

Vol. 3, Number 1  
October 2002, Jerusalem

## **The Basic Principles of Jewish Business Ethics** Rabbi David Golinkin

In the United States, the past twelve months were the "year of the corporate scandal". From Enron to Andersen, from Worldcom to Adelphia, CEOs have robbed their companies of millions while leaving their workers penniless and unemployed. President Bush has undertaken a campaign to clean up corporate fraud, but both he and Vice President Cheney are accused of some of those very practices when they were part of big business!

Therefore, without addressing the specific scandals under discussion, I would like to give an overview of Jewish business ethics, followed by a basic bibliography on the subject.

Contrary to what many think, Jewish law and ethics have much to say about the world of business: accurate weights and measures, overcharging, verbal deception, false packaging and much more. But before we get down to specifics, a few general observations are in order.

It is no secret that ethics and business are not always compatible. As a matter of fact, they frequently seem to be a contradiction in terms.

As Ben Sira wrote 2200 years ago (26:29): "A merchant can hardly keep himself from wrongdoing, and a storekeeper will not be acquitted of sin".

A similar thought was expressed a thousand years later in *Massekhet Kallah Rabbati* (ed. Vilna, Chap. 8; ed. Higger, p.

292): ... travelling merchants and traders – Torah cannot be found among them, but craftiness can be found". Lastly, Y. L. Peretz, the famous Yiddish author, once said: "The bigger the merchant, the smaller the Jew!"

Despite this problem, or perhaps because of it, our Sages emphasized the importance of business ethics in many of their aggadic or non-legal statements: "Character is tested through business..." (*Avot D'rabi Natan*, ed. Schechter, version B, Chap. 31, p. 68). "Rava said: When a person dies and is brought in for his final judgement he is asked: were you faithful in your business dealings?" (*Shabbat 31a*). And lastly, there is this beautiful maxim from the *Mekhilta* (Vayassa, ed. Lauterbach, vol. 2, p. 96): " 'If you will heed the Lord diligently, doing what is right in His eyes' (Exodus 15:26) - this refers to business dealings. This teaches us that whoever trades in good faith... it is accounted to him as though he had observed the entire Torah".

Our Sages, however, never limited themselves to aggadic statements in pious language about ideal utopias. They insisted on spelling out concrete laws and legal principles by which to govern our everyday lives (Klein, *Responsa*, pp. 147-148).

Therefore, I would like to outline in broad strokes eight basic principles of Jewish business ethics. In this way we shall know what pitfalls to avoid and what standards to strive for throughout the year. In each case, I shall give the biblical basis of the law, some rabbinic interpretations, and some contemporary applications.

1. First we shall deal with the laws of accurate weights and measures. We are admonished in the book of *Vayikra* (19:35-36): "You shall not falsify measures of length, weight, or capacity. You shall have an honest balance, an honest weight, an honest *ephah*, and an honest *hin* ".

The Mishnah rules (*Bava Batra 5:10 = 88a*) that

The wholesaler must clean out his measures once every thirty days and the householder once every twelve months... The retailer cleans his measures twice a week

and polishes his weights once a week; and cleans out his scale before every weighing.

Throughout the Talmudic period, the rabbis appointed *agronomoi* – a Greek word for market commissioners – whose job it was to inspect measures and weights and to fix prices for basic commodities (*Bava Batra* 89a). The *agronomoi* eventually disappeared, but the ideal was still there as late as the nineteenth century when Rabbi Israel Salanter wrote: "As the rabbi must inspect periodically the slaughtering knives of the *shochtim* in town to see that they have no defect, so must he go from store to store to inspect the weights and measures of the storekeepers" (Dov Katz, *Tenuat Hamussar*, Vol. 1, Jerusalem, 1996, p. 281).

Today, these laws are just as applicable as they were in biblical times. Wholesalers and retailers must check their scales and cash registers on a regular basis, not just because civil law demands it, but also because Jewish law requires it.

2. The second category of Jewish business law is called *ona'at mamon* or monetary deception. It is based on a verse in the book of *Vayikra* (25:14): "When you sell anything to your neighbor or buy anything from your neighbor, you shall not deceive one another".

This verse clearly refers to monetary deception. The rabbis of the Talmud used it as a basis for a series of specific laws on the subject (*Bava Metzia* 49b and 50b; Rambam, *Mekhira*, Chapter 12). They ruled that if the price charged was *more* than one sixth above the accepted price, the sale is null and void and the seller must return the buyer's money. If it was *exactly* one sixth more, the transaction is valid, but the seller must return the amount overcharged. If it was *less* than a sixth, the transaction is valid and no money need be returned. Needless to say, these laws are still very relevant today. It is permissible for a Jew to make a fair profit; it is not permissible to price gouge and rob the customer blind. Such behavior is *ona'at mamon* or monetary deception.

