

# A Jewish Perspective on Business Ethics: A Glance into the Sources and Implications for Curriculum Development.

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## 1. Introduction

### Background of the project

The idea to relate the practice and conduct of modern business to traditional texts written hundreds of years ago, came to me when I visited the Business School at Worms, with which our College has several exchange agreements. Worms was an important city in Jewish history, as it was the seat of the Yeshiva (institute for Jewish learning) where Rashi studied and later taught in the 11<sup>th</sup> century. Rashi is undoubtedly the most important interpreter of the Bible and the Talmud, whose writings are studied up until today. The city cherishes Rashi's heritage – there is a synagogue and a museum at the place where the Yeshiva once was, which is visited by thousands of tourists every year. What came to my mind was the question: Why stay with monuments and museums? Why not try to create some kind of a real link between the past and the present?

When I thought how could a modern Business School, training future managers to practice in a high-tech environment make use of the historical treasure it has on its doorstep, I remembered I once was exposed to a reading of texts by Maimonides – a Jewish philosopher of the 13<sup>th</sup> century, in the context of a discussion about modern philanthropic practices. Actually, those texts helped me then put certain difficult moral choices in a new perspective.

Given the presence of the Business School in the city where Rashi lived suggested to look for some kind of a link. Also, given that Jewish Law, which developed through the ages, deals extensively with business issues, brought up the idea that using texts that were written ages ago could possibly shed new light on modern dilemmas, especially ethical ones. This was the context in which the idea of building first a curriculum and later a Multi-Cultural Center for Business Ethics at the School of Business in Worms was born. While Rashi gave the impetus to the idea the intention is to engage in a true inter-cultural dialog regarding business ethics, exploring the similarities as well as the differences between approaches to ethics in different traditions.

Not being a Judaic scholar, I looked for one with whom I could share the idea and I found Rabbi Leff, who is not only a Rabbi and scholar but also a businessman interested in business ethics, and has written about that subject in the context of Jewish Halacha (law). I got him interested in the project, which later led to a mini-course that we both taught as a pilot at the Business School in Worms to a class of some 20 students in 2015.

The course we developed evolved around reading of modern business case studies, involving companies like Nestle, Kik etc. and dealing with ethical issues such as fraud in advertisement, workers' rights and obligations, whistleblowing, etc., discussing those in small groups from a management perspective and then introducing Jewish sources, dealing directly or indirectly with similar ethical issues and renewing the discussion about the case in point, given that new perspective. In that process students asked many questions about the context of the ancient texts, becoming interested in historical period as well as the social contexts

Given our own judgment and the students' reactions, that mini-course was a great success. But a successful course is not only what we intended. The course gave us an opportunity to deal with broader questions: What is the rationale for including material of this nature in Business Schools' curricula? What are the best ways to introduce it?

The rationale for introducing religious and philosophical texts pertaining to ethics into the curricula of Business Schools

In most institutions of higher learning where Business Administration is taught the curriculum focuses mostly on technical aspects of the profession and provides practical tools for the future managers in the fields of finance, marketing, human resources, legal aspects, etc. Given that many management students are working while studying, there is pressure to fit a lot of "practical material" into the curriculum in a short time and any subjects that pertain to the infrastructure of humanity and society that does not directly belong is easily cut. The fact that Business Administration is taught nowadays at the BA level, when students have little life experience and no background in liberal arts, exacerbates the situation. The outcome is that the graduate/future business person is coming out of school with a narrow and technical conception of his/her role.

Courses in business ethics are sometimes included in business administration curricula but they are the firsts to be cut off when cuts are made, as they are not deemed to be essential in the preparation of the future manager.

A course in ethics that focuses on readings of modern business ethical cases alongside with ancient texts dealing with the same ethical dilemmas, is helping the student link his contemporary practice to a history and tradition and helps him see himself as part of a chain of generations. Creating a course that is seemingly "unrelated" to the rest of the curriculum helps arouse the curiosity of the student to further look into the past, not only in a business context.

