

Peer Pressure: A Jewish Business Ethics Analysis of Creating an Ethical Corporate Culture

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Abstract What should we do to promote ethical practices in business organizations? Jewish sources mandate an individual response to wrongdoing through one-on-one *rebuking* with external whistle-blowing as an alternative at best. In business organizations individual *rebuking* is unreasonable to expect and likely to be ineffective, and whistle-blowers may be ignored and victims of retaliation. This paper reviews the Jewish sources on the complementary idea of creating an organizational culture that would support both group and individual peer pressure to discourage wrongdoing and encourage right doing.

Keywords collective responsibility; corporate culture; Jewish business ethics; peer pressure; rebuking; whistle-blowing; wrongdoing

According to Judaism, what should we do to promote ethical practices in a business world that is perceived as unethical?¹ The Jewish sources mandate an individual response to wrongdoing² through one-on-one “rebuking.”³ External whistle-blowing is, at best, a second resort.⁴ In business organizations, individual rebuking is unreasonable to expect and likely to be ineffective, and whistle-blowers may be ignored or even subjected to retaliation. Therefore, in this paper I review Jewish texts on a complementary approach, the creation of an ethical corporate culture through peer pressure that encourages right doing and discourages wrongdoing.

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¹ “Slightly more than one in 10 Americans believes their company’s leaders are ethical and honest.” MARITZ RESEARCH HOSPITALITY GROUP 2011 EMPLOYEE ENGAGEMENT POLL , EXECUTIVE SUMMARY 1 (June 2011), http://maritzresearch.com/~media/Files/MaritzDotCom/White%20Papers/ExecutiveSummary_Research.ashx.

² In this article I assume that wrongdoing is correctly identified. Determination of the ethics of behavior determines the propriety and the nature of the response.

³ According to the principle of *hocheach tochiach*, also known as reproof or critiquing. Author, *Rebuking: A Jewish Alternative to Whistle-Blowing* (2010).

⁴ Author, *Blowing the Shofar: A Jewish Business Ethics Analysis of Whistle-Blowing* (Aug. 6, 2011) (submitted unpublished paper) (on file with author).

Responsibility for Others

According to Judaism, all Jews, including sinners committed to *t'shuvah*, repentance, are part of one community. The *Kol Nidrei* prayer service on the evening of *Yom Kippur*, the Day of Atonement, begins with the statement, "By the authority of the court on high and by the authority of this court below, with divine consent and with the consent of this congregation, we grant permission to pray with those who have transgressed."⁵

Therefore, as members of a single community, the actions of one are imputed to all. Later in the *Kol Nidrei* prayer service the congregation sings the confessional prayer *Ashamnu*.

We abuse, we betray, we are cruel, we destroy, we embitter, we falsify, we gossip, we hate, we insult, we jeer, we kill, we lie, we mock, we neglect, we oppress, we pervert, we quarrel, we rebel, we steal, we transgress, we are unkind, we are violent, we are wicked, we are extremists, we yearn to do evil, we are zealous for bad causes.⁶

It is not that each individual member of the congregation has performed all of these acts, but that as a part of the Jewish people we are responsible for the acts of one another. "The emphasis on the *other* is paramount in Judaism: *Achrayut*, responsibility, contains the word *Akher* [*acher*], the Other. We are responsible for the other."⁷ Indeed, the Jewish concept of responsibility for one another continues to be developed, for example in the *Musar* movement.⁸

If a Jew does something wrong, should another Jew care? We are collectively responsible both for the wrongdoing of others and for correcting that wrongdoing through their *t'shuvah*

⁵ MACHZOR LEV SHALEM FOR ROSH HASHANAH AND YOM KIPPUR 204 (2010).

⁶ *Id.* at 235.

⁷ ELIE WIESEL, SAGES AND DREAMERS 184 (1991). "The Jewish obligation for social justice stems from four sources: the historical experience, the legal imperative, a vision of the world to come, and practical considerations about the place of Jews in a diverse society." JILL JACOBS, WHERE JUSTICE DWELLS: A HANDS-ON GUIDE TO DOING SOCIAL JUSTICE 4 (2011).

⁸ "Musar Movement, movement developed in late 19th c. for education of individual toward strict ethical behavior in spirit of halakhah...." ENCYCLOPEDIA OF JUDAICA 437 (Geoffrey Wigoder ed., 1974). See ALAN MORINIS, EVERYDAY HOLINESS: THE JEWISH SPIRITUAL PATH OF MUSSAR 197-208 (2007).

because of *areivut*, being tied together. The phrase “*Kol Yisrael areivim zeh bazeh*, all Jews are guarantors for [tied to] one another,” appears several times in the Talmud.⁹

And is it true that retribution for all transgressions that are in the Torah is not exacted from all the world? But it is written, “And a man will stumble over his brother,”¹⁰ which is interpreted to mean: Man will stumble because of his brother’s iniquity. [This] teaches that all Jews are guarantors for one another [*kol Yisrael areivim zeh bazeh*]. Just as the guarantor of a loan is responsible for the borrower’s debt, so all Jews are liable -- and may be punished -- for the sins of an individual. -?-¹¹

Groundless panic causing a chaotic domino-effect is imagined if the Israelites do not follow the commandments. Its basis is the Torah verse,

But if ... you disobey Me¹²....The sound of a driven leaf shall put them to flight. Fleeing as though from the sword, they shall fall though none pursues. With no one pursuing, they shall stumble over one another as before the sword.¹³

⁹ “Such as [Babylonian Talmud, Tractate] Sotah 37b where it is derived from *Deuteronomy* 29:28: ‘The hidden things belong to the Lord, our God; but the things that are revealed belong to us and to our children forever, to observe all the words of this Torah.’ As Rashi comments there: ‘When they crossed the Yarden and had the oath administered to them at Mt. Gerizim and Mt. Eival they became responsible for one another.’” Moshe Sokolow, *Fate, Destiny & Shivat Tziyon*, THE LOOKSTEIN CENTER FOR JEWISH EDUC. (July 20, 2011, 12:17 PM), <http://www.lookstein.org/resources/ravandreligiouszionism.htm>.

¹⁰ *Leviticus* 26:37.

¹¹ Shevuos (Shavuot) 39a, SCHOTTENSTEIN EDITION OF THE TALMUD 39a⁴ (Michael Weiner & Mordechai Kuber eds., 1994).

¹² *Leviticus* 26:27 (NJPS).

¹³ *Leviticus* 26:36-37 (NJPS).

As this passage is understood by the rabbis of the Talmud, Jews are responsible for one another as though they had co-signed promissory notes and their survival depends upon mutual support. The interconnectedness of Jews empowers them to affect the behavior of peers.¹⁴

What do “if ... you disobey Me” and “iniquity” mean? What counts as disobedience and wrongdoing? One might think that Jews, commonly identified with legalism, assert that one just needs to follow the rules to be a do-gooder.¹⁵ But the sages of the Talmud say *derekh erez kadma l’Torah*. Literally these words mean “The way of the land precedes the Torah,” but a more accurate translation might be “Ethics comes before rules” or “Decency comes before Torah.”¹⁶ Ethics take priority over the law because ethics existed before the giving of the Torah at Mount Sinai. So ethics are considered more basic than the laws in the Pentateuch. In other words, since ethics came first, they come first.¹⁷ As Elie Wiesel states this principle, “Consideration for others

¹⁴ This assertion of collective responsibility is used by contemporary Jewish institutions to encourage charitable contributions.

“Strengthening Jewish Peoplehood

We believe all Jews share a fundamental connection. That’s what we call Jewish *peoplehood*.

UJA-Federation is committed to fostering unity among Jews, regardless of borders — geographic, religious, or ethnic.

We forge strong bonds and new relationships among the Jewish people globally, with an emphasis on American–Israeli relations. And we help build integrated Jewish communities that see themselves as part of the Jewish people. We help Jews connect to a strong, vibrant, democratic Israel. And we build ties among Jewish communities in New York, in Israel, and beyond.

Through our network of agencies, we help Jews emigrate from countries in which they’re victims of prejudice or a lack of economic opportunity — places such as Ethiopia, and the Caucasus Mountains in the former Soviet Union — and successfully integrate into new societies.

This is how we express our core Jewish value — *kol Yisrael areivim zeh bazeh*, all Jews are responsible for one another.” UJA-FEDERATION OF NEW YORK. <http://www.ujafedny.org/>.

¹⁵ *Legalism (theology)*, http://en.wikipedia.org/wiki/Legalism_%28theology%29 (last visited Jan. 26, 2013).

