

# Jewish Employee-Employer Relations

*How Jewish law creates a balanced relationship between employers and employees*

<http://www.myjewishlearning.com/article/jewish-employee-employer-relations/>

BY RABBI JILL JACOBS

## **Jewish Business Ethics 101**

### **JEWISH ETHICS**

Virtually everyone, at some point in his or her life, is an employee or an employer, and almost everyone has experienced both healthy and unhealthy work environments. Because the work we do influences our identities, social relations, and financial status, what happens in the workplace reverberates far beyond the office.

Our communal identity, too, reflects our experience as workers. The central narrative of the Jewish people involves our liberation from slavery, perhaps the worst imaginable work environment. Similarly, we cannot tell the story of Jews in America without mentioning the immigrant workers who suffered at the hands of sweatshop bosses and who created the first unions.

Given the centrality of work throughout Jewish history, it is no wonder that Jewish law expends significant energy on defining a set of labor laws designed to create a balanced relationship between employers and employees. Within these laws, each party has obligations toward the other and expectations of the other. Thus, employers are forbidden from delaying payment to workers, and employees are required to work diligently and not to steal employers' time.

### **Obligations on Employers**

While making certain demands on workers, the bulk of Jewish labor law imposes obligations on employers. This emphasis on the responsibilities of employers reflects an understanding of the essential power imbalance between employers and employees, as well as an internalization of the exodus narrative. Often cited within discussions of labor law is the biblical verse, "they are my servants" ([Leviticus 25:43](#)), understood by the rabbis to imply "and not servants to servants."

The experience of slavery and redemption instills within the lawmakers a wariness about any situation in which one person might, de facto, become the servant of another.

The central biblical text on the obligation of employers emphasizes the poverty of workers:

"Do not oppress the hired laborer who is poor and needy, whether he is one of your people or one of the sojourners in your land within your gates.

Give him his wages in the daytime, and do not let the sun set on them, for he is poor, and his life depends on them, lest he cry out to God about you, for this will be counted as a sin for you”

([Deuteronomy 24:14-15](#)).

This text assumes a situation in which workers are hired and paid by the day. In our contemporary context, this may be compared to people paid by the hour—that is, people paid according to the time worked, and not according to the job completed.

## Two Kinds of Workers

Jewish law differentiates between two categories of workers: the *po’el*, the type of worker described above, who is paid by the hour or by the day; and the *kablan*, a contractor paid for finishing a specific project. The *kablan* is generally described as a skilled worker, such as a carpenter, a repair person or an artisan. This person is less dependent on day-to-day wages than a *poel* and has greater leverage with the employer. A *kablan* whose employer refuses to pay, or pays too little can simply hold on to the item s/he has been hired to make or fix. Therefore, most of the laws protecting workers focus on the category of the *poel*, who is at the mercy of the employer.

The Talmud , discussing the biblical prohibition against delaying the payment of workers, comments:

“Why does he climb a ladder or hang from a tree or risk death? Is it not for his wages? Another interpretation—‘His life depends on them’ indicates that anyone who denies a hired laborer his wages, it is as though he takes his life from him” (b. [Bava Metzia 112a](#)).

The Talmud calls to our attention the extent to which low-wage workers are dependent on their earnings. The lowest-wage workers, the Talmud reminds us, perform the most dangerous and undesirable jobs and are the most likely to starve or otherwise suffer if denied pay.

The understanding of the essential inequality between employers and low-wage employees prompts the rabbis to place additional obligations on the employers and to increase the privileges of the employees. Employees are permitted to eat from the crop they are harvesting, and may quit work in the middle of the day, as long as doing so does not cause irreversible damage to the employer.

In a case, for instance, in which the crop will be lost if not harvested that day and no other workers are available, a worker may not leave in the middle of the day without paying a fine. In other cases, however, the rabbis permit the worker to quit, again invoking the principle that we are servants to God and not “servants to servants.” ([Bava Metzia 86b](#))

If outside factors prevent a worker from completing the assigned task—for instance, if a rainstorm interrupts the harvest, or a sick person whom one has been hired to help dies—the worker, in most cases is compensated for the entire day.

This worker, the rabbis understood, is counting on his salary for the day, and would not have accepted the job if not for the promise of a certain wage.

In one case, the Tosefta (a rabbinic work from around the second century that parallels and supplements the Mishnah) mandates that a rabbi must pay a worker in full, even after this worker breaks a jug he was hired to carry. There, the text refers to the biblical verse, “Follow the way of the good and keep the paths of the just” ([Proverbs 2:20](#)). Even though, the Tosefta implies, the letter of the law may not require payment, the spirit of the law obligates the employer to take care of the worker, who depends on his wages for survival.

While generally allowing “the custom of the place,” to set workers’ wages and hours, Jewish law permits the workers to organize amongst themselves and to agree to standard prices. In medieval times, such law led to the establishment of workers’ guilds in many Jewish communities. In contemporary times, many legal authorities, including Rabbis Moshe Feinstein and Eliezer Waldenburg (two 20th century Orthodox authorities in Jewish law), have used early sources on workers’ autonomy to justify unions and strikes. According to Feinstein, “in the case in which workers decide that they will not work until they receive a raise in salary or a similar thing. .. the majority may force the minority to observe it.” (*Iggrot Moshe*, [Hoshen Mishpat 59](#)).

## **Workers’ Responsibilities**

While employees have obligations to workers, workers also have responsibilities to their employers. The obligations for prayer and for reciting *Birkat HaMazon* [the blessing after eating a meal] are lessened for workers, in order to minimize the time spent away from work. Workers are expected to be diligent in their tasks and not to waste time during the day.

The laws governing the relationship between employers and employees aim to create a balanced working situation, in which each party receives what she or he needs. As the employers necessarily enter the partnership with greater power, Jewish law spends more time defining the obligations of the employer, rather than the employee. The Jewish historical narrative is too explicit about the pain and dangers of slavery for Jewish law to recreate such a situation.

## Jewish Values Online

*multi Jewish perspectives on morals and ethics*

### What are Jewish values when it comes to work and working?

<http://www.jewishvaluesonline.org/847>

A Conservative answer from Rabbi Ari Kaiman

Shalom,

Thank you for your question.

Torah begins with God's "work," the act of creation. God's work becomes the source for us to also be involved in work for six days a week. In the 10 commandments it is stated clearly, "Six days you shall labor and do all your work, but the seventh day is Shabbat of the Lord your God" (Ex. 20:9). That we should be involved in some kind of work or labor, some act of contributing whatever our talents might be to the furthering of God's creation is a Jewish value.

Supporting ourselves (and others) economically is also valuable. "If there is no flour, there can be no Torah" (Pirkei Avot 3:21). Our labor should provide compensation which supports ourselves, our families, and allows us to contribute *tzedakah* for those who have fallen on hard times.

There are whole volumes of Jewish law and lore dedicated to the labor relationship between employer and employee. For an excellent analysis on Jewish values regarding the justice of that relationship, I recommend Rabbi Aryeh Cohen's new book, Justice in the City. Questions like, "What is appropriate compensation" and "What are the obligations of the employee to the employer and vice versa"

I hope I've begun to approach the answer to your question. If you'd like to email me or post a more specific question to what you're interested about, please feel free.

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An Orthodox answer from Rabbi Zev Farber, Atlanta

Jewish sources emphasize two basic work values. The first value can be framed negatively, and that is to avoid being a financial drain on society, so that the community can focus its charity on people in real need, the ones who have no other choice. The second value, and more significant to the Rabbis, can be framed positively, and that is for a person to be a contributing member of society and to participate in making the world a better place.

The early Rabbinic sources are especially sharp regarding the importance of work. A few examples: "Anyone who learns Scripture, Mishnah and has a worldly occupation (this is the meaning of *derekh eretz* in most Talmudic texts) will not easily sin... but anyone who has no part in the learning of Scripture, of Mishnah, and has no worldly occupation contributes nothing to society" (m. *Qiddushin* 1:10). "Rabban Gamliel the son of Rabbi Yehudah the Prince says: 'Learning Torah is good when combined with a worldly occupation, for working tirelessly at both makes any thought of sin forgotten. However, any Torah study that is not accompanied by productive labor will end up in idleness and lead to sin'" (m. *Abot* 2:2).

The Rabbis seem to believe in a number of benefits to productive labor. Firstly, it contributes to society, making the world a better place. However, this does not seem to be their main concern. More important to the Rabbis seems to be their idea that a person who does not contribute to society, even if he (or she) believes that he (or she) is involved in spiritual growth by studying Torah. The Rabbis believe that, in the end, this type of life-style will fail. The person, focused only on him- or her-self will inevitably fall into idleness. But as bad as idleness may be as a character trait, this is not the Rabbis' main concern either. Rather, they believe that idleness will lead to sin. In that sense, they believe that a person who expends his or her energy in productive labor on the one hand and growth in Torah on the other—privileging the latter—will virtually guarantee that they will walk the straight and narrow.

Maimonides offers a classic formulation of both these values in his *Mishneh Torah* (Laws of Torah Study, 3:10-11): "Anyone who has in mind to study Torah but not to work productively, and to live off the public charity has desecrated the name of God, insulted the Torah and extinguished the light of religion... It is an excellent trait if a person can earn his own living, and it is the way of the pious ones of old, and with this a person will earn all the honor and good of this world and the World to Come..."

Now, it is true that in modern society many people make a living from teaching Torah, and this has been accepted as a fair societal trade, since education has become such a high priority. Additionally, it is true that many people, in order to receive sufficient training need to live off grants for a certain amount of time. However, in my opinion, this only makes sense if this education or training is part of an overall plan for the person to contribute to society with his or her education. This is a very important corrective, in my opinion, to the perpetual student found nowadays in certain kollels, especially in Israel.

Finally, the wealthy have an especially serious challenge. According to the Rabbis lack of hard work and feeling of being productive is a cause for idleness and leads to sin.

Certainly, somebody who has enough money that he or she has no need to be productive and can enjoy the pleasures of life without concern is in acute danger of this. One only need to read about some of the excesses in some parts of the upper classes to understand the truth behind this concern. For this reason I believe that Jewish values would require even a self-supporting wealthy person to enter into some sort of project (or projects) that can be considered productive to society. To clarify, I do not mean donating money or showing up at an event, but I mean either working a regular job or involving oneself in a volunteer project by putting in real time, real work and real hours towards its success.

All in all, it seems that Judaism looks positively on a strong work ethic, to protect society's resources, to contribute to a better world, and to build character such that the person will avoid sin and thereby live a good and honorable life.

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A Reform answer by Rabbi Jonathan Biatch

It is safe to say that there is no direct command that refers to the usual necessity or custom of humans to be involved in the working world. Like so many things in Jewish practice, we make inferences from texts that do not, at first, seem to refer to a specific practice. Thus this answer below:

The overall attitude toward work might begin within the Ten Commandments: In Exodus 20:8-10, we read as follows: "Remember the Sabbath day, in order to sanctify it. Six days you shall labor and do all your work, but the seventh day is a Sabbath unto the Eternal your God..." From this passage we infer a positive commandment about when one performs one's labors on the earth, and when to rest. Although this passage is used to underscore the approach about how to observe the Sabbath, these words assume that people perform labor, and that this is how one goes through one's life in the world.

In a later chapter in Exodus, we learn once again about the necessity and timing of work (Exodus 23:12: "Six days you will do thy work, and on the seventh day you will rest..."), and in Leviticus' Holiness Code (Leviticus 19:13) we learn the beginnings of laws directed toward employers: "Do not defraud or rob your neighbor. Do not hold back the wages of a hired worker overnight." These regulations are a matter of fairness.

The reaction of the Torah about working for "six days" surely reflects an economic necessity of our ancestors in the Ancient Near East. The institution of the Sabbath was an innovation in the life of our ancestors, who had to work hard to earn a hardscrabble living from the land. In our day, we adopt a slightly different attitude, with the five-day workweek, or in some industries and government, an even more modified schedule.

Another inference in tradition is seen in Maimonides' guidelines of giving tzedakah (virtuous and just giving). We know that the highest form of tzedek (righteousness) consists of providing money, a loan, time, or whatever else it takes to enable an individual to be self-reliant. It is this self-sufficiency that implies that working is the usual condition for humanity.

However, as we learn in Deuteronomy 15:11, "there will never cease to be poor people in the world. Therefore I [God] command you to surely open your hand toward your kinfolk, your poor, and the needy in your land." Here we see that even though people are commanded to work, there will be those who, for whatever reason, will not be able to take advantage of their natural talents, and therefore we – the working people of the land – will have to care for them.

***Pursuing justice: workplace relations in the eyes of Jewish tradition*** by Avi Kay

Department of Technological Management and Marketing, Jerusalem College of Technology, Jerusalem, Israel

[https://www.researchgate.net/publication/262893572\\_Pursuing\\_justice\\_Workplace](https://www.researchgate.net/publication/262893572_Pursuing_justice_Workplace)

**Abstract**

**Purpose** – The purpose of this paper is to explore how traditional Jewish sources view workplace relations, with particular attention to how those sources may aid individuals to best meet the challenges of the contemporary organizational world.

**Design/methodology/approach** – This work examines the desired nature of employer-employee relations via an examination of pertinent Jewish sources from a variety of time-periods and locations.

**Findings** – Traditional Jewish sources address a wide array of topics associated with the respective obligations and rights of employers and employees at the workplace. These sources allow for an additional way to meet the challenges of a workplace plagued by the lack of trust and common purpose often associated with the contemporary business organization.

**Practical implications** – The paper provides a conceptual framework through which to understand workplace relations. It presents and explicates various aspects of employer and employee responsibilities, while suggesting possible means by which business leaders can best organize and maintain workplace relations.

**Originality/value** – There currently exists both an increasing interest in spirituality at the workplace and the acknowledgement that traditional sources may provide important insights into the challenges of contemporary organizations and those who lead them. The paper is the first piece of research addressing how traditional Jewish wisdom can be leveraged to advance on of the most vexing problems in contemporary organizations: the advancement of mutual trust between employer and employee.

**Keywords** Judaism, Organizational culture, Employees relations, Trust, Jewish wisdom, Workplace relations, Organizational justice

**Paper type** Research paper

Justice is central to Jewish tradition. Indeed, the book of Genesis notes that the Abraham, the father of the Jewish nation, is chosen to be the conduit of God's word "so that he will direct his children and his household after him to keep the way of the Lord by doing what is right and just" (Genesis, 18:19). Echoing the title of this work, in Deuteronomy the people of Israel are told not only to "do justice," but to "pursue justice" (Deuteronomy, 16:20).