Another argument for the importance of such a course of study has to do with the notion that is put forward, especially by the Hi-Tech industry, that we live in a new world, totally different from the one we have known thus far. According to this argument, the technologies we use today have created a different base for relationships between people and of management of society. A course of study that links our professional practice directly to the past and shows how our ancestors grappled with similar ethical problems basically shows the continuity of the human condition, which no technology can change.

Finally, a course of study of ancient texts in a cross-cultural context, can provide students better insight into their own respective traditions, compare it to others and create a meaningful multi-cultural and multi-generational dialog. This is especially important in societies that absorb immigrants.

## 2. Jewish Sources on Business Ethics

Business ethics ultimately rests on individual cases. With a given set of constraints, a manager must make a decision on the appropriate course of action in a particular situation, weighing many competing factors: financial, legal, and ethical.

Laws alone are inadequate to create an ideal society. Clever minds will always be able to find ways around laws. There is a teaching from Nachmanides, a 13<sup>th</sup> century Spanish rabbi, that one can be a "wicked person within the bounds of the Torah (the law)."

The traditional Jewish approach to resolving ethical dilemmas is to begin with achieving a thorough understanding of the issues in the case at hand, and then searching through source material to find relevant overall values to apply to the case as well as similar cases that may provide some kind of precedent and insight. If a case presents a dilemma it's because there are competing values at play; the great challenge comes in weighing the importance and impact of competing values in determining the proper course of action. Proportionality is an important factor in that process – there are few absolutes.

### Structure of Jewish Sources

Jewish sources for resolving ethical quandaries have been evolving for over 2,000 years. There are equivalents to the constitution – statutes – case law hierarchy seen in secular legal systems. The overall system of Jewish law is called “halacha,” Halacha is usually translated as “Jewish law;” the word itself is based on the same root as “to walk,” so it could also be thought of as “the way.”

The Torah – the five books of Moses or the Pentateuch, part of the Hebrew Bible or what Christians call the “Old Testament” – is the grundnorm of the Jewish legal system, roughly equivalent to the Constitution at the basis of many national legal systems.

The next layer of authority is the combination of the Talmud and law codes. The Talmud is composed of two layers, the Mishnah or “Oral Torah,” handed down as an oral tradition and compiled into written form in the early 3<sup>rd</sup> century CE, and the Gemara. The Gemara is a discussion and elaboration on the material in the Mishnah over a period from the compilation of the Mishnah to the mid-6<sup>th</sup> century. The Talmud often presents conflicting opinions; the law codes were a later effort to provide a guide to behavior that cuts through the argumentation. The most important law codes are Maimonides “Mishneh Torah” (12<sup>th</sup> c.) and Joseph Karo’s “Shulhan Arukh” (16<sup>th</sup> c.). The Talmud and law codes together comprise the equivalent of the statutes and regulations in secular legal systems.

The final layer of authority in halacha is the responsa literature. The responsa literature is vast, and continues to grow to this day. A question is presented to a rabbi, who prepares a response based on the particular situation and his or her application of the traditional sources. Such questions and answers are called “teshuvot” (plural of “teshuvah”), or “responses.”

Generally speaking, the older the source the more authoritative it is considered; however principles in earlier sources are understood in the light of later interpretations. For example, the Torah famously contains the principle of *lex talionis*, “an eye for an eye.” Later rabbis explain that this verse from the Torah is actually speaking about monetary damages in the event someone is harmed, and includes compensation for lost wages, medical expenses, pain and suffering, etc., remarkably similar to modern tort law.

### A Case Study

Appendix 1 provides a case study and illustrative sources that can be applied to this particular case.

The case is one where a brand manager for Nestle is faced with a dilemma regarding what to do with his Alete baby food brand. The product was awarded the undesirable “Goldener Windbeutel” Award from Foodwatch, awarded annually to the “most brazen advertising lie of the food industry.” Alete is marketed as a “healthy” product, and while the claims that it includes healthy ingredients are indeed true, the advertising completely ignores the reality that nutritional pediatricians consider the product overall to be harmful and not nearly as good as breast milk for infants.

