

PRACTICAL JOKES AND THEIR CONSEQUENCES

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In 1885, R. Avraham I. Kook was appointed the "Purim Gabbai" in the Yeshiva of Volozhin. He delivered a remarkable impersonation of R. Naftali Tzvi Yehuda Berlin (Netziv), the rosh yeshiva at the time. Years later, when R. Kook was the rosh yeshiva of the yeshiva now known as Yeshivat Merkaz HaRav, R. Berlin's great grandson served as the "Purim Rav" and delivered a speech impersonating R. Kook. R. Kook listened and commented "Now I am getting my due. The great-grandson is repaying me here in Jerusalem for that which I said to his great-grandfather in Volozhin."

Celebration of the Soul: The Holidays in the Life and Thought of Rabbi Avraham Yitzchak Kook (pp. 123-124)

During the period between Pesach and Shavuot, we observe certain mourning practices to commemorate the death of R. Akiva's students who were punished for not respecting one another (שלא נהגו כבוד זה לזה, *Yevamot* 62b). It is an opportunity for us to reflect on how we treat others.

Practical jokes can be a fun, healthy way to express friendship, but they can have negative effects. The victim can get hurt or something can get damaged as a result. Let's look at a few scenarios dealing with practical jokes and their consequences:

CASE ONE	Shira's friends are making a surprise birthday party for her and part of the surprise involves "stealing" her bicycle while she is at a friend's house. Is this appropriate?
CASE TWO	At the end of every school year, the kids on the school bus hold a comedic skit on the last bus ride home that pokes fun at the members of the bus. Most of the boys enjoy the skit, but there are always a few boys who are offended. Should the boys continue this tradition?
CASE THREE	Lisa convinced her younger cousin Benny to glue someone's knapsack shut. They accidentally used permanent glue and now the knapsack is ruined. Who is responsible to replace the knapsack?

Let's Examine the Sources

Rambam discusses stealing for the purposes of playing a practical joke:

Torah law prohibits stealing even the smallest amount. It is prohibited to steal as a joke or to steal in order to return it or to pay for the item. It is all prohibited so that one does not become accustomed to [stealing].

Rambam, Hilchot Geneivah 1:2

אסור לגנוב כל שהוא דין תורה. ואסור לגנוב דרך שחוק או לגנוב על מנת להחזיר או על מנת לשלם הכל אסור שלא ירגיל עצמו בכך.
רמב"ם הל' גניבה א:ב

According to Rambam, stealing for the purpose of playing a joke is prohibited because it will lead one to actual theft. Yet, there was a practice in the Temple times that seemed to condone “celebratory” stealing:

Immediately [after the completion of the service on the seventh day of Sukkot], the children would release their lulavs and [adults would] eat their etrogs.

Mishna, Sukkah 45a

The adults would grab the lulavs of the children and [the adults] would eat the etrogs of the children and this did not constitute theft or a disruption of peace because this was a common practice done out of celebration. This is the explanation of Rashi. From here we can learn that when the young people ride on horses to greet the groom and bride and joust [for sport] and sometimes tear each other’s clothing or damage the horse, there is no requirement to reimburse because this is the commonly accepted way to celebrate at a wedding.

Tosafot, Sukkah 45a

מיד תינוקות שומטין את לולביהן, ואוכלין אתרוגיהן. משנה, סוכה מה.

לולבי התינוקות שומטין הגדולים מידן ואוכלין אתרוגיהן של תינוקות ואין בדבר גזל ולא משום דרכי שלום אלא שכך נהגו בו מחמת שמחה כך פי' בקונט' ויש ללמוד מכאן לאותן בחורים שרוכבים בסוסים לקראת חתן ונלחמים זה עם זה וקורעין בגדו של חבירו או מקלקל לו סוסו שהן פטורין שכך נהגו מחמת שמחת חתן תוספות שם

Questions for the Table:

- 1) How can we resolve the apparent contradiction between the prohibition against stealing for a practical joke and the practice in the Temple of stealing the lulavs and etrogs from the children?
- 2) How can we apply the comments of Tosafot to a situation where someone’s clothing was torn by another player in a ball game?

While Tosafot permit violation of certain interpersonal laws when it is customary to do so, we find several limitations to this idea:

Tosafot wrote that when they are riding to greet the groom etc. ... I have sometimes ruled this way regarding incidents that occurred on Shabbat when the youngsters play in the courtyard of the synagogue and [and sometimes] hit each other [and cause damage] as long as there was no intent [to cause damage].

R. Alexander Suslin, Agudah, Sukkah 4:41

If people who grab from one another as they rejoice, there is no prohibition of theft and this has been the practice as long as they don't do anything inappropriate as determined by the leaders of the city.

