THE SACRED DERIVATION OF BUSINESS TRANSPARENCY AND ACCOUNTABILITY

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ABSTRACT

The topic of transparency and accountability has resulted in mixed research findings. Literature related to transparency, accountability and other underlying theories from a Torah and contemporary perspective is critically reviewed in this study. Literature traces the issue of accountability and transparency to the time of Moses, that is, the time of the construction of the Tabernacle in the Torah in Exodus 38. The early 90s inspired a plethora of corporate governance codes with the intention of improving corporate accountability and transparency in the contemporary world. Subsequently, the collapse of corporates such as Enron, WorldCom and Global Crossing placed much emphasis on transparency and accountability. In the Torah we find that when a person dies and is brought before the Heavenly Beit Din (Court) for judgment, the first question he/she is asked is: did you conduct your business dealings with integrity? The Torah requires religious people not only to be punctilious about ritual requirements but also to pay equal attention to the moral requirements of the faith. This study proposes some critical medieval considerations regarding accountability and transparency.

Keywords: Transparency, Accountability, Business, Torah, Sacred Derivation.

INTRODUCTION

The issues surrounding transparency and accountability in corporate governance processes have taken center stage in many organizations across the globe. According to Hale (2008), observers often cite transparency as a response to the accountability concerns of global actors, but how disclosure and openness actually affect the behavior of international organizations, transnational corporations, and nation-states remains theoretically and empirically under-specified. These issues are being raised as essential aspects of corporate governance and ethics in universities, corporates, local authorities, food safety authorities, extractive industries, healthcare, public finances, forest management, urban governance, hospital governance and the donor community among others Putzel (1998), Halachmi (2003), Eeckloo et al. (2004), Mejía (2013), (Kaini, 2013), Reeve (2013), Singh (2013), Stojanovska et al. (2014), Bolívar et al. (2015), Datskovsky et al. (2015), Devaney (2016), Murombo (2016), Haraldsson (2016), Panara & Varney (2017), Panara & Varney (2017), and Ramírez & Tejada (2018).

After the big corporate scandals such as Enron, Worldcom, Global Crossing, Parmalat, and various other failures of global corporations, corporate governance has become the focal point and has increased its role to business ethics (Rossouw, 2005; Crowther & Seifi, 2011 cited by Maune, 2015). As corporate governance takes center stage in the contemporary world it is also critical to look back to the origins of some of these concepts. Corporate governance has been associated with the prosperity of business firms and the economic growth of nations. However, many countries and corporates are still yet to implement and adhere to some of the guidelines which have been in existence throughout history, ever since the era of the Biblical Moses. In the contemporary world, the establishment of the Cadbury Code in the UK in the early

1990s has inspired a plethora of similar codes across the world with the same intention of improving corporate accountability. These concepts are as old as the Torah, also known as the Pentateuch, being the five instructive books of Moses. Note that the name Torah is Hebrew for "*instructions"*, and this set of books had a clear instructive or guiding purpose for the Jewish people.

The reminder of the study will look at literature review, Torah perspective and conclusion.

LITERATURE REVIEW

Empirical Evidence

Putzel (1998) in his study of donor aid states that the European Union has emerged as one of the world's largest aid donors. Putzel (1998) further argues that the European Union`s multilateral aid programme, while well-placed to set a new standard in development assistance, suffers from problems of democratic accountability confronting all transnational actors in an increasingly global community. Examination of the rules governing the European Commission`s aid programme to Asian and Latin American countries reveals a pattern of perverse incentives facing private consultants and a lack of access to information that makes the programme virtually unaccountable to both European taxpayers and citizens in recipient countries (Putzel, 1998). Putzel (1998) proposes reforms that are both politically feasible and capable of making the programme significantly more transparent and accountable.

Halachmi (2003) points out that as a result of the shift to governance due attention must be given to risk management not only by government but also by other participants in the governing process. Halachmi (2003) further argues that paying such attention is consistent with the challenge of governments to meet the desired norms of account-ability, transparency and social Responsibility.