¹⁶ The Ivry Prozdor High School of the (Conservative) Jewish Theological Seminary requires that prospective students sign the following pledge in their application form. “*Derekh Eretz Pledge* Students choose to attend Ivry Prozdor High School; teachers respect that choice. Students must sign this pledge before admission is approved, committing to constructive participation as members of our learning community. There is an expression, *derekh erez kadma l’Torah* (decency comes before Torah). At Ivry Prozdor High School, students and teachers join together with integrity, respecting one another for their commitment to the study of Torah and the Jewish tradition. In signing below, you agree to bring your ideas and interests to this community in the spirit of open and respectful exchange, and with the full commitment to *derekh erez*.” http://www.jtsa.edu/Ivry_Prozdor_High_School.xml.

¹⁷ This statement has been adopted as a guiding principle by a number of Jewish communities and organizations. Mathew Wagner, *Orthodox-Conservative-Reform trio tries to “heal the world,”* THE JERUSALEM POST, May 6, 2008. <http://www.jpost.com/JewishWorld/JewishFeatures/Article.aspx?id=103613>.

must precede scholarship. Abstract erudition may turn into a futile game of the intellect. Words are links not only between words but also between human beings.” Therefore group values typically supersede individual interests.¹⁸

In Judaism, actions speak louder than words. “Of what use is mere study of Torah when he who learns is proud and ill-tempered? The good man should himself be the Torah, and people should be able to learn good conduct simply by observing him.”¹⁹ In this story these principles are applied.

Yannai was walking along the way and a man who was most elegantly fitted out met him. [Yannai assumed from his fine clothing that he was a disciple of a sage], and said to the man, “Will my Lord accept our [Yannai’s] hospitality?” He said to him, “Do as pleases you.” [Yannai] took him home and asked him questions about Scripture, but did not find him [knowledgeable], likewise for Mishnah, likewise for Talmud, likewise for matters of lore. [Yannai] said to him, “Say the blessing [after meals].” The man said to him, “Let Yannai say the blessing [of food after meals] in his own home.” Yannai said to him, “Can you repeat what I shall say to you?” The man said, “Yes.” He said to him, “Say: A dog has eaten Yannai’s bread.” The man arose and seized [Yannai], saying to him, “Do you have my inheritance [control it], that you taunt me?” “Well, what sort of inheritance of yours is with me [do I have]?” He said to him, “The [inheritance to which] children refer: ‘Moses commanded the Torah for us as an inheritance [of the community of Jacob]’²⁰ ‘The community of Yannai’ is not written here, but rather, ‘the community of Jacob.’” When the two had become reconciled to one another, [Yannai] said to him, “On what basis, then, did you have the merit of eating at my table?” He said to him, “In my entire life, when I heard a nasty word, I never brought it back to the one about whom it was said, and when I saw two people fighting, I always brought peace between them.” He said to him, “All this [honorable behavior in] the right way is to your credit, and I called you a dog!” R.[abbi] Ishmael b.[ar] R. [abbi] Nahman said “[Honorable behavior in] the right way²¹ came twenty-six generations before the Torah [and so is prior].”²² That is in line with the following verse of Scripture: “To keep the

¹⁸ When a prayer leader arrived late to synagogue services, someone else began in their place. “We sent a clear message that the ‘silent majority’ of people who valued and expected on-time services were going to trump the individual.” ELIE KAUNFER, EMPOWERED JUDAISM 43 (2010).

¹⁹ Rebbe Leib Saras, quoted in NORMAN LAMM, THE GOOD SOCIETY: JEWISH ETHICS IN ACTION 77 (1974).

²⁰ *Deuteronomy* 33:4.

²¹ “*Derekh erez* here is obviously ethical conduct.... *Derekh erez* is set off against *Talmud Torah* and *Brachah* and is here regarded as at least of equal worth, since it gives a man great worth.” MAX KADUSHIN, A CONCEPTUAL COMMENTARY ON MIDRASH LEVITICUS RABBAH: VALUE CONCEPTS IN JEWISH THOUGHT 63 (1987).

²² “From Adam to Moses, the world existed by means of *derekh erez* alone.” *Id.*

way of the tree of life.”²³ “The way” refers to [honorable behavior in] the right way. And afterward, “The tree of life” refers to the Torah. [So *derekh erez* [sic] is prior to Torah learning.]²⁴

Duty to Act

Why should anyone care about what others do when “It’s none of your business,” “What’s it to you?,” and “You’re being judgmental”?²⁵ Why not respect their right to autonomy and privacy and mind your own business? Isn’t it both easier and better to do nothing?²⁶ According Judaism the answer is no. It is not better to do nothing.

Responsibility for others means that Jews must act when they see wrongdoing. “Neither shalt thou stand idly by the blood of thy neighbor.”²⁷ A basic precept in the Torah²⁸ is “Justice justice shall you pursue.”²⁹ In the book of the prophet Ezekiel³⁰ we read, “O mortal, I appoint

²³ *Genesis* 3:23.

²⁴ “Implied is not that *derekh erez* is more important than Torah, but that a necessary basis for Torah is *derekh erez*. Nevertheless, it is an emphasis on *derekh erez* for it is conceived as existing without Torah.” Kadushin, *supra* at 21. JACOB NEUSNER, THE EVIDENCE OF LEVITICUS RABBAH 235-36 (1986).

²⁵ “Judge not, that ye be not judged.” *Matthew* 7:1 (King James). *Contra* Jeremy Sherman, *Open-Mindlessness: The Idiocy of "Don't Be Judgmental" The new tyranny of tolerance*, <http://www.psychologytoday.com/blog/ambigamy/201208/open-mindlessness-the-idiocy-dont-be-judgmental> (last visited Jan. 26, 2013).

²⁶ Sadly, I have frequently observed judges and rabbis follow a principle of “first do no harm” as a justification to be a do-nothing rather than a do-gooder. This is a misunderstanding even of Hippocrates who wrote, “The physician must ... have two special objects in view with regard to disease, namely, to do good or to do no harm.” HIPPOCRATES, OF THE EPIDEMICS Book I, Section II, Second Constitution, #5 (Francis Adams trans.), <http://classics.mit.edu/Hippocrates/epidemics.1.i.html>.

²⁷ *Leviticus* 19:16 (OJPS). Discussed in Author, *Blowing the Shofar: A Jewish Business Ethics Analysis of Whistle-Blowing* (Aug. 6, 2011) (submitted unpublished paper) (on file with author). This does leave open the question of who is one’s neighbor and may one stand idly by the blood of non-neighbors.

²⁸ “Torah (Heb. Lit. “teaching,” “doctrine,” or “instruction”), Pentateuch....” ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 598.

²⁹ *Deuteronomy* 16:20 (NJPS).

³⁰ “Ezekiel (6th c. B.C.E.) prophet.” ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 182.

you watchman for the House of Israel; and when you hear a word from My mouth, you must warn them for Me.”³¹ A fundamental *kabbalistic*³² text, the Zohar,³³ states

And just as a man is punished for uttering an evil word, so he is punished for not uttering a good word when he had the opportunity, because he harms that speaking spirit which was prepared to speak both above and below in holiness. All the more so if the people walk in crooked ways and he is able to speak to them and reprove them and does not do so.³⁴

If another Jew is doing wrong, a Jew must do something about it. And this responsibility is not delegable.

Individual Intervention

If action does speak louder than words, how should one act to pursue justice? The company you keep may significantly affect how you behave. The Torah recognizes the importance of others not only for survival of the species,³⁵ but also because they may encourage us to do right or

³¹ *Ezekiel 3:17* (NJPS (New Jewish Publication Society)).

³² “Kabbalah, term used for esoteric teachings of Judaism and for Jewish mysticism, esp. forms developed fr. 12th c....” *ENCYCLOPEDIA OF JUDAICA*, *supra* note 8, at 323.

³³ “The most famous work of kabbalah, the Zohar....” JOSEPH TELUSHKIN, *JEWISH LITERACY 200* (1992). “Zohar (Heb. “splendor”), major work of Jewish mysticism ... written mostly in Spain in 13th c.... Written in Aramaic in form of commentary on Pentateuch....Became one of three ‘holy books’ of Judaism after Bible and Talmud....” *ENCYCLOPEDIA OF JUDAICA*, *supra* note 8, at 648.

³⁴ *Ki Tazria (Leviticus) 46b-47a, 5 THE ZOHAR 12* (Harry Sperling & Maurice Simon trans., 1931-34). The notion that silence is not golden in the case of wrong-doing is similar to, “All that is necessary for the triumph of evil is that good men do nothing,” often attributed to Edmund Burke. http://en.wikiquote.org/wiki/Edmund_Burke.

