

Torah Table Talk – The Observant Life

'It's only Business:'

What's Kosher About Business Ethics?

Commerce, by Rabbi Jacob Blumenthal, Page 491
Parshat Hukat, Numbers 19:1- 22:1

*This week's Torah Table Talk is sponsored by Gloria Bernstein and Loretta Broudy
In memory of Shirley Strahs, 6/2/13, beloved mother and wife of Bernhardt Strahs
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I. Introduction

"It's not personal, it's only business. You should know, Godfather." Those were the words of Licio Lucchesi, one of the characters in the classic film, The Godfather. After looting the Vatican-owned Immobiliare Corporation of several billion dollars with the help of a high ranking Catholic official, Lucchesi turns to Godfather Michael Corleone for help covering his tracks. While few of us will ever be quite so cunning or deceitful, it's not uncommon for people to say, "It's only business" when cutting corners in business. The end justifies the means. We presume that in the real world of business the standards of ethics are different than they are elsewhere. After all, don't we say *caveat emptor*, "Let the buyer beware?" In the world of business and corporate dealings only the shrewd and the most cunning survive. We admire those people who manage to get ahead until their actions have an adverse effect on our lives.

There is much to explore in the field of business ethics in the Jewish tradition – though I don't believe you will find mention of it in this week's Torah portion. In his essay on commerce, Rabbi Jacob Blumenthal explores a wide range of topics. He speaks of the importance of honesty, integrity and transparency in the business world. There is room in Jewish world view for free enterprise, but not when it is conducted at the expense of others. Rabbi Blumenthal writes: "The halakhic foundation of all business related law in every time and place is the bedrock concept of absolute and scrupulous honesty in all commercial dealings."

Leviticus 19:11-14, 36 You shall not steal; you shall not deal deceitfully or falsely with one another. You shall not swear falsely by my name, profaning the name of your God; I am the Lord. You shall not defraud your fellow. You shall not commit robbery. The wages of a laborer shall not remain with you until morning. You shall not insult the deaf or place a stumbling block before the blind; you shall fear your God; I am the Lord...You shall not falsify measure of length, weight or capacity. You shall have honest balance, honest weights, an honest *ephah* and an honest *hin*.

Leviticus 25:14 When you sell property to your neighbor or buy anything from your neighbor, you shall not defraud (*al tonu*, using the verb related to *ona'ah*) one another.

II. Sources, Resources & Reflections

Consider the following sources from the Talmud and the codes. They are examples of the many ways in which the sages tried to address behavior in the market place. While they come from a different world than the one in which we live, they raise fundamental questions about business ethics with which we continue to wrestle in our society. Study the sources with a study partner, and then consider the questions which follow. How 'applicable' is the sages' perspective to the contemporary market place? In what ways can we apply these lessons to our lives? Are Jewish business ethics different from the standards of ethics in the market place today?

- a) One may not mix produce with produce, even new with new, and one need not even mix new with old. In truth for wine they permitted mixing strong with weak because it improves it. The sediment of one wine may not be mixed with another one, but one may give another the sediment from that vintage. If water becomes mixed into one's wine, one may not sell it to a merchant – even though one gives notice – as it is a set up for deception. In a place where it is customary to put water in

wine, it is permissible to put it in the wine. *Note: wine in ancient times was thick and thus required dilution with water. Such a mixture was the responsibility of the buyer who mixed the wine with water in order to prepare it for regular consumption. (Mishnah, Baba Metziah 4:11)*

