

## **INSOLVENCY IN JEWISH LAW**

**Jonathan M. Lewis**

### **Synopsis of Paper - 1st November 2004**

The ethics of insolvency: the role of Insolvency Law; Tehillim; Pirke Aboth; other sources; the principle of ultimate personal responsibility.

The prevention of insolvency: Torah roots; Shemittah; the Prosbul.

The distribution of insolvent estates: Talmud, Ketuboth; Mishneh Torah and Shulkhan Arukh; examples; economic and social implications.

Later developments: Responsum of the Rosh; Takkanot; Responsum of the Hatam Sopher.

Limitations upon taking and enforcing security: restrictions upon creditors and court representatives; Mishneh Torah.

The position of the insolvent debtor: his obligations and rights; the responsibility of the community to support him.

Debt enforcement procedures; oaths as to means; procedural steps; priority of assets to which the creditor can have recourse; Israel's Execution Law of 1967.

Imprisonment for debt: Torah; Shulkhan Arukh; history; Takkanot; eventual rejection of imprisonment for debt; labour - hire.

Imprisonment for debt in Israel: the influence of Jewish Law; Execution Law of 1967, sections

67-74; *Perach 1992 for a New Israel - Aid to victims of Laws and Regulations (Non-Profit) v. Minister of Justice and Police Commissioner* (High Court of Justice Petition 5304-92);

Amendment No. 15 to the Execution Law, of 15th November 1994; Basic Law: Dignity and

Liberty of Man; *Ashkenazi v. Official Receiver; Civil Appeal* (4892/91,38(i), 45).

Interest on debts: Torah; Shulkhan Arukh; Responsa.

The absence of bankruptcy procedures: reasons; recognition of bankruptcy procedures in civil legal systems; residual moral obligation to repay creditors.

Footnotes: 90 source material footnotes.