

Torah Table Talk – The Observant Life

Lending and Love: A Jewish Approach to Loans

Loans and Lending, by Rabbi Tracee L. Rosen, Page 556

Parshat Bahar-Bechukotai, Leviticus 25:1 - 27:33

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I. Introduction

Rabbi Rosen suggests that the *Torah* provides a system of social engineering in its complex laws of land management and interest-free loans. Every seven years the land was to lie fallow and debts were cancelled. In the meantime, it was forbidden for Jews to charge one another interest when lending money. Rabbi Rosen writes "Both are social engineering policies designed to forestall widening the chasm between the haves and the have-nots in society. Helping the poor become more self-sufficient through these two policies also meant a reduction in the number of Jews who would be required to sell themselves into indentured servitude to repay their debts." That said we confront a variety of complex problems in the practical application of these laws both in ancient and modern times. While borrowing was the last resort in an agrarian society, lending and borrowing of money took on commercial significance in a society that was built upon business and the exchange of capital rather than agriculture. The sages came up with ingenious strategies for circumventing the prohibition against lending money with interest while trying to maintain the spirit, if not the letter, of the law. At the heart of these practices was a deep belief that property is not ours unconditionally and that we have a responsibility to share our resources with others. From the perspective of the Bible and the sages, lending money to fellow Israelites in times of difficult economic straits was an "act of righteousness and kindness." And yet to loan funds without some type of system of interest became untenable over time. The sages wondered how to balance righteousness with a stable economy.

Leviticus 25:35-38 If your kinsmen, being in straits, comes under your authority, and you hold him as though a resident alien, let him live by your side. Do not exact from him advance or accrued interest, but fear the Lord. Let him live at your side as your kinsmen. Do not lend him your money at advanced interest or give him your food at accrued interest. I am the Lord your God who brought you out of the Land of Egypt to give you the Land of Canaan, to be your God.

II. Sources and Resources

- a) **If your kinsman, being in straits, comes under your authority:** Verses 35-38 deal with indebtedness, just as further on, verses 39-41 deal with indenture, which is a more severe set of circumstances. The crucial difference between them is that one who possesses property that he can sell or mortgage is still free, but the one who has no assets must work off his debts as an indentured servant.

Do not exact from him advanced or accrued interest: Literally, Hebrew *neshekh* means "a bite" and *tarbit* means "increment, profit" on a loan as noted by the Ramban. An alternative form in verse 37 is *marbit*. In Exodus 22:24, we read: "Exact no interest (*neshekh*) from loans to your countrymen." In Late Hebrew we encounter the word *ribbit* based on the same root as *tarbit* and *marbit*. All of these three terms are cognate with Aramaic *marbitha'*, and probably as well with Akkadian *ribbatum*, which means, "payback, arrears." If so, the sense would be the additional payment one owed from the time he borrowed. The fact that in verse 37 *neshekh* is used with reference to silver and *marbit* with reference to foodstuffs led *Mishnah Baba Metziah* 5:1 to define *neshekh* as payment in excess of what was lent, and *tarbit* or *marbit* as the demand for more grain or foodstuffs than were provided to the borrower. (*Baruch Levine, The JPS Torah Commentary, Leviticus*)

- b) **What is *neshekh* and what is *tarbit*?** What is *neshekh*? One who lends a *sela'* (4 *denarii*) for 4 *denarii*, or 2 *seahs* of wheat for 3 *seahs*. That is forbidden because he thereby "bites" the debtor. And what is *tarbit*? The taking of interest on produce. (*Mishnah Baba Metziah, Chapter 5*)

- c) **Do not exact from him *neshekh* or accrued interest:** This is a continuation of the previous verse, "who comes under your authority." The passage speaks of *tzedakah*; when you give *tzedakah* to a needy person, don't speak to him with harsh and biting words (*noshekh*), God forbid, or words of reproof and criticism. Rather greet him with a cheerful countenance as the sages said, 'One who appeases the needy person is blessed with eleven blessings.' (*In name of Rabbi Moshe of Kobrin 1784-1858*)
- d) There are eight levels in charity, each level surpassing the other. The highest level beyond which there is none is a person who supports a Jew who has fallen into poverty [by] giving him a present or a loan, entering into partnership with him, or finding him work so that his hand will be fortified so that he will not have to ask others [for alms]. Concerning this, the *Torah* states: "You shall support him, the stranger, the resident, and he shall live among you." (Lev. 25:35) Implied is that you should support him before he falls and becomes needy. (*Maimonides, Mishnah Torah Matanot L'evyonim 10:7*)
- e) Thus, if a man is righteous and does what is just and right...if he has not wronged anyone; if he has returned the debtor's pledge to him...who has not lent for *neshekh* or extracted *tarbit*; if he has abstained from wrongdoing and executed true justice between people; if he has followed My laws and kept my rules and acted honestly – such an individual is called righteous. Such a person shall live, declares the Eternal God. (Ezekiel 18:5-9)
- f) Thus, operating with the same jurisprudential construct, in the face of the highly complicated economic system to which we have to accommodate, we should now consider a constructive *heter iska* as operative in all transactions between Jews. Even an individual Jew lending to another Jew on interest (Which is an everyday occurrence) would not be considered as violating the law, since a constructive *heter iska* is now considered operative. In a specific case of the synagogue issuing bonds, it should be suggested that the bond make reference to its operating within the parameters of a constructive *heter iska*. This is suggested for educational purposes. It would provide an opportunity to teach the congregation about Jewish law and the problem of *ribit*, interest. It would also provide an excellent opportunity to teach the congregation the dynamic approach of Conservative Judaism to issues of Jewish law. (*Rabbi Ben Zion Bergman, A Question of Great Interest: May a Synagogue Issue Interest-Bearing Bonds? The Committee on Jewish Law and Standards*)

III. Reflections

Both the content and the language of Leviticus, chapter 25, suggest that the *Torah* seeks to provide a means of preventing the growing chasm between rich and poor in society. The Sabbatical and Jubilee year created a default resetting for society so that those who fell into poverty had a means of starting over. By allowing the land to lie fallow, returning land to its ancestral owners, cancelling debts, and freeing Israelites who had fallen into indentured servitude, people could (ideally) start over again. As far as we know, however, the Jubilee was never put into effect and it seems unlikely that slaves would have been set free – even indentured slaves. Part of this resetting of societal order was the prohibition of Jews charging interest to other Jews. For our ancestors, and for Maimonides, this was the highest form of *tzedakah*. It was not charity but a system of providing others with the means to re-establish themselves with a monetary gift or loan.

We see the negative attitude toward interest bearing loans in the language of the *Torah*. *Neshekh* comes from the Hebrew root, *nashakh*, which means to bite. The lender takes a bite out of the borrower by charging him either interest or other charges to borrow money. As a society in which all the people took responsibility for one another, to charge a fellow Jew interest was to ignore one's responsibility to one's "kinsman." Jews could not very well be expected to lend money to non-Israelites who did not have the same obligation to assist in times of need. The *Torah* promotes pragmatic humanitarianism and not saintliness. It should be noted that Christians and Moslems also had similar rules in effect in their community of faith; as a result they often forced Jews to lend money and then reviled them for being money lenders.

Rabbi Rosen points out that from ancient through modern times, Jews took this idea of lending to the to help them quite seriously. Contemporary Jewish communities still maintain *gemahs*, or free loan societies. *Gemah* is an abbreviation for *gemilut hasadaim*, or acts of charitable loving kindness. These organizations are quite successful in aiding the needy. Not only that, but they also have a high rate of success in recovering the money that is lent so that it can be lent again and again as a means of assisting others.

But loaning money is no longer just a means of assisting the needy. Today money is more likely to be borrowed by those who are in business and have their own income but need assistance in growing their business. Should the prohibition against interest be applied in such cases?

The Bible certainly did not imagine the borrowing and lending of money as a means of economic growth rather than a response to those in dire economic need. Ironically, the *Torah* states the prohibition and the sages found ingenious ways around them. Still, their goal was the same. The Prozbul, which changed the status of a private loan and allowed an individual to collect his loans even after the seventh year, was established so that the wealthy would not slam the doors in the faces of the needy who needed to borrow money even in the sixth year of the seven year cycle. The *heter iska*, which Rabbi Rosen discusses at length, was a means for people lending money to do it in a way that was not detrimental to their own success. Rabbi Bergman, in his teshuvah discusses a practice common in synagogues today of individuals lending money to the synagogue at a low interest rate – which technically is no more acceptable than high interest rates. He suggests that while these laws are no longer applicable in our day, by maintaining the *heter iska*, the lenders are reminded of Judaism's sensitivity to the way we provide for those in needs.

We are left to wonder whether these ingenious strategies circumvent the law or capture the spirit of the law. If we are but stewards of God's wealth, we must ask ourselves what our responsibilities are to others.

IV. **Halakhah L'Ma'aseh** (*Practical implications for Jewish living*)

- The key to understanding these texts from the *Torah* properly is that they all suppose the act of lending money to fellow Israelites in times of difficult economic straits to be an act of righteousness and kindness. And indeed, we are commanded multiple times in the *Torah* to behave righteously toward strangers, poor people, orphans and widows.
- Giving gifts of charity, of course, is one way to help the poor and powerless. But the *Torah* seems to recognize at least tacitly, that almost all people will be capable of lending far greater sums of money than they will be able to give away outright as charitable gifts.
- It is crucial to remember that the biblical view of lending is rooted in the assumption that loans function primarily in society as a means for the wealthy to assist people in dire economic circumstances.
- In our day, there are special societies that exist to facilitate lending money to Jews as an act of charity, but the reality in our world is that most loans are sought from banks or other lending institutions as commercial enterprises rather than acts of charity.
- At the deepest level, these laws are a powerful translation of the dogmatic notion that everything we own ultimately belongs to God from the realm of pious ideas into the world of real people and their very real needs. Being willing to release a loan, therefore, is a kind of tacit acknowledgement that all wealth is on loan from the Creator anyway!
- The prohibition against taking interest from another Jew was taken so seriously that the Talmud actually rules that participating in such a loan represents a transgression not only for the lender and the borrower, but also for the guarantor, the witnesses and even the scribe...nonetheless, as the financial realities of the medieval period changed, some sort of device was required whereby merchants and business people could borrow money in order to finance their business...referred to as *torat iska* (business law), the document restructures what we would normally understand as a loan into a kind of business partnership.
- In general, the Jewish attitude toward individual wealth can be summed up by these words from the first verse of the twenty fourth psalm: "The earth is the Eternal's and all it contains." And indeed, from the Jewish perspective, we are merely the conservators and stewards of the wealth that ultimately belongs to God.

Questions to Ponder

1. To what extent should society search for ways to rebalance the inequalities that create a gap between the rich and the poor? To what extent is this an issue that our politicians and leaders should be concerned about?
2. The 'resident alien' is a non-Jew who lives in Israelite society but is not accorded the same rights of citizenship as an outsider. We are told to protect the resident alien. In what way is the needy Israelite similar to the resident alien?
3. What gave the sages the right to come up with strategies to circumvent the Torah prohibitions regarding loans and the cancelation of debts in the sabbatical year?
4. In what ways is the sabbatical and jubilee practical and in what ways is it an idealized system that is completely impractical?
5. What is the difference between *neshekh* and *tarbit*?

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a curious mind and a desire to grow a Jewish soul.”***

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The Observant Life - Topics for weekly Study

*Here are the topics from The Observant Life assigned as we read B'Midbar. It was hard connecting a Parshah with the remaining chapters in the book.
Any thoughts on better chapter assignments?*

Date	<i>Parshah</i>	The Observant Life Topic & opening page
May 11, 2013	<i>B'midbar</i>	Military Service 479
May 18, 2013	<i>Naso</i>	Torah Study 81
May 25, 2013	<i>B'ha'alotekha</i>	Contracts 540
June 1, 2013	<i>Shelah lecha</i>	Civic Morality, 439
June 8, 2013	<i>Korah</i>	Intellectual Property 571
June 15, 2013	<i>Chukkat</i>	Commerce 491
June 22, 2013	<i>Balak</i>	Interfaith Relations 727
June 29, 2013	<i>Pinchas</i>	Crime and Punishment 458
July 6, 2013	<i>Mattot-Masei</i>	Taxation 551