1. The third category we shall discuss is related to the second. It is called *ona'at devarim* or verbal

deception. It is based on another verse in the same chapter of *Vayikra* (25:17): "Do not deceive one another, but fear your God, for I the Lord am your God." Since the other verse had explicitly mentioned *monetary* deception, the rabbis concluded that this verse refers to *verbal* deception. And thus we learn in the Mishnah (*Bava Metzia* 4:10 = 58b and parallels): "Just as there is deception in buying and selling, there is deception in words. A person should not say to a merchant: 'How much does this cost?' if he has no intention of buying it".

But why not? What's wrong with comparison shopping? Nothing! But in this case he is not asking in order to compare prices. He is asking out of idle curiosity, which gives the merchant false hopes. Therefore the mishnah says "he has *no intention* of buying it" and a parallel *beraita* (*Bava Metzia* 58b) states that he doesn't even have any money.

As for our own day, once again the law of *ona'at devarim* is very applicable. Let us say that Reuven goes into a warehouse outlet in order to buy a computer, but he wants a demonstration before he spends \$1000. The warehouse outlet is not equipped for demonstrations. The salesman says to Reuven: "go to the IBM showroom down the block and ask for a demonstration, then come back here and buy the computer at our low low price". Reuven complies and gets a free demonstration plus a discount.

In this case, Reuven has committed *ona'at devarim* – verbal deception. When Reuven asks for the demonstration at the IBM store, he has *absolutely no intention* of purchasing the computer there. He merely wants a free demonstration. The IBM salesman is being deceived. He either loses a real customer while waiting on Reuven, or feels badly when Reuven walks out on him after a half-hour demonstration. This is *ona'at devarim* (cf. Tucker pp. 261-262 and Levine, *Economics and Jewish Law*, pp. 8-9).

2. The fourth category of Jewish business law is called *gneivat da'at*, which literally means "stealing a

person's mind". We would call it false packaging or false labeling. Interestingly enough, it is not based on a specific verse from the Bible, but was derived by the Sages from the laws of theft and the laws of honesty. We learn in the *Mekhilta* (D'nezikin, Chap. 13, ed. Lauterbach, Vol. 3, p. 105): "There are seven kinds of thieves: the first is he who steals the *mind* of his neighbor..."

The Talmud gives a number of specific examples of such false packaging or false labeling.

Our Sages have taught: one should not sell a sandal made from the leather of an animal that died of disease as if it was made from the leather of an animal that was slaughtered, because he is misleading the customer" (*Hullin* 94a).

One should not sift the beans at the top of the bushel because he is "deceiving the eye" by making the customer think that the entire bushel has been sifted. It is forbidden to paint animals or utensils in order to improve their appearance or cover up their defects (*Bava Metzia* 60a-b).

We are all familiar with these kinds of false packaging. A wholesaler takes an inferior brand of shirt and puts on Pierre Cardin labels. You buy a box of perfect-looking tomatoes or strawberries, only to discover upon opening the box at home that they were packaged with the bad spots facing down. And we all know how used cars are touched up and polished for the sole purpose of overcharging the customer. These are all good examples of *gneivat da'at*, clearly forbidden by Jewish law.<sup>5</sup>) The next category we shall discuss is called "putting a stumbling block before the blind". We would call it giving someone a bum steer. This law is based on *Vayikra* Chapter 19 (v. 14): "You shall not curse the deaf nor put a stumbling block before the blind, but you shall fear your God, I am the Lord". Our Sages interpreted this verse in a very broad fashion (*Sifra* ad. Loc.):

"You shall not put a stumbling block before the blind" – before someone who is blind in that particular matter... don't say to your neighbor 'sell your field and buy a donkey', when your

whole purpose is to deceive him and buy his field. And if you claim 'But I gave him good advice!' [Remember,] this is something which is hidden in the heart, [and therefore] the end of the verse says: "but you shall fear your God, I am the Lord".

Once again, the law of the stumbling block can be readily applied to modern situations: a real estate agent should not dupe a young couple into buying a home with structural faults simply in order to make a fast buck. A stockbroker should not sell his client a bad investment just to collect the commission. A salesman should not convince his customer to buy an expensive item he really has no use for. These are all considered "a stumbling block before the blind" about which we are warned "and you shall fear your God, I am the Lord."

1. Considering the scope of Jewish business law, it is not surprising that it also has a clear opinion regarding tax evasion. 1800 years ago the Amora Shmuel established the legal principle that in civil matters *dina d'malkhuta dina* - "the law of the land is the law" (*Bava Kama* 113a and parallels). In its discussion of this principle, the Talmud specifically includes taxation as a secular law that must be followed. This, for example, is the way Maimonides summarizes this law (*Gezeilah* 5:11 and cf. *Hoshen Mishpat* 369:6):

but a tax fixed by the king of 33% or 25% or any fixed sum... a person who avoids paying such a tax is a transgressor because he is stealing the king's portion, regardless of whether the king is Jewish or not.

