

As I wrote in last weeks post the first few weeks will be devoted to introductory classes relating to defining the nature of charity within Judaism.

Today's class surveys, with the help of the nice survey written by Benny Porat, will present the various social laws found in the Humash, the five books of Moses.

Please pay particular attention to the fact that you will **not** find a description in his survey of what we today would consider charity i.e. taking one's money and giving it to the poor, as a free gift!! Note Porat's discussion of the passage in Deuteronomy (15:7-10) at pp. 54-55, the contrast between the Biblical approach in contrast the Talmudic, Rabbinic approach. Within this context note the centrality of "loans" and "remission of loans".

Other things worth thinking about are the various types of social aid that emerge from his description, even if he does not always spell this out. I am referring to the difference between aid to the needy in order that they should be able to survive in contrast to aid that is geared towards rehabilitating them and helping them re-enter the work force, escaping a life of poverty.

Please read the attached reading (sections 2.1 + 2.4-2.5), it is easy reading.

Once you have read the piece think about the following questions. As I wrote in last week's post, I will be appending summary questions each week. One does not need to submit the answers to me but they are worth looking at then since the exam at the end of the semester will be taken from these questions. The exam will be multiple choice.

Summary Questions

What religious laws were instituted to provide sustenance for the poor and which for the purpose of rehabilitation?

Which biblical commandments are most similar to that of charity?

What are the two social aspects that are linked to the sabbatical year?

What is unique about the Jubilee year?

Why does Porat think that the Sabbath has a social element?

Why are the laws relating to lending money so central in the Biblical approach to social welfare?

Can one find "charity", a free monetary gift, in the Torah?

How does Porat see in the Biblical laws that the poor has to make an effort and show responsibility?

the Charybdis of taking Jewish law to exist in a vacuum, we construe the talmudic approach to social justice as a distinctive but evolving socioeconomic orientation. From time to time, however, we will draw on the insights of contemporary ‘outside’ discourse on distributive justice, to sharpen our understanding of the solutions suggested in the halakhic sources.

It should be noted that our examination of distributive justice will be conducted from the **jurisprudential** perspective: we will not survey the historical realities of Jewish socioeconomic life during the periods under discussion, but rather, the principles espoused in the classic sources of Jewish law—the Bible, Mishnah, and Talmud—and the wider halakhic corpus.

Readers might wonder why the problem of distributive justice is being addressed in the legal context at all: are not the disciplines of philosophy, economics and political science more appropriate contexts within which to contemplate the most equitable distribution of a society’s resources? As we will see, however, the halakhic tradition reflects the **legalization** of the problem of distributive justice and transfer of the responsibility for actions intended to benefit the weak from the political realm to the legal. It is thus apt for the directives and principles pertaining to charity to be studied in the legal context.

2 Social justice in the Bible

2.1 Biblical laws relating to social justice

Concern for the weaker groups within society—the poor, orphans, widows, strangers, slaves, and maidservants—is a central biblical theme. Numerous precepts focus on the material betterment of society and the provision of support to those in need. Many such laws are related to farming, the primary economic activity in the biblical period, and pertain to crops, stewardship of the land, and slaves, who appear to have worked chiefly in the fields. Before turning to a more detailed consideration of these precepts, we will first explain some of the relevant terms and institutions.

The Jubilee year (yovel)

The biblical precept of the **Jubilee year** (Lev. 25:8-13) provides that all land within the territory of the land of Israel is to be redistributed among members of the community on a set **fifty-year cycle**. The key to the redistribution is familial: every man returns to and gains ownership of his family’s ancestral plot. The redistribution thus presupposes an initial distribution of the land according to family. In addition, **within the framework of the Jubilee law, all slaves are manumitted, and return to their homes and ancestral lands as freemen.**



Emancipation of slaves

The Torah provides, in effect, two separate cycles for the freeing of slaves—one **personal**, the other **communal**. The communal cycle, recurring every fifty years, is described in Leviticus 25, and occurs as part of the Jubilee year. All Hebrew slaves are to go free that year, regardless of when their term of slavery began. In addition to the Jubilee cycle, the Torah also sets down that every Hebrew slave⁵ has his own personal emancipation time, **six years after his entry into servitude**. “When you acquire a Hebrew slave, he shall serve six years; in the seventh year he shall go free, without payment” (Exod. 21:2). The Torah adds that the slave should not be set free empty-handed, but rather, the owner is obligated to give him some of his yield: “When you set him free, do not let him go empty-handed: Furnish him out of the flock, threshing floor, and vat, with which the Lord your God has blessed you” (Deut. 15:13–14).

In contrast to the situation at the end of the communal cycle, when remaining with his master is not an option, at the end of the slave’s personal six-year cycle, he is offered his freedom, but not compelled to accept it. The Torah allows him to choose to remain with his master “forever” (*leolam*): “If the slave declares, ‘I love my master, and my wife and children: I do not wish to go free,’ his master shall take him before the judges [lit., God]. He shall be brought to the door or the doorpost, and his master shall pierce his ear with an awl; and he shall then remain his slave forever” (Exod. 21:5–6). It is clear from the text that though the Torah allows the slave to decline to be freed, it disapproves of his doing so. The Sages, however, do not interpret the word “forever” literally, but take it to mean ‘until the next Jubilee year.’

This law of emancipation is part of a more general array of precepts intended to improve the lot of slaves. These include, for example, the prohibition against working a slave too harshly in Leviticus 25:43.

The Sabbath

The commandment to rest on the seventh day—the Sabbath—is not generally thought of as falling within the Torah’s social legislation. But upon scrutiny, the social justice element becomes apparent. One of the rationales the Torah offers for the Sabbath is to grant slaves and maidservants a rest their masters might otherwise deny them: “But the seventh day is a Sabbath of the Lord your God; you shall not do any work—you, your son or your daughter, your male or female slave, your ox or your ass, or any of your cattle, or the stranger in your settlements, so that your male and female slave may rest as you do” (Deut. 5:14).

5 The Torah also broadens the rights of Canaanite (i.e., non-Hebrew) slaves, but they remained less extensive than those of Hebrew slaves.

Sabbatical year release of lands

Another precept that can, on reflection, be seen to have a social justice dimension, is that of the ‘release’ of land every seventh year, which is referred to as the **Sabbatical year**. This process, as set down in Leviticus 25:1–7, has two main elements: for the year in question, the land is not worked; and whatever the fields produce may be enjoyed by anyone, regardless of ownership. In effect, private ownership of agricultural produce is suspended for the year. The primary beneficiaries of the Sabbatical year are the poor, who, during normal years, cannot enjoy agricultural produce, as they cannot afford to buy it. During the Sabbatical year, however, they can enjoy fresh produce to the same extent as their wealthy neighbors.

Nevertheless, the release of lands will not be covered in this chapter, for it does not function as an ongoing mechanism for supporting the needy. In this, it differs from the other biblical social justice laws, which, as we will see, are intended to provide effective substantive assistance to members of the weaker social strata. The precept of the Sabbatical release of lands makes only a minor contribution to this goal, as distribution of produce once every seven years has no **sustained economic effect** during the other six years. Release of lands seems to have a primarily religious and educational purpose, namely, to heighten awareness of the transient nature of material wealth, in contrast to the permanence and immutability of God’s sovereignty over the world. The Jubilee year, on the other hand—though it, too, is a cyclical process undergone once in a set number of years—in enabling the poor to make a fresh start, has the potential to effect long-term changes in economic well-being.

Gleanings, forgotten produce, corners of the field

In fact, it is not only during the Sabbatical year that the poor are sustained by field produce; the Torah commands property owners to leave a portion of their crops—grains, fruits, olives, and so on—for the poor every year. Farmers may not harvest their entire field, but must leave a corner unharvested (Lev. 19:9). Likewise, they are forbidden to go back and gather produce that fell while being harvested or was forgotten in the field. These must be left for “the poor and the stranger” (Lev. 19:10), for “the stranger, the fatherless, and the widow” (Deut. 24:19).

Loaning money

In Deuteronomy 15:7–8, the Torah mandates that the poor must be helped not only by providing them with agricultural produce, but by ensuring their access to loans. The wealthy are obligated to lend money to the poor: “If, however, there is a needy person among you, one of your kinsmen ...

do not harden your heart and shut your hand against your needy kinsman. But you shall surely open (*patoah tiftah*) your hand unto him, and shall surely lend him (*haavet taavitenu*) sufficient for his needs, for whatever he needs" (Deut. 15:7–8).

Later in the chapter, we will examine these verses and delve into the question of why loans are emphasized, as opposed to outright donations. The lending mandated by the Bible has a markedly social character:



lending on interest is forbidden. Charging interest is compared metaphorically to the lender's taking a bite out of the borrower; one biblical Hebrew term for interest is *neshekh kesef*, literally, "a bite of money." Loaning money to the poor is mandated for social reasons, not as a mechanism for advancing the lender's economic interests.

This is also evident from the laws governing the manner in which loans are to be collected, laws that protect the debtor and his dignity, for example, the prohibition against the creditor's entering the debtor's home to seize a pledged object (i.e., collateral), and the creditor's obligation to return the debtor's collateral to him every evening, if the debtor needs it to sustain himself (Deut. 24:10–13).

Remission of loans

Not only does the Torah prescribe the granting of loans; it also mandates that loans be forgiven once every seven years, at the time of the Sabbatical year. All debts are nullified and debtors can work on their own behalf rather than for their creditors: "Every seventh year you shall practice remission of debts. This shall be the nature of the remission: every creditor shall remit the due that he claims from his fellow; he shall not dun his fellow or kinsman, for the remission proclaimed is of the Lord" (Deut. 15:1–2).

Although the Torah is replete with precepts and mechanisms whose primary or secondary purpose is to care for the weaker classes within society, it nowhere considers the underlying socioeconomic philosophy. Indeed, Jewish law in general, and its biblical stratum in particular, says little about the theoretical concepts on which its various legal institutions rest. To reconstruct these concepts, we must analyze the relevant precepts, laws, and jurisprudential arrangements, and attempt to extract the relevant principles. In the following sections of this chapter, we will seek to articulate some of the socioeconomic principles that can be inferred from the Torah's social injunctions, in part, by comparing them to parallel provisions of other ancient Near Eastern legal systems.⁶

⁶ This comparison is subject, however, to one important qualification: the Torah, to a certain extent, represents an ideal legal system, not expressly related to the existence of an actual government with funds to distribute.

2.4 Sustenance and rehabilitation

Having defined the source of funding for provision of assistance to the needy, we must consider the purposes for which this aid is provided. In what respects are the needy to be assisted, and how is the mandated assistance designed to meet those goals?

The precepts related to social justice can be divided into two groups with complementary goals. One goal can be termed 'sustaining the poor,' that is, ensuring at least a minimal standard of living: a small amount of food (through the precepts of gleanings, forgotten produce, and corners of the field¹³) and a weekly day of rest, the Sabbath. The Sabbath ensures that even someone who engages in arduous physical labor from dawn to dusk

11 Weinfeld, n. 7 above, 17.

12 See Genesis 41. The food was not provided gratis, but this does not detract from the fact that this was a publicly-run aid operation.


13 As is clear from the account in the biblical Book of Ruth, the amount of food this yields is meager, sufficient only for day-to-day survival.

is not entirely consumed by the burden of work, with no respite. Indeed, the biblical passage ordaining observance of the Sabbath sets out the social rationale: rest is the right of all, including slaves: “But the seventh day is a Sabbath of the Lord your God; you shall not do any work . . . **so that** your male and female slave may rest as you do” (Deut. 5:14).¹⁴

The second goal of the social justice precepts can be termed **rehabilitating the poor.** The disadvantaged are not to be given goods for immediate use, but means of production that will enable them, in the long run, to attain greater financial independence. Thus in the Jubilee year, for instance, land—the primary means of production in an agrarian society—is returned to those who have lost it, and further, the freedom to work the land on his own behalf, and not for a master, is restored to the owner, giving him the opportunity to provide for his family.

Another example is the precept of manumission. As we saw, the Bible specifies that an emancipated slave must be given goods from among his master’s assets: “When you set him free, do not let him go empty-handed: Furnish him out of the flock, threshing floor, and vat” (Deut. 15:13–14). This precept seeks to rehabilitate the freed slave, ensuring his short-term economic security so he can direct his attention to finding work and getting established. Were he manumitted empty-handed, he would have to spend his initial days of freedom gleaning a small amount of food and seeking shelter; before long, he might be deterred, and return to his former master. The precept mandating that departing slaves be given provisions to sustain them transforms their freedom from nominal to genuine.

Another rehabilitative precept is that concerning **the seventh-year remission of loans.** This measure enables those trapped in a cycle of debt—taking one loan to pay off another—to escape and start afresh. It does not provide them with goods that can be used in the short term, but rather affords them the opportunity to labor on their own behalf, and not simply to repay creditors.

 A contemporary institution somewhat similar to remission of debt is that of bankruptcy. An insolvent debtor can be declared a bankrupt by the court. His debts are forgiven, and he can turn over a new leaf. But there are important differences between the two institutions. The biblical precept of loan remission is intended to provide an across-the-board social mechanism by which the vicious circle of borrowing in order to pay off debt will be preempted or dramatically reduced. By contrast, bankruptcy is intended as an ad hoc life preserver, as it were, for individual debtors who have become insolvent. Remission of loans takes place according to a regular

14 Unlike the rationale given in Deuteronomy, the rationale for Sabbath rest set forth in Exodus 20:8–10 is emulation of God’s rest following His creation of the world. This is not a social rationale, and no distinction is drawn between the worker’s rest and that of his employer—the precept encompasses both. There is, however, no contradiction, as the two rationales can be seen as complementary, and many so interpret them.

schedule known in advance, whereas bankruptcy comes into play only when someone can no longer pay his debts, and its occurrence cannot be foreseen.

The historical context is, of course, pertinent to understanding the institutions in question. During the biblical period, only the poor borrowed money, and they did so solely in order to provide themselves with the necessities of life. Later on, however, loans became an economic engine: people from every social stratum took out loans, often for the purpose of generating profit and increasing their earning power.

2.5 The recipient's responsibility

We have surveyed the various precepts that obligate the wealthy to provide a safety net for the disadvantaged. Parallel obligations are imposed on the needy, effectively conditioning assistance on their active cooperation.

Recipients of charity must join in the effort to rehabilitate them, that is, they must help themselves.

This is manifest in the precepts of gleanings, forgotten produce, and corners of the field. Although these mandate transferring to the poor goods meant for use in the short term, the manner in which the produce is provided ensures the beneficiary's participation in the process. Farmers are obligated to give of their yield to a needy neighbor, but the Torah does not require them to harvest the grain and bring it to the recipient. Indeed, they are not even required to harvest it and leave it at the entrance to the field for the poor to come and take. Rather, the precept calls for the farmer to leave unharvested produce in the field, so the needy can actively take part in the harvesting process. The precept, in other words, commands the landowner to provide his poor neighbors with work—their wage being the produce that they gather. One who is indigent yet too lazy to go out to the field and work with the reapers will derive no benefit from the precepts of gleanings, forgotten produce, and corners of the field.

This conclusion is reinforced by the sharp contrast between the manner in which these gifts are given to the poor, and the manner in which priestly gifts (*terumat* [sing., *teruma*]) and levitical tithes (*maasrot* [sing., *maaser*]) are supplied to their recipients. Unlike the poor, the priests and Levites are given harvested, ready-to-eat produce; they need not participate in harvesting the field (Num. 18:8, 11–13). Indeed, the Sages went further, actually prohibiting the priests and Levites from participating in the harvesting process. Maimonides ruled similarly: "Priests and Levites are forbidden to serve as helpers at the threshing floor so that they can receive the gifts due them [more quickly].... The Israelite too is forbidden to allow them to help him; rather, he should give them their share with due deference."¹⁵

15 *Code*, Laws concerning Heave Offerings 12:18.

What explains the difference between the rule governing gifts of produce to the needy, **who must participate in harvesting the field**, and that governing tithes and heave offerings given to the priests and Levites, who receive their shares of the harvest ready-to-use? The priests and Levites do sacred work (see Num. 18:21), and the produce given them is compensation for this work. Accordingly, they are not required to perform any additional labor, such as working in the field, to obtain it. The needy, however, receive the produce as a donation rather than as wages, and must therefore join in harvesting the field, thereby contributing and helping themselves, so to speak.

Another instance in which the beneficiary is required to take on responsibility with respect to a donation is the precept of loaning money, an important precept that constitutes the source for the later laws referred to as the laws of charity. It is not always recognized that there is no biblical commandment mandating that money be donated—given—to the poor. The Sages derive this obligation from the passage in **Deuteronomy** that sets forth the obligation to loan money (interest-free, of course) to the needy:

If, however, there is a needy person among you, one of your kinsmen in any of your settlements in the land that the Lord your God is giving you, do not harden your heart and shut your hand against your needy kinsman.

But you shall surely open (*patoah tiftah*) your hand unto him, and shall surely lend him (*haavet taavitenu*) sufficient for his needs, for whatever he needs. Beware lest you harbor the base thought in your heart, saying, 'The seventh year, the year of remission, is approaching,' and are thus mean to your needy kinsman and give him nothing. And he will cry out to the Lord against you, and you will have transgressed. But you must surely give him, and your heart should not be grudging when you do so, for because of this act, the Lord your God will bless you in all your deeds and in all your undertakings.

Deuteronomy 15:7–10

These verses mandate that monetary assistance be provided to the poor. The Torah recognizes that the giver may resist doing so out of concern that, due to the forthcoming Sabbatical year remission of loans, any money lent out will be forfeited, and seeks to allay these concerns by promising that all the giver's endeavors will be blessed. Clearly, then, the precept in question refers to assistance in the form of a loan, which is subject to remission, rather than an outright gift, which is not affected by the law of debt remission.

Moreover, the Hebrew verb translated as "you shall surely lend him"—*haavet taavitenu*—is derived from the root *av"t*, meaning 'collateral,' something given to the lender as a pledge that the loan will be repaid. That

is, the literal meaning of the verse is “you shall take collateral against the loan you are obligated to grant him.” And indeed, this is how the great medieval exegete R. Abraham ibn Ezra interpreted it: “you shall give him [something that is] yours in exchange for his collateral. And [the meaning of] *“taavitenu”* is “accept his collateral.”¹⁶

What, then, is the essence of the assistance that is rendered to the needy by loaning them money? A loan will provide effective aid only if the borrower is prepared to keep his nose to the grindstone and use the loan productively, so that he can both repay the loan and benefit from its potential fruits. If the borrower tries to benefit from the loan immediately, it is likely that when the time for repayment comes, he will be left with nothing, or more likely, with a loan he cannot repay. Granted, a borrower struggling to repay a loan can rely on the fact that it will ultimately be remitted and thus transformed, in effect, into a donation; but this will not occur until the Sabbatical year, and does not relieve the borrower of the responsibility to work hard to pay off the loan in the intervening years. Loans, like gleanings, forgotten produce, and corners of the field, provide the needy with effective assistance only to the extent that the beneficiaries themselves actively work to reap the benefits in question.

16 As we will soon see, this construal of the verse diverges from the Sages’ exegetical interpretation of the verse. The Sages’ reading of the precept is apparent in Rashi’s comment: “You shall surely lend him”—if he does not want to accept it as a gift, give it to him as a loan.”