

## Does Judaism need a living wage? Rabbi Jill Jacobs, Jewish Funds for Justice

**Note:** You are encouraged to read these texts alongside [“The Living Wage: A Jewish Approach”](#) by Rabbi Jill Jacobs (Conservative Judaism, Spring 2003), also available at [www.jewishjustice.org](http://www.jewishjustice.org)

### I Jewish text sources

*Note that Jewish text distinguishes between two classes of workers—the po’el, who does unskilled work and is paid by the day; and the kablán, an artisan who does contract work and is paid by the product. The texts below deal with the po’el, who is most similar to today’s low-wage workers, who are paid by the hour.*

#### 1) Deuteronomy 24:14-15

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

Do not oppress the hired laborer who is poor and needy, whether he is one of your people or one of the sojourners in your land within your gates. Give him his wages in the daytime, and do not let the sun set on them, for he is poor, and his life depends on them, lest he cry out to God about you, for this will be counted as a sin for you.

#### 2) Talmud, *Bava Metzia* 112a

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

Why does he climb a ladder or hang from a tree or risk death? Is it not for his wages? Another interpretation-- “His life depends on them” indicates that anyone who denies a hired laborer his wages, it is as though he takes his life from him

#### 3) Jonah Gerondi, *Sefer HaYirah* (Spain d. 1263)

השמר מלצער בע"ח הן בהמה הן עוף, וכ"ש שלא לצער אדם שהוא עשוי בצלם המקום. אם אתה רוצה לשכור פועלים ומצאת עניים יהיו עניים בני ביתך, ואך אל תבזה אותם, אך דרך כבוד תצוה להם, ותשלם שכרם משלם,

Be careful not to afflict a living creature, whether animal or fowl, and even more so not to afflict a human being, who is created in God's image. If you want to hire workers and you find that they are poor, they should become like poor members of your household. You should not disgrace them, for you shall command them respectfully, and should pay their salaries.

**The Talmud** is the primary work of the Jewish oral law. It consists of two layers: Mishnah (codified around 200 CE), a compendium of case law with little discussion; and Gemara (codified around the 7<sup>th</sup> or 8<sup>th</sup> century CE), which includes discussion of the Mishnah, law, stories, folk wisdom, and much more. The Talmud is the basis for later Jewish law.

**Jonah Gerondi** (Catalonia d. 1263) is best known for his moral and ethical writings, including *Sefer HaYirah*

4) **Rabbi Moshe ben Nachman** (Ramban/Nachmanides, Spain 1194-1270) on Deut. 24:14

כי עני הוא כרובי הנשכרים, ואל השכר הזה הוא נושא נפשו שיקנה בו מזון להחיות נפשו. . . שאם לא תפרענו בצאתו ממלאכתו מיד הנה ילך לביתו וישאר שכרו אתך עד בקר וימות הוא ברעב בלילה.

**Ramban** (aka Nachmanides, Spain 1194-1270) was one of the most influential biblical commentators, as well as a mystic and philosopher

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, and his wages will remain with you until the morning, and he will die of hunger that night.

**How do these four texts describe the obligation to one's workers? What are some elements of this obligation? How might some of conditions that these text mention apply to contemporary workers/employers?**

5) **Mishnah Bava Metzia 7:1:**

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

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

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

**What does the "custom of the place" (minhag hamedina) mean here? What are some of the "customs" of American employment?**

**What does Rabbi Yochanan ben Matya assume to be the obligations of employers toward workers? Why?**

## 6) Talmud, Bava Metzia 83a

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

We need [the statement forbidding employers to force employees to start early or to work late] for the case in which the employer raises the workers' wages. In the case in which he says to them, "I raised your wages in order that you would begin work early and stay late," they may reply, "you raised our wages in order that we would do better work."

**Why does the Talmud explain the Mishnah in this way? Can you think of a contemporary case that parallels this rabbinic one?**

## 7) Talmud Tractate Bava Batra 8b-9a

ורשאין בני העיר להתנות על המדות ועל השערים, ועל שכר פועלים ולהסיע על קיצתן. וְ הָנְהוּ בִּי תְרֵי טַבְחֵי דְעַבְדֵי עֵינֵינָא בְהַדֵּי הַדְדִּי, דְכָל מֵאָן דְעַבִּיד בְּיוֹמָא דְחַבְרִיָּה נִקְרְעוּהָ לְמַשְׁכִּיָּה. אִזְלָא חַד מִנֵּיהוּ עֵבֵד בְּיוֹמָא דְחַבְרִיָּה, קִרְעוּ לְמַשְׁכִּיָּה; אֶתוּ לְקַמְיָה דְרַבָּא, חִיבִינְהוּ רַבָּא לְשִׁלוּמֵי. אִיתִיבִיהָ רַב יִימָר בַּר שְׁלֵמִיא לְרַבָּא: וְלִהְיֵעַ עַל קִיצְתָם! לֹא אֶהְדֵּר לִיהָ רַבָּא. אִמַר רַב פַּפָּא: שְׁפִיר עֵבֵד דְלֹא אֶהְדֵּר לִיהָ מִיָּדִי, הִימָּא הִיכָא דְלִיכָא אָדָם חָשׁוּב, אֲבָל הִיכָא דְאִיכָא אָדָם חָשׁוּב - לֹא כָל כְּמִינֵיהוּ דְמַתְנֵוּ.

