

Sixty-Minute Hours Using Time on the Job

A real bonus of my family's recent move to our new apartment in Jerusalem was meeting "Jonathan," a native of Los Angeles currently employed by the company which handled our move. He had earphones in his ears the entire time he hauled our boxes, appliances and furniture. I had no idea what he was listening to, and thought the earphones might be for a cellphone. As it turned out, Jonathan was listening to a variety of shiurim on the upcoming Yom Tov of Pesach. I struck up a conversation, and he very politely told me that we could talk during the movers' break, while the others smoked. He didn't smoke, and would be free to talk then. I was truly impressed with this young man on two counts. He was working hard, but he would not take even a few extra minutes off to converse with the customer. In addition, although the work was physically demanding, it left his mind free, and he used those hours to listen to shiurim.

Working Hard

How hard do we have to work at our jobs? Does *halachah* allow us to use any salaried time for personal needs? Are quick errands, phone calls to check on the kids, or online shopping and news updates permitted at work, or must they be confined strictly to personal time?

The *Mishnah* provides some basic guidelines about how a worker should relate to time on the job. While the specific case under discussion relates to agricultural workers, the principles are applicable in a broad variety of work settings.

"If the worker is working with figs, he should not eat grapes, and if he is working with grapes, he should not eat figs... And in all cases, [according to Torah law,] the worker may only eat at the time that he is actually working." However, in order to prevent a loss to the employer, *Chazal* decreed that it is preferable for the workers to eat while walking from row to row in the vineyard and on their way back from the winepress.

We see that the *Mishnah* mentions two conditions. First, the employee can only eat the produce he is currently working with, rather than going back and forth to different parts of the orchard to get another type of fruit to eat. In addition, he can only eat while he is actually working. Nonetheless, in order to maximize the worker's time and efficiency, *Chazal* introduced some refinements to the system. Workers are permitted to eat on the job, but can also eat while walking from row to row and on the way back from the winepress, even though they are not actively engaged in hoeing or picking (*Baba Metzia* 7:4).

In his commentary on this *mishnah*, the Rambam explains that since the workers do have to eat, they should do so during downtime, even while not actively engaged in their work, for the benefit of the employer who is paying for their time.

In his *Mishneh Torah*, the Rambam rules that the fairness required in an employer-employee relationship works both ways. For his part, the employer cannot steal wages from his employee, or delay payment of wages. For his, the employee cannot steal salaried time from the employer: "if he wastes a little [time] here and a little there,"

the few stray minutes add up quickly, and he cheats the boss throughout the day. The Rambam mentions *Chazal's* ruling that a salaried employee should recite an abbreviated *Birkas HaMazon*, to preserve his employer's time.¹ In contemporary terms, an occasional five minutes on a cell phone, plus checking the headlines, personal emails and the market online, all add up to a substantial loss of the employer's time.

Twitter, an enormously popular social network introduced in 2006, now generates 340 million "tweets" and handles 1.6 billion queries per day. How much of this communication is going on during work hours, and how do employers view time spent on Twitter?

According to a recent study, "over forty-seven percent of business owners were somewhat concerned by the length of time their staff spent reading their twitter feed." A further fifteen per cent were "very concerned." Bosses also fear that "use of twitter streaming programs...which [provide] continuous twitter updates... [have] led to a fall in office productivity." Employees, on the other hand, downplay the amount of time spent on Twitter, for obvious reasons. "A majority (sixty-three percent) openly admitted to briefly using Twitter at work, [but] only thirteen percent confessed to spending 45 minutes or more on the site... A conservative estimate from [this report's] research would be, generally speaking, twenty minutes is lost per employee per day to Twitter. For a relatively small company with thirty employees, this equates to a loss of fifty hours a week."

The Rambam goes on to say that an employee is obligated to give his employer the maximum for his money, not just in quantity, but in quality; while at work, he should be putting in his best effort. We learn this from Yaakov Avinu, who said of his years in Lavan's employ, "With all my strength I labored for your father" (*Bereishis* 31:6). The Torah tells us that his integrity was rewarded not only in the World to Come, but in this world as well: "And the man [Yaakov] became very, very wealthy" (*ibid.* 30:43; *Hilchos Sechirus* 13:7). The *Shulchan Aruch* rules in keeping with the Rambam (*Choshen Mishpat* 337:20).

