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THE LIVING WAGE AND JEWISH LAW

With the aim of affording the working poor a decent standard of living, many local governments have legislated living wage ordinances (LWO). Beginning in Des Moines, Iowa in 1988, LWOs have to date been enacted in more than one hundred localities.

Within the framework of LWO, local government and businesses that have service contracts with the local government must pay their workers a wage that is higher than any prevailing state or federal minimum wage. In addition, the living wage is typically indexed to a price index, so the required minimum generally rises at the same rate as prices.

The ultimate goal of the "living wage" movement is to elevate families from two to four times the poverty level.[1]

Our purpose is to analyze the living wage concept from the standpoint of Jewish law. We will look at the "living wage," both as a desideratum for the private employer and as a public policy measure.

Preliminarily, let's note that employers are bound by secular law concerning matters such as minimum wage and safety in the workplace. The operative principle is *dina d'malkhuta dina* (lit. the law of the kingdom is law).[2] Those secular laws, however, do not guarantee a "living wage" for the worker and his family. Our concern here is the extent to which Jewish law requires us to go beyond those statutes. The issue is both a public policy one and, in the absence of such legislation, a question of whether the "living wage" is obligatory for the private employer.

THE LIVING WAGE AND THE PRIVATE EMPLOYER-LABOR LAW

We will consider whether Jewish law requires an employer to pay his worker a living wage from the standpoint of both labor and charity law.

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We begin with labor law.

In Jewish law, the key moral principle in determining "fairness of price" in a commercial setting is the law of *ona'ah*.[3] The issue of the "living wage" therefore turns on the application of the law of *ona'ah* to the labor market. Let's begin with a general description of the law of *ona'ah*.

The law of *ona'ah* prohibits an individual from concluding a transaction at a price that is more favorable to himself than the competitive norm.[4] A transaction involving *ona'ah* is regarded as a form of theft.[5] Depending on how widely the price of the subject transaction departs from the competitive norm, the injured party may have recourse to void or adjust the transaction. Provided the price discrepancy is assessed to be within the margin of error,[6] the complainant's right to void the transaction is recognized when the difference between the sale price and the competitive norm is more than one-sixth.[7] When the differential is exactly one-sixth, neither of the parties may subsequently void the transaction on account of the price discrepancy. The complainant is, however, entitled to full restitution of the *ona'ah* involved.[8] Finally, when the sale price differs from the market price by less than one-sixth, the transaction not only remains binding, but, in addition, the complainant has no legal claim to the price differential.[9] In the latter instance, however, the complainant's claim would be denied only when the transaction involved a product that is non-standardized in nature. Should the case involve a homogeneous product, the complainant's claim for the differential is honored.[10]

The law of *ona'ah* validates the complainant's grievance that a better marketplace opportunity was available to him at the time he entered into the transaction. Economists would call the *ona'ah* complaint an opportunity-cost claim. The complainant does not lose his right to transact at the market norm unless we can be certain that he waived this right at the time he entered into the transaction.[11]

Before relating the law of *ona'ah* to the labor market, we take note that halakha classifies an employee as either a day laborer (*po'el*) or a piece-worker (*kabbelan*). The *po'el*'s contract obligates him to perform work for his employer at specified hours over a given period, whereas no such clause is included in the *kabbelan's* agreement.[12] Given the controlling nature of the fixed-hours factor, the absence of this provision retains *kabbelan* status for an employee, even when the contract calls for him to complete the project by a specified date.[13]

In his discussion of the law of *ona'ah* as it pertains to the labor market, Rambam rules that *ona'ah* applies only to a *kabbelan* and not to a

po'el.[14] Several strands of *ona'ah* law underlie this ruling. Exegetical interpretation of the source of the *ona'ah* prohibition, "when you sell property to your neighbor or buy any from the hand of your neighbor" (Leviticus 25:14), establishes that the prohibition applies only to something that is acquired (by being passed) from "hand to hand"—excluding land. Since slaves are assimilated to land,[15] this exemption extends to transactions involving slaves.[16]

According to Rambam, the prohibition of *ona'ah* applies not only to an outright permanent sale but also to a rental or a hire. The rationale for this extension is that rental and hire are in effect "sales" for the duration of the lease.[17] Consequently, whenever the law of *ona'ah* does not apply to a particular sales transaction it does not apply to the corresponding rental transaction. Given that the *po'el* is tied to his employer for the fixed time period he agreed to work, the Torah regards his status as akin to servitude.[18] Accordingly, the law of *ona'ah* does not apply to the hiring of a *po'el*.[19]

Another authority who formulates the *po'el ona'ah* exemption in blanket terms is *Terumat ha-Deshen*. Advancing his own rationale, *Terumat ha-Deshen* avers that the exemption is rooted in the impossibility of assigning a precise market value to the *po'el*'s services, as the employer would pay a premium for the services of a *po'el* when the work at hand requires immediate attention, failing which a material loss (*davar ha-aved*) would result. Similarly, finding himself in dire economic straits, a job seeker would presumably accept a less than competitive wage.[20]

While both Rambam and *Terumat ha-Deshen* affirm blanket exclusion of the *po'el* from the law of *ona'ah,* this is far from conclusive. Rambam, as will be recalled, ultimately bases the *po'el ona'ah* exclusion on the assimilation of slaves to immovable property. Many *Rishonim* disagree with Rambam and do not absolutely exclude immovable property from the law of *ona'ah*.[21] *Sefer Yereim*, for instance, takes the position that a price variance of more than 100 percent allows a plaintiff to void an immovable-property transaction.[22] *Rabbenu Tam* vests the complainant with this right if the discrepancy rises to 100 percent.[23] Finally, "some authorities," quoted by *Rif* and *Rosh*, allow the plaintiff to invalidate the agreement even when the price discrepancy is more than one-sixth of the market price.[24] Thus, if the *ona'ah* exemption of the *po'el* ultimately rests on the immoveable property exclusion, blanket exclusion for the *po'el* does not obtain.

Ramban, in his own discussion of the immovable property exemption, asserts that the exemption pertains only to the restitution proce-

dure normally prescribed, but not to the prohibition against knowingly contracting into *ona'ah*.[25] Now, if the *ona'ah* exemption of the *po'el* is rooted in the immovable-property exclusion, the *ona'ah* prohibition will operate in this segment of the labor market.

We should note that despite the diversity of opinion as to whether the *ona'ah* claim is honored in the immovable property market, and, if so, to what extent, *Siftei Da'at* rules in accordance with Rambam.[26] The import of this ruling is to deny the complainant judicial remedy for an *ona'ah* claim in the *po'el* labor market as well.