But, justice is not only the obligations of Jews; but the cornerstone of any society. Thus, the Talmud stipulates that “Just as Israel was commanded to appoint courts of law in every district and city, so were the sons of Noah (a term for non-Jews-AK) commanded to appoint courts of laws in every district and city” (Sanhedrin, 56b). In that all are deserving of justice, all must help secure justice. Thus, it is crucial that in every public sphere (e.g. “district” or “city”) in society there exist an infrastructure for justice.

One of the most central “public sphere” in any society is the workplace. This paper examines how Jewish sources address a central aspect of the workplace: the employer-employee relationship. More specifically, the paper draws upon traditional Jewish wisdom as a possible source for contemporary business leaders to best manage The current issue and full text archive of this journal is available at [www.emeraldinsight.com/0262-1711.htm](http://www.emeraldinsight.com/0262-1711.htm) Journal of Management Development Vol. 31 No. 9, 2012 pp. 901-911 r Emerald Group Publishing Limited 0262-1711 DOI 10.1108/02621711211259857 901 Pursuing justice workplace relationships for the mutual benefit of the employee, the employer and the organization in which they act.

It will be suggested here that the manner in which traditional Jewish sources perceive workplace relations is of particular benefit today due to changes in the “psychological contract” – the explicit or implied promises made among parties to the workplace relationships (Rousseau, 1995). The last quarter century has been characterized by a diminishment of mutual trust in the employer and employee relationship. Whereas, in the past, employers typically exchanged opportunities for development and long-term job security for long-term employee loyalty and commitment to the organization – recent years have seen organizations respond to – or pre-empt – economic pressures through downsizing (Herriot and Pemberton, 1997; Cappelli, 1999) and/or the introduction of more flexible employment strategies such as part-time employment, contingent employment or “outsourced” work (Kalleberg, 2000). These efforts to save money on workforce outlays have taken place concurrent to a dramatic rise in the discrepancy between the average employee wage and that of top management.

Not surprisingly, research suggests that employees exhibit less positive attitudes toward employing organizations and an increased propensity for self-advancement at the workplace via impression management and advancement of short-term interests, rather than hard work and long-term commitment. The above has been seen to have contributed to the recent global fiscal meltdown (Aryee and Chen, 2004; Feldman and Weitz, 1991; Sturges et al., 2002; Kay, 2009).

The bottom-line is that the “bottom-line” has come to increasingly determine the nature of relationships at work. Crawshaw (2011) notes that this new employment dynamic is not economically sound in the long term and calls for new management strategies that may increase trust at the workplace. Research has suggested that the above can be achieved via the augmenting of trust at the workplace through the balancing of employee and organizational needs and goals (Robinson, 1996; Atkinson, 2007). As will be seen, traditional Jewish sources offer some promising directions toward that end.

Jewish sources that shed light on what traditional Jewish wisdom can add to the on-going discussion regarding the enhancement of trust at the workplace will be presented. First, the general framework in which workplace relationships might be understood in light of these sources will be outlined. Following that, the underlying nature of the employer-employee relationship will be explicated. Finally, the role and various expressions of justice in those relations will be addressed.

**A general framework for the understanding of workplace relations: not “servants to servants”** Written Jewish tradition begins with the Pentateuch. According to Jewish tradition, upon their release from slavery in Egypt – and during their subsequent 40-year odyssey in the desert – God communicated the Pentateuch (often referred to as the “Torah” or “Five Books of Moses”) to the Jewish people via their leader, Moses. In his intriguing book, *Moses as Political Leader*, Wildavsky (2005) addresses the founding of the political community which became the Jewish people, describing how political order was created out of the tumult and uncertainty of a newly freed people facing challenges from without and within.

Concurrent to the establishment of political order, while in the desert, a new social and economic order was put into place. As often noted (e.g. Singer, 2000), Judaism 902 JMD 31,9 accepts – if not promotes – a world view compatible to a free market and accumulation of wealth; with all its advantages and disadvantages. Thus, almost immediately upon their collective release from slavery, the Torah strives to design the nature of the relationship between the “haves” and “have nots.” Those passages – and subsequent commentary upon them – yield an understanding of how workplace relationships might best be perceived.

What becomes clear is that while traditional Jewish wisdom accepts the accumulation of wealth and the subsequent social and economic disparity which might ensue, there is no “choseness” in being wealthy. Rather, in traditional Jewish wisdom not only does political freedom require taking political responsibility, economic freedom requires taking economic responsibility for others (Singer, 2000; Kahaner, 2003; Wildavsky, 2005). Besides being directed to care for the poor and weak from a material perspective – the Torah clearly delineates the limits of any power discrepancy between employer and employee.

Indeed, the Torah stresses the limitations and “relativity” of the advantage employers may be seen to have over their employee. Witness, the commentary on Leviticus 25:55 in which it is stated: “For unto Me (are) the children of Israel servants; they are my servants.” Talmudic and later sages took this as a clear indication that the rights of employers must be limited. For employees cannot be in anyway construed as “servants to their employers” for they cannot be “servants of servants” (Talmud, Bava Metzia, 10a).

Rather, all are “players” in a larger drama, in which they must be seen as servants to someone else. The sages note that employees must be “given consideration” and their needs taken into account. The relationship at the workplace (as only one microcosm of the overall community landscape) should not be viewed as purely economic or instrumental in nature, but, rather contains in it elements of a social

exchange model such as that forwarded by Blau (1964) which has been used by the management literature as a central pillar upon which workplace relationships built upon mutual respect and trust should be built (Rousseau, 1995; Robinson, 1996; Searle and Skinner, 2011).

**The underlying nature of the employer-employee relationship in Jewish tradition** The underlying nature of the employer-employee relationship is that of a contractual relationship which carries obligations and rights for both parties. With that, employers are seen to have an advantage (at least in this world). Thus, particular attention paid to the interests and rights of employees.

The nature of employer-employee relationship can be seen as an intersection of two – seemingly – contradictory themes in Jewish tradition. The first theme is based on the premise of equity in all disputes. Expressions of the above can be found in a variety of biblical verses including the following:

. Deuteronomy 1:17: “You shall not respect persons in judgment. The small and the great alike you shall hear, you shall not be afraid of any man.”

. Leviticus 19:15: “You shall do no unrighteousness in judgment. You shall not respect the poor person nor favor the mighty person.”

The above is in line with the procedural justice literature which speaks of the need for and organizational advantages of establishing decision-making procedures which are 903 Pursuing justice perceived as fair (Colquitt and Rodell, 2011; Greenberg, 1987; Leventhal, 1976; Thibaut and Walker, 1975).

With that, traditional Jewish sources assume that there are parties in need of particular protection including orphans, widows, the poor, aliens living among the people of Israel and indentured servants. Indeed, the people of Israel are repeatedly implored to take care to deal with the latter in a proper manner for they themselves were “servants in Egypt” (e.g. Deuteronomy, 24:17).

The seeming contradiction between the two themes is simply recognition of the likelihood that, in the case of a dispute, there are those who will likely be at an inherent disadvantage. Employees are seen to be among those parties who will likely find themselves in a position of inferiority vis-a`-vis their partners to interaction: their employers. The imbalance in employer-employee relationships has been recognized in contemporary sources ranging from the American National Labor Relations Act to the previously discussed “insecurity thesis” related to the recent developments in the employer-employee relationship (Heery and Salmon, 2000).

With that, Jewish tradition seems particularly sensitive to the complexity of the employer-employee relationship and the need to “regulate” them for the betterment of all parties. Employers may be seen as being at an inherent advantage, but they are not bereft of rights. Employees may be seen as being at an inherent disadvantage but they are not without obligations.

The intricacy of workplace relationships engendered a situation in which the Torah expends great efforts to help people best navigate rights and obligations at the workplace. Of the 613 commandments given: 14 commandments deal directly with business practices, 11 deal with matters of property and 19 deal with employee relations. Thus, in the spirit of the words of the eighth century scholar, Rabbi Natan, if “character is tested through business” – Jewish tradition might suggest that character is particularly tested through one’s interaction with those who allow one to do business: employees.

In the following section selected rights and obligations of the two parties to the employment contract will be explored; with particular attention to how the above can contribute to the advancement or feelings of mutual trust at the workplace. The discussion regarding the obligations of the employer will focus on two main issues: compensation and the expected relations toward employees. With regard to the employee, the focus will be on expectations with regard to performance and productivity.

**Employer obligations Compensation:** paying wages on time While people may seek a variety of outcomes at the workplace, none is as basic as salary. Not surprisingly, a fundamental focus of Jewish traditional sources has been on salary issues; specifically the obligation to pay wages in a timely fashion. Failure to make timely payment was seen as a form of “oppression” to be steadfastly avoided. With an eye toward the proclivities of human nature, the sources make special mention of the need to take care not to favor employees closer to one’s social “circle” over those with whom one might not necessarily identify.

The following verse from Deuteronomy leaves little to the imagination:

Do not oppress the hired laborer who is poor and needy, whether he is one of your people or one of the sojourners in your land within your gates. Give him wages in the day of his harvest, and do not let the sun set on them, for he is poor, and his life depends on them, lest he cry out to God about you, for this will be counted as a sin for you (Deuteronomy, 24:14-15).

The emphasis on timely payment of salary to “sojourners” may be particularly salient today in a diverse workforce including native-born employees, new immigrants, legal “guest-workers” and “illegal” foreign workers – not to mention those employed in diverse offshore locations.

**Compensation: wages of “indirect employees”** Related to the above, and in the spirit of the previously mentioned need to “pursue justice,” it is useful to examine a tale regarding the “labor practices” of the nineteenth-century scholar Rabbi Israel Meir HaCohen (known as the “Hafetz Hayim,” after one of his most well-known works). The “Hafetz Hayim” was the leading scholar of his age and continues to be one of the most important influences on Orthodox Judaism to this day.

As both a scholar and a business person, he was particularly cognizant that “business pressures” may lead to ethically troubling business decisions.

He is known to have personally visited printers engaged in the publication of his works to make certain that those engaged in physically spreading his words were paid in a timely fashion, otherwise treated fairly and working in safe and healthy conditions. He is further known to have “boycotted” businesses that did not act according to those Torah precepts. This well-known example can serve as an example of the need – and possibility – to contribute to the guaranteeing of rights of employees for which one is not necessarily directly responsible.

The above tale resonates nicely with a passage in the Talmud relating the risks that employees often take in order to provide for themselves and their families:

Why does he (the worker) climb a ladder or hang from a tree or risk death? Is it not for his wages? Another interpretation – “His life depends on them” indicates that anyone who denies a hired laborer his wages, it is as though he takes his life from him (Talmud, Bava Metzia, 112a).

**Compensation: income disparity** The last 20 years have witnessed an unprecedented growth in the gaps between executive pay and that of frontline employee. In fact, while the value of the minimum wage has been declining since 1967, from 1989 to 2007 the divergence between executive pay and the average wage in the USA rose from seven to one in 1989 to 344 to one by 2007 (Kay, 2009). Wage disparity of this sort – along with the aforementioned use of downsizing to increase organizational (and executive) profits cuts at the heart of the type of social exchange (Blau, 1964) beneficial to a productive and efficient workplace (Pressman, 2011).

In this context it is interesting to note that Leventhal (1976) suggested that one important aspect of “distributive justice” relates to whether the distribution of resources is in line with acceptable norms. Indeed, much of the global social protests of recent years (such as “Occupy Wall Street”) have taken aim at the perceived injustice of resource distribution and alleged greed of business executives – at the expense of their employees. This sense of injustice bodes poorly for the ability to engender trust at the workplace (Colquitt and Rodell, 2011)

The sages, for their part, instructed employers to limit expressions of material disparity at the workplace; suggesting that employers:

[y] may not eat fine bread while he eats coarse bread, You may not drink aged wine while he drinks new wine, You may not sleep on soft bedding while he sleeps on straw. Hence the saying: When a man buys a slave, it is as though he bought himself a master (Talmud, Kiddushin, 22a).

Related to the above, as the numbers of the “working poor” (Ehrenreich, 2002) grow, there has been increasing debate concerning the “living wage” (Gertner, 2006; Clary, 2009); that wage necessary to meet basic needs including housing and other outlays such as clothing and nutrition. In this context, contemporary managers might take heed to the compensation policy of public workers in Jerusalem during the Second Temple period (which ended with its destruction in 70 CE). Maimonides noted:

The bookkeepers in Jerusalem (in the Temple) would take their salaries from money primarily intended for sacrifices. The judges who judged cases of theft in Jerusalem would take their salary from these funds. And how much would they take? Ninety maneh per year; and if this was not enough for them, (those responsible for distributing the money) would increase the amount. Even if (these communal workers) did not want to take more, they (the bookkeepers) would increase the amount according to the needs of the workers, their wives and their families (Mishneh Torah, Shekalim, 4:7).

Above and beyond the moral imperative to provide a “living wage” for employees, research has indicated that disparity in salaries between the private and public sectors contribute to lower levels of public service and higher levels of corruption (Van Rijckeghem and Weder, 2001; Gorodnichenko and Peter, 2007) – both challenges to the social fabric needed for the maintaining of mutual trust both within an organization, as well as on a societal level.

**Compensation:** employees “favored” creditors In light of recent global economic woes that have left countless organizations in ruins, it is worthwhile to examine traditional Jewish attitudes toward employee rights in the case of bankruptcy. Maimonides, whose works are considered definitive on a wide variety of everyday life issues, notes that in the event of bankruptcy there must be payment of monies due employees prior to the arrangement for the repayment of debts to others. Employees must be viewed as the organization’s premier stakeholder and thus be considered “first among equals” among an organization’s potential creditors. The introduction of such an organizational policy might likely augment employee loyalty to an organization.

**Employer attitude** The discussion above regarding compensation reflects the emphasis that traditional Jewish sources placed on assuring that employees procure proper material compensation for their efforts. However, traditional sources also were cognizant of another important aspect of workplace dynamics: the way employers treated their employees. Harking back to the principle that employees cannot be viewed as “servants to servants” – employers were expected to be sensitive to and respectful of their employees.

Kahaner (2003) noted how the Bible and Talmud depict the compassion of the two archetypical Jewish leaders, David and Moses – both shepherds – toward their flock. Biblical commentators saw in the above the mark of a true leader – one who is in-tune with, and attends the needs of others. For, certainly if sheep are deserving of treatment of this type; then so are employees, who allow the businessperson or manager to reach personal and professional goals.

Accordingly, Maimonides, notes that an individual must be very careful with regard to how those who work for them are treated. In a discussion concerning the correct relationship between the individual and one’s indentured servant (traditionally seen as a compass for employer-employee relations), it is stated that even when angry, the employer “should not shame his slave by waving his hand in a humiliating manner. He should not talk down to him or shame him. Neither should he shout at him or speak with anger, but instead speak in a gentle voice” (Mishnah Torah).

