

What Does the Torah Have to Say about [Modern] Economics?

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Class 3

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Interest Laws and Others Non-Economic Motivations/Goals

Examples of “Non-Economic Goals”

1. משנה עבודה זרה א' א'-ב'

(א) לפני אידיהו של גוים שלשה ימים אסור לשאת ולתת עמהו, להשאילין ולשאל מהו, להלותו וללות מהו, לפרעו ולפרע מהו. רבי יהודה אומר, נפרעין מהו מפני שהוא מצר לו. אמרו לו, אף על פי שמצר הוא עכשיו, שמח הוא לאחר זמן:
(ב) רבי ישמעאל אומר, שלשה ימים לפניהם ושלשה ימים לאחריהם, אסור. וחכמים אומרים, לפני אידיהו אסור, לאחר אידיהו מתר:

Mishnah Avodah Zarah 1:1-2

(1) On the **three days before the festivals of gentiles** the following actions are prohibited, as they would bring joy to the gentile, who would subsequently give thanks to his object of idol worship on his festival: It is **prohibited to engage in business with them; to lend items to them or to borrow items from them; to lend money to them or to borrow money from them; and to repay debts owed to them or to collect repayment of debts from them. Rabbi Yehuda says: One may collect repayment of debts from them because this causes the gentile distress. The Rabbis said to Rabbi Yehuda: Even though he is distressed now, when he repays the money, he is happy afterward** that he is relieved of the debt, and therefore there is concern that he will give thanks to his object of idol worship on his festival.

(2) **Rabbi Yishmael says: On the three days before the festivals of gentiles and on the three days after them, it is prohibited to engage in business with those gentiles. And the Rabbis say: It is prohibited to engage in business with them before their festivals, but it is permitted to engage in business with them after their festivals.**

2. משנה עבודה זרה א' ה'-ז'

(ה) אלו דברים אסורים למכר לגוים, אצטרוכלין, וכנות שוח ופטוטרותיקה, ולבונה, ותרגול הלכן. רבי יהודה אומר, מתר למכור לו תרגול לכן בין התרגולין. ובזמן שהוא בפני עצמו, קוטע את אצבעו ומוכרו לו, לפי שאין מקריבין חסר לעבודה זרה. ושאר כל הדברים, סתמן מתר, ופרושן אסור. רבי מאיר אומר, אף דקל טב וחצב ונקליבם אסור למכר לגוים:
(ו) מקום שנהגו למכר בהמה דקה לגוים, מוכרין. מקום שנהגו שלא למכר, אין מוכרין. ובכל מקום אין מוכרין להם בהמה גסה, עגלים וסוּחיים, שלמים ושבורין. רבי יהודה מתיר בשבורה. וכן בתירה מתיר בסוס:
(ז) אין מוכרין להם דבין ואריות וכל דבר שיש בו נזק לרבים. אין בזנין עמהם בסילקי, גרדום, ואצטודיא, ובימה. אבל בזנים עמהם בימוסאות ובית מרחצאות. הגיעו לכפה שמעמידין בה עבודה זרה, אסור לבנות:

Mishnah Avodah Zarah 1:5-7

(5) **These are the items that it is prohibited to sell to a gentile at any time of year, as they are used specifically for idol worship: Itzterubalin, benot shuah, petotarot, frankincense, and a white rooster. Rabbi Yehuda says: It is permitted to sell a white rooster to a gentile provided that it is sold along with other types of roosters.**

But when it is sold by itself, one should cut off its toe and sell it to the gentile, because they do not sacrifice a defective animal to their object of idol worship. And with regard to all remaining items, without specification it is permitted to sell them, but with specification it is prohibited to sell them. Rabbi Meir says: Even in the case of a good palm tree, hatzav, and naklav, it is prohibited to sell them to gentiles.

(6) **In a place where the residents were accustomed to sell small domesticated animals to gentiles, one may sell them. In a place where they were not accustomed to sell them, one may not sell them. But in every place, one may not sell them large livestock, calves, or foals, whether these animals are whole or damaged. The Sages prohibited these sales lest a Jew's animal perform labor for the gentile on Shabbat in violation of an**

explicit Torah prohibition, as explained in the Gemara. **Rabbi Yehuda permits** the sale of a damaged animal because it is incapable of performing labor, **and ben Beteira permits** the sale of a horse for riding, because riding a horse on Shabbat is not prohibited by Torah law.

(7) **One may not sell bears, or lions, or any item that can cause injury to the public, to gentiles. One may not build with them a basilica [basileki], a tribunal [gardom], a stadium [itztadeyya], or a platform. But one may build with them small platforms [bimmusiot] and bathhouses.** Even in this case, once he reaches the arched chamber in the bath where the gentiles put up objects of idol worship, it is prohibited to build it.

Interest/Usury: An Introduction

3. שמות כ"ב:כ"ד-כ"ו

(כד) אִם-כֶּסֶף וּתְלוּנָה אֶת-עַמִּי אֶת-הַעֲנִי עִמָּךְ לֹא-תִהְיֶה לּוֹ כְּנִשְׂאָה לֹא-תִשְׁיָמוּן עָלָיו נִשְׂאָה: (כה) אִם-חֶבְלֵךְ תִּחְבֵּל תִּחְבֵּל שְׁלֵמַת רֵעֶךָ עַד-כִּי הִשְׁמַשׁ תִּשְׁכַּבְנּוּ לוֹ: (כו) כִּי הוּא כְּסוּתוֹהֶּ לְבִדָּה הוּא שְׁמֵלְתוֹ לְעָרְוֹ בְּמֶה יִשְׁכַּב וְהָיָה כִּי-יִצְעַק אֵלַי וְשָׁמַעְתִּי כִּי-חָנּוּן אֲנִי: (ס)

Exodus 22:24-26

(24) If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them. (25) If you take your neighbor's garment in pledge, you must return it before the sun sets; (26) it is the only available clothing—it is what covers the skin. In what else shall [your neighbor] sleep? Therefore, if that person cries out to Me, I will pay heed, for I am compassionate.