The law of *ona'ah* as it applies to the labor market shows that labor law does not require employers to pay their workers a living wage. This is so bevause the *ona'ah* claim, as mentioned earlier, is essentially an opportunity-cost complaint. In the context of the labor market, a worker's complaint of underpayment is, therefore, valid only if the same[27] job was reasonably available to him at the time he entered into labor contract. A *po'el* does this by showing that the employer himself pays a higher wage to other workers for the same job or that another local[28] employer would have hired him for the same job at a higher wage. A worker who cannot command a living wage in the marketplace cannot claim a living wage based on *ona'ah*. Moreover, given that the restitution procedure does not apply to the *po'el* labor market, even a worker who commands a living wage in the marketplace will get no judicially mandated wage adjustment because of his *ona'ah* claim.

MARKET PLACE RULES SET ASIDE THE "LIVING WAGE"

To further illustrate that halakha's marketplace rules reign supreme in the labor market and that the "living wage" concept does not interfere with these rules in setting wages, we consider three cases:

(1) An employer (*E*) hires a *po'el* (*P*) to do a specific task, but fails to stipulate a wage rate. Suppose that for the specific task for which *P* was hired, the local wage rate varies. Because the labor contract failed to specify a wage rate, *E* has the right to pay *P* the *lowest* local wage workers get for this type of work. The usual rule of "*ha-motsi mei-haveiro alav ha-ra'ayyah*," putting the burden of proof on the party that sues for payment, applies.[29] Now, if *E* is obligated to pay *P* a "living wage," *P's* disadvantaged position is not understandable. Instead of having no more than a claim to the lowest wage for the type of work he did, *P* should have a claim to a "living wage."

(2) Suppose an employer instructs an agent to hire on his behalf a *po'el* at a rate of three *dinarim* for a day's work. Instead of hiring the worker on the basis of *E's* terms, the agent hires the *po'el* at a rate of four *dinarim* and tells the worker that the wage is the responsibility of the employer. Given that the agent's representation to the worker is a misstatement, his agency becomes null and void.[30] *E's* responsibility to the worker is no more than the lowest prevailing wage for the type of work done. Accordingly, if all workers in town get four *dinarim* for the type of work done, the worker will get four *dinarim*. But, if some workers get four and others get three, the responsibility of the employer is no more than three. Since the agency became null and void, the work is regarded as if done without any contract, which allows the worker to claim no more than the lowest[31] compensation for this type of work.[32] This rule applies even if the complainant is known to work only at a rate of four *dinarim*. Certainly, had the complainant known the employer would pay only three, he might have sought employment elsewhere for his usual compensation of four. But this argument serves the worker only as a basis for a legitimate grievance against the original agent. The circumstances do not, however, change the award; it remains at three.[33]

Now, if Jewish labor law requires employers to pay their workers a "living wage," the rule should not be that when a labor contract becomes null and void, the worker is entitled to only the lowest market wage for the type of work done. Instead, the lowest-wage rule should apply only if the lowest wage is a "living wage." If the lowest wage is below the "living wage," the worker should be entitled to the "living wage."

(3) Suppose an employer-employee contract is silent about whether the employer obligates himself to provide a worker with food. Halakha says that local custom must be followed. If it is not the local custom for employers to provide food, the worker is not entitled to a food allow-ance in addition to salary, because the mindset of workers is to hire themselves out on the basis of local custom, unless otherwise stipulated.[34] Now, if employers are required to pay their workers a "living wage," this rule should be modified. Even if local custom is generally to provide no food allowance—for the many types of work that command a market wage rate *above* subsistence—this should not imply that *below*-subsistence work will not be accompanied by a food allowance. Unless local custom says that no food allowance is provided for jobs that pay below subsistence, there is no presumption that these

bottom-scale workers voluntarily waive their right to the food allowance. If, however, we presume that halakha does not require private employers to pay their workers subsistence, the reason to categorize below-subsistence workers separately is no longer compelling. To the contrary, out of fear of pricing themselves out of the market, these workers would naturally be reticent to negotiate terms of employment above what they can command in the free market. What follows, therefore, from the assumption that halakha does not require private employers to pay workers a "living wage," is that all workers are lumped together for the purpose of determining local custom.

SOURCES THAT APPEAR TO INDICATE THAT LABOR LAW REQUIRES THE LIVING WAGE

In her paper,[35] which was given recognition[36] by the (Conservative) Rabbinical Assembly's Committee on Jewish Law and Standards,[37] Rabbi Jill Jacobs proposed that Jewish law requires employers to pay workers a "living wage." She adduces a number of sources to prove her contention. Let's examine these sources.

One source is the formulation of the Torah prohibition against withholding a worker's wages, and Ramban's comment on this prohibition. In rabbinic literature, this prohibition is commonly referred to as *lo talin*:

> "You must not withhold the wages of a poor or destitute (*evyon*) hired worker. . . . You must give him his wages on the day they are due, and not let the sun set upon him, for he is poor, and he endangers his life [to work for you]. Do not cause him to cry out to God against you, for then [the punishment for] this sin will be upon you [more quickly]."[38]

Commenting on the Torah's formulation of the prohibition against withholding the wages of the poor and destitute worker, Ramban remarks:

> For he is poor, like the majority of hired laborers, and he depends on the wages to buy food by which to live . . . if he does not collect the wages right away as he is leaving work, he will go home, his wages will remain with you until morning, and he will die of hunger that night.[39]

Ramban's comment that a person who does not receive his wages on time will "die of hunger that night," takes it for granted, according to Jacobs, "that a person who *does* receive payment on time *will* be able to provide sufficiently for himself and his family and will not die of

hunger." This inference Jacobs sees as support for the notion that Jewish labor law requires employers to pay their workers a "living wage."[40]

The inference is unwarranted. This can be seen by examining a number of the exemptions to this prohibition:

One such exemption obtains when the employer has no liquid assets at the time payment is due.[41] Besides cash, liquid assets, according to Ritva, includes merchandise the employer has up for sale.[42] The employer is not, however, required to sell off merchandise not up for sale, or other business and personal assets.[43]

Consider that the presumed desperate need of the worker for his wages in no way changes when the employer has no liquid assets to pay him. Specifically, not having his wages "will cause the worker to die of hunger that night." If so, even if labor law exempts the illiquid employer from the prohibition against withholding wages, the employer's duty to ensure that his worker not perish as a result of not being paid on time should remain. The principle here is "Do not stand idly by the blood of your neighbor" (*lo ta'amod al dam rei'akha*, Leviticus 19:16). On the basis of this verse, if *D's* life is in danger and a bystander (*B)* is in position to extricate *D* from this danger, *B* must take timely action to do so.[44] The duty of *lo ta'amod* remains intact even when the life-threatening predicament of the victim is the result his own imprudent conduct.[45]

The above difficulty only increases once we consider that the law says that if the employer is exempt from *lo talin* during the original time frame when payment was due, the exemption, on a biblical level,[46] remains intact, even after the original window passes.[47] To illustrate, suppose the worker was hired for the entire night. Payment is due at dawn and the employer has until sunset to make his payment.[48] If the employer had no liquid assets during the period in which the wages should have been paid, the employer's biblical exemption from *lo talin* continues even past sunset.[49]