The above description of employer-employee relations might not only contribute to a more positive “everyday” work environment; but also serve to enhance what Bies and Moag (1986) termed “interactional justice” – the fairness of interpersonal treatment during decision-making processes. Both of the aforementioned can, in turn, be expected to contribute to positive social exchange and the advancement of mutual trust at the workplace.

**Employee obligations** Up to this point, the discussion of workplace obligations has focussed entirely on those of the employer. However, as noted at the outset of this paper, workplace relationships are seen as a type of contractual relationship in which both employers and employees have obligations. When these obligations are met, the parties are seen as “doing justice” to one another. We will now turn to the obligations of employees.

**Employee performance and productivity** In the Talmudic Tractate Bava Metzia (78a), Rabbi Meir bluntly notes that “an unfaithful worker is a robber.” But, what constitutes “an unfaithful worker” in the eyes of Jewish wisdom?

According to Jewish tradition, employee obligations are centered on issues of performance and productivity. The expectation that employees are expected to fully apply themselves at the workplace arises from explanation that Jacob gave the sons of Laban that he is fully eligible for the salary that he received in that “You know that I have served your father with all of my strength” (Genesis, 31:6). Subsequent sources have sought to flesh-out the boundaries of “working with full strength.”

One aspect of “full strength” refers to the employee acting in “good faith” – something that was earlier in this work seen as being less likely in the absence of mutual trust between employer and employee. An individual is expected to only undertake work that they are capable of doing and to give the potential employer a truthful estimate of how much time the work will likely take (Kahaner, 2003).

If hired per hour, the employee is expected to work in a brisk and efficient manner to “complete the work” in the least amount of time possible and have the employer’s interest in mind when at work. Echoing the principle of mutual obligations inherent in the employer-employee relationship, the medieval European commentator, Rabbi Jacob ben Asher, noted that: “In the same way as an employer is not allowed to steal the wage of his employees or delay their payment, so too the worker is not allowed to idle away his time, a little here and a little there [y]” (Hoshen Mishpat, 337:13).

Just as wages are to be paid in a timely and complete manner, so must employees perform their duties in a similar fashion. The above clearly dictates employees to arrive to work at time, be careful not to over-extend acceptable breaks and to not leave 907 Pursuing justice work early. Significantly, in his momentous “The path of the just”, the eighteenth century moralist, Moshe Chaim Luzzato, noted that the utilization of any work hours for personal benefit must be considered gross theft. Echoing Talmudic discussion allowing for abridged prayers for employees so as they might focus efforts on work, Luzzato clarifies that “even if one performs a mitzvah during his working-time, he is not credited with righteousness, but charged with a transgression. A transgression cannot be a mitzvah.”

In terms of the modern workplace, the above can be seen to clearly prohibit surfing the internet while at work or otherwise engaging in the variety of distractions afforded by smartphones which are very unlikely to lead to righteousness or the pursuit of good deeds.

Similarly, the demand for “full-strength” efforts limits the rights of what employees may do when not at work. The Talmudic Tractate “Bava Metzia” indicates that workers are expected to refrain from undertaking activities – including but not exclusively limited to other employment – that may in any way impinge on the ability to give an employer a fair exchange for the wages given (Tosefta, Bava Metzia, 8:2).

Specifically, employees are expected to arrive to work rested, well nourished and sober. The above can be seen to have at least two important implications for our 24/7 world. First, perhaps employers should have the right to call to task employees who seem red eyed after a long night out or sitting across the internet or cable TV. In addition, the above can perhaps be seen as offering support to employer rights with regard to drug testing – one of the most hotly contested employee rights issues in recent years.

The demand for “full-strength,” well rested and focussed work is related to yet another aspect of employee obligations: that related to the proper use of employer assets. Both in the Talmud Tractate of Bava Kama (79b) and the renaissance period legal code, The Shulchan Aruch, hold that employees must be cognizant of the well-being of the employer and take good care of the property and tools on the job. In contemporary business, it seems reasonable that one could expect employees to not only respect the physical assets of the employer, but be good “organizational citizens” (Organ, 1990) and protect more intangible organizational assets such as a positive work environment, the goodwill of clients and the employer’s reputation (i.e. in the eyes of the community or government regulators).

As such, employees could be seen as being obligated not only to precisely defined, “formal” aspects of their jobs; but also to uncompensated “discretionary behaviors” that may contribute to the well-being and success of the organization (Tyler and Blader, 2001). In addition, employee obligations to preserve a certain organizational culture and the employer’s reputation may also lend support to the proposition that the violation of an organizational ethical code should be considered legitimate grounds for dismissal (De George, 2009).

It is clear that even if employees may be at an inherent disadvantage, they nevertheless have the potential to do great good and great damage to the employers. In light of this reality, traditional Jewish sources strive to create the correct balance between the needs and desires of both parties to the workplace relationship – as a central pillar for the building of mutual trust at the workplace.

**Conclusion** The first decade of the twenty-first century has been marked by repeated and significant corporate scandals and market failures. The above has led to a much agitation about and attention to the possible “contribution” of management education to the above (i.e. Anand et al., 2004; Mintzberg, 2004; Giacalone and Thompson, 2006; 908 JMD 31,9 Waddock, 2006). However, perhaps no one piece has generated more discussion than that of Ghoshal’s (2005) critique of management education.



Ghoshal suggested that if one wanted to get at the heart of what had gone wrong in the world of business then one might look no further than at the basic underlying premise of management education: agency theory. The above assumption was seen as toxic to both organizations and managers.

According to Ghoshal (2005), the advocating of the “amoral” nature of the management profession was a self-fulfilling prophecy; and that: “the assumption that managers cannot be trusted can make managers less trustworthy” (p. 77).

Traditional Jewish wisdom regarding workplace relationships in the organizational setting squarely addresses some of Ghoshal’s central concerns. First, while various parties might tend to focus on their own interests and needs, Jewish wisdom expressively steers the individual to perceive the moral necessity to consider the needs of others. Moral obligations at the workplace are not only – or even primarily – focussed on an obligation to a supreme being; but are focussed on developing sensitivity to one’s “partner” at the workplace.

Employers are called to consider why employees “climb a ladder [y] risk death.” Employees are instructed to take care with organizational assets. Also, as noted, employees are reminded that the fulfillment of their obligation to their employer takes precedent over their ritual obligations. Thus, the workplace relationship cannot be considered to exist as a “moral vacuum”; separate from one’s moral life – but as a “litmus test” of one’s morality.

The sensitivity to the needs of the other at the workplace can be seen to contribute to a possible commitment to one’s own obligations. As such, the case for a workplace based on trust is advanced. Such trust might not only contribute to the sustainability of the social fabric of an organizational framework, but also to the organization’s long-term fiscal sustainability. For, trust can be seen to reduce “transaction costs” within the organization (Williamson, 1981) and “lies at the heart of wealth creation” (Gapper, 2005).

The twentieth century American-Jewish thinker, Abraham Joshua Heschel (1963), suggested that:

The teaching of Judaism is the theology of the common deed. The Bible insists that God is concerned with everydayness, with the trivialities of life. The great challenge does not lie in organizing solemn demonstrations, but in how we manage the commonplace.

While, perhaps not “trivial,” the modern business organization is one of the most commonplace sights of contemporary society. The ability of the business organization to “create wealth” is perhaps its very *raison d’etre*.

It has been suggested here that traditional Jewish sources offer much “practical wisdom” both for managers – and those who educate them – with regard to the everyday relationship between employers and employees. The ability of individuals to connect with and draw from the “practical wisdom” offered by Jewish – and other – traditions has the potential to contribute new depth of understanding to the manner in which they can best execute their roles as managers and employees for the betterment of all.

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About the author Avi Kay is the Chair of the Department of Technological Management and Marketing at the Jerusalem College of Technology and a Senior Research Fellow at the Jerusalem Center for Business Ethics. He has researched and written about various aspects of business ethics and is the author of the first book in Hebrew concerning the development and implementation of ethical codes. His current research interests include spirituality at the workplace and the transition of Ultra-Orthodox Israelis to academia and the workplace. Avi Kay can be contacted at: [kay@jct.ac.il](mailto:kay@jct.ac.il)

# **The Impact of Jewish Values on Marketing and Business Practices**

**<http://www.jlaw.com/Articles/impactjewish.html>**

*by Hershey H. Friedman*

*Professor of Business and Marketing*

*Department of Economics*

*Brooklyn College of the City University of New York*

*E-mail: [x.friedman@att.net](mailto:x.friedman@att.net)*

Judaism, which relies on the Torah for its written law, has had a great impact on marketing and business. The Torah is replete with precepts dealing with business, and the Talmud, the source of Jewish oral law, elaborates and expands Torah law. The process is ongoing and rabbinical authorities today build on the decisions of their predecessors to apply Jewish law to modern problems. Some of the issues examined in this paper include: honesty in the marketplace, fair pricing, employer-employee relations, and environmental issues. Jewish law is not only concerned with practical legal advice but in encouraging individuals to go beyond the requirements of the law and practice the "way of the pious." Judaism does not have a negative attitude towards business and wealth -- indeed, most of the Talmudic sages had occupations and some were quite wealthy -- but riches must be acquired honestly and used to help the poor, the needy, and the stranger.

## **Introduction**

Jewish culture, values, and ideas have permeated many aspects of modern life including the modern marketplace. This impact of Judaism on marketing and business is manifested not only in such areas as business ethics, but also in the organization's perceived social responsibility, and in a positive attitude towards business and wealth (when obtained and used in a proper manner). Numerous articles and books have been written describing applications of Jewish law from antiquity to the modern era and their continued relevance to the business problems of contemporary society

(see, *e.g.*, Elon 1975; Friedman 2000; Jung and Levine 1987; Levine 1980, 1987; Levine and Pava 1999; Tamari 1987, 1991; Wagschal 1991; Warhaftig 1987). To understand this impact, one must first examine Jewish law, tradition, and culture, especially those principles relevant to the marketplace.

## GOING TO THE SOURCES

The Hebrew Bible, particularly the Pentateuch (*i.e.*, the Torah), contains the written law and, to the believer, is the word of God. The precepts in the Torah are the foundations of Jewish law and are cited by rabbinical authorities as a kind of constitution to this very day. According to Jewish tradition, the Torah contains 613 precepts, many of which deal with business practices. The Torah is revered by other religions; the Talmud and the Midrash, however, are distinctly Jewish. Thus, to understand the impact of Judaism on marketing and business one must examine the Talmud and Midrash, as well as the Torah.

The Talmud, which is the compilation of Jewish oral law, expounds on the Hebrew Bible and consists of the *Mishna* and *Gemara*. The *Mishna*, originally an ancient oral tradition, was compiled and edited in written form about 1800 years ago by Rabbi Judah the *Nasi* (President of the Sanhedrin). The *Gemara*, which was completed about 1500 years ago, consists mainly of commentaries on the *Mishna*. There were two academies, in Israel and Babylon, independently studying the *Mishna*. Thus, there are two versions of the Talmud: the Jerusalem Talmud, a product of the academies in Israel, and the Babylonian Talmud, a product of the academies in Babylon. The Babylonian Talmud is considerably larger than that of the Jerusalem Talmud, and it is more authoritative.

The Talmud is primarily concerned with *halacha* (Jewish law) but also provides a detailed record of the beliefs of the Jewish people, their philosophy, traditions, culture, and folklore, *i.e.*, the *aggadah* (homiletics). The *Midrash*, a separate scripture which records the views of the Talmudic sages, is mainly devoted to the exposition of Biblical verses but is also rich in philosophy, folklore, and legends.

It should be noted that, other than the few individuals who headed academies, the overwhelming majority of the scholars referred to in the Talmud had secular occupations, such as beer brewer, farmer, farm worker, peddler, physician, wood chopper, merchant, blacksmith, gravedigger. Indeed, some were known by their occupations, for example, Rabbi Yochanan the Shoemaker (*haSandlar*). Even in later times, many of the great Jewish Biblical and Talmudic commentators had ordinary occupations, *e.g.*: Rabbi Shlomo ben Yitchak (1040 -- 1105), known as Rashi, was a vintner in France; Rabbi Abraham ibn Ezra (1089 -- 1164) was a poet and astronomer from Spain; Rabbi Moshe ben Maimon (1134 -- 1204), known as Maimonides, was a physician and philosopher in Egypt; and Rabbi Ovadiah Sforno (1470 -- 1550) was a physician in Italy.

Maimonides wrote *Mishneh Torah*, in which he arranged and codified the laws without the Talmudic debate and homiletics. Later, Rabbi Joseph Karo (1488 -- 1575), relying on the works of Maimonides and other scholars, wrote the *Shulchan Aruch*, the authoritative code of law for observant Jewry. The Torah, Talmud, *Mishneh Torah*, *Shulchan Aruch*, and thousands of responsa (legal decisions handed down by Jewish authorities) are major sources for the rules and regulations governing Jewish law today. Even in the secular arena, Rakover (1992) demonstrates that hundreds of decisions handed down by secular courts in Israel today refer to Jewish law. For instance, in one case, Maimonides' ruling that "It is prohibited to deceive people in transactions or to mislead them" (*Mishneh Torah*, Laws of Selling 18:1) was quoted to demonstrate the obligations of sellers (Rakover 1992, 755). Friedman (1980; 1984; 2000) shows how many current business laws and practices and numerous concerns of business ethicists today have their antecedents in the Hebrew Bible and the Talmud.

## **LAW VERSUS ETHICS: 'THE WAY OF THE PIOUS'**

Friedman (1980) notes that the Talmud often resorts to ethical principles in order to improve upon the law. Following the strict letter of the law is not sufficient. In fact, the Talmud (T. Bava Metzia 30b) claims that Jerusalem was destroyed because judgments were based strictly on the law and did not go beyond the strict line of justice.

This principle of Jewish law, that demands that one be ethical and even go beyond the legal requirement, is derived from the verse (Deuteronomy 6:18): "You shall do that which is fair and good in the sight of the Lord." The Talmud (T. Bava Metzia 108a) uses this verse to establish the right of pre-emption, *i.e.*, when one sells a field the adjoining neighbors are given the right of first refusal. In addition, individuals who go beyond the requirements of the law will return found objects even if the object was lost in a place where it is clear that the owner gave up any hope of recovery (*e.g.*, if it fell into the sea), and there is thus no legal obligation to return it (T. Bava Metzia 24b).

Another indication that one must do more than simply obey the letter of the law is that "one may be (legally) compelled not to act in the manner of Sodom." In some situations where one party benefits and the other party loses absolutely nothing, the courts can compel an individual to do the right thing (*e.g.*, T. Bava Bathra 12b). Spiteful selfishness of this type is considered a behavior characteristic of Sodom and is not tolerated by Jewish law.