4. ויקרא כ"ה:ל"ה-ל"ח

(לה) וְכִי-יִמְנוּהוּ אֲחִיךָ וּמִטָּה יָדוֹ עִמָּךְ וְהִחַזְקֶתָּ בּוֹ גֵר וְתוֹשֵׁב וְחִי עִמָּךְ: (לו) אֶל-תִּקַּח מֵאִתּוֹ נִשְׂאָה וְתַרְבִּית וּיְרֵאתָ מֵאֱלֹהֶיךָ וְחִי אֲחִיךָ עִמָּךְ: (לז) אֶת-כֶּסֶפְךָ לֹא-תִתֵּן לּוֹ כְּנִשְׂאָה וּבְמִרְבִּית לֹא-תִתֵּן אֲכֹלְךָ: (לח) אֲנִי יְהוָה אֱלֹהֵיכֶם אֲשֶׁר-הוֹצֵאתִי אֶתְכֶם מֵאֶרֶץ מִצְרַיִם לְתֶת לְכֶם אֶת-אֶרֶץ כְּנָעַן לְהִיּוֹת לְכֶם לְאֱלֹהִים: (ס)

Leviticus 25:35-38

(35) If your kin, being in straits, come under your authority, and are held by you as though resident aliens, let them live by your side: (36) do not exact advance or accrued interest, but fear your God. Let your kin live by your side as such. (37) Do not lend your money at advance interest, nor give your food at accrued interest. (38) **יהוה** I am your God, who brought you out of the land of Egypt, to give you the land of Canaan, to be your God.

5. דברים כ"ג:כ"א-כ"ב

(כ) לֹא-תִשְׁיָאֵר לְאֲחִיךָ נִשְׂאָה כֶּסֶף נִשְׂאָה אֲכָל נִשְׂאָה כָּל-דָּבָר אֲשֶׁר יִשְׂאָה: (כא) לְנַכְרֵי תִשְׁיָאֵר וּלְאֲחִיךָ לֹא תִשְׁיָאֵר לְמַעַן יִבְרַכְךָ יְהוָה אֱלֹהֶיךָ בְּכָל-מְשֻׁלְחֵי יָדְךָ עַל-הָאָרֶץ אֲשֶׁר-אֲתַתָּה בָּא-שָׁמָּה לְרִשְׁתָּהּ: (ס)

Deuteronomy 23:20-21

(20) You shall not deduct interest from loans to your fellow Israelites, whether in money or food or anything else that can be deducted as interest; (21) but you may deduct interest from loans to foreigners. Do not deduct interest from loans to your fellow Israelites, so that your God **יהוה** may bless you in all your undertakings in the land that you are about to enter and possess.

6. יחזקאל י"ח:זי-י"ח

(ו) וְאִישׁ לֹא יוֹנֶה חֶבְלָתוֹ חוֹב יִשְׁיָב וְגֹלָה לֹא יִגָּל לְחַמוֹ לְרַעֲב תִּתֵּן וְעִירָם יִכְסֶה-בְּגָדוֹ: (ח) בְּנִשְׂאָה לֹא-יִתֵּן וְתַרְבִּית לֹא יִקַּח מֵעוֹל יֹשִׁיב יָדוֹ מִשְׁפָּט אֲמַת יַעֲשֶׂה בֵּין אִישׁ לְאִישׁ: (ט) בְּחֻקוֹתֵי יְהוָה וּמִשְׁפָּטֵי שֹׁמֵר לְעֲשׂוֹת אֲמַת צְדִיק הוּא חֵיָה יְחִיָּה נָאֵם אֲדֹנָי יְהוִה: (י) וְהוֹלִיד בְּוִפְרִיץ שִׁפָּה דָם וְעֵשָׂה אִחַּ מֵאֲחִיךָ מֵאֲלֵה: (יא) וְהוּא אֶת-כָּל-אֵלֶּה לֹא עֲשָׂה כִּי גַם אֶל-הַהָרִים אָכַל וְאֶת-אֲשֶׁת רֵעֵהוּ טָמְאָה: (יב) עָנִי וְאֲבִיוֹן הוֹנֶה גְּזֻלֹת גְּזֻל חֶבֶל לֹא יִשְׁיָב וְאֶל-הַגְּלוּלִים נִשְׂאָ עֵינָיו תוֹעֵבָה עֲשָׂה: (יג) בְּנִשְׂאָה נָתַן וְתַרְבִּית לָקַח וְחִי לֹא יְחִילָה אֶת-כָּל-הַתּוֹעֵבוֹת הָאֵלֶּה עֲשָׂה מוֹת יוֹמָת דָּמִיו בּוֹ יְהִיָּה: (יד) וְהִנֵּה הוֹלִיד בּוֹ וַיִּרְא אֶת-כָּל-חַטָּאת אֲבִיו אֲשֶׁר עֲשָׂה וַיִּרְאָה וְלֹא יַעֲשֶׂה כִּהְיוּ: (טו) עַל-הַהָרִים לֹא אָכַל וְעֵינָיו לֹא נִשְׂאָ אֶל-גְּלוּלֵי בַּיִת יִשְׂרָאֵל אֶת-אֲשֶׁת רֵעֵהוּ לֹא טָמְאָה: (טז) וְאִישׁ לֹא הוֹנֶה חֶבֶל לֹא חָבַל וְגֹלָה לֹא גָּל

לחמו לרעב נתן וערום כסה בגדו. (יז) מעני השניב ידו נשף ותרבית לא לקח משפט עשה בחקותי הלה הוא לא ימות בעון אביו חיה יחיה. (יח) אביו כיעשק עשק גול גול אח ואשר לא טוב עשה בתוך עמיו והנהמת בעונו.