The above difficulties suggest that Ramban never meant to read into Deuteronomy 24:14-15 that every violation of *lo talin* in connection with the *evyon* worker will cause his death. Indeed, the instances where non-payment actually causes the worker to perish should be rare. The instinct of self-preservation alone will tell the unpaid worker not to allow himself to sink into a paralysis and perish; but, instead, to do something to relieve his hunger—even resorting to begging, if necessary. What then of the death imagery the Torah employs regarding the consequences of not paying the *evyon* worker on time? Con-

sider that the *evyon* is inherently an embittered person: In pursuing his livelihood, he constantly puts his life on the line,[50] but ends up with but a pittance for his efforts. The pain and bitterness the *evyon* feels in his daily struggle is only exacerbated when the employer withholds his wages. Because withholding his wages puts the *evyon's* physical survival in a crisis of sorts and assuredly exacerbates his feeling of being a victim of exploitation, the Torah is not content merely to forbid the conduct, but says to the employer, ". . . This sin will be upon you."[51] Rabbinical interpretation of Deuteronomy 24:15 goes further and characterizes the sin: "Whoever withholds the wages of an employee is considered as if he took his life from him."[52] Since withholding the wages of the *evyon* will rarely result in the worker's actual death, the exegesis of Deuteronomy 24:15 should be taken in the same vein as Rav Nahman's dictum, "If anyone makes his friend's face turn white from shame in public, he has spilled blood," i.e., murdered the friend.[53] In both instances, the perpetrator's action does not result in actual loss of life, but is so egregious that the Torah regards it as if the perpetrator took the life of his victim.

Further evidence that Deuteronomy 24:14-15 does not mean that every violation of *lo talin* will result in the death of the *evyon* worker can be seen by examining several other *lo talin* exemptions:

If the worker does not put in a claim for his wages during the time window in which his wages are due, the employer does not violate the biblical[54] prohibition of *lo talin*.[55] This exemption is based on the superfluous word *it'kha* (with you) in the phrase *lo talin peulat sakhir it'kha* (Leviticus 19:13). Rashi explains that the prohibition applies only if the employer ignores the worker's claim, withholding the worker's wages *it'kha,* i.e., with his (the employer's) own consent, but not with the consent of the worker. But if the worker makes no claim, *it'kha* no longer applies, as the employer is not withholding the wages against the expressed wishes of the worker.[56]

If the employer hires the worker not directly, but through an agent, neither the employer nor the agent violates *lo talin*,[57] because when a worker is hired not by the employer, but by the employer's agent, the worker no longer relies on getting paid on time.[58]

These last two exemptions provide a window into the daily subsistence needs of the *po'el evyon*. If we assume the *po'el evyon* lives a daily "hand to mouth" struggle just to survive, the presumption that he waives his rights in these two circumstances is not reasonable. These exemptions make sense only if we assume that even the *po'el evyon* usual-

ly accumulates some very small surplus. It is then reasonable to presume that he waives his right to timely payment under certain conditions.

Having established that Ramban does not understand from Deuteronomy 24:14-15 that the consequence of not paying the *evyon* worker on time is always going to cause his death,[59] no inference can be made from his comment regarding the level of wages the Torah requires the employer to pay his *evyon* worker. Not paying the *evyon* worker on time will, in the preponderance of instances, not cause the worker's death. However, because the moral duty of the employer is no more than to pay his worker the competitive wage, paying the *evyon* worker on time will not guarantee his survival either.

COMMUNAL EMPLOYEES AND THE LIVING WAGE

Another source Jacobs adduces to prove that Jewish law requires a living wage is Maimonides' treatment of the community's duty to provide adequate salaries for judges and correctors of holy books in Jerusalem.

> …The judges who adjudicated cases of theft in Jerusalem would take their salary from these (*Terumat ha-Lishkah*, i.e. Temple) funds. And, how much would they take? Ninety-nine *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."[60]

Let's note preliminarily that Rambam's dictum is based on the Talmudic text at *Ketubot* 105a. In evaluating whether Rambam's text supports Jacobs' thesis, let's consider the question *Tosafot* raise on this dictum: How can a judge's acceptance of a salary, query *Tosafot,* be reconciled with the prohibition against a judge's accepting compensation for taking on a case—even when said compensation is accompanied by the instruction that he should judge correctly?[61] (The Torah calls this prohibited payment *shohad*.[62]) *Tosafot* offer two answers. Rabbenu Tam posits that the prohibition for a judge to take *shohad* applies only if the payment is offered by the litigants. If the payment is offered by the community, the prohibition does not apply. In their second answer, *Tosafot* legitimize the payment under the assumption that the judges agreed to devote themselves exclusively to their judicial duties. Because this payment is their only source of livelihood, it is legitimate for the community to pay them a salary. According to the

second answer, the circumstance that it was the community and not the litigants that paid the judges is not alone sufficient to remove the prohibition of *shohad*.

Recall that the judges' compensation was ninety-nine *maneh* annually. Investigation of the basis for this sum reveals that the two answers *Tosafot* offer are not mutually exclusive. Preliminarily, let's note the following dispute regarding how the ninety-nine *maneh* relates to a living wage.

In the opinion of Maharsha, the ninety-nine *maneh* was a yearly allocation that was divided among three judges who headed courts that promulgated decrees in Jerusalem. Each court's yearly allocation of thirty-three *maneh* was divided among its twenty-three judges.[63] Given that a *maneh* equals 100 *zuz*, each judge received approximately 143.5 *zuz* per year. In the opinion of Maharsha, the 143.5 *zuz* amounted to a living wage for a year. Accordingly, if the price level went up, the *rabbis* would insist that the judges accept a raise.[64]

Maharsha's contention that 143.5 *zuz* is a living wage contradicts the poverty line halakha sets for eligibility to receive agricultural gifts in ancient Israel. In this regard, a household is classified as poor if its net worth falls below 200 *zuz*. When net worth consists of capital invested in business transactions, the minimum net worth shrinks to 50 zuz.[65] The underlying rationale behind these figures, according to Bartinura, is that active and inactive capital of these amounts, respectively, generate subsistence for a year.[66]

If we understand salary to consist of both pecuniary and non-pecuniary benefits, Maharsha's view can readily be reconciled with halakha's notion that subsistence consists of 200 *zuz*. We need only postulate that the community did not hire the judges[67] with an exclusive claim on their time. Instead, the community hired them with the understanding that they would be free to pursue livelihood activities that did not conflict with their judicial duties. With the judges free to earn some outside income, the community felt no duty to pay them a salary that would cover their entire subsistence needs. Though this arrangement gave the judges the latitude to pursue outside work, we imagine the community could safely assume that, with the goal of maximizing their Torah study, the judges would engage in supplemental work only to make up their subsistence deficit. If we are correct here, it becomes clear why the community increased the judges' stipend when either the price level went up or the judge had to support another dependent:[68] this ensured that the judge would not feel compelled to spend additional time on outside work in order to subsist.