Friedman (1985) demonstrates that the Talmudic sages believed that there is an ethics hierarchy and that individuals should strive to reach the summit. He notes that the highest level of ethics described in the Talmud is "the way of the pious." Businesspeople leading their lives according to this principle go beyond the letter of the law and are willing to lose money rather than take advantage of another person's misfortunes. Gifter (2000) uses the following case discussed in the Talmud (T. Bava Metzia 83a) to prove that the purpose of the Torah and Talmud is not solely to provide precise answers to legal questions but to develop the morals and ethics of individuals.

Some porters negligently broke a barrel of wine belonging to Rabbah bar Bar-Chana who then confiscated the porters' property as restitution. Rav, the judge, advised Rabbah to return the property belonging to the porters. Rabbah asked Rav whether this was indeed the law and was quoted the following verse from Proverbs (2:20): "In order that you may walk in the way of the good

..." The porters then complained to Rav that they were poor, had worked all day without earning anything, and were in need. Rav told Rabbah to pay them. Rabbah again asked whether this was the law. Rav responded with the conclusion of the verse from Proverbs: "... and keep the paths of the righteous."

Because the Talmud is concerned with improving the ethics of the individual, cases are discussed in which the courts cannot legally prosecute the defendant. This is not surprising given that, in Jewish law, the legal content of the law is totally conjoined with ethics, religion, and morality (Silberg 1973, 83). It is interesting to note that the Ten Commandments (Exodus 20:2-14; Deuteronomy 5: 6-18) mixes laws that are the foundations of every legal system (*e.g.*, those dealing with murder, theft, and bearing false witness) with laws that are religious (*e.g.*, against idolatry and observing the Sabbath), and with the Tenth Commandment dealing with "coveting" and "desiring." Legislation against desiring is not part of any legal system and relates more to ethics and morality than to practical jurisprudence. These very different types of laws are combined to demonstrate that crimes against people are also crimes against God and that individuals have an obligation to go beyond the letter of the law and elevate themselves spiritually and ethically. Indeed one wonders whether advertising whose sole purpose is to arouse envy and desire on the part of those that do not possess a certain product is inconsistent with the spirit of the Tenth Commandment.

Friedman (1985) describes cases in which the Talmud rules that the offender is "liable under the laws of Heaven," is described as "wicked," as having "behaved with deceit," "acted in the manner of Sodom," "lacking in honesty," and engaged in a behavior "that is not pleasing to the spirit of the sages." Whether or not a defendant can or cannot be prosecuted for an action may be less important than knowing about whether it is the "right" thing to do. Rabbi Moshe ben Nachman (1194 -- 1270), Nachmanides, a major commentator on the Torah (and also a physician), notes that one can follow the letter of the law and still be considered a "vile person within the permissible realm of the Torah" (Nachmanides, Leviticus 19:2).



There are gradations of unethical behavior and the objective is to motivate individuals to move up the ethics hierarchy. Not everyone is capable of reaching the level of Rabbi Safra who is described in the Talmud (T. Maakoth 24a) as an individual who abided by the verse (Psalms 15:2) "who speaks truth in the heart." One day, while Rabbi Safra was praying, a man offered to buy some merchandise from him. He made an offer, but Rabbi Safra did not want to respond in the middle of a prayer. The prospective buyer assumed that Rabbi Safra was holding out for more and kept increasing the bid. After Rabbi Safra concluded his prayer, he informed the buyer that he would sell the merchandise at the first price because he had "agreed in his heart" to this price. Legally, one is not required to do as Rabbi Safra; this is the "way of the pious." On the other hand, if two parties have concluded negotiations leading to a sale and are in the process of closing the deal, and a third party jumps in and makes the purchase, the interloper cannot be prosecuted legally but is described by the Talmud (T. Kiddushin 59a) as a "wicked person."

The Talmud (T. Maakoth 24a) enumerates 11 ethical principles (based on Psalm 15) that underlie the 613 precepts of the Torah. These include such virtues as "speaks the truth from his heart," like Rabbi Safra; "deals righteously," like Abba Chilkiyahu, who would not even greet people while working as a day laborer since he did not want to waste time -- even a few moments -- that was not his; and "who has done his fellow human no evil," referring to one who does not infringe on his fellow craftsman's business. Opening a store next door to a store selling the same merchandise is something a pious person does not do (Wagschal 1991, 25).

## **HONESTY IN THE MARKETPLACE**

The prohibition against stealing is the eighth commandment of the Ten Commandments (Exodus 20:13; Deuteronomy 5:17) and is interpreted by several of the classic Jewish commentaries to include every kind of dishonesty and deception (*e.g.*, Sforno and ibn Ezra). One ancient commentary (Targum Yonathan) translates this commandment to include being a partner or friend of unscrupulous individuals. It is also stated in Leviticus (19:11-13): "Do not steal, do not deny falsely, and do not lie to one another."

Do not swear falsely by My name...Do not cheat your fellow and you shall not rob." Any type of deceptive act or practice, including deceptive advertisements and deceptive packaging, would also be a violation of the Biblical principle (Exodus 23:7), "Distance yourself from a false matter." Moreover, the Torah's injunction against "placing a stumbling block before the blind" (Leviticus 19:14) is interpreted by the Talmud and Midrash to include proffering bad advice to unsuspecting people or causing others to sin (Sifra Leviticus 35; T. Bava Metzia 75b). Thus, Jewish law would consider deceptive advertising and misleading labeling as placing a stumbling block before the blind and a violation of Torah law. Even the advertising agency that created the deceptive advertisement would be guilty of transgressing this law.

Adulteration of products was a problem even in ancient times as can be seen from Isaiah's criticism (1:22) of the Israelites: "Your silver has become dross, your wine diluted with water." According to most commentaries, this is not a metaphor but refers to actual deceptive practices in ancient Judah and Jerusalem that angered the Lord.

Merchants were prohibited from falsifying weights and measures by the Torah or even owning a dishonest weight (Leviticus 19:35-36; Deuteronomy 25:13-15). The prophet Amos (8:5) reproached the Jews for "making the *ephah* (a dry measure) smaller and the *shekel* larger and falsifying the scales of deceit." After all, "Deceitful scales are an abomination of the Lord" (Proverbs 11:1). In fact, any deception or dishonest business practice is "an abomination unto the Lord, your God" (Deuteronomy 25:16). To ensure honest weights and measures, the Talmud (T. Bava Bathra 88a) required merchants to wipe their weights once a week and clean their scales after every weighing. Market commissioners were appointed to ensure that businesses used honest weights and measures (T. Bava Bathra 89a). Vendors were prohibited from rapidly pouring liquids from great heights (T. Bava Bathra 89b), which was done by retailers to generate foam thereby ensuring that the customer would end up with less product.

Included in the Torah law against theft and deception is the requirement that vendors must be honest in selling.

Hiding faults from the buyer is not permitted and such a sale is null and void. The Talmud (T. Bava Metzia 59b-60a) prohibits such deceptions as: mixing your own produce with that of other farmers when the agreement was to provide produce from your field; painting animals or utensils in order to fool prospective buyers into thinking they are younger or newer; deceiving potential customers by placing the better quality merchandise on top of the bin (and the lower quality merchandise on the bottom) in order to make it appear that the merchandise is of uniformly high quality throughout; selling wine that has become adulterated with water in your store without informing the customers. The laws dealing with transactions under mistaken assumptions are relevant even in marriage, *i.e.*, the discovery of a bodily defect in a spouse can nullify the marriage (T. Kethubos 11b, 57b).

Clearly, firms must be aggressive in ensuring that all their advertisements and communications are honest, straightforward, and unlikely to deceive the public.

### **Fair Pricing**

The Torah states (Leviticus 25:14): "If you sell something to your neighbor or buy something from your neighbor's hand, you shall not wrong one another." The Talmud interprets this verse to refer to overcharges and undercharges. The Talmud (T. Bava Metzia 50b) ruled that if the overcharge is more than one-sixth -- *i.e.*, the retailer sells an item for a price that is one-sixth higher than what is generally accepted as a fair price -- the sale is null and void. Similarly, if an individual is unaware of the true value of an item and wishes to sell it, one must not take advantage of the seller's ignorance and underpay.

The law against overcharging was extended by the Talmud to include excessive markups on necessities (T. Bava Bathra 90a). Profits from the sale of staples such as wheat, oil, or wine was not to exceed one-sixth.

Price stability was of great concern to the Talmud, and the Talmudic sages considered causing prices to rise by hoarding or other means a violation of Torah law similar to usury or tampering with weights and measures (T. Bava Bathra 90b). Leaders such as Rabbi Shimon b. Gamliel, the head of the Sanhedrin, threatened to revise laws

concerning sacrifices when he heard that the price of doves used for certain sacrifices had increased to a golden dinar (T. Krithoth 8a). He was successful and the price dropped to one-quarter of a silver dinar.

Shmuel was another Talmudic sage that used his legislative powers to keep the prices of myrtles, used during the holiday of Tabernacles, and of pots, purchased before the holiday of Passover, from rising prior to the holidays (T. Sukkah 34b; T. Pesachim 30a). Shmuel and his father were known to purchase and subsequently sell produce in such a way as to keep the market price stable and low throughout the year (T. Bava Bathra 90b).

Firms have an obligation to engage in fair pricing and not overcharge or hoard products in order to make excessive profits, especially for necessities and drugs.

### **The Appearance of Propriety is Important Too**

The Torah states (Numbers 32:22): "and you shall be innocent before God and Israel." The Talmud uses this verse to derive the principle that one must behave in a manner that does not give rise to suspicions on the part of others. The Torah (Exodus 38:21-31) provides a detailed list of the amounts of gold, silver, and copper used in the construction of the Tabernacle. This was done to demonstrate the importance of keeping clear records and behaving in a way that does not cause the public to suspect one's veracity. The Torah states (Exodus 38:21): "These are the accounts of the Tabernacle, the Tabernacle of the Testimony, as they were calculated according to the commandment of Moses..." Moses wanted to make it evident that he and the builders of the Tabernacle did not divert any of the precious metals for their own personal use and he therefore used others to audit the records. The Midrash (Exodus Rabbah 51:1) comments: "though Moses was the sole treasurer, yet he called others to audit the accounts with him."

The Talmud (T. Pesachim 13a) states that the overseers in charge of the soup kitchen were not allowed to purchase surplus food when there were no poor people to whom to distribute it. Surpluses were only allowed to be sold to others so as not to arouse suspicion that the charity overseers were profiting from public funds. For the same reason, children in the family of Garmu, that made the showbread for the Temple,

were never seen with fine bread; brides from the family of Abtimas, the Temple's incense manufacturers, never wore perfume (T. Yuma 38a). Those who entered the Temple chamber to collect the money (for the sacrifices) wore clothing with no pockets or other receptacles so that people should not suspect them of stealing money (T. Shekalim 3:2).

Organizations have the same obligation as individuals to act in a manner that does not arouse suspicion and to use outside auditors that are truly objective.

## **EMPLOYER-EMPLOYEE RELATIONS**

In an agrarian society, the laborers who worked the fields were usually slaves. Regarding the treatment of slaves, the Bible states: "You shall not rule over him through rigorous labor" (Leviticus 25:43). The Midrash (Sifra, Leviticus 86; Midrash Hagadol, Leviticus 25:39) explains this to mean that one is not permitted to make a servant engage in degrading work (e.g., removing his master's shoes), perform work that has no purpose (i.e., "busy" work), or carry out a task without a defined limit (e.g., "hoe until I return" when the servant does not know when the master will return). Employers are required to pay employees on time. The Torah states (Leviticus 19:13): "You shall not oppress your fellow and you shall not rob; the wages of a worker shall not remain with you overnight until morning."

The concept of fringe benefits is alluded to in the Torah. Field workers are given the right to eat of the produce while they work. The Torah states (Deuteronomy 23:25-26): "When you come [as a worker] into your neighbor's vineyard, you may eat as many grapes as is your desire, to your fill, but you may not put any into a receptacle. When you come into your neighbor's standing corn, you may pluck ears with your hand, but you should not lift a sickle on your neighbor's standing corn." When their servitude ended, the master was required to give the slave a severance gift known as *hanakah*. The Torah states (Deuteronomy 15:13-14): "Do not send him away empty-handed. You shall give him a severance gift from your flocks, from your threshing floor, and from your wine cellar ..."

Wagschal (1991, 37) states that employees must be treated with respect and describes various obligations of employers. He concludes: "Is an employee worse than a

slave?"

## **SOCIAL RESPONSIBILITY**

An organization should try to achieve its goals (*e.g.*, profit) but must also care for others. Hillel's simple rule summarizes this philosophy of business ethics as well as anyone can (T. Avot 1:14): "If I am not for myself, who will be for me? And if I only care for myself, what am I?"

The Torah makes it quite clear that the landowner has a responsibility to help the indigent. Landowners were obligated to help the poor by leaving the corners of the field for them; during the harvesting, individual stalks that unintentionally fell from the sickle also became the property of the "stranger, orphan, and widow" (Leviticus 19:9). Similarly, vines and olive trees were not to be picked clean: gleanings of the vine and olive tree were left for the destitute (Deuteronomy 24: 20-21). A sheaf of grain that was inadvertently left in the field during the harvest had to be left behind for the indigent (Deuteronomy 24:19). The landowner was obligated to provide a tithe for the priests and the Levites (Numbers 18:21-32) and a special tithe for the poor (Deuteronomy 14:28-29). There is also an obligation to "open one's hand" for the impecunious and lend them money (Deuteronomy 15:7-8).

The Torah is very concerned with the welfare of the stranger, an individual that often can be easily taken advantage of. Indeed, the stranger is often mentioned together with the destitute, widows, and orphans. The Talmud (T. Bava Metzia 59b) notes that the precept of not mistreating a stranger is alluded to 36 times in the Torah. For instance, the Scripture states: "You shall strengthen him, whether he is a stranger or a native, so that he can live with you" (Leviticus 25:35). Abusing, taunting, wronging, or oppressing the stranger is forbidden (Exodus 22:20; Exodus 23:9); in fact, the Bible obligates one to love the stranger (Leviticus 19:34; Deuteronomy 10:19). Jerusalem was destroyed for wronging the poor, the needy, and the stranger (Ezekiel 22:29), and Sodom was annihilated for not using its wealth to help the poor and needy (Ezekiel 16:49). The Torah (Numbers 15:16) insists that: "One law and one ordinance shall be both for you and for the stranger who sojourns with you." Individuals, organizations, and government must ensure that all ethnic and religious groups are treated equitably; special efforts should be made to help the poor and the handicapped get jobs -- the

highest form of charity (Maimonides, *Mishneh Torah*, Laws of Gifts to the Poor 10:7).