The values applied to the case include the following:

- *Genivat da'at* (deception)
- The impact of financial loss

- The responsibilities of a leader
- Following the law / going beyond the letter of the law

The sources on deception show the way in which Jewish ethics evolves over time.

The oldest source, from the Torah (5<sup>th</sup> century BCE) simply states “you shall not steal.” The Midrash (“explanation,” ~10<sup>th</sup> century CE) elaborates on this by showing that deception is a form of stealing. The 12<sup>th</sup> century rabbi Ibn Ezra affirms deception as a form of theft. The Mishneh Torah stipulates that if a seller knows an article he is selling has a blemish he must disclose it. A quote from a contemporary book of case studies on Jewish Business Ethics shows that in a very similar case, an ad was considered to be impermissibly deceptive.

Applying the above values as explicated through the sources inevitably leads one to the conclusion that the brand manager must take some kind of action: to continue promoting this product in this fashion would be unethical. There are several possible ethical courses of action open to the brand manager:

1. Discontinue the product
2. Reformulate the product in consultation with nutritional experts to make it truly a healthy product
3. Change the advertising for the product so that it more accurately reflects the nutritional reality of the product and how it could be used in an overall healthy diet
4. A combination of 2 and 3 above

### 3. Methodology: Creating the Bridge

When one introduces ancient religious, philosophical texts into a curriculum of a contemporary context in any professional topic, a legitimate question arises: Where is the link and what is the relevance. While on the face of it, it seems there is no connection and no relevance, as technology has changed society, on a second thought the link and the relevance are very clear. Organized society was always based on individuals who filled specific roles, be they professionals, like teachers or doctors (or their equivalents) or leaders – religious or political; this in essence has not changed much. While they have different means and resources to fill their roles, the *type* of decisions they have to make are similar, in the past and now. The human condition and human nature has not changed much in the past two millennia: Both our ancient and modern literature in all cultures tells us that all people are afraid of dying and are seeking hope, they can be both generous and cruel, trying to take advantage of others and helping strangers.

The business context of producing, selling and buying is a domain where there are competing interests between the producer and/or seller who wants to maximize his profits and the consumer who wants to get a good deal. There are additional stakeholders that render the moral calculations more complicated than it might seem: employees, investors, and society as a whole are also effected by the decisions taken by business executives. That context presents a host of conflictual situations that have not changed through the ages: False presentation of the product to be sold – giving it qualities it does not possess or what is known today as “false advertising”, fixing prices by creating monopolies among producers/suppliers, abusing workers are just a few examples of practices known to us throughout the ages.

The barriers against such practices when no formal laws nor inspection institutions existed to protect customers or workers had to be internal and belonged to the domain of decent and moral behavior by the individual. If there were laws involved these were religious laws and religious leaders were the ones to distinguish between what is allowed and what is forbidden, what is moral and what is immoral. Furthermore, the religious leadership guided individual behavior by way of defining what constitutes an appropriate behavior in complex human situations and people turn to their religious leaders for guidance.

Questions of behavior within the business context were clearly dealt within a framework of decent, fair, honest behavior, expected by God-fearing persons, which were forbidden to cheat or steal. Thus, the modern concept of Business Ethics finds its roots in religious teachings and writings.

Indeed, the modern concept of Business Ethics finds itself also in the domain of the individual behavior. In today's world, when we have laws regulating the business process – from labor laws protecting the workers to laws requiring producers to list ingredients of their products, etc. and in most cases institutions to enforce these laws, the concept of Business Ethics pertains mostly to what happens beyond the laws or in situations when the laws can be interpreted in different ways. It has to do with situations when a person has discretion to make decisions when there is a conflict of interests and the person has to make the “right” decision.

#### 4. Conclusions

The Torah is accepted as an important source of ethical values by over half of the world's population: in addition to 14 million Jews, 1 billion Muslims and 2 billion Christians include the teachings of the Torah as part of their tradition. The Torah and Talmud have influenced the development of secular legal systems as well as philosophical considerations of the subject of ethics.