A different calculation of each judge's take from the ninety-nine *maneh* allocation for the three courts follows from *She'elet Ya'avets*'s contention that the three courts heard monetary cases, and therefore each consisted of only three judges.[69] Since there were in total only nine judges, each received an allocation of eleven hundred *zuz,* which is 5.5 times the subsistence wage.

Paying judges a salary 5.5 times above the subsistence wage is understandable only if the community hired them with the stipulation that they could not undertake outside employment, even if the employment did not conflict with their judicial duties. Instead, the judges were expected to spend their free time in Torah study.

This understanding of the generous salary level the community provided its judges provides, as appears to this writer, a solid basis for *Hatam Sofer's* ruling that communities should hire a rabbi with the stipulation that he should make himself available on a standby basis to teach them Torah and attend to their spiritual needs. When not engaged in the community's needs, the rabbi, of course, is expected to study Torah himself. As a *quid pro quo* for these demands, the community should support its rabbi generously, beyond bare subsistence. In addition, if the price level goes up or the rabbi's family grows, the community should increase his salary.[70]

The upshot of the above analysis is that the two opinions quoted in *Tosafot* are not entirely in disagreement. If the community hires the judge with the stipulation that he should devote his time exclusively to judicial duties and spend free time in Torah study, the community must pay him a living wage, and a generous one at that. On the other hand, if the community allows the judge to take on outside employment when it is not in conflict with judicial duties, the community bears no responsibility to provide him with a living wage

THE FULL-TIME WORKER AND THE "LIVING WAGE"

The above analysis identifies an instance where the "living wage" is required. It obtains when the community hires a judge and stipulates that he may not take on outside employment.

Perhaps the public sector case can be extended to the private sector. To be analogous, however, *P's* terms of employment must be very much akin to the terms of employment to which the judge agrees. Consider that the judge gives up not only outside employment, but

also the free use of his leisure time. Specifically, when the judge is not busy with his judicial duties he must devote himself to Torah studies. Because the judge gives up the discretionary use of his time, it is only proper that the community provide him as a *quid pro quo* with a "living wage," and a generous one at that. For the private sector case to be analogous, *P* must give up more than just outside employment. The two cases converge, as it appears to this writer, only when *P* is the breadwinner of a poor household. Here, if *P* does not earn a "living wage," his full-time job with *E* forces him to devote much more of his time and energy to "household production" than would be the case if he had some extra income to purchase subsistence goods in the marketplace. *P's* full-time job with *E* hence not only sacrifices extra income, but also sacrifices discretionary use of his leisure time. Accordingly, if *E* offers the head of a household a full-time job and stipulates with him that he may not take on outside employment, *E* must pay *P* a "living wage."

A variation of the above case occurs when *E's* full-time salary offer to *P is* below the "living wage," and *E* couples the job offer with the insistence that *P* should agree not to take on outside work. Though *E* drives a very harsh bargain, perhaps the labor contract should be binding. In monetary matters, any stipulation, if agreed to, is valid, even if the stipulation waives a right to which Torah law entitles one of the parties.[71] But the stipulation at hand may not just be a purely monetary matter if the outside job seeker is the head of a poor household. Here, by agreeing to *E's* stipulation, *P* effectively abdicates his duty to engage in self-help before he imposes his needs on the public as a charity case. *Keli Yakar* derives the duty of self-help from the biblical obligation to come to the aid of a neighbor who requests assistance to unburden his animal, faltering under the weight of its load: "If you see the donkey of a man who hates you lying helpless under its load, you must refrain from deserting him; you must be sure to help him unburden the animal (Exodus 23:5)." Based on the phrase "to help *him*" (*immo),* the obligation of the passerby is exegetically understood to consist of *assisting* the owner in unloading. Demanding that the passerby unload the animal himself constitutes, however, an unreasonable request on the part of the owner, and consequently need not be heeded. Under the assumption that the *immo* caveat applies to the charity obligation generally, *Keli Yakar* derives the principal that before a supplicant qualifies for public assistance, he must be willing to do his part, i.e., exhaust his efforts to secure gainful employment.[72]

Our conclusion requires further elucidation: By taking on an outside job, *P's* productivity at his full-time job may suffer. Consider that halakha imposes on *P* the obligation to exert himself on behalf of his employer with his utmost energy.[73] Proceeding from this requirement of energetic exertion is the prohibition for the worker to take on outside night work while under contract during the day.[74] Similarly, a worker may not refuse to use his wages to provide himself with minimum nourishment, even if the money is otherwise used to support his family.[75] A schoolteacher may not stay up late at night or rise very early.[76] In all these instances the conduct reduces the worker's productivity while performing his contracted work and is therefore prohibited.

In assessing whether *P* should be denied outside work, we must consider the length of the workday against which the interdict prohibiting outside work was promulgated. Let's first note that Torah law says if a *po'el* hires himself out for a day, he must leave his home for the workplace at sunrise and continue to work at the workplace until nightfall.[77] Over time, the workday, of course, shortened.

Dr. Shillem Wahrhaftig posits that the prohibition against outside night work applies only when the workday extends from sunrise to nightfall. Here, outside night work makes it well-nigh impossible for the worker to recharge himself overnight and discharge his duties with vigor the following day. Nowadays, when the workday typically extends only eight hours, outside night work cannot be said to exert a debilitating effect on the performance of the worker in his daytime job.[78]

Wahrhaftig's thesis requires further elucidation. Consider that *E*'s obligation to *P*, as his full-time employer, is no more than to pay the competitive wage for the type of work done. This will hold true even if *P*'s workday extends from sunrise to nightfall. But, if *E*'s compensation to *P* is below the "living wage," what right does *E* have to deny *P* outside work that will bring *P*'s earnings up to subsistence? The key here is that *P*'s sunrise-to-nightfall job leaves him spent. Inevitably, taking on outside work adversely affects *P*'s performance at his full-time job, to the extent that *P* will be rendering practically *no service at all* to *E* for chunks of time during his workday. Because *P*'s outside work then violates the basic *quo pro quo* of his labor contract with *E, P* may not take on outside work.

Wahrhaftig's thesis can be put to question, however. Instead of focusing on the shortened workday today and on that basis alone giving *P* a blanket license to take on outside work, the focus should be on whether the outside work dashes *E's* legitimate expectations of productivity.

The criterion we propose can be applied to a number of scenarios. Our interest here will be confined to the following case: *P's* full-time job entails a workday shorter than the biblical workday. *E* pays less than the "living wage," but desires to deny *P* the opportunity to take on outside work. For the case at hand, can *E* block *P's* outside work based on the high probability that *P's* moonlighting will adversely affect his productivity at his full-time job? No. It takes a "living wage" to equip *P* with the minimum resources, physical and mental, that allow him to direct his full concentration and energy to the duties of his full time job. Paying *P* below the "living wage" and at the same time denying him the right to take on outside work is very much like equipping *P* with inferior tools, yet demanding of him the same productivity standard of co-workers who are equipped with the proper tools.