Mejía (2013) study on the rapid growth in the past decade in transparency and accountability initiatives in the extractive industries sector reflects attempts to devise institutional mechanisms to make governments accountable for the extraction, allocation and use of revenues that, if well invested, could alleviate socio-economic inequalities among citizens. To do this requires improved data collection, reporting and analysis; a stronger focus on the allocation and use of government expenditures that come from natural-resource wealth; and a better understanding of importance of incentives and sanctions for ensuring effective impact. Murombo (2016) in his study regarding the regulation of the extractives sector in Zimbabwe found that existing extractives sector laws do not adequately promote transparency and accountability, an issue recognized by stakeholders throughout the mining sector. To him, the advent of the new constitution and law reform processes indicates Zimbabwe's intention to incorporate good governance, transparency and accountability provisions in the mining sector. These reforms to him have been driven by the global and local civil societies.

Reeve (2013) examines the operation of two self-regulatory initiatives governing food advertising to children in Australia, in order to determine whether these regulatory processes foster transparent and accountable self-regulation. The study found that while both codes appear to establish transparency and accountability mechanisms, they do not provide for meaningful stakeholder participation in the self-regulatory scheme.

Kaini (2013) proposes strategies and policies to implement the concept of healthcare governance to improve the quality of care and access in Nepal. To Kaini (2013), healthcare governance is a framework for improving quality of care and access by increasing accountability and promoting transparency for the excellent outcome of healthcare, shared learning and sharing. Healthcare governance plays a vital role in improving patients' experiences, decreasing disparities in healthcare and shared learning from the experiences by promoting openness and culture of accountability (Kaini, 2013).

Bolívar et al. (2015) in their study of governance, transparency and accountability, found that governmental financial transparency is an essential element in the implementation of policies to overcome the present crisis of public finances. Bolívar et al. (2015) argue that the international financial reporting standards aim to improve governmental transparency and accountability through the use of new accounting models. Their findings also show that the application of fair value accounting would require action in three areas of government public policy: regulatory reform, skills training for public-sector staff and internationalization.

Haraldsson (2016) in a study to explore the causes of variations in financial accounting and disclosure practices in a municipal setting, the Swedish municipal waste management sector using a conceptual theoretical framework found that compliance accounting and disclosure transparency to some extent have different antecedents and that the external environment, including market competition, size and economic input, influences both. The governance forms, on the other hand, only influenced compliance accounting and not the willingness to disclose information in general. Panara & Varney (2017) in their paper examine the role and functions of the representative offices of English local authorities in Brussels by considering the democratic legitimacy, accountability and transparency of the office's activities. Their study demonstrates that the offices differ in their governance arrangements and funding, thereby affecting transparency of the offices. To them the pattern here is less dependent on the pattern of funding of the office and depends more on the availability of resources and the approach adopted by the office itself. This is the issue raised in the Torah in Exodus 38 where leaders of public positions must be accountable to the public for the funds the use as they are public funds.

Ramírez & Tejada (2018) in their study to know the importance given by Spanish university stakeholders to the disclosure of information found that Spanish university stakeholders attach great importance to the disclosure of specific information on aspects of corporate governance, which would result in improved transparency and accountability.

Torah Perspective

This paper focuses on the historical issue of financial transparency and accountability with particular reference to the Torah. The Talmudic rabbis those who took custody of Jewish laws, ethics, customs and history were obsessed with honest dealings, how a company and its workers conduct themselves in day-to-day business. Today, this overall behavior is called corporate governance, a term that can be defined in several different ways.

One popular definition of corporate governance comes from World Bank`s former president J. Wolfensohn[1]: "*Corporate governance is about promoting corporate (business) fairness, transparency and accountability*." The ancient rabbis` definition of corporate governance went a step further to include profitability. The rabbis were spiritual directors and they taught that profits should be gained in manners that increase the community's prosperity through honest and just transactions. While ethical business practices should be a reward unto themselves, the Talmud also demonstrates that operating a business in an ethical manner is good for a company's own good and for the good of the community at large.