The values derived from these Jewish sources are universal values; as such their applicability is not limited to specifically Jewish situations or audiences.

When we presented our seminar on Jewish Business Ethics to an audience of non-Jewish students in Worms, Germany, the students readily understood the concept and were able to successfully apply the values from the sources to the cases presented. Their understanding of the ethical course of behavior in a given case was clearly influenced, and in some cases radically changed, based on their study of the sources.

Religious sources provide a valuable addition to understanding ethical dilemmas even in a secular context.

## Appendix 1. Case Study, Nestle Alete

### Deceptive Advertising: Nestle

Mini-case in business ethics

You are the brand manager of Nestlé Alete, a German baby food brand. Lately, one of your products, liquid cereal meals for babies aged ten months and over, won the undesirable "Goldener Windbeutel" Award, an award that the non-profit organization Foodwatch delivers to the most brazen advertising lie of the food industry. The choice was made by the vote of 158,000 visitors to the campaign's website, and Alete drinking meals won the negative first place for 2014, among the five candidates selected by Foodwatch, with nearly 46 percent of the votes.

Alete was founded in 1934 and had been bought by Nestlé corporation, the largest food and beverage manufacturer in the world, in 1971. According to Nestlé's website, the company's mission is to be

...the world's leading nutrition, health and wellness company. Our mission of "Good Food, Good Life" is to provide consumers with the best tasting, most nutritious choices in a wide range of food and beverage categories and eating occasions, from morning to night.

The "Nestle-Alete drinking meal" is an instant liquid meal for infants which has been on the market since 2003, a variant of the ready to eat milk and cereal porridges. In 2007 The Commission of the German Society for Nutrition Pediatricians (DGKJ) published an opinion paper on marketing of complementary food products for bottle-feeding and stated that they could lead to overfeeding and weight gain due to high energy levels that range from 80 to 110 kcal/100 ml. The commission also warned that bottle-feeding is connected to tooth decay and developing celiac disease. The commission stated that the marketing of these products is irresponsible and threatens childrens' health.



According to Foodwatch's review, Nestle not only to market these products, despite the warnings of pediatricians and scientists, but also irresponsibly recommends them as a whole meal for infants, describing them as healthy with statements such as "calcium and vitamin D for healthy bone growth".

Nestle-Alete misleads and deceives consumers in a way that Foodwatch calls "*The healthy diet value fraud*", a kind of legal deception when a product is advertised as contributing strongly to a healthy and balanced diet (i.e., not containing too much fat, or not too many carbohydrates, or not too much salt, etc.) while actually doing quite poorly on several other important nutrients, so that overall it does not contribute to a balanced diet. The one good value is promoted to consumers, giving them an excuse for consuming products that are actually unhealthy. The consumer feels good about eating something healthy that is not, in fact, healthy. The Alete liquid meal appears guilty of this kind of fraud because its package states boldly that no sugar is added, and that the baby food is rich in calcium, Omega 3 and vitamin D, while those advantages are negligible compared with the real dangers posed by the high energy density of the food.



Foodwatch believes that as the world leader in baby food Nestle has a special obligation to act responsibly in regards to the health of infants.

As the brand manager of *Nestle-Alete Drinking Meal*, what are your possible alternatives in responding to these charges? What are the ethical issues? What would you do?

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## Sources – Nestle Alete

### Genivat Da'at -- Deception

Torah

#### **Exodus 20:12 (Ten Commandments)**

You shall not murder, you shall not commit adultery, you shall not steal, you shall not bear false witness against your fellow.

#### **Exodus 31:27**

Why did you flee secretly, and rob me; (Lavan to Jacob); Rashi: “you deceived me.”

#### **Leviticus 19:11**

You shall not steal, neither shall you deal falsely nor lie one to another.

