



Living Wage in Jewish Law

Rabbi Jill Jacobs

Executive Summary

By and large, Jewish law values work and the people who perform it (section I). This includes enjoining employers to develop positive, humanizing relationships with their workers (section II), and placing on employers certain responsibilities vis-à-vis their workers (section III). The worry that a worker might die of hunger overnight if not paid promptly at the end of the workday implies an economic system in which the wages of a full-time worker suffice (if just barely) to support a family.

Employers must follow local custom (*minhag hamakom*) in all aspects of labor law, from wages to working hours to other labor conditions. When it comes to workers' wages, this custom does not emerge from an impersonal "market"; rather, the community or its representatives determine wages, and may penalize employers who do not comply (section IV).

While there is no explicit commandment to pay a minimum or living wage, a number of sources imply this expectation. For example, rabbinic sources discuss pay levels too low to be considered reasonable (section V), and in 20th century Palestine/Israel, Rav Uzziel derived that the prevailing wage must be paid. Maimonides' famous highest level of tzedakah (section VI) implies that a full-time worker should not need to be reliant on tzedakah. In our modern context, this same logic suggests that a person working full-time at a minimum-wage job should not have to rely on food stamps or other government support.

In summary, Jewish law thus requires employers to adhere to any local living wages in effect (even when the business or organization is exempt per civil law), as well as to prevailing wages in particular industries. In places without set living wage laws, the combination of legal and ethical arguments should drive both the actions of Jewish employers, as well as the advocacy of our community.

For a fuller discussion of these issues, see There Shall Be No Needy: Pursuing Social Justice Through Jewish Law and Tradition, by Rabbi Jill Jacobs (Jewish Lights, 2009). You can also find the teshuvah (responsum) on living wage and unions, written by Rabbi Jacobs and approved by the Rabbinical Assembly's Committee on Jewish Law and Standards in 2008, here: <http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/20052010/jacobs-living-wage.pdf>



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I. The place of work

A) *Avot d'Rabbi Natan Nusach 1, chapter 11*

Commentary on Pirkei Avot, compiled roughly between 700-900 CE. Often seen as the Gemara on Pirkei Avot, since there is no Gemara on this tractate of Mishnah.

אהוב את המלאכה כיצד מלמד שיהא אדם אוהב את המלאכה ואל יהיה [אדם] שונא את המלאכה שכשם שהתורה נתנה בברית כך המלאכה נתנה בברית שנאמר ששת ימים תעבוד ועשית כל מלאכתך ויום השביעי שבת לה' אלהיך (שמות כ' ט'):

“Love work” (Pirkei Avot 1:10). How? This teaches that a person should love work, and not hate work. Just as the Torah was given through the covenant, so too, work was given through the covenant, as it says “For six days you shall labor and do all of your work, and the seventh day is a Sabbath to your God.”

B) *Babylonian Talmud, Tractate Nedarim 49b*

The major work of Jewish oral law, a commentary on the Mishnah that also incorporates legal debates, folk wisdom, stories, and more. Redacted around the year 600 CE.

ר' יהודה כד אזיל לבי מדרשא שקיל גולפא על כתפיה, אמר: גדולה מלאכה שמכבדת את בעליה. רבי שמעון שקיל צנא על כתפיה, אמר: גדולה מלאכה שמכבדת את בעליה.

Rabbi Yehuda used to go into the Beit Midrash carrying a pitcher on his shoulders. He would say, 'Great is work, as it gives honor to the one who does it.' Rabbi Shimon would carry a basket on his shoulders, and would say, 'Great is work, as it gives honor to the one who does it.'

Discussion Questions

1. How would you describe the stance toward work described by these texts? How does this compare to how you think about work? To how American culture generally thinks about work?
2. Why might the orientation toward work matter to discussions of labor law? What types of laws do you think these attitudes toward work might generate?

II. Proper Relationships Between Employers and Workers

A) *Mishpetei Uzziel vol. 4 Hoshen Mishpat 42 (Rabbi Ben-Zion Meir Chai Uzziel)*
Sephardi Chief Rabbi of Mandate Palestine and Israel from 1939 to his death in 1953.

מה הן ההגדרות הברורות לקביעת יחסים הדדיים בין הבעלים והעובדים?