Deuteronomy (22:8) states "when you build a new house you must place a guardrail around your roof, so that you will not place blood in your house." The Talmud extends this law to apply to any dangerous situation, for example, keeping a defective ladder (T. Kethuboth 41b). Certainly, selling a broken ladder would be no better. One may infer from this that any product with the potential for harming the user is prohibited by Talmud and, by extension, the Torah. In addition, employers must be extremely careful to make certain that the workplace environment is safe and not deleterious to employees' health.

### **A Responsibility for the Environment**

Wasteful consumption is proscribed by the Torah. Soldiers are not permitted to cut down fruit trees even when besieging an enemy's city (Deuteronomy 20:19). The Talmud (T. Shabbos 129a; T. Bava Kama 91b) extends the prohibition of not destroying fruit trees to any type of wasteful destruction; thus, wanton destruction of any kind is a violation of Torah law. This is known as the principle of *bal tashchit* (literally meaning "do not destroy"), a prohibition against unnecessary destruction or waste. Schwartz (1997) shows how more recent rabbinical authorities have applied the principle of *bal tashchit*.

Some questions discussed in the Talmud include how far to locate a tannery (which emits bad odors) from a city (T. Bava Bathra 25a). Noise pollution resulting from an individual opening up a store in a courtyard shared by several families is also discussed in the Talmud (T. Bava Bathra 20b). Turkel (1991) applies many of the Talmudic laws and responsa dealing with relations between neighbors to modern questions dealing with pollution.

The Torah requires that the land be given a complete rest in the seventh year, known as Shemitah (Leviticus 25: 1-7). One purpose of the Sabbatical year may have been to protect the land from depletion. During the Jubilee (50th) year, the land was also rested and reverted back to former owners.

The obligation to care for the environment and minimize pollution and waste is one

that falls on individuals as well as companies. The Talmud (T. Bava Kama 30a) notes that one who wishes to be pious must be extremely scrupulous in matters that may cause harm to others, *e.g.*, in the disposal of glass and thorns.

## **ATTITUDE TOWARDS BUSINESS AND WEALTH**

The Jewish attitude towards business is quite positive. In fact, wealth, peace, and/or long life are rewards from God for obeying God's laws (Leviticus 26: 3-13; Deuteronomy 11: 13-16; Deuteronomy 25:15; Proverbs 22:4). The Bible makes it clear that one who helps the poor will be blessed by God (Deuteronomy 15:10; Isaiah 1:17-19; Proverbs 19:17); those that mistreat the stranger, widow, or orphan will be punished by God (Exodus 22:20-23; Isaiah 1: 23-25). There is nothing wrong with being wealthy as long as the rich do not forget that wealth comes from God and that there is an obligation to help the needy. The danger of wealth and its true purpose is explicitly stated in the Bible (Deuteronomy 8: 11-18): One should not believe that "my power and the might of my hand has made me all this wealth"; rather, one should remember that God gives wealth to individuals in order that they may do His will.

It is clear that Judaism sees nothing wrong with wealth as long as it is obtained honestly and used to help the poor. The Talmud also reinforces this idea: In a wordplay on the verse (Deuteronomy 14: 22): "You shall surely tithe," the Talmud (T. Taanis 9a) advises that one should tithe in order to become rich (the Hebrew word that means to tithe is very similar to the word that means to become rich). The verse (Proverbs 11:24), "There is one who scatters and yet is given more" is interpreted by many of the commentators (*e.g.*, Rashi and ibn Ezra) as referring to one who spends his money on the needy. The question of what a person should do to become rich is discussed in the Talmud; one answer is to engage in much business and deal honestly (T. Niddah 70b). Wealth is seen as "comely to the righteous and comely to the world" (T. Avot 6:8), and affluent people who used their possessions to help others were respected by the Talmudic sages (T. Eruvin 86a).

Similarly, the Talmud has a favorable attitude towards working. The ideal is to combine the study of Torah with an occupation. Some statements about work include: "Whoever does not teach his son a trade, it is as though he taught him to commit robbery" (T. Kiddushin 29a); "All Torah that is not combined with work will



eventually cease and lead to sin" (T. Avot 2:2); "A person should love work and not hate it; for just as the Torah was given with a covenant, so too was work given with a covenant" (T. Avot D'Rabbi Noson 11:1); "Even God did not let His presence rest upon Israel until they had performed some work" (T. Avot D'Rabbi Noson 11:1); "Skin a carcass in the street and receive wages and do not say I am an important person and this type of work is beneath my dignity (T. Pesachim 113a)." As noted above, the Talmudists practiced what they preached and also had occupations.

The Talmud (T. Pesachim 113a) records Rav's business advice to his son Aibu, which included the idea to "sell your wares while the sand is still on your feet" (i.e., do not procrastinate, and sell as soon as possible). The idea of diversification -- i.e., dividing one's assets into thirds: 1/3 in land, 1/3 in business, and 1/3 kept liquid -- is also mentioned in the Talmud (T. Bava Metzia 42a). Advice is provided as to the ideal occupation, which, according to Rabbi Chisda, is needle work (T. Berachos 63a). Another sage believed that investing in business was better than being a farmer (T. Yevamos 63a). Rabbi Papa claimed that he became wealthy by being a beer brewer and recommended this occupation since it allowed one to become affluent and to be charitable (T. Pesachim 113a). Rabbi Yochanan's opinion was that raising small cattle would make one wealthy (T. Chullin 84b).

Judaism sees nothing wrong with business and making a profit as long as the firm realizes that it has other responsibilities as well. Jeremiah (9:23) stressed that God demands that people practice "lovingkindness, justice, and righteousness." The same can be asked of any organization.

## **CONCLUSION**

The Psalmist (Psalms 15) describes some of the attributes of a virtuous individual. We cannot help but notice that these same attributes are just as important for an organization: "One who walks in total integrity, deals righteously, and speaks the truth from his heart. One who has no slander on his tongue, who has done his fellow human no evil nor cast disgrace upon his close one... Whoever does these things shall never falter." Achieving the highest level of ethical behavior in the marketplace and practicing the social responsibility that must accompany success in business are the hallmarks of the 'way of the pious.'

Indeed, business ethics occupies such an important place in Jewish law, culture, and tradition that the Talmud (T. Shabbos 31a) has as the very first question an individual is asked in the next world at the final judgment: "Were you honest in your business dealings?"

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### About the Author

Hershey H. Friedman received his doctorate in marketing and statistics from the Graduate Center of the City University of New York. His areas of research include

business ethics, literary humor, measurement problems in surveys, computer simulation, and leadership. He has published more than 125 articles in scholarly journals and proceedings.

## The Jewish Ethicist: Ethical Work

Judaism does not view work as the center of life or as its primary source of meaning.  
by Rabbi Dr. Asher Meir, Business Ethics Center of Jerusalem

<http://www.aish.com/ci/be/48890777.html>

### *Q. What does Judaism say about the work ethic?*

A. The term "work ethic" conjures up the image of legions of devoted and diligent workers. But a closer analysis reveals that this phrase actually has two distinct meanings.

On the one hand, we use it to describe someone who has good work habits: when at work, he or she works hard and conscientiously. But we also use it to describe an ethic towards life as a whole, a worldview in which the individual finds meaning in life through work and professional achievement. Jewish tradition promotes the first kind of work ethic, but not the second.

Diligence at work is consistently praised in our tradition. Already in the book of Genesis we find Jacob's devoted service to Laban. Jacob tells his wives, "I served your father with all my might" (Genesis 31:6). And he tells Laban, "Thus I was: in the daytime the dryness consumed me, and the frost at night; my sleep fled from my eyes" (Genesis 32:40). Afterward we learn of Joseph's diligent service first to his master, then to the jail-keeper, and ultimately to Pharaoh.

And in the book of Proverbs we learn that "One who works his land will be sated with bread, but one who runs after empty things lacks understanding" (Proverbs 12:11), and "The slothful person desires but has nothing; but the soul of the diligent will be sated" (Proverbs 13:4).

Maimonides states: "Just as the employer is warned not to steal the wages of the poor and not to delay them, so is the poor person warned not to steal the work of the employer by idling a little here and a little there, until he passes the whole day in deceit. Rather, he must be scrupulous with himself regarding time." (Laws of hire 13:7)

However, Judaism definitely does not view work as the center of life or as its primary source of meaning.

Rather, the rule is "Make Torah primary and work secondary." Work, like any other area of human endeavor, gives us the opportunity to express our Torah values in our everyday life, but our ability to do this is mainly dependent on our devotion to cultivating these values in the first place. This requires diligent study and solemn commitment.

Our Code of Jewish Law states that a person should work for a living, but he should "work to live," and not "live to work." After morning Torah study, a person "should go to work, for all Torah which is not accompanied by work is destined to be nullified and in danger of causing transgression, because excessive poverty may cause him to deviate from the will of his Maker. But even so, a person should not make his work primary, but secondary, and his Torah the center; in this way both will succeed. And he should deal faithfully." (Shulchan Aruch, Orach Chaim 156.)

Today, when the work ethic has become an overriding compulsion, this seems like a distant dream. Yet a look at Jewish history reveals that a way of life that esteemed work but put Torah study at the center was a living reality for Jews around the world, even where economic conditions were grim. For example, a prominent 16th century commentator, Rabbi Yehoshua Katz, remarks that in his time an ordinary householder is unable to devote a solid nine hours to study, but "only three or four hours" per day. (Drisha Yoreh Deah 246.)

Economic life, including both production (work) and consumption, are an important part of our existence. The Torah acknowledges this importance and encourages us to work diligently and to enjoy life in appropriate moderation. But the material dimension is not the center of our existence; indeed, it only acquires meaning as an opportunity for us live out values of God's service. Judaism definitely demands that we be ethical at work, but doesn't really square with a "work ethic."



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Edited By  
Rabbi Bradley Shavit Artson  
and Deborah Silver

דרכיה דרכי נעם

# SOCIAL JUSTICE AND THE WORLD OF BUSINESS

RABBI CHERYL PERETZ

## INTRODUCTION

As corporations strive to meet their bottom line and as employees move freely from one company to another seeking upward mobility, career satisfaction, and individual success, building trust and loyalty between employees and employers has become increasingly difficult. Labor law discussions have become commonplace both in the boardroom and in the courtroom, focusing on employee rights and employer responsibilities.

Long before labor law and corporate ethics emerged in the secular society, however, the Torah established a model for an abiding relationship between employee and employer. As early as in the book of Deuteronomy we find one such operative principle:

You shall not abuse a needy and destitute laborer, whether a fellow countryman or stranger in one of the communities of your land. You must pay him his wages on the same day, before the sun sets, for he is needy and urgently depends on it; else he will cry to the Lord against you and you will incur guilt.” (Deuteronomy 24: 14-15, NJPS)

On one level, the Torah relationship is best characterized as a simple leasing contract. A worker’s time, effort and expertise were leased by the employer for the period of employment. In return, the worker received payment for the services provided. Consequently, the rabbinic attitudes regarding the worker and employer are born out of the laws of contract negotiation and cancellation, pricing, and the like. Since the relationship involved buying and selling of services, employers had no claims over the employee outside of those relevant to the work to be done. Likewise, the employee’s only responsibility was to fulfill in good faith that which he was contracted to do, without work stoppage or other barriers.

At the same time, though, employers and workers are both individual human beings, and therefore independent agents free of enslavement to any other person. The Leviticus command, “but for your Israelite kinsmen, no one shall rule ruthlessly over another... For it is to me that the Israelites are slaves; they are My slaves whom I freed from the land of Egypt: I am The Holy One your God,”<sup>1</sup> reminds both master and worker that all are servants of God. The Talmud expands this concept, adding that they are slaves only to God and not slaves of slaves.<sup>2</sup>

In addition to whatever codified legislation has developed (and in some cases, in the absence of codified legislation), Jewish law on employment and other business dealings relies heavily on the precedent created by *minhag hamakom* (local custom). In a discussion about the need to provide food for workers while on the job and the acceptable hours one can demand workers to be on the job, the Talmud reinforces that the local *minhag* governs. Elsewhere, the Talmud says “Everything is according to accepted custom.”<sup>3</sup> The Jerusalem Talmud extends this to mean that, within given parameters, *minhag* even can nullify enacted law, even biblical law.<sup>4</sup>

## VALUE OF LABOR

To understand the nature of the employee/employer relationship, we must first understand the value of work. In the Garden of Eden, Adam and Eve are given but one mandate – do not eat the fruit from the Tree of Knowledge of Good and Evil. Of course, they do eat, and are banished from the Garden. As punishment for this act of Divine disobedience, Adam is told that the land will forever be cursed by man, and that only by the hard work of the “sweat of his brow” would humans earn bread.<sup>5</sup> This might lead one to understand that work is a punishment for Adam’s original sin, the curse that is borne by each person through the evil committed by our forbearer. Troubled by this, some Biblical commentators suggest that the verse is intended not to describe the curse of work, but rather the transformation of the human role: from now on, humans have the responsibility for their own livelihood and sustenance.

The rabbinic sources, on the other hand, view work as a necessary part of human development and moral consciousness. Recognizing the importance of work in helping to earn the necessary livelihood, the rabbis also emphasize how

<sup>1</sup> Leviticus 25:46-55

<sup>2</sup> Babylonian Talmud Bava Metzia 10 and 11b; see also Babylonian Talmud Kiddushin 22b, Bava Kamma 116b and Bava Batra 11a.

<sup>3</sup> Babylonian Talmud Bava Metzia 83a and other parallel sources

<sup>4</sup> Jerusalem Talmud 7:1, 11a

<sup>5</sup> Genesis 3:17-19





# SOCIAL JUSTICE AND THE WORLD OF BUSINESS

work helps individuals take responsibility for society and social order. Rabbi Yehudah and Rabbi Shimon both declare “Great is work for it brings honor to its master.”<sup>6</sup>

The rabbis envisioned an integration between Torah study and the pursuit of livelihood. Pirke Avot, the tractate of the Mishnah devoted to the ethical teaching and homilies of our ancestors, cites the teaching of Rabban Gamliel: “Excellent is the study of Torah combined with some worldly occupation, for the energy for both cause sin to be forgotten. And for all (study of) Torah without a worldly occupation, it is for naught and becomes the cause of sin.”<sup>7</sup> Rambam, in his Mishneh Torah, codifies as law the need to work even if the work is combined with Torah study:

...all Torah that is not accompanied by work will be nullified and will end in sin. Ultimately, such a person will steal from others. One is at a high level if he is sustained by the efforts of his own hand, a characteristic of the pious of early generations. In this he merits all the honor and good of this world and the world to come, as it is written. “If you eat by the work of your hands, happy are you, and it will go well for you.” [Psalms 128:2] Happy are you in this world and it will go well for you in the world to come.<sup>8</sup>

So according to the rabbis, work is essential to personal development and to achieving religious depth and meaning. Through work, humans assume their places in the social order as active agents, like Adam. Work is a pathway to personal health, a conduit to greater understanding of Torah and of faith, and a mechanism through which one ultimately leaves a mark on this world. For a person’s work to achieve and maintain this degree of personal and religious meaning and expression, the employee/employer relationship must be carefully defined and have distinct boundaries.