Talmud and Midrash

#### **Mekhilta (halachic midrash to Exodus), Mishpatim, chap. 13**

There are seven kinds of people who are guilty of stealing. The first among them is one who misrepresents himself to others (*gonev da'at ha-beriyot*); one who insincerely invites another to his home; one who plies another with gifts that he knows he will not accept; one who impresses his guest by opening a barrel of wine that is already sold to a vendor; one who has improper measures; one who lies regarding his weights; and **one who misrepresents his merchandise**. How do we know that deception is a form of stealing? Because it says “So Avshalom stole the hearts of the men of Israel.” (2 Samuel 15:6)

#### **Talmud Bavli Hullin 94a/b**

Shmuel has stated that it is forbidden to deceive anyone—even an idolater. And even though Shmuel never actually made this statement, it can be deduced from his actions. For it once happened that he used a ferry, and instructed Shemaya to pay the Gentile ferryman, but subsequently Shmuel rebuked Shemaya. Why was he angry? Abbaye said that it was because Shemaya paid him with an unkosher chicken, which the ferryman presumed to be kosher. Rava said he was angry because he told Shemaya to pay him with (undiluted) wine, whereas he gave diluted wine (Rashi: “and the ferryman thought it to be undiluted.”)

R. Meir would say: one should not repeatedly invite one's fellow to one's home, knowing full well that he will refuse (Rashi: “in so doing one receives the undeserved appreciation of the invitee who thinks that one genuinely expects him to accept the invitation.”) .... There are two reasons why one should not sell unkosher meat to an idolater: firstly because he is thereby deceived, and secondly, because he may sell it to a Jew.

How is the public pronouncement (that non-kosher meat has been sold to a Gentile) formulated (to prevent Jews from purchasing it in error?) Said R. Yitzchak ben Yosef, "it is formulated to say 'Meat has been sold to a Gentile.'" Why do we not say 'non-kosher meat has been sold to a Gentile?' Because then the Gentiles will not buy it at all (Rashi: "they will not want to be shamed by purchasing meat that the Jews do not want.") But by not so identifying it as non-kosher, are we not misleading them? The answer is that really they are misleading themselves. It is similar to the case where Mar Zutra ben Nachman was going from Sikara to Machoza, while Rava and Rav Safra were going to Sikara, and they met on the way. Believing that they had come to meet him, Mar Zutra said, "why did you take this trouble to come so far to meet me?" R. Safra replied, "we did not know that you were coming, had we known it we would have put ourselves out even more than this." Later Rava said to R. Safra, "why did you say that, you upset him?" Said Rav Safra, "we would be deceiving him otherwise." "No," said Rava, "he would be deceiving himself."

### **Ketubot 16b/17a**

The Rabbis taught: How does one dance before the bride? Beit Shammai say: [one describes] the bride as she actually is. Beit Hillel say: 'A beautiful and graceful bride.' Beit Shammai said to Beit Hillel: Say she is lame or blind; we say to her, 'A beautiful and graceful bride'? But the Torah said, 'You shall distance yourself from matters of falsehood!' Beit Hillel said to Beit Shammai: According to your view, one who made a poor purchase in the market – should one praise it in his eyes, or denigrate it in his eyes? Surely we would say, he should praise it in his eyes.

From here the Sages said: One's disposition must always be pleasant towards people.

### [Rabbinic Commentaries](#)

#### **Tosefta (France, 12<sup>th</sup> c.) to Genesis 31:27**

There are seven forms of theft, and the greatest is deceiving another person.

#### **Ritva (Yom Tov ben Avraham Asevilli, 13<sup>th</sup> c., Spain) to Hullin 94a (quoting Ba'alei Tosafot)**

"You shall not steal": even though the term "*geneivah*" applies to causing monetary loss, while "*geneivat lev*" refers to deception per se, here the Torah says *lo tignovu* (in the plural) to include fraud and deception.

#### **Avraham Ibn Ezra (12<sup>th</sup> c., Spain), to Exodus 20:12**

*Geneivah* refers to taking another's property with stealth. Sometimes a thief can be subject to the death penalty, for instance a kidnapper... But stealing property occurs whether it be in the presence of the owner or not, or by deceiving a person through improper calculations, measurements or weights. The term *geneivah* also includes deceiving another, as in the case of Avshalom.