The *Maggid Mishneh*, one of the major commentaries on the Rambam, usually brings the sources for the Rambam's rulings. In this instance, he did not even see the need to bolster the *pesak* with sources; he simply wrote, "this is obvious."

The *Aruch HaShulchan* writes that we learn from here how important it is for a worker to be careful to work fairly and honestly. "He should not be disheartened, because doing one's job faithfully is a great thing" (*Choshen Mishpat* 331:3).

Wasting time on the job did not originate with technology. It may have become easier with the advent of cellphones, and more difficult to resist in the era of the internet and smartphones, but some of the old favorites continue to maintain their popularity. According to a survey conducted in 2012 among three hundred non-executive employees, fourteen percent of the participants rated "gabbing at the water cooler [as] the largest time waster at the office." Second billing – eleven percent of the vote – went to handling software and computer problems. Perhaps similar to the survey mentioned above, only five percent attributed wasted work time to Facebook, Twitter,

¹ This is not current halachic practice, since most employers today are more flexible, especially with such a short amount of time.

and the like. The amount of time lost on office politics is also considerable, ranging from an hour or two to six or more a week. (“Office Chit-Chat Biggest Time Waster at Work,” ABC News, August 16, 2012).

It seems obvious that employees are underestimating the amount of time they spend online during work hours.

How Careful is Careful?

Chazal were clearly of the opinion that a worker must be scrupulous with the boss’s time, as we learn from the story of Abba Chilkiya, whom they call “*po’el tzedek*,” an honest worker (*Makkos* 24a, citing *Tehillim* 15:2). Abba Chilkiya was a grandson of the famous Choni Hame’agel, whose prayers for rain were miraculously answered. Abba Chilkiya had inherited his grandfather’s special power to pray for rain. On one occasion, a delegation of two rabbis came to ask him to pray during a drought. They did not find him at home, so they went out to the field where he was employed and greeted him. Unwilling to interrupt his work, he did not look away from his hoeing to respond.

They returned later to speak to him, with a few questions about his behavior. One question was obvious: why had he not even looked their way to say a simple “hello” when they came out to the field? He told them, “I am paid by the day, and did not want to waste time on the job” (*Taanis* 23a,b).

Another model employee was Abba Yosef the Builder. Avnimos HaGardi, a non-Jewish scholar, had some profound philosophical questions about Creation. He was referred to Abba Yosef the Builder, a construction worker who was the acknowledged expert on the topic. He found him on a scaffold, working on a house. Avnimos said, “I have a question to ask you.” Abba Yosef told him, “I can’t come down, because I am a day laborer. Ask what you like, and I will answer from here.” He conducted the entire conversation from his position on the scaffold while he went on with his work (*Shmos Rabbah* 13:1).

Sold for the Day

In his explanation of spiritual and ethical “cleanliness,” the Ramchal discusses an employee’s obligations to his employer. Strictly speaking, a worker paid for his time, whether by the hour, day, week or otherwise, is exempt from fulfilling certain *mitzvos* on the boss’s time. Practically speaking, these exemptions may not be applicable in our times,² but the message is clear: the employer should be getting his money’s worth.

He writes that if this is true of *mitzvos*, it is exponentially more true of personal matters – stealing time from the boss for either purpose is theft. He cites the high standards of Abba Chilkiya, who did not even want to take off the brief moment required to return a greeting, and Yaakov Avinu, a truly stellar employee. When Yaakov worked for Lavan, “During the day, burning heat consumed me, and frost at night, and sleep evaded my eyes” (*Bereishis* 31:40). The Ramchal writes, “What,

² See Chapter 9, “Where, When and How: *Davening* with a *Minyan*,” and Chapter 10, “At All Costs? Making *Minyan*,” for an in-depth discussion of the permissibility of *davening minchah* during work hours, and leaving the workplace to *daven* with a *minyan*.

then, will those who are involved in personal matters during work hours be able to answer?"

He goes on to say that "one who is hired out to another person for any sort of work, his time is sold to him for that day" (*Baba Metzia* 56b). Using any part of that time for oneself in whatever way is theft. If the employer does not forgive him for the missed time, the employee is held accountable for it. This should not be lightly dismissed, because Yom Kippur does not atone for sins committed against one's fellowman until the offender appeases the wronged party (*Yoma* 85b). It is not difficult to imagine what the Ramchal would have thought of personal phone calls, errands and the like on salaried time.