## WAGES

Jewish law has a specific set of rules regarding the payment of wages. The primary focus, based on numerous biblical injunctions, is that wages be paid on time.<sup>9</sup> The Mishnah in *Bava Metzia* explains that while the Torah’s pronouncements are based on a framework of daily workers, the requirements to pay on-time refer to the agreed upon pay period – be it daily, weekly, monthly or some other time period.<sup>10</sup> The reason for this stringency is made clear in the verse from Deuteronomy 24 quoted above, in which the Torah explains that workers are assumed to live hand-to-mouth and thus to be reliant on the wages to cover immediate needs - without wages the worker is presumed unable even to eat. Practically, this means that whatever pay period is agreed upon at the time of employment, the employer has an obligation to pay the wages at that time. An employer who purposefully withholds payment, according to Rambam, is classified as an *oshek* (extortionist) and may be liable for breach of up to five biblical commandments.<sup>11</sup>

But if the worker is not in financial need, could we not relax the directive? The Talmud anticipates this question and asks, “Why does he ascend upon a ladder, suspend himself from a tree, and place himself at risk if not for his wage? ... One who withholds the pay of a worker, it is as if he has taken his spirit from him.”<sup>12</sup> Hence, the payment of wages is connected to needs which are more than financial – the worker’s spirit, the innermost sense of personal meaning and purpose. Therefore, regardless of financial need, the effort and investment that an employee puts into work automatically comes with the right to receive on-time payment of wages and obligates the employer to provide it.

## EATING ON THE JOB AND OTHER NON-FINANCIAL BENEFITS

In Deuteronomy 23, the Torah secures a worker’s right to eat the grapes or other produce while working in the fields in addition to whatever wages upon which the worker and employer have agreed. Rambam also uses this verse to regulate the employer’s obligation to provide this benefit throughout the duration of the work time.

<sup>6</sup> Babylonian Talmud Nedarim 49b

<sup>7</sup> Mishnah Avot 2:2

<sup>8</sup> Rambam, Mishneh Torah, Hilkhos Talmud Torah 3:10-11

<sup>9</sup> Speaking of the worker hired on daily basis, Leviticus 19, verse 13 establishes the requirement to make payment of wages on the same day that work was done, saying: “the wages of a laborer shall not remain with you until the morning.” (Leviticus 19:13, NJPS)

<sup>10</sup> Mishnah Bava Metzia 9:12

<sup>11</sup> Rambam, Mishneh Torah, Hilkhos Sekhirut 11:2

<sup>12</sup> Babylonian Talmud Bava Metzia 112a



# SOCIAL JUSTICE AND THE WORLD OF BUSINESS

In the 14<sup>th</sup> century, Rabbi Jacob ben Asher, author of the Tur, based on earlier comments from Rambam, limits this benefit only to the worker and only during work hours, and prohibits overeating or abuse. In so doing, the employer allows the employee to eat and to sustain the energy necessary to complete the requirements of the job. According to the Tur, it is the worker's responsibility to make sure that this right is not turned into theft by over-eating, overstepping the boundaries of benefit eligibility or causing work stoppage.<sup>13</sup>

Today, while this halakhah certainly still applies directly to workers involved in agriculture or food industries, it does not mean that all employers have an obligation to feed their employees.<sup>14</sup> The application for the modern employee and employer, however, is not limited only to feeding employees while working. To the extent that food is necessary for the continued ability to complete the job requirements, an employee should be granted time to eat, provided that the employee recognizes that the time allocated is for the purpose of him/her continuing to work. In most work environments, *minhag hamakom* and labor laws outlining acceptable break assignments reinforce this right. The basic principle seems to be that the workday is for work and that during that time, the worker's responsibility is therefore to focus on fulfilling the job responsibilities as outlined by the employer.

## EMPLOYEE OBLIGATIONS

In most conversations about labor relations, great attention is paid to obligations of the employer, while the responsibilities of the employee are often ignored or forgotten. As we saw above, though, an employee has an obligation to act in good faith to serve the purpose for which the hiring occurred.

In the same section of the Tur cited just above, the author continues to limit the activities of the employee outside the place of work to the extent that these activities will impinge on his or her ability to fulfill job responsibilities, while also reinforcing the employer's obligation to offer similar consideration in return.<sup>15</sup> The employee's primary responsibility is to fulfill the job requirements. It follows that if a person is freed from *mitzvot* in order to concentrate on his/her job, all the more so, there is an obligation to fulfill job requirements in a satisfactory manner; otherwise the exemption from *mitzvot* would be empty.<sup>16</sup>

The most challenging of these circumstances in today's workforce is the issue of secondary work. To make ends meet, many people find it necessary to hold a second job. While one could argue that there is a prevailing custom in the work environment permitting secondary work, it could still result in an interruption to ability to work at full capacity. Therefore, in the absence of any written policies at the time of employment, it is advisable to discuss specifics with an employer before engaging in secondary work.

In addition, as part of the employment agreement, and to avoid stealing from the employer, an employee should be cautioned against any distractions that compromise the time that belongs to the employer and/or the ability to fully focus on the work. This could include, but is not limited to, personal phone calls, socializing with co-workers, internet surfing, or taking care of personal business.

In return for the employee's good faith efforts to fulfill the job requirements, the employee has the right to expect and the employer has the obligation to provide fair treatment in addition to his wages and other benefits. We have already mentioned the Torah's prohibition of an employer dominating an employee. The Midrashic explanation of this verse is that one should not ask a servant to heat up his cup unnecessarily – or to perform any unneeded task – simply to keep the servant busy or to assert one's authority. Also, a worker should not be told to remove his master's work or carry his clothing to the bath house or do other such demeaning work.<sup>17</sup> Consequently, an employee has every right to expect that the work that he does and the environment in which it is done will continue to bring the honor promised by Rabbi Yehudah and Rabbi Shimon.

<sup>13</sup> Tur, Hoshen Mishpat 337:13

<sup>14</sup> As the Talmud says, "where it is the custom to provide food, he (the employer) must provide food." (BT Bava Metzia 83a.)

<sup>15</sup> Tur, Hoshen Mishpat 337:13

<sup>16</sup> In fact, in addition to shortening the Grace After Meals, the worker is given the flexibility to pray from the location of his work and when necessary to shorten the fixed prayers. (BT Berakhot 45b)

<sup>17</sup> Sifra, Kedoshim 6



# SOCIAL JUSTICE AND THE WORLD OF BUSINESS

## HIRING AND FIRING

Throughout the past few decades, employee separations have, in fact, become a fact of organizational life in both for-profit corporations and not-for-profit agencies. In the corporate world, poor job performance, insubordination, or other for-cause termination are no longer the only reasons for dismissal. Corporate lay-off, job termination, and corporate shut-downs have contributed to an increase in job dismissals.

Once an employer and employee agree to terms of employment, there is an implicit understanding that the two have entered into an employment contract. In the absence of specific contractual provisions to the contrary, many states today define employment for an indefinite period as terminable at will, by either party. This means that where a contract of employment is indefinite in duration, both the employee and the employer have the right to terminate the employment at any time with or without cause and with or without due notice.

For one accustomed to this normative practice, the halakhic rulings are likely to cause a stir of challenge and discomfort. Jewish law regards the termination of an employment agreement as a right, within certain parameters, for either party. Inherent in this right, however, are also responsibilities which differ depending on the timing and circumstances.

Let us first consider the situation where a contract has been concluded but has not yet commenced. Rambam rules that an employer or an employee may, in fact, sever the agreement, leaving no legal claims against the other, except for compensation for *taromet* (resentment).<sup>18</sup> If, due to the contract, the worker lost the opportunity to find other employment, the employee is to be compensated - in the case of a worker hired by the day, this equals one day's pay, calculated at the least amount of work, for the least amount of pay, that such a worker would demand in the marketplace.<sup>19</sup> Today, this would mean that an employer is obligated to pay the employee the 'idle pay' until the worker is able to secure other work (or perhaps until unemployment wages, which provide the accepted lowest common wage, kick in). Given the reciprocal nature of the employee/employer relationship, there is also compensation available for an employer who sustains quantifiable financial loss due to a worker's defection.

Once the work commences, the parameters for retracting the agreement change. In the case of an employee hired for a finite amount of time, there is no halakhic precedent for extending the agreement; the end of the work period signifies the end of the parties' responsibilities towards one another. If an employee was hired for long term position in which there is no specific time period, though, the position is different. The employee operates within a structure of employment at will, and has the right to terminate the employment at any time.

This principle is found in the Shulhan Arukh, and is based on an earlier statement of Rambam allowing workers to stop working even in the middle of the time period for which they were hired. There, Joseph Caro rules that workers can stop their work even if they have already spent their prepaid wages for the whole period - in such a case, the money owed becomes a debt to the employer, but the workers are nonetheless free to leave.<sup>20</sup> The reason cited for this leniency is, once again, that workers are not slaves. Even as a worker hires out his/her services, the individual remain free of enslavement to any other human being. Paramount to the employee's ability to work for the employer is the preservation of the individual's spiritual freedom.<sup>21</sup>

An employer also has the right to terminate a work agreement. However, unless the term of employment agreed upon at the outset has expired, implicit in Jewish law is a need for just cause. Given that the employment agreement in Jewish law is a form of a contract, failure to comply with the terms of the contract can result in its early termination. As discussed earlier, the employee is required to fulfill the job requirements in good faith and to the best of his/her ability. Consequently, an employee who is not adequately fulfilling job responsibilities agreed to at the time of employment can be discharged.

<sup>18</sup> *Taromet* is a primarily non-monetary remedy, which amounts to court recognition that a person's legal rights have been infringed. The nearest equivalent in our legal system is nominal damages.

<sup>19</sup> Rambam, *Hilkhot Sekhirut* 9:4

<sup>20</sup> *Shulhan Arukh*, *Hoshen Mishpat* 333:3

<sup>21</sup> Rabbi Moshe Isserles established that while employers can offer long term or even lifelong contracts, a worker may not offer himself out for more than three years, the period which represents dividing line between the biblical understandings of a worker and an indentured servant (*Rema on Hoshen Mishpat* 333)



# SOCIAL JUSTICE AND THE WORLD OF BUSINESS

One of the greatest impacts of modern corporate life has been retrenchment and job elimination, resulting in the discharge of any number of employees for causes not at all related to their job performance. Here, the impact of the separation is two-fold: it represents both a loss of income to the employee and a loss of social status. Despite the fact that such terminations are becoming all too common, the employee still suffers the mental anguish of financial pressure, individual loss of purpose, and the social stigma of having lost a job. While there the halakhah does not legally mandate any assistance on the part of the employer in these circumstances, the same ethical principles that drive the discussion that will follow regarding severance pay also apply to other forms of assistance: interest free loans, career counseling and placement assistance, training, and personal counseling and assistance.

There is a further aspect of termination of employment where the halakhah has a good deal to teach us. Dismissals undoubtedly stir questions and often gossip. Even the most well intended people, concerned about the welfare of the person (or people) who have been terminated, want to know why a person has been dismissed. Laws exist prohibiting *lashon hara* (gossip)<sup>22</sup> and mandating Jews to take active steps to protect the reputation of a fellow person. Hence discretion should be exercised in discussing and/or disseminating any information, even if it is accurate, about a discharged employee that might lower the status of the person about whom it is said. In *Pirke Avot* Rabbi Eliezer teaches: "Let your fellow man's honor be as dear to you as your own."<sup>23</sup> *Avot D'Rabbi Natan*, a midrashic amplification of *Pirke Avot*, expands this idea further:

How is this so? [It] teaches that just as a man has regard for his own honor, so must he have regard for the honor of his fellow man; just as he desires that there should be no reflection on his good repute, so he must be anxious not to damage the reputation of his fellow man.<sup>24</sup>

When someone is released from a job, allowing open discussion about the circumstances of the dismissal would certainly lower the status of the employee within the community. It is for this reason that Jewish law limits sharing any information unless it is essential that the person to whom one is speaking should have it. If the hearer does not need the information, a person who engages in discussions about the employee's dismissal is causing themselves and others to violate the obligation to avoid *lashon hara* – not to mention the fact that a litany of gossip and rumors can cause even more damage to the discharged employee than the discharge itself.

Finally, this essay does not permit us to deal with the question of severance pay in the depth it deserves. Suffice it here to say that while some authorities have ruled that there exists a halakhic mandate that gives an employee the right to receive severance, others rely on the requirement to act righteously even when the letter of the law might not obligate them.

## CONCLUSION

The equity and justice of the Jewish legal system demands that the employer/employee relationship be one in which both parties are free agents, with individual rights and responsibilities in relation to the other. Jewish law also reminds us that the relationship between an employer and an employee is not a detached matter of contract. Rather, the two parties are in a three-dimensional relationship in which they have moral and ethical obligations to each other, over and above what any written contract may provide.

We carry our Torah and our values with us into our workplaces. Work is a matter of personal and spiritual self-determination, engaging the whole person. Work relationships are a matter of honor and dignity, as well as providing income and personal satisfaction. Furthermore, Jewish law requires us to look outward as well as inward – it is not only our own work relationship which is relevant, but also the relationships of other workers to their employers. Our obligations extend to acting upon our principles when we encounter unfair treatment in workplaces other than our own. According to Jewish law, nobody is a slave: even though people work, they are free.

<sup>22</sup> derived from Leviticus 19 'You shall not go about as a talebearer among your people' (NJPS)

<sup>23</sup> Mishnah Avot 2:15

<sup>24</sup> Avot D'Rabbi Natan 15



# SOCIAL JUSTICE AND THE WORLD OF BUSINESS – TEXT 1

## משנה בבא מציעא ט:יב

אָחַד שְׂכָר אָדָם וְאָחַד שְׂכָר בְּהֵמָה וְאָחַד שְׂכָר כְּלִים יֵשׁ בּוֹ מְשֻׁם [דברים כד] בְּיוֹמוֹ תִּתֵּן שְׂכָרוֹ, וְיֵשׁ בּוֹ מְשֻׁם [ויקרא יט] לֹא תִלִּין פְּעֻלַּת שְׂכִיר אֶתְּךָ עַד בֹּקֶר. אִימַתִּי. בְּזִמָּן שֶׁתִּבְעֶוּ, לֹא תִבְעֶוּ, אִינוֹ עוֹבֵר עָלָיו. הַמְּחָהוּ אֶצֶל חֲנוּנִי אוֹ אֶצֶל שְׁלַחָנִי, אִינוֹ עוֹבֵר עָלָיו...

