question of absolute truth and of lies that must be tolerated; money and necessary, allowable divergences from fair prices; technical devices and the allowable distance of the artificial from the (human) natural that produces them. Some talmudic laws covering financial fraud and verbal injuries, and some legends that have sprung up around these laws, dramatically highlight what is being played out in this space: forgiveness.

The injunction to “love your neighbor as yourself” and its negative formulation—not to do to others what we would not like to have done to us—are often considered to be the golden rule of a universal ethics that goes far beyond the cultures that are heirs to the Bible and Confucius. But this unanimous assent is deceptive. Here we already have “deceptive labeling.” What is at stake here is not a feeling, like loving one’s neighbor (and who is this neighbor or these others, anyway, that we are called upon to

love?). Nor is it a kind of negative balance in our self-restraint when faced with what we believe to be a common perception of evil, as if what everyone else does not want to have done to them were identical with what I do not want to have done to me. Thus, for example, I would certainly not want to be recruited to become a “martyr,” the agent of a suicide bombing, whereas it appears that for many people that is their greatest wish. For such people, the application of the rule would surely not imply an obligation to dissuade or keep someone else from committing a suicide bombing.

Here, behind the passion of this unconditional universal love and the subjective equilibrium of terror, we find the following question about the nature of the social bond: what makes up the positive and negative exchanges and interactions that ensure the existence of human societies? The study of animal societies allows us to observe that many of the characteristics and behaviors considered to be specifically human (including the altruistic components of these and therefore also their moral components) are already present as conditions for the adaptive survival of these animal societies within their particular environments—at least that is what we understand through the filter of our Darwinian interpretational framework.<sup>2</sup> These observations lead us to accept a biological basis, rooted in the animal nature of *Homo sapiens*, for the development of moral law, or a demand for ethics, or a set of values—whose existence is in fact universal even if its contents are not—as a condition for the adaptive survival of the human species across all the societies that make up the species. But this interpretation, which is difficult to reject in any research concerning the “genealogy of ethics,”<sup>3</sup> reaches its limits at the point at which *Homo sapiens* appears, with specific characteristics that are not developed to this extent in any other species, particularly because of *Homo sapiens*’s brain, with its capacity for memory, imagination, and abstraction, expressed in its reflective and artistic languages. This in no way disrupts the substantial unity of nature, which includes the unity of the animal world, in which *Homo sapiens*, like every other species, has a place. But like any other species, humanity had to evolve by developing its own particular properties, properties that are thus literally “specific” to it but which, while being as natural as its other properties, of course, also differentiate humanity, however incrementally, from other species. These properties differentiate human societies from animal societies in that they have rendered the nature of the social bond more complex: the complexity of the exchanges between human beings corresponds to the complexity of the human brain.

New problems arise from this escalating complexity, problems that cannot be solved by simply applying neo-Darwinian adaptive schemas to discover and understand the nature of the social bond.

We must therefore strive to focus our analyses on that which is specifically human in exchanges between individuals, that is, the fact that these exchanges are not observed on such a large scale in animal societies. There is an evolutionary continuity that roots the human being in nature and which makes it impossible, following Spinoza's devastating analyses, to consider humanity as an "empire within an empire" because of such alleged supernatural properties as free will; nevertheless, this continuity must not prevent us from analyzing what it is that, due to this very continuity, constitutes humanity's particular power to exist—its "virtue" and its "perfection"—just as flying is what is particular to birds and other flying animals or as running is the "perfection" of the horse, to use Spinozist terminology.

What is particular to humans is expressed in social exchanges through a series of specific practices that we will analyze from the point of view that they all share, although they appear at first to be very different from one another, belonging as they do to a variety of areas of activity and regulated as they are by different institutions. These include linguistic exchanges, which bring up the issue of the truth of propositions and the possibility of lies and errors; economic exchanges, involving the institution of money and its successive manifestations; and the production of and exchanges of artificial, technical objects, related to the objects that allow us to share the pleasures of culinary conviviality and sexual knowledge, where the discovery of others in fact takes place—as may also be the case with animals, but in this case with all the connotations of the aforementioned exchanges which serve to differentiate the human from other animals. Running through these exchanges of money, of words, and of technical objects are individual desires, amplifying and competing with each other: desires to possess and to dominate, to create and to consume.

