Adult Education Series

Judaism and Labor Relations

April 25, 2013

Hazzan Rob Menes

# The Ethics of Employer-Employee Relations in Judaism

**Introduction:**

**Devarim 6:18**

|  |  |
| --- | --- |
| **יח**  וְעָשִׂיתָ הַיָּשָׁר וְהַטּוֹב, בְּעֵינֵי יְהוָה--לְמַעַן, יִיטַב לָךְ, וּבָאתָ וְיָרַשְׁתָּ אֶת-הָאָרֶץ הַטֹּבָה, אֲשֶׁר-נִשְׁבַּע יְהוָה לַאֲבֹתֶיךָ. | **18** And thou shalt do that which is right and good in the sight of the LORD; that it may be well with thee, and that thou mayest go in and possess the good land which the LORD swore unto thy fathers, |

Judaism contains a large number of mitzvot, commandments, which guide the individual’s and the community’s activities. Embedded within the mitzvot are the priorities we use in making ethical decisions. That is, we not only identify what is the right thing to do, but we choose our actions between competing “good” choices. What is the *best* decision?

The Torah, and later the Mishnah and Gemara, saw the relationship of employee to employer as fundamental to a functioning society. Guidelines for the behavior of each person in the realm of business are part of Judaism and should be part of our ethical decision-making process

Our objectives here are to:

     Identify the Torah and Mishnah sources for Labor Relations

     Recognize the implications of the business mitzvot

     Note the limitations of the Jewish sources on ethics

**The Problem:**

The Torah indicates a number of mitzvot which should guide our actions. Some of the mitzvot deal with employer-employee relations, but it is not clear how these might be observed in our world today.

There are 3 levels of mitzvot which deal with labor relations:

* General ethical imperatives
* Business mitzvot
* Local custom

**I. General Ethical Imperatives, or the Major Values:**

* Love your neighbor as yourself
* Pursue Justice: Elevate fairness
* Do not shame another: Kavod Habri'ot

These are mentioned numerous places in the Torah and quite broadly help to guide the Jew’s actions. However, they are so broad that they can be satisfied with almost any course of action.

In addition, there are a number of values which we know steer our priorities:

Praise, Honor and Recognition of God

The sanctity and preservation of Life

The pursuit of Peace

The acceptance of the consequences of our choices

(directly from Torah)

*Mishnah – Pirkei Avot, Chap. 1:*

***2.*** *Shimon the Righteous was among the last surviving members of the Great assembly. He would say: The world stands on three things: Torah, the service of G-d, and deeds of kindness.*

Other priorities come from Torah but may require interpretation (from the Aseret haDibrot, the 10 Commandments):

Not murdering

Not stealing

Not coveting your neighbor

Not engaging in adultery

Keeping the Sabbath

Honoring your Father and Mother

*Ex. 20:1-14*

***Chapter 20****1 God spoke all these words, saying: 2 I the Lord am your God who brought you out of the land of Egypt, the house of bondage: 3 You shall have no other gods besides Me. 4 You shall not make for yourself a sculptured image, or any likeness of what is in the heavens above, or on the earth below, or in the waters under the earth. 5 You shall not bow down to them or serve them. For I the Lord your God am an impassioned God, visiting the guilt of the parents upon the children, His name. 8 Remember the sabbath day and keep it holy. 9 Six days you shall labor and do all your work, 10 but the seventh day is a sabbath of the Lord your God: you shall not do any work — you, your son or daughter, your male or female slave, or your cattle, or the stranger who is within your settlements. 11 For in six days the Lord made heaven and earth and sea, and all that is in them, and He rested on the seventh day; therefore the Lord blessed the sabbath day and hallowed it. 12 Honor your father and your mother, that you may long endure on the land that the Lord your God is assigning to you. 13 You shall not murder. You shall not commit adultery. You shall not steal. You shall not bear false witness against your neighbor. 14 You shall not covet your neighbor's house: you shall not covet your neighbor's wife, or his male or female slave, or his ox or his ass, or anything that is your neighbor's.*

**II. Business Mitzvot**

The following principles are directly stated in the Torah and Talmud (with some references given):

* Work is valued: Nedarim 49b
* Honesty is good
* The stranger is treated equally Ez 22:29, Deut 24:14-15, Deut 5:14
* Contractual Relationship

     a. Employee must earn his pay

     b. Employer must treat employee as a valued commodity

          Payment on time: Deut 24:15, Bava Metzia 112a

          Non-coercion: Bava Metzia 7:1 regarding hours

          Providing food: ibid

Other, even more specific mitzvot are presented in the Supporting Articles. It is particularly useful to investigate how the Torahitic mitzvot translate into mitzvot for today. For example, does the commandment “Not to compel the Hebrew servant to do the work of a slave (Lev. 25:39) (negative).” Have any meaning today?