Ezekiel 18:7-18

(7) if he has not wronged anyone; if he has returned the debtor's pledge to him and has taken nothing by robbery; if he has given bread to the hungry and clothed the naked; (8) if he has not lent at advance interest or exacted accrued interest; if he has abstained from wrongdoing and executed true justice between man and man; (9) if he has followed My laws and kept My rules and acted honestly—he is righteous. Such a man shall live—declares the Lord GOD. (10) Suppose, now, that he has begotten a son who is a ruffian, a shedder of blood, who does any of these things,^d (11) whereas he himself did none of these things. That is, [the son] has eaten on the mountains, has defiled another man's wife, (12) has wronged the poor and the needy, has taken by robbery, has not returned a pledge, has raised his eyes to the fetishes, has committed abomination, (13) has lent at advance interest, or exacted accrued interest—shall he live? He shall not live! If he has committed any of these abominations, he shall die; he has forfeited his life. (14) Now suppose that he, in turn, has begotten a son who has seen all the sins that his father committed, but has taken heed and has not imitated them: (15) He has not eaten on the mountains or raised his eyes to the fetishes of the House of Israel; he has not defiled another man's wife; (16) he has not wronged anyone; he has not seized a pledge or taken anything by robbery; he has given his bread to the hungry and clothed the naked; (17) he has refrained from oppressing the poor;^e he has not exacted advance or accrued interest; he has obeyed My rules and followed My laws—he shall not die for the iniquity of his father, but shall live. (18) To be sure, his father, because he practiced fraud, robbed his brother, and acted wickedly among his kin, did die for his iniquity;

7. ספורנו על דברים כ"ג:

(א) לא תשיך לאחיק אחר שהזהיר להשמר מן הדברים הגורמים שתסתלק השכינה מישאל הוזהיר על מיני חסד הגורמים להשרות בישראל. והם ענין הרבית והגדרים אשר מהם הצדקה שחייב עליה לאלתר דהא שכיחי עניים

Sforno on Deuteronomy 23:20

(1) לא תשיך לאחיק, after warning us concerning behaviour the result of which is G'd's withdrawing His benevolent presence from the Jewish people, He cautions us concerning the acts of loving kindness which would ensure the continued presence of His Shechinah. Two major steps in that direction are: 1) not to charge a fellow Jew interest on a loan extended to him, 2) not to be tardy in discharging the obligations assumed when making a vow in favour of G'd. (verse 22) These include vows representing donations to charity which are due without delay, seeing that there is never a shortage of people in need who have to be supported by charity.

8. משנה תורה, הלכות מלווה ולווה א'א:

(א) מצות עשה להלוות לעניי ישראל שנאמר (שמות כב כד) "אם כסף תלוה את עמי את העני עמה". יכול רשות תלמוד לומר (דברים טו ח) "העבט תעביטנו וגו'". ומצוה זו גדולה מן הצדקה אל העני השואל שזה כבר נצרה לשאל וזה עדין לא הגיע למדה זו. והתורה הקפידה על מי שימנע מלהלוות לעני שנאמר (דברים טו ט) "ורעה עינה באחיה האביון וגו'":

Mishneh Torah, Creditor and Debtor 1:1

(1) It is a positive commandment to lend money to the poor among Israel, as Exodus 23:24 states: "If you will lend money to My nation, to the poor among you." Lest one think that this is a matter left to the person's choice, it is also stated Deuteronomy 15:8: "You shall certainly loan to him."

This mitzvah surpasses the mitzvah of charity given to a poor person who asks for alms. For the latter person had already been compelled to ask, and this one has not yet sunk that low. Indeed, the Torah is very severe with regard to a person who does not lend money to a poor person, stating *Ibid.*:9: "Beware lest there be a defiant thought in your heart... and you look badly upon your poor brother and you not give him."

9. טור, חושן משפט צ"ז-א'ד:

(א) הלכות גביית מלוה

מצות עשה להלוות לעניי ישראל:

(ב) ומצוה גדולה היא יותר מן הצדקה שהמקבל הצדקה כבר נצרך לשאול וזה שלוח עדיין לא הגיע לידי כך:

(ג) וקרובו עני הוא קודם לעניי אחרים ועני עירו קודמין לעניי עיר אחרת:

(ד) ואפילו עשיר שצריך ללוות מצוה להלוותו לפי שעה ולההנותו אף בדברים ולייעצו עצה ההוגנת לו:

10. רמב"ן על דברים כ"ג:כ

(א) לא תשיך לאחיך גם זו מצוה מבוארת (ויקרא כה לו לו) יוסיף בכאן אזהרה גם ללוה מה שאין כן בכל דיני ממונות שאם רצה הוא לזוק בנכסיו רשאי אבל מפני רגילות החטא הזה יזהיר בו גם הלוה וביאר בכאן שיהיה רבית הנכרי מותר ולא הזכיר כן בגזל ובגנבה כמו שאמרו (ב"ק קיג) גזל גוי אסור אבל הרבית שהוא נעשה לדעת שניהם וברצונם לא נאסר אלא מצד האחווה והחסד כמו שצוה (ויקרא יט יח) ואהבת לרעך כמוך וכמו שאמר (דברים ט"ו:ט) השמר לך פן יהיה דבר עם לבבך בליעל וגו' ועל כן אמר למען יברכך ה' אלהיך כי חסד ורחמים יעשה עם אחיו כאשר ילוננו בלא רבית ותחשב לו לצדקה וכן השמיטה חסד באחים לכך אמר (שם פסוק ג) את הנכרי תגוש וקבע לו ברכה כי הכתוב לא יזכיר הברכה רק בצדקה ובחסדים לא בגזל ובגנבה ובאונאה והזכיר נשך כסף נשך אכל לבאר שהלוה סאה חטין בסאה וחצי יהיה נשך גמור אפילו לא יהיה שוה סאה וחצי בעת הפרעון כדמי סאה שהלוהו וביאר עוד כל דבר אשר ישך אפילו באבני הבנין ושאר הנלוים אולי יעלה על הדעת שאין הנשך רק בכסף שכל הדברים נקנין בו ובאוכל שהוא חיי האדם אבל בשאר הדברים נלך אחר שום הכסף לעת ההלוואה והפרעון ורבותינו (ספרי קט) עשו לנכרי תשיך לאו הבא מכלל עשה באחיך מפני שהוא מיותר שכבר אמר לא תשיך לאחיך:

Ramban on Deuteronomy 23:20

(1) LO THASHICH L'ACHICHA' (THOU SHALT NOT CAUSE THY BROTHER TO TAKE INTEREST). This also is an explanatory commandment, adding here an admonition to the borrower as well, unlike all civil cases, for if a person wishes to damage his belongings he may do so [and it should, therefore, be permitted to the borrower to give freely to the lender]. However, because of the habitual nature of this sin [of giving interest], Scripture admonishes the borrower as well. And he explained here that a heathen's interest is permissible. This he did not mention with reference to robbery and theft, as the Rabbis have said. "Theft from a heathen is forbidden." But borrowing for interest, which is agreed upon by both parties and is done voluntarily, was forbidden [by the Torah] only because of brotherliness and kindness, as He commanded, *and thou shalt love thy neighbor as thyself*, and as he said, *Beware that there be not a base thought in thy heart etc. [and thine eye be evil against thy needy brother, and thou give him nought]*. Therefore he said [here], *that the Eternal thy G-d may bless thee*, for it is an act of mercy and compassion that one does for his brother by lending him without interest, and it will be *accounted to him for righteousness*. The release of debts [in the Seventh year] is also an act of mercy among brothers, and therefore he said, *Of a foreigner thou mayest exact it*, and for him [who releases the debt of a brother] he designated a blessing, for Scripture mentions a blessing only in connection with charity and acts of mercy, and not for [the mere abstention from] robbery, theft, and fraud.

He mentions *interest of money, interest of victuals* in order to explain that he who lends one measure of wheat for a measure and a half is [guilty of taking] true interest even if at the time of payment a measure and a half is not worth as much as was the one measure that he lent him. And he further explained, *interest of any thing that is lent upon interest*, meaning even building-blocks and other articles which are lent. For it might occur to one to think that "interest" applies only to money with which everything can be purchased and to victuals which sustain life, but in other things we should go according to the cash value at the time of the loan and the repayment [therefore Scripture prohibited all such interest expressly]. Now our Rabbis have interpreted the verse, *Unto a foreigner thou shalt lend upon interest* as being a negative commandment derived from a positive commandment [which carries the force of a positive commandment] with respect to lending to an Israelite. [They rendered this interpretation] because the verse is redundant, for he already stated '*lo thashich' thy brother* [which implies clearly that it is permitted to exact interest from a foreigner; why then the repetition, *Unto a foreigner etc.*? It was to teach that an interest-bearing loan to an Israelite is in violation of both a negative and a positive commandment].

11. בבא מציעא ט"ב:ח'-י"א

מתני' איזהו נשך ואיזהו תרביית איזהו נשך המלוה סלע בה' דינרין סאתים חטין בשלש אסור מפני שהוא נושך ואיזהו תרביית

המרבה בפירות כיצד לקח הימנו חטין בדינר זהב הכור וכן השער עמדו חטין בל' דינרין אמר לו תן לי חטיי שאני רוצה למוכרן וליקח בהן יין אמר לו הרי חטיך עשויות עלי בשלשים והרי לך אצלי בהן יין ויין אין לו:

Bava Metzia 60b:8-11

MISHNA: The Torah states the prohibition against taking interest: “And if your brother becomes impoverished, and his hand falters with you, then you shall support him; whether a stranger or a native, he shall live with you. You shall not take from him interest [*neshekh*] or increase [*tarbit*]; you shall fear your God and your brother shall live with you. You shall not give him your money with *neshekh* and with *marbit* you shall not give him your food” (Leviticus 25:35–37). The mishna asks: **Which is *neshekh*, and which is *tarbit*? Which is the case in which there is *neshekh*?** With regard to **one who lends another a *sela*, worth four dinars, for five dinars to be paid later, or one who lends another two *se'a* of wheat for three *se'a* to be returned later, this is prohibited, as it is taking interest [*noshekh*].** **And which is the case in which there is *tarbit*?** It is the case of **one who enters into a transaction that yields an increase in the produce beyond his investment. How so?** For example, **one acquired wheat from another at the price of one *kor* of wheat for one gold dinar, worth twenty-five silver dinars, with the wheat to be supplied at a later date, and such was the market price of wheat at the time he acquired it. The price of one *kor* of wheat then increased and stood at thirty dinars. At that point, the buyer said to the seller: Give me all of my wheat now, as I wish to sell it and purchase wine with it. The seller said to him: Since it is ultimately wine that you want, not wheat, each *kor* of your wheat is considered by me to be worth thirty dinars, and you have the right to collect its value in wine from me. And in this case, the seller did not have wine in his possession. If wine then appreciates in value, the result will be an interest-bearing transaction, as the buyer collects from the seller wine worth more than the wheat for which he paid.**

12. בבא מציעא ס"א א:ז-י"ח

אמר רבא למה לי דכתב רחמנא לאו ברבית לאו בגזל לאו באונאה צריכי דאי כתב רחמנא לאו ברבית משום דחידוש הוא דאפילו בלוה אסרה רחמנא ואי כתב רחמנא לאו בגזל משום דבעל כרחיה אבל אונאה אימא לא ואי כתב רחמנא לאו באונאה משום דלא ידע דמחיל חדא מחדא לא אתיא תיתי חדא מתרתי הי תיתי לא לכתוב רחמנא לאו ברבית ותיתי מהנך מה להנך שכן שלא מדעת תאמר ברבית דמדעתיה לא לכתוב רחמנא לאו באונאה ותיתי מהנך מה להנך שכן אין דרך מקח וממכר בכך אלא לא לכתוב רחמנא לאו בגזל ותיתי מהנך דמאי פרכת מה לרבית שכן חידוש אונאה תוכיח מה לאונאה שכן לא ידע ומחיל רבית תוכיח וחזר הדין לא ראי זה כראי זה ולא ראי זה כראי זה הצד השווה שבהן שכן גזולו אף אני אביא גזל אמרי הכי נמי אלא לאו בגזל למה לי לכובש שכר שכיר כובש שכר שכיר בהדיא כתיב ביה (דברים כד, יד) לא תעשוק שכיר עני ואביון לעבור עליו בשני לאוין ולוקמה ברבית ואונאה ולעבור עליו בשני לאוין דבר הלמד מעניינו

Bava Metzia 61a:7-18

§ Rava said: Why do I need it to be that the Merciful One writes a prohibition with regard to interest, a prohibition with regard to robbery (see Leviticus 19:13), and a prohibition with regard to exploitation (see Leviticus 25:14), a transaction where one of the parties overcharged or underpaid? There appears to be one principle underlying all three prohibitions: One must not take possession of another's money in illegitimate ways. The Gemara explains: They are necessary. As, had the Merciful One written the prohibition only with regard to interest, one could not have derived the other prohibitions from it because it is a prohibition with a novel element that does not appear in other *halakhot*. This novel element is that the Merciful One prohibited a loan with interest even for the borrower. With regard to the two other prohibitions, there is a prohibition against taking another's money, but there is no prohibition for the victim, who has his money taken. And had the Merciful One written the prohibition only with regard to robbery, one could not have derived the other prohibitions from it, as perhaps robbery is prohibited only due to the fact that it is an action taken against the will of the victim. But in the cases of exploitation and interest, where there is an element of consent, one would say they are not prohibited. And had the Merciful One written the prohibition only with regard to exploitation, one could not have derived the other prohibitions from it, as perhaps exploitation is prohibited only due to the fact that the victim does not know that he was the victim of exploitation and therefore cannot waive repayment. In the cases of interest and robbery, the borrower and the victim, respectively, are aware that their money was taken and waiving repayment is possible, so perhaps those actions are not prohibited. The

Gemara suggests: Although **no one** of these prohibitions can be **derived from one** of the other prohibitions, perhaps **one** of them can be **derived from the other two**. The Gemara clarifies: **Which** prohibition will you **derive** from the other two? **Let the Merciful One not write the prohibition with regard to interest, and instead derive that prohibition from these two, robbery and exploitation.** The Gemara rejects that suggestion: **What** is notable **about these** prohibitions? They are notable **in that** they are transgressed **without the consent** of the victim. **Will you say the same with regard to interest, which the borrower gives with his consent,** as he agrees to accept the loan under those conditions? The Gemara suggests: **Let the Merciful One not write the prohibition with regard to exploitation, and instead derive that prohibition from these two, robbery and interest.** The Gemara rejects that suggestion: **What** is notable **about these** prohibitions? They are notable **in that** they are **not** transgressed **in the typical manner of buying and selling.** Will you say the same with regard to exploitation, which is transgressed in the context of typical buying and selling? **Rather, let the Merciful One not write the prohibition with regard to robbery, and instead derive that prohibition from these two, interest and exploitation.** **As what refutation will you offer?** If you say: **What** is notable **about interest?** It is notable **in that** the prohibition of interest contains **a novel element;** the case of **exploitation will prove** that a novel element is not a factor, as the prohibition against exploitation contains no novel element. If you say, **what** is notable **about exploitation?** It is notable **in that** in this case, the victim **does not know** that he was the victim of exploitation and therefore he cannot **waive** repayment; the case of **interest will prove** that the inability to waive repayment is not a factor, as the borrower is aware of the interest and able to waive repayment. The Gemara comments: **And the inference has reverted** to its starting point. **The aspect of this case, interest, is not like the aspect of that case, exploitation, and the aspect of that case, exploitation, is not like the aspect of this case, interest. Their common denominator is that one robs another** of money, i.e., takes money from another that is not due to him. **I will also bring** the prohibition against **robbery,** which shares that common denominator, and derive it from the other two prohibitions. The Sages **said: Indeed,** the prohibition against robbery is superfluous. **But** if the prohibition against robbery can be derived from the prohibitions against interest and exploitation, **why do I need the prohibition** written in the Torah **with regard to robbery?** The Gemara answers: That verse is not written to prohibit a standard case of robbery; rather, it serves **to** prohibit the action of one who **withholds the wages of a hired laborer.** In that case, unlike robbery, the employer does not take money from the laborer; he merely fails to pay him his wages. The Gemara challenges: **With regard to one who withholds the wages of a hired laborer, it is explicitly written: “You shall not oppress a hired laborer who is poor and destitute”** (Deuteronomy 24:14). There is no need to derive this prohibition from the verse concerning robbery. The Gemara answers: It is written **so that** withholding the wages of a hired laborer always involves **violating two prohibitions.** The Gemara asks: **But let us interpret** the verse concerning robbery as prohibiting **interest or exploitation, and say that it is written so that** these prohibitions always involve **violating two prohibitions.** The Gemara answers: The prohibition against robbery is applied to the case of withholding the wages of a hired laborer because it is **a matter derived from its context,**