What of using work time not for personal matters, but for genuine *mitzvos* – for example, raising funds for *tzedakah*? The Ramchal writes that a *mitzvah* like this is not a *mitzvah* at all, but theft, a sin especially despicable to G-d. He equates time stolen for a *mitzvah* with an object like an *esrog* or *lulav* stolen for a *mitzvah*. Rather than serving us as a Heavenly advocate, it will take on the role of prosecutor (*Mesillas Yesharim*, Chapter 11).

Practically speaking, is a worker in fact expected to be totally focused on his job from the moment he arrives at work until the second he walks out the door?

One answer is that today, a built-in break for lunch, coffee or the like is fairly common in almost any job setting. In some jurisdictions, providing such a break is required by law. This time legitimately belongs to the worker, and he can use it as he pleases.

Another factor to consider is the specific work arrangement at a given job. Some jobs are salaried positions with set hours, where the worker is considered a *po'el* (employee), who should be present and working for the entire time agreed upon. A worker who is paid for his time, rather than by the job, may not waste any salaried time (see Rambam, *Hilchos Sechirus* 13:7).

Some companies, among them the larger investment banks, law firms, accounting firms, and early stage companies, may have an official nine-to-five workday, but employees at all levels of the hierarchy are expected to work significantly longer, committing virtually all their waking hours to the job. Here too, an employee may not waste time on the job, but it is understood that he will need to spend a reasonable, although short, amount of time on personal matters, which would otherwise be handled before or after the workday.

Other jobs may have more flexibility, and do not necessarily require that the worker be there during set hours. For example, he may need to work for a specified total number of daily or weekly hours. He can make his own hours, coming in early or staying late to make up for missed time, as long as he gets his work done. He is similar to a *kablan* (independent contractor), who is paid per job.³

³ There are various opinions concerning how to determine whether a worker is a *po'el* or a *kablan*. For example, according to one opinion, a worker paid for his time is a *po'el*, while one paid for a defined task, deliverable or service is a *kablan* (*Maggid Mishneh, Hilchos Sechirus* 9:4). According to this opinion, if a *kablan* is efficient he will have more time for himself. In contrast, a *po'el's* efficiency benefits the employer, who can then assign him additional work.

Still other jobs may only require that the worker be there during specified hours, to handle as many or as few customers or calls as come in. He may use any time in between as he wishes.

Rabbi Ari Enkin, regional manager of an Israeli financial services company, thanked his employer in the Introduction to “Halachah Bilvad,” his English-language work on a variety of short halachic topics. He wrote that in his particular job, “There is... a tremendous amount of free time which allows me to pursue my academic pursuits. Believe it or not, this book was both researched and written in its entirety during... work hours, between customers.”

Working for the Boss

A worker on the job should be working for the employer’s maximum benefit – not with an eye to his own interests. *Chazal* teach that an employee who receives work from an employer must carry out the job in keeping with the wishes of the employer. If he fails to do so, it is an instance of, “Cursed is one who does Hashem’s work dishonestly” (*Yirmiyahu* 48:10, cited in *Eliyahu Rabbah* 16).

The *Meiri* cites the case of a tailor cutting out fabric for a garment. He should be focused on producing the best possible product for the client, not on how to leave the largest possible fabric remnants for his own use. The *Meiri* writes that above all, we must be honest and trustworthy. “All a person has is the good name which he earns through his actions. One’s deeds testify about him in this world, and judge him in the World to Come” (commentary on *Baba Kama* 119b).

In 2013, a well-known oncologist who operated several clinics for cancer patients was arrested. He was charged with falsely diagnosing patients with cancer and subjecting them to unnecessary chemotherapy. He will be facing the wrath not only of his unfortunate patients and their families, but also of Medicare, billed \$35 million in only two years by this one physician!

This is obviously an extreme, outrageous example. On a smaller scale, the same principle applies to any professional who bills a client – an accountant, attorney, physician, plumber, technician, consultant and the like. They should only do and charge for work that is genuinely necessary.

Responsible Teaching

Salaried workers employed in religious fields (*klei kodesh*) have the same status and responsibilities as workers in any other industry. The Jerusalem Talmud relates that Rav Yochanan met a teacher of young children who looked emaciated. He questioned him, and the teacher told him he customarily fasted on a regular basis. Rav Yochanan told the teacher that he was forbidden to behave this way – if a worker employed to do the work of a flesh-and-blood employer is obligated to keep himself healthy and strong in order to do his job properly, certainly a teacher, who does the Al-mighty’s work, must be even more careful (Jerusalem Talmud *Demai* 7:3, *Pnei Moshe*).