Demonstrating the importance of accountability and keeping honest records, the Torah enumerates the amount of gold, silver and copper used in the construction of the Tabernacle (Exodus, 38:21-31). On verse 21, we are informed that Moses was ultimately responsible for guaranteeing that accurate records were kept: "*These are the accounts of the Tabernacle, the Tabernacle of the Testimony, as they were calculated according to the commandment of Moses…"* Moses wanted to show everyone that he was acting in such a way, so that no one would be suspicious of him. The same verse expresses that the instructions were put in place "*for the service of the Levites*"-that is for the good of the community. Thus the essence of the operating instructions was to assure the Israelis that no precious metals were diverted for anyone's personal use.

Thus, when Moses had identified the officers that would audit the books, he presented a careful inventory or stock list to them. Exodus 38: 22 details the amounts of gold, silver and copper that were contributed for the construction of the Tabernacle. Moses declared to the officers whatever possession was at his hands despite the fact that he was a superordinate executive who would not be interrogated by anyone. He could otherwise have squandered some of the possessions with Bezalel the journeyman. These were people of unquestionable integrity but they did not manipulate this reality for personal gains. Leaders must be beyond reproach and must keep accounts of the funds that pass through their hands. Today, we would refer to this as transparent accounting. It is good for an officeholder to be trustworthy but that trustworthiness is meaningless if his or her records (accounts) are untrustworthy.

Miller (2011) argues that Moses went to the extent of violating the Jewish law which forbade public witnessing of official treasures. According to the Babylonian Talmud[2], Ta`anit 8b, *"… A blessing does not rest on something unless hidden from the eyes*." This discouragement of public attention is based on a fear of *'ayin ha-ra,'* the "evil eye." However, Moses considered that it was going to be unfair to the contributors if he obeyed this rubric. The Tabernacle project was the people's project and Moses committed himself to transparency regarding the people's efforts. Financial transparency is essential for all organisations and, especially, those that are supported by the community/public.

The importance of transparency, honesty and accountability particularly derives from the wise words of the Talmud (Shabbos, 31a) which states that: "*The first question an individual is asked in the afterlife at the final judgment is: 'Were you honest in your business dealings?*" The Talmud (Shabbos 31a) further states that the first question one is asked when one dies and is led in for Judgment is not whether one studied Torah, or kept kosher. The very first question is whether a person conducted his business affairs with integrity. To be religious according to the rabbis does not mean one is simply punctilious about ritual requirements but one must pay equal attention to the moral requirements of the faith. The Talmudic statement on its own demonstrates the importance of honesty in business dealings and no wonder why the Jewish nation is a prosperous lot in business terms. In fact, all that God desires is honesty, and Psalms 31: 23 say *that "He preserves the honest and He admonishes the dishonest as He did with Ananias and Sapphira"* on Acts 5: 1-11.

Rabbi Leff (2010:182) relates the following story of a student who wanted to change his career from a *shochet*, a kosher butcher to a business man. "*Rabbi Yisrael Salanter had a student who was a shochet, a kosher butcher"*. This student once came to him with a problem. He said, "*Rabbi, I've been a shochet for many years, and as I grow older I become more concerned about my responsibilities. I'm so worried that I'm going to cause someone to eat non-kosher meat that I want to change careers: I want to give up being a shochet, and instead go into business."*

Rabbi Salanter asked him if he was an expert on the laws of *shechita*, of kosher slaughter. The student replied, "*of course, I'm a shochet, I've been studying shechita for years*." The rabbi asked, "*And are you an expert in the laws of business?"* To which the student replied, "*No, of course not, who bothers to learn Choshen Mishpat (the Jewish laws dealing with business)?"* The rabbi said, "*Wait a minute, I don't get this. Here you are, you are an expert in the laws of shechita, yet you are ready to give it up because of your fear of sinning. Yet you know nothing about the halacha (law) of business, and you want to go into business? All the more so you should worry about sinning*!"

Leff (2010) argues that the world around us seems to have lost sight of the importance of conducting one's business dealings with integrity. The list of corporations caught up in accounting scandals grows longer every day with Enron, WorldCom, and Global Crossing being the worst three offenders.

