



1. Talmud Bavli, Gittin 10b, Nedarim 28b, Bava Kama 113a, etc

אמר שמואל דינא דמלכותא דינא

Samuel said “the law of the kingdom” is the law.

2. The customs of the business community is also Halachically binding.

3. Cicero:

Suppose, for example, a time of dearth and famine at Rhodes, with provisions at fabulous prices; and suppose that an honest man has imported a large cargo of grain from Alexandria and that to his certain knowledge also several other importers have set sail from Alexandria, and that on the voyage he has sighted their vessels laden with grain and bound for Rhodes; is he to report the fact to the Rhodians or is he to keep his own counsel and sell his own stock at the highest market price? ... In deciding cases of this kind Diogenes of Babylonia, a great and highly esteemed Stoic, consistently holds one view; his pupil Antipater, a most profound scholar, holds another. According to Antipater all the facts should be disclosed, that the buyer may not be uninformed of any detail that the seller knows; according to Diogenes the seller should declare any defects in his wares, in so far as such a course is prescribed by the common law of the land; but for the rest, since he has goods to sell, he may try to sell them to the best possible advantage, provided he is guilty of no misrepresentation.

"I have imported my stock," Diogenes's merchant will say; "I have offered it for sale; I sell at a price no higher than my competitors – perhaps even lower, when the market is overstocked. Who is wronged?"

{52}"What say you?" comes Antipater's argument on the other side; "it is your duty to consider the interests of your fellow-men and to serve society;?"

"It is one thing to conceal," Diogenes will perhaps reply; not to reveal is quite a different thing... do you mean to say that those bonds of fellowship are such that there is no such thing as private property? If that is the case, we should not sell anything at all, but freely give everything away."

4. Talmud Bavli, Chullin 94a-b

אמר שמואל: אסור לגנוב דעת הבריות, ואפילו דעתו של עובד כוכבים... היה ר' מאיר אומר: אל יסרהב אדם לחבירו לסעוד אצלו ויודע בו שאינו סועד, ולא ירבה לו בתקרובת ויודע בו שאינו מקבל, ולא יפתח לו חביות המכורות לחנוני אי"כ הודיעו... היכי מכרוזין? אמר רב יצחק בר יוסף: נפל בישראל לבני חילא. ולימא: נפל טריפתא לבני חילא! לא זבני, והא קמטעי להו! אינהו הוא דקמטעו נפשיהו. כי הא, דמר זוטרא בריה דרב נחמן הוה קאזיל מסיכרא לבי מחוזא, ורבא ורב ספרא הוו קא אתו לסיכרא, פגעו אהדדי, הוא סבר: לאפיה הוא דקאתו, אמר להו: למה להו לרבנן דטרוח ואתו כולי האי? אי"ל רב ספרא: אנן לא הוה ידעינן דקאתי מר, אי הוה ידעינן - טפי הוה טרחין; אי"ל רבא: מ"ט אמרת ליה הכי, דאחלישתיה לדעתיה? אי"ל: והא קא מטעינן ליה! איהו הוא דקא מטעינן נפשיה.

Samuel holds that it is forbidden to deceive people even gentiles... R. Meir used to say: A man should not urge his friend to dine with him when he knows that his friend will not do so. And he should not offer him many gifts when he knows that his friend will not accept them. And he should not open [for a guest] casks of wine which are to be sold by the shopkeeper, unless he informs [the guest] of it. ... What is the form of the proclamation? — R. Isaac b. Joseph said: 'Meat has fallen into our hands for the army'. And why not proclaim, 'Trefah meat has fallen into our hands for the army'? — They would not then buy it. Are we not then deceiving them? — No. They are deceiving themselves. As in the following incident. Mar Zutra the son of R. Nahman was once going from Sikara to Mahuza, while Raba and R. Safra were going to Sikara; and they met on the way. Believing that they had come to meet him he said: 'Why did the Rabbis take this trouble to come so far [to meet me]?' R. Safra replied: 'We did not know that the Master was coming; had we known of it we should have put ourselves out more than this'. Raba said to him, 'Why did you tell him this; you have now upset him'? He replied: 'But we would be deceiving him otherwise'. 'No. He would be deceiving himself'.

5. Ritva, ibid

פרש"י ז"ל והא דאמרינן לעיל שלא יפתח לו חביות המכורות לחנוני, כשאומר לו שבבילך אני פותחם, והקשו בתוספות כיון דקתני התם אלא אם כן הודיעו מכלל דאפילו בסתם אסור, ועוד דודאי רב יהודה לא הוי משקר לומר לעולא שבשבילו היה פותחם, לכך פירשו דהכא היינו טעמא דכיון דחזו שמכרוזין להאי בישראל הוה להו לאסוקי אדעתיהו דטריפה היא...

Rashi: That which we said above about not opening the barrels being sold to a storekeeper, that is where he says to him “I opened this for you.”

Tosafot questioned this, since it says “unless he tells him”, which implies that even non-explicitly it would be forbidden. Furthermore, R. Yehuda would surely not have lied and told him that he opened it for him. Therefore they explained that the reason is because they saw them making announcements about this meat, so they should have realized that it was a *tereifah*...

6. Shulchan Aruch, Choshen Mishpat 228:6

ואם הוא דבר דאי בעי ליה לאסוקי אדעתיה שאינו עושה בשבילו, ומטעה עצמו שסובר שעושה בשבילו לכבודו, כגון שפגע בחבירו בדרך וסבור זה שיצא לקראתו לכבודו, אין צריך להודיעו.

And if it is something that he could have realized that it was not done for him, and he fools himself into thinking it was done for his honor, such as where he met his friend on the way and thought he had come to greet ahim, he does not have to tell him.

7. Talmud Bavli, Ketubot 97a

תא שמע: דההוא גברא דזבין ארעא לרב פפא, דאצטריכו ליה זוזי למיזבן תורי, לסוף לא איצטריכו ליה, ואהדריה ניהליה רב פפא לארעיה. רב פפא לפניו משורת הדין הוא דעבד. תיש דההוא בצורתא דהוה בנהרדעא, זבנינהו כולי עלמא לאפדנייהו, לסוף אתו חיטי, אמר להו רב נחמן: דינא הוא, דהדרי אפדני למרייהו. התם נמי זבני בטעות הו, דאיגלאי מילתא דארבא בעקולי הוה קיימא.

A man sold land to Rav Pappa, to get money with which to purchase oxen. In the end he didn't need the money, and Rav Pappa returned his land; Rav Pappa acted beyond the line of the law. Come here: There was once a dearth at Nehardea when all the people sold their mansions, but when eventually wheat arrived R. Nahman told them: The law is that the mansions must be returned to their original owners! — There also the sales were made in error since it eventually became known that the ship was waiting in the bays.

8. Kesef haKedoshim on Choshen Mishpat 227:9 - We don't expect the best price

There the sale is annulled because of the seller's open revelation of his mindset.

9. Tosafot, Ketubot 47b

ואם תאמר אם כן כל אדם הלוקח פרה מחבירו ונטרפה או מתה אגן סהדי שלא על מנת כן לקחה וי"ל דהתם אגן סהדי שבאותו ספק היה רוצה ליכנס ואפי' אם אומר לו אם תטרף יש לך לקבל הפסד היה לוקחה

If so, anyone who buys a cow from his friend and it turns out to be a *treifah*, or dies, we are sure that he did not buy in under these conditions? Perhaps there we know that for that doubt he would enter into [the sale], even if you would tell him that if it is a *treifah* you must absorb the loss, he would buy it.

10. Talmud Bavli, Bava Metzia 50b

אמר רבא, הלכתא: פחות משתות - נקנה מקח, יותר על שתות - ביטול מקח. שתות - קנה ומחזיר אונאה...

Rava said “The Law is: Less than 1/6, the sale was valid; more than 1/6, the sale is nullified; 1/6, the sale is valid, but you must return the overcharge.

11. Responsa Kinyan Torah 1:14, cited in Economic Public Policy and Jewish Law pg. 121 –

A used his contacts with Israeli municipal officials to become privy to confidential information that the city government was planning a housing project in an area outside the city limits...Sometime before the plan was made public, B, an owner of land in the target area, approached A and offered to sell his lot to him. At the negotiation A failed to disclose his secret information...Given the confidential nature of A's informational advantage, A's nondisclosure did not have the effect of depriving B of a higher price from another interested party.

12. Shulchan Aruch, Choshen Mishpat 363:6

הדר בחצר חבירו שלא מדעתו, שאמר לו: צא, ולא יצא, חייב ליתן לו כל שכרו. ואם לא אמר לו: צא, אם אותה חצר אינה עשויה לשכר, אינו צריך להעלות לו שכר...הגה: ודוקא שכר דר בו, אבל לא יוכל לכופו לכתחילה שינחנו לדור בו, אף על פי דכופין על מדת סדום במקום שזה נהנה וזה אינו חסר, הני מילי בדבר דאי בעי ליהנות לא יוכל ליהנות. אבל בכי האי גוונא דאי בעי בעל חצר ליהנות ולהרויח להשכיר חצירו היה יכול, אלא שאינו רוצה, אין כופין אותו לעשות בתנא (מרדכי וני"י פרק הני"ל).

One who squats in a courtyard of his friend without his knowledge, and he told him to leave but he did not, he must pay rent. If he did not tell him to leave – if it is a courtyard that is nor normally rented, he does not have to pay rent... Rama: Only if he has not lived there yet, but he can't force him *ab inito* to let him lie there. Even though we force regarding “the ways of Sodom” where one gains and the other does not lose, that is where he could not benefit if he wanted to. Here, where the owner could benefit and profit by renting out his courtyard, but he does not want to, we don't force him to give it for free.

13. Rabbi Dr. Aaron Levine assumes this applies to information that someone spent time and money gathering. Ex. The apocryphal Rothschild case. He assumes, though, that all shareholders would own that information, in so far as Halacha recognizes their ownership in the corporation. Hence, insider trading denies them of the information.