

Utopian Legislation
Parashat Re'eh
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I would like to discuss with you today a piece of what I would call “Utopian legislation” in the middle of our *parashah*, that we are reading for the first time in the context of a severe economic credit crunch. It pertains to the institution of the “sabbatical year”—the seventh year in a cycle, when, according to Leviticus 25, the land must remain fallow in order to renew itself. (As an academic speaking in an academic community, I would like to pause here pay tribute to the great, unknown hero of our profession, who first had the imagination, and indeed the chutzpah, to go to a university administrator and propose that this ancient agricultural law be applied to university lecturers and professors, so that after six years of teaching and committee work, they would be released from these responsibilities in order to renew themselves with their research and writing. But that is another story.)

The legislation of our *parashah* in Deuteronomy adds a new dimension to the seven-year cycle: All loans extended within the Israelite community are to be forgiven at the end of seven years (Deut. 15: 1-6). According to this legislation, once every seven years, the registers of personal indebtedness are to be wiped clean. The debtor unable to pay off his loan need only wait until this date arrives, and then he gets a new start, free from the pressures that often crush the poor and stifle the initiative of those attempting to escape from poverty. And this debt-forgiveness comes without any need for a public declaration of bankruptcy that would certainly be humiliating to the debtor and his family. It is obviously liberal, progressive legislation, providing a safeguard from the oppressive power of pitiless creditors and harsh economic forces.

The loans envisioned in this legislation do not seem to have been intended to apply to loans taken for business ventures that may provide a large profit, or for mortgages on an expensive house. They must rather have been loans taken by Israelites who have fallen on hard times and were in desperate need for economic support. The bread-winner of the family falls ill and is unable to earn wages to buy food. The crops in one's field are attacked by a blight that ruins the harvest. The roof of one's home springs a bad leak and has to be replaced before the winter rains come. Under these circumstances, the compassionate thing to do is to extend a helping hand by making available the money necessary to allow the needy family to get by, despite the awareness that it may never be repaid. The lender might think of it as a kind of charity that preserves the dignity of the needy though the appearance of a loan.

But even under these compelling circumstances an obvious question arises: will such a system work? Will the rules stated in the Torah indeed be faithfully observed in a manner conducive to the purpose intended? In the

continuation of the chapter, we have a fascinating indication that the ideals of this legislation were not so simple to implement:

If, however, there is a needy person among you, one of your kinsmen in any of your settlements . . . do not harden your heart and shut your hand against your needy kinsman. Rather, you must open your hand and lend him sufficient for whatever he needs. Beware lest you harbour the base thought, “The seventh year, the year of remission, is approaching,” so that you are mean to your needy kinsman and give him nothing. He will cry out to the Lord against you, and you will incur guilt. Give to him readily and have no regrets when you do so, for in return the Lord your God will bless you in all your efforts and in all your undertakings (Deut. 15:7-10).

The warning in the passage appears to be a response to the reality observable in Israelite society during the biblical period. As the seventh year approached, people were more and more reluctant to extend loans, even to those in need, as it became increasingly unlikely that the poor would be able to recover sufficiently to repay the loan before the date of universal debt forgiveness. Since no interest on the loan was permitted according to another Torah law (Lev 25:36), there was no obvious incentive, beyond the satisfaction of doing a good deed, to justify the extension of credit. Liberal legislation intended to help the poor was having the effect of making it more difficult for the poor to get the loans they required. The resulting credit crunch engendered the need for the warning and promise of a material reward to compensate for the lost capital: God will bless all the efforts and undertakings of those who provide to the poor interest-free loans that would soon be forgiven (Deut. 15:10). Whether or not this promise of prosperity was enough to counter-act natural economic instincts and free up the flow of credit we cannot know. Knowing human nature and economic realities, we may be forgiven for suspecting that it was not.

In the post-biblical period, the remission of debts every seven years was considered to apply only to the land of Israel, not to Jews living in the Diaspora. But the prohibition of interest applies to all loans between Jews, wherever they are living. The dynamic exemplified by the verses from our parashah is very much in evidence in an extraordinary passage by Rabbi Isaac Aboab, one of the greatest Talmudists in the generation of the Expulsion from Spain. Aboab was not afraid to speak out in his sermons about social justice among Jews. Discussing the problem of loans to the poor in the context of the Biblical legislation in our parashah, (Deut. 15:7-9), he makes a specific contemporary application:

This problem pertaining to loans has arisen many times, especially where I live. Because the Torah forbids the taking of interest when a loan is given to a Jew, no one wants to lend to him. Since the impoverished Jew cannot take an interest-bearing loan as a Gentile can, he cannot find the money he needs, and he dies of hunger. Thus the commandment turns into a transgression. I am tempted to say that it should be considered a greater sin for a Jew to refuse to make

the loan than it is for him to make the loan and take interest, for in the first case there is danger and in the second there is not. . . . I have dwelt at length on this because I see wretched Jews crying out and not being answered, because of our sins, in this time of scarcity and high prices (dearth).¹

Jewish ethical and homiletical literature is filled with denunciations by moralists of Jewish businessmen who fail to observe properly the prohibitions against taking interest on loans. Rabbis frequently emphasize the seriousness of these laws and urge that Jews consult with competent authorities who will keep them from improper terms on the money they lend to fellow Jews. Apparently the promises of divine blessing in our parashah for the undertakings of the lenders were not sufficient to ensure compliance. Aboab's sermon tells us that under the biblical laws prohibiting interest, the credit market was simply drying up, and impoverished Jews were suffering. In response, we find a leading rabbinic figure saying, in effect, that the transgressions entailed in taking interest are less serious than the transgression in depriving the poor of what they need to survive.

While many biblical laws are not without problems for our moral sensibilities, many of them—including many in our parashah—impress us as strikingly humane. But even with the best of intentions, efforts to regulate society may turn out to have unintended consequences. Occasionally make things worse. Like Rabbi Isaac Aboab, we must retain the flexibility to look at the impact of the commandments of the Torah, as well as the laws of our country, and when necessary to modify them in accordance with our convictions about the needs of real human beings and the kind of just and compassionate society we believe that God truly wants.

¹ 'Qetsat Parashiyot me-ha-RR"Y Aboav,' Oxford Bodleian MS 952, Huntingdon 342, fol. 16a; for the full sermon in which this appears, see Marc Saperstein, 'Your Voice Like a Ram's Horn': *Themes and Texts in Traditional Jewish Preaching* (Cincinnati: HUC Press, 1996), pp. 293–365, with English text pp. 313–14 and Hebrew text, pp. 346–47. For possible datings of the reference to 'this time of dearth,' see *ibid.*, p. 295, n. 9.