13. בבא מציעא ס"א ב:א'-ג'

ובעניינא דשכיר כתיב (ויקרא יט, יא) לא תגנובו דכתב רחמנא למה לי לכדתניא (שמות כ, יב) לא תגנוב על מנת למיקט לא תגנוב על מנת לשלם תשלומי כפל א"ל רב ימר לרב אשי לאו דכתב רחמנא במשקלות למה לי א"ל לטומן משקלותיו במלח היינו גזל מעליא הוא לעבור עליו משעת עשייה

Bava Metzia 61b:1-3

and this prohibition is written in the context of **the matter of a hired laborer:** “You shall not oppress your neighbor, nor rob him, and the wages of a hired servant shall not abide with you all night until the morning” (Leviticus 19:13). The Gemara asks: **Why do I need the prohibition: “You shall not steal”** (Leviticus 19:11), **that the Merciful One wrote?** This is yet another prohibition against taking money by illegitimate means, and it could be derived from the other prohibitions mentioned previously. The Gemara answers that it is necessary for the Merciful One to write that prohibition **for that which is taught** in a *baraita*: **“You shall not steal”** applies in all circumstances, even if you do so only **in order to aggravate** the victim; **“you shall not steal”** applies in all circumstances, even if you do so **in order to pay the double payment** as a gift to the person from whom you stole. **Rav Yeimar said to Rav Ashi: Why do I need the prohibition that the Merciful One wrote with regard to weights:** “You shall do no unrighteousness in judgment, in measure, in weight, or in volume” (Leviticus

19:35)? It is merely another form of robbery. Rav Ashi **said to him**: It is referring to a seller who **buries his weights in salt**, in order to lighten them. Rav Yeimar said: **That is** the same as **full-fledged robbery**; therefore, it should not require a separate derivation. Rav Ashi answered: It is written to establish that he **violates** the prohibition **from the moment of the act** of burying them. He violates the prohibition even before he actually deceives a buyer with the buried weights.

14. בבא מציעא ט"ב:י"ב-י"ט

גמ' מדשביק לריבית דאורייתא וקא מפרש דרבנן מכלל דאורייתא דנשך ותרבית חדא מלתא היא והא קראי כתיבי נשך כסף וריבית אוכל ותיסברא דאיכא נשך בלא תרבית ותרבית בלא נשך בלא תרבית היכי דמי אי דאזופיה מאה במאה ועשרים מעיקרא קיימי מאה בדנקא ולבסוף קיימי מאה ועשרים בדנקא נשך איכא דקא נכית ליה דקא שקיל מיניה מידי דלא יהיב ותרבית ליכא דלית ליה רווחא דדנקא אוזופיה ודנקא קא. שקיל מיניה סוף סוף אי בתר מעיקרא אזלת הרי נשך והרי תרבית אי בתר בסוף אזלת לא נשך איכא ולא תרבית איכא ותו תרבית בלא נשך היכי דמי אי דאזויף מאה במאה מעיקרא קיימי מאה בדנקא ולבסוף מאה בחומשא אי בתר מעיקרא אזלת לא נשך איכא ולא תרבית איכא אי בתר סוף אזלת הרי נשך והרי תרבית אלא אמר רבא אי אתה מוצא לא נשך בלא תרבית ולא תרבית בלא נשך ולא חלקן הכתוב אלא לעבור עליו בשני לאוין ת"ר (ויקרא כה, לו) את כספך לא תתן לו בנשך ובמרבית לא תתן אכלך אין לי אלא נשך בכסף וריבית באוכל נשך באוכל מנין ת"ל (דברים כג, כ) נשך אוכל ריבית בכסף מנין תלמוד לומר נשך כסף

