GUIDELINES: EMPLOYER RESPONSIBILITIES AND EMPLOYEE RIGHTS DURING A PANDEMIC

Ranana Dine and Rabbi Alana Suskin





A Jewish legal and ethical perspective offers the following guidelines for employers and employees navigating increased risk in the workplace during a pandemic:

WAGES IN A PANDEMIC

- Employees in all contexts need to be seen as full human beings toward whom employers bear responsibility.
- If an employee is working in any capacity, they should be compensated as usual.
- The pandemic is considered a *Makat Medina* (regional disaster), which requires employers to bear some loss in order to remunerate employees who cannot do their work due to the disaster.
- In a Makat Medina, the ideal is for employers to pay full wages, even if employees cannot work as usual.
- If an employer is unwilling or unable to pay in full, they should reach a *pshara* (compromise) to ensure that employees are paid some percentage of their wage while responding to the needs of employers and business owners.

RISKING HEALTH FOR LABOR

- Employers, in general, must provide the safest possible workplace. In this pandemic, this includes requiring (and providing) masks, updated cleaning standards, ventilation, enforcing social distancing, etc.
- **Employment intrinsically includes risk,** and employers can ask employees to return while there remains some *limited risk* of contracting COVID-19.
- Employers may only require employees to work if the risk of contracting the virus is—to borrow language from Rabbi Moshe Feinstein and the Chelkat Yaakov "slight" and "generally accepted."
- **Defining what risk is "slight" and "generally accepted"** in the pandemic is complex. Local standards and guidelines should be utilized as well as expert scientific opinions.
- Employees must be made fully aware of the risk they are taking by returning to work.
- The choice to take on risk must be made freely; employers cannot give an ultimatum requiring their employees to return.
- Employees considering returning to work should weigh the native risk of the profession; their need for compensation; their individual health status; and the options available to them to work in safe or less safe environments.
- Jewish sources require us to contextualize health risks within a larger context of communal responsibility. We are all responsible for one another. We cannot answer these questions as single individuals or even corporations but must consider the larger effects on the community.