So we see, Jewish law requires us to pay our taxes in a scrupulous fashion because in civil matters "the law of the land is the law".

2. In addition to all the laws we have mentioned, the *halakhah* contains a number of ethical principles which go one step beyond what we would normally expect a businessman to do. Here are two examples among many:

A. The first principle is called "*lifnim mishurat hadin*",

which means "beyond the letter of the law". Here is one classic case. According to Jewish law, a purchase has not been concluded until the buyer has physically "lifted up" the item being bought (*Bava Metzia* 4:2 = 44a). In light of this fact, the following story is quite surprising:

It happened that Rav Safra had some wine for sale, and a potential buyer came to him while he was reciting the *Shema*. The customer said "Sell me this wine for such and such a price". Rav Safra did not answer [so as not to interrupt the *Shema*]. Assuming that he was unwilling to settle for the price offered, the customer added to his original offer, and said, "Sell me this wine for such and such a price". Rav Safra still did not answer. [Presumably, this cycle was repeated, with ever-escalating prices.] Upon finishing the *Shema*, Rav Safra said to him: "From the time you made your first offer, I had resolved in my mind to sell it to you. Therefore I may take no greater amount [than your first bid]". (*Sheiltot Vayehi*, No. 38, ed. Mirsky, Vol. 2, p. 252 and parallels).

The *Sheiltot*, an early code of Jewish law, went so far as to make Rav Safra's behavior a halakhic norm for all Jews. It rules:

There is no question if he said 'I will sell you this', but even if he merely *resolved in his mind* to sell something [at a particular price], even if he did not articulate it, he should not go back on that resolution...

This decision was not included in later codes of Jewish law, yet the concept of "*lifnim mishurat hadin*" remained an ideal, which Jews strive to emulate until today.

Indeed, Rav Safra's behavior was repeated by a German Jew some 1600 years later.

The firm of Beer, Sondheimer and Company is reported to have owed its tremendous expansion to the following fact. On a Friday in 1870, just before the Franco-German War broke out, Mr. Beer left his office

for the Sabbath rest. He had large holdings in copper and other metals necessary for the waging of war. The porter received a number of telegrams, which he presented on Sunday morning to his employer. They came from the War Ministry and offered to buy all metals in the possession of Mr. Beer; each successive wire increased the price. When Mr. Beer, on Sunday, went through these messages, he informed the War Department that he would have accepted the first offer and that he had failed to answer it because it was the Sabbath. He was, therefore, prepared to let the government have all his merchandise at the rate originally suggested to him. The War Ministry was so impressed by this example of living Judaism that they made the firm its main supplier and thus established its global significance. (Jung in Kellner, p. 341).

B) The second ethical principle is taken from the biblical verse (*Bemidbar 32:22*): "*V'heyitem nekiyim meishem umeiyisrael*" - "And you shall be guiltless before the Lord and before Israel". This principle dictates that those in a position of trust must be above suspicion. Thus, in Talmudic times, charity collectors were not permitted to exchange copper coins which they had collected, for their own silver coins, because this might give the impression of impropriety. Therefore, they were only allowed to exchange the coins with outsiders (*Bava Batra 8b* and parallels). Similarly, when surplus food accumulated in the soup kitchen, the overseers could not buy the food themselves but had to sell it to others (*ibid.*).

This principle of "above suspicion" finds easy application in the modern business setting. A manager or a treasurer of a company can frequently secure reimbursement of business expenses without submitting receipts. The principle of "*v'heyitem nekiyim*", however, requires him to submit the appropriate documentation in order to avoid suspicion of embezzlement (Levine, *Economics and Jewish Law*, pp. 16-17).

3. The last two principles I shall mention are especially relevant to Jews living in a non-Jewish society. They apply not only to business ethics but to *all* of our



relations with our non-Jewish neighbors. They are called *Kiddush Hashem*, or the sanctification of God's name, and *Hillul Hashem* or the desecration of God's name. They stem from a verse in *Vayikra* (22:32): "You shall not desecrate My holy name, that I may be sanctified in the midst of the people of Israel – I am the Lord who sanctifies you". This verse means that any good or holy act that a Jew does, sanctifies God's name in the eyes of his Jewish and gentile neighbors, while any bad or profane act that a Jew does, desecrates God's name in the eyes of the public. When a Jew cheats on his taxes, the tax official does not say "Max Goldberg is a cheat", but rather "Jews are thieves, what an unethical religion". When a Jewish retailer overcharges, the customer does not say "Joe Schwartz is a thief", but rather "Jews are thieves, what an unjust God".