THE LIVING WAGE AND THE DUTY OF CHARITY

If labor law does not require employers to pay their workers a "living wage," perhaps charity law does. Rambam, in his discussion of various levels of charity giving, regards preventing someone from falling into the throes of poverty as the highest level of charity giving. One of his examples of this type of charity giving is to provide a needy person with a job.[79]

Maimonides' job-offer example requires clarification. From the standpoint of self-interest, employers should choose employees who will add the most value to their business at the least possible cost. Using instead the criterion of who most desperately needs the job will, at times, entail making a sub-optimal choice and hence an extra cost to the employer. Does the duty to provide a needy person with a job apply only when the candidates for the job are equally qualified, or does the duty apply even when other candidates are more qualified? Consider that extending a loan to someone who is poor is another example of what Maimoindes records as the highest level of charity. Because extending an interest-free loan, and a risky one at that, entails an opportunity cost, Maimonides' other examples should be understood also as entailing some cost to the donor.

The advisability of hiring someone in need when more qualified candidates are available has limits. Most fundamentally, out of fear that over-generosity in charitable giving may put donors at risk of falling into poverty themselves, the Sages decreed that one should not give

charity in excess of twenty percent of net worth.[80] Putting one's source of livelihood at risk provides an example of this prohibition.

Let's show how hiring a person on the basis of need can put a business at risk. Suppose the needy individual does not have the requisite skills for the job, but can be trained for the job. If labor costs are a significant component of cost for this employer, the higher labor cost the employer incurs by hiring the needy candidate puts the employer at a competitive disadvantage. The law of *ona'ah* tells the employer that, other things being equal, he may not pass on this differential cost to his customers by raising prices, except by means of upfront disclosure.[81] To get customers to accommodate the employer and at the same time dispel their suspicions that he is either lying or inefficient, the owner would have to say: "My costs are higher because I hired a needy person who is apprenticing for the job. These differential costs are the training cost I am incurring and the ongoing cost of having a worker on staff with a below-par productivity level." But there is a problem with this disclosure. The ideal prescribed for donors is to hide their identity and their charitable intent[82] and certainly not to cause the recipient needless mental anguish (*ona'at devarim*).[83] But, E's upfront disclosure of why his business is a high-cost operation may very well result in the violation of these norms. As a case in point, if the firm is located in the community where the recipient lives and the firm hires only a few people, E's disclosure may easily expose the identity of the needy worker. If P's poverty status was until now not known and E's disclosure makes this information public, P's privacy has been violated.[84] If this gets back to the needy worker, the disclosure not only reveals E's charitable motive behind the job offer, but also could very well destroy P's self-esteem and "rub" in for him that he is not worth much to the firm and is, for all intents and purposes, just a charity case.

The problems outlined above are only compounded if the employer is also required to pay the "charity" case a "living wage."

Moreover, from a practical standpoint, introduction of the "living wage" disrupts the employer's entire pay structure, because the unit of support in Jewish law, as we shall document in the next section, is not the individual, but instead the household. Accordingly, no subsidy is due a teenager who is part of a household that is not poor. At the other extreme, if the wage earner heads a household and the household is poor, the wage subsidy should depend upon the number of dependents he must support. Paying non-poor workers market-driven wages, while

paying workers who are heads of poor households wages according to household need, is, to say the least, very disruptive. It may have the effect of dragging down the morale and productivity of the labor force because of the resentment it generates.

If there is a charity duty for the employer to pay his workers a living wage, its source would be the Torah's mandate: "Grant him enough for his lack, which is lacking for him" (*dei mahsoro asher yehsar lo*, Deuteronomy 15:8). But, halakha has interpreted the *dei mahsoro* mandate as a collective responsibility, rather than a duty for individuals to shoulder alone when they personally encounter charity cases.[85] Because the "living wage" mandate saddles employers alone with the burden of relieving poverty for the working poor, it does not follow from *dei mahsoro*.

The thrust of the above discussion is not that employers have no ethical duty to their poor workers other than to pay them the competitive wage for the type of work they do. The circumstance that *E* interacts with his workforce makes his indigent workers priority candidates for some of *E's* charity funds.[86] Giving these workers small bonuses before holidays, gifts to mark new additions to their families, and special considerations in the event of illness, is therefore appropriate. It is not only good business to do these things, but is also charity on the highest level.

THE LIVING WAGE ORDINANCES AND HALAKHA

We now turn to the "living wage" as a public-policy mandate. Preliminarily, let's note that in Jewish law the duty to alleviate poverty is both a mandate for the private citizen as well as the responsibility of government.[87]

Elsewhere we have proposed that the division of anti-poverty duties between the government and private citizens is a matter of which sector best advances halakha's specific anti-poverty goals.[88]

Reducing poverty through job creation promotes halakha's anti-poverty goals on the noblest level: the Torah abhors idleness[89] and values work and gainful employment.[90] Additionally, as mentioned earlier, giving a needy person a job prevents poverty and therefore exemplifies the highest level of charity. In trying to reduce poverty by means of job creation, there can be no doubt that government has a decided advantage. The question is therefore narrowed to whether the "living wage" is the best means for government to foster gainful employment for those who cannot command a "living wage" on their own.

From the standpoint of halakha, the "living wage ordinance" (LWO) is riddled with a number of flaws:

(1) Halakha considers not the indigent individual, but, rather, the poor household, to be the target of antipoverty efforts, as seen from the rule that public charity funds may not be used to support an indigent individual when he has a father of means. (The father is forced to support the son.) The father is so coerced even when he is not otherwise legally obligated to support his son, i.e., the son is not a minor.[91] Similarly, public charity funds may not be used to support an indigent individual who is known to have wealthy local relatives.[92] Since the wealthy relatives are expected to support their indigent kin from their own resources, public funds may not be used for this purpose, even though the wealthy relatives made contributions to the public charity chest.[93]

LWO misses halakha's target in this aspect. Instead of targeting the poor household, it targets the individual wage earner. But family size and composition are widely acknowledged to have a major impact on the resources available to any individual family member and hence on economic well-being and poverty status.[94] In this regard, most minimum-wage workers are between 16 and 24 and are typically not the family's sole breadwinner. Rather, they tend to live in middle-class households that do not rely on their earnings. Only one in five live in a family with earnings below the poverty line. Over three-fifths work part-time and only six percent are married.[95]

(2) Halakha requires public-sector anti-poverty measures to be financed by means of a tax proportional to wealth.[96] LWO does not meet with this standard, because the burden of directly financing the "living wage" falls only on employers. Depending on the coverage of these ordinances, these employers include the local government itself, those that provide services or lease property from the municipality and may also include employers who benefit from the locality by being conferred an economic development subsidy or a tax break.[97] To be sure, employers might be successful in shifting part of their increased labor costs to consumers and suppliers, but financing the "living wage" will, in the final analysis, fall far short of a broad-based tax proportional to wealth.