תשובה: דבר זה לא מצאתי מפורש בדברי רז"ל הראשונים, אבל נלמד הוא במכל שכן ממאמרם ז"ל בדרשת הכתוב כי ימכר לך אחיך וכו' שתנהג בו אחוה. הא כיצד אתה נוהג בו אחוה והוא נוהג בעצמו בעבודתו (ספרא ויקרא פ' בהר פ"ז ה' ע"ט). מכאן אתה למד הגדרה ברורה זו ליחסים ההדדיים שבין הבעלים והעובדים. הבעלים חייבים להתנהג עם העובדים במדת אהבה וכבוד, עין טובה ונדיבות לב. והפועל נוהג הוא בעצמו מדת נאמנות ומסירות גמורה לעבודה שהוא נשכר לעבוד בה.

What are the precise definitions of establishing a reciprocal relationship between workers and employers?

Answer: I have not found an explicit answer to this in the words of the early rabbis, but we can learn this regardless from their words, in the expositions of the verse "When one of your kin sells himself/herself to you—whether a man or a woman—s/he should work for you for six years and should go free on the seventh year." (Deuteronomy 15:12) that say that you should behave toward him with fellowship. How is this? You should act with fellowship toward this person, and this person should act in the same way in his/her work. (Sifra, Leviticus Behar 5:7) From this, we learn one clear definition of the reciprocal relationship between workers and employers. Employers are obligated to behave toward workers with love and honor, and with goodwill and generosity. And the worker, on his/her part, acts faithfully and gives him/herself fully to the work that s/he was hired to do.

יחסה אהבה וכבוד כיצד?

כי טוב לו : עמך במאכל, עמך במשתה (קידושין כ). הא למדת שיחס בעל הבית אל הפועל צריך להיות יחס אחוה כאל אדם שוה ועוזר לו להשלמת עבודתו ; ולא יחס של נחות דרגא המביא לידי מעשים שיש בהם משום העלבה והכלמה כי באותה מדה שנזקק הפועל לבעל הבית, כך זקוק בעל הבית אל הפועל ובהשתתפותו נשלמת פעולתו של הבית.

How does one establish a relationship of love and honor?

"[if after seven years, an indentured servant does not want to leave because] it is good for him/her [to be with you]" (Deuteronomy 15) This means: s/he is your kin in regard to food and in regard to drink. (Talmud Kiddushin 20a). This teaches that the relationship between the employer and the worker needs to be a relationship of fellowship, as with an equal, and not a relationship in which one person is of inferior status, as such a relationship can lead to acts that are insulting or that induce shame, for the employer needs to show toward the employee the

same qualities that the employee shows toward the employer. Through this partnership, the work of the household will be completed.

B) Talmud, Tractate *Bava Kamma* 116b

אמר רב: פועל יכול לחזור בו אפילו בחצי היום, וכמה דלא הדר ביה כברשותיה דבעל הבית דמי, וכי הדר ביה טעמא אחרינא הוא, דכתיב: +וויקרא כ"ה+ כי לי בני ישראל עבדים, ולא עבדים לעבדים.

Rav said: A worker may quit, even in the middle of the day. . . as it is written “the children of Israel are [God's] servants and not servants to servants. (Leviticus 25:42)”

C) Talmud, *Bava Metzia* 83a

רבה בר בר חנן תברו ליה הנהו שקולאי חביתא דחמרא. שקל לגלימייהו, אתו אמרו לרב. אמר ליה: הב להו גלימייהו. - אמר ליה: דינא הכי? - אמר ליה: אין, +משלי ב'+ למען תלך בדרך טובים. יהיב להו גלימייהו. 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.

Some porters working for Raba bar bar Hanan broke a jug of wine. He seized their clothes. They came before Rav, and Rav said to Raba bar bar Hanan, “Give them their clothing.” Raba bar bar Hanan said to him, “Is this the law?” Rav said, “Yes, because of the principle ‘you should walk in the ways of the good’ (Proverbs 2:20).” He gave them back their clothes. They said to him, “We are poor, and we troubled ourselves to work all day and we are needy--do we receive nothing?” Immediately, Rav said to Raba bar bar Hanan, “Go, give them their wages.” He said to Rav, “Is this the law.” Rav said, “Yes-- ‘You should keep the ways of the righteous.’(ibid)”

Discussion Questions

1. Rabbi Uzziel’s legal response includes much ethical language—rather than simply strict law. Why do you think he would include this type of language in his legal ruling?
2. When have you worked in an environment that exemplifies Rabbi Uzziel’s ideal? When have you worked in an environment that does not? How would you characterize your experience, your relationship with your employer/employees, and the general working environment of each?
3. Why do you think the rabbis of the Talmud allow a worker to quit in the middle of the day? What impact might this law have on the working environment or on working conditions?
4. In text C, Rav uses two sections of the same biblical verse to justify two rulings: 1) the workers must not be penalized for breaking a jug and 2) the workers still receive their payment. How does each part of this verse answer the legal question at hand? What are

the differences between these two parts of the verse? Why do you think he answers the question as he does?