As we learn in the midrash (*Seder Eliyahu Rabbah*, Chap. 26, p. 140, transl. by Braude and Kapstein, p. 346):

When a man is not loving in his business dealings, even if he learns Torah and studies Mishnah, people who see him say: "woe to so-and-so who has studied Torah! ..." Thus, through such a man, is the name of Heaven desecrated.

Conversely, when a Jew is scrupulously honest, it not only reflects well on him; it reflects well on the entire Jewish people and on God. As we learn in the classic story about Shimon ben Shetah (*Yerushalmi Bava Batra* 2:5, fol. 8c):

Shimon ben Shetah was in the flax trade. His students said to him: 'retire from the flax trade and we will buy you a donkey and you won't have to work so hard'. They bought a donkey for him from a non-Jewish trader. As it turned out, a precious gem was hanging from its neck. They came to him and said: 'from now on you won't have to work any more!' He replied: 'why not?' They explained: 'we bought you a donkey from a non-Jewish trader and we found a precious gem hanging from its neck'. Shimon said: 'And did its master know?' They replied: 'no'. He said: 'go and return it... do you think I am a barbarian?! I

want to hear the non-Jew say "blessed be the God of the Jews" more than I want all the material rewards of this world!

I would like to conclude with the words of a hassidic rabbi, Rav Nachman of Kossover.

He taught that we should always have the Lord in our thoughts. He was asked: 'Can we think of the Lord when we are engaged in buying and selling?' 'Surely we can,' answered the Rabbi. 'If we are able to think of business when we are praying, we should be able to think of praying when we are doing business' (Louis Newman, *The Hasidic Anthology*, p. 343).

This, then, is our choice as Jews. We can choose to emulate the CEO of Enron or Rav Safra of Babylon; the CEO of Andersen or Shimon ben Shetah of Jerusalem. The choice is ours.

### Jewish Business Ethics: A Basic Bibliography

compiled by Rabbi David Golinkin

Ezra Bick, "Payment of Income Taxes: Halachic Guidelines" in: Marc Kellner, ed. *Contemporary Jewish Ethics*, New York, 1978, pp. 344-346

Gerson Cohen, *Jewish History and Destiny*, New York, 1997, Chapter 21

Seymour Cohen, "Judaism and the Worlds of Business and Labor", *Proceedings of the Rabbinical Assembly* 25 (1961), pp. 17-44

Basil Herring, "Truth and Deception in the Marketplace", in: *Jewish Ethics and Halakhah For Our Time*, Vol. II, Hoboken and New York, 1989, pp. 221-279

Leo Jung, "The Ethics of Business" in Kellner, op. cit., pp. 332-343

Leo Jung and Aaron Levine, *Business Ethics in Jewish Law*, New York, 1987

Isaac Klein, "Advertising Practices" and "Business Ethics in the Talmud" in his book: *Responsa and Halakhic Studies*, New York, 1975

Aaron Levine, *Economics and Jewish Law*, Hoboken and New York, 1987

Aaron Levine, *Free Enterprise and Jewish Law*, New York, 1980

Aaron Levine, *Case Studies in Jewish Business Ethics*, Hoboken and New York, 1999

Aaron Levine, *Economic Public Policy and Jewish Law*, Hoboken, 1993

Nahum Rakover, "Unjkust Enrichment" in: Michael Chernick, ed., *Essential Papers on the Talmud*, New York and London, 1994, pp. 331-356

Seymour Siegel, "A Jewish View of Economic Justice" in: Elliot Dorff and Louis Newman, *Contemporary Jewish Ethics and Morality*, New York and Oxford, 1995, pp. 336-343

Meir Tamari, *With All Your Possessions: Jewish Ethics and Economic Life*, New York and London, 1987

Gordon Tucker, "Jewish Sources on Business Practices", *Proceedings of the Rabbinical Assembly* 49 (1989), pp. 258-269

Edward Zinbarg, *Faith, Morals and Money: What the World's Religions Tell Us about Ethics in the Marketplace*, 2002

Edward Zipperstein, *Business Ethics in Jewish Law*, New York, 1983

*Prof. David Golinkin is the President and Rector of the Schechter Institute of Jewish Studies in Jerusalem. Feel free to reprint this article in its entirety. If you wish to abbreviate the article, please contact Rabbi Golinkin at: [golinkin@schechter.org.il](mailto:golinkin@schechter.org.il). The opinions expressed here are the author's and in no way reflect an official policy of the Schechter Institute.*

If you are interested in reading past issues of *Israel Insight*, please go to the Schechter Institute website at: [www.schechter.edu](http://www.schechter.edu).

Linda Price  
Director of Communications  
Schechter Institute of Jewish Studies  
Jerusalem, Israel  
tel: 972-2-6790755

