



## Business Ethics Introduction

### Part One: Foundations

#### **Exodus 21:1**

1 Now these are the ordinances which thou shalt set before them.

#### **שְׁמוֹת כ"א:**

א וְאֵלֶּה, הַמִּשְׁפָּטִים, אֲשֶׁר תִּשֶׂה, לִפְנֵיהֶם.

#### **Ramban, Exodus 21:1**

*And these are the laws* is connected to *you shall not covet*, for if a person does not know the laws of the home or the field, or other monetary laws, that person will think it is theirs and they will covet it and take it for themselves. **Therefore it said you shall set before them, upright laws should govern their dealings** and they will not covet that which unlawfully theirs. Similarly, the *midrash* writes: "the entire *torah* is contingent on law, which is way law is given after the ten commandments.

ואלה המשפטים כנגד לא תחמוד, כי אם לא ידע האדם משפט הבית או השדה ושאר הממון יחשוב שהוא שלו ויחמדהו ויקחהו לעצמו, לפיכך אמר תשים לפניך, משפטים ישרים ינהיגו אותם ביניהם, ולא יחמדו מה שאינו שלהם מן הדין. וכן אמרו במדרש רבה (שמות ל טו): כל התורה כולה תלויה במשפט, לכן נתן הקב"ה דינין אחר עשרת הדברות. וכן יפרש באלה המשפטים המשפט בעבודה זרה (להלן כב יט), ובכבוד האב (שם כא טו יז), והרציחה (שם כא יב יד), והניאוף (שם כב יח), הנזכרים בעשרת הדברות:

#### Questions for Thought:

1. What are the ordinances described in Exodus 21:1?
2. What does sin does the Ramban think business ethics combats? Do you agree?

#### **Babylonian Talmud, Shabbat 31a**

Rava said: When a person is brought to judgment (in the afterlife), they are asked: 'Were you honest in your business dealings?'

אמר רבא בשעה שמכניסין אדם לדין אומרים לו נשאת ונתת באמונה?

#### **Babylonian Talmud, Yoma 86a**

Abaye explained: As it was taught: And you shall love the Lord your G-d, i.e., that the Name of Heaven shall be beloved because of you. If someone studies Scripture and Mishnah, and attends on the disciples of the wise, is honest in business, and speaks pleasantly to people, what do people then say concerning him? 'Happy is the father who taught him Torah, happy is the teacher who taught him Torah; woe unto people who have not studied the Torah; for this man has studied the Torah look how fine his ways are,

אביי אמר כדתניא (דברים ו) ואהבת את ה' אלהיך שיהא שם שמים מתאהב על ירך שיהא קורא ושונה ומשמש ת"ח ויהא משאו ומתנו בנחת עם הבריות מה הבריות אומרות עליו אשרי אביו שלמדו תורה אשרי רבו שלמדו תורה אוי להם לבריות שלא למדו תורה פלוני שלמדו תורה ראו כמה נאים דרכיו כמה מתוקנים מעשיו

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how righteous his deeds!

Of him does Scripture say: And He said unto me: Thou art My servant, Israel, in, whom I will be glorified. **But if someone studies Scripture and Mishnah, attends on the disciples of the wise, but is dishonest in business, and discourteous in his relations with people, what do people say about him? ' Woe unto him who studied the Torah, woe unto his father who taught him Torah; woe unto his teacher who taught him Torah!'** This man studied the Torah: Look, how corrupt are his deeds, how ugly his ways; of him Scripture says: In that men said of them,: These are the people of the Lord, and are gone forth out of His land.

עליו הכתוב אומר (ישעיהו מט)  
ויאמר לי עבדי אתה ישראל אשר  
בך אתפאר אבל מי שקורא ושונה  
ומשמש ת"ח ואין משאו ומתנו  
באמונה ואין דבורו בנחת עם  
הבריות מה הבריות אומרות עליו  
אוי לו לפלוני שלמד תורה אוי לו  
לאביו שלמדו תורה אוי לו לרבו  
שלמדו תורה פלוני מעשיו וכמה  
מכוערין דרכיו ועליו הכתוב אומר  
'(יחזקאל לו) באמור להם עם ה'  
אלה ומארצו יצאו

Questions for thought:

1. How does the Gemara prioritize business ethics?
2. Would you rank Torah study and business ethics in the same order? Do you think the Jewish community follows this ranking?