III. Obligations of the Employer

A) Leviticus 19:13

לא תעשק את רעך ולא תגזל לא תלין פעלת שכיר אתך עד בקר :

Do not oppress your neighbor and do not rob him. Do not keep the wages of the worker with you until morning.

B) Deuteronomy 24:14-15

לא תעשק שכיר עני ואביון מאחיד או מגרד אשר בארצך בשעריך : ביומו תתן שכרו ולא תבוא עליו השמש כי עני הוא ואליו הוא נשא את נפשו ולא יקרא עליך אל ה' והיה בך חטא.

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.

C) Talmud, Tractate *Bava Metzia* 112a

מפני מה עלה זה בכבש ונתלה באילן ומסר את עצמו למיתה - לא על שכרו? דבר אחר : ואליו הוא נשא את נפשו - כל הכובש שכר שכיר כאילו נוטל נפשו ממנו.

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.

D) Ramban on Deuteronomy 24:15

Rabbi Moshe ben Nachman or Nachmanides, Spanish rabbi and commentator of the 13th century.

וטעם ביומו תתן שכרו ולא תבוא עליו השמש - על דרך הפשט ביאור ממה שנאמר בתורה (ויקרא יט יג) לא תלין פעולת שכיר אתך עד בקר, כי דרך הכתובים לדבר בהוה, והמנהג לשכור הפועל ביום אחד, ולערב הוא יוצא טרם בא השמש. ויצוה הכתוב לפרעו ביומו בהשלים מלאכתו מיד, ושלא תבוא עליו השמש, כדי שיקנה בשכרו לו ולאשתו ולבניו מה שיאכלו בלילה, כי עני הוא - כרובי הנשכרים, ואל השכר הזה הוא נושא נפשו שיקנה בו מזון להחיות נפשו. ילמד אותנו בכאן, כי מה שאמר בתורה לא תלין פעולת שכיר אתך עד בקר, הכונה בו שתפרענו ביומו, שאם לא תפרענו בצאתו ממלאכתו מיד הנה ילך לביתו וישאר שכרו אתך עד בקר וימות הוא ברעב בלילה.

The reason you must give him his wages during the day and not let the sun set on them: According to the plain meaning of the text, this rule is clear from what is written elsewhere (Leviticus 19:13)--do not keep the wages of a hired laborer with you until the morning. It is the way of the text to address the common situation, and it is the custom to hire workers for one day, and in the evening they leave before sunset. And the verse commands payment on that day, as soon as the worker has finished the work, before the sun sets, so that he may use his wages to for himself, his wife, and his children something to eat that night. "For he is poor"--like the majority of hired laborers, and he depends on the wages to buy food by which to live. This teaches that when the Torah says, "do not keep his wages with you until morning," the intention is that he should collect the wages on the day he works, for if he does not collect the wages right away as he is leaving work, he will go home, and his wages will remain with you until the morning, and he will die of hunger that night.

Discussion Questions

1. What are the differences between texts A and B? What is the significance of these differences?
2. Why do you think the Talmud emphasizes the danger of certain kinds of work? Have you ever held a job that seemed dangerous or bad for your physical or mental health? Why did you stay? Did you leave and why?
3. Why do you think Ramban stresses that withholding wages is tantamount to causing a worker's death? What are the possible implications of this statement?

IV. Who sets workers' wages?

A) Talmud Tractate *Bava Metzia* 83a

משנה השוכר את הפועלים ואמר להם להשכים ולהעריב. מקום שנהגו שלא להשכים ושלא להעריב - אינו רשאי לכופן. מקום שנהגו לזון - יזון, לספק במתיקה - יספק, הכל כמנהג המדינה. מעשה ברבי יוחנן בן מתאי שאמר לבנו: צא שכור לנו פועלין. הלך ופסק להם מזונות. וכשבא אצל אביו, אמר לו: בני, אפילו אם אתה עושה להם כסעודת שלמה בשעתו לא יצאת ידי חובתך עמהן, שהן בני אברהם יצחק ויעקב. אלא, עד שלא יתחילו במלאכה צא ואמור להם: על מנת שאין לכם עלי אלא פת וקטנית בלבד. רבן שמעון בן גמליאל אומר: לא היה צריך לומר, הכל כמנהג המדינה.

