

Medieval Judaism and the Roots of the Welfare State



ONE OF THE MOST PROMINENT medieval scholars of halakhah (Jewish law), Rabbi Shlomo ibn Adret (1235–1310), known as Rashba, was once approached to adjudicate a severe internal communal conflict. We do not know the exact date that the question was sent to him, but it was likely at the end of the 13th or the beginning of the 14th century, at the height of Rashba's authority. Nor is the community that sent the letter specified, though probably it was one of the dozens of Jewish communities in the Iberian peninsula that accepted Rashba, who resided in Barcelona, as their ultimate halakhic authority.

This conflict touched upon a fundamental question of social justice, which was described to Rashba in the following manner:

The poor of the community are many and the taxes levied by the crown are heavy, and because of that, a clash among the well-to-do in the community had occurred. The wealthy among

them say—“let the poor go from door to door and each of us will provide them with food on a daily basis, so they can have sustenance, since even the average well-to-do [the middle class] ought to give the poor food like us.” The people who belong to the middle [class] claim that such a policy is unlawful. Rather, the poor should stay in their homes and not go from door to door, since they are our brethren and our flesh. The poor's sustenance should be levied on the public [fund], and each has to give [to the public fund] according to his wealth, and the court will enforce the estimate [of such tax], as it is clear from the Talmud that Rava enforced such a tax. Let me know according to who is the law. (Rashba Responsa III, 380)

The internal conflict raging in this anonymous community is very recognizable; it seems to transcend time and place. The wealthy members are against taxation to fund welfare, especially because the heavy hand of the crown had already placed a high burden of taxes on the Jewish community. This group expects that the provision for the poor will be done voluntarily, in response to requests, since the obligation to give charity extends equally to everyone who can afford it.

The middle class firmly rejects such a policy. Its members support an enforced welfare taxation based on wealth. They object to two features in the policy espoused by the wealthier class. First, in the name of solidarity with the poor—“our brethren and our flesh”—they reject the humiliating policy that will cause the poor to beg from door to door, personally appealing to the goodwill of their fellow Jews, every day. Welfare should be provided to them from a public fund established by enforced taxation. And second, the financial burdens should be proportionate to the wealth of each member of the community. Taxation should be progressive; the wealthy should provide more.

The communal conflict brought before Rashba was a medieval Jewish version of the clash between what today we might call social

democrats and libertarians. In this medieval version, as in its modern parallel, each class presents a principled argument that happens to serve its own economic interests, even as no one turns away from his responsibility to provide for the poor.

Rashba begins his responsa with a strong endorsement of the position presented by the middle class:

The law is according to the middle [class], that charity and the supply for the poor is proportionate to wealth, following the precedent of Raba that enforced R. Ami to pay four hundred *zuz* for *tzedakah*. And in proportion to the strength of a camel the weight of the load put on him.

In other words, providing for the poor is a collective obligation — not a voluntary choice — based on taxation proportionate to wealth. At the end of his responsa, Rashba affirms his opinion by pointing to the common practice of Jewish communities:

In all places the poor are provided [for] from the public fund and [taxation] is proportionate to wealth. And if, after being supplied from the public fund, the poor go from door to door, they can do so, and each will give them according to his judgment and wish.

Rashba's rejection of the exclusively voluntary conception of giving is based on a long-standing practice of Jewish communities. It is thus no surprise that Rashba's ruling was reiterated later in the *Shulchan Arukh*, the great code of the 16th century: "If the poor in a city are numerous, and the rich say they should go and beg, and the middle classes say they should not beg but be supported by the members of the community in proportion to their wealth, the law is as the latter say" (Yoreh De'ah 250, 5). Such welfare communities provided for their most vulnerable members. The public fund offered much more than money: It also provided food, clothing,

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lodging, and public education; gave housing and furniture to orphans who got married; and ransomed members of the community who fell into captivity (an unfortunately frequent occurrence in the medieval period).

The foundation of such widespread practice had been laid as early as the first and second centuries in the Mishnah and Tosefta. In these canonical sources, we witness a major development in the history of Jewish practices of social justice: The rabbinic world extended the biblical obligation to provide to the poor from an individual obligation to a communal institutional practice. The Jewish community might very well have been the first "welfare state."

This form of Jewish communal organization of social justice was a constant feature of the medieval and early modern periods. Even in their utterly devastated conditions, Jewish communities strived to maintain this institutional structure. By 1391, around a hundred years after Rashba's ruling, his Jewish community of Barcelona was decimated, having been ravaged, like many other Spanish Jewish communities, by a wave of massacres and forced conversions to Christianity.

What guaranteed the survival of Jewish life in Spain was the rebuilding of Jewish communities initiated by Rabbi Abraham Benveniste in 1423, through a set of enactments known as the Valladolid *takanot*. These enactments included the restoration of communal taxation that guaranteed the provision of welfare and an extensive rebuilding and funding of education.