Prophet Isaiah (26: 2) explains that God will admit only those that keep the truth (those that are honest). The same message is echoed in Psalms 101:6 and in Jeremiah 5:3 which bless those that are faithful. Exodus 15: 26 blesses whoever conducts his/her business dealings honestly and it is considered as though he/she observed the entire law. Rabbi Shimon Ben Gamliel, in Avos[3] (1:18), states that: "*The world endures on three principles: truth, justice, and peace*" (Lieber, 2008). And anyone who wishes to become pious must be scrupulous in observing the laws dealing with damages and torts according to the Talmud (Kamma, 30a).

The Talmud (Pesachim, 13a) states that the overseers in charge of the soup in the kitchen were not allowed to purchase surplus food when there were no poor people for whom to distribute it. Even leftovers were not to be shared among the staff but only to be sold to others so as not to arouse suspicion that the staffers were profiting from public funds. This is accountability par excellent. The Talmud (Yoma, 38) relates how the family of Garmu, that made the showbread for the Temple, was especially careful to be above suspicion. Their children were never seen with fine bread. Brides from the family of Abtimas never wore perfume, since this family made the incense for the Temple. In essence, business honesty is not merely a virtue to instill in people but rather a dictate of the Holy Spirit, a prerequisite for God's divine providence.

CONCLUSION

The issues surrounding transparency and accountability have taken center stage the world over. Transparency is often cited as a response to the accountability concerns of global actions (Hale, 2008). The collapse and big corporate scandals such as Enron, WorldCom, Global Crossing and Parmalat among others have raised many questions regarding the fiduciary duties of transparency and accountability of office holders. As the issues transparency and accountability takes center stage in the contemporary world, researchers have focused their attention to the origins of these concepts. Researchers are now using medieval eyes to find solutions to contemporary corporate governance challenges bedeviling the corporate world. The early 90s inspired a plethora of corporate governance codes with the intention of improving corporate accountability and transparency. These concepts are, however, as old as the Torah, the five instructive books of Moses.

Many researches have been carried out across all sectors with regards to accountability and transparency with mixed results. Researchers such as Putzel (1998), Halachmi (2003), Mejia (2013), Reeve (2013), Kaini (2013), Murombo (2016), Haraldson (2016), Panara & Varney (2017) and Ramirez & Tejada (2018) analysed accountability and transparency issues in universities, corporates, local authorities, food industries, extractive industries, healthcare and the donor community among others. Their results review the dire need for increasing accountability and promoting transparency in the private and public sectors for excellent outcomes. Disclosure of information was cited as one aspect of corporate governance which would result in improved transparency and accountability.

The Torah in Exodus 38 demonstrates the importance of accountability and keeping honest records. In this whole chapter, Moses enumerates the amount of gold, silver and copper that was used in the construction of the Tabernacle. Miller (2011) argues that Moses went to the extent of violating the Jewish law which forbade public witnessing of official treasures. Moses considered it unfair to the contributors if he obeyed this rubric. The Tabernacle project was the people`s project and Moses committed himself to transparency regarding the people`s efforts. The importance of transparency, honesty and accountability particularly derives from the wise words of the Talmud (Shabbos, 31a), (Pesachim, 13a) and (Yoma, 38).

ENDNOTE

1. An Australian-American lawyer, investment banker and economist who served as the ninth President of the World Bank Group.
2. The Schottenstein Edition, *Talmud Bavli, (*2014). Talmud is a comprehensive term for the Mishnah and Gemara. The Mishnah is a fundamental collection of the legal pronouncements and discussions of the Tanna`im (Rabbinic sages), compiled by Rabbi Yehudah HaNasi early in the 3rd Century. The Gemara debates, dissects, and defines the principles upon which halachic decisions are based. The Talmud is essentially a commentary to and elaboration of the Mishnah. The Jerusalem Talmud (*Talmud Yerushalmi*) is the earlier edition while the Babylonian Talmud (*Talmud Bavli*) is the later and larger edition.
3. *Avos*-Ethics of the Fathers.

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