## Part Two: Applications – Social Responsibility

“There is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud”  
(Milton Friedman)

### **Babylonian Talmud, Bava Metzia 83a**

Some porters [negligently] broke a barrel of wine belonging to Rabbah son of R. Huna. Thereupon he seized their garments; so they went and complained to Rab. 'Return them their garments,' he ordered. 'Is that the law?' he enquired. 'Even so,' he rejoined: *'That thou mayest walk in the way of good men.'* Their garments having been returned, they observed. 'We are poor men, have worked all day, and are in need: are we to get nothing?' 'Go and pay them,' he ordered. 'Is that the law?' he asked. 'Even so,' was his reply: *'and keep the path of the righteous.'*

### **בבא מציעא פג עמוד א**

רבה בר בר חנן תברו ליה הנהו שקולאי  
חביתא דחמרא. שקל לגלימיהו, אתו  
אמרו לרב. אמר ליה: הב להו גלימיהו. -  
אמר ליה: דינא הכי? - אמר ליה: אין,  
+משלי ב' למען תלך בדרך טובים. יהיב  
להו גלימיהו. אמרו ליה: עניי אנן, וטרחינן  
כולה יומא, וכפינן, ולית לן מידי. אמר ליה:  
זיל הב אגרייהו. - אמר ליה: דינא הכי? -  
אמר ליה: אין, +משלי ב' וארחות צדיקים  
תשמר

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### **Commentary on Bava Metzia 83a**

Moses Pava, *The Talmudic Concept of "Beyond the Letter of the Law": Relevance to Business Social Responsibility*

*Journal of Business Ethics*: Sep 1996: 15:9

...Certainly, there is no explicit obligation recorded in any legal code requiring payment of the wages. However, Rav determined that "even so" Rabbah should (according to some interpretations must) return the garments and pay the employees their wages. The scriptural evidence quoted by Rav suggests that the concept of *lifnim mishurat hadin* (above the letter of the law) is at work here...

The underlying strength of the pro-social responsibility perspective is its insistence on recognizing felt moral obligations beyond legal requirement. [Rabbi Aaron] Lichtenstein's existential pronouncement quoted below about the limitations of the halakha would seem to apply even more directly to American law.

*Which of us has not, at times, been made painfully aware of the ethical paucity of his legal resources who has not found that the fulfillment of explicit halakhic duty could fall well short of exhausting clearly felt moral responsibility?*

*lifnim mishurat hadin*, by explicitly allowing and encouraging ethical behavior in certain prescribed areas helps "fill a moral lacuna."

...We conclude this essay by noting the extreme importance in which the Talmud viewed the concept of *lifnim mishurat hadin*. In trying to understand the reasons why Jerusalem and the Temple were destroyed, the rabbis concluded:

For R. Jonanan said: Jerusalem was destroyed only because they gave judgment therein in accordance with Biblical law. Were they then to have judged in accordance with the untrained arbitrators? But say thus: because they based their judgment (strictly) upon Biblical law, and did not go beyond the letter of the law (*lifnim mishurat hadin*). (*Baba Mezia 30b*).

Questions for thought:

1. What does *lifnim mishurat hadin* (above the letter of the law) mean?
2. Does the story of Rabba son of R. Huna depict the way we conduct business today? Should it?

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## Chief Rabbi Jonathan Sacks *Corporate responsibility – The potential of power*

<http://www.jabe.org/corporate-responsibilitythe-potential-of-power.html>

Today corporations wield immense power, larger, in some cases, than entire nations. The international corporation is increasingly calling into question the concept of national sovereignty. By transferring production to other countries, a corporation can evade local legislation. By outsourcing many of its operations, it can escape accountability. Despite all the excuses, however, one principle remains: With power comes responsibility.

**Judaism cannot accept the principle that markets, business, and corporations are a value-free zone.** They are major features of our social environment, and the biblical concept of covenant tells us that we are severally and collectively responsible for the environment we shape and share. No one articulated this idea with more passion than the prophets of ancient Israel. Here is Amos on the subject:

Hear this, you who trample the needy  
and do away with the poor of the land . . .  
skimping the measure,  
boosting the price  
and cheating with dishonest scales . . . (Amos 8: 4-5)

**It would be wrong to search within Judaism for precise ethical guidelines. Judaism is about rules that are eternal. Business practices, by contrast, are constantly changing. Yet there are certain orienting principles.**

At the end of the day, business is a moral enterprise. It was Adam Smith's great insight to see that the market - by what he called an 'invisible hand' - was able to transform self-interest into collective gain. David Ricardo - through his 'law of comparative advantage' - showed how, by specialization, we generate economic growth. Just as we expect the best from our teachers and nurses, so we have a right to expect the best from the management of our large corporations. The idea that we can insulate ourselves from the consequences of our decisions is unsustainable and unethical.