גמרא. פשיטא! לא צריכא, דטפא להו אאגרייהו. מהו דתימא, אמר להו: הא דטפאי לכו אאגרייכו - אדעתא דמקדמיתו ומחשכיתו בהדאי, קא משמע לן דאמרו ליה: האי דטפת לן - אדעתא דעבדינן לך עבידתא שפירתא.

Mishnah: One who hires workers and instructs them to begin work early and to stay late--in a place in which it is not the custom to begin work early and to stay late, the employer may not force them to do so. In a place in which it is the custom to feed the workers, he must do so. In a place in which it is the custom to distribute sweets, he must do so. Everything goes according to the custom of the land.

A story about Rabbi Yochanan ben Matya who told his son, "Go, hire us workers." His son went and promised them food (without specifying what kind of food or how much). When he returned to his father, his father said to him, "My son! Even if you gave them a feast like that of King Solomon, you would not have fulfilled your obligation toward them, for they are the children of Abraham, Isaac and Jacob. However, as they have not yet begun to work, go back and say to them and stipulate that they do not demand from us any more than bread and vegetables." Rabbi Shimon ben Gamliel said, "It is not necessary to make such a stipulation. Everything goes according to the custom of the place.

Gemara: This rule (that one may not force workers to begin early and stay late) is obvious! No, we need it in the case in which the employer raises their wages. In the case in which he says to them, "I raised your wages in order that you would begin early and stay late," they may reply, "you raised our wages in order that we would do better work."

B) Talmud Tractate *Bava Batra* 8b

ורשאין בני העיר להתנות על המדות ועל השערים, ועל שכר פועלים ולהסיע על קיצתן.

The people of the city are permitted to stipulate weights and measures and to set workers' wages and to establish penalties for breaking the rules.

C) Commentary of the Rosh on *Bava Batra* 9a

Rabbi Asher ben Yechiel, German rabbi and Talmudist of the 13th and 14th centuries.

כמינייהו מכאן דכל בעלי אומנות יכולין להתנות ביניהם והם הנקראין בני העיר בענין מלאכה...

From here, we learn that all artisans are able to make stipulations amongst themselves, and they are considered as "the people of the city," in regard to work issues.

Discussion Questions

1. What does text A teach us about the relationship between employers and workers? What do you think is the significance of the emphasis on the custom of the land? What are some "customs of the land" in the world of work today?
2. What is the significance of Rabbi Yochanan ben Matya calling the workers "children of Abraham, Isaac and Jacob"? How does this characterization affect the discussion?
3. Why do you think the Talmud specifies that "the people of the city" set workers' wages and establish penalties for breaking the rules? How might this ruling intersect with the concept of "the custom of the land?"
4. How does the Rosh understand the phrase "the people of the city?" How might his understanding (which becomes standard in later Jewish law) affect labor laws and customs?

V. Paying a Minimum Wage

A) Mishnah, *Bava Metzia* 10:5

The earliest stratum of the Talmud, codified around the year 200 CE.

השוכר את הפועל לעשות עמו בתבן ובקש, ואמר לו תן לי שכרי, ואמר לו טל מה שעשית. שכרך, אין שומעין לו, משקבל עליו ואמר לו הילך שכרך ואני אטל את שלי, אין שומעין לו.

If one hires a worker to work with him/her with straw and hay, and then the worker says, “Give me my wages” and the employer says, “take what you have done (namely, the straw and hay) as your wages,” we do not listen [to the employer].

Discussion Questions

1. How would you restate this Mishnah as a general principle? How might this relate to the question of minimum or living wage?

VI. Paying a Living Wage

A) Rambam, *Mishneh Torah: Matanot Aniyim* 10:7

Rabbi Moshe ben Maimon or Maimonides, Sephardi rabbi of the 12th century.

שמנה מעלות יש בצדקה זו למעלה מזו, מעלה גדולה שאין למעלה ממנה זה המחזיק ביד ישראל שמך ונותן לו מתנה או הלואה או עושה עמו שותפות או ממציא לו מלאכה כדי לחזק את ידו עד שלא יצטרך לבריות לשאול, ועל זה נאמר והחזקת בו גר ותושב וחי עמך כלומר החזק בו עד שלא יפול ויצטרך.