Rama, Orach Chaim 696:8

כתבו התוספות כשרובבין נגד החתן וכו'... וכן פסקתי לפעמים בשבתות בחצר בית הכנסת כשמחקים הבהורים ומכין זה את זה ובלבד שלא יתכוונו. הרב אלכסנדר סוסלין אגודה, סוכה ד:מא

בני אדם החוטפים זה מזה דרך שמחה אין בזה משום לא תגזול ונהגו בכך ובלבד שלא יעשו דבר שלא כהוגן על פי טובי העיר. רמ"א אורח חיים תרצו:ח

Questions for the Table:

- 1) According to R. Suslin, it is not permissible to intentionally cause damage to someone else, even through celebration. Why do you think he prohibits it? Do you think it matters if the action is playful or mean spirited? How would you apply his idea to stealing as a practical joke?

- 2) According to Rama, any practice that involves harming others in the course of celebration must be with the approval of the leaders of the city. How do you think this could be applied nowadays to practical jokes?
- 3) How would you apply this discussion to case #1 (stealing a bicycle as a joke)?

Comedic Skits

Why does local tradition play a role in exempting someone from payment for damage caused during a celebration? Furthermore, why doesn't R. Suslin consider local tradition when prohibiting intentional damage? R. Binyanim Zilber, *Az Nidebru* 9:49, presents two possibilities as to the role of local tradition. First, local custom defines the rules of a celebration. Second, we assume that those who participate in a celebration don't mind that certain things will happen in the course of celebration. According to the first approach, the leaders of the city ultimately determine which practices are valid to define the rules of celebration. As such, R. Suslin's limitation of intentional damage is an observation that, generally, the leaders of the city are not going to permit intentional damage. According to the second approach, the role of the leaders of the city is to determine what people mind and don't mind in the course of celebration. R. Suslin's limitation is based on the assumption that people generally mind when someone intentionally tries to cause damage.

Question for the Table:

Can R. Zilber's two approaches be applied to permitting the mocking of others in a celebratory way?

There are things that are prohibited because they have a hint of gossip in them [including]... one who speaks gossip in a joking manner or frivolously, meaning that it is not out of hatred.

Rambam, Hilchot Dei'ot 7:4

R. Sherira Gaon wrote that although [there is no monetary penalty for] embarrassing someone verbally, we can excommunicate [the person who caused embarrassment] until the victim is appeased appropriately. This is logical because verbal embarrassment is more severe than embarrassment caused by getting injured and there is nothing worse than gossip or slander that a person says about a friend.

Rabbeinu Asher, Baba Kama 8:15

ויש דברים שהן אבק לשון הרע ... המספר
בלשון הרע דרך שחוק ודרך קלות ראש
כלומר שאינו מדבר בשנאה.
רמב"ם, הלכות דעות ז:ד

רב שרירא ז"ל כתב דאף על בשת
דברים מנדים אותו עד שיפייסנו
כראוי לפי כבודו ומסתברא דיותר
בשת בדברים מבשת של חבלה
דאין דבר גדול כלשון הרע ודבה
שאדם מוציא על חבירו.
רא"ש, בבא קמא ח:טו

Questions for the Table:

1. Rambam prohibits stealing as a practical joke and speaking lashon harah (gossip) as a joke. Do you think the permissibility to steal as a joke when done in celebration applies equally to speaking lashon harah as part of a celebration or a comedic skit?
2. How does Rabbeinu Asher's comment impact our comparison of stealing or damaging in the course of celebration to mocking others?
3. In a [previous discussion](#), we learned about the Talmudic statement "A person would prefer to throw himself into a fiery furnace rather than embarrassing someone publicly (*Sotah* 10b)." How does the severity of embarrassing someone publicly affect this discussion?

4. When a friend or family member is asked to speak at a celebration (e.g. bar/bat mitzvah, wedding, etc.), why is it important to know who the audience is before poking fun at the honoree? Can you think of examples of “inside jokes” that would be appropriate in front of certain audiences but not others?

“But She Told Me To Do It!”

Often times, practical jokes involve someone who plans the joke and someone else who carries it out. When something goes wrong, each person involved might blame the other. Who is really at fault?

The Talmud teaches an important principle regarding cases where one person asks another person to do something wrong:

One cannot be considered an agent to commit a crime since we say: if you are told to one thing by the master (i.e. God) and one thing by the student, who should you listen to?