Business is not just about maximizing profits, because life is not just about maximizing profits (the American bumper sticker, 'The guy with the most toys when he dies, wins', is surely one of the saddest statements ever of the human condition). It is ultimately about enhancing lives: of customers, employees, communities. **The best business people I know have an acute moral sense. They are tough, cautious, determined and, yes, sometimes ruthless, but also moral. They would not have survived in the long run otherwise.**

Questions for Thought:

1. If there are no precise ethical guidelines for business ethics how do we interpret the orienting principles in an ever-changing world?
2. What is Chief Rabbi Sacks saying about profit/sustainability and ethics? Do they work together?

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## The Case of Aaron Feuerstein

**By: Moses L. Pava, Dean and Alvin Einbender Professor of Business Ethics, Sy Syms School of Business, Yeshiva University**

By anyone's definition, Aaron Feuerstein has spent most of his life as a successful entrepreneur. In 1995, his company, Malden Mills, employed 3,100 union workers and generated \$400 million in revenue. Malden Mills owned the patent on Polartec Fleece, an extremely lightweight synthetic fiber, made primarily from recycled products, that keeps wearers warm and dry. This product was so innovative that Time Magazine named Polartec one of the greatest inventions of the 20<sup>th</sup> century.

Malden Mills served as a supplier to such well-known companies as L.L. Bean, Eddie Bauer, and Patagonia. In addition, Malden Mills manufactured Polartec Fleece for military use by the US Army. At the same time that GE and other well-known companies were terminating employees and relocating overseas in search of cheap labor, Malden Mills was increasing its workforce in Lawrence, MA, one of the most depressed areas of the country, and paying its employees above average wages. While "Chainsaw Al" Dunlap was the poster boy for sensible and aggressive business practices, Aaron Feuerstein quietly and methodically created a socially responsible and profitable business. "He extended credit to struggling local businesses, sponsored English classes for immigrant workers, and offered training for textile workers. He took special care of his own workers, making sure that they had a safe and comfortable work environment. Even union leaders praised him" (Massmoments.org).

Tragedy struck on very same night he was joyously celebrating his 70<sup>th</sup> birthday with relatives and friends. On December 11, 1995 the worst industrial fire in Massachusetts history almost completely destroyed his manufacturing facilities. Feuerstein now faced one of the most excruciatingly difficult decision of his long business career. He could pocket the \$300 million in insurance and retire. He could use the insurance money and relocate the business overseas. Or, he could re-commit himself to Lawrence, MA, and to the guiding principles of his long and successful business career.

Less than a week after the fire, Feuerstein publicly committed himself to remaining in Lawrence and rebuilding the factory. Feuerstein went even further than this. At a company-wide meeting, Aaron Feuerstein stated, "I will get right to my announcement. For the next 30 days, our employees will be paid their full salaries. But over and above the money, the most important thing Malden Mills can do is to get you back to work. We're going to continue to operate in Lawrence. We had the opportunity to run south many years ago. We didn't do it then, and we're not going to do it now." The auditorium erupted with relief, applause, and tears. Later, explaining his actions, he quoted the Talmud, "when all is moral chaos, this is the time for you to be a *mensch* [honorable, descent person]."

Within a few months, however, business experts began to question Aaron Feuerstein's dramatic decision. He parted ways with two of his key employees who strongly disagreed with him. In the end, it cost Feuerstein \$25,000,000 to keep his employees on the payroll. He invested \$400,000,000 to build a state-of-the-art factory, the first new textile mill in New England in more than 100 years. But by 2001, Feuerstein could not make the payments on his borrowed funds and he was forced into bankruptcy.

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For several years, Feuerstein struggled gallantly to keep family control of the business. Unfortunately, he was not able to raise the \$92,000,000 he needed to satisfy his creditors. In July of 2004, Malden Mills Industries, now controlled by creditors, replaced Aaron Feuerstein as CEO of the company.

Questions for thought:

1. How did Mr. Feuerstein fulfill *lifnim mishurat hadin*?
2. How did the business community interpret his actions? Was he commended for his actions?

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