There are eight levels of *tzedakah*, each one higher than the other. The highest degree of charity—above which there is no higher—is the one who strengthens the hand of a fellow Jew and gives this person a gift or loan or enters into a business partnership with this person or finds this person a job in order to strengthen this person to the point that s/he no longer needs to ask others for help. About this [approach], the Torah says “Strengthen the sojourner and resident, that s/he should live with you.” (Leviticus 25:35) That is to say—strengthen the person such that s/he does not fall and become dependent on others.

B) Rambam *Mishneh Torah: Shekalim* 4:7

מגיהי ספרים שבירושלם נוטלין שכרן מתרומת הלשכה, דיינין שדנין את הגזלנין בירושלם נוטלין שכרן מתרומת הלשכה, וכמה היו נוטלים תשעים מנה בכל שנה ואם לא הספיקו להן מוסיפין להן, אף על פי שלא רצו מוסיפין להן כדי צרכן והם ונשיהם ובניהם ובני ביתן.

The correctors of books in Jerusalem would take their salaries from [funds collected primarily to cover the cost of 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 would increase the amount according to the needs of the workers, their wives and their families.

C) Rabbi Chaim David HaLevy Aseh L'cha Rav 5:23 comment on Rambam (above)
Student of Rabbi Uzziel (text 2A, above, and 6D, below); Sephardic Chief Rabbi of Tel Aviv from 1973 until his death in 1998.

In order for [these workers] to devote their full energies to their important tasks and in order that they will be able to focus on fulfilling their duties, without concerns about the needs of their families weighing on them.

D) Mishpetei Uzziel vol. 4 Hoshen Mishpat 44 (Rabbi Ben-Zion Meir Chai Uzziel)
Sephardi Chief Rabbi of Mandate Palestine and Israel from 1939 to his death in 1953.

מצוה זו מחייבת את כל בעל הבית" לשלם לפועליו בשעור זה שיוכל הפועל לפרנס את עצמו במדת רמת דרגת החיים שבמקום עבודתו. דבר זה לא בפירוש איתמר לא מכללא איתמר, שנאמר בעבד עברי: כי טוב לו עמך, ודרשו רז"ל עמך במאכל, עמך במשתה, לחייב את האדון להשוות את העברי למדת רמת החיים שלו (קדושין כ'). ומזה אתה למד לדין פועל שאעפ"י שאין בעל הבית חייב להשוותו לעצמו לפי שאינו סמוך על שלחנו אבל בתשלומי שכר עבודתו חייב לשלם לו במדה כזו שיוכל לחיות לפי דרגת רמת החיים שבמקום העבודה. וכן אמרו כי ימכר לך אחיך העברי שתנהוג בו באחווה (ספרא ויקרא שם) ובכלל מנהג אחווה הוא לדאוג על חייו של הפועל שיהיו משופרים ומכובדים במדה ידועה. ועוד אמרו בדין רבית: אל תקח מאתו נשך ורבית וחי אחיך עמך אהדר ליה כי היכי דניחי בהדך (ב"ק קי"ב) והוא הדין לשכר פועלים.

This mitzvah obligates every owner to pay his workers such that they will be able to support themselves at the prevailing standard of living for their place of work. While not written explicitly, this principle can be deduced, for it says of the Jewish slave, "It goes well for him with you." Our rabbis interpreted "with you"—in food and in drink, to give a Jewish slave the same standard of living as the master has. (Talmud Kiddushin 20). From this you learn a practical law: that although a business owner does not have to grant her employees her own standard of living, for they do not eat at her table, she does have to pay them enough to maintain the prevailing standard of living for their place of work. Our rabbis also taught: "If your Israelite brother is sold to you"—that you should treat him with brotherly kindness." (Sifra Vayikra) One of the aspects of brotherly kindness is to look out for him and make sure the worker's life is pleasant and dignified in a recognizable manner. They further taught regarding the law of charging interest: "You shall not take interest from him, so that your brother may live alongside you"—He will return to you, for life is comfortable for him with you." (Talmud Bava Kamma 112) This too is the law for an employee.

Discussion Questions

1. Why does Rambam say that giving a person a job is the highest level of *tzedakah*? What assumptions might he make? How might he respond to a situation in which a person who has a full-time job still needs *tzedakah*?
2. Texts B and C refer to communal workers. How might they be interpreted to apply to other workers?
3. Text D offers the clearest statement we have seen yet regarding a living wage. How do the source texts that Rav Uzziel draws on color his ruling in your eyes, either positively or negatively?