Regarding LWO's effectiveness as an anti-poverty program, let's consider the following two additional criticisms:

(3) Toikka, Yelowitz and Neveu point out that many families with earnings below the poverty line are enrolled in programs specifically

designed to help them out of poverty. Benefit programs' phase-out rates are structured so that additional earnings from living wages largely disappear through benefit reduction and increased taxation. Such vanishing benefits reduce the ability of LWO to alleviate poverty.[98]

(4) Adams and Neumark's research points out that LWO boosts the wages of the lowest wage earners at the cost of disemployment effects. What is needed, according to these scholars, is additional policies to help those without jobs or strategies to enhance skills and make them more employable at higher wages.[99]

With the aim of fostering both job creation and job enhancement for low-wage workers, halakha would assign government the role of establishing policies that would advance these goals both from the supply and demand sides of the marketplace. We proceed to describe both supply-side and demand-side anti-poverty policies for government that meet halakha's standards and goals.

THE EARNED INCOME TAX CREDIT

The Earned Income Tax Credit (EITC) is a federally enacted wage-subsidy program. First enacted in 1975, the program is administered by the Internal Revenue Service. One applies for the tax credit by filling out a tax return, even if one owes no taxes. To qualify, a worker must earn an adjusted gross income (AGI) below a threshold amount.[100]

In 2008, single taxpayers with two or more children could receive a credit of 40% of income, up to $12,060. This implies a maximum credit of $4,824. For income earned between $12,060 and $15,740 there is no additional credit earned, but the credit is not reduced either. Once AGI reaches $15,740, a phase-out rate begins to kick in. For every dollar earned above $15,740, the tax credit is reduced by 21.06 cents. When AGI reaches $38,646, the credit disappears entirely.[101]

From the standpoint of halakhic goals and standards, EITC performs well as an anti-poverty measure, because it targets the taxpaying household, rather than the individual earner.

Furthermore, the preponderant source of EITC financing is the federal progressive income tax, which is the type of tax halakha calls for to finance an anti-poverty measure.

Still another advantage of EITC is that it preserves the dignity of the poor by integrating EITC with the filling out of IRS tax returns.

Last, empirical evidence shows that EITC has been successful in reducing poverty and increasing labor force participation.[102]

Given that EITC conforms well with halakhic standards as an anti-poverty measure, the adoption of an EITC on a local level to supplement the federal EITC measure seems worthwhile.

INCREASING EMPLOYMENT OPPORTUNITIES FOR POVERTY-LEVEL HOUSEHOLDS

By establishing incentives for low-income workers to increase their labor participation, EITC works through the supply side of the marketplace to increase work effort and hence alleviate poverty. Consider, however, that the highest level of charity is to prevent an individual from falling into poverty. From a macroeconomic standpoint, this highest level of charity translates into a duty to implement the proper monetary-fiscal policy mix to foster an economic environment where employment opportunities proliferate. On the micro level, it requires government to help the indigent find jobs, and to subsidize the education and training of poor households with the aim of making the wage earner in these households a more attractive hire.

Edmund S. Phelps' proposal that the government subsidize employers who hire low-wage workers[103] is consistent with halakhic goals. In Phelps' scheme, employers get the highest subsidy for the lowest paid jobs. The wage rate subsidy spurs competition among employers to hire low-wage workers. This competition can be expected not only to bid up the wages of low-wage workers, but also to encourage employers to provide these workers with both job training and a career path to look forward to in the firm that hires them.

Phelps's proposal does not limit eligibility to breadwinners of a household. This feature of his program is also consistent with halakha, for his program is both a poverty relief and a poverty prevention measure. Accordingly, teenagers who are currently dependents should also qualify. By training low-skilled teenagers, the program makes them attractive to hire when they set up their own household.

SUMMARY AND CONCLUSION

We have demonstrated that in Jewish law the "living wage" concept is generally neither a desideratum for the private employer nor a mandate for the government. The one exception occurs when the job seeker is the breadwinner of a poor household. Here, if the terms call for the

worker not to accept outside employment, the employer must pay the worker a "living wage."

In addition, if the owner of a business interacts with his employees, the employer, other things equal, must give his poor workers preferential treatment in the distribution of his charity funds.

In determining what the private employer owes his worker, both labor and charity law must be satisfied. Labor law's operative principle is the equity rule of *ona'ah,* which does not require employers to pay their workers any more than the competitive norm for the type of work the employee performs. The worker who cannot command a living wage in the marketplace cannot claim a living wage based on *ona'ah.* Moreover, given that the restitution procedure does not apply to the *po'el* labor market, even the worker who commands a living wage in the marketplace will get no judicial relief via wage adjustment based on his *ona'ah* claim.

When an employer is not paying the head of a poor household a "living wage," he has no right to prevent that worker from moonlighting. Even an explicit clause to this effect is null and void.

From the standpoint of charity law, if the "living wage" were required, it would be rooted in the *dei mahsoro* duty. But, *dei mahsoro* is a collective, rather than an individual responsibility. This means that no single individual is required to shoulder the burden alone of lifting a family out of poverty. Without taking into account the ramifications *E* will face by implementing the "living age" in his workplace, recommending the "living wage" on the supererogatory level may very well court disaster for the employer by putting him out of business.

In the arena of public policy, we demonstrated that the LWO does not correspond to halakha's guidelines for an anti-poverty measure. Alternative policies would do the job much better. EITC is one such policy. It works on the supply side of the labor market to increase both the income and work effort of the poor. But EITC must be augmented with public-sector programs designed to help the poor find work and enhance their marketability by subsidizing their education and job training. Phelps' wage rate subsidy is one such policy.