The people of the city are permitted to stipulate weights and measures and to set workers' wages and to establish penalties for breaking the rules. . . there were two butchers who made an agreement with each other that if either one worked on the other's day, [the one whose day it was] could tear up the other's hide. One of them went and worked on the other's day, and [the one whose day it was] tore up the other's hide. They went before Rava, and Rava compelled [the one who did the tearing] to pay compensation. Rav Yemar bar Shlamiya asked Rava, "but it says 'they can establish penalties for breaking the rules!'" Rava did not answer him. Rav Papa said, "Rava was right not to answer, for these words only apply when there is no *adam hashuv* (important person), but in this case, when there is an *adam hashuv*, they cannot make a stipulation.

## 8) Rashba (Barcelona 1235-1310) She'elot u'Teshuvot 4: 185

דבר ברור הוא, שהציבור רשאים לגדור ולתקן תקנות ולעשות הסכמות, כפי מה שיראה בעיניהם, והרי הוא קיים כדין התורה. ויכולים לקנוס ולענוש כל העובר בכל אשר יסכימו ביניהם, ובלבד שיסכימו בכך כל הציבור, באין מעכב. וכן אם יסכימו כל בני מלאכה אחת שבעיר. . . כל בני חבורה אחת, הרי הם כבני עיר אחת בפני עצמה, לכלל דברים אלו. וכן כל ציבור וציבור, רשאים לעשות לעצמן כן, ולקנוס ולענוש שלא מדין התורה

**The Rashba** (Rabbi Solomon ben Aderet, Spain 1235-1310) wrote thousands of *teshuvot* (responses to legal questions), as well as a commentary on the Talmud and other legal works.

This is clear—the community is permitted to make rules, stipulations, and agreements according to their own needs, and these are given the weight of Torah laws. They can enact fines and punishments for anyone who transgresses any of the laws to which the community has agreed, as long as the whole community has agreed to these. Similarly, all of the members of one trade in the city [may make a binding agreement among themselves]. . . for members of an organization are, unto themselves, like the people of a city in regard to these things. Similarly, every community is permitted to make enactments for itself and to establish fines and punishments beyond those mandated by the Torah.

**How does the Rashba understand the Talmud passage that allows communities to set wages and fines? What logical moves does he make? What might these texts say about communities establishing living wages, or about unions establishing a prevailing wage?**

**9) Rabbi Shillem Warhaftig *Dinei Avodah b'Mishpat ha'Ivri* vol. 1, p. 2**

The purpose [of Jewish labor laws] is to protect the weaker side in these relationships—the worker who is exposed to injustice and exploitation by the stronger party—the employer. We can say that the labor laws attempt to correct the socio-economic discrimination that exists in society against workers by instituting a legal discrimination against employers.”

**10) Rabbi Chaim David HaLevy *Aseh L'cha Rav* 2:64**

The sages of Israel and their courts always knew to side with the worker.

**Do you agree with Warhaftig's and Halevy's summaries of Jewish labor law (from what you've seen on these pages)? Why or why not?**

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

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

The correctors of books in Jerusalem would take their salaries from [funds collected primarily to cover the cost of sacrifices]. The judges who judged cases of theft in Jerusalem would take their salary from these funds. And how much would they take? Ninety *maneh* per year; and if this was not enough for them, [those responsible for distributing the money] would increase the amount. Even if [these communal workers] did not want to take more, they would increase the amount according to the needs of the workers, their wives and their families.

**12) Rabbi Chaim David HaLevy *Aseh L'cha Rav* 5:23 comment on Rambam (above)**

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

**Do you think that this discussion of the salaries of judges and book collectors should serve as precedent for a contemporary living wage? Why or why not?**

**Shillem Warhaftig** is a contemporary Israeli rabbi and the leading scholar on Jewish labor law.

**Rambam (aka Maimonides,** Spain/north Africa, 1134-1204) is one of the most significant thinkers of Jewish history. His primary books were the *Mishneh Torah*, a compendium of law, and *Moreh Nevukhim* (Guide of the Perplexed), a work of philosophy.

**Rabbi Chaim David HaLevi** (Palestine/Israel 1924-1998) was the Sephardic chief rabbi of Tel Aviv from 1973 until his death. He is known for his often creative legal writings.