**III. Local Custom**

Local custom, or minhag hamedinah, is the wild card of labor relations. From the article by R. Levy:

The Talmudic dictum “dina de-malkhuta dina” – “the law of the land is the law,” means that secular law becomes ensconced as halakhah (Jewish law). Contemporary labor laws – whether federal, provincial, or municipal – certainly fall under this rubric and their adherence is therefore doubly mandated – by government and by Judaism.

Does this, then, trump Jewish law, or is it layered on top of Jewish ethics?

The supporting articles maintain that Jewish ethics form the foundation, and secular codes are on top of, or in addition to the mitzvot.

**But how do we order all of these values?**

Basic Principle in Halakha: No commandment is any more important than another!

*So great is human dignity that it supercedes a negative commandment of the Torah (Bavli, Berakhot 19b)*

*It is permitted to lie to people who are in conflict and to tell them that the other party esteems them and wishes to make peace (Yevamot 65b)*

*Torah study – equal to all other mitzvot…*

*Hillel, Mishnah and Talmud:*

*He is popularly known as the author of two sayings: "If I am not for myself, who will be for me? And when I am for myself, what am 'I'? And if not now, when?"[2] and the expression of the* [*ethic of reciprocity*](http://en.wikipedia.org/wiki/Ethic_of_reciprocity)*, or "*[*Golden Rule*](http://en.wikipedia.org/wiki/Golden_Rule)*": "That which is hateful to you, do not do to your fellow. That is the whole* [*Torah*](http://en.wikipedia.org/wiki/Torah)*; the rest is the explanation; go and learn."[3]*

*"As Hillel the Elder had stated, whosoever destroys a soul, it is considered as if he destroyed an entire world. And whosoever that saves a life, it is considered as if he saved an entire world."*

**Labor Relations Considerations:**

a. Discriminatory Practices

How does discrimination factor into Jewish labor relations?

Normally, fairness prevails; local laws; except for religious institutions

b. Is there an appropriate way to fire someone?

Is severance a requirement? Does the employer have a responsibility to the fired employee who is destitute?

c. Is there an appropriate way to leave a job (quit)?

d. Does the employer have a right to constrain an employees actions on moral grounds?

e. What are the aspects of the relationship that go beyond an employee providing a service and an employer providing money?

**Adult Education: Jewish Ethics in Labor Relations**

Supporting Articles:

Specific Mitzvot regarding Business and Labor:

### Business Practices

1. Not to do wrong in buying or selling (Lev. 25:14) (CCN47).
2. Not to make a loan to an Israelite on interest (Lev. 25:37) (CCN54).
3. Not to borrow on interest (Deut. 23:20) (because this would cause the lender to sin) (CCN55).
4. Not to take part in any usurious transaction between borrower and lender, neither as a surety, nor as a witness, nor as a writer of the bond for them (Ex. 22:24) (CCN53).
5. To lend to a poor person (Ex. 22:24) (even though the passage says "if you lend" it is understood as obligatory) (CCA62).
6. Not to demand from a poor man repayment of his debt, when the creditor knows that he cannot pay, nor press him (Ex. 22:24) (CCN52).
7. Not to take in pledge utensils used in preparing food (Deut. 24:6) (CCN58).
8. Not to exact a pledge from a debtor by force (Deut. 24:10) (CCN59).
9. Not to keep the pledge from its owner at the time when he needs it (Deut. 24:12) (CCN61).
10. To return a pledge to its owner (Deut. 24:13) (CCA63).
11. Not to take a pledge from a widow (Deut. 24:17) (CCN60).
12. Not to commit fraud in measuring (Lev. 19:35) (CCN83).
13. To ensure that scales and weights are correct (Lev. 19:36) (affirmative).
14. Not to possess inaccurate measures and weights (Deut. 25:13-14) (CCN84).