## Law Codes

### **Mishneh Torah Hilchot Mechirah Chapter 18**

#### **Halacha 1**

It is forbidden to deceive people with regard to a business deal or to beguile them. This prohibition applies equally to Jews and to gentiles.

If a seller knows that the article he is selling has a blemish, he must notify the purchaser about it. It is even forbidden to beguile a person with false flattery.

#### **Halacha 3**

One may not sell a gentile meat from an animal that was not ritually slaughtered on the pretense that it was ritually slaughtered, although religiously there is no difference to him whether or not ritual slaughter was performed.

## Responsa and Other Contemporary

### **Aaron Levine, Case Studies in Jewish Business Ethics**

Levine (2000, pp. 60 -61) discusses a comparative advertisement for Baby Orajel, a product that helps alleviate the pain of teething babies that notes that the product works within one minute, whereas Children's Tylenol takes up to 30 minutes to take effect. The advertisement states: "If you're giving your baby Children's Tylenol, your baby could wind up suffering up to thirty minutes longer than necessary." What the advertisement does not state is that Baby Orajel wears off much sooner than Tylenol. This, according to Levine, constitutes *geneivat da'at*.

## Responsibilities of a Leader

### Talmud

#### **Bava Metzia 83a**

Rabba bar bar Chana's porters broke one of his barrels of wine. Rashi explains that they were negligent in this, and clearly liable for damages. Rabba claimed their cloaks as compensation. The porters went and informed Rav of the incident, who instructed Rabba: "Give them back their cloaks." Rabba bar bar Channa asked, "Is this the law?" knowing that they were liable for the damage. Rav responded: "Yes," quoting the verse in Mishlei (2:20): "So that you walk in the way of the good."

Rabba gave back their cloaks, whereupon the porters said to Rav, "We are poor, we worked all day; we are hungry and we have nothing." Upon hearing their complaint, Rav instructed Rabba to pay them their salary! Once again, Rabba questioned the ruling: "Is this the law?" The porters were contractors, who were paid for doing their job, and certainly had no legal claim on their salary. Rav replied: "Yes," quoting the second half of the same verse: "And you should watch the path of the righteous."

## **Shabbat 54b**

Whoever can prevent the members of his household from sinning and does not, is seized for the sins of his household. If he can prevent his fellow citizens and does not, he is seized for the sins of his fellow citizens. If he can prevent the whole world from sinning, and does not, he is seized for the sins of the whole world.

### [Nestle Corporate Ethos](#)

Leadership is not just about size; it is also about behavior. Trust, too, is about behavior; and we recognize that trust is earned only over a long period of time by consistently delivering on our promises.

### [Impact of Financial Loss](#)

#### **Tur (Arba'ah Turim, 265)**

One who sees a lost object must return it for free if he is unemployed, but if he is working he is entitled to compensation. And his compensation is not just his lost work, for example if he lost a sela to return the object he is entitled to a sela, but rather he can demand extra...since the Torah does not require him to forgo his wages at all to return the lost object.

### [Obeying the Law / Beyond the Law](#)

#### **Ramban**

The law of the land is the law, all levies, property taxes, and laws that are judgments of the king that is customary (for kings) to impose on their kingdoms are the law, for all people in the kingdom accept the laws and statutes of the king willingly.

#### **Bava Metzia 24b**

Rab Judah once followed Mar Samuel into a street of wholemeal vendors [a place frequented by idol worshippers, and one is not required by law to return lost objects to idol worshippers], and he asked him: What if one found here a purse? — [Mar Samuel] answered: It would belong to the finder. What if an Israelite came and indicated an identification mark? — [Mar Samuel] answered: He would have to return it. Both? — [Mar Samuel] answered: [He should go] beyond the requirements of the law (*lifnim mishurat hadin*). Thus the father of Samuel found some asses in a desert, and he returned them to their owner after a year of twelve months [after a year it is assumed the owner has despaired of getting his object back, and the finder may keep it]: [he went] beyond the requirements of the law.