## II Contemporary economic issues

### 1) What is a “living wage?” from Jill Jacobs, “Work, Workers and Jewish Owners” (unpublished *teshuvah* submitted to the Committee on Jewish Law and Standards of the Conservative Movement)

- In metropolitan areas that have adopted a living wage, employers who are not required by law to adhere to this standard may anyway choose to pay workers the area living wage. *Employers should note that “official” living wages are sometimes determined for political reasons and do not always reflect the real cost of living in the area.*
- Employers may rely on the “housing wage,” established by the National Low Income Housing Coalition. This wage reflects the amount that a person would need to earn in order to spend 30% of his/her salary to rent a two-bedroom apartment at the fair market rate in a given area. (the official definition of affordable housing is housing that costs 30% of one’s income) The “housing wage” for various metropolitan areas is available at [www.nlihc.org](http://www.nlihc.org)
- Employers may base the definition of a “living wage” on the self-sufficiency standard for an average sized family. An employer may decide, for instance, that all workers should be able to support one dependent child (assuming that an “average” sized family” has two children and two working parents.) Self-sufficiency wages for most U.S. counties are available at [www.wowonline.org](http://www.wowonline.org) or [www.epinet.org](http://www.epinet.org)
- Some living wage laws guarantee wages that will bring workers’ incomes to 130% of the poverty line (The 2006 poverty guidelines \$16,600 for a family of three and \$20,000 for a family of four) as those earning more than 130% of the poverty line are not eligible for food stamps. Individual employers may also adopt this 130% guideline; however, we should acknowledge the problematic nature of calling a wage at which people are still dependent on food stamps a “living wage.”

## 2) Who are the minimum wage workers?

80%	Adults twenty and older
50%	Ages 25-54
26%	Parents

**7.3 million children** live in households in which at least one parent works a minimum wage job  
**46%** of families with one minimum wage worker rely solely on this worker's wages  
On average, the minimum wage worker's salary constitutes **59%** of his/her family's income

### **In a ten-year study of minimum wage workers (1992-2003):**

**24.2%** became unemployed  
**36.6%** stayed in low-wage jobs  
**39.2%** transitioned into higher paying jobs

#### **Of the women in the study:**

**26%** became unemployed  
**41%** stayed in low-wage jobs  
**32.5%** transitioned into higher paying jobs

#### **Of the foreign-born workers in the study:**

**23.4%** became unemployed  
**47.3%** stayed in low-wage jobs  
**29.4%** transitioned into higher paying jobs

#### **Of the people in the study who did not have high school diplomas:**

**30.9%** became unemployed  
**48.8%** stayed in low-wage jobs  
**20.3%** transitioned into higher paying jobs

Sources: Liana Fox, "Minimum Wage Trends: Understanding Past and Contemporary Research." Economic Policy Institute Briefing paper, October 25, 2006 ([www.epinet.org](http://www.epinet.org)); J. Chapman and M. Ettlinger. *The who and why of the minimum wage: Raising the wage floor is an essential part of a strategy to support working families.* (Washington, DC: Economic Policy Institute, 2004) Heather Boushey, "No Way Out: How Prime-Age Workers Get Trapped in Minimum-Wage Jobs." (*WorkingUSA: The Journal of Labor and Society* Volume 8, December 2005) 659-670.

### 3) Real value of the minimum wage 1950-2006



### 4) Christopher Niedt et al, "The Effects of the Living Wage in Baltimore" (Johns Hopkins University/the Economic Policy Institute, 1999)

The aggregate cost increase to the city amounted to 1.2%, less than the rate of inflation. The real cost to the city of these contracts, then, actually declined slightly despite the increase in wage rates

### 5) David Fairris et al, "Examining the Evidence: The Impact of the Los Angeles Living Wage ordinance on Workers and Businesses" (UC Riverside, 2005)

Labor turnover has declined as a result of the ordinance. Current rates of turnover at living wage firms average 32 percent, compared to 49 percent at comparable non-living wage firms. These turnover reductions represent a cost savings for the average firm that is 16 percent of the cost of the wage increase, based on various estimates of the cost of replacing a low-wage worker.

### 6) Richard Freeman, "What will a 10%. . .50%. . .100% Increase in the Minimum Wage Do?" *Industrial and Labor Relations Review* 48:4 (1995) 830-834

The debate is over whether modest minimum wage increases have "no" employment effect, modest positive effects, or small negative effects. It is *not* about whether or not there are large negative effects.

- 7) **David Reynolds and Jean Vortkamp, *Impact of Detroit's Living Wage Law on Non-Profit Organizations*** (Center for Urban Studies & Labor Studies Center College of Urban, Labor and Metropolitan Affairs, 2000) 2

The financial impact on most non-profits is minor. . . At most only one out of four non-profits face significant financial problems in implementing the living wage requirements. . . [Of the non-profits that faced more significant financial challenges] in terms of their overall budgets, the costs ran from well under 1% to a maximum of 6% of their total annual budget. Generally, the financial problems in implementing the living wage come not from the actual amount in relation to the organization's overall budget, but the fact that much of the funds used by non-profits are allocated for specific purposes and can not be easily moved. Non-profit fund seekers also have a difficult time in obtaining funds specifically for salaries, especially if the request is for mid-budget supplemental funds. Overall, the living wage law has not led to drastic cuts in either employment or services provided. The more serious adjustments involved mainly reduction in staff hours among a small proportion of employees, cuts in supplies for client events, or other measures to trim program budgets.

***What have you learned from these economic discussions? What surprised you? What confirmed your earlier ideas about these issues?***

***How might the Jewish texts that you have seen respond to these contemporary economic realities?***