Bava Metzia 60b:12-19

GEMARA: The Gemara asks: **From** the fact **that** in explaining the term *tarbit*, the *tanna* **sets aside the topic of interest by Torah law**, which is interest decided upon at the time of a loan, **and** instead **explicates** a case of lending with interest that is prohibited **by rabbinic law**, one can conclude **by inference** that **by Torah law, neshekh and tarbit are one matter**, and there is no halakhic distinction between them. The Gemara asks: **But aren't the verses written** using the term *neshekh* for interest that is on a loan of **money and tarbit or marbit**, which are cognates of the term *ribit*, for interest that is on a loan of **food**? This is as the verse states: "You shall not give him your money with *neshekh* and with *marbit* you shall not give him your food" (Leviticus 25:37). The Gemara asks: **And can you understand that there is neshekh without tarbit, and tarbit without neshekh?** The term *neshekh*, from a root meaning bite, connotes loss to the borrower, while the term *tarbit*, literally increase, connotes profit for the lender. The Gemara asks: **What are the circumstances** where there could be *neshekh* **without tarbit?** If it is in a case where **one lends to** another **one hundred perutot** with the agreement to be repaid **one hundred and twenty**, and **initially one hundred** copper *perutot* **are worth one-sixth [bedanka]** of a dinar, **and ultimately**, when he pays, **one hundred and twenty perutot** **are worth one-sixth** of a dinar, this is not an example of one without the other. Although one might say that **there is neshekh**, as the lender **reduces** the borrower's assets **since** the lender **takes** in payment **from** the borrower coins **that he did not give** him in the loan, **and there is no tarbit**, as **there is no profit** for the lender in this transaction, **since he lent him one-sixth** of a dinar **and he received from him one-sixth** of a dinar, that is not correct. The Gemara explains: **Ultimately, if you go according to the initial** value, when the loan was granted, **there is neshekh and there is tarbit**, as the borrower agreed to pay more than he received. **If you go according to the ultimate** value, when the loan was repaid, **there is neither neshekh nor is there tarbit**, as he repaid only the value he received. **Additionally, what are the circumstances** in which there could be *tarbit* **without neshekh?** If it is in a case where **one lends to** another **one hundred perutot** with the agreement to be repaid **one hundred**, and **initially one hundred** copper *perutot* **are worth one-sixth** of a dinar, **and ultimately**, when he is repaid, **one hundred perutot** **are worth one-fifth** of a dinar, this is not an example of one without the other. The Gemara explains: **If you go according to the initial** value, when the loan was granted, **there is neither neshekh nor is there tarbit**, as he is repaid only the value that he lent. **If you go according to the ultimate** value, when the loan was repaid, **there is neshekh and there is tarbit**, as the value of one hundred *perutot* has increased. **Rather, Rava said: You do not find neshekh without tarbit nor tarbit without neshekh, and the verse distinguished between them only so that** lending with interest always involves **violating two prohibitions**. The Sages taught in a *baraita*: The verse states: "**You shall not give him your money with neshekh and with marbit you shall not give him your food**" (Leviticus 25:37). **I have derived only** that there is a prohibition of *neshekh* for a loan of **money and** a prohibition of *ribit* for a loan of **food**. **From where** is it derived that there is *neshekh* with regard to a loan of **food** as well? The *baraita* answers: A different **verse states**: "You shall not lend with interest [*tashikh*] to your brother: *Neshekh* of money, *neshekh* of food, *neshekh* of anything that is lent with interest [*asher yishakh*]" (Deuteronomy 23:20). The

baraita continues: **From where** is it derived that there is *ribit* with regard to a loan of money? **The verse states: “Neshekh of money.”**

15. בבא מציעא ע"ב:י"ב

אמר רב נחמן אמר לי הונא לא נצרכא אלא דאפילו רבית דעובד כוכבים איתיביה רבא לרב נחמן (דברים כג, כא) לנכרי תשיך מאי תשיך לאו תשוך לא תשיך לא סגי דלאו הכי לאפוקי אחיך דלא אחיך בהדיא כתב ביה ולאחיך לא תשיך לעבור עליו בעשה ולא תעשה

Bava Metzia 70b:10-12

Rav Nahman said: Rav Huna said to me that this verse is **necessary only** to state **that even interest** that a Jew took **from a gentile** will ultimately reach the government treasury, and the one who took it will not be successful. **Rava raised an objection to** the statement of **Rav Nahman:** The verse states: **“Unto a gentile tashikh”** (Deuteronomy 23:21), which indicates that it is permitted for a Jew to take interest from a gentile, as **what** is the meaning of **“tashikh”?** **Doesn’t** it mean the same as *tishokh*, take interest, thereby teaching that one may take interest from a gentile? The Gemara refutes this claim: **No**, it means to **pay interest**, meaning that you must pay him interest. The Gemara asks: **Is it not sufficient without this?** In other words, can the verse actually require Jews to borrow money from a gentile and to pay him interest? This cannot be. The Gemara answers: It does not mean that borrowing money with interest is a mitzva; rather, the verse mentions paying interest to a gentile in order **to exclude your brother**, to teach **that** although one may pay interest to a gentile, one may **not** pay interest to a Jew. The Gemara challenges this explanation of the verse: The prohibition against paying interest to **your brother is written explicitly** in the continuation of that same verse in Deuteronomy: **“Unto your brother you shall not lend with interest.”** Consequently, there is no need to learn this *halakha* from an inference. The Gemara responds: It is necessary in order to teach **that** if one pays interest to a Jew **he violates** both **the positive** mitzva to pay interest to a gentile but not to a Jew, **and the prohibition** against paying interest to a Jew.