NOTES

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1. Bruce E. Kaufman, Julie L. Hotchkiss, *The Economics of The Labor Market* (Mason, Ohio; Thomson Higher Education, 2006, pp. 286-287).
2. Shemuel, *Gittin* 10b. R. Yosef Eliyahu Henkin (*Kitvei ha-Gra'i Henkin*, vol. 2, pp.175-176; *Teshuvot Ivra*, no. 96, sec. 1(4). posits that in the absence of the *Kehillah* organizational structure, government social welfare legislation is, according to all authorities, binding on the basis of *dina d'malkhuta dina*.
3. "When you make a sale to your fellow or when you buy from the hand of your fellow, do not victimize one another" (Lev 25:14).
4. *Yad*, *Hilkhot Mekhirah* 12:1; *Shulhan Arukh, Hoshen Mishpat* 227:1; *Arukh ha-Shulhan, Hoshen Mishpat* 227:1.
5. *Sma*, *Hoshen Mishpat* 227, n. 1.
6. *Yad*, op. cit. 27:5; *Shulhan Arukh*, op. cit. 220:8; *Arukh ha-Shulhan*, op. cit. 220:7.
7. *Yad*, loc. cit.; *Shulhan Arukh*, op. cit. 227:4 and *Sma*, ad loc. n. 6. Expressing a minority opinion in this matter is R. Jonah b. Abraham Gerondi. In his view, as long as plaintiff does not uphold the transaction, the offender, too, is given the prerogative of voiding it. R. Jonah's view is quoted in *Shulhan Arukh,* loc. cit.
8. *Yad*, op. cit. 12:2; *Shulhan Arukh*, op.cit. 227:2; *Arukh ha-Shulhan*, loc. cit.
9. *Yad*, op. cit. 12:3; *Shulhan Arukh*, loc. cit.; *Arukh ha-Shulhan*, loc. cit.
10. *Arukh ha-Shulhan*, op. cit. 227:7.
11. For the development of these points based on Talmudic sources, see Aaron Levine, "*Onaa* and The Operation of The Modern Marketplace," *Jewish Law Annual*, Hebrew University, vol. XIV, 2003, pp. 226-249.
12. C.F. *Responsa Maharam* 477.
13. *Responsa Mahariaz*, *simam* 15, *amud* 14, *tur* 1.
14. *Yad,* op. cit. 13:15,18.
15. The Talmud (*Megillah* 23b) explicitly states only that heathen slaves are assimilated to land. Authorities, however, take the assimilation to apply to Israelite slaves as well. See. *Sma, op. cit.* 227, n. 60.
16. *Bava Metsia* 56b.
17. Ibid.
18. See *Bava Metsia* 10a.
19. *Sma*, op. cit. 227 n. 59.
20. *Terumat ha-Deshen* 318. See also Rashbam, *Bava Batra* 87a.
21. *Yad*, op. cit. 13:8.
22. *Sefer Yere'im* 127; Rema on interpretation of Shakh, *Shulhan Arukh, Hoshen Mishpat* 227 n. 17.
23. R. Jacob Tam, quoted in *Responsa Rosh, klal* 102, and in *Tur, Hoshen Mishpat* 227 and in *Sma,* op. cit. 227 n.3. See, however, Shakh, *op. cit.*, 227 n. 17.

24. "Some authorities" quoted in Rif, *Bava Metsia* 56b and in *Rosh*, *Bava Metsia* 4:21.
25. Ramban at Leviticus 25:14.
26. Shakh, loc. cit.
27. Given that an *ona'ah* claim in the product market is entertained even when the reference product is slightly differentiated (Rosh, *Bava Metsia* 4:20), the complainant's job need not be identical to the reference job in all respects. To be analogous to the product market, the core duties of the two jobs must, however, be identical. Having established the validity of the comparison, the complainant's opportunity cost claim will then be evaluated on the basis of the offsetting advantages and disadvantages of the two jobs. The *ona'ah* claim may also be disqualified on the basis that the higher-paying reference job compensates workers according to seniority or on a productivity measure that the complainant has not demonstrated.
28. The principle here is *ein lakh ela mekomo ve-sha'ato*. For discussion of this point, see "*Onaa* and The Operation of The Modern Marketplace," op. ct., pp. 243-248.
29. *Ketsot*, *Shulhan Arukh, Hoshen Mishpat,* 331 note 2; *Arukh ha-Shulhan* op. cit. 331:8.
30. *Sma, Shulhan Arukh, op. cit.* 332 note 8; Shakh, *Shulhan Arukh*, op. cit. 332 note 12; *Arukh ha-Shulhan* , op. cit. 332:2.
31. Rif, *Bava Metsia 76a;* Ritva, *Bava Metsia* 76a.
32. *Yad, Hilkhot Sekhirut* 9:3; *Shulhan Arukh, op. cit.* 332:1; *Arukh ha-Shulhan* 332:1-2.
33. *Arukh ha-Shulhan, op. cit.* 332:2.
34. *Arukh ha-Shulhan,* op. cit 331:6-7.
35. Rabbi Jill Jacobs, *Work, Workers and the Jewish Owner,* http://jewishjustice.org/download/section72/Jacobs_Living_Wage_Teshuvah.pdf.
36. The resolution specifically said "Jews should 'strive' to hire unionized workers and pay a living wage." "Conservatives Adopt Living-Wage Ruling", JTA *Breaking News*, 5/28/2008 http://www.jta.org/cgi-bin/iowa/breaking/108819.html.
37. Ibid.
38. Deuteronomy, 24:14-15.
39. Nahmanides, Deuteronomy: 24:14-15.
40. "*Work, Workers and the Jewish Owner,*" op. cit., p.22.
41. *Yad,* op. cit. 11:4; *Arukh ha-Shulhan, op. cit.* 339: 12.
42. Ritva, *Bava Metsia* 111b.
43. Ritva, op. cit. ; R. Akiva Eger at *Shulhan Arukh,* op. cit. 339:10; *Shulhan Arukh ha-Rav, Hilkhot Sekhirut seif 15.*
44. *Yad, Hilkhot Rotse'ah* 1:14; *Shulhan Arukh, op. cit.,* 426:1 ; *Arukh ha-Shulhan, op. cit.* 426:1.
45. R. Menasheh Klein, "*Hal'itehu la-Rasha ve-Yamut*," in *Pa'amei Ya'akov be-Sedei ha-halakha,* Nisan, 2000, pp. 115–116. R. Klein's specific case deals with the instance where a life-threatening situation befalls a thief while he is engaged in the act of theft. One can generalize that the *lo ta'amod* duty remains intact even when the victim's life-threatening

