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Money & Menschlichkeit: A Jewish Ethics of Personal Finance

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February 29, 2008

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Money and Menschlichkeit: A Jewish Ethics of Personal Finance

Chapter 1: Money and Jewish Tradition

I. The Challenge

Money is a forbidden topic in polite conversation. Like sex, it is a subject that has been known to stir up strong emotions and violent behavior. The tension around money is rooted in profound anxieties about physical and emotional survival: without money, life's basic necessities of food, clothing, and shelter are available only from others. Money represents less tangible things with powerful emotional freight: choices, status, and power.

Advertising messages have exacerbated the money angst and confusion for many Americans. We are constantly bombarded by conflicting messages that sell luxury products as necessities and aggressively promote the use of credit. Banks and other institutions remind us again and again that we need to invest in their products for future security. At the same time, news organizations and fundraisers tell us heartbreaking stories about unmet needs. In this cacophony, it is very difficult to think clearly about money.

Money is a particularly sensitive topic for American Jews for reasons both internal and external to our community. The stereotype of the "rich Jew" fuels and is fed by poisonous and persistent anti-Semitic slurs. An internalized version of the same

stereotype, that “some” Jews are overly concerned with money and status, haunts many of us within the community as well, poisoning relationships between men and women, as Riv Ellen Prell has demonstrated.¹

There is a sad irony, then, in the fact that our tradition has a great deal to say on the subject of wealth: not only do we have a body of law and ethics concerned with the marketplace, but there is also a voluminous store of knowledge about one’s personal finances: spending, saving, giving away money, and under-girding it all, a coherent philosophy regarding a proper attitude towards money and possessions.² Before proceeding into specifics of personal financial ethics, it is appropriate to explore these fundamental understandings.

It is important to note, before proceeding, that “wealth” [*osher*] in this context is a somewhat slippery term. Sometimes it is obvious that the writer of a particular text had in mind a great fortune when writing “wealth.” More often, though, “wealth” refers to whatever means a person has beyond the support of herself and her dependents. Bachya ibn Pakuda writes that there are three types of income: that which is required for one’s needs, that which is required for the needs of dependents, and income held as wealth, which he writes is “of no use to the owner, but which he preserves, protects, bequests to another, or loses.”³ Thus while it may seem that the discussion that follows is about the very rich and the very poor, in fact these concepts apply to every Jew. The tradition has

¹ Riv-Ellen Prell, *Fighting to Become Americans: Jews, Gender, and the Anxiety of Assimilation* (Boston: Beacon Press, 1999), 194-95.

² Business ethics are beyond the scope of this paper. *Halakhah* on the subject may be found in the Choshen Mishpat volumes of the codes, and in Book 12 of the Mishneh Torah, Sefer Kinyan. Two leading contemporary authorities on Jewish business law and ethics are Dr. Meir Tamari, of the Business Ethics Center of Jerusalem (<http://www.besr.org/aboutbesr/>) and Dr. Aaron Levine of Yeshiva University (http://www.yu.edu/faculty/alevine/page.aspx?id=4606&ekmensel=15074e5e_1866_0_4606_2).

³ Bachya ben Joseph Ibn Paquda, *Duties of the Heart*, translated by Daniel Haberman (Jerusalem: Feldheim, Inc., 1996), 411-13.

wisdom to offer all: those who have enough and no more, those who have more than enough, and those for whom ends do not meet.

II Three Fundamental Principles

Three principles underlie all Jewish thought about money:

- 1. All resources belong to God.**
- 2. Human beings are the stewards of creation.**
- 3. We are responsible to other human beings for behavior that affects them.**

One of the most eloquent statements of this principle is David's prayer of praise:

To You, Eternal One, is the greatness and the power, the splendor and the glory and the majesty, for all that is in the heavens and the earth is Yours. Eternal One, Yours is the kingdom, and You exalt yourself, Ruler of all. Both wealth and honor come from You, and You govern over all. In Your Hand are power and might, and it is in Your power to make anyone great and strong. And now we thank You, our God, and praise your glorious Name. Truly, who am I, and who are my people, that we retain the strength to offer this freely? For everything is from You, and it is from Your own possession that we give to You.⁴

The importance of this concept in the tradition is evident in the setting this passage has been given in our liturgy: verse 11 has a prominent place in the Torah service, sung during the *hakafah* before reading from the Torah.⁵

Human beings are the stewards of creation, servants of the Almighty. This relationship of God and human being as Master and servant-steward is articulated in a variety of texts. There is an early mention in the Mishnah, where Antigonus of Socho

⁴ 1Chronicles 29: 11-14. Translations of Scripture and other texts are mine unless indicated otherwise.

⁵ *Daily Prayer Book, Ha-Siddur Ha-Shalem*, translated by Philip Birnbaum (NY: Hebrew Publishing Company, 1999), 366-67. The translation is mine.

says not only that human beings are the servants of God, but specifies what sort of servant one should be:

He used to say: "Do not be like servants who work for the Master in order to receive a reward; rather, be like servants who work for the master without expectation of a reward, and let the reverence of heaven be upon you."⁶

Ecclesiastes Rabbah contains a midrash that specifies the relationship of human beings and creation, and the terms of stewardship. God takes the new human beings through the Garden of Eden, showing them the beauties of creation. God then warns them not to damage or destroy any of it, because no one else will come to repair it.⁷

In a homily for Shavuot from the collection of midrashim *Pesikta Rabbati*, the Palestinian rabbinic writer quotes R. Tanhuma Berabbi, who preached on the verse, "Who has given Me anything beforehand that I should repay him?"⁸

Thereby the Holy One, blessed be He, meant: I do not say to thee, Honor Me out of thine, but out of Mine. Honor the Lord from whatever substance He has bestowed upon thee. Thou art only my steward."⁹

Servanthood is a major theme of Bachya ibn Pakuda's *Chovot Halevavot* [Duties of the Heart] and the third section of the book is entitled "The Third Gate: The Gate of the Service of God." Bachya expands on the grateful servanthood which Antigonus mentioned in *Avot*, teaching that it is a natural and proper response to God's goodness to humanity in providing a world with a wealth of plants and animals that allow human beings to survive.

⁶ Avot 1.3.

⁷ Ecclesiastes Rabbah 7:12.1.

⁸ Job 41:3.

⁹ *Pesikta Rabbati: Discourses for Feasts, Fasts, and Special Sabbaths*, translated by William G. Braude (New Haven: Yale University Press, 1968), 514-15.

Every year, as we prepare for Yom Kippur, we are reminded of the third principle, "We are responsible to other human beings for behavior that affects them." The liturgy recalls again and again that for sins against God, the Day of Atonement atones, but for sins against another person, the Day of Atonement does not atone.¹⁰ We are commanded to make *teshuvah*: take responsibility for our behavior, to apologize, and to make things right when we can, unless an apology will only cause greater injury.

III. Wealth and Poverty

If all wealth is God's, entrusted to human beings, then there is nothing intrinsically bad about the acquisition or the possession of wealth. Wealth has the potential for great good, for preserving life, supporting a family, for educating Torah scholars, and for performing other mitzvah.

Wealth is in most cases a good and desirable thing in the eyes of the tradition. We are reminded of this every month in the liturgy, in the words of the prayer for the New Moon:

...And give to us a long life, a life of peace, a life of goodness, a life of blessing, a life of sustenance, a life of strengthening the body, a life that has in it a fear of heaven and a fear of sin, a life that does not have in it shame and disgrace, *a life of wealth and honor*, a life marked by our love of Torah and a fear of heaven, a life in which the wishes of our heart will be filled for good. Amen. selah.¹¹

Just as prosperity is portrayed as being in and of itself a good thing, the rabbis depict poverty as an unequivocal evil. Poverty is "worse than fifty plagues,"¹² and

¹⁰ M. Yoma 8.9.

¹¹ *Daily Prayer Book*, 381. The translation and the emphasis are mine.

¹² BT Bava Batra 116a.

elsewhere, they compare it to death.¹³ Poverty will make a person insane, because it deprives the senses.¹⁴ These predictions are borne out in 21st century research: studies by several American universities indicate that poverty damages the brains of children, particularly between the ages of 6 months and 3 years, damage that has lifelong effects.¹⁵

The Rambam writes that a pleasant wife, a home, and nice dishes expand a person's view of the world.¹⁶ His appreciation of these things was not theoretical. Over the course of his life, he experienced many different economic situations: comfortable wealth, the loss of that wealth, a secure home, and the life of a refugee. It is easy to forget, in the face of such erudition, that scholarship was not his "day job." He worked as a physician to earn a living after a shipwreck killed the brother who had supported his studies, destroying the family fortune as well as investments belonging to other people. He wrote both the *Guide to the Perplexed* and the Mishneh Torah during a period when he was working as a physician, and serving as the leader of the Jewish community in Fostat, Egypt.¹⁷

Poverty, for the rabbis, is a situation that affects every aspect of a person's being. A poverty-stricken person is hungry. His children are hungry. He is unable to study Torah, because he must spend every moment trying to make ends meet. He is unable to think clearly, due to hunger, worry, and insecurity. If he is unmarried, he cannot afford to marry. He is unable to keep Shabbat properly or to fulfill the mitzvah of *hachnasat orchim*, hospitality to guests. He and his family are ashamed. If a woman is poor, she is

¹³ BT Nedarim 64b.

¹⁴ BT Eruvin, 41b.

¹⁵ Clive Cookson, "Poverty Mars Formation of Infant Brains," *Financial Times*, 16 February 2008 *FT.Com*, <http://www.ft.com/cms/s/0/62c45126-dc1f-11dc-bc82-0000779fd2ac.html?ncllick_check=1> (Accessed 19 February 2008).

¹⁶ Mishneh Torah, Hilkhos Mekhirah, 13.4.

¹⁷ Louis Isaac Rabinowitz, "Maimonides," in *Encyclopedia Judaica*, ed. Geoffrey Wigoder, vol. 11 (New York: The Macmillan Company, 1972), 758.

vulnerable in all those ways, and vulnerable besides to sexual exploitation. A midrash says it most completely:

There is nothing in the world more horrible than poverty: it is the most terrible of all suffering... Our teachers have said that if every difficulty were on one side and poverty were on the other, poverty would outweigh them all.¹⁸

Because of this great evil, the *halakhah* puts in place many protections for the poor. Much of Mishnah Peah and Yerushalmi Peah are devoted to the rights of the poor to obtain *peah*, *leket*, *shichechah*, and the *ma'aser oni* from farmers in Eretz Israel, and many of the rules regarding *tzedakah* are derived from these agricultural, geographically-bound mitzvah.¹⁹ In the Mishneh Torah, the Rambam forbids taking advantage of the poor by buying their possessions at a low price.²⁰ So seriously is the situation of the poor taken, that a verbal statement of intent to give a specific amount of *tzedakah* to a charity or an individual is considered to be a vow and is therefore a very serious matter, requiring immediate payment.²¹

Interestingly, the tradition portrays the dangers of great wealth as having some of the attributes of the horrors of poverty. Poverty is all-consuming. Wealth, poorly handled or turned into an obsession, can also distract one from family, from Torah, and even from a good night's sleep.²² A *baraita* observes that there are people for whom their material possessions are dearer than their own bodies: it says that the wording of the *Shema* includes "*b'chol me'odecha*" ["with all your possessions"] precisely so that they will

¹⁸ Exodus Rabbah 31.12, 14.

¹⁹ There is much more on this subject in Chapter 3, on *Tzedakah*.

²⁰ Mishneh Torah, *Matenot Aniyim*, 9.17.

²¹ Shulchan Arukh, *Yoreh Deah*, 257:3-4.

²² Bachya ben Joseph Ibn Paquda, *Duties of the Heart*, 413.

keep in mind that they must be willing to give up what is dearest to them if called upon to do so.²³

Another danger of wealth is that it is not reliable. Just as the poor man does not know where his next meal will come from, the person who has wealth, but does not have a proper attitude towards it may make himself miserable with the worry that it might disappear at any time. Moshe Chaim Luzzatto, an 18th century Italian Jewish philosopher, pointed out that our fortunes are prone to constant change. For the poor person who might become rich, that is usually not a source of anxiety, but for a wealthy person, worries about losing money can distract her from living a good life of Torah.²⁴ Indeed, the fear of losing money, or of not having enough, may tempt an otherwise good person into unethical business practices, or outright theft.

IV. The Challenges of Wealth

However, none of the sources suggest that we should feel pity for the unhappy wealthy person, as we should for the poor person. One midrash frames wealth as a test from God, like the tests of Abraham that culminated in the *Akedah*: will the holder of wealth remind himself regularly that the wealth comes from God, and that he should trust in God, not in the wealth?²⁵ Will he observe the appropriate mitzvah, including those of the marketplace, his responsibilities to the community, and tzedakah? Or will he fail the test, and allow the privileges of wealth to make him arrogant, self-centered, or a bully?

²³ BT Berakhot 61b.

²⁴ Moshe Chaim Luzzatto, *Mesilat Yesharim: The Path of the Upright*, translated by Mordechai Kaplan (Philadelphia: Jewish Publication Society, 1936), 415.

²⁵ Exodus Rabbah 31.3.

The 13th century scholar Bachya ben Asher took a very cautious view of wealth:

Being wealthy is neither a physical quality like strength nor a spiritual quality like wisdom. It is an external factor and may therefore come to a person without any toil on his part, through constant changes of conditions under the guidance of God, Who is supreme above all and Who does all. ...Like every quality, wealth too, has its advantages and its perils.²⁶

Rav Kook commented on the double-edged qualities of wealth in his commentary on Mishnah Bikkurim, pointing out that while work has its dangers, including a cultivation of appetites beyond one's needs, wealth is necessary for the leisure to study and to aspire to "the crown of wisdom and light."²⁷

Other things come with wealth, too: honor, attention, and social standing.

Luzzatto also warns that it is unwise to be arrogant on account of one's possessions.²⁸

Bachya ben Asher also warned against arrogance, and warned that a rich man's companions are less likely to point out his errors or sins. They are liable to go along with him in bad plans and sinful acts, because of his wealth.²⁹ Wealth can lead an incautious person into sinful acts: it can lead to separating oneself from the community, or to the neglect of children.³⁰

The New York Times columnist Daphne Merkin wrote about these lures and the contagious quality that some of them have in a 2007 column. She and her daughter went walking in a wealthy neighborhood of summer homes, and before the walk was done, made purchases above their means and argued about why they had no summer home.

²⁶ Bachya ben Asher, *Kad Hakemakh*, translated by Charles B. Chavel (New York: Shilo Publishing House, Inc., 1980), 484-85.

²⁷ Bezalel Naor, "Introduction," translated by Bezalel Naor, in *Of Societies Perfect and Imperfect: Selected Readings from Eyn Ayah, Rav Kook's Commentary to Eyn Yaakov, Legends of the Talmud* (New York: Sepher-Hermon Press, Inc., 1995), 24-25.

²⁸ Luzzatto, *Mesilat Yesharim: The Path of the Upright*, 415.

²⁹ Bachya ben Asher, *Kad Hakemakh*, 486.

³⁰ Bachya ben Asher, *Kad Hakemakh*, 489.

Ms. Merkin makes clear that they are not poor people, but the proximity of much greater wealth left them both cranky and dissatisfied with their own situation.³¹

The desire for possessions and wealth is an aspect of the *yetzer harah*, just as is the sex drive, and greed is the result when the desire for wealth is allowed to run amok. One vivid aggadic tale in the Talmud teaches the insatiability of human desire for riches: Alexander the Great traced a brook to the door of the Garden of Eden, and demanded to enter. He was told by those inside³² that only the righteous might go in. He argued that he was a great king, and that they should give him something. They gave him a human eyeball, which, when he returned home and weighed it, outweighed all the gold and silver he possessed. He asked some rabbis for an explanation, and they answered that the human eye is completely insatiable: it wants whatever it sees. When asked for proof, they told him that if he covered it with dust, immediately the precious metals would outweigh it. This would demonstrate that the human eye is not satisfied with gold and silver until it is covered by the grave.³³

However, as with other aspects of the *yetzer harah*, this desire for possessions is necessary for life. Without it, no business would be conducted, no farming would be done, and eventually, everyone would starve. A famous aggadic passage illustrates this. The Sages capture the *yetzer harah*, and are triumphant, believing that they have put an end to all evil. But after a while, they noticed that all reproduction had stopped, even that of the chickens.³⁴ The “evil inclination” is necessary for balance in life.

³¹ Daphne Merkin, “Lives: Money Always Talks,” *The New York Times* October 14 2007, <<http://www.nytimes.com/2007/10/14/magazine/14lives-t.html?ex=1193112000&en=d5330964cfe8d1e6&ei=5070&emc=eta1>> (Accessed Oct 15, 2007).

³² The Gemara does not divulge the names of the tenants of Eden: Angels? Dead *tzaddikim*? Someone else? There is no clue.

³³ BT Tamid 32b.

³⁴ BT Yoma 69b.

Several sources caution against the lust for wealth, an all-consuming desire to acquire more and more, far beyond any reasonable need. Some of their descriptions of it suggest that acquisition has an addictive quality. For instance, Bachya ben Asher writes: "Wealth is ... like fire: the more wood you add, the more the flames increase and the fire blazes."³⁵

V. Living in Torah, Living in Balance

The sages prescribe balance as the answer to this conundrum. Mainstream Judaism has for the most part rejected asceticism, although throughout history there have been Jewish groups and individuals who explored it.³⁶ The Biblical passage often cited as a rejection of asceticism is the portion *Naso*, which specifies the rite for reuniting a Nazirite to the community after his or her vows have run their course. The rite includes a *zevach shelamim*, a "peace offering" suggesting that by separating from the community, this individual has done something for which atonement is appropriate, damaging the relationship between himself and the community, and perhaps also the relationship between God and the community. Refusal to enjoy creation is wrong because it is a refusal of God's goodness.³⁷

The tradition also rejects the other extremes of hedonism and acquisitiveness. When Shimon ben Yochai condemned Roman public works, he said contemptuously that all that Rome built was built only for Roman pleasure and self-indulgence.³⁸ Bachya ibn Paquda wrote a warning about the acquisition of money for the sake of prestige, noting

³⁵ Bachya ben Asher, *Kad Hakemakh*, 487.

³⁶ Haberman, Jacob, "Asceticism," in *Encyclopedia Judaica*, ed. Geoffrey Wigoder, vol. 3 (New York: The Macmillan Company, 1972), 678-683

³⁷ Numbers 6:12-13.

³⁸ BT Shabbat 33b.

that people who seek riches in order to be honored [*ahavat k'vod*] can never acquire quite enough and will forever be unsatisfied.³⁹ Exodus Rabbah gives Korach and Haman as examples of acquisitive individuals for whom extremes of wealth were fatal.⁴⁰

Instead, the proper attitude concerning money and resources falls in between the two extremes. Dr. Meir Tamari has described this moderate path as the “Economics of Enough.” It is based, first and foremost, in the recognition of Divine ownership of all resources.⁴¹ Economic activity is legitimate within a Jewish framework of *halakhah*, which provides containment for the *yetzer harah*, and allows at the same time for the sanctification of everyday activity, including activity in the marketplace.⁴² He cites the mishnah in saying that contentment is the mark of true wealth.⁴³ It is good to enjoy the good things in God’s world, and at the same time, consumption is fenced in by modesty [*sniut*].⁴⁴ In this understanding, God’s design of the world is such that material wants and needs can be satisfied by human economic activity.⁴⁵

Thus the insatiable wants and desires of the *yetzer harah* are balanced against zealous extremes of piety: what emerges is a middle way of reasonable enjoyment of the created world, with resources available for tzedakah and community institutions so that no member of the community, indeed, not even a stranger, will be left outside in the cold. Tamari envisions a Jewish economic life that is firmly rooted in Jewish tradition, enriching each generation not only economically, but also morally and spiritually:

³⁹ Bachya ben Joseph Ibn Paquda, *Duties of the Heart*, 413.

⁴⁰ Exodus Rabbah 31.3.

⁴¹ Meir Tamari, *With All Your Possessions: Jewish Ethics and Economic Life* (Northvale, NJ: Jason Aronson, Inc., 1987), xxiv.

⁴² *Ibid.*, 3-4.

⁴³ Avot 4.1.

⁴⁴ I will write more about this in Chapter 4 on Consumption.

⁴⁵ Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), xxi.

[Judaism] has made the moral parameters of the limited use of wealth the pillar of its religious, spiritual, and communal tradition.⁴⁶

Instead of a forbidden subject, then, money becomes an important subject to discuss and study, an important avenue for the sanctification of the self and the world. In a world where on the one hand, it is public knowledge that there are a great many people going hungry, and on the other hand, we are told in advertisements that “every woman deserves a pair of real diamond earrings”⁴⁷ it is a relief to know that Jewish tradition has a vast storehouse of wisdom for anyone who wishes to be a *mensh* about money.

In the following chapter, I will outline a method for ongoing decision making about the ethical issues in personal finance. After that, I will examine the specifics of tzedakah, consumption, and savings and investment. I will then conclude with several case studies from Jewish literature, examining examples of both negative and positive role models for an ethical financial life.

Money is not an easy topic, but Jewish tradition is rich in wisdom concerning its proper place in our lives, and the proper use of it. I began this chapter with a brief discussion of the anxieties that many of us bring to the discussion. If we give free rein to the anxieties born of ignorance and anti-Semitism, we will allow them to rob us of this remarkable inheritance. If, instead, we engage with this body of learning on both the intellectual and on the practical levels, then perhaps we may move towards a *refuah shleimah* of our anxieties, a healing in which we are made whole.

⁴⁶ Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money*, 130.

⁴⁷ Advertisement for Austin Diamonds, <<http://www.austindiamond.com/education/diamonds.html>> (Accessed on 14 January 2008).

Chapter 2: Method

There are four kinds of characters among human beings: There is one that says, "What's mine is mine, and what's yours is yours." This is the middle character, and some say this is a characteristic of Sodom. There is one that says, "What's mine is yours and what's yours is mine." That is a person without Torah learning. There is one that says, "What's mine is yours and what's yours is yours." That one is a saint [*chassid*]. And there is one who says, "What's mine is mine and what's yours is mine." That is a wicked person.⁴⁸

This passage in the *Ethics of the Fathers* communicates succinctly how complex our financial decisions can be, when we choose to pursue them as ethical questions. In the first category, we read that the seemingly commonsensical approach ("what is mine is mine; what is yours is yours") is either "the middle character," [*middat beinonit*] which has a neutral connotation, or "the characteristic of Sodom," [*middat S'dom*], which carries a distinctly negative connotation.⁴⁹

It is easy to understand the extremes. "What's mine is yours, and yours, mine" is at best an innocent approach and at worst, anarchic. "What's mine is mine, and what's yours is mine" is easily recognizable as wicked. It is the other two possibilities that are confusing: perhaps a person who embodied the virtue of kindness, a *chassid*, might be able to say, "What's mine is yours and what is yours is yours," but it seems unrealistic to expect that of every person. So we are left, for the ordinary person, with the puzzle of "what's mine is mine, and what is yours, yours."

⁴⁸ Avot 5.10.

⁴⁹ I will deal at length with the *anshei S'dom*, the men of Sodom, in Chapter 6.

No word of the Mishnah is wasted; much of its difficulty lies in its laconic style. When the rabbis present us with two possibilities, they intend that we should consider both with care. By offering us the two possibilities, *middat beinonit* and *middat S'dom*, they signal us that both good and evil are possible when we view property in these terms. It is not enough to say, "what is mine is mine, what is yours, is yours." The apparent fairness of that statement is not sufficient. It is our ongoing task to make choices on a case by case basis, seeking not only that which is apparently fair, but that which is truly good, or at the very least, that which does the least harm.

Jewish ethics draws upon a body of law and narrative, which is grounded in covenant between God and the Jews, both as a corporate body and as a group of individuals. As a result it does not fit neatly into the usual categories for normative ethics: deontological ethics, utilitarian ethics, and virtue ethics. Certainly the constant presence of the *halakhah* (either in observance or in the breach) gives Jewish ethics a deontological aspect: duties and rules are very much a reality in Jewish consciousness. Jewish ethics is also concerned with maximizing the well-being of the parties in the covenant, and historically there was a strong emphasis on the communal good over individual autonomy, although that has shifted in modern times. There is a utilitarian flavor to the language in the liturgy, which is persistent in its use of the first person plural, and there are responsa which suggest that the "greater good" can sometimes justify action that otherwise would be deemed sinful.⁵⁰ And finally there is an ongoing interest in the tradition in the issue of virtue or merit [*z'chut*], as well as the process of character formation, which points towards a virtue ethics.

⁵⁰ For an example of such a responsum, see p. 9-10 of Chapter 3.

Dr. Meir Tamari has given the ethics of personal finance a thoroughgoing theoretical treatment in Part II of *The Challenge of Wealth*. My interest here is to pursue an applied ethics of personal finance, seeking a way or ways for the aspiring mensch to make ethical decisions about the money that leaves her hands. Ideally, given the anxiety attached to the topic, the method would be straightforward and flexible.

Arthur Gross-Schaeffer has designed an elegantly simple model for ethical decision making.⁵¹ I offer it here, with a minor addition:

1. **First, describe the problem in detail.** This is the stage of fact-finding. Relevant facts include both objective data and honest reports of one's personal feelings and prejudices about the question at hand.⁵² Avoid premature narrowing of choices: express questions not as "Shall I do *this* or *that*?" instead, express them as "How shall I choose in this situation?" even if you are quite certain there are only two alternatives.
2. **Stakeholder analysis: List all stakeholders who will be affected by the decision.** Jewish tradition speaks strongly to this part of the analysis. The Holiness Code in Leviticus 19 specifies a long list of individuals who must be given consideration if they are affected by our decision. Each verse individually has given rise to its own body of *halakhah*; taken collectively, the message they convey is that we have to consider all those who are affected by our decisions.⁵³

Who is a stakeholder? One of the criticisms made of stakeholder theory is that it

⁵¹ Arthur Gross-Schaefer, "Ethical Decision Making Model for ALA," Center for Business Ethics, Loyola Marymount University, <http://www.ethicsandbusiness.org/pdf/Ethics_Model_AGF.pdf>. (Accessed 5 January 2008).

⁵² Arthur Gross-Schaefer, Rabbi, "Lecture on Professional Ethics, Part 1," in *Ordination Seminar* (Los Angeles: Hebrew Union College, 6 September 2007).

⁵³ Nor is this the only place in which this principle is given very explicitly in the Torah. For another example, look at Deuteronomy 5:16-21, the second part of the Decalogue.

can expand the list of shareholders until the decision process grinds to a halt, stymied by the conflicting needs of an army of meddlers. One helpful way to think about the list of stakeholders is to ask, who has a right to make a claim?⁵⁴ As stakeholder theory is articulated in the discipline of business ethics and management, there is often a distinction made between normative and derivative stakeholders. Normative stakeholders are those to whom an organization has a moral obligation (stockholders, suppliers, etc.); derivative stakeholders are those whose activities may have an effect on the normative stakeholders (activists, media, etc.)⁵⁵ For the purpose of this paper, that distinction is less important. The question is: if I spend money or resources on X, who will be affected? In the upcoming chapters, I will outline the list of likely stakeholders in a particular kind of financial decision, from the point of view of Jewish tradition. These lists are not exhaustive, but are meant to begin a lively discussion.

3. **Absolute value analysis: List the values involved in the decision.** These may include personal values, work-related values, and Jewish values. Examples of personal values are integrity, fairness, and respect. Work related values include excellence and accountability. Jewish values include *tzedek* [justice], *rachamim* [mercy], and *talmud Torah* [Torah study]. There will be overlap between the categories of values, and it is not necessary to categorize the values. It does not matter whether one lists *chesed* or kindness as a personal value or a Jewish value.

In the following chapters, I will suggest a list of Jewish values that may come into

⁵⁴ William M. Evan, and Freeman, "The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications," in *Business Ethics*, ed. W. Michael and Frederick Hoffman, Robert E. (NY: McGraw Hill, 1995), 146.

⁵⁵ Robert Phillips, *Stakeholder Theory and Organizational Ethics* (San Francisco: Berrett-Koehler Publishers, Inc., 2003), 124-30.

play for a particular financial decision, but ultimately, the list is something that each individual will have to make for him or herself.

- 4. Utilitarian analysis: List all possible alternatives for action in the current situation.** It is easy to think in binary terms, and too often we express an ethical question as “Shall I take *this* action, or *that* action?” thereby prematurely narrowing our choices. Approach the problem creatively: what are all the possible alternatives? List them.
- 5. Choose and Prioritize:**
 - a. Who is the primary stakeholder?**
 - b. Which value is paramount in this situation?**
 - c. What are the likely consequences from the actions you listed in the utilitarian analysis? Which action will do the greatest good or the least harm?**
 - d. Prioritize a, b, and c: Which is the most important consideration in this situation?**
- 6. Decide, based on the factors and priorities in 5.**
- 7. Design a strategy to implement the decision.** How we carry out an action is as much of an ethical concern as the choice of action. In designing your strategy, go back to the list of values listed in item 3 above. Is your implementation in concert with these ethical values? If “no,” then there is a flaw in the strategy; keep working on the design. When the answer is “yes” then move ahead to action.

8. Implement the decision.

9. Observe and reflect on both the process of implementation and its consequences.⁵⁶ Welcome feedback to assist you in this observation process.

- a. Forgotten elements: were there stakeholders, values, or possible strategies that you neglected to take into account?**
- b. Were there any unintended consequences? Did the decision or the process of implementation cause either good or harm that you had not anticipated?**
- c. Were there other surprises, happy or unhappy?**
- d. What was good enough to repeat? What could be better?**

The last step provides the opportunity to learn, so that new information can be incorporated into the next decision making cycle. There are very few financial decisions that are made only once. Most decisions are made again and again, year after year: to whom will I give tzedakah this month? What will my budget look like this year? How much will I save, and what form will that saving take?

Our observations and the feedback concerning last cycle's decisions can inform our decisions in the next cycle, along with any new elements that emerge in the meantime. Over time, the ethical quality of our decisions will improve, and we will grow in wisdom.

⁵⁶ Step 9 is my addition to Dr. Gross-Schaefer's model.

This final step is, in fact, the same process one uses in order to improve and adjust economic decisions over time. Circumstances in the economy and in the political environment change; we learn about our own tolerance for risk. By approaching financial decisions on a cyclical basis, with the understanding that each cycle will bring new insight and new challenges, we improve economic performance.⁵⁷ We can approach the ethical dimension of personal financial decisions in exactly the same way, in fact, as part of the same cycle.

In the chapters that follow, I will look at three categories of spending that raise ethical issues: *tzedakah*, consumption, and investment. For each, I will begin with an overview of the issues through the lens of Jewish tradition, including the *halakhah*. Often this will raise principles and precedents to consider. Then I will suggest possible stakeholders. Finally, I will examine the Jewish values that a particular category of spending may call into play. .

Taking Jewish ethics into consideration in making our personal financial decisions transforms the mundane acts of budgeting, savings and investment into an ongoing process of sacred study and action.

⁵⁷ Maryann Simpson, Vice President - Financial Consultant, SRI Wealth Management, RBC Dain Rauscher, interview by author, 21 January 2008, Windsor, CA.

Chapter 3: Tzedakah

There is nothing in the world more horrible than poverty, the most terrible of all sufferings... our teachers have said that if all troubles were on one side and poverty on the other, poverty would outweigh all⁵⁸.

It is a positive mitzvah to give tzedakah when one has the means in hand. And a person needs to be very, very careful about it, more than all the positive mitzvah, because it may be a matter of life and death for the recipient.⁵⁹

It is, of course, a monumental undertaking to eradicate poverty or other social ills. Our communal as well as personal resources are limited, and this means that we have to make difficult choices concerning the proper allocation of our tzedakah funds.⁶⁰

I. Overview

The Torah and the Rabbis recognized that the deprivations and indignities of poverty destroy the bodies and souls of the poor. Their answer to poverty: tzedakah.

The mitzvah of tzedakah is incumbent upon every Jew. This requirement is based in numerous verses of Torah. It is based in example:

And he [Melchizedek] blessed him [Abram] and said, "Blessed be Abram by God Most High, Possessor of heaven and earth;²⁰ and blessed be God Most High, who has delivered your enemies into your hand!" And Abram gave him a tenth of everything.⁶¹

⁵⁸ Exodus Rabbah 31.12, 14.

⁵⁹ Tur, Yoreh Deah, Hilkhos Tzedakah, Introduction to 247.

⁶⁰ Mark Washofsky, *Jewish Living: A Guide to Contemporary Reform Practice* (NY: UAHC Press, 2000), 299.

⁶¹ Genesis 14: 19-20.

And based in direct commandments in Torah:

When you reap the harvest of your land, you shall not reap all the way to the edges of your field, or gather the gleanings of your harvest. You shall not pick your vineyard bare or gather the fallen fruit of your vineyard; you shall leave them for the poor and the stranger: I am the Eternal your God.⁶²

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. Do not exact advance or accrued interest, but fear your God. Let your kin live by your side as such. Do not lend your money at advance interest, nor give your food at accrued interest.⁶³

There will be poor among you: among your brothers, in any of your gates within your land that the Eternal your God is giving you. You shall not harden your heart or shut your hand against your poor brother, but you shall open your hand to him and lend him sufficient for his need, whatever it may be.⁶⁴

Traditional Understandings of Tzedakah

Classical *halakhah* has much to say about the mitzvah of tzedakah: Maimonides devoted a volume of the Mishneh Torah to it, *Matenot Aniyim* [Gifts to the Poor] and it receives extensive coverage in other codes as well.⁶⁵ Bachya ben Asher wrote that it was equal in importance to all other mitzvah.⁶⁶ Over the centuries, Jews have engaged with practical questions about the specifics of tzedakah: how much must I give? How much is too much? To whom shall I give it?

The answer to “how much?” varies from a minimum of 1/3 of a shekel per year⁶⁷ to Peter Singer’s suggestion that every household give all income in excess of necessities,

⁶² Leviticus 19:9-10.

⁶³ Leviticus 25:35-37.

⁶⁴ Deuteronomy 15: 7-8.

⁶⁵ E.g. Shulchan Arukh, Yoreh Deah, 249 and the Tur, Yoreh Deah, 247.

⁶⁶ Bachya ben Asher, *Kad Hakemakh*, translated by Charles B. Chavel (New York: Shilo Publishing House, Inc., 1980), 535.

⁶⁷ BT Bava Batra 9a. A shekel is just over 14 grams of silver; one third of a shekel is therefore worth \$2.11 U.S. according to prices on 31 December 2007, according to <http://www.dendritics.com/scales/>. The 1/3 of a shekel minimum is also given in Shulchan Arukh, Yoreh Deah, 249.2.

no matter how much that might be.⁶⁸ Jewish law and tradition fall in the middle of this range: they set a target of 10% and a limit of 20% of income for the money for tzedakah, lest the giver fall destitute and in need of tzedakah himself.⁶⁹ "Income" includes not only earned income, but income from all sources, including gifts unless a gift is earmarked for some specific purpose.⁷⁰ The Vilna Gaon argued strongly for a minimum of 5% of income for tzedakah for people in normal circumstances.⁷¹

In traditional understandings of Jewish Law, there is agreement on the source of the basic obligation of tzedakah. Many halakhists cite Deuteronomy 14:28-29 ("take a tenth of that year's crop and leave it for the Levite... the stranger, the orphan and the widow...") as a biblical basis for a tithe to provide for the poor.⁷²

In addition to that tenth, there were additional commandments of the *matenot anyim* [gifts to the poor]: *pe'ah* [corner], *shichekhah* [forgotten sheaf], *leket* [gleaning], *peret* [fallen grapes], *olelot* [unripe clusters], and *ma'aser oni* [poor tithe, in the 3rd and 6th years of the *sh'mittah* cycle].⁷³ While these are obligations are theoretically limited to those living in the Land of Israel, they have been used homiletically to illustrate our

⁶⁸ Peter Singer, "The Singer Solution to World Poverty," *The New York Times* (New York), 5 September 1999.

⁶⁹ Yosef Karo, Shulchan Arukh, "Yoreh Deah," 249:1-2. However, there are exceptions to this limit, including the ransom of captives, to save a life, and to support Torah scholars (Shulchan Arukh, 249). Also *Ketubot* 50a. The 20% limit, lest the giver bankrupt himself, is in the Mapah, the gloss on the text by Moses Isserles. According to Domb, the term "*ma'aseh kesafim*" or "*maaser kesafim*" is first attested in the Mapah, although the concept of giving to the poor is of course much older. *Ma'aser Kesafim: On Giving a Tenth to Charity*, edited by Cyril Domb (NY: Feldheim, Inc., 1980), 29.

⁷⁰ Tzvi Spitz, *Cases in Monetary Halakhah: Contemporary Issues and Answers Relating to the Laws of Choshen Mishpat for Home, School, and Business* (2001), 261. Also Tosafot to BT Taanit 9a, who cite Genesis 14:20, "Abram gave Him [God] a tenth of everything."

⁷¹ In a letter of instructions left during a visit to Israel, quoted in *Ma'aser Kesafim: On Giving a Tenth to Charity*, 27.

⁷² Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), 157.

⁷³ These are all examined in detail in M Peah and YT Peah. The *sh'mittah* cycle is the seven year cycle of six working years and one Jubilee year.

individual and communal obligations to the poor, and to explicate the finer workings of tzedakah. For instance, in BT Shabbat 23a Rav Shimon cites a *Baraita* that *pe'ah*, the mitzvah of leaving the corners of the field for the poor prevents abuses including “theft from the poor.”⁷⁴ Rav Kook comments on this phrase, pointing out that tzedakah is not simply a matter of kindness, but a social obligation, and the one who fails to observe the mitzvah is not merely unkind, but one who robs the poor of what is rightfully theirs.⁷⁵

The connections between the Biblical tithes and other obligations to the poor and modern-day tzedakah are complex. There is no Biblical obligation to give 10% of one's earnings annually to the poor. There are Biblical obligations, if one lives in the Land of Israel, to make the *matenot aniyim* [gifts to the poor] in years 4 and 6 of the *Sh'mittah* cycle. Then, from the remaining produce, the observant Jew was obliged to take *terumah* [dues to the Cohen, 1/50 of the produce], *ma'aser rishon* [1/10 of the remaining produce, for the Levites], and *ma'aser sheni* [1/10 of the remainder after *ma'aser rishon*, to be taken to Jerusalem and spent there in the 1st, 2nd, 4th, and 5th years.] In the seventh year, the *sh'mittah* year, the land was to lay fallow and whatever grew on it and all, rich and poor had an equal right to it.⁷⁶

The rabbis used the principles and values behind these obligations in the Land of Israel to flesh out the Biblical obligation of tzedakah. This process was already underway in M Peah, and is further developed in YT Peah and BT Ketubot 65a – 67b. It reached a systematic treatment in the Rambam's *Matenot Aniyim* and the *Shulchan*

⁷⁴ BT Shabbat 23a.

⁷⁵ Rav Kook, *Ein Eyah*, vol. III, pp 74-75, cited by Morrison, Chanan in “*Kedoshim: Peah and Lessons in Tzedakah*”, http://www.geocities.com/m_yericho-ravkook/KEDOSHIM60.htm (Accessed 23 December 2007).

⁷⁶ This system is elucidated in M Peah, and a good English explanation of it is available in Philip Blackmun, “Annotations on Berachoth,” translated by Philip Blackmun, in *Mishnayoth*, vol. 1, *Seder Zeraim* (Brooklyn: The Judaica Press, 1964), 34-35.

Arukh, Yoreh Deah 249. Full flowering of the mitzvah of tzedakah is still ahead of us: glimmerings can be seen in the works of Danny Siegel and his “Mitzvah Heroes,” but our understanding and our practice of the mitzvah continues to develop.⁷⁷

As for the practice of taking a fixed portion of income for tzedakah, some halakhists believe tithing [*ma'aser kesafim*] to be a rabbinical obligation. Others see it as a widespread custom throughout the Jewish world, and as such, binding.⁷⁸ There is general agreement that giving tzedakah is an obligation and a general acceptance of 10% of income as an appropriate target for most Jews.

The goal of tzedakah as expressed in the Torah is that there shall be no one in need in the community.⁷⁹ When the community in question was a group of nomadic herders, as at Sinai, or the ancient community of Judah in and around Jerusalem, “no one in need” might have been a plausible vision, although Deuteronomy admits “there will never cease to be needy ones in your land.”⁸⁰ Those words have proven true in more ways than one: the individual who wishes to fulfill the mitzvah today is faced with a myriad of outstretched hands, a limitless range of choices, and the sure knowledge that by choosing one person or organization to support, others must be turned away with at best an encouraging word.⁸¹

⁷⁷ Danny Siegel, *Munbaz II and Other Mitzvah Heroes* (Spring Valley, NY: The Town House Press, 1988).

⁷⁸ Spitz, *Cases in Monetary Halakhah: Contemporary Issues and Answers Relating to the Laws of Choshen Mishpat for Home, School, and Business*, 259.

⁷⁹ Deuteronomy 15:4.

⁸⁰ Deuteronomy 15:11.

⁸¹ Kitzur Shulchan Oruch 34.8. “If you have nothing to give him, console him with words.” According to Caro, an explanation that one’s funds are exhausted suffices. (Shulchan Arukh, Yoreh Deah, 249.4).

Traditional Priorities

In modern contexts, the term *tzedakah* is most often described in terms of what it is *not*: it is not merely a Hebrew translation of the English word “charity.” It is derived from the root *tzadee-dalet-kuf*, which denotes justice or righteousness. Charity, from the Latin *caritas* [love], implies a gift given from a feeling of love. *Tzedakah* is properly seen as a duty, something that is owed regardless of one’s emotional state or inclination toward the recipient. It is better to give unwillingly than to fail to perform the *mitzvah* because the *yetzer tov* [good inclination] was lacking. It is better still to give willingly, and best of all to give in such a way that the recipient will never again have need of assistance. The most famous source for this is the Rambam’s hierarchy of *tzedakah*, which states that the lowest form of giving is that in which the donor gives the minimum unwillingly, and the highest is giving that allows the recipient to support himself. Contrary to some popular belief, the Rambam did not say that the highest form of giving was a loan: he said that it was a loan, or a gift, or the formation of a partnership, or finding the needy person a job so that he will be able to support himself. The essential matter is not the mode of assistance, but the intent that the person will become self-supporting and never need assistance again.⁸²

The Rambam’s hierarchy of giving is also concerned with anonymity: it is best to give when donor and recipient do not know each other’s names. Next lower on the scale is a situation in which the donor knows to whom she gave, but the recipient does not know who the donor was. Next is the situation in which the recipient knows, and the donor does not.⁸³ The intent in all cases is to minimize the embarrassment of the person

⁸² Mishneh Torah, *Matenot Aniyim*, 10:7.

⁸³ Mishneh Torah, *Matenot Aniyim*, 10: 8-10.

in need, and to insure that there was no boasting or haughtiness on the part of the donor, because that would invalidate the mitzvah entirely.⁸⁴ The person who gives charity in secret is said to be “greater than Moses.”⁸⁵

Institutions of Tzedakah

Strictly speaking, tzedakah is given for relief of persons in need.⁸⁶ It may be extended to an individual or it may be given via a communal agency. In rabbinic times, each community was assumed to have a communal food supply, the *tamhui*.⁸⁷ By the 12th century, the Rambam could say that he had never seen nor heard of a Jewish community that did not have a *kupah*, a charity box, for tzedakah. The *tamchui* existed at that time in some communities and not in others.⁸⁸ Recipients need not be Jewish: the codes specify that everyone who asks for bread should be given food whether Jewish or not.⁸⁹

In the present day, the *kupah* takes many forms: a rabbi’s discretionary fund, a Federation fund for relief of the poor, or the Hebrew Free Loan Society⁹⁰, among others. MAZON⁹¹ is one example of a *tamchui*, although given that recipients may be Jewish or non-Jewish, any community food bank or kitchen would qualify as a *tamchui* for the purpose of giving tzedakah, provided its administration met the standards we would expect of a Jewish agency carrying out the same mitzvah.⁹²

⁸⁴ BT Bava Batra 10b.

⁸⁵ BT Bava Batra, 9a.

⁸⁶ Washofsky, *Jewish Living: A Guide to Contemporary Reform Practice*, 209.

⁸⁷ Literally, a communal soup-pot. For an example, see BT Shabbat 118a.

⁸⁸ Mishneh Torah, Matenot Aniyim 9.3.

⁸⁹ Shulchan Arukh, Yoreh Deah, 251.13.

⁹⁰ <http://www.hfls.org>

⁹¹ <http://www.mazon.org>

⁹² See pp 42-45 for a discussion of values.

The issue of prudence and honesty in management of tzedakah funds is serious. The rabbis honor those who encourage others to give.⁹³ Nearby that passage, however, they cite Tannaitic sayings that regulate *gabba'ei tzedakah* [administrators of tzedakah]: they must work in pairs, and must not separate, may not put coins in their pockets, they may not make change for themselves, and they must count coins one by one. If collecting for the tamchui, they may sell excess food donations, but they may not purchase any of it for themselves.⁹⁴

The rabbis recognized that tzedakah funds may be a temptation, and that the judgment of even the best-intentioned fundraiser may be clouded by the sums involved, and that there are a myriad of ways one might take personal advantage from control of those resources. They were concerned as well with the prudence of a tzedakah gift, and there is an extended discussion among the rabbis in the Talmud about the inquiries that may and may not be made of applicants, and of eligibility for assistance.⁹⁵

New Ideas about Tzedakah

These concerns and debates are still with us today, and form an ongoing conversation in philanthropic and communal service circles. Beginning in the mid-1990's, there has been a discussion of the limitations of philanthropy as it has developed in the United States. Eric Thurman, an expert in international philanthropy has coined the term "performance philanthropy," that is, a kind of philanthropy that is less concerned with receipts (from donors) and more concerned with results in the form of life change for the recipients. He argues that most donors are attuned to the problems of fraud and

⁹³ BT Bava Batra, 9b.

⁹⁴ BT Bava Batra, 8b.

⁹⁵ BT Bava Batra, 9a.

theft, but that the real problems faced by many agencies today are waste and the basic effectiveness of the gift in making genuine change.⁹⁶ Other voices in the same discussion talk about “venture philanthropy,” using the model of venture capitalism, with resources and funding “invested” in a charity in search of a social return on investment.⁹⁷

While most of this discussion has taken place among foundations and major philanthropists, this sort of innovation in thinking about giving has also made for changes in the choices available to small donors. For instance, the online-based nonprofit kiva.org serves as a network for aspiring microlenders all over the world and applicants for microloans in the developing world. The minimum loan is \$25.00 US. As of January 15, 2008, 226,575 small lenders had made \$19,673,010 in loans to the working poor of the third world via kiva.org.⁹⁸

The upcoming generation of potential donors has a different set of expectations than did their parents, stemming both from the new thinking about philanthropy and from the spread of innovative nonprofits like kiva.org. These new trends need to be examined in light of the *halakhah* and the tradition, with an eye to melding the best of each. A 2006 article in the New York Jewish Week indicates that these discussions among Jews are yet to take place.⁹⁹

A 19th century responsum by Rabbi Esriel Hildesheimer, an orthodox rabbi and respected *posek* [one who gives a ruling on matters of Jewish law] in Germany offers a model for some of what will be needed in a discussion about philanthropic methods and

⁹⁶ Eric Thurman, “Performance Philanthropy,” *Harvard International Review* 28, no. 104 (Spring 2006): 18-21.

⁹⁷ Paul Brest, “In Defense of Strategic Philanthropy,” *Proceedings of the American Philosophical Society* 149, no. 2 (June 2005): 132-40.

⁹⁸ <http://www.kiva.org/about/facts/> 16 January, 2008.

⁹⁹ Debra Nussbaum Cohen, “Generation Gap in Giving,” *The New York Jewish Week* 219, no. 20 (October 6 2006): 44-45, 52.

philosophies. After Emancipation the old Jewish communities which had been semi-autonomous began to reorganize as voluntaristic communities. One of the issues facing them was that old modes of fundraising simply could not work: Jews were citizens of the larger society, and the Jewish courts no longer had any way to enforce giving to communal funds. There were still Jewish institutions in need of funding – how was that to take place? It was common practice in the non-Jewish communities of Europe to publish lists of donors with the amounts they had given, as an incentive for donors to give or give more. In 1867, a German Jewish organization adopted this practice, publishing the names and amounts in the *Israelit*, a German-language Orthodox periodical.

Rabbi Eleasar Ottensosser, who had established a small Talmud school in Bavaria, was concerned by this practice, which seemed to him to violate the *halakhah*. He raised the issue with Rabbi Seligman Baer Bamberger, a leading Talmudist of the time. Rabbi Bamberger would not rule on the matter unless two other leading Talmudists, Rabbi Jakob Ettlinger and Rabbi Hildesheimer ruled in concert with him. In other words, he saw this matter has having such serious repercussions that he was unwilling to rule alone. On the one hand, anonymity in giving has a high value, and Rabbi Ottensosser and others understood it to have the force of a command. On the other hand, the publicity was deemed necessary in order to raise sufficient funds to keep the schools of Torah open. Ultimately Rabbi Hildesheimer ruled leniently, allowing the publicity, and setting a precedent that stands to this day throughout the modern Jewish world.¹⁰⁰

¹⁰⁰ David Ellenson, "Tzedakah and Fundraising: A 19th Century Response," *Judaism* 45, no. 4 (Fall 1996): 490-97.

New ideas about philanthropy require similar cooperative study in light of the tradition before simply adopting them as tzedakah practice. In his article about the Hildesheimer responsum, David Ellenson suggests gently that some of the old ideas may need revisiting, as well.

Need: A Core Concept for Tzedakah

Individuals and organizations with limited funds for tzedakah face the difficult decision of choosing among applicants. While the rabbis are emphatic that a person in need should receive the help they require, they are also adamant that fraud is wrong and will be punished, if not in this world, then in the next. How, then, shall we define “need” and “needy”?

The Biblical text makes reference to the most basic human needs: food and shelter. Maslow’s “Hierarchy of Needs” offers one workable alternative for thinking about needs of this sort.¹⁰¹

Maslow’s first category is physiological needs: air, food, water, sleep, and waste disposal. Next comes the need for safety: physical security, employment security, income security, security of health, etc. After those needs are fulfilled, the third level of human need in this model is social: friendship, sexual intimacy, family. Following upon those needs, Maslow describes the need for esteem: the need for self-respect and the respect of and for others. Above and beyond these four basic levels of need, which he

¹⁰¹ A.H. Maslow, *A Theory of Human Motivation*, Psychological Review 50 (1943):370-96. While Abraham Maslow was a Jew, it is a considerable stretch to call his Hierarchy of Needs a Jewish text. In looking to secular resources for a Jewish ethics, I follow the lead of Aaron L. Mackler in “Cases and Principles in Jewish Ethics,” in Dorff and Newman’s *Contemporary Jewish Ethics and Morality: A Reader* (New York: Oxford University Press, 1995).

terms “deficiency needs,” Maslow describes self-actualization needs and the need for self-transcendence or spiritual needs.

In a Jewish context there are additional needs to take into consideration. A Jew is commanded to provide Torah education for his children¹⁰² and there are other requirements for participation in the Jewish community (holiday meals, participation in various mitzvah.) Education, both for children and advanced study for the education of adults, for teachers and for rabbis, is also a need in Jewish life. Funds to enable a young man or woman to marry properly were a priority for the rabbis, and are identified specifically as tzedakah.¹⁰³ Most of these needs might be made to fit into Maslow’s scheme, under Love/Belonging needs (level three) or Esteem needs (level 4.) Communal funds for these purposes have been a feature of Jewish life for centuries.¹⁰⁴

Safety needs bring up a special set of considerations: tzedakah given to ransom a captive has such a high priority in the tradition that it is one of the purposes for which the 20% limit on giving does not apply.¹⁰⁵

Another model for thinking about need is that of Viktor Frankl, whose experiences in the Shoah led him to theorize that the priority of needs described by Maslow might be reversed. Frankl argues persuasively that humanity’s deepest survival need is for a sense of meaning and purpose in life. For Frankl, educational and communal opportunities outweigh food and shelter.¹⁰⁶

¹⁰² BT Kiddushin 29a.

¹⁰³ BT Ketubot 67a.

¹⁰⁴ Byron L. Sherwin and Seymour J. Cohen, *Creating an Ethical Jewish Life: A Practical Introduction on Classic Teachings on How to Be a Jew* (Woodstock, Vermont: Jewish Lights Publishing, 2001.) p. 225.

¹⁰⁵ Shulchan Arukh, Yoreh Deah, 249:5.

¹⁰⁶ Victor E. Frankl, *Man’s Search for Meaning* (NY: Pocket Books, 1959).

It is up to the giver to decide upon a definition of need and priorities based in that definition. The general principle is that gifts must relieve the burdens of the needy to qualify as tzedakah.¹⁰⁷

II. Stakeholders

Donors

The donor is a stakeholder. Aside from fulfilling the mitzvah of tzedakah, other issues may come into play: the opinions of others, one's place in the community, indirect benefits that might be obtained from a donation to a community institution, and any lingering sense of attachment that the donor has to the money. Jewish law strives to neutralize these issues: one is admonished not to brag about gifts.¹⁰⁸ Following the example in Scripture for other tithes, we are taught that the money should be set aside from other funds as soon as it is acquired, emphasizing the idea that it is no longer the property of the donor, even though it has not yet been given. Giving has consequences for the giver, from the tax deduction that many U.S. nonprofits trumpet to potential donors, to the fact that the presence or absence of one's name on a list of donors affects the way that others see and behave towards one.

¹⁰⁷ This paper deals specifically with the *halakhic* [Jewish-legal] obligation of *tzedakah*. There are many possibilities for gift-making that might not qualify under the strictest definition of *tzedakah* but that are otherwise good things to do. Some gifts to cultural institutions might or might not qualify depending on the need discussion above. Political contributions might qualify under some circumstances, if a political situation is contributing to the suffering of the poor. One example of a contribution that would *not* qualify as *tzedakah* is a money gift to an exclusive school unless those funds provide scholarships, benefit scholarship students, or increase the public good in some significant way.

¹⁰⁸ Shulchan Arukh, Yoreh Deah, 249.21.

There are benefits to the giving of tzedakah that are spiritual or psychological, rather than material benefits, and they might be regarded as some of the rewards of giving. Tamari points out that in the commandment of *Pe'uh*, the corners of the field, an owner is obliged to relinquish control of the asset in question.¹⁰⁹ Also, as one moves up the Rambam's scale of giving, towards those levels that involve anonymity or empowerment, the donor of tzedakah relinquishes control of the money. Over the course of time, a donor will give different forms of tzedakah in different ways, learning to deal with money in matters of greater and less control, and perhaps, growing in a healthy attitude about money, a happy mixture of prudence and generosity in which fear and greed bear little weight.

This program of giving includes even the poorest person, for whom even a very small gift is a sacrifice. For this person, the act of giving tzedakah confers the dignity of membership in the community, and the dignity of being a giver as well as a receiver of aid.¹¹⁰ When a poor person gives, we accept with gratitude.¹¹¹ However, we do not force or shame the poor to give.¹¹²

The issue of reward for giving tzedakah, indeed, for performing any mitzvah, is one with which the rabbis struggled. The *Tannaim* said that it is less meritorious to perform a mitzvah with expectation of a reward.¹¹³ The Rambam comments on this line

¹⁰⁹ Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), 133.

¹¹⁰ Community ethics around the treatment of donors and gifts is beyond the scope of this work. However, a note is in order: our communal organizations should strive to give the small gift of the small donor the dignity it deserves. When we fail to recognize the considerable sacrifice that a dollar in the *pushke* represents to a small donor, we fail to hold up our end of the mitzvah.

¹¹¹ Mishneh Torah, Matenot Aniyim, 9.19

¹¹² Radbaz [David ben Solomon Ibn Abi Zimra] on Mishneh Torah, Matenot Aniyim, 9.19, cited by Touger, Eliyahu, in the commentary on Mishneh Torah, Matenot Aniyim, published by Moznaim Publishing Corp., 2005.

¹¹³ Avot 1.3.

in the *Mishnah*, agreeing with the Tannaim that performance of mitzvah in order to receive a reward or to avoid punishment is not the ideal. However, he then softens that assessment, writing that not everyone can be expected to reach the high level of merit of the prophets and the wise.¹¹⁴

Recipient

The recipient's stake in tzedakah is high. As the quotation from the *Tur* at the beginning of this chapter points out, for the person in need the stakes may be no less than life and death. There are other considerations as well: human dignity, the person's feelings, his or her place in the community. The rabbis acknowledged that a needy person might prefer not to be on the public dole and came up with various stratagems for dealing with that situation. Support might be given in the form of a loan, in order to preserve the dignity of the recipient.¹¹⁵ Communal institutions should scrutinize their processes of application, making the dignity of applicants a high priority.

The dignity of the recipient is taken so seriously in the tradition that it must be taken into consideration in determining the proper amount of assistance to give. The Rambam writes that if the impoverished person was accustomed to riding a horse in normal times, then a horse should be provided for him if at all possible.¹¹⁶

¹¹⁴ Mishneh Torah, Hilkhoh Teshuvah, 10.1-2.

¹¹⁵ BT Ketubot 67b.

¹¹⁶ Mishneh Torah, Matenot Aniyim, 7.3.

The Rejected Applicant

The needy person who is not chosen has the additional difficulty of dealing with a rejection. Frustrated hopes can be very painful. It is important that additional public embarrassment not be heaped upon the burdens of the poor. If the intent of tzedakah is to reduce the burden of the needy, then it is doubly important to handle the process of decision-making in such a way that disappointment and embarrassment are held to an absolute minimum. A "no." when it is necessary, must be compassionate and private whether it comes from an individual or from a communal institution.

The Community

The community is also a stakeholder in tzedakah, because the quality of life of every member speaks to the quality of life of all. The commandments regarding tzedakah in Torah are addressed to *Am Yisrael* as a community. When tzedakah is not available or is insufficiently organized to serve its purpose, it is a communal failure in which all community members share.

Fundraisers and Fund Administrators

Fundraisers and administrators have responsibilities to the community, responsibilities to their clients, and their own reputations and careers to build and protect. There are also collateral benefits to the work of a professional fundraiser or administrator: business contacts, honor beyond that naturally attached the position, and public attention. In terms of Jewish tradition and tzedakah, they should hold themselves (and be held by the community) to a very high standard of behavior and professionalism.

The rabbis cite Rabbi Chananyah as a role model for tzedakah fund management: he was scrupulous in keeping the Purim and regular tzedakah funds separate, and made up any discrepancy from his own pocket.¹¹⁷ The Rambam underlined the importance of the role of fundraisers and the holiness of their work in the *Mishneh Torah* when he cited Isaiah in saying that one who urges others to give tzedakah has a greater reward than those who give.¹¹⁸

Advisors

The donor may prudently seek several different kinds of advice in making his tzedakah decisions: possible advisors might include a rabbi, an accountant, an organization that rates the performance of nonprofit organizations, or individuals within recipient organizations.¹¹⁹ The donor should seek appropriate advice from any advisor, keeping in mind both that individual's area of expertise and any possible conflicts of interest. On her part, the advisor should be transparent concerning conflicts of interest, owning up to them so that the giver may take them into account in weighing advice. "Fundraiser" and "advisor" are separate roles, and should be kept distinct.

The intent of the mitzvah of tzedakah is to relieve the burdens of the needy, who are without question the most vulnerable parties in this process, as the codes point out again and again. Needy people, both recipients and rejected applicants for tzedakah, are therefore the primary stakeholders, and decisions should be made and the process carried out with their needs uppermost in mind.

¹¹⁷ BT Avodah Zarah 17b.

¹¹⁸ Mishneh Torah, Matenot Aniyim, 10.6, citing Isaiah 32:17.

¹¹⁹ "Get yourself a teacher," in Avot 1.6. Learning done in order to carry out a mitzvah is Torah learning.

III. Priorities of Stakeholders

The Rambam offers us a clear ladder of priorities in choosing the recipients of tzedakah.¹²⁰ His priorities follow the following order:

1. *Pidyon Shevuim*, the ransom of captives
2. Keeping oneself out of poverty
3. Close relatives who are poor, in order of closeness
4. Poor members of one's household
5. The poor who live nearby, in order of closeness
6. The poor who live farther away.

There are also strong traditions for the support of Torah scholars, Torah education, and of the needy in the land of Israel, giving to any of which qualifies as tzedakah.¹²¹ Other texts suggest priorities according to gender (women are deemed more vulnerable than men), according to intensity of need, or even level of education.¹²² Cyril Domb quotes Moshe Feinstein as writing in a commentary on Yoreh Deah 144 that the strict rules of priory are for organization, but that personal tzedakah is up to the discretion of the donor.¹²³

The Ransom of Captives

“The redemption of captives receives priority over sustenance of the poor and the provision of clothing. There is no greater commandment than *pidyon shevuim*, the ransom of captives.”¹²⁴

¹²⁰ Mishneh Torah, Matenot Aniyim, 7.13, 8.10.

¹²¹ E.g. Pesikta de Rav Kahana, 10.1.

¹²² “To Whom To Give,” Tzedakah, Inc, <http://www.just-tzedakah.org/guidelinesWhom.asp> (Accessed 13 August 2007).

¹²³ *Ma'aser Kesafim: On Giving a Tenth to Charity*, edited by Cyril Domb (NY: Feldheim, Inc., 1980), 105.

¹²⁴ Mishneh Torah, Matenot Aniyim, 8.10

The Rambam, the Talmud, the Codes and modern responsa are all in agreement: the ransom of captives has precedence over all other needs.¹²⁵ The obligation is not limitless, however: as far back as the time of the Mishnah, the rabbis were aware that if Jews were willing to bankrupt themselves to pay exorbitant ransoms, it might well serve to encourage the kidnapping and imprisonment of Jews. In *Mishnah Gittin*, therefore, the rabbis specify that for the welfare of society, captives should not be redeemed for “more than their monetary value.”¹²⁶ The *Gemara* expands on the idea, pointing out that limitless ransom could bankrupt the society and encourage an industry of kidnappers.¹²⁷ Their concerns about such industries remain relevant today. A search on “industry of kidnappers” on Google.com reveals articles about kidnap industries in Haiti, Colombia, Nigerian and Ecuador. Kroll Associates, a security firm, estimated in 1997 that it dealt with one kidnapping every two weeks, worldwide (high profile industry executives, for the most part.)¹²⁸

Modern examples of *pidyon shevuim* include assistance to Russian refuseniks in the 1980's, and Operation Solomon, which transported threatened Ethiopian Jews from the mountains of Ethiopia to Israel.

Keeping oneself out of poverty

Most sources are in agreement that the first tzedakah obligation of an individual is to keep herself off the public dole. This does not have to do with selfishness; rather it is an acknowledgement that anyone can have a reversal of fortune and that the tzedakah resources in any community are limited. There are exceptions to this principle in some

¹²⁵ Ibid., also BT Bava Batra 8b, Shulchan Arukh, Yoreh Deah, 252, *Responsa for the Nineties*, pp 321-322.

¹²⁶ M Gittin 4.6.

¹²⁷ BT Gittin 45a.

¹²⁸ Steve Makko, "Kidnapping: A Latin American Growth Industry," *ENN Daily Intelligence Report* April 30 1997, <<http://www.emergency.com/latnkdn.htm>>. (Accessed 6 February 2008).

aggadic sources, and I will deal with one of them in a later chapter.¹²⁹ However, the codes are unequivocal on the subject, insisting that a person is obligated to give his own *parnassah* [sustenance] priority over any other person.¹³⁰ A person should not endanger her ability to live and earn a living by giving beyond her means. Moses Isserles made the point in the Mapah, his gloss on the Shulchan Arukh, when he referred to giving beyond one's means as *hizbuz* [a waste.]¹³¹

For this reason, savings and investment against misfortune and for one's old age might properly be considered part of one's tzedakah program, although some funds should be given for the benefit of others if at all possible, since we are enjoined against giving all our tzedakah funds to a single recipient.¹³²

Close relatives who are poor, in order of closeness

According to the Rambam, poor relatives should receive priority over others when one makes a tzedakah budget.¹³³ This includes one's adult children and aging parents.¹³⁴ This is in keeping with the previous priority, of keeping ones self off the dole: it is a mitzvah to keep one's relatives independent of the communal funds, as well.

In the 21st century United States, this responsibility can sometimes be confused by the fact that one's family members are not 501c corporations: gifts to them have different tax consequences than do gifts to nonprofit organizations. The tax code of the United States does not define who is a legitimate recipient of tzedakah, despite the fact

¹²⁹ E.g. Munbaz II in BT Bava Batra 11a and YT Peah 5a. See Chapter 7.

¹³⁰ Tur, Yoreh Deah, 251, cited in Rovner, *Ma'aser Kesafim: On Giving a Tenth to Charity*, 38. Also Mishneh Torah, Arakhim VeCharamim 8.13.

¹³¹ Shulchan Arukh, Yoreh Deah 249.1.

¹³² Shulchan Arukh, Yoreh Deah 257.9.

¹³³ Mishneh Torah, Matenot Aniyim 7.13.

¹³⁴ Mishneh Torah, Matenot Aniyim 10.16. Ketubot 50a lauds parents who assist adult children financially.

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¹³³ Mishneh Torah, Matenot Aniyim 7.13.

¹³⁴ Mishneh Torah, Matenot Aniyim 10.16. Ketubot 50a lauds parents who assist adult children financially.

that it has standing in Jewish Law.¹³⁵ If a large gift to a relative triggers a gift tax to the state, raising the cost of the tzedakah, one is obligated to pay that tax. Whether the money to pay the gift tax itself counts as tzedakah is an interesting halakhic question; however, it certainly should be taken into consideration when considering how much tzedakah to give. Again, one should not give beyond one's means.

The tradition is clear that it is preferable to support a cousin in need, rather than to support a person or organization that is unrelated. Again, the Shulchan Arukh states that not all of one's tzedakah funds should go to one person.¹³⁶ Moreover, the Rambam has made it clear that not all tzedakah need be done with cash: assistance in getting a job is an excellent, indeed the highest, form of the mitzvah. It is good to support one's immediate family; however, it is not sufficient to support only one's relatives. At least a small amount of tzedakah ideally should go beyond the bounds of family.

In addition, changing definitions of the family in modern society must be taken into consideration in setting tzedakah priorities.

Poor members of one's household

Poor members of the household, including servants, are the next priority in giving tzedakah.¹³⁷ For prosperous moderns this raises some challenging possibilities, beginning with the fact that servants are explicitly included as "members of the household." This priority, set forth by the Rambam, suggests that at the very least, it is

¹³⁵ Under *Dina deMalkhutah*, the principle that the laws of the land in which Jews live is to be followed. This includes the right to taxation, as Tamari explains in *The Challenge of Wealth*, pp 224-226. The Codes uphold this principle, e.g. Mishneh Torah, Hilkhoh Gezeilah V'aveidah 5.11 and Shulchan Arukh, Choshen Mishpat 369.15.

