



BUSINESS WEEKLY

Restoring the primacy of choshen mishpat

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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

DAVENING AT WORK

Shlomi had just entered the corporate world. He checked the Minchah directory and was happy to find out that there was a Minchah minyan in a small shul right next to his workplace.

When he went to daven there, Shlomi discovered that there was also a Shacharis minyan at 8:15 each morning, ending by 9 a.m. After consulting his Rav, he decided to avoid rush hour travel and daven at 8:15 near his workplace.

A few months later, Shlomi's work hours were changed and he had to begin at 8 a.m. To accommodate the change, he began davening at a very early Shacharis minyan near his home.

One day Shlomi woke up late. He decided that he would daven at the 8:15 minyan and stay at work an extra hour to compensate. He was greeted by the gabbai. "Where have you been? We've missed you recently! Sometimes we were one short for a minyan."

"My schedule switched," Shlomi replied. "I have to clock in at 8."

"Great! That means you're here anyway," said the gabbai. "Can't you clock in and then join us? This way you even get paid for davening!"

"I never considered that," said Shlomi. "The truth is that it wouldn't really affect my work. That hour is very slow and my absence will barely make a difference."

"Think about it!" said the gabbai, slapping him on the back. "Why is it any different than Minchah?"

Shlomi walked back to his office, absorbed in thought. "Is there any difference? Or maybe I shouldn't be leaving work for Minchah, either?"

Shlomi picked up the phone and called Rabbi Dayan. "What is the rule about davening at work?" he asked. "Can I leave work to daven Minchah? Does it count as a lunch break? Can I clock in before davening Shacharis?"

"The answer to these questions varies from place to place and from circumstance to circumstance," answered Rabbi Dayan. "It is not possible to give a single, definitive answer."

"Why is that?" asked Shlomo.

"The guiding principle regarding work terms is: *hakol k'minhag hamedinah* — everything in accordance with common practice," Rabbi Dayan replied. "A contract, as detailed as it is, cannot cover every single aspect of an agreement. Therefore, for anything not explicitly addressed in the contract, the default assumption is that the employer and employee agree to the customary practices of that time and place — hours, working

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TZEDAKAH PREFERENCE

I am drafting a will and intend to designate a large sum of money for

my heirs to donate to people who will study Torah in my memory to elevate my soul. (I consulted with an expert who assisted me in drafting wording that meets the halachic requirement for this stipulation to be binding.)

Q: Is it better to give larger amounts of money to fewer people or smaller amounts of money to a greater number?

A: Rambam (Commentary to Avos 3:19) famously writes that it is preferable to give multiple gifts in small amounts rather than one large sum at once. His reasoning is that each time one gives tzedakah he cultivates the trait of generosity. Therefore, it is better to give small amounts multiple times than to give more generously but only once. For this reason, on Purim we give money to at least two people in contrast to *mishloach manos* where the obligation is to give two gifts to one recipient (Bach and Magen Avraham 965:12). However, this rationale is limited to donations made during one's lifetime and does not apply to gifts that are given after one has passed on.

Others suggest that giving to many people is advantageous and generates greater reward since one supports more people (Bach, O.C. 695). This rationale applies even in your case and thus it is preferred to give more small gifts than fewer large gifts (Dovev Meisharim 3:144). Another rationale to give to many people is that doing so increases the likelihood that one of the recipients is truly deserving (Yosef Ometz, Tzedakah Umaaser).



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conditions, vacations, benefits, etc.” (C.M. 331:1).

“An employee also has to realize that his work time is precious and that the employer is paying him for his work,” continued Rabbi Dayan. “Our Sages even allowed workers to recite an abbreviated Shemoneh Esrei and a shorter bentsching in certain situations so as not to waste our boss’s time. Although this is no longer the practice, since employers nowadays are not particular about the additional minute and hire with this understanding, it underscores the need to work with integrity and not waste the employer’s time” (O.C. 110:2; 191:1-2).

“The Rambam (Hilchos Sechirus 13:6-7), cited by the Shulchan Aruch (C.M. 337:19-20), sets forth the required work ethic:

“Just as the employer is warned not to steal the wages of a poor laborer and should not withhold them, so too, the poor [employee] is warned not to steal the work of the employer and waste time a little here and a little there, spending the whole day unproductively, but must be meticulous with his time. He must work with all his energy...”

“Getting back to davening, the answer to your questions depends on what is customary in that time and place,” concluded Rabbi Dayan. “In many places it is customary nowadays to allow workers a short break during the course of the day to daven Minchah with a minyan. Whether this counts as the lunch break varies from locale to locale and from job to job. On the other hand, it is almost never accepted to daven Shacharis after clocking in, and you would need explicit permission from your boss to do so.”



MONEY MATTERS

Adapted from the writings of Harav Chaim Kohn, shlit

BEIS DIN AND CIVIL COURT #7

Minhag Hamedinah and Situmta

Q: Should litigation involving commercial transactions be ruled in accordance with classic Halachah?

A: Although Torah law is eternal, where the common commercial practice (minhag hamedinah) differs from classic Halachah, beis din should rule according to the common practice, since commercial transactions are made with this understanding. This does not violate the prohibition against adjudication by civil law, since the parties did not accept its authority but rather mutually committed themselves to gain or be liable according to the common practice (Pischei Teshuvah, C.M. 3:2; Responsa Maharshach 2:229).

Moreover, some write that for transactions that are valid only on account of situmta (business practice), such as lottery rulings, beis din might even recommend adjudicating before a panel of professionals well acquainted with the business practice, since the halachah here is to rule in accordance with what is fair and just according to the practiced business procedures (Chelkas Yoav, vol. II, addendum, p. 176).



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This rationale also applies in your circumstance (see also Y.D. 257:9 and Tosafos Kiddushin 27a, d.h. Nasun).

Others note that one should carefully consider each situation, since other factors could influence the halachah. For example, the Chofetz Chaim addresses the question of one who receives multiple requests for small loans in addition to a request for a large loan. Although according to the Rambam mentioned above it is preferable to give many small loans, nevertheless, if lending the larger amount will prevent that borrower from becoming destitute, one also fulfills the mitzvah of supporting the poor — thus that loan takes precedence (Ahavas Chessed 1:1:14).

Similarly, Chasam Sofer [6:9] rules that profits generated from money donated to build a wall around a cemetery that cannot be built until permits are obtained should be used to support a single Torah scholar who will study for the benefit of the souls of those buried in that cemetery. He emphasizes that those profits should not be distributed among many people since that will mean that none of the recipients will receive a significant sum.

Accordingly, the money should preferably be distributed in a manner that will allow the recipients to study with greater peace of mind rather than distributing it to many people but not improve their financial situation. Additionally, there are authorities who maintain that Rambam’s approach refers to a situation where each of the gifts will be significant but does not apply when giving to more people will result in each of the recipients receiving a negligible amount (Tzedakah Umishpat 3:16; and see also Sefer Chassidim 61).

For questions on monetary matters,
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