Kiddushin 42b

אין שליח לדבר עבירה, דאמרינן:
דברי הרב ודברי תלמיד - דברי מי
שומעים?
קדושין מב:

While this Talmudic statement seems to place the blame on the person who carries out the crime and not the “planner,” it is important to note that according to the Talmud, this only applies to when we are dealing with two adults (i.e. above bar/bat mitzvah). If the perpetrator is a child, the “planner” is responsible, at least morally (*b’dinei shamayim*). Furthermore, Rabbeinu Asher, Tosafot HaRosh, *Kiddushin 42b*, states that even when both the planner and the perpetrator are adults, the planner is not completely exonerated and if the perpetrator doesn’t have the means to pay for any damage caused, the planner has a moral obligation to pay for the damage.¹

Questions for the Table

- 1) How would you apply this discussion to case #3 (the knapsack that was ruined)? Why is it important to know whether Benny is bar mitzvah or not? Do you think it matters that they didn’t intend to ruin the knapsack?
- 2) The discussions of the Talmud and Tosafot HaRosh deal with legal and moral responsibility to pay for damage. They don’t address whether it is appropriate to ask someone to do something wrong. What insights can we glean from their discussion about whether it is appropriate to ask someone else to play a prank on someone?

Conclusion

There are appropriate ways to joke around and there are jokes that can be insensitive or offensive. If we are not sure if a certain joke is appropriate, we should consult with our parents, teachers or rabbis who may point out something that we overlooked. If we think something might not be appropriate, we shouldn’t ask others to do it instead. When we are sensitive to the feelings and concerns of others, we can ensure that our celebrations and jokes are enjoyable for everyone.

Compiled by Rabbi Josh Flug, Director of Torah Research, CJF

BIOGRAPHICAL SKETCHES OF AUTHORS CITED

R. Naftali Z.Y. Berlin (also known as the Netziv 1816-1893) was born in Mir, Russia. He was a rosh yeshiva of the yeshiva in Volozhin and was a prolific author, writing works such as *Ha'Amek She'eila*, a commentary on *She'ltot D'Rav Achai*, *Ha'Amek Davar*, a commentary on the Torah and *Meishiv Davar*, a collection of responsa.

R. Avraham I. Kook (1865-1935) was the chief Ashkenazi rabbi of Israel under the British Mandate. He studied in the Volozhin Yeshiva and after assuming a few rabbinic posts in Lithuania, moved to Israel in 1904, while it was under Ottoman rule. He is widely regarded as one of the most influential leaders of Religious Zionism.

R. Moshe ben Maimon (also known as Rambam and Maimonides, 1138-1204) is one of the most famous rabbis in Jewish history. His works on Jewish law and Jewish philosophy are extremely influential and are studied regularly by students of Jewish law and philosophy. He began his life in Cordoba, Spain but eventually settled in Egypt.

R. Alexander Suslin (d. 1349) served as a rabbi in a number of German cities. He is most well-known for his *Sefer Agudah*, which is a collection of rulings of the Talmud and its commentators.

R. Moshe Iserles (1520-1572) is also known as **Rama**, an acronym of his name. He is most well-known for his glosses on *Shulchan Aruch*, which are considered authoritative for Ashkenazi Jews. He spent most of his life in Krakow, Poland. In addition to his numerous works on Jewish law, he also wrote philosophical works.

R. Binyamin Zilber (1906-2008) was born in Poland and moved to the Land of Israel in 1933. While he never an official rabbinic position, he wrote numerous works on the Talmud and Jewish law.

Rabbeinu Asher (also known as Rosh, c. 1250-1327) was one of the last of the Tosafists. He studied under R. Meir of Rottenburg in Germany and was forced to flee to Spain when R. Meir was imprisoned. His comments on the Talmud are extremely influential in the determination of practical halacha.

¹ From the fact that it does not say [in the latter case] that the sender is responsible in the Heavenly Court like it does in the former case, the implication is that the sender is completely exempt. Even though at the beginning of the sixth chapter of Baba Kama it states that one who hires false witnesses to testify for a friend is responsible in the Heavenly Court, that is because the witnesses were paid. However, here, where nobody was paid, the sender is not responsible to think that perpetrator will actually carry out the crime. Nevertheless ... it is logical that there can be a monetary punishment ... and the fact that there is no mention of a responsibility in the Heavenly Court is because the perpetrator must reimburse. However, if the perpetrator doesn't have the means to pay, perhaps the sender is responsible in the Heavenly Court.

Tosafot HaRosh, Kidushin 42b

מדלא קאמר משלח חייב בדיני שמים כמו ברישא מכלל דמשלח פטור לגמרי, אע"ג דברישי הכונס קאמר דהשוכר עדי שקר להעיד לחבירו חייב בדיני שמים היינו משום דאיכא שכירות אבל היכא דליכא שכירות אפ"ל בדיני שמים לא מחייב דאינו סבור שישמע לו, ומיהו ... ומסתבר דבממון נמי יש עונש של ממון ... והאי דלא תנא הכא חיוב דיני שמים גבי משלח משום דתנא הפקח חייב לשלם ואם אין לו מה לשלם איפשר דמשלח חייב בדיני שמים.
תוספות הרא"ש, קדושין מב: