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Schachter, rosh yeshiva of Rabbi Isaac Elchanan Theological Seminary (RIETS) at Yeshiva University. "It is important to note that today the basis for taxation is totally different from what it was in talmudic times." According to a contemporary understanding of Jewish law, we ought to ground the obligation to pay taxes not in the anachronistic notion of *dina d'malchuta dina*; rather, we should invoke the talmudic concept of *shutfim* or partnership. Schachter concludes, "All people who live in the same city, state, and country are considered '*shutfim*' with respect to the services provided by that city, state, and country. The purpose behind the taxes is no longer 'to enrich the king' in the slightest." (Torahweb.org)

In introducing a new metaphor — that citizens of a modern democracy are more like partners than subjects — into formalized Jewish legal thinking, Schachter has taken a first important step in opening up an entirely new vista from which to think about the legitimacy of taxes and the responsibility of partners to participate in public policy discussions. In this alternative view, it is not us versus them, but rather "we the people" who must formulate fair tax rules and just public policies. It follows directly from Schachter's new formulation that as Jewish partners in this process, we have a unique right and obligation to bring to our fellow citizens the best of Jewish legal and ethical thinking.

Fooling the Tax Collector:

Why the Rabbis Once Approved

DAVID BRODSKY

Rabbi Naftali Tzvi Weisz, the Spinka Rebbe of Boro Park, and the great-great-grandson of R. Joseph Meir Weisz, author of the *Imrei Yosef*, was convicted recently of an elaborate tax evasion scheme that defrauded the U.S. government of millions of dollars.[1] Similar charges have been brought against several rabbis of the Syrian Jewish community in Brooklyn and New Jersey and also against a number of rabbis in Israel.[2] One might be tempted to try to explain the circumstances, or to point out that even supposedly "holy men" are human and fallible, or to argue that their religious convictions have nothing to do with their actions, or that they assumed they were exempt from paying taxes to the secular state.

In fact, our own tradition offers sources that could be interpreted to support this fraudulent activity. For example, the Mishnah (*Nedarim* 3:4) states that while it is normally forbidden to make a false vow, an exception to this rule is made when it is in the service of fooling tax collectors! As damning as this may seem, a proper understanding of tax collection in its historic context reveals that the rabbis of the Mishnaic period advocated some evasion of taxes, which they considered part of a horrifically unjust tax system. Indeed, they were not alone in speaking out against the evils of the tax collectors of their day. The gospels, for example, consistently associate tax collectors with sinners and prostitutes (Matthew 9:9–11, 11:19, 18:17, 21:31–32; and Mark 2:14–16; and Luke 3:12, 5:27–30, 7:29, 7:34, 15:1, and 18:9–14), just as the Mishnah associates them with murderers and highway robbers. (*Nedarim* 3:4 and *Bava Qamma* 10:2)

During the Greek and Roman Empires, taxes were imposed without representation and were at times collected by warlords in a manner quite similar to highway robbery, with armed individuals or troops going from town to town and taking from people whatever they could seize. While the methods of tax collection changed over the centuries and were reformed under Augustus in the first century BCE, the perceived injustice of these systems runs through rabbinic literature; the Mishnah, for example, describes the hypothetical case of a tax collector seizing someone's donkey and replacing it with someone else's donkey. (*Bava Qamma* 10:2) Such cases were likely commonplace as the Romans reserved the right to seize animals or people for labor, returning them as they saw fit. For this reason, the Mishnah considers property possessed by tax collectors to have the status of stolen property, grouping these tax collectors together with highway robbers. (*Bava Qamma* 10:2) Most egregious to the rabbis must have been the use to which this money was put: the maintenance of the imperialistic governments and their domination of the region. The Romans used the taxes they collected to support the military operations that put down Jewish rebellions (three in the span of 70 years — from 66 to 135 C.E.

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[1] *New York Post*, Aug. 4, 2009; *Los Angeles Times*, Dec. 22, 2009; *The Jewish Week*, May 4, 2010;
[2] *The Star Ledger*, June 2, 2011; *The Seattle Times*, July 13, 2012

— the general time period from which the Mishnah's statements derive), bringing a great deal of death and destruction to the Jewish communities throughout the empire. It was these taxes and this system of tax collection with which the rabbis took umbrage.

On the other hand, especially in the talmudic and medieval periods, the rabbis were clear that taxes that would benefit the people (as opposed to supporting a foreign military occupation) were just and obligatory. Thus, the rabbis mandated that Jews pay taxes for infrastructural maintenance of the city — specifically, for the upkeep of the walls and gates of the city (Mishnah *Bava Batra* 1:5 and BT *Bava Batra* 7b–11a) — and for the maintenance of the poor. (*Bava Batra* 7b–11a) While some have viewed such taxes as intended for Jews alone, the upkeep of the town is clearly beneficial to all residents, and not all towns were comprised of a single ethnic group. And while charity for the poor was particularly geared toward poor people within the Jewish community, poor gentiles seem not to have been excluded. (Mishnah *Gittin* 5:8) Moreover, when it came to taxes owed to the Persian Empire, the Babylonian Talmud undermined (and, one might even argue, countermanded) the Mishnah's apparently permissive stance toward tax evasion, with the prominent third-century Babylonian Rabbi Shmuel declaring, "*dina d'malchuta dina*," "the law of the land is binding." (BT *Nedarim* 28a, *Gittin* 10b, *Bava Qamma* 113a–b, and *Bava Batra* 54b–55a) When it came to governments that were not putting down Jewish rebellions, killing tens of thousands of inhabitants, or collecting taxes in a manner the rabbis associated with highway robbery, it would seem that the rabbis of this period were less lenient toward tax evasion.

In the Medieval period, particularly in the twelfth and thirteenth centuries, sages such as Rabbi Solomon b. Abraham Adret (known as the Rashba) instituted a complex scheme of taxation modeled loosely on the more rudimentary system delineated in the Babylonian Talmud. The new system, which held Jews liable if they evaded paying taxes, went well beyond the Talmud's more basic provisions for maintaining the city's walls and gates and feeding the poverty stricken. It included "anything that is for the need of the city." (Rosh, *Responsa*, 6:22, cf. Mordekhai, *Bava Batra* 478 [on *Bava Batra* 7b]) In a responsum, Adret asserts that tax laws are a civil matter based on local customs, and, in matters of taxes, "custom nullifies the halakhah." (*Responsa*, 4:260) His point is that the system of taxation instituted by the Babylonian Talmud is meant as a historical example of the kind of obligation owed by citizens, rather than a declaration that defines or limits the purposes for which taxes may be levied.

Today, we must recognize that our tax system no longer operates in ways or for the purposes that attracted the ire of the rabbis of the Mishnah. On the contrary, our taxes pay for the very essentials for which the rabbis advocated. Therefore, unless a person is withholding taxes as an act of civil disobedience (as did Henry David Thoreau) to protest the militaristic and imperialistic uses to which one could argue a percentage of U.S. taxes are used, tax evasion today seems not to be in keeping with rabbinic ethics and is a gross misapplication of the Mishnaic tenet. The involvement of rabbis with tax evasion is a dirty secret, and it is time we denounced it. It has no valid basis in Jewish law or ethics.

Wolves and Sheep:
Jewish Tax Collectors in Yiddish Literature

JULIAN LEVINSON

One of the very first sounds heard in modern Yiddish literature was a cry of anguish over the injustice of arbitrary taxation. The year was 1869, and the pioneering Yiddish and Hebrew writer Sholem Yankev Abramovitsh (aka Mendele Mocher Seforim) wrote a play denouncing corrupt Jewish tax collectors whose sole purpose in life was to squeeze the lifeblood out of their fellow Jews in the *shtetl*. He called the play "The Tax" (*Di Takse*), knowing this word would evoke a compelling dramatic situation: Readers knew that taxes typically meant exploitation, providing a way for wealthy Jews to prey upon their hapless, poorer brethren. A recurring image in Abramovitsh's play is that of wolves devouring sheep.

The system of taxation that occasioned the play was one that made corruption virtually inevitable. According to this system, the Russian

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