In this context, we will try to explore a particular field in which the issues at stake in the uses and abuses of money, language, and technical objects intertwine with each other in complex ways.

What we are talking about, then, is fraud, or deceptive advertising or labeling of goods or merchandise, in both the literal and the figurative senses. This covers a much wider field than one might at first think, if we

do not limit it to commercial exchanges and if we allow the figurative sense all the importance that it deserves. A mendacious, fraudulent, mistaken, intrusive, or humiliating exchange of words on any topic can constitute such a deception, in which the topic of the exchange, whatever it is, takes the place of the “merchandise” or “goods” about which one can deceive others or be deceived oneself. Deceptive or dishonest labeling or advertising, if we understand it this way, is the subject of long debates in the treatise of the Talmud where it is designated as *ona’ah*, in which all of these meanings, as well as the damages to one’s possessions or one’s being that may result for the injured person, are concentrated. “Just as there is fraud in buying and selling so there is fraud in spoken words.”<sup>4</sup>

This switching back and forth between exchanges of goods and exchanges of words provides the opportunity for subtle analyses of their commonalities but also of their differences, analyses that bring to light the world of *ona’ah*, in which a very particular phenomenology of the experience of others and of the social bond unfolds. The effects of *ona’ah* are rather similar to those of counterfeit money, which can be thought of literally or figuratively, but they differ noticeably in that counterfeit money clearly and obviously belongs to the category of theft and lying. In the hierarchy of transgressions and ruptures of the social bond, *ona’ah* is situated a little below counterfeit money. Sometimes *ona’ah* appears to be somewhat inevitable, and agreement may be reached on a threshold of tolerance. But how can *ona’ah* be accounted for, such that it can be regulated and controlled as far as possible, when it is not measurable—in fact beyond measure—and such a threshold can therefore not be quantified? We encounter the same kind of difficulty when we deal with the effects of virtual exchanges. For a long time now, theater and games of all sorts have accustomed us to these effects, which rest on illusion and on the fiction of a staged reality that is at least partly imaginary. But the digital transmission of information amplifies such effects beyond all proportion.

The French phrase *fausse monnaie* (for “counterfeit money”) can also be used to talk about falsified, inauthentic, deceitful, and mendacious speech. The Latin *injuria* reminds us that injurious words can inflict injuries, and indeed the English derivative, *injury*, covers both bodily damages and damages to personal honor and dignity. As we shall see, damages to goods due to intentional or unintentional deception in commercial transactions can be included in a whole set of injuries in which commercial fraud

and deceptive words are two different aspects of damage to personal integrity. Paradoxically, the most serious, even fatal, bodily injuries are excluded from this category, which is sometimes presented as comprising the worst of crimes. But this only appears to be a paradox: bodily injuries inflicted on others or by others are not specifically human. They are the actions of animals and often constitute a central element of animals' lives—unlike false advertising and violations of someone's dignity. Here we encounter the same apparent paradox as in the modern notion of crimes against humanity: the majority of murders and assassinations are not considered crimes against humanity, whereas slavery and other degrading behaviors are. This is because what is at stake there is precisely the "humanity" in the individual, which is denied by affronts to dignity and the humiliation that results from them. In fact, the two notions of crimes against humanity and affronts to dignity, both of them difficult to define clearly, are interlinked, with each referring to the other: dignity can thus be negatively defined as that which is attacked in crimes against humanity.<sup>5</sup> And humanity, whose opposite is the inhuman rather than the nonhuman, is that which is specifically attacked by degrading behaviors, whether or not (like the Roman *injuriae*) they are accompanied by bodily injuries.

Let us nonetheless note that humanity is also made up of solidarity, love, generosity, and disinterested knowledge, virtues that may, like their opposites, be inherited from humanity's distant animal ancestors and amplified. But it is easier to perceive humanity's misdeeds against itself and its environment. And yet we do know that exchanges are occasions for material good deeds, gifts of money and other gifts, as well as for verbal good deeds, although we will only be able to deal with those indirectly here.