16. בבא מציעא ע"ה:ב:ד

ואלו עוברין בלא תעשה המלוה והלוה והערב והעדים וחכמים אומרים אף הסופר עוברים משום (ויקרא כה, לו) לא תתן ומשום (ויקרא כה, לו) אל תקח מאתו ומשום (שמות כב, כד) לא תהיה לו כנושה ומשום (שמות כב, כד) ולא תשימון עליו נשך ומשום (ויקרא יט, יד) ולפני עור לא תתן מכשול ויראת מאלהיך אני ה'

Bava Metzia 75b:4

And these people violate a prohibition of interest: **The lender, and the borrower, and the guarantor, and the witnesses. And the Rabbis say: Also the scribe** who writes the promissory note violates this prohibition. These parties to the transaction **violate** different prohibitions. Some are in violation of: **“You shall not give him your money with interest”** (Leviticus 25:37), **and of: “Do not take from him interest or increase”** (Leviticus 25:36), **and of: “Do not be to him as a creditor”** (Exodus 22:24), **and of “Do not place interest upon him”** (Exodus 22:24), **and of: “And you shall not place a stumbling block before the blind, and you shall fear your God; I am the Lord”** (Leviticus 19:14).

The “Adam Smith Problem”

17. Wealth of Nations

It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own self-interest. We address ourselves not to their humanity but to their self-love, and never talk to them of our own necessities, but of their advantages....

Nobody but a beggar chooses to depend chiefly upon the benevolence of his fellow-citizens. Even a beggar does not depend upon it entirely. The charity of well-disposed people, indeed, supplies him with

the whole fund of his subsistence. But though this principle ultimately provides him with all the necessaries of life which he has occasion for, it neither does nor can provide him with them as he has occasion for them. The greater part of his occasional wants are supplied in the same manner as those of other people, by treaty, by barter, and by purchase. With the money which one man gives him he purchases food. The old clothes which another bestows upon him he exchanges for other old clothes which suit him better, or for lodging, or for food, or for money, with which he can buy either food, clothes, or lodging, as he has occasion.

18. Theory of Moral Sentiments

Concern for our own happiness recommends to us the virtue of prudence; concern for that of other people, the virtues of justice and beneficence—of which the one restrains us from hurting, the other prompts us to promote that happiness.

James Otteson, *Market Place of Morals*

Nevertheless, there are ways to mitigate the Adam Smith Problem—two ways in particular. First, a single conceptual model for understanding the growth and maintenance of human institutions underlies both books, a model that at once unifies the philosophical methods Smith employs in each, and gives a single, constant understanding of human nature and the associations and institutions that people naturally form. Simply stated, this model is that of a market in which free exchanges among people pursuing their own interests give rise over time to an unintended system of order. I think Smith sees this model at work in all large-scale human institutions, including in particular common standards of morality (as in TMS) and economic marketplaces (as in WN). If this model proves coherent and capable of actually explaining the institutions it is meant to explain, it might also provide a first step toward solving the general problem of mixing morality and markets.

The second factor is something I shall call the “familiarity principle,” which substantially unifies the apparently conflicting pictures of human motivation in TMS and WN. Smith develops the familiarity principle in TMS, arguing that people’s natural benevolence toward others varies directly with their familiarity with them—the more familiar a person is to one, the greater the tendency to feel benevolent toward him; the less familiar, the less benevolent. Smith argues in TMS that the familiarity principle is, moreover, justified by the judgment of the impartial spectator. When this principle is applied to people qua actors in economic marketplaces, we shall find that their proper motivations should be quite similar to what it turns out Smith presupposes as the motivations of economic actors in WN. I shall then argue that taking together these two factors—the market model and the familiarity principle—substantially unify Smith’s two books, effectively dissolving the Adam Smith Problem, even the “potent” version I pressed in Chapter 4.

...

An implication of the familiarity principle is that people will and should feel relatively little benevolence—even, perhaps, none at all—for distant acquaintances, strangers, and, as Jerry Muller puts it, “the anonymous others” with whom one daily comes into fleeting contact.¹⁹ Because one knows such people so little, and because one has not had the opportunity to form habits of sympathy with them, one feels little or no natural affection for them. In such cases, Smith thinks, the impartial spectator approves of behavior that manifests a minimal level of benevolence (though, as always, his approval is limited to behavior that is within the bounds of justice). And here we can connect this treatment in TMS to the subject under discussion in WN. The people with whom one deals in the marketplace, the people with whom one barter, trucks, and trades, are for the most part strangers: frequently one does not know of them at all, less frequently they are but distant acquaintances, and only rarely are they family members or close friends. On Smith’s analysis in TMS, then, we should expect that the proper motivation people would feel as they deal in marketplaces would be chiefly self-interest within the bounds of justice, and only in the appropriate but rare situations would benevolence be required. Thus in one of the only places in TMS where Smith addresses economic concerns, he writes that the impartial spectator would render the following judgment:

In the race for wealth, and honours, and preferments, [a person] may run as hard as he can, and strain every nerve and every muscle, in order to outstrip all his competitors. But if he should juggle, or throw down any of them, the indulgence of the spectators is entirely at an end. It is a violation of fair play, which they cannot admit of. (TMS, 83)

The latter two sentences underscore Smith’s contention that the rules of justice must always be obeyed and that the impartial spectator never approves of their violation. But what Smith does not say in this passage is, I think, just as important as what he does say. No mention is made of benevolence, and the tone of the passage and the context surrounding it suggest that in such situations the impartial spectator

is not concerned with benevolence. Because the people with whom we do commercial business are largely strangers to us, self-interest is the relevant motivation in economic arenas.²⁰