### Employees, Servants and Slaves

1. Not to delay payment of a hired man's wages (Lev. 19:13) (CCN38).
2. That the hired laborer shall be permitted to eat of the produce he is reaping (Deut. 23:25-26) (CCA65).
3. That the hired laborer shall not take more than he can eat (Deut. 23:25) (CCN187).
4. That a hired laborer shall not eat produce that is not being harvested (Deut. 23:26) (CCN186).
5. To pay wages to the hired man at the due time (Deut. 24:15) (CCA66).
6. To deal judicially with the Hebrew bondman in accordance with the laws appertaining to him (Ex. 21:2-6) (affirmative).
7. Not to compel the Hebrew servant to do the work of a slave (Lev. 25:39) (negative).
8. Not to sell a Hebrew servant as a slave (Lev. 25:42) (negative).
9. Not to treat a Hebrew servant rigorously (Lev. 25:43) (negative).
10. Not to permit a gentile to treat harshly a Hebrew bondman sold to him (Lev. 25:53) (negative).
11. Not to send away a Hebrew bondman servant empty handed, when he is freed from service (Deut. 15:13) (negative).
12. To bestow liberal gifts upon the Hebrew bondsman (at the end of his term of service), and the same should be done to a Hebrew bondwoman (Deut. 15:14) (affirmative).
13. To redeem a Hebrew maid-servant (Ex. 21:8) (affirmative).
14. Not to sell a Hebrew maid-servant to another person (Ex. 21:8) (negative).
15. To espouse a Hebrew maid-servant (Ex. 21:8-9) (affirmative).
16. To keep the Canaanite slave forever (Lev. 25:46) (affirmative).
17. Not to surrender a slave, who has fled to the land of Israel, to his owner who lives outside Palestine (Deut. 23:16) (negative).
18. Not to wrong such a slave (Deut. 23:17) (negative).
19. Not to muzzle a beast, while it is working in produce which it can eat and enjoy (Deut. 25:4) (CCN188).

[Labor Day: A Jewish Holiday](http://www.rhr-na.org/blog/?p=3116)

Posted by [Rabbi Aaron Levy](http://www.rhr-na.org/blog/?author=58). Categories: [Human Rights Education](http://www.rhr-na.org/blog/?cat=18), [Other](http://www.rhr-na.org/blog/?cat=983) on Aug 30th, 2011 |

A recent [front-page article](http://www.nationalpost.com/news/Kosher+inspection+work+just+work/5180594/story.html" \t "_blank) in Canada’s National Post newspaper brought attention to the claim currently before the Ontario Labour Relations Board that the [Kashruth Council of Canada](http://cor.ca/" \t "_blank) (COR) has not been paying its mashgichim (kosher food inspectors) overtime, as mandated by provincial law. While COR disputes this charge, this case impels us to consider what Jewish law and values teach us about **employer-employee relationships**. Like all matters in Judaism, this is a complex and lengthy topic, so we’ll just barely skim the surface of a few traditional texts here (and won’t touch on the history of Jewish involvement in modern labor movements).

In the fourth of the Ten Commandments, just as Jews are bidden to observe Shabbat by refraining from work, so too are their employees “so that your male and female servant may rest as you do” (Deuteronomy 5:14). Every person, whether Jewish or not, regardless of her socio-economic status, must be given respite from work for one day each week, for we do not live to work, but rather work in order to live.

The Torah also forbids withholding the wages of a day laborer: “You must pay him his wages on the same day, before the sun sets, for he is needy and his life depends on it” (Deuteronomy 24:15). The Babylonian Talmud further develops this law into the requirement that all employees be paid on time and also offers a bold interpretation of the Biblical verse: “‘His life depends on it’ – Anyone who withholds a laborer’s wages is like one who takes his life from him” (Bava Metzia 112a).

The Mishnah regulates working hours and benefits: “One who hires workers and tells them to start early or stay late – in a place where the custom is not to start early or stay late, the employer may not coerce them. In a place where the custom is to feed the workers – the employer must feed them, to provide sweets – the employer must provide sweets. Everything goes according to the custom of the land (minhag ha-medinah)” (Bava Metzia 7:1). Prevailing norms of employment – even in seemingly trivial matters – must be upheld so employers cannot incrementally degrade working conditions and create a race to the bottom for their employees.

The Talmudic dictum “dina de-malkhuta dina” – “the law of the land is the law,” means that secular law becomes ensconced as halakhah (Jewish law). Contemporary labor laws – whether federal, provincial, or municipal – certainly fall under this rubric and their adherence is therefore doubly mandated – by government and by Judaism.

Beyond the various Jewish laws regarding the required treatment of employees, the Talmud offers an anecdote that illustrates the broader value accorded to labor in Judaism. “Rabbi Judah used to go into the beit midrash (study house) carrying a pitcher on his shoulders and would say: ‘Great is work, for it honors the worker’” (Nedarim 49b).