## MISHNAH *BAVA METZIA* 9:12

Whether the hire is of a person, an animal or an object, the principle of “payment must be made that day” [Deuteronomy 14] applies, as well as the principle, “The wages of a hired worker shall not remain with you until the morning.” [Leviticus 19] When does this rule apply? When the wages are demanded: but otherwise, the employer is not in breach. If the employer assigned [the person, animal or object hired] to a shopkeeper or to a money-changer, the employer is not in breach...

## תלמוד בבלי בבא מציעא קיא:ב - קיב:א

וְרַבִּי יוֹסִי בְּרַבִּי יְהוּדָה, הָאִי לֹא תִלִּין פְּעֻלַּת שְׂכִיר אֶתְּךָ עַד בֹּקֶר מֵאִי עֶבֶד לִיה? - מִיִּבְעִיָּה לִיה לְכַדְרָב אָסִי. דְּאָמַר רַב אָסִי: אֶפִּילוּ לֹא שְׂכָרוּ אֶלָּא לְבָצוֹר לוֹ אֲשָׁכּוֹל אֶחָד שֶׁל עֲנָבִים - עוֹבֵר מְשֻׁם בֵּל תִּלִּין. - וְאִידָךְ: [דברים כ"ד] מִוֹאֲלָיו הוּא נִשָּׂא אֶת נַפְשׁוֹ נִפְקָא, דְּבֵר הַמוֹסֵר נִפְשׁוֹ עָלָיו. וְאִידָךְ: הָהוּא מִיִּבְעִי לִיה לְכַדְתִּנָּא: [דברים כ"ד] וְאִלּוּ הוּא נִשָּׂא אֶת נַפְשׁוֹ, מִפְּנֵי מָה עָלָה זֶה בְּכַבֵּשׁ וְנִתְּלָה בְּאִילָן וּמָסַר אֶת עַצְמוֹ לְמִיתָה - לֹא עַל שְׂכָרוֹ?

## BABYLONIAN TALMUD *BAVA METZIA* 111B-112A

And Rabbi Yossi said in the name of Rabbi Yehudah: How do we understand the principle, “The wages of a hired worker shall not remain with you until the morning?” It must be as Rav Assi explained it; he said that even if the worker was only hired to pluck a single cluster of grapes [and the employer does not pay on time], he [the employer] is in breach, because of the principle of “[wages] shall not remain.” Alternatively, we can learn this from “he [is poor and] maintains his life with it.” [Deuteronomy 24:15] Or we can understand it as follows: “He [is poor and] maintains his life with it” – why would a person put themselves under the pressure of climbing up a tree and risking death if it were not for their wages?

## STUDY QUESTIONS

- According to the first text, what is implied in the agreement between employer and employee?
- What principles do these texts create about the payment of wages?
- What assumptions are being made here about why people work?
- Are the principles in these texts reflected in current business practice?



## SOCIAL JUSTICE AND THE WORLD OF BUSINESS – TEXT 2

### טור חושן משפט של:יג

אין הפועל רשאי לעשות מלאכה בלילה ולהשכיר עצמו ביום ולא ירעב ולא יסגף עצמו ויאכיל מזונותיו לבניו מפני ביטול מלאכתו של בע"ה שהרי מחליש כחו שלא יוכל לעשות מלאכת בע"ה בכתב הרמב"ם בדרך שמוזהר בע"ה שלא יגזול שכר עני ולא יעבדנו כד מוזהר העני שלא יבטל מלאכת בע"ה ויבטל מעט כאן ומעט כאן ומוציא כל היום במרמה אלא חייב לדקדק על עצמו שהרי דקדקו חכמים בזימון ועל ברכה רביעית שלא יברכו ברכה רביעית בברכת המזון וכן חייב לעבוד בכל כחו שכן יעקב אמר [בראשית ל"א] בכל כחי עבדתי את אביכן לפיכך נטל שכר בעולם הזה על כן שנאמר [שם ל'] ויפרוץ האיש מאד מאד:

### Tur *HOSHEN MISHPAT* 337:13

A worker is not entitled to work [elsewhere] at night and then hire himself out in the daytime, nor may he fast or mortify his flesh, nor feed his own food to his children, as these weaken him and render him unable to do the work of the employer properly (as the Rambam wrote). In the same way as an employer is not allowed to steal the wage of his employees nor delay their payment, so too the worker is not allowed to idle away his time, a little here and a little there, until his whole day is fraudulent. Rather, he must be punctilious with himself, since the sages were punctilious in freeing him from the collective grace after meals, and the fourth blessing of that grace.<sup>1</sup> Hence he is obligated to work with all his strength - as Jacob our ancestor said, "I have worked for your father with all my strength" [Genesis 31] – so that he is paid what he deserves in this world, as it is said, "The man [Jacob] became extremely prosperous." [Genesis 30:43]

### STUDY QUESTIONS

- According to this text, what responsibilities does an employee have towards the employer?
- How does this impact the employee's life outside work?
- Do you consider the principles expressed in this text to be fair? Why/why not?
- Are the principles in this text reflected in current business practice?

<sup>1</sup> This allowance on the part of the sages is based on the principle that a person engaged in the performance of one mitzvah is free from the obligation to perform another.





## SOCIAL JUSTICE AND THE WORLD OF BUSINESS – TEXT 3

### רמב"ם הלכות שכירות ט:ד

השוכר את הפועלים והטעו את בעה"ב או בעה"ב הטעה אותם אין להם זה על זה אלא תרעומת, בד"א בשלא הלכו אבל הלכו החמריין ולא מצאו תבואה, פועלים ומצאו שדה כשהיא לחה, או ששכר להשקות השדה ומצאוה שנתמלאה מים, אם ביקר בעה"ב מלאכתו מבערב ומצא שצריכה פועלים אין לפועלים כלום מה בידו לעשות, ואם לא ביקר נותן להם שכרן כפועל בטל שאינו דומה הבא טעון לבא ריקן ועושה מלאכה לבטל, בד"א בשלא התחילו במלאכה אבל אם התחיל הפועל במלאכה וחזר בו אפילו בחצי היום חזר שנאמר כי לי בני ישראל עבדים ולא עבדים לעבדים, וכיצד דין הפועל שחזר בו אחר שהתחיל? שמן לו מה שעשה ונוטל, ואם קבלו הוא שמן לו מה שעתידי לעשות...

### MAIMONIDES [RABBI MOSHE BEN MAIMON, THE RAMBAM] LAWS OF HIRING 9:4

If an employer hires workers and they mislead the employer, or he misleads them, they have no claim against each other except for *taromet*.<sup>1</sup> In what circumstances? If the work has not yet begun. But if donkey drivers go [to the appointed place] and find no produce, or workers find the field wet,<sup>2</sup> or a worker hired to water a field finds it is already flooded – if the employer had visited [the work site] the previous evening and decided the workers were required – the workers have no remedy, since what could the employer have done? But if the employer did not visit, he must pay them “idle wages” (since a person who comes loaded is not the same as a person who comes empty and wastes time). In what circumstances? When the workers have not yet begun to work. But if the worker begins to work and then changes his mind, he may do so, even if he has only worked half the day, as it says: “For it is to Me [God] that the Israelites are slaves,” – they are slaves to Me, not slaves to other slaves. What is the rule for the worker who changes his mind after he has begun work? An estimate is made of what he has done, and he takes [the money for that]; but if he has been hired for an indefinite period, an estimate is made of what he still has to do...

### STUDY QUESTIONS

- How many different sets of circumstances can you discern in this text?
- Why do you think the law is different once work has commenced?
- What does this text teach us about the relationship between employer and employee?
- Are the principles in this text reflected in current business practice?

<sup>1</sup> *Taromet* – “resentment” in this context is a non-monetary remedy, which amounts to court recognition that a person’s legal rights have been infringed. The nearest equivalent in our legal system is nominal damages.

<sup>2</sup> It is not possible to harvest a field if the field is flooded.



## SOCIAL JUSTICE AND THE WORLD OF BUSINESS – TEXT 4

דברים טו:יב-טו, יח

יב כִּי־יִמָּכַר לְךָ אֶחָיֶךָ הָעֶבְרִי אוֹ הָעֶבְרִיָּה וַעֲבָדְךָ שָׁשׁ שָׁנִים וּבִשְׁנָה הַשְּׁבִיעִית תִּשְׁלַחְנוּ חֲפָשִׁי מֵעִמָּךְ:  
יג וְכִי־תִשְׁלַחְנוּ חֲפָשִׁי מֵעִמָּךְ לֹא תִשְׁלַחְנוּ רִיקָם: יד הָעֲנִיֵּק תַּעֲנִיֵּק לוֹ מִצֵּאֲנֶךָ וּמִגִּרְנֶךָ וּמִקֶּבֶךָ אֲשֶׁר בָּרַכְךָ יְהוָה  
אֱלֹהֶיךָ תִּתֵּן־לוֹ: טו וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם וַיִּפְדֶּךָ יְהוָה אֱלֹהֶיךָ עַל־כֵּן אֲנִכִּי מִצְוָה אֶת־הַדָּבָר הַזֶּה  
הַיּוֹם: ... יח לֹא־יִקָּשֶׁה בְּעֵינֶיךָ בְּשִׁלְחָךְ אֹתוֹ חֲפָשִׁי מֵעִמָּךְ כִּי מִשְׁנֵה שָׂכָר שְׂכִיר עֲבָדְךָ שָׁשׁ שָׁנִים וּבָרַכְךָ יְהוָה  
אֱלֹהֶיךָ בְּכָל אֲשֶׁר תַּעֲשֶׂה:

### DEUTERONOMY 15:12-15, 18

If your brother Israelite, or your sister Israelite, is sold to you as a slave, they may work six years for you; but [at the end of] the seventh year, you must send them away from you, free. And when you send them away free, you shall not send them empty-handed. You shall surely donate to them; something from your flock, something from your threshing-floor and something from your winepress with which The Holy One your God blessed you, you shall give to them. You should remember that you were a slave in the land of Egypt, and The Holy One your God redeemed you; hence, I command you to perform this matter today...It must not seem difficult to you when you send him away free – he served you for six years at half the cost of a hired slave – and [then] The Holy One your God will bless you in all that you do.

### ספר החינוך מצוה תפב

...מִשְׁרָשִׁי הַמִּצְוָה לַמַּעַן נִקְנָה בְּנִפְשָׁנוּ מִדּוֹת מַעֲוִלוֹת יְקָרוֹת וְחַמּוּדוֹת, וְעַם הַנֶּפֶשׁ הִיקָרָה וְהַמַּעֲוִלָּה נִזְכָּה  
לְטוֹב, וְהָאֵל הַטוֹב חָפֵץ לְהִיטִיב לַעֲמּוֹ, וְהוֹדֵנוּ וְהִדְרָנוּ הוּא שְׁנִרְחֵם עַל מִי שֶׁעֲבַד אוֹתוֹ וְנָתַן לוֹ מִשְׁלָנוּ בְּתוֹרַת  
חֹסֶד מְלֵבֵד מֵה שֶׁהִתְנִינוּ עִמּוֹ לָתֵת לוֹ בְּשָׂכָרוֹ, וְדָבָר מוֹשִׁיכָל הוּא, אֵין צוּרֵךְ לְהַאֲרִיךְ בּוֹ...

וּבֵין נִתְבָּרַךְ בַּעַל הַבַּיִת לְרָגְלוֹ אוֹ לֹא נִתְבָּרַךְ חַיִּיב לְהַעֲנִיֵּק לוֹ, וְעֲנֵק הָעֶבֶד לַעֲצָמוֹ וְאֵין בַּעַל חוּבוֹ גּוֹבֶה הַיָּמֶנִי.  
וְיִתֵּר פְּרֻטִּיָּה מִבּוֹאֲרִים בְּפֶרֶק רֵאשׁוֹן מִקְדוּשִׁין.

וְנוֹהֶגֶת מִצְוָה זוֹ בְּזָכְרִים וְנִקְבוֹת בְּזִמְנֵי הַבַּיִת, שֶׁאֵין דִּין עֶבֶד עֲבָרִי נוֹהֵג אֲלָא בְּזִמְנֵי שֶׁהַיּוֹבֵל נוֹהֵג כְּמוֹ שֶׁכְּתוּבָתִּי  
בְּמָה שֶׁקֵּדָם [מִצְוָה מ"ב], וּמִכָּל מְקוֹם אֶף בְּזִמְנֵי הַזֶּה יִשְׁמַע חֹכֵם וְיוֹסֵף לְקַח, שֶׁאִם שְׂכִיר אֶחָד מִבְּנֵי יִשְׂרָאֵל  
וַעֲבָדוֹ זִמְנֵי מְרוּבָה אוֹ אֲפִילוֹ מוֹעֵט שֶׁיַּעֲנִיֵּק לוֹ בְּצֵאתוֹ מֵעִמּוֹ מֵאֲשֶׁר בָּרַכְנוּ הַשֵּׁם.

### SEFER HA-HINUKH, MITZVAH 482

...The essence of this mitzvah is to enable us to acquire elevated, precious and desirable characteristics for our souls; so, if those precious and elevated souls deserve goodness, and the good God wishes to do good to His people, we thank and glorify [God] by having compassion upon the person who has worked for us, and by giving to him, in conformity with the doctrine of lovingkindness, something more than the agreed salary – and this makes good ethical sense, there is no need to expand upon the point further.

... Whether the employer has acquired the blessing as the result of the slave's work or has not, the employer must give the donation, which should be given to the slave for himself – a creditor of the slave's should not be able to obtain it from him. Further details are given in the first chapter of *Kiddushin*.

This mitzvah applied to both males and females when the Temple was standing (since the rules about Israelite slaves only applied when there was a jubilee year, as I set out above). Nonetheless, in our times an intelligent person can learn from this that if he has hired a Jew who has worked for him for a long period – or even a short period – then he must give that person something of what God has blessed him with when the person leaves.

### STUDY QUESTIONS

- According to the first text, how should the employer address the issue of severance pay?
- How does *Sefer Ha-Hinukh* extend the obligation, and what difference does that make?
- How might one go about calculating appropriate severance?
- Are the principles in this text reflected in current business practice?





# SOCIAL JUSTICE AND THE WORLD OF BUSINESS – TEXT FOR GROUP STUDY

Halakhah expresses concern for a poor person's dignity as well as his or her material welfare. Rambam articulated that gifts, loans, partnerships, and offers of employment provide the highest level of *tzedakah*, since they liberate the poor person from public assistance altogether. The Bet Yosef – Joseph Caro's commentary on the Tur's law code – explains that Rambam elevated this level above all others precisely because these types of assistance most preserve the poor person's dignity.

Rambam also lays out a clear hierarchy of recipients. A person must first support her parents and then children, then siblings, followed by other relatives, then by poor people in her community, and finally those in need of support who live in other communities. The Tur adds that even if the employees came from a different city we must at least consider them equivalent to the poor in our community. But if we take a closer look at the hierarchy of recipients, we find that employees should take precedence even over other poor people in the city.

