Encouraging Honesty - Discouraging Fraud:
Matters for Discussion

Words may be used to encourage people to act honestly and for the purpose of reproof. Penalties may be used to discourage dishonest behaviour, for example fraud. The approach presented here is primarily to encourage honesty and give reproof, and is long term in nature. Let us try to appeal to the hearts of people to act honestly and not just deter them with penalties.

Theft in Jewish ethical values is a very serious offence. Its prohibition "thou shalt not steal" is given prominence in the Ten Commandments. In the book of Proverbs we read "so are the ways of every one greedy of gain; it taketh away the life of the owners thereof". In Baba Kama we read "he who steals from his fellow man the value of a Peruta, it is as if he has taken his soul from him". In short, there is a realization in Jewish thought that theft is equated in a certain sense to taking away part of one's fellow mans life. Let us therefore express the damage caused by theft, fraud etc. in human terms. This is done by expressing the value of money in terms of time.

Expressing the value of money in human terms, in terms of time.

Any sum of money can be expressed in terms of time, by dividing the sum of money by an average wage. For example, if your bank balance on a certain date is 1800 shekel and the average wage on that date is 1200 shekel a month, then the balance can be expressed as 1800/1200=1.5 average monthly wage, that is the value of 1.5 months of average labour.

We assert that balances and monies expressed in terms of an average wage gives a clear meaning of the value of these amounts in terms of what it means in time to an average man. Thus we contend that for every average monthly wage stolen, the thief is likely to have "damaged" or "destroyed" one month of life of his fellow man. It seems appropriate therefore that for every average monthly wage stolen, the thief, in the most severe case, should be penalized for a period of one month, for example one month of community service.

In today's society, prison is prescribed as a penalty for theft. The above approach could be used for determining the length of the prison sentence in a meaningful way.

However, the Torah does not prescribe prison as a penalty for theft (or for that matter for any crime). The Torah requires instead the thief return what he has stolen and pay a fine. If the thief is unwilling or unable to do so, he is made to work off the debt. In view of this we suggest that a monthly fine or a higher rate of tax be applied for the time period defined above. If we add the restriction that this penalty ceases the moment the thief pays back what is required, this might make this approach Halachically acceptable.

While making this suggestion it must be made clear that it is not the author's intention that more people should be fined or spend extended periods in prison, but rather to find a framework to encourage honesty.
deter theft and fraud. Expressing the value of money and the penalty for its theft in like terms, would in our opinion be a significant deterrent.

NOTE: The value of money can be expressed in terms of an average national hourly or daily or weekly or monthly or yearly wage, etc. It can also be expressed in terms of an average national lifetime income. For small sums, an "hour" can be used. For large sums, an average lifetime income can be used, etc. (Furthermore, if an average wage of an individual is known, for example over a period of several months or a year, then we could use this average to convert the value of money into the time of that individual.)

Theft of average lifetime's income

Another possibility which could be considered is to define an offence in law called "theft of average lifetime's income". This of course requires that average lifetime income be carefully and expertly estimated. (A very approximate guess is about 60 years average income or 720 average monthly wages). We oppose imposing a more severe penalty for such a theft than what we suggested above. Rather, the purpose of making such a definition is to make clear and emphasize in human terms the damage caused by large thefts. Perhaps the lives of (unknown) persons have been shortened, in a way similar to manslaughter caused by theft.

The United Kingdom has passed an act in 2007, concerning corporate manslaughter and homicide, see http://www.justice.gov.uk/guidance/manslaughteractusguidance.htm. "The Corporate Manslaughter and Corporate Homicide Act introduces a new offence, across the UK, for prosecuting companies and other organisations where there has been a gross failing, throughout the organisation, in the management of health and safety with fatal consequences."

Under this act, only the company or organisation can be prosecuted and fined, and not people in the company or organisation. This act deals with cases when it is not known (with certainty) who is responsible for the death. "Theft of average lifetime's income" deals with cases where it is not known (with certainty) whose life has been shortened.

Possible penalties for "theft of average lifetime's income"

Perhaps the penalty should be similar to that of theft but this would be a separate offence and viewed as more serious than other thefts. Perhaps a person commits such an offence should be barred for life from holding public office.

I do not think that the penalty should be similar to that of manslaughter or homicide.

In raising these possibilities, I wish to emphasize that a theft of this magnitude can cause a fatality.

The use of oaths and declarations

The author further believes it is not enough to deter theft and fraud.
fraud but it is of the utmost importance to encourage honesty, integrity and impartiality when handling the monies of others. We therefore also suggest that a solemn promise or declaration be made by those responsible for looking after the monies of others and that they are reminded of their promise from time to time. Here is an example of such a promise.

Solemn Promise of Honesty Integrity and Impartiality

I the undersigned have responsibility for handling and/or deciding on the monies of others and will strive to do so with honesty, integrity and impartiality.