In 1492, when the expelled Jewish refugees from Spain arrived

on the shores of North Africa and the Ottoman Empire, among the first initiatives they undertook was the establishment of welfare communities and funded education, in line with the Valladolid model. Besides the obligation of solidarity and the traditions of giving, providing support was a key to survival and continuity in an unpredictable, hostile world. Steadfast loyalty to a set of principles and practices was not enough to keep a community intact; it needed to be complemented by a profound sense of communal solidarity and mutual responsibility.

As is clear in Rashba's ruling, medieval Jewish communities did not simply perceive private ownership and the liberty to use one's property autonomously as an ultimate inviolable right — instead, they taxed their members. The poor were not blamed for their misery, and in that spirit of solidarity, welfare was not considered as having a corrupting effect on the receiver. Yet full equity wasn't the ideal aspired state either. Rashba never challenged the existence of wealth disparities, and his aim was not to abolish them. The wealthy might have more, but with such advantage comes responsibility. The community is under an obligation to establish a safety net for its most needy members, and this obligation ought to be distributed in proportion to capability.

Among the main arguments for such a collective obligation as stated in the responsa was the preservation of the dignity of the poor, "our brethren and our flesh." Poverty is not only a material condition — it can also be a psychological state of dependency and shame. This social sensibility was expressed boldly by Maimonides in his Code of Jewish Law:

He who gives alms to a poor man with a hostile countenance and with his face averted to the ground, loses his merit and forfeits it, even if he gives as much as a thousand gold coins. He should rather give with a friendly countenance and joyfully. He should commiserate with the recipient in his distress as it is said, *If I have not wept for him that was in trouble, and if*

my soul grieved not for the needy. He should also speak to him prayerful and comforting words as it is said: *And I caused the widow's heart to sing with joy* (Job 29:14). (Laws Concerning Gifts to the Poor, 10:4)

Charity is not merely a transfer of wealth from the well-to-do to the poor; it includes empathy with the travails of those in need. The giver, therefore, is duty bound to respond to a request for alms. The high degree of sensitivity to be shown by the giver follows from recognizing that the needy feel humiliated by the situation in which they find themselves:

If a poor man asks you for alms and you have nothing to give him, comfort him with words. It is forbidden to rebuke a poor man and to raise one's voice in a shout at him, seeing that his heart is broken and crushed....Woe unto him who shames the poor! Woe unto him! One should be rather unto that poor as a father, with both compassion and words, as it is said, *I was a father to the needy* (Job 29:16). (Laws Concerning Gifts to the Poor, 10:5)

Having determined that poverty is a psychological state as well as a state of material need, and that responsiveness to that psychological state is an essential part of giving, Maimonides goes on to formulate the hierarchy of charity ranked according to the ways that giving responds to dependence and humiliation. The most praiseworthy level is a form of giving aimed at liberating the poor person from his state of dependence:

The highest degree, that which there is none higher, is one who upholds the hand of an Israelite reduced to poverty by handing him a gift or a loan or entering into partnership with him, or finding work for him, in order to strengthen his hand, so that he would have no need to beg from other people. (Laws Concerning Gifts to the Poor, 10:7)

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The bottom of the ladder is the opposite: giving that perpetuates the state of dependence and manifests no awareness of the poor person's possible sense of humiliation. Between these extremes, Maimonides enumerates six intermediate levels of charity, from donating secretly, such that neither the giver nor the recipient can identify the other; down to giving pleasantly, albeit less than the proper amount and only after being asked. The ladder of the gradation of giving is not determined by the amount that is given, but rather by the way in which giving preserves the dignity of the one in need.

With the rise of the centralized state in the modern period, Jewish communities lost their autonomy to enforce taxation on their members. Nevertheless, the medieval Jewish experience provides a rich cultural inheritance in confronting social concerns in radically different historical circumstances, both in relation to the larger questions of social justice within a state and the more particular concern of the Jewish community. Five lessons can be drawn from this profound tradition:

1. Jewish halakhah and practice rejected the libertarian position of the ultimate sanctity of private property and the liberty to use it autonomously. States ought to tax their citizens in order to provide welfare for less fortunate members of the community, and taxation should be proportionate to wealth.

2. The greatest halakhists were not concerned with wealth disparity as such, and they didn't strive to reduce it and to create an egalitarian social order. Inequality is accepted, but with greater resources comes greater responsibility.
3. Since the condition of poverty is perceived not only in terms of material depravity but as a psychological state of dependency, welfare to the poor has to aim at preserving dignity and thus must strive to bring the poor into a position of independence. Freeing a person from the need to be dependent on charity is the greatest form of charity.
4. Abstract arguments about property, equality, and liberty cannot in themselves be the sole ground of social justice policy. Social justice has to be grounded as well in a sense of communal solidarity and anchored in the care for our fellow vulnerable citizens, whether Jews or non-Jews, because they are our sisters and brothers, our own flesh. Without establishing such a civic bond, the abstract arguments are reduced to mere sophistry.
5. Jewish continuity and flourishing are inseparable from a strong sense of communal belonging. Community-building is centered on care for its members and on the creation of a strong educational system subsidized by the community as the key to the thriving of a robust Jewish life. *