- a. In what way do we experience deceptive practices in the market place today? Why should it matter if the produce from the two different fields are of similar quality?
 - b. One of the ways in which business people compensate for weaker and stronger products in the field of investment is by creating mutual funds that balance weaker and stronger investments together. In what ways should the sellers of these funds make their product transparent?
- b) Rabbi Yehudah said: “A shopkeeper may not distribute parched corn or nuts to children because he thereby accustoms them to come to him. The sages permitted it. Rabbi Yehudah further states that he may not reduce the price but the sages say he is to be remembered for good. (*Mishnah, Baba Metziah 4:12*)
- a. Capturing the attention of customers by enticing their children is as old a practice as humankind. Breakfast cereals place prizes in their boxes, fast food restaurants give away toys with their happy meals, and stores sometimes have special rides and treats for the children of potential customers. How do you feel about this practice? Why does Rabbi Yehudah prohibit this practice while the sages permit it?
- c) It is forbidden to cheat people in the market place and to defraud them (to steal their minds) For example, one is required to point out the flaws in the article being sold to the buyer. So it is forbidden to sell the meat of an animal that died as though it were slaughter, even to an idolater (who is halakhically is not bound to slaughter meat) This rule applies to the buyer, too, who is not allowed to profit from the ignorance of the seller as to the true value of the article being sold. (*Joseph Karo, Shulchan Arukh, Choshen Mishpat, 228:6*)
- a. Is it realistic to expect a business person to point out the flaws in the object that he is trying to sell?
 - b. How would you apply the biblical verses above to this standard of behavior? How would you define “defrauding?”
- d) It is forbidden to beautify a slave or an animal or utensils; for example, to dye the beard of a slave so he appears younger, or to give bran water to animals since this causes them to appear fat by firming their hair... nor is it permissible to paint old utensils so as to hide their blemishes. (*Joseph Karo, Shulchan Arukh, Choshen Mishpat 228:9*)
- a. How would you differentiate between deception of the customer vs. improving a product? Apply this distinction to the purchase of a used car.
- e) The beit din (Jewish court) is obligated to fix prices and to appoint overseers to implement them. This applies to basic goods, like wine, oil and vegetables, but special luxury goods like spices do not have fixed prices so everyone may earn what he wishes. (*Maimonides, Mishneh Torah Hilkhos Mekhirah 14:1-2*)
- a. Maimonides suggests that it is perfectly acceptable for the Jewish court (in an autonomous Jewish society) to have the authority to set prices for basic goods. Elsewhere we learn that the court has the right to cancel a business agreement if the buyer or the seller overpaid or underpaid. What does this say about free market competition?
- f) Just as there is *ona'ah* (defrauding) in buying and selling, so, too, there is verbal *ona'ah*. One may not say to the seller, “What is the price of this article?” if the buyer has no intention of buying it. (*Mishnah, Baba Metziah 2:10*)

- a. What responsibilities do customers and consumers have in the market place in their dealings with the business person? Come up with a set of rules for being an ethical consumer.

III. Reflections

When we look back in the Torah, we learn that Judaism does not have a problem with personal wealth and success in the market place. The Patriarchs were all wealthy men. Abraham was a wealthy herder of cattle; the Torah tells us (Gen. 24:1) that he was "blessed with everything." (Despite rabbinic interpretation I believe this means more than just children). Isaac, we are told, "sowed the land and reaped a hundredfold." (Gen. 26:12) Jacob made a good deal of wealth by dealing with his deceitful father-in-law in a way that we might consider cunning. (Gen. 30) Apparently there is no conflict in the Bible between personal wealth and piety.

The challenge is to find a balance between success in the market place and honesty. Rabbi Blumenthal quotes the Talmudic sage Rava who claims that when we stand in judgment in the world to come, the first question that we will be asked will be, "Did you conduct your business affairs faithfully." The choice of words here is instructive, faithfully in Hebrew is *b'emunah*, literally "with faith." What does it mean to conduct one's business affairs with faith? *Emunah* might mean with integrity but it implies with a sense of faith in a God who is the ultimate judge of one's actions. What's more, this first question must be seen in context of the other questions that accompany it. Earning a living is not enough, even if it is conducted with integrity and faith. Setting aside time for the study of Torah, raising a family, using one's intellect to improve the world, and striving to bring salvation to society are equally important for the whole person.

Business ethics define not only the individual but the nature of society as well. There is room for a free market in Jewish business ethics as well as competition but there are standards of behavior that define how one acts and treats one's competitors and one's customers. The rabbis debate the question of *hassagat gevul*, moving one's neighbor's landmark, in relation to the question of establishing a similar business close to one's competitor, "in effect, infringing on another's livelihood. The question of setting prices for commodities and whether there can be consequences to overcharging or undercharging are discussed in rabbinic literature as well. How far can one go in advertising one's product - and how 'honest' must one be in doing so? And what responsibilities does the consumer have in dealing with business? All of these are among the issues that our sages pondered in the Talmud and in later halakhic literature.

One of the questions which contemporary Jews should wrestle with is the business practices of today's synagogues. Congregational leaders like to say that synagogues are business. But if that is true, then, they should certainly be businesses conducted according to the principles of *Halakhah*. Honesty, transparency and integrity must define the way they deal with their budgets and the way in which they procure the necessary money to maintain the congregation. Synagogues benefit from the separation of church and state but that does not mean that they can take advantage of this separation in how they raise funds.

So much is at stake in how we conduct business and how synagogues present themselves to the larger world. When we are less than honest, we not only reflect badly on ourselves but upon the entire Jewish people. Integrity and honesty in our dealings can become an act of *Kiddush Hashem*, a means of sanctifying God's name in the world, while dishonesty and cunning can become a source of *Hillul Hashem*, the desecration of God's name. Blumenthal writes: "Judaism is a religion that stresses that moments of holiness are accessible through even the most mundane acts or decisions."

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