predicament is the result of the victim's own imprudent behavior.
46. Delaying paying his worker beyond the initial window when the wages were due will, however, violate for the employer the rabbinical interdict of: "Say not to your neighbor, 'go and come back, and tomorrow I will give,' when you have [it] with you."(Proverbs 3:28), *Bava Metsia* 111a.
47. *Shulhan Arukh, op. cit.,* 33912 and *Sma,* n. 17; *Netiv ha-Hesed* 9:35.
48. *Bava Metsia* 110b.
49. *Ahavat Hesed* 9:1.
50. *Bava Metsia* 112a.
51. Deuteronomy 24:15.
52. *Bava Metsia* 112a. .
53. Rav Nahman b.Yitshak, *Bava Metsia* 58b. For another instance of "it is as if he killed," see *Nedarim* 40a.
54. See endnote 46.
55. *Bava Metsia* 112a;
56. Rashi at *Bava Metsia* 112a.
57. *Bava Metsia* 110b; *Yad, Hilkhot Sekhirut* 11:4 *; Shulhan Arukh* op. cit., 339:7; *Arukh ha-Shulhan,* op. cit. 339:9.
58. *Tosafot Rid, Bava Metsia* 111a.
59. The understanding of Ramban we have offered in the text is consistent with his view (*hassagot al Rambam, Sefer ha-Mitsvot, shoresh* 2) that the simple meaning of the text should not stand alone, but rather should be reconciled with the exegetical interpretation of the text espoused by the rabbis of the Talmud.
60. *Yad, Hilkhot Shekalim* 4:7.
61. Exodus 23:8 and Rashi *ad locum;* Deuteronomy, 21:19; *Sifrei,* Deuteronomy 21: 19.
62. Exodus 23:8; Deuteronomy 21:19.
63. Rashi, *Ketubbot* 105a.
64. Maharsha, *Ketubbot* 105a.
65. *Mishna, Pe'ah* 8:8-9. R. Ephraim of Regensberg and R. Yitshak of Vienna (quoted in *Beit Yosef, Tur, Yoreh De'ah* 253*)* extend the Talmudic 200-*zuz* criterion for eligibility to modern times.
66. *Bartenura, Mishna, Pe'ah* 8:8; Rash, on *Pe'ah* 8:8, understands the 200-zuz sum to refer to the subsistence needs of a couple for a year. *Melekhet Shelomoh, Pe'ah* ad locum, however, regards the 200-*zuz* figure as an individual's subsistence needs for a year.
67. The Talmud (*Ketubbot* 105a) mentions also that the correctors of holy books drew their salaries from the Temple fund, but is silent on the amount of their salary. Within the thesis developed in the text, this amount would depend on whether the community hired them with an exclusive claim on their time or not.
68. *Responsa Hatam Sofer, Hoshen Mishpat* 22, 164, 166.
69. *She'elet Ya'avets, Ketubbot* 105a.
70. See endnote 68.
71. Rema, *Shulhan Arukh, Even ha-Ezer* 39:4.
72. *Keli Yakar,* commentary at Exodus 23:5. See also R. Aharon Lichtenstein, *"Sa'od Tis'od Immo-Hishtatfut ha-mekabbel bi-Gemilot Hasadim,"* in *A*

Spiegelman Memorial volume (Israel, Moreshet, 1979), pp. 81-93.
73. *Yad, Sekhirut* 13:7*; Shulhan Arukh,* op. cit., 337:20; *Arukh ha-Shulhan,* op. cit. 337: 26.
74. *Yad, Sekhirut* 13:6; *Shulhan Arukh,* op. cit., 337:19; *Arukh ha-Shulhan,* op. cit. 337:25.
75. *Shulhan Arukh,* loc. cit., *Arukh ha-Shulhan, op. cit.*
76. Mordekhai, *Bava Metsia* 6:343.
77. Rema, op. cit., 331:1; *Arukh ha-Shulhan,* op. cit., 331:2. There are differences of opinion regarding the precise formulation of the biblical standard for the workday. For a discussion of this point, see Shillem Wahrhaftig, *Dine Avodah be-Mishpat ha-Ivri,* vol.1 (Tel Aviv: Moreshet Mores-Moresheh Ltd., 1969), pp. 480-490.
78. *Dinei Avodah be-Mishpath- ha-Ivri, vol.1,* op. cit. p. 331.
79. *Yad, op. cit.*10:7.
80. *Ketubbot,* 50a.
81. "*Onaa* and The Operation of The Modern Marketplace," op. cit., pp. 229, 248.
82. *Yad,* op. cit. 10:8.
83. Leviticus, 25:17.
84. E's disclosure of P's private information violates "You shall not go as a talebearer" (Leviticus 19:16). See *Yad, Hilkhot De'ot* 7:2 and *Kesef Mishneh* ad loc.
85. Rema,*Yoreh De'ah* 250:1; *Arukh ha-Shulhan, op. cit.* 250:4-5.
86. One of the categories of indigents that Jewish law considers a priority for the donor is *shekhenav*, lit. his neighbors. Decisors dispute whether *shekhenav* should be understood as indigents who live near the donor or indigents with whom the donor interacts. *Hokhmat Adam* (145:1) takes the latter position. Following *Hokhmat Adam*'s line, if the owner of a business interacts with his employees, the employer must, other things equal, give his poor workers preferential treatment in the distribution of his charity funds. For a list of priorities in charity giving, see *Sh. Ar. Yoreh De'ah* 251.
87. Aaron Levine, "Welfare Programs and Jewish Law," in Marshal J. Berger, ed., *Public Policy Social Issues: Jewish Sources and Perspectives* (Westport: CT, Praeger, 2003), pp. 140-153. 88. Aaron Levine, *Economics and Jewish Law* (Hoboken, New Jersey: Ktav Publishing Company and Yeshiva University Press), 1987, pp. 126-131.
89. R. Shimon, *Mishnah, Ketubbot* 5:5.
90. *Pesahim* 113a; *Avot* 1:10; *Avot d'Rabbi Natan 11:1.*
91. If an indigent has rich relatives, these relatives bear a disproportionate duty to help out the indigent. See Rema, *Yoreh De'ah* 151:4.
92. *Responsa Rashba* 3:392, quoted in *Shulhan Arukh,* op. cit. 251:4. See also *Tsedakah U-Mishpat* 3:7.
93. R. Eliezer b. Samuel, *Nedarim* 65a, quoted in *Shulhan Arukh,* op. cit. 257:8.
94. Richard V. Burkhauser, Kenneth A. Couch, and David C. Wittenburg, "Who Gets What from Minimum Wage Hikes: A Re-Evaluation of Card and Krueger's Distributional Analysis in Myth and Measurement: The

New Economics of the Minimum Wage," *Industrial and Labor Relations Review,* 49, No. 3 (April 1996), p. 548.
95. James Sherk and Rea S. Hederman, Jr., "Who Earns the Minimum Wage? Suburban Teenagers, Not Single Parents," *The Heritage Foundation,* http://www.heritage.org/Research/Economy/wm1320.cfm
96. *Responsa Rashba,* 3:381.
97. James A. Buss and Arthur Romeo,"The Changing Employment Situation in Some Cities With Living Wage Ordinances," *Review of Social Economy,* volume LXIV, no. 3, September 2000, p. 351.
98. Richard S. Toikka, Aaron Yelowitz and Andre Neveu, "The Poverty Trap and Living Wage Laws," *Economic Development Quarterly,* vol.19 no. 1, Februrary 2005, pp. 62-79.
99. Scott Adams, David Neumark, "The Living Wage Effects: New and Improved Evidence," *Economic Development Quarterly*, vol. 19 No. 1, February 2005, p.99.
100. *The Economics of Labor Markets*, op. cit. p. 153.
101. http://www.disabilitybenefits101.org/ca/programs/work_benefits/eitc/program2.htm
102. *The Economics of Labor Markets*, op. cit., pp. 155-156.
103. Edmund S. Phelps, *Rewarding Work* (Cambridge, Mass.: Harvard University Press, 1997).