The highest ranked recipients, parents and children, have the most intimate relationship to the donor. Siblings have a slightly less close relationship. Extended family follows siblings on the list of recipients. It is only after exhausting even the most distant relatives that we arrive at the unrelated poor in the local city. Here the donor and recipient share only a local identity, which is what confers their minimal relationship.

When considered from this angle, employees look more like extended family. First, an employer is significantly more likely to know her employees than other poor individuals in her community. In addition, just as a person identifies with his extended family ("We are both Cohens"), employees at varying levels of a company tend to identify through that shared affiliation ("We both work at Cohen Manufacturing"). Hence, we can argue that employees take precedence over other non-related poor people in the hierarchy of *tzedakah*.

How would this work in practice? We can suggest that whenever it is possible for the employer to provide assistance to an economically vulnerable worker, the employer should do so. This might mean that if there are two equally qualified candidates for promotion, the needier of the two workers should take precedence, since promotion to a higher-paying position falls squarely within Rambam's highest means of giving. If a promotion is not available, a raise or bonus would also constitute high-level *tzedakah*. Further, the employer could ascribe the raise or bonus to the worker's performance and not to *tzedakah*, since the general obligation to tell the truth can be suspended in the interests of "the ways of peace" (דרכי שלום), which here would mean protecting the needy person's dignity. Even in the case of an employee with negative performance – where a bonus or raise is not feasible – the employer could offer direct *tzedakah* to the employee, as a means of affirming their relationship – a relationship that can, and should, be understood as far more than provision of services in return for money. In the workplace, as in all other areas of life, *halakhah* demands that we recognize and affirm each person's human dignity.

- Abe Friedman



# SESSION SUGGESTIONS – SOCIAL JUSTICE AND THE WORLD OF BUSINESS

## INTRODUCTION

There is a relationship between this essay and the workers' rights element of the unit on kashrut. We suggest that you do this session before the kashrut session, as participants will then be able to identify and build upon common elements.

Recap the basic areas of the essay:

- the relationship between employer and employee
- the employer's obligations: wages, benefits, hiring and firing
- the employee's obligations: the value of labor, benefits, commitment

Discuss which of these areas brought new insights to participants, and why. You might also want to take time here to draw out which of your participants are employers, which are employees, and which might not be in the field of paid employment at this time.

## CHAVRUTA STUDY

The texts deal in more depth with the various areas identified in the essay. The final question in for each text is the same – it is designed to enable participants to focus directly on the relevance of the texts to the business world of today. Does any clear message emerge from the *halakhah* that could be usefully applied for participants in their day-to-day lives?

## GROUP STUDY

The text provided is by Abe Friedman, a student in the Ziegler School. It is designed to open up the relationship between employer and employee in the light of the rules about priority in giving *tzedakah*. You might wish to bring along Rambam's 'ladder of tzedakah' for participants to use (see *Hilkhos Matanos L'Aniyim* 10:7). What would it mean for employer/employee relationships to be reconstrued in the light of the obligation to perform the mitzvah of *tzedakah*?

If you do not wish to use the text, there are numerous materials available on Jewish business ethics via the internet. Or you could turn the session more personally towards participants, asking them to articulate situations in which they found themselves having to consider some of the areas dealt with in the essay, and the way they acted then. Another possibility is roleplay – you could take each area of the essay and ask a group to present a small performance related to its content.

## CONCLUSION

Has the material dealt with in this session changed participants' views of the employer/employee relationship? If so, how, and how does this apply to them personally? Allow them to update their manifestos with this information. Hand out the essay for next time, and conclude the session.



## CONTRIBUTORS

**RABBI MORRIS J ALLEN** has served as the first rabbi of Beth Jacob Congregation in Mendota Heights, Mn. since 1986. Ordained by the Jewish Theological Seminary in 1984, Rabbi Allen also has his Masters in Social Work from the University of Wisconsin-Madison. Rabbi Allen is the Director of the *Hekhsher Tzedek* project, a concept he developed. The project is a joint initiative of the United Synagogue of Conservative Judaism and the Rabbinical Assembly. Rabbi Allen is married to Phyllis Gorin, a pediatrician, and they are the parents of three children.

**JEANNIE APPLEMAN** As director of the Leadership For Public Life Training and Leadership Development project for the Jewish Funds for Justice, Jeannie trains and organizes rabbinical and cantorial student leaders from all the movements' seminaries (including at AJU and JTS), with the help of IAF organizers and Meir Lakein.

**RABBI BRADLEY SHAVIT ARTSON** ([www.bradartson.com](http://www.bradartson.com)) is the Dean of the Ziegler School of Rabbinic Studies at the American Jewish University, where he is Vice President. A Doctoral student in Contemporary Theology, he is the author of almost 200 articles and 6 books, including the forthcoming *Everyday Torah: Wisdom, Dreams, & Visions* (McGraw Hill).

**JACOB ARTSON**, 15, attends Hamilton High School in Los Angeles. He is dedicated to helping all people, whether they have special needs or not, live with dignity and meaning. He would like to thank his mentor Dr. Ricki Robinson, his parents, and his amazing twin sister Shira, who is his best friend, role model, cheerleader, advocate and fashion consultant.

**DR STEVEN BAYME** serves as National Director, Contemporary Jewish Life Department, for the American Jewish Committee. He is the author of *Understanding Jewish History: Texts and Commentaries* and *Jewish Arguments and Counter-Arguments*, and has co-edited two volumes, *The Jewish Family and Jewish Continuity* (with Gladys Rosen) and *Rebuilding the Nest: A New Commitment to the American Family* (with David Blankenhorn and Jean Bethke Elshtain).

**DR. JEREMY BENSTEIN** is the associate director of the Heschel Center for Environmental Learning and Leadership in Tel Aviv. He holds a master's degree in Judaic Studies and a doctorate in environmental anthropology. He is the author of *The Way Into Judaism and the Environment* (Jewish Lights, 2006), and writes and lectures widely on the topics of Judaism, Israel and the environment. He lives in Zichron Yaakov with his wife and two sons.

**DR ARYEH COHEN** is Associate Professor of Rabbinic Literature at the Ziegler School of Rabbinic Studies. He is a past president of the Progressive Jewish Alliance. Dr. Cohen is the author of two books and many articles in Rabbinics and Jewish Studies more broadly, and the intersection of the Jewish textual tradition and issues of Social Justice.

**ELLIOT N DORFF**, Rabbi, PhD, is Rector and Distinguished Professor of Philosophy at the American Jewish University in Los Angeles. He specializes in ethics, with books on Jewish medical, social, and personal ethics, but he has also written on Jewish law and theology. His books on social justice are entitled, *To Do the Right and the Good: A Jewish Approach to Modern Social Ethics* and *The Way Into Tikkun Olam (Fixing the World)*.

**AARON DORFMAN** is the director of education of American Jewish World Service. Prior to his work at AJWS, Aaron spent nine years teaching and leading youth programs at Temple Isaiah, a Reform synagogue in Northern California. Aaron holds a Masters Degree in Public Policy from the Kennedy School of Government at Harvard University, a B.A. from the University of Wisconsin, and a certificate from the Pardes Institute of Jewish Studies in Jerusalem.

**RABBI ADAM FRANK** is spiritual leader of Congregation Moreshet Yisrael in Jerusalem and also teaches at Jerusalem's Conservative Yeshiva. Several of Rabbi Frank's articles on *Tsa'ar Ba'alei Hayyim* have appeared in both the Jewish and animal welfare press. Adam is married to Lynne Weinstein and they have 2 children, Nadav and Ella, and Zoe.



## CONTRIBUTORS

**ABE FRIEDMAN** is currently studying for rabbinic ordination at the Ziegler School of Rabbinic Studies as well as an MBA in Nonprofit Management at the American Jewish University. Originally from Atlanta, Georgia, Abe is a graduate of USY's Nativ Leadership Program in Israel and Boston University. He currently lives in Los Angeles with his wife and daughter.

**RABBI MICHAEL GRAETZ** ([www.justone9@gmail.com](mailto:www.justone9@gmail.com)) is the Rabbi Emeritus of Congregation Magen Avraham in Omer, and he was a founder and first director of the Masorti Movement in Israel. He has taught Jewish studies in Kaye State College in Beer Sheva. He is the author of many articles in Hebrew and English, including "Va-Yaomodu ba-Omer" about a theology of halakhah, and was the chair of Siddur Committee of the RA of Israel.

**RABBI TZVI GRAETZ** is the executive director of Masorti Olami and MERCAZ Olami, ordained by Schechter Institute in 2003 and formerly was rabbi of Kehilat Shevet Achim in Gilo, Jerusalem.

**MEIR LAKEIN** is the lead organizer for the Greater Boston Synagogue Organizing Project of the Jewish Community Relations Council of Greater Boston, deeply organizing in thirteen synagogues to bring about social change, transform religious communities, and help communities around the country learn from our work.

**LENORE LAYMAN, MA** is the director of the Special Needs and Disability Services Department at the Partnership for Jewish Life and Learning in Rockville, MD. She has worked in a variety of Jewish day school, congregational school and camp settings teaching and directing Jewish community programs for individuals with disabilities.

**RUTH W MESSINGER** is the president of American Jewish World Service, an international development organization. Prior to assuming this role in 1998, Ms. Messinger was in public service in New York City for 20 years. In honor of her tireless work to end the genocide in Darfur, Sudan, Ms. Messinger received an award from the Jewish Council for Public Affairs in 2006, and has been awarded honorary degrees from both Hebrew Union College and Hebrew College. Ms. Messinger has three children, eight grandchildren, and one great-grandchild.

**RABBI CHERYL PERETZ** is the Associate Dean of the Ziegler School of Rabbinic Studies at the American Jewish University where she also received her ordination. Prior to her career in the rabbinate, she received her MBA from Baruch College and spent many years in corporate consulting and management for Fortune 500 companies. She is the author of a chapter on the halakhah of employment for the forthcoming *Living a Jewish Life* book to be published by Aviv Press.

**RABBI AVRAM ISRAEL REISNER** ([avreisner@jtsa.edu](mailto:avreisner@jtsa.edu)) is Rabbi of Chevrei Tzedek Congregation in Baltimore, MD and an adjunct professor at Baltimore Hebrew University. He has been a member of long standing on the Conservative Movement's Committee on Jewish Law and Standards.

**RABBI BENJAMIN EDIDIN SCOLNIC** ([scolnic@aol.com](mailto:scolnic@aol.com)) has been the rabbi of Temple Beth Sholom in Hamden, Connecticut since 1983. He is the Biblical Consultant of the North Sinai Archaeological Project and Adjunct Professor in Judaica at the Southern Connecticut State University. He is the author of over 70 articles and 9 books, including *If the Egyptians Died in the Red Sea, Where are Pharaoh's Chariots?* (2006) and the forthcoming *I'm Becoming What I'm Becoming: Jewish Perspectives* (2008).

**DEBORAH SILVER** is entering the fourth year of the rabbinic program at the Ziegler School of Rabbinic Studies, Los Angeles. Prior to attending the school she was a writer and editor, and subsequently qualified as an attorney in England, where she worked for the London firm Mishcon de Reya and thereafter as an Associate Professor at BPP Law School. She co-edited the previous Ziegler Adult Learning book, ***Walking with God***.



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# MUSICAL PLAYLIST TO ACCOMPANY EACH SESSION

Compiled by Noam Raucher

You can use any or all of the songs in the suggested sessions. They are listed in the order of title-artist-album, and all are available on iTunes. Please note that one or two have explicit lyrics – these are clearly marked.

## Introduction

How Come – Ray LaMontagne – Trouble  
For What It's Worth – Buffalo Springfield – Buffalo Springfield  
If I Had A Hammer – Peter, Paul and Mary – The Best of Peter Paul and Mary  
What's Going On – Marvin Gaye – What's Going On

## The Prophets and Social Justice

Fuel – Ani DiFranco – Little Plastic Castle  
Chimes of Freedom – Bob Dylan – Bob Dylan: The Collection  
Keep On Rockin' In The Free World – Neil Young – Greatest Hits

## The Ethical Impulse in Rabbinic Judaism

Talkin' Bout A Revolution – Tracy Chapman – Tracy Chapman  
Blowin' In The Wind – Peter, Paul and Mary – The Best of Peter, Paul and Mary  
Down By The Riverside – Waste Deep In The Big Muddy And Other Love Songs

## A Torah of Justice – A View from the Right?

Hands – Jewel - Spirit  
The Times They Are A Changin' – Bob Dylan – The Essential Bob Dylan  
We Are One – Safam – Peace By Peace

## A Torah of Justice – A View from the Left?

He Was My Brother – Simon and Garfunkel – Wednesday Morning, 3AM  
Oxford Town – Bob Dylan – The Freewheelin' Bob Dylan  
A Change Is Gonna Come – Sam Cooke – Ain't That Good News

## Environment

The Horizon Has Been Defeated – Jack Johnson -On and On  
Holy Ground – The Klezmatics – Wonder Wheel  
Mercy Mercy Me (The Ecology) – Marvin Gaye – What's Going On  
Big Yellow Taxi – Joni Mitchell - Dreamland

## Business Ethics

Working Class Hero – John Lennon – Working Class Hero: The Definitive Lennon  
Carpal Tunnel – John O' Conner – Classic Labor Songs From Smithsonian Folkways  
We Do The Work – Jon Fromer - Classic Labor Songs From Smithsonian Folkways

## International Economic Justice

We Are The World. – USA For Africa – We Are The World (Single)  
Outside A Small Circle of Friends – Phil Ochs – The Best of Phil Ochs  
El Salvador – Peter, Paul and Mary – The Best of Peter Paul and Mary

## Special Needs

What It's Like – Everlast – The Best of House of Pain and Everlast – **EXPLICIT LYRICS**  
Mr. Wendall – Arrested Development – 3 years, 5 months, and 2 days in the life Of...  
The Boy In The Bubble – Paul Simon – The Essential Paul Simon

## Kashrut

All You Can Eat – Ben Folds – Supersunnyspeedgraphic, The LP – **EXPLICIT LYRICS**  
Mr. Greed – John Fogerty - Centerfield  
We Just Come To Work Here, We Don't Come To Die –Anne Feeney - Classic Labor Songs From Smithsonian Folkways

## Israel

Hope: Pray On – Sweet Honey In The Rock - 25  
Yihyeh Tov – David Broza – Things Will Be Better, The Best Of David Broza  
Misplaced – Moshav Band

## Afterword

With My Own Two Hands – Ben Harper – Diamonds On The Inside  
Living For The City – Stevie Wonder – Number 1's  
Redemption Song – Bob Marley - Legend





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