³⁵ Noah’s immediate family is also saved although it was only Noah himself who was meritorious in his generation. “Then the LORD said to Noah, ‘Go into the ark, with all your household, for you alone have I found righteous before Me in this generation.’” *Genesis 7:1* (NJPS).

tempt us to do wrong.³⁶ In *Pirkei Avot*,³⁷ *Teachings of the Sages*, rabbis of the Talmud³⁸ teach the importance of choosing one's companions wisely -- both those to be close to, "Y'hoshua ben P'rachyah taught: [A]cquire a colleague for study"³⁹ and those to be far from, "Nitai, of Arbel taught: Keep far from an evil neighbor."⁴⁰

Individual peer pressure is used in the Torah both as a deterrent in anticipation of wrongdoing and as a punishment in reaction to wrongdoing. Its effectiveness depends upon several factors, including the relationship between those pressuring and those pressured.

³⁶ "The Torah states in *Leviticus 22:32*, "*Velo techalelu et shem kodshi venikdashiti betoch bnei Israel*," "And do not profane my holy name, that I may be holy among the children of Israel."... Maimonides gives the example of a man in a shop who is 'a great scholar, noted for his piety,' and who puts off paying for an item he's buying even though everyone knows he has enough money. That is profaning the name [*chillul hashem*].... People will talk, Maimonides says. If they see a religious man acting badly, they'll say, 'Woe to his father who taught him Torah! Happy the people who have not studied Torah! Look at so-and-so who studied Torah, how objectionable are his deeds, how corrupt are his ways!' So the name of g-d seems to mean g-d's reputation. The commandment *Velo techalelu et shem kodshi* could literally be taken to mean, don't give g-d a bad name.... What do these notions of reputation and public embarrassment have to do with holiness? Everything. Because let's go back to the positive half of the mitzvot, *venikdashiti betoch bnei Israel*, I will be kept holy among the children of Israel. By not embarrassing g-d, we're sanctifying g-d, not just in front of those who aren't Jewish but in front of one another. ... Good people are visibly good, through the things they will and won't do...." Joan Warner, Dvar Torah at the Fort Tryon Jewish Center (May 7, 2011).

³⁷ "Avot, or Pirkei Avot (Heb. "The Chapters of the Fathers"), tractate in Mishnah order *Nezikin*.... Contains chain of tradition from Moses to *tannaim* and gives salient moral and doctrinal sayings of sages in each generation." *Id.* at 52.

³⁸ "Talmud (Heb. "study" or "learning"). (4) Most commonly, the body of teaching which comprises the commentary and discussions of the *amoraim* on the Mishna of R. Judah ha-Nasi)...." *ENCYCLOPEDIA OF JUDAICA*, *supra* note 8, at 585.

³⁹ *Pirkei Avot, Teachings of the Sages 1.6* in REUVEN HAMMER, OR HADASH: A COMMENTARY ON SIDDUR SIM SHALOM FOR SHABBAT AND FESTIVALS 258 (2003).

⁴⁰ *Pirkei Avot. Id.* at 1.7.

Spousal Pressure

The first example of spousal pressure in the Torah is that of Eve persuading Adam to eat fruit forbidden by God.⁴¹ God's punishment of Adam for listening to Eve suggests that according to the Torah we are sometimes expected to resist spousal pressure.⁴²

Abraham is subjected to pressure by his wife, Sarah, to expel Hagar⁴³ and Ishmael, his son.⁴⁴ Abraham resists, but God urges him to do as his wife wishes and Abraham does so.⁴⁵ Even if there is no universal rule as to how to respond to spousal pressure, the God's command preempts that of a spouse.⁴⁶

Judaism values positive spousal influence, such as that of a wife on her husband. *Eishet Chayil*, a "Woman of Valor,"⁴⁷ a Sabbath eve poem, taken from the Proverbs, reads "*G'malathu tov v'lo ra kol y'mei chayeicha*, She does him good and not evil, all the days of her life."⁴⁸

⁴¹ The first telling of the story just talks of Eve giving Adam the fruit, "She also gave some [of the fruit] to her husband, and he ate." *Genesis* 3:6 (NJPS). The commentators note, "*and he ate* The woman does not say a word but simply hands her husband the fruit, which he accepts and eats, without resistance or hesitation." Commentary on *Genesis* 3:6. ETZ HAYIM: TORAH AND COMMENTARY 19 (2001).

⁴² The "color commentary" by God suggests that Eve did indeed convince Adam. "To Adam He said, 'Because you did as your wife said and ate of the tree about which I commanded you, "You shall not eat of it." [you will be punished].'" Commentary on *Genesis* 3:17. *Id.* at 24.

⁴³ "Hagar, Egyptian maidservant of Sarah, given to Abraham as concubine." ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 233.

⁴⁴ Ishmael is Abraham's son with Hagar. "Cast out that slave-woman and her son..." *Genesis* 21:9 (NJPS).

⁴⁵ "But God said to Abraham ... whatever Sarah tells you, do as she says." *Genesis* 21:2 (NJPS).

⁴⁶ For those of us living after the age of prophecy this guidance is of less help.

⁴⁷ "A Woman of Valor, called *Eshet Chayil* in Hebrew, is a hymn which is customarily recited on Friday evenings, after returning from synagogue and singing "Shalom Aleichem" and before sitting down to the Shabbat evening meal. *Eshet Chayil* is a twenty-two verse poem with which King Solomon concludes the book of Proverbs (Proverbs 31). The poem has an acrostic arrangement in which the verses begin with the letters of the Hebrew alphabet in regular order. The poem describes the woman of valor as one who are is energetic, righteous, and capable." <http://judaism.about.com/od/shabbatprayersblessings/f/eshetchayil.htm>.

⁴⁸ *Id.*

Parental Pressure

Abraham's grandson, Jacob, is persuaded by his mother, Rebekah, to defraud his father, Isaac.⁴⁹ Jacob obeys his mother without question. The commentators don't challenge his action.⁵⁰ Is this because the Fifth Commandment states "Honor your father and your mother;"⁵¹ or is this act justified because it fulfills God's will? In either case, we see here the power of a superior to pressure an inferior to perform an apparently wrongful act.

Although the Torah commands individual intervention through one-on-one "rebuking"⁵² as the appropriate reaction to wrongdoing, in the contemporary corporation rebuking is unreasonable to expect and likely to be ineffective.⁵³ External whistle-blowing is, at best, a

⁴⁹ "Now, my son, listen carefully as I instruct you." *Genesis* 27:8 (NJPS).

⁵⁰ An "ends justify the means" argument is raised on behalf of Rebekah. "Rebekah resorts to duplicity because she has no other way of bringing about what she knows is right and what God told her (in *Gen.* 25:23)." ETZ HAYIM, *supra* note 41, at 154. Rashi is silent on the matter. Pentateuch with Rashi's Commentary 125 (A.M. Silbermann ed., 1929).

⁵¹ *Exodus* 20:12 (NJPS). *Deuteronomy* 5:16 (NJPS).

⁵² According to the principle of *hocheach tochiach*, also known as reproof or critiquing. Author, *Rebuking: A Jewish Alternative to Whistle-Blowing* (2010) (citation).

⁵³ The observation that rebuking another in a position of superior authority is likely to be ineffective is not unique to the Jewish community and is not new. In *Measure for Measure*, the Provost questions a decision by Angelo, the "Duke *pro tempore*," only to be threatened with discharge.

Angelo: Now, what's the matter, provost? Provost: Is it your will Claudio shall die tomorrow? Angelo: Did not I tell thee yea? Hadst thou not order?

Why dost thou ask again? Provost: Lest I might be too rash.

Under your good correction, I have seen,

When, after execution, judgment hath

Repented o'er his doom. Angelo: Go to; let that be mine.

Do you your office, or give up your place,

And you shall well be spared.

WILLIAM SHAKESPEARE, *MEASURE FOR MEASURE* act 2, sc. 2, ln. 9-18 (Jonathan Bate & Eric Rasmussen, eds., The Modern Library 2010) (1623).

second resort⁵⁴ and whistle-blowers may be ignored⁵⁵ or even subjected to retaliation.⁵⁶ So is there a third alternative?⁵⁷ What about peer group pressure? Unlike an individual, a group of peers is less easily ignored, especially if it is significant in its nature and (perceived) number.