¹³⁶ Shulchan Arukh, Yoreh Deah 257.9.

¹³⁷ Mishneh Torah, Matenot Aniyim 7.13.

our responsibility to respond if the cleaning lady expresses a need for assistance, and to give assistance to her a priority lower than Cousin Abe but higher than the Federation.

The poor who live nearby, in order of closeness and The poor who are farther away

Geography is a consideration in giving tzedakah, according to the Mishneh Torah.¹³⁸ The tradition teaches us to look nearby and then to look farther away. While this consideration may have seemed obvious to previous generations, it has taken on new significance in recent years. With the rise of global media and the Internet, we can sometimes be more aware of the needy on the other side of the world than we are of the hungry people in our own locale. At the same time, a deadly danger to persons far away might outweigh a less perilous situation near home. The fine details of priority-setting are, again, up to the individual carrying out the mitzvah, with assistance from his advisors.

Torah Scholars and Torah education

Torah scholars and Torah education at all levels contribute to our communal life as Jews. It is also true that there are many teachers of Torah who have undertaken that work at financial loss to themselves, and institutions that make their work possible that depend on tzedakah. There are students of Torah who would not be able to learn (and later, to teach and to live lives of Torah) without assistance. At various points in the Talmud and other texts, the rabbis speak warmly of those who support Torah scholars and who underwrite the study of Torah for others. This is a category where Frankl's

¹³⁸ Ibid.

concept of survival needs is particularly apt: without Torah, what are we? Humanity cannot live by bread alone.¹³⁹ Neither can Jews survive long without Torah.

Israel

Support for the needy in the Land of Israel is a special category, one that transcends geographical considerations. It reflects the historical difficulty of Jewish survival in the Land and the fact that living in the Land is itself a mitzvah.

Just as with any other organization, a fund that claims to support Israel should be held up to one's individual standards and value-priorities. For instance, the New Israel Fund was established in 1980 by a group of people who wanted to support Israel "in a way that reflected their progressive values."¹⁴⁰ Ethical questions have been raised about some of the projects backed by traditional Israel funds, such as the Jewish National Fund, Blueprint Negev.¹⁴¹ If a particular organization is not pursuing its giving in ways that are in concert with one's own values, then perhaps the best gift is not a check, but a letter explaining why there is no check.

The Rambam does not say directly where Torah learning and Israel fit into the hierarchy beginning with captives and ending with those far away. If we learn from Frankl that the need for meaning and for nourishment of the spirit is also a survival need, then the support of Torah learning and Torah scholars fits every level of priority. As for

¹³⁹ Deuteronomy 8: 2-3.

¹⁴⁰ *About NIF*. New Israel Fund, <<http://www.nif.org/about/>>. (Accessed 6 February 2008).

¹⁴¹ David Seidenberg, *Neohasid.org*. Save the Negev, <http://neohasid.org/negev/save_the_negev/>. (Accessed 6 February 2008).

Israel, perhaps Judah Halevi put it best when he wrote, "My heart is in the east, and I am in the farthest reaches of the west."¹⁴²

IV. Values

There is a long list of values our tradition expresses and honors by way of the mitzvah of tzedakah. Every individual will place the emphasis somewhat differently. This list is not meant to be exhaustive, but to summarize the most common possibilities.

The *halakhah* gives priority to the preservation of life, *pikuach nefesh*, not only as it applies to tzedakah (via *pidyon shevuim* and the life-and-death struggle of poverty referenced in the Tur) but also in reference to many other mitzvah, such as those concerning Shabbat.

Pidyon, the act of bringing another to freedom, is a high value, a mirroring of the action of God in redeeming Israel from Egypt. This might be expressed via *pidyon shevuim*, the ransom of prisoners, or by assisting in freeing sufferers from less obvious captivities: poverty, racism, sexism, homophobia, ignorance, or addiction.

The values of *rachmanut* [compassion] and of *chesed* [kindness] require no explanation: the goal of tzedakah is to relieve suffering. Our tradition affirms the value of persons despite poverty or misfortune as bearers of the image of the Divine.

Tzibur, Community, is the value that all Jews should be able to participate in the life and ritual of the Jewish community, including synagogue membership, home observance, communal prayer, and also a basic level of Torah education. The value of *V'kiyem mitzvot* [observing mitzvot] applies to both donor and recipient: one fulfills a

¹⁴² Yehudah Halevi, "Libi B'Mizrach," translated by Nina Salaman, in *Selected Poems of Yehudah Halevi*, ed. Heinrich Brody, Schiff Library of Jewish Classics (Philadelphia: Jewish Publication Society, 1946), 2.

mitzvah for the sake of doing mitzvot, and similarly, every Jew should have access to the means to fulfill the mitzvot for which they are responsible, including Torah education.

The detailed description in the *Gemara* of the need for pairs of collectors of the *tzedakah* monies and trios of dispensers of it suggests that honesty and prudence are both high values.¹⁴³ The codes, also, go into great detail on the requirements for the character of *tzedakah* collectors and administrators, and the procedures for administration.

The famous hierarchy of eight levels of giving by Maimonides suggests that generosity and independence are important values in giving *tzedakah*.¹⁴⁴ His recommendation of anonymity speaks to the value of *anevah* [humility], and *tzniut* [modesty].

In modern times, many Jewish communities have chosen to remove the limitations that excluded non-Jews from some kinds of *tzedakah*, as a reflection of the prophetic vision and in keeping with the commandment to love the stranger, because we were once ourselves slaves in Egypt.¹⁴⁵ Thus synagogues participate in food drives for the local secular Food Bank, and the URJ made an appeal for the suffering people of Darfur. In both the traditional hierarchy, and in the expanded one that can be seen on synagogue and movement programming, the value of *chesed*, kindness, is evident.

There is also aggadic material concerning *tzedakah* and the values that inform it. In Ketubot 67b, there is a series of stories about extravagance and *tzedakah*. In one, a man applies to Rava for “fat chicken and old wine.” Rava asks if he has considered the burden of expense that will put on the community. Just as this discussion takes place,

¹⁴³ BT Bava Batra 8b.

¹⁴⁴ Mishneh Torah, Matenot Aniyim 10:7-14.

¹⁴⁵ Eugene B. Borowitz, *Renewing the Covenant: A Theology for the Postmodern Jew* (Philadelphia: Jewish Publication Society, 1991), 247-50.

Rava's sister appears with a bountiful meal of fat chicken and old wine. Rava, properly embarrassed, apologizes to the man for not being willing to feed him as well as Rava feeds himself and he invites him to share the meal. The story holds up several values simultaneously: it is legitimate for Rava to inquire about the burden of an extravagant request, but it is not appropriate for him to ask that question while munching on delicacies he is unwilling to share.

Another narrative: R. Eleazar was a custodian of tzedakah. He came home one day and asked his family what tzedakah had been given out during his absence. They replied that several people came, and they received the food and then offered prayers for R. Eleazar. He replies, cryptically, that that is not the proper response. Later, another group of people comes to the house while he is out, is given food, and reviles his name. R. Eleazar says that that is the proper response.¹⁴⁶

This is a more difficult story: why would R. Eleazar say that harsh words were the proper response to receiving the tzedakah in his house? R. Eleazar is not present in person; in both cases, the tzedakah has become an impersonal transaction. It lacks a face to face quality. He is at a distance from the poor, communicating with them through servants or his wife. They receive only the food, which is better than no food, but the face of R. Eleazar and the comfort (or wisdom, or Torah) that might come with it are absent. From this we may learn several values: that the "personal touch" has value, that food alone is not sufficient, and that a tzedakah administrator who is "too important" or "too busy" to connect with his clients is not doing the best possible job. In formal terms, the values of *B'tzelem Elohim* and *Chesed* were not upheld. R. Eleazar may have been suggesting that his administration lacked *Anevah*, humility.

¹⁴⁶ YT Peah 21a.

This story also challenges our expectations of gratitude from the recipients of tzedakah. *Derekh eretz* (and plain old common decency) might require the recipient of tzedakah to express thanks to the donor, but it is inappropriate to make tzedakah decisions on the basis of one's expectations of gratitude from the recipient.

Finally, the words of the prophets on this subject are urgent in the extreme: care for the poor takes precedence over sacrifices and ritual requirements, and neglect of the poor is a breach of the covenant.¹⁴⁷ Relief of the poor is an urgent matter; it should be carried out without delay.

How shall we prioritize these values? Ideally, of course, all are upheld, but in the real world, it will be necessary for individuals to prioritize. The tradition instructs us of the priority of the preservation of life, and the freeing of captives. After that, it is a matter of individual conscience and choice.

¹⁴⁷ e.g., Isaiah 1:11-19.

V. Summary

Certainly it is possible to fulfill the letter of the law of tzedakah by setting aside cash and then giving it away to at least two people or organizations. Doing so carelessly, however, carries the possibility of doing harm rather than good. In giving tzedakah, the ethical Jew will want to consider to whom the funds will be given, and how that giving will be carried out. If the recipients are organizations who will be acting as agents of the donor, they should be well-run and treat their clients with the same respect required of an individual donor. If the recipients are individuals, then great care should be taken to make matters better, not worse, for that person, and to treat them with the respect due a fellow child of God.

A successful process of tzedakah will take the world one step closer to the vision of a world redeemed, of a community in which no one is in need. Moving through that process with care for the ethical issues involved will help to insure that we move closer to, not farther from, that vision.

Give readily and have no regrets when you do so, for in return the Eternal your God will bless you in all your efforts and in all your undertakings.¹⁴⁸

¹⁴⁸ Deuteronomy 15:10.

Chapter 4: Consumption

I. Overview

House Minority Leader John Boehner, R-Ohio, said that he looks forward to "hopefully quick action in the Senate. ...The sooