

A Liberal Jewish Reading of the Talmud on Economic Justice

Rabbi Dr. Margaret Jacobi Day of Celebration 11th June 2017

1. Taxation

Bava Batra 7b

MISHNAH. HE [A RESIDENT OF A COURTYARD] MAY BE COMPELLED [BY THE REST] TO [CONTRIBUTE TO] THE BUILDING OF A PORTER'S LODGE⁷ AND A DOOR⁸ FOR THE COURTYARD. RABBAN SIMEON B. GAMALIEL, HOWEVER, SAYS THAT NOT ALL COURTYARDS REQUIRE A PORTER'S LODGE.⁹ HE [A RESIDENT OF A CITY] MAY BE COMPELLED TO CONTRIBUTE TO THE BUILDING OF A WALL, FOLDING DOORS AND A CROSS BAR. RABBAN SIMEON B. GAMALIEL SAYS THAT NOT ALL TOWNS REQUIRE A WALL. HOW LONG MUST A MAN RESIDE IN A TOWN TO BE COUNTED AS ONE OF THE TOWNSMEN?¹⁰ TWELVE MONTHS. IF, HOWEVER, HE BUYS A HOUSE THERE, HE IS AT ONCE RECKONED AS ONE OF THE TOWNSMEN.

GEMARA. [TO THE BUILDING OF A PORTER'S LODGE.] This would seem to show that a porter's lodge is an improvement: yet how can this be, seeing that there was a certain pious man¹¹ with whom Elijah used to converse until he made a porter's lodge, after which he did not converse with him any more? — There is no contradiction; in the one case we suppose the lodge to be inside [the courtyard], in the other outside.¹³ Or if you like I can say that in both cases we suppose the lodge to be outside, and still there is no difficulty, because in the one case there is a door and in the other there is no door.¹⁴ Or again we may suppose that in both cases there is a door, and still there is no difficulty, because in the one case there is a latch¹⁵ and the other there is no latch. Or again I may say that in both cases there is a latch and still there is no difficulty, because in the one case the latch is inside and in the other outside.¹⁶ HE MAY BE COMPELLED TO CONTRIBUTE TO THE COST OF A PORTER'S LODGE AND A DOOR. It has been taught: Rabban Simeon b. Gamaliel Says: Not all courtyards require a porter's lodge; a courtyard which abuts on the public thoroughfare requires a lodge, but one which does not abut on the public thoroughfare¹⁷ does not require such a lodge. The Rabbis, however, hold that [it does, because] sometimes in a crowd people force their way in.

HE MAY BE COMPELLED TO CONTRIBUTE TO THE BUILDING OF A WALL etc. It was taught:¹⁸ Rabban Simeon b. Gamaliel says that not all cities require a wall; a town adjoining the frontier requires a wall, but a town which does not adjoin the frontier does not require a wall. And the Rabbis?¹⁹ — [They hold that it does, because] it may happen to be attacked by a roving band. R. Eleazar inquired of R. Johanan: Is the impost [for the wall] levied as a poll tax or according to means? He replied: It is levied according to means; and do you, Eleazar my son, fix this ruling firmly in your mind.²⁰ According to another version, R. Eleazar asked R. Johanan whether the impost was levied in proportion to the proximity of the resident's house to the wall or to his means. He replied: In proportion to the proximity of his house to the wall:²¹ and do you, Eleazar my son, fix this ruling firmly in your mind.

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R. Eleazar said: Even if a man has in his house a steward on whom he can rely, he should tie up and count out [any money that he hands to him], as it says, They put in bags and told the money.² R. Huna said: Applicants for food are examined³ but

not applicants for clothes. This rule can be based, if you like on Scripture, or if you prefer, on common sense. 'It can be based if you like on common sense', because the one [who has no clothing] is exposed to contempt, but not the other. 'Or if you prefer on Scripture' — on the verse, Is it not to examine [paros]⁴ the hungry before giving him thy bread [for so we may translate since] the word paros is written with a sin,⁵ as much as to say, 'Examine and then give to him:' whereas later it is written, When thou seest the naked, that thou cover him,⁶ that is to say, immediately. Rab Judah, however, said that applicants for clothes are to be examined but not applicants for food. This rule can be based if you like on common sense or if you prefer on Scripture. 'If you like on common sense' — because the one [without food] is actually suffering but not the other. 'Or if you prefer on Scripture' — because it says, Is it not to deal thy bread to the hungry, that is, at once⁷ whereas later it is written, When thou seest the naked, that is to say, 'When you shall have seen [that he is deserving]'. It has been taught in agreement with Rab Judah: If a man says, 'Clothe me,' he is examined, but if he says, 'Feed me,' he is not examined.

We have learnt in another place: The minimum to be given to a poor man who is on his way from one place to another is a loaf which costs a pundion when four se'ahs of wheat are sold for a sela'.⁸ If he stays overnight, he is given his requirements for the night. What is meant by 'requirements for the night'? — R. Papa said: A bed and a pillow. If he stays over Sabbath, he is given food for three meals.⁹

2. Labour Relations

Bava Metzia 83a

R. Hiyya b. Joseph instituted a measure in Sikara.¹⁴ Viz., those who carry burdens on a yoke, and they break, must pay half. Why? Because it [the burden] is too much for one, yet too little for two:¹⁵ therefore it lies midway between accident and negligence.¹⁶ Those who carry on a pole must pay all.¹⁷

Some porters [negligently] broke a barrel of wine belonging to Rabbah son of R. Huna.¹⁸ Thereupon he seized their garments; so they went and complained to Rab.¹⁹ 'Return them their garments,' he ordered. 'Is that the law?' he enquired. 'Even so,' he rejoined: 'That thou mayest walk in the way of good men.'²⁰ Their garments having been returned, they observed. 'We are poor men, have worked all day, and are in need: are we to get nothing?' 'Go and pay them,' he ordered. 'Is that the law?' he asked. 'Even so,' was his reply: 'and keep the path of the righteous.'²¹

CHAPTER V I I

MISHNAH. ONE WHO ENGAGES LABOURERS AND DEMANDS THAT THEY COMMENCE EARLY OR WORK LATE — WHERE LOCAL USAGE IS NOT TO COMMENCE EARLY OR WORK LATE HE MAY NOT COMPEL THEM. WHERE IT IS THE PRACTICE TO SUPPLY FOOD [TO ONE'S LABOURERS], HE MUST SUPPLY THEM THEREWITH; TO PROVIDE A RELISH, HE MUST PROVIDE IT. EVERYTHING DEPENDS ON LOCAL CUSTOM. IT ONCE HAPPENED THAT R. JOHANAN B. MATHIA SAID TO HIS SON, 'GO OUT AND ENGAGE LABOURERS.' HE WENT AND AGREED TO SUPPLY THEM WITH FOOD. BUT ON HIS RETURNING TO HIS FATHER, THE LATTER SAID, MY SON, SHOULD YOU EVEN PREPARE FOR THEM A BANQUET LIKE SOLOMON'S WHEN IN HIS GLORY,²² YOU CANNOT FULFIL

YOUR UNDERTAKING, FOR THEY ARE CHILDREN OF ABRAHAM, ISAAC AND JACOB. BUT, BEFORE THEY START WORK, GO OUT AND TELL THEM, "[I ENGAGE YOU] ON CONDITION THAT YOU HAVE NO CLAIM UPON ME OTHER THAN BREAD AND PULSE." R. SIMEON B. GAMALIEL SAID: IT WAS UNNECESSARY [TO STIPULATE THUS]; EVERYTHING DEPENDS ON LOCAL CUSTOM.

GEMARA. Is it not obvious? — It is necessary [to teach it] only when he [the employer] pays them a higher wage [than usual]: I might think that he can plead, 'I pay you a higher wage in order that you may start earlier and work for me until nightfall;' we are therefore taught that they can reply, 'The higher remuneration is [only] for better work [but not longer hours].'

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R. SIMEON B. GAMALIEL SAID: IT WAS UNNECESSARY [TO STIPULATE THUS]: EVERYTHING DEPENDS ON LOCAL CUSTOM. What does EVERYTHING add?⁴² — It adds that which has been taught: If one engages a labourer, and stipulates, '[I will pay you] as one or two townspeople [are paid],' he must remunerate him with the lowest wage [paid]: this is R. Joshua's view. But the Sages say: An average must be struck.

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Reason also dictates that we should not leave the worker alone, isolated as an individual, so that he would have to hire himself out for minimal wages in order to satisfy his and his family's hunger with bread and water in meagre quantities and with a dark and dank apartment. In order to protect himself the law gave him the legal right to organise, and to create regulations for his fellows for the fair and equitable division of labour amongst them and the attaining of dignified treatment and appropriate payment for his work - so that he might support his family at the same standard of living as other residents of his city.

1. Taxation

Bava Batra 7b

מתני'. כופין אותו לבנות בית שער ודלת לחצר רבן שמעון בן גמליאל אומר: לא כל החצרות ראויות לבית שער. כופין אותו לבנות לעיר חומה ודלתים ובריה רשב"ג אומר: לא כל העיירות ראויות לחומה. כמה יהא בעיר ויהא כאנשי העיר? י"ב חדש. קנה בה בית דירה הרי הוא כאנשי העיר מיד.

גמ'. למימרא, דבית שער מעליותא היא, והא ההוא חסידא דהוה רגיל אליהו דהוה משתעי בהדיה, עבד בית שער ותו לא משתעי בהדיה! לא קשיא: הא מגואי, הא מבראי. ואי בעית אימא: הא והא מבראי, ולא קשיא: הא דאית ליה דלת, הא דלית ליה דלת. אבע"א: הא והא דאית ליה דלת, ולא קשיא: הא דאית ליה פותחת, הא דלית ליה פותחת. אי בעית אימא: הא והא דאית ליה פותחת, ולא קשיא: הא דפותחת דידיה מגואי, הא דפותחת דידיה מבראי. כופין אותו לבנות בית שער ודלת לחצר. תניא, רבן שמעון בן גמליאל אומר: לא כל חצרות ראויות לבית שער, אלא חצר הסמוכה לרשות הרבים ראויה לבית שער, ושאינה סמוכה לרשות הרבים אינה ראויה לבית שער. ורבנן? זימנין דדחקי בני רשות הרבים ועיילו ואתו. כופין אותו לבנות לעיר כו'. (ת"ר: כופין אותו לעשות לעיר דלתים ובריה): ורבן שמעון בן גמליאל אומר: לא כל העיירות ראויות לחומה, אלא עיר הסמוכה לספר ראויה לחומה, ושאינה סמוכה לספר אינה ראויה לחומה. ורבנן? זימנין דמקרו ואתי גייסא. בעא מיניה רבי אלעזר מרבי יוחנן: כשהן גובין, לפי נפשות גובין, או דילמא לפי שבח ממון גובין? אמר ליה: לפי ממון גובין, ואלעזר בני, קבע בה מסמרות. איכא דאמרי, בעא מיניה רבי אלעזר מרבי יוחנן: כשהן גובין, לפי קירוב בתים הן גובין, או דילמא לפי ממון גובין? אמר ליה: לפי קירוב בתים הן גובין, ואלעזר בני, קבע בה מסמרות.

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א"ר אלעזר: אע"פ שיש לו לאדם גזבר נאמן בתוך ביתו יצור וימנה, שנאמר: (מלכים ב' י"ג) ויצורו וימנו. אמר רב הונא: בודקין למזונות ואין בודקין לכסות אי בעית אימא: קרא, ואי בעית אימא: סברא. אב"א סברא, האי קא מבזי והאי לא קא מבזי אי בעית אימא קרא (ישעיהו נח) הלא פרוש לרעב לחמך בשי"ן כתיב, פרוש והדר הב ליה, והתם כתיב: (ישעיהו נח) כי תראה ערום וכסיתו, כי תראה לאלתר. ורב יהודה אמר: בודקין לכסות ואין בודקין למזונות אי בעית אימא: סברא, ואי בעית אימא: קרא. אי בעית אימא סברא, האי קמצערא ליה והאי לא קמצערא ליה אי בעית אימא קרא, הכא כתיב: הלא פרוש לרעב לחמך פרוס לאלתר, וכדקרינן, והתם כתיב: כי תראה ערום וכסיתו כשיראה לך. תניא כוותיה דרב יהודה: אמר כסוני בודקין אחריו, פרנסוני אין בודקין. תנן התם: אין פוחתין לעני העובר ממקום למקום מכר בפונדיון, מארבע סאין בסלע לן נותנין לו פרנסת לינה. מאי פרנסת לינה? אמר רב פפא: פוריא ובי סדיא. שבת נותנין לו מזון שלש סעודות

2. Labour Relations

Bava Metzia 83a

אתקין רב חייא בר יוסף בסיכרא: הני דדרו באגרא ואיתבר נשלם פלגא. מאי טעמא נפיש לחד זוטרי לתרי, קרוב לאונס וקרוב לפשיעה. בדיגלא משלם כולה. רבה בר בר חנן תברו ליה הנהו שקולאי חביתא דחמרא. שקל לגלימיהו, אתו אמרו לרב. אמר ליה: הב להו גלימיהו. אמר ליה: דינא הכי? אמר ליה: אין, (משלי ב') למען תלך בדרך טובים. יהיב להו גלימיהו. אמרו ליה: עניי אנן, וטרחינן כולה יומא, וכפינן, ולית לן מידי. אמר ליה: זיל הב אגרייהו. אמר ליה: דינא הכי? אמר ליה: אין, (משלי ב') וארחות צדיקים תשמר. הדרן עלך השוכר את האומנין.

משנה. השוכר את הפועלים ואמר להם להשכים ולהעריב. מקום שנהגו שלא להשכים ושלא להעריב אינו רשאי לכופן. מקום שנהגו לזון יזון, לספק במתיקה יספק, הכל כמנהג המדינה. מעשה ברבי יוחנן בן מתאי שאמר לבנו: צא שכור לנו פועלין. הלך ופסק להם מזונות. וכשבא אצל אביו, אמר לו: בני, אפילו אם אתה עושה להם כסעודת שלמה בשעתו לא יצאת ידי חובתך עמהן, שהן בני אברהם יצחק ויעקב. אלא, עד שלא יתחילו במלאכה צא ואמור להם: על מנת שאין לכם עלי אלא פת וקטנית בלבד. רבן שמעון בן גמליאל אומר: לא היה צריך לומר, הכל כמנהג המדינה.

גמרא. פשיטא! לא צריכא, דטפא להו אאגרייהו. מהו דתימא, אמר להו: הא דטפאי לכו אאגרייכו אדעתא דמקדמיתו ומחשכיתו בהדאי, קא משמע לן דאמרו ליה: האי דטפת לן אדעתא דעבדינן לך עבידתא שפירתא.

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רבן שמעון בן גמליאל אומר אינו צריך הכל כמנהג המדינה. הכל לאתויי מאי? לאתויי הא דתנן: השוכר את הפועל ואמר לו כאחד וכשנים מבני העיר נותן לו כפחות שבשכירות, דברי רבי יהושע וחכמים אומרים: משמנין ביניהם.

Notes

Bava Batra 7b

- (8) In the main gate.
- (9) The Gemara discusses which are meant.
- (10) And become liable to these imposts.
- (11) [Wherever an incident is related of a 'pious man', either Judah b. Baba or Judah b. Ila'i is meant. (Tem. 16b).]
- (12) Because the lodge prevented the cries of poor men from being heard within the courtyard.
- (13) If the lodge is outside, the poor man can get behind it and it does not prevent his voice from being heard.
- (14) If there is a door to the lodge, the poor man cannot go through it, and it prevents him from being heard.
- (15) By means of which the poor man can open it and enter.
- (16) If the latch is inside the poor man cannot open the door with it, and so cannot make his voice heard.
- (17) Being somewhat drawn back into private ground.
- (18) (V. Rashal a.l. and D.S.)
- (19) The representatives of the anonymous opinion cited in the Mishnah. Why do they make no such distinction?
- (20) Lit., 'Fix nails in it'.
- (21) According to Tosaf., this means that the poor man at a distance from the wall paid less than the poor man near the wall, and so with the rich, but the rich man at a distance from the wall still paid more than the poor man near.

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- (2) Ibid. Although they had perfect confidence in the workers, the priests before giving them the money first put it in bags and counted it.
- (3) To see that they are not impostors.
- (4) Isa. LVIII, 7. E.V. 'deal'.
- (5) פרוש = 'make plain', 'examine'. In our texts the word is written פרוש. V. Tosaf. Shab. 55b, s.v. מעבירים.
- (6) Ibid.
- (7) The word פרוש being interpreted as it is read.
- (8) Such a loaf would contain half a kab of wheat.
- (9) Three meals being obligatory on the Sabbath.

Bava Metzia 83a

- (5) R. Hiyya does not answer the foregoing difficulties, but reverts to the alleged contradiction in R. Meir's views, and harmonises them. Thus: Both Baraitas have the same author, and, as appears from the second, stumbling is certainly account-

ed as negligence. Nevertheless, R. Meir holds that in this case the Rabbis freed him from liability, as a measure necessary for the common good. Hence he need only take an oath.

(6) He cannot swear that he was guiltless of negligence, since on the present hypothesis stumbling itself is negligence.

(7) This passage and the following have already been given above. There it was all R. Eliezer's explanation of the Baraita and the Mishnah; here it is R. Hiyya's. But on R. Hiyya's version, the sentence just given does not bear quite the same interpretation as before (q.v.) Thus: R. Judah disagrees with R. Meir, and holds that stumbling is not negligence but midway between negligence and an accident, and thus analogous to theft and loss, for which an unpaid bailee is not responsible, whereas a paid bailee is. Therefore the paid bailee must make good the damage, whilst the unpaid bailee swears that he was not otherwise negligent and is thereby freed from liability. Hence, there is no particular Rabbinical measure in this case, but each is dealt with in accordance with his own law.

(8) Ibid.

(9) V. B.B. (Sonc. ed.) p. 60, n. 4.

(10) E.g., a moulding, or perhaps a balcony or a bay window projecting from the wall (Jast. s.v.רִיז andרִיז).

(11) Some texts add 'That there was no culpable negligence'.

(12) That in a frequented locality an oath is not accepted.

(13) I.e., where you bought them, where you stored them, when they turned sour etc.

(14) Near Mahoza.

(15) Consequently, one person would carry it.

(16) Lit., 'it is near to accident and near to negligence.'

(17) Rashi explains that it was a pole made for a two-man burden. Therefore, when one carries it alone, it is culpable negligence, for which he bears full responsibility.

(18) [So according to Alfasi; cur. edd.: 'b. Bar Hanan,' MS.M.: 'b. Bar Hanah.' v. next note.]

(19) [Other texts: 'Raba', according to which preference is to be given to reading: Rabbah. b. R. Hanan, v. D.S.]

(20) Prov. II, 20.

(21) Ibid. Actually they were responsible, but Rab told him that in such a case one should not insist on the letter of the law.

(22) Lit., 'in his time'.

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(42) V. p. 496, n. 3.

(43) And R. Simeon b. Gamaliel's principle teaches the view of the Sages.