Peer Group Intervention: “Peer Pressure”

The term “peer pressure” generally refers to peer group intervention. Our responsibility⁵⁸ for others is not merely individual, but collective. The Torah states, “Concealed acts concern the LORD our God; but with overt acts, it is for us and our children ever to apply all the provisions of this Teaching.”⁵⁹ This verse has been interpreted to mean that “Overt acts (known sins) are the

⁵⁴ Author, *Blowing the Shofar: A Jewish Business Ethics Analysis of Whistle-Blowing* (Aug. 6, 2011) (submitted unpublished paper) (on file with author).

⁵⁵ The observation that those who blow the whistle against superiors may be ignored is also not unique to the Jewish community and is not new. In *Measure for Measure*, Isabella threatens Angelo with public disclosure of his wrongdoing only to be told that her claims would not be believed.

Isabella: Ha! little honour to be much believed,
And most pernicious purpose! Seeming, seeming!
I will proclaim thee, Angelo; look for't.
Sign me a present pardon for my brother,
Or with an outstretch'd throat I'll tell the world aloud
What man thou art.

Angelo: Who will believe thee, Isabel?
My unsoil'd name, th'austereness of my life,
My vouch against you, and my place i'th'state,
Will so your accusation outweigh,
That you shall stifle in your own report
And smell of calumny.

Supra note 53, at act 2, sc. 4, ln. 161-72.

⁵⁶ “...Congress has barred national security whistle-blowers who are fired for exposing wrongdoing from obtaining protection in federal court. It is no surprise that honest citizens who witness waste, fraud and abuse in national security programs but lack legal protections are silenced or forced to turn to unauthorized methods to expose malfeasance, incompetence or negligence....” Stephen M. Kohn, Op-Ed., *The Whistle-Blowers of 1777*, N.Y. TIMES, June 13, 2011, at A23.

⁵⁷ Other than appealing to the LORD for retribution, as during the Passover seder’s *Shefokh hamatekha*. “Pour out your wrath on the nations that did not know You and on the kingdoms that did not call on Your name.” David Silber with Rachel Furst, *A PASSOVER HAGGADAH: GO FORTH AND LEARN 54* (haggadah) (2011).

⁵⁸ I understand “responsibility” to mean a duty to respond/for a response.

⁵⁹ *Deuteronomy* 29:28 (NJPS).

community's responsibility to punish by applying to the perpetrators the stipulations in the Covenant."⁶⁰ Therefore peer group intervention is an appropriate response to wrongdoing. How many people are necessary for a group to be effective in changing behavior?

Abraham's negotiation with the God for the salvation of Sodom and Gomorrah highlights the importance of a core support group. "And he [Abraham] said, 'Let not my LORD be angry if I speak but this last time; What if ten [innocent] should be found there?' And He [the LORD] answered, 'I will not destroy, for the sake of the ten.'"⁶¹ Is it significant that the minimum number of innocents necessary for the cities to be saved is ten? Biblical commentators think so.

Why does Abraham stop at 10? Perhaps it takes a critical mass to generate an alternative way of living; isolated individuals cannot. The number 10 may be psychologically related to the stipulation of 10 people for a *minyan*, the quorum for public worship, the point at which an assembly of individuals becomes a group, a congregation.⁶²

The rabbis of the Talmud recognize the significance of a group of at least ten whether they combine for good or for ill. Another Torah proof text for the *minyan* is the tale of the ten scouts who oppose conquest of the land of Canaan. God calls them "that wicked community."⁶³

According to Biblical commentary,

community Hebrew: *edah*, [is] used here for a group numbering exactly ten, the scouts who offered a negative report. Jewish law used this as the source for the ruling that ten is the minimum number of adults required for a group to be counted as a community, a *minyan*.⁶⁴

⁶⁰ Commentary on *Deuteronomy* 29:28, ETZ HAYIM, *supra* note 41, at 1168. "God will punish secret sins, but society must punish sins committed openly." TARGUM. *Id.*

⁶¹ *Genesis* 18:32 (NJPS).

⁶² Commentary on *Genesis* 18:32. ETZ HAYIM, *supra* note 41, at 104.

⁶³ *Numbers* 14:27 (NJPS).

⁶⁴ *Id.* "The spies. This is how we know it takes a minimum of 10 to make a community." Rashi, THE COMMENTATORS' BIBLE: THE JPS MIQRA'OT GEDOLOT, NUMBERS 104 (Michael Carasik ed. & trans., 2011) [hereinafter THE COMMENTATORS' BIBLE: NUMBERS].

Full Jewish ritual practice requires ten joining together as a *minyan*, a community for a common purpose. One cannot be “a good Jew” in isolation.

An example of teamwork early in the Torah is the Tower of Babel.

The LORD came down to look at the city and tower that man had built, and the LORD said, “If, as one people with one language for all, this is how they have begun to act, then nothing that they may propose to do will be out of their reach.”⁶⁵

God observes that the sky’s the limit as to what people united might accomplish and executes a strategy of divide and conquer.⁶⁶ “Thus the LORD scattered them from there over the face of the whole earth; and they stopped building the city.”⁶⁷

Perhaps the great communal wrongdoing of the people of Sodom and Gomorrah is due to peer pressure to do ill.⁶⁸ Here they attempt to persuade Lot to act unethically.

[T]he townspeople, the men of Sodom, young and old -- all the people to the last man -- gathered about the [Lot’s] house. And they shouted to Lot and said to him, “Where are the men [angels] who came to you tonight? Bring them out to us, that we may be intimate with them.”⁶⁹

⁶⁵ *Genesis* 11:5-6 (NJPS).

⁶⁶ “divide and conquer Also, divide and govern or rule. Win by getting one's opponents to fight among themselves. For example, Divide and conquer was once a very successful policy in sub-Saharan Africa. This expression is a translation of the Latin maxim, *Divide et impera* ("divide and rule"), and began to appear in English about 1600.” CHRISTINE AMMER, *THE AMERICAN HERITAGE DICTIONARY OF IDIOMS* (1997), available at [http://dictionary.reference.com/browse/divide and conquer](http://dictionary.reference.com/browse/divide%20and%20conquer).

⁶⁷ *Genesis* 11:8 (NJPS). The story of the Tower of Babel raises a serious problem with groups. The traditional commentators see the building of the Tower as wrongdoing empowered by the group and necessitating its dismantling. Groups may do more harm than good, a concern with “mob rule.” Therefore, one issue to be discussed elsewhere, is the ethics and the legitimacy of groups decision-making as to how to act.

⁶⁸ “The sin of Sodom was not just that some people acted wickedly (people do that everywhere), but that wickedness became public policy, endorsed and approved by the authorities. *Pirke d’Rabbi Eliezer* 25.” Commentary on *Genesis* 19:4 in *ETZ HAYIM*, *supra* note 41, at 105.

⁶⁹ *Genesis* 19:4-5 (NJPS).

But Lot resists the peer pressure of the entire town,⁷⁰ perhaps because he knows that angels have his back. Lot rebukes his neighbors saying, “I beg you, my friends, do not commit such a wrong.”⁷¹ Neither persuades the other, and Lot and his family are protected by the angels.⁷²

Once again, peer pressure fails to effect change when Joseph tells his brothers and father of his dreams that he will lord over them and his mother. and Joseph’s brothers reply,

“Do you mean to reign over us? Do you mean to rule over us?”⁷³ “And when he told it to his father and brothers, his father berated him. “What,” he [Jacob, Joseph’s father] said to him, “is this dream you have dreamed? Are we to come, I and your mother and your brothers, and bow low to you to the ground?”⁷⁴

But Joseph ignores this filial and parental pressure, according to Biblical commentators, due to his immaturity,⁷⁵ desire to share God’s message,⁷⁶ or youthful narcissism.⁷⁷

⁷⁰ Aside from women and children.

⁷¹ *Genesis* 19:7 (NJPS). Instead he offers two daughters. *Genesis* 19:8 (NJPS).

⁷² *Genesis* 19:11-22.

⁷³ *Genesis* 37:8 (NJPS).

⁷⁴ *Genesis* 37:10 (NJPS).

⁷⁵ “Sforno, also Hirsch. Commentary on *Genesis* 37:5.” ETZ HAYIM, *supra* note 41, at 227.

⁷⁶ Vilna Gaon. *Id.*

⁷⁷ Zornberg. *Id.*

In Egypt and in the desert afterwards the Israelite people in the Torah repeatedly call to God.⁷⁸ *Kvetching*,⁷⁹ although not “peer” pressure, is occasionally effective. Even when speaking to power, sometimes “the squeaky wheel gets the grease.”⁸⁰

The Israelites do persuade Aaron to build the Golden Calf, although it is forbidden.

When the people saw that Moses was so long in coming down from the mountain, the people gathered against Aaron and said to him, “Come, make us a god who shall go before us, for that man Moses, who brought us from the land of Egypt -- we do not know what has happened to him.”⁸¹

Perhaps the unreasonableness of expecting even a leader to withstand persistent peer pressure explains why Aaron is not punished for his role in the making of the Golden Calf.⁸²

The collective power of a group is demonstrated elsewhere in the *Tanakh*.⁸³ Jericho’s walls tumble down due to the community working in unison.

On the seventh round, as the people blew the horns, Joshua commanded the people, “Shout! For the LORD has given you the city....” So the people shouted when the horns were sounded. When the people heard the sound of the horns, the people raised a mighty shout and the wall collapsed.⁸⁴

⁷⁸ For example, “The Israelites were groaning under the bondage and cried out; and their cry for help from the bondage rose up to God. God heard their moaning, and God remembered His covenant with Abraham and Isaac and Jacob. God looked upon the Israelites, and God took notice of them.” *Exodus* 2:23-24 (NJPS).

⁷⁹ “Kvetch – verb (used without object) 1. to complain, especially chronically.... Origin: 1960–65, Americanism; < Yiddish kvetshn literally, to squeeze, pinch.” RANDOM HOUSE DICTIONARY (August 1, 2011, 11:00 PM), <http://dictionary.reference.com/browse/kvetch>.

⁸⁰ “The loudest complaints get the most attention, as in *No matter what table they give her, Helen generally insists on a better one and gets it the squeaky wheel gets the grease*. The current version of this idiom, with its allusion to a wagon wheel that needs oiling, is ascribed to American humorist Josh Billings (1818-1885) in a poem, “The Kicker”: “I hate to be a kicker [complainer], I always long for peace, But the wheel that does the squeaking Is the one that gets the grease.” However, the idea of the idiom is much older. A manuscript from about 1400 had: “Ever the worst spoke of the cart creaks.” Similar sayings were repeated over the succeeding centuries.” CHRISTINE AMMER, *THE AMERICAN HERITAGE DICTIONARY OF IDIOMS* (1997). Good managers may not always grease the squeaky wheel. Jurgen Appelo, *Management 3.0: Leading Agile Developers, Developing Agile Leaders*, July 20, 2011, 12:40pm, <http://www.management30.com/posts/2010/7/13/the-squeaky-wheel-gets-the-grease-fail.html>.

⁸¹ *Exodus* 32:1 (NJPS).

⁸² Aaron’s death is “natural.” Deuteronomy 10.6.

⁸³ Hebrew for the Bible. “Bible. The Hebrew Bible is composed of 3 parts: 1) *Torah* or Pentateuch (q.v.); 2) *Nevi'im* or Prophets...; 3) *Ketuvim* or Hagiographia.... ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 87.

⁸⁴ *Joshua* 6:16, 20 (NJPS).

Even the erroneous perception of confrontation with a large group may be effective. In the story of Gideon the sound of a large army wins the battle without a sword being drawn.

He (Gideon) divided the three hundred men into three columns and equipped every man with a ram's horn and an empty jar, with a torch in each jar. "Watch me," he said, "and do the same. When I get to the outposts of the camp, do exactly as I do. When I and all those with me blow our horns, you too, all around the camp, will blow your horns and shout, 'For the Lord and for Gideon!'" Gideon and the hundred men with him arrived at the outposts of the camp, at the beginning of the middle watch, just after the sentries were posted. They sounded the horns and smashed the jars that they had with them, and the three columns blew their horns and broke their jars. Holding the torches in their left hands and the horns for blowing in their right hands, they shouted, "A sword for the Lord and for Gideon!" They remained standing where they were, surrounding the camp; but the entire camp ran about yelling, and took to flight.⁸⁵

Methods of Peer Pressure

Group peer pressure to achieve collective objectives has been used in Judaism as both reward and as punishment.⁸⁶ The divine punishment of the ten scouts, and of Korah and his followers in the Torah has a deterrent effect on observers. But God also commands communal punishment, such as stoning.⁸⁷

Later, without a country for nearly two thousand years, methods of non-governmental peer pressure developed in Jewish communities. Expectations of conformity were often realized,

⁸⁵ *Judges* 7:16-21.

⁸⁶ For a discussion of "operant conditioning" see Kendra Cherry, *Introduction to Operant Conditioning* (2011), <http://psychology.about.com/od/behavioralpsychology/a/introopcond.htm>.

⁸⁷ Two specific examples are described. Stoning is used as the punishment for blasphemy, *Leviticus* 24:10-23, and gathering wood on the sabbath day, *Numbers* 15:32-36. "Stoning, the most common form of capital punishment in the Bible, normally took place outside the city. The witness to the crime cast the first stones, followed by the rest of the people. Punishment by stoning enabled the entire public to participate and thereby express its outrage against the crime and the threat it posed to God's authority and society's welfare." ETZ HAYIM, *supra* note 41, at 1070, n.11. "In reference to the man or the woman who makes use of 'a familiar spirit'—i.e., 'a wizard'—the law says (*Lev. xx. 27*), 'They shall stone them with stones; their blood shall be upon them.' <http://www.jewishencyclopedia.com/view.jsp?artid=128&letter=C&search=stoning#ixzz1SQApftRB>. The 'Four Deaths.' Stoning: With reference to two offenders subject to this penalty, the Pentateuch says, "Thine hand shall be first upon him to put him to death, and afterward the hand of all the people" (*Deut. xiii. 10* [A. V. 9]), and again (*ib. xvii. 7*), 'The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people.'" <http://www.jewishencyclopedia.com/view.jsp?artid=128&letter=C&search=stoning#ixzz1SQBJtUGK>. See also Marcus Jastrow & S. Mendelsohn, *Capital Punishment*. <http://www.jewishencyclopedia.com/view.jsp?artid=128&letter=C&search=stoning#ixzz1SQBgRFk7>.

with the resulting advantages and disadvantages.⁸⁸ Jewish negative peer pressure includes multiple methods of shunning.⁸⁹ In the book of the prophet Isaiah, God turns from those who do not act ethically even though they comply with the law of offering sacrifices and incense and

⁸⁸ Baruch Spinoza was excommunicated for the ideas he taught. “Spinoza, Baruch (Benedict) de (1632-1677), Dutch philosopher; b. Amsterdam, descended fr. Portugese Marranos. Received traditional education and studied philosophy. His unorthodox religious views led to formal excommunication by Sephardi community 1656.” ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 567. And a Jewish community recently publicly castigated a party in a divorce case. Mark Oppenheimer, *Religious Divorce Dispute Leads to Secular Protest*, N.Y. TIMES, January 3, 2011. <http://www.nytimes.com/2011/01/04/us/04divorce.html>.

⁸⁹ Shunning may still be a useful method of peer pressure. “New York Congressman Anthony Weiner is rejecting calls for him to resign....NPR’s Andrea Seabrook says Weiner’s announcement came shortly after several party leaders demanded he quit. ‘If a congressman doesn’t resign when the top leaders call on him or her to resign, there are many, many other ways that the leadership can completely ostracize that member. The leadership can strip the member’s committee assignments; they can force the member into smaller offices far away; they can not speak to him; they can not let him in on any decisions at any time.’” NPR, Morning Edition (June 12, 2011) (downloaded using iTunes). “Even modern day groups such as the Amish and certain Native American tribes use a form of punishment known as “shunning” to teach wrongdoers not to cross over the boundaries of their practiced faiths.” Ronald Catelli, “*Shaming Penalties*” as a Method of Punishment under Tennessee Law, 2 J. PRAC. & PROC. 30 (1998).

prayer,⁹⁰ thereby serving as a role model of shunning to encourage the Israelites to do the right thing. Talmudic sages shun Rabbi Eliezer in the case of the Oven of *Akhnai* due to his opposition

⁹⁰ What need have I of all your sacrifices?"

Says the LORD.

I am sated with burnt offerings of rams,

And suet of fatlings,

And blood of bulls;

And I have no delight in lambs and he-goats.

That you come to appear before Me --

Who asked that of you?

Trample My courts no more

Bringing oblations is futile,

Incense is offensive to Me.

New moon and sabbath,

Proclaiming of solemnities,

Assemblies with iniquity,

I cannot abide.

Your new moons and fixed seasons

Fill Me with loathing;

They are become a burden to Me,

I cannot endure them.

And when you lift up your hands,

I will turn My eyes away from you;

Though you pray at length,

I will not listen.

Your hands are stained with crime --

Wash yourselves clean;

Put your evil doings

Away from My sight.

Cease to do evil;

Learn to do good.

Devote yourselves to justice;

Aid the wronged.

Uphold the rights of the orphan;

Defend the cause of the widow.

Isaiah 1:11-17 (NJPS).

to them; “[T]hey voted (lit. ‘were counted’) about him and they excommunicated (lit. ‘blessed’)”⁹¹ him [Rabbi Eliezer].⁹² The Jerusalem Talmud tells a similar story.

They say that the disciple did not know how to teach [anything of substance, but only to create fanciful arguments]. Said R. Jacob bar Disai, “That disciple was cut off from Mount Sinai [and did not receive a share in the revelation of the Torah].”⁹³

In Talmudic times it was ruled, “Members of a town [can] force one another to build themselves a synagogue and to purchase a Torah scroll and [books of the] Prophets.”⁹⁴ And in the modern synagogue those who participate in the prayer service, for example by chanting from the Torah, are congratulated with “*Yishar kochakhah*”⁹⁵ or “*Yishar kochekh*,”⁹⁶ “May your strength be firm!”⁹⁷ At the conclusion of the public reading of each of the five books of the Torah some synagogue congregations rise and say, “*Chazak chazak v’nitchazzek*,” offering encouragement

⁹¹ “A term literally meaning ‘blessed’ is used here making its specific meaning open to interpretation. ‘Rashi explains that a ban of *niddui* -- “ostracism” -- was pronounced against Rabbi Eliezer, such ostracism being the standard penalty for people who treated other scholars disrespectfully. A person ostracized in this manner was not permitted to wear leather shoes or cut his hair, and other people were required to keep at least four cubits away from him. Ramban and other commentators, however, explain that a more severe type of ban, *cherem* -- “excommunication” -- was pronounced against Rabbi Eliezer. Unlike *niddui*, *cherem* entails a prohibition against doing business with the excommunicated person. To be sure, people were ordinarily not put into *cherem* unless repeated *niddui* proved ineffective. But Rabbi Eliezer was treated especially strictly, since his defiant attitude bordered on outright rebellion against the Sages.” Bava Metziah 59b, THE TALMUD, THE STEINSALTZ EDITION 237-38 (Adin Steinsaltz, commentary 1989-92).

⁹² *Id.* at 237. “The sages apparently wish to take revenge at his [R. Eliezer] having defied them in the first place or attempt to teach him a lesson.” JEFFREY RUBENSTEIN, TALMUDIC STORIES 42 (2003). This may be an example of abusive use of peer pressure. “In any case the punishment far outstrips the crime....” *Id.*

⁹³ Yerushalmi Sanhedrin 4:1, Neusner, VOL.31, 135, IV.H-I (1984).

⁹⁴ TOSEFTA BAVA METZIA 11:23 (ed. Lieberman) (Lee Levine trans.) (distributed as handout at Address at the Jewish Theological Seminary (July 19, 2011)).

⁹⁵ To a male.

⁹⁶ To a female.

⁹⁷ KERRY OLITSKY & RONALD ISAACS, THE HOW-TO HANDBOOK FOR JEWISH LIVING, available at <http://www.tbe.org/site/sog/minyanmastery.htm>.

with the words, “Be strong, be strong, and let us summon up our strength!”⁹⁸ These words of communal cheerleading are understood as follows,

Chazak -- More power to you, Torah reader, who has worked so hard to read the Torah accurately and pleasantly! *Chazak* -- Congratulations to you, the person who has had the final *aliyah* of the book! *V'nitchazzek* -- May you and we (the entire congregation) persist, study, read, and complete all the other books, drawing strength from the Torah!⁹⁹

Judaism and Non-Jews

Ancient Jewish texts principally address the relationship among Jews. How are they relevant to groups that are not exclusively Jewish? The Torah itself establishes equitable treatment of non-Jews under Jewish law. “[D]ecide justly between any man and a fellow Israelite or a stranger.”¹⁰⁰ Post-Talmudic rabbis also apply Jewish principles of ethics to the relationship between Jews and non-Jews. Bahya ben Asher,¹⁰¹ in his commentary on the Torah commandment “Justice, justice you shall pursue,”¹⁰² explains “Justice, whether to your profit or loss, whether in word or in action, whether to Jew or non-Jew.”¹⁰³ Rabbi Israel Salanter,¹⁰⁴ described circles of responsibilities to others, non-Jews included. “First a person should put his house together, then his town, then the world.”¹⁰⁵ Rabbi Irving Greenberg has said, “[I]t’s a covenant between God

⁹⁸ Jeffrey H. Tigay, “*Chazak Chazak V’Nitchazzek*, in ETZ HAYIM, *supra* note 41, at 1504-05.

⁹⁹ *Id.* at 1505.

¹⁰⁰ Equitable treatment of non-Israelites is a basic principle in the Torah. *Deuteronomy* 1:16 (NJPS). “*stranger* Hebrew *ger*: The resident alien, the non-Israelite residing among Israelites. This law protects the right of a *ger* to a fair trial.” ETZ HAYIM, *supra* note 41, at 985.

¹⁰¹ “Bahya ben Asher ben Hlava (13th c.), Saragossa exegete, preacher, Kabbalist.” ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 58.

¹⁰² *Supra* note 8.

¹⁰³ THE PENTATEUCH AND HAFTORAHS 820 (J.H. Hertz, ed., 1961).

¹⁰⁴ “Lipkin (Salanter), Israel ben Ze’ev Wolf (1810-1883), founder and spiritual father of the *Musar* movement.” *Id.* at 379.

¹⁰⁵ Quoted in MORINIS, *supra* note 8, at 197-208.

and humanity....[Although] Jewish religion is about the covenant mainly between God and Israel[,]...the fundamental model of covenant...[is] between God and humanity....[T]he Jewish people, is a kind of a sub-partnership.”¹⁰⁶ So Jewish ethical principles may be applied to all.

Creating an Ethical Corporate Culture

Non-theologians agree as to the significance of peers on one’s behavior. “As [David] Brooks observes, these ideas are not new: the importance and legitimacy of sentiment and social influence in determining human conduct was emphasized by figures of the British Enlightenment, notably David Hume, Adam Smith and Edmund Burke.”¹⁰⁷ Lawrence Kohlberg explains the role of peers as the second level of moral development.¹⁰⁸ Neural research indicates that we are “hard-wired” as conditional cooperators.¹⁰⁹ Positive reinforcement through repetition should increase reciprocal cooperation, whereas non-cooperation will condition cooperation. Thus, peer pressure is accepted as an effective method of behavior modification.¹¹⁰

¹⁰⁶ Irving Greenberg, *The Renewal of the Covenant -- Humanity Comes of Age*, Contemporary Jewish Philosophy Address at the Jewish Theological Seminary (March 31, 2011).

¹⁰⁷ Thomas Nagel, *David Brooks’s Theory of Human Nature*, N.Y. TIMES, March 11, 2011 (reviewing DAVID BROOKS, *THE SOCIAL ANIMAL*). <http://www.nytimes.com/2011/03/13/books/review/book-review-the-social-animal-by-david-brooks.html?pagewanted=all>.

¹⁰⁸ 10 LAWRENCE KOHLBERG, CHARLES LEVINE & ALEXANDRA HEWER, MORAL STAGES: CURRENT FORMULATION AND A RESPONSE TO CRITICS. IN CONTRIBUTIONS TO HUMAN DEVELOPMENT (J.A. Meacham ed., Karger 1983). See Lee M. Dunham, Ken Washer, *The Ethics of Hedging by Executives*, 11 J. OF BUS. ETHICS 157, 162 (2012).

¹⁰⁹ Shinsuke Suzuki et al., *Neural basis of conditional cooperation*, 6(3) SOCIAL COGNITIVE AND AFFECTIVE NEUROSCIENCE 338-47 (June 2011). This is similar to the concept of reciprocal altruism, “that mechanisms for providing benefits to non-relatives will evolve as long as the help is reciprocated at some point in the future (Axelrod, 1984; Trivers, 1971; Williams, 1966).” David M. Wasieleski & Sefa Hayibor, *Evolutionary Psychology and Business Ethics Research*, 19:4 BEQ 587, 592 (October 2009).

¹¹⁰ Ira J. Chasnoff, *Catch ‘em being good! The only form of discipline that works is positive reinforcement*. PSYCHOLOGY TODAY, BLOG, ARISTOTLE’S CHILD, May 27, 2011, <http://www.psychologytoday.com/blog/aristotles-child/201105/catch-em-being-good-0> (last visited July 21, 2011).

Peer pressure is used in campaigns against bullying¹¹¹ and by Alcoholics Anonymous to combat addictions in which both the group as a whole and one-on-one relationships with sponsors counteract destructive influences.¹¹² Indeed, the term “peer pressure” itself has gained popular attention. In his review of Tina Rosenberg’s book, *Join the Club: How Peer Pressure Can Transform the World*,¹¹³ Jeffrey D. Sachs writes,

Rosenberg argues that ... the search for status and peer approval, is the most powerful motivator of our personal behavior and that it can be employed to remedy social ills. She calls on us to “reimagine social change . . . based on the most powerful of human motivations: our longing for connection with one another.”¹¹⁴

¹¹¹ “Utterly Global's Elementary School Program 3-5 Children's conformity to their peers peaks during grades 3-5. Teach students positive bystander behavior. Children who learn respect and empathy will turn those principles into words and acts of kindness which has a huge impact on changing the culture and climate of their school community.” <http://antibullyingprograms.org/Programs.html>.

¹¹² “Alcoholics Anonymous is a fellowship of men and women who share their experience, strength and hope with each other that they may solve their common problem and help others to recover from alcoholism. The only requirement for membership is a desire to stop drinking. There are no dues or fees for AA membership; we are self-supporting through our own contributions. AA is not allied with any sect, denomination, politics, organization or institution; does not wish to engage in any controversy, neither endorses nor opposes any causes. Our primary purpose is to stay sober and help other alcoholics to achieve sobriety.” <http://www.aa.org/lang/en/subpage.cfm?page=1>.

¹¹³ TINA ROSENBERG, *JOIN THE CLUB: HOW PEER PRESSURE CAN TRANSFORM THE WORLD* (2011).

¹¹⁴ Jeffrey D. Sachs, *Help from the Herd*, N.Y. TIMES, May 22, 2011, at BR16 (reviewing ROSENBERG, *id.* Tina Rosenberg suggests that we “reimagine social change, to introduce into common parlance a new strategy based on the most powerful of human motivations: our longing for connection with one another.” ROSENBERG, *supra* note 113 at xxiv.

As with the *minyan*, a critical mass may be necessary for effective peer pressure. We saw with the Tunisian “Jasmine Spring” that large groups of ordinary people can have an extraordinary impact.¹¹⁵ In the business world, external¹¹⁶ and internal¹¹⁷ groups of private people can persuade corporations to make significant changes. Modern technology can mobilize groups of sufficient size for rapid results. Social networking has been credited with facilitating the “Arab Spring” in Egypt.¹¹⁸ And the quick demise of United States Congressperson Anthony Weiner resulted from computer messaging.¹¹⁹

¹¹⁵ “In what became known as the Jasmine Revolution, a sudden and explosive wave of street protests ousted the authoritarian president [of Tunisia], Zine el-Abidine Ben Ali, who had ruled with an iron hand for 23 years.” N.Y. TIMES, June 20, 2011 (Times Topics). <http://topics.nytimes.com/top/news/international/countriesandterritories/tunisia/index.html>.

¹¹⁶ “In May, more than 550 health professionals and organizations called on McDonald's to stop marketing ‘junk food’ to children and to retire Ronald McDonald, the chain's clown mascot.... While McDonald's won't ditch the toys, the company is trying to make its meals healthier.... This isn't the first time McDonald's has bowed to pressure to make its menu items healthier. In 2008 the company announced that it had switched to a transfat-free cooking oil for all of its fried food, including French fries, amid criticism that the ingredient leads to clogged arteries.... The Center for Science in the Public Interest, an advocacy group that has pressured McDonald's in the past, lauded the Happy Meal changes as a step in the right direction but said, ‘McDonald's clearly has a lot more to do, for both kids and adults.’” Julie Jargon, *Under Pressure, McDonald's Adds Apples to Kids Meals*, WALL ST. J., July 27, 2011.

¹¹⁷ “In the business world, research has shown that some firms are not motivated solely by the pursuit of profits, but by a mixture of goals. Included amongst these goals are those considered morally appropriate by peers, communities, and society as a whole (D. Bailey & S. E. Boyle, *Sales revenue maximization: An empirical investigation*, 5(1) INDUSTRIAL ORGANIZATION REVIEW 46-55 (1977); G. DONALDSON & J.W. LORSCH, DECISION MAKING AT THE TOP (Basic Books 1983); J. B. Herendeen & M. C. Schechter, *Alternative models of the corporate enterprise: Growth maximization, an empirical test*, 43(4) S. ECON. J. 1505-1514; R. J. Monsen, J. S. Chieu & D. E. Cooley, *The effect of separation of ownership and control on the performance of the large firm*, 82(3) Q. J. OF ECON. 435-451; G. Woller, *Business ethics, society, and Adam Smith: Some observations on the liberal business ethos*, 25(3) J. OF SOCIO-ECONOMICS 311-322; H. Gintis et al., *Explaining altruistic behaviour in humans*, 24 EVOLUTION AND HUM. BEHAV. 153-172).” Louise Metcalf & Suzanne Benn, *The Corporation is Ailing Social Technology: Creating a ‘Fit for Purpose’ Design for Sustainability*, 111 J. BUS. ETHICS 195, 200 (2012).

¹¹⁸ That brought the Mubarak regime to an end. James Glanz & John Markoff, *Egypt and Syria: U.S. Underwrites Internet Detour Around Censors*, N.Y. TIMES, June 12, 2011, at A1. “People are filling the streets and demanding change. They want different things, but their protests have one thing in common: they have no leaders. They're organizing without organizations.” *To the Best of Our Knowledge: Protest 2.0*, Wisconsin Public Radio (May 8, 2011) (downloaded using iTunes), available at <http://ttbook.org/book/protest-20>.

¹¹⁹ Michael D. Shear, *For Politicians, Social Media Holds Promise and Peril*, N.Y. TIMES, Blogs (The Caucus) (June 2, 2011, 7:42AM), <http://thecaucus.blogs.nytimes.com/2011/06/02/for-politicians-social-media-holds-promise-and-peril/>.

Within business organizations, similar opportunities exist. “You should also build a community of your peers by creating a network of other workers who share your values and interests.... This group can give you advice, help with difficult decisions, and unite to back up your ethical decisions.”¹²⁰ To the extent that this is good advice, a group may still not have the authority to act on its own without identified leadership and management may not share the same priorities. Even where groups seem empowered by management, such as with Japanese “team spirit” within the *kaisha*, this perception may be misleading.

Noboru Yoshimura, a vice president of Bankers Trust, Tokyo, and Philip Anderson, who teaches at the Amos Tuck School of Business Administration at Dartmouth, provide a healthy antidote to much of the mumbo jumbo about Japanese business practices perpetrated by journalists, businesspeople and management consultants. Basing their findings on hundreds of hours of interviews with Japanese middle managers, they argue that the Japanese company is hardly a place of harmony, egalitarianism, farsighted leadership and benevolent concern for workers. Rather, it abounds with social control, internal conflicts, shortsighted thinking, rigid and dominating hierarchies and exploited labor.¹²¹

¹²⁰ JANE P. MALLOR ET AL., BUSINESS LAW 117 (14th ed. 2010); “The critical question is how an ethical person can resist an unethical request by the partner without damaging her career prospects.... [Have}an ethical mentor and a peer support group that she can turn to for advice and assistance.” *Id.*, INSTRUCTOR’S MANUAL, 4-2.

¹²¹ Steven R. Weisman, *Peer Pressure*, N.Y. TIMES, March 16, 1997 (reviewing NOBORU YOSHIMURA & PHILIP ANDERSON, INSIDE THE KAISHA: DEMYSTIFYING JAPANESE BUSINESS BEHAVIOR (1997)).

Organization of individuals seems to be a reasonable method of gaining leverage to achieve shared objectives, yet within the United States groups of workers are losing power. The fear of the loss of one's job, especially in tough economic times, may have a chilling effect on the banding together of workers in sufficient numbers. The vote against unionization at a Target store in Long Island, NY is one example.¹²² Despite a recent upturn in national union membership, the long term trend has been significantly down.¹²³ Even when organized unions win, they sometimes lose.¹²⁴ "After all, economic and political relationships often trump the interpersonal."¹²⁵ In corporations, bottom-up change may be impossible to achieve. And even if change is possible, there are other significant considerations.

Just as individuals are generally reluctant to engage in rebuking, groups may be generally reluctant to engage in peer pressure, preferring to leave that unpleasant task to others. Although exceptional individuals have made a dramatic difference in their spheres,¹²⁶ even authorized group action is unlikely to achieve lasting change of a community's culture without effective

¹²² Ann Zimmerman, *Target Store Votes Against Union, Target Corp.'s Valley Stream, N.Y., store voted 137 to 85 against joining the largest retail union in the U.S.*, WALL ST. J., June 20, 2011.

¹²³ "The percentage of American workers belonging to a union jumped in 2008, the first statistically significant increase in the 25 years that the figure has been reported, reversing a long decline in union membership. In 2008, union members represented 12.4 percent of employed workers, up from 12.1 percent a year earlier, according to a report from the Bureau of Labor Statistics issued yesterday. Union membership had been falling since the 1950s, when members constituted as much as a third of the U.S. workforce." Peter Whoriskey, *American Union Ranks Grow After 'Bottoming Out': First Significant Increase in 25 Years*, WASH. POST, January 29, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/01/28/AR2009012801621_pf.html.

¹²⁴ Daniel Massey, *Stella D'oro closes its longtime Bronx factory*, CRAIN'S N.Y. BUS., October 9, 2009. <http://www.crainsnewyork.com/article/20091009/FREE/910099984>.

¹²⁵ *Supra* note 113, at xxiv. I do not mean to identify unions as *per se* ethical and management as unethical, but to note that peer pressure is most likely to be effective if like-minded individuals act as a group.

¹²⁶ JOHN F. KENNEDY, *PROFILES IN COURAGE* (1956).

leadership.¹²⁷ Most importantly, sufficient authority and power to create change through peer pressure will not automatically lead to positive results. As Thomas Nagel observes,

[David] Brooks is right to insist that emotional ties, social interaction and the communal transmission of norms are essential in forming individuals for a decent life, and that habit, perception and instinct form a large part of the individual character. But there is moral and intellectual laziness in his sentimental devaluation of conscious reasoning, which is what we have to rely on when our emotions or our inherited norms give unclear or poorly grounded instructions. Life, morality and politics are not science, but their improvement requires thought — not only thought about the most effective means of shaping people, which is Brooks’s concern, but thought about what our ends should be.¹²⁸

Peer pressure is neither inherently good nor inherently bad. It may be used to achieve good. “We *can* battle insensitivity, immorality, and dishonesty in our lives individually and collectively as a people.”¹²⁹ But a group may encourage its members to do ill.¹³⁰ It is a powerful tool and special care must be taken to consider the ends to which it is used as a means.¹³¹

Conclusion

Ethical behavior is a prerequisite to Torah study and *halakhic* practice.¹³² In Judaism one is expected to act ethically and it is a *mitzvah*, commandment, for others in the community to tell

¹²⁷ The jury is still out as to the outcome of the largely leaderless Arab Spring. See, Sharif Nashashibi, *Arab Spring 2013: Revolutionary wave enters a third year*; AL ARABIYA NEWS (Dec. 31, 2012), <http://english.alarabiya.net/articles/2012/12/31/257994.html>.

¹²⁸ *Supra* note 107.

¹²⁹ ERICA BROWN, CONFRONTING SCANDAL: HOW JEWS CAN RESPOND WHEN JEWS DO BAD THINGS 155 (2010).

¹³⁰ See WILLIAM GOLDING, LORD OF THE FLIES (1954); Ravi Somaiya & Sarah Maslin, *Shops and Cars Burn in London Riot*, N.Y. Times, Blogs (The Lede) (August 7, 2011, 2:33AM), <http://thelede.blogs.nytimes.com/2011/08/06/shops-and-cars-burn-in-anti-police-riot-in-london/?hp>.

¹³¹ It is like a “nuclear option” with potential life-long fallout that cannot be remediated if used in error. Examples may include McCarthyism : a mid-20th century political attitude characterized chiefly by opposition to elements held to be subversive and by the use of tactics involving personal attacks on individuals by means of widely publicized indiscriminate allegations especially on the basis of unsubstantiated charges; *broadly* : defamation of character or reputation through such tactics. Merriam-Webster, <http://www.merriam-webster.com/dictionary/mccarthyism>. And cyber-bullying. National Crime Prevention Council, <http://www.npc.org/topics/cyberbullying>.

¹³² “Halakhah (Heb.), legal part of Talmudic and later Jewish literature....” ENCYCLOPEDIA OF JUDAICA, *supra* note 8, at 35.

you if you don't. Peer groups have the collective responsibility to use peer pressure to achieve ethical objectives. This action is more appropriate than whistle-blowing and more likely to be effective in creating an ethical group culture than individual pressure.¹³³

In order to benefit one's community, whether it is religious, social, or business, leadership may be a crucial determinant of success. In the case of the Oven of *Akhnai*, the decision-makers are rabbis. In Shakespeare's *Measure for Measure*, the ethical result is achieved only through the intercession of the political leader, the Duke.¹³⁴ And in contemporary traditional Jewish communities, at least on religious matters, the rabbi is the *marah d'atra*, the religious leader.¹³⁵ "[P]eer pressure alone cannot transform the world."¹³⁶ As in society at large, wise leadership in

¹³³ While people derive pleasure from giving to charity, it may also be that people are motivated by enhancement of their social status from performing virtuous act, that "[t]hey enjoy being regarded as wealthy or generous by their peers." DAVID J. LINDEN, THE COMPASS OF PLEASURE: HOW OUR BRAINS MAKE FATTY FOODS, ORGASM, EXERCISE, MARIJUANA, GENEROSITY, VODKA, LEARNING, AND GAMBLING FEEL SO GOOD 162 (2011). See W.T. Harbaugh, U. Mayr, & D.R. Burghart, *Neural responses to taxation and voluntary giving reveal motives for charitable donations*, SCIENCE 316, 1622-25 (2007).

¹³⁴ Duke: If he be like your brother, for his sake
Is he pardoned.
SHAKESPEARE, MEASURE FOR MEASURE, note 4, at act 5, sc. 1, ln. 532-33.

¹³⁵ "*Mara De-Atra*, 'the master of the locality,' refers to the local rabbi in his capacity as the sole halakhic authority of the locality in which he serves." TRADITION, A JOURNAL OF ORTHODOX JEWISH THOUGHT. <http://www.traditiononline.org/news/article.cfm?id=104598>.

¹³⁶ note 125, at xxiv. This concept seems related to the Jewish concept of *tikkun olam*, perfection of the world. See NATHAN J. DIAMENT, TIKKUN OLAM: SOCIAL RESPONSIBILITY IN JEWISH THOUGHT AND LAW (1997).

combination with peer pressure may be especially effective in creating an ethical corporate culture.¹³⁷ And Jewish sources may be able to give guidance in that area as well.¹³⁸

¹³⁷ Rosabeth Moss Kanter identifies several “vanguard companies,” such as IBM, Procter & Gamble, Banco Real, and Publicis Groupe. ROSABETH MOSS KANTER, *SUPERCORP: HOW VANGUARD COMPANIES CREATE INNOVATION, PROFITS, GROWTH AND SOCIAL GOOD* 1 (2009). Business leaders may have the opportunity to take the lead. Following the reporting of widespread improprieties at Barclay’s Bank, its new CEO is attempting to change its culture by talking the ethical talk. “... The rules have changed. You won’t feel comfortable at Barclays and, to be frank, we won’t feel comfortable with you as colleagues.” It remains to be seen whether the Barclays corporate culture will change through its leadership’s commitment to new values and the influence of the workers who are ready to walk the ethical walk and influence others through peer pressure to do the right thing as they have been influenced in the past to do the wrong thing, and make lots of money. Margo Patrick, *Barclays Tells Staff to Uphold New Values or Leave*, WALL ST. J. (Jan. 17, 2013, 10:02 AM) [HTTP://ONLINE.WSJ.COM/ARTICLE/SB10001424127887323468604578247461697635932.HTML](http://online.wsj.com/article/SB10001424127887323468604578247461697635932.html).

¹³⁸ MOSES PAVA, *LEADING WITH MEANING: USING COVENANTAL LEADERSHIP TO BUILD A BETTER ORGANIZATION* (2003); ERICA BROWN, *INSPIRED JEWISH LEADERSHIP: PRACTICAL APPROACHES TO BUILDING STRONG COMMUNITIES* (2008). *See also*, Cam Caldwell, *Moses Pava’s Leading with Meaning*, 15 BUS. ETHICS Q. 499-505 (July 2005) (reviewing MOSES PAVA, *LEADING WITH MEANING* (2003)).