The *Shulchan Aruch* discusses a teacher’s obligations to his job. A teacher who leaves the children unattended, uses class time for purposes other than teaching, or is

neglectful of his teaching duties, qualifies as “Cursed is one who does Hashem’s work dishonestly.” A teacher should only be hired if he fears Heaven and has the requisite teaching skills.

The *Rema* adds a few comments which highlight a teacher’s responsibility to bring his very best to the job: “A teacher should not be up too late at night, so that he will not be too sluggish to teach during the day. He also should not fast, or deprive himself of sufficient food and drink, or eat and drink in excess, for all of these practices impair his ability to teach well” (*Yoreh Deah* 245:17). This also includes staying up very late to learn or do other *mitzvos*; anything that will prevent him from getting enough sleep is problematic.

The same principles would apply to all those in charge of young children – for example, a babysitter who ignores the children’s safety while involved in personal matters – and anyone else who “does Hashem’s work,” including *kollel* scholars on a stipend who neglect their studies.

Elsewhere, the *Rema* writes that teachers have the same halachic status as other workers, who are required to adhere to standard working hours. He also makes an important additional point concerning a teacher’s status as an employee. If he hired himself out at a set salary for specific working hours, he is considered a *po’el* (employee), with equivalent obligations. However, if he committed to teaching a specified amount of material – “a book, or half a book” – he is considered a *kablan* (independent contractor), paid per job, not per time worked (*Choshen Mishpat* 333:5). As long as he provides the services contracted for, he can arrange his work schedule as he wishes.

Loyalty after Hours

We see that the Torah obligates us to be loyal, honest and hardworking throughout our salaried hours on the job – but what about after hours? Does this responsibility extend into our personal time as well?

Clearly, an employee owes it to his employer to remain physically and mentally fit in order to work well, even if this affects the way he uses his time after work. Taking a second job after hours is problematic, if it will negatively impact his performance at his primary job.

The Jerusalem Talmud writes that the owner of an ox rented out for daytime plowing should not plow his own field with that same ox at night, because the ox will not be able to work at full strength the following day. So too, a day laborer should not take a night job, if it means he will be too fatigued to do his day job properly. A worker also should not starve or otherwise afflict himself, “because he undermines the employer’s work” (Jerusalem Talmud *Demai* 7:3, *Pnei Moshe*). The *Tosefta* calls it “stealing the employer’s work” (*Baba Metzia* 8:2).

The Rambam’s *pesak* includes an additional point: overworking and depriving oneself of food or other needs is forbidden, because of the concern for shortchanging the employer. Not only will the worker be physically exhausted, “his mental capacities are [also] weakened, and he will not work to capacity” (*Hilchos Sechirus* 13:6). This is also the ruling of the *Shulchan Aruch* (*Choshen Mishpat* 337:19).

It is less likely that today's employee is depriving himself of sufficient food for religious or spiritual reasons, but what of cutting back for the most common of all contemporary reasons – dieting? Do the effects of counting calories fall under the prohibition against cheating the employer of a good day's work? In general, it is permitted to go on a diet even for cosmetic purposes (Igros Moshe, Choshen Mishpat 2:65). However, if the dieter works for another party, and sees that the diet is preventing him (or her) from fulfilling his duties to his employer – whether because he feels physically weak or is unable to focus on his work – he should obtain his employer's approval to continue with the diet.

No One Answer

Personal matters which demand our attention are an inevitable part of life. There will always be urgent doctor's appointments, family events or emergencies, and more which conflict with work hours. In many cases, the halachic guidelines for issues in the workplace can be clearly defined. The question of whether or not it is permitted to handle personal matters during work, and to what extent, is more difficult to answer.

Many factors come into consideration in deciding what is or is not appropriate. Corporate environment, seniority in the company, working conditions, *minhag hamedinah* – literally “national custom,” or in our times, industry standard⁴ – all play a role in determining which personal matters can legitimately be handled on work time. Bottom line, the most basic answer is that an employee should be a *po'el tzedek, v'dover emes b'levavo*: an honest worker with a truthful heart, who is careful and conscientious with his time on the job.

⁴ See Chapter 17, “On the House? Personal Use of Office Supplies.”