As we approach Labor Day, let’s each ensure that all our businesses, communal organizations, and personal hires follow civil and Jewish employment law in both letter and spirit, and that we truly honor workers.

*Rabbi Aaron Levy is the founding director of Makom: Creative Downtown Judaism (MakomTO.org) and a board member of Rabbis for Human Rights-North America.*

From Jewish Women’s Archive: Living the Legacy

<http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#essay>

**The Labor Movement Begins at Home**

Unit 1, Lesson 8

* + Jewish Sources on Labor
    - [Exodus/Shemot 22:20](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15060)
    - [Leviticus/Vayikra 19:13](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15061)
    - [Deuteronomy/Devarim 24:14-15](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-14889)
    - [Mishnah, N’darim 49b](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15063)
    - [Babylonian Talmud, Bava Metzia 83a](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15064)
    - [Excerpt from the Living Wage Teshuvah](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15065)
    - [Excerpts from "Who Cleans Your House?"](http://jwa.org/teach/livingthelegacy/labor/contemporary-jewish-labor-campaigns-labor-movement-begins-at-home#node-15068)

See attached pdf.

From Torah.org

**Business Ethics**

**The Challenge of Wealth**

**Parshas Balak**

By Dr. Meir Tamari

RESPONSA BALAK; WEEK OF 6TH-12TH TAMMUZ, 5763.

Strictly speaking labor is an economic resource, the price (wages) and use (employment) of which are fixed by the same laws as govern those of other resources. In reality, however, the fact that labor is a resource consisting of human beings, with all of the consequences that flow from that, effects the practical aspects of labor relations and wage policies. Nowhere else in the whole field of economics is the admixture of psychology, human welfare, and economic self-interest more prevalent than in the field of labor and wages. Ethical and human issues assert themselves in such a way that what starts out as an exercise in costs, supply and demand, and profits becomes an inseparable compound of morality and economics. Halakhically, the employer-employee relationship is a specific instance of contractual rights and obligations binding free agents. All legal factors applying to contracts, apply here. It should be noted that there is no element to the relationship beyond the buying and selling of services. There are no political, social or personal claims on either of the parties concerned. In Judaism, symmetry in justice is reflected in its insistence that a worker has obligations, primarily to render honest value for the wages received, so that there is no justification for defrauding an employer nor is there place for the class- struggle.

However, since the employees are dependent on the wages and working conditions, they are granted special protection regarding them over and above the normal legalisms regarding contracts. A major form of the protection is that granted by custom that has all the power of law in halakha. Of greater importance is the obligation to do charity and acts of righteousness. We make a clear distinction between acts flowing from the religious obligation to do charity and those flowing from the law of contracts. This frees the employer from having the solution to the social and personal problems of the employee foisted on to him purely as a result of being the employer. However, the concept of charity prevents the employee from becoming a disposable object and the employers from evading the demands of moral behavior.

This interplay between legal obligations and charity, may be best demonstrated by considering the case where an employee suffered bodily harm in performing the task imposed on him, but through no-fault of the employer.

In the Talmudic discussion that forms the basis for the rulings regarding a worker's illness ( Bava Metzia 112a, as explained by Rashi), they concluded that in his desire to earn the wages offered, the worker knowingly took on himself the normal risks involved in that job, and therefore the employer was not liable to pay the costs of damages suffered in that work. The Rama in the authoritative gloss on the Shulchan Arukh( Choshen Mishpat, section 333, sub-section 5) argues that since the employer is liable to pay only for the time worked by a sick worker (and not for the period contracted for as a whole), it would seem obvious, therefore, that he should not be obligated to cover the medical costs involved in those cases that they were not caused by the employer.

The first case deals with a communal edict that shows the power of custom to change the above Talmudical law. It should be noted that in Europe of the Middle Ages and even until the 18th century, the Jewish communities, by and large, were autonomous political entities and as such, had the right to tax their members and to enforce Jewish law. Moreover, their enactments had the force of law according to halakha.

"One hired a worker to accompany him on his travels to outlying villages when he went to sell articles of glassware and other similar goods. The worker then became ill. The custom in the town of Izmir [Turkey] is that the employer pays for the whole period of the contract of a worker who fell ill during that period. Furthermore, he is liable for the medical expenses. In order to explain this custom we assume that the employer, by causing the worker to travel, exposed him to the dangers of becoming ill and therefore should be liable to compensate him, even though the employer was not guilty of negligence and even though these payments were not stipulated in their contract"(R.Chaim Pallache - 18th century Turkey, Teshuvot Ruach Chaim, section 333, sub-section 4).

A similar communal enactment was made in the community of Krakow in 1595.This laid down that the employer of a maidservant was obligated to pay the hospital expenses in the case of illness for a period of 14 days. If she required a longer period in hospital [attached to the Jewish community] then the expenses for a further four weeks were to be divided between the maid and the employer. All medical expenses for any longer period, devolved on the communal charity funds. In the case of a manservant who became ill, the employer was liable to all expenses for up to a period of 4 weeks and after that, the cost was to be borne by the communal funds.

It is easy and commonplace to see in these communal edicts a social or political development that has no basis in Talmudic or halakhic sources. Rather they are often seen, incorrectly, as being solely the results of alien pressures or of developments in the surrounding gentile societies. Yet we have a Talmudic source that obligated the employer to fund the medical expenses that resulted from special conditions even though legally the employer was not the cause of the illness. It is this source that the authorities saw as a basis for these enactments.

"And these were the priests in charge of the Temple service... The son of Achiya was over the sick, who suffer from diseases of the intestines" (Mishnah Shekalim, chapter 5, mishnah1). The Jerusalem Talmud explains that was because the priests worked barefooted on the marble and dressed only in a linen shift as was demanded of them. They ate the meat of the sacrifices so that they would not transgress the laws of sacrifices by leaving part of the sacrifice. Then they drank water since it was forbidden to drink wine in the Temple. Because of all this, they developed an illness of the intense. The son of Achiya gave them wine that was actually a medicine and eased the disease. In other words the conditions of their work meant that they contracted those internal diseases, so that the priests responsible for their work, gave them medicine that was paid for out of the Temple funds.

Our second case deals with a situation in which the worker was killed on the job or was taken into captivity, but through no fault of the employer. It should be remembered that for much of Jewish history such dangers have been a constant fact of life, so that they presented a real business risk.

"To my beloved Yekutiel who asked me in connection with your employee Ezra who was killed in the course of his job. We learn in the aggadah in the chapter 'chalek' in the Talmud Sanhedrin (85a) that G-d asked King David, "how long will the sin of the death of the priests of Nob lie on your head? You were responsible for Doeg losing his share in the World to Come, and through you King Saul and his three sons were killed. [The reference is to Saul's destruction of the city of Nob because the priests had sheltered David. Doeg had spoken lashon harah in that incident and Saul had committed a crime of murder (1 Samuel, chapters 21 and 22). Do you want your sons to be killed or to be bound over to the enemy?" Even though King David was not guilty of their deaths, still through him they died and so he was held accountable and punished through trials and tribulations. So you too (the employer), should accept on yourself some form of tribulation and atonement such as a fast for 40 days. If the worker had any minor children you should provide for them within your means. We have learnt in(Shabbat 149b), " that anyone through whom another was punished with suffering or with troubles, is not permitted to enter the Divine Presence"( TeshuvotMahari Weil,section 125)

Copyright © 2002 by Rabbi Meir Tamari and Project Genesis, Inc.

Dr. Tamari is a renowned economist, Jewish scholar, and founder of the Center For Business Ethics ( www.besr.org ) in Jerusalem.

From Churchleaders.com

Supreme Court Grants Religious Groups Exception in Hiring Laws

by Staff Writer

The decision has been called "what may be the most significant religious liberty decision in two decades."

Calling the decision "what may be the most significant religious liberty decision in two decades," *The New York Times* reported on a decision made today by the Supreme Court to allow churches and religious groups to choose their employees and leaders with a "ministerial exception" to discrimination laws. In short, these groups may remain free to hire and fire without interference from the government.

Chief Justice John G. Roberts Jr. wrote on the decision, "The interest of society in the enforcement of employment discrimination statutes is undoubtedly important, but so, too, is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission." Chief Justice Roberts also said a basic principle behind the First Amendment was to keep government from interfering in the affairs of religious groups, particularly in the selection of their leadership. "The Establishment Clause prevents the government from appointing ministers," the decision read, "and the Free Exercise Clause prevents it from interfering with the freedom of religious groups to select their own."

The case was brought by a teacher at a Lutheran school who was fired for filing a discrimination claim based on a disability; the school said she violated doctrine by pursuing litigation instead of attempting to resolve the issue within the church. Chief Justice wrote that requiring the teacher to be reinstated "would have plainly violated the church's freedom."

To read the Supreme Court decision, click [here](http://www.nytimes.com/interactive/2012/01/12/us/12scotus-text.html" \t "_blank).