I am aware that if I misuse this responsibility that this will prevent or delay those to whom these monies justly belong from receiving what is due to them. This may cause them hardship, cause them to leave the country, or indeed shorten their lives as the monies involved can be very large and may even exceed the average lifetime income of the people.

I am aware, G-d forbid, for each average monthly wage stolen or defrauded, I may be "damaging" or "destroying" one month of life of my fellow man.

I am also aware that the maximum penalty for theft and fraud is...........

I therefore will strive to be upright when handling these monies.

The widespread use of oaths

Something wider in scope should be considered. Oaths or solemn undertakings are taken by leaders of nations, judges, doctors, soldiers and perhaps others too. Perhaps this is needed in all professions. Perhaps university graduates should undertake not to misuse their knowledge to harm others etc. Perhaps this should be done when completing school. The younger the person is when making such an undertaking, the more likely it will be meaningful to him. I do not know that this will completely solve the problem but it should make an improvement.

All in all we should try to encourage ourselves to behave honestly with penalties being the unpleasant last alternative.

Encouraging honesty is preferable to the use of penalties

"Her ways are ways of pleasantness, and all her paths are peace." This is the advice of "wisdom" (or "understanding") in chapter 3 of the book of Proverbs. So let us with pleasantness, encourage ourselves to walk in the ways of honesty. Let us aim to educate and correct and not to penalize and punish. Here are some things we can try, without changing existing laws.

- School and public property should be marked with its value expressed in terms of time. In the event of damage to such property, the "time" which has been damaged or destroyed should be pointed out. Hopefully, this will help the young understand the value of property in human terms. This suggestion is educational or corrective only; no penalty or punishment is involved.

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punishment is being suggested.  

• The value of money should be expressed in terms of time, so as to make clear the value of these monies in human terms. For example:
  a) Company balance sheets, bank balances, financial information for managers, etc., should be expressed in terms of time in addition to the usual currency values.
  b) The value of a theft expressed in terms of time should be presented in court. Regarding theft of average lifetime’s income, it should be pointed out that the lives of unknown persons may have been shortened.
  c) Similarly regarding damages, the value of the damages should be expressed in terms of time.

• The specific oath above and the widespread use of oaths should be considered.

How should an average wage be calculated for such purposes?

The published average monthly wage means the average national gross wage per employee post of those employed. Should a nett wage be used? Should those unemployed be included in this average with an income of zero or perhaps other income such as unemployment benefit be taken into account? Is it more correct to use an average hourly wage calculated using the formula: total gross salary paid nationally divided by total hours worked nationally? Is it more correct to use an average hourly wage calculated using the formula: total nett salary received nationally divided by total hours worked nationally? Should a nett wage be used? Should those unemployed be included in this average with an income of zero or perhaps other income such as unemployment benefit be taken into account? Etc.

As there are various possibilities for calculating an average wage, further study and discussion is needed if penalties are going to be applied using this approach. The following two cases illustrate that matters are not clear cut.

(1) If money is stolen from a person, then it is likely that part of his nett wage has been stolen. It therefore seems preferable to use an average national nett wage in such a case when deciding on a penalty.

(2) If part of the wage budget is embezzled, then gross wages have been embezzled. It therefore seems preferable to use an average national gross wage when deciding on a penalty.

However, for the purpose of correction and reproof, accuracy is not critical since no one is to be penalized. Thus for this purpose, let us use the published average gross wage or an approximate nett wage estimated from it to express the value of money in terms of time. (A very approximate guess is that an average monthly nett wage is about 70% of the published average monthly gross wage. This percentage should be carefully estimated by experts.) Correction and reproof should not be given publicly.

Returning to case (1) above, let us suppose for example that an average nett wage of the victim is known over a period of several months or a year. Then for the purpose of correction...
and rebuke, it may be preferable to use this average to convert the value of money into time.

**Tentative conclusions**

Let us try out the ways of pleasantness for an extended period of time (e.g. two or three generations or 50 to 100 years). Hopefully there will be fewer and smaller thefts. Time is needed to effect a change, so let us be patient and see what can be achieved by encouraging ourselves to act honestly. Only if this approach is not successful, should we then consider the use of the penalties suggested above.

Regarding penalties, it seems appropriate to use a national average wage when converting the value of money into time. An average national gross or nett wage may be used as appropriate. Initially, the more lenient of the existing penalties and of the penalties described here may be applied. This is a safeguard against excessive penalties. Only in the light of experience and after further careful scrutiny, should a decision be made whether or not the penalties described here should replace existing penalties.

I do not think that harsh and hopefully quick acting measures will have a long lasting effect. Are current measures sufficiently effective in deterring large thefts and frauds? We need to appeal to the hearts of people to act honestly and not just deter them with penalties.

*This article presented one aspect of the notion of expressing the value of money in terms of time. Another aspect of this notion is linkage to an average wage.*

See [http://homedir.jct.ac.il/~rafi/wls.pdf](http://homedir.jct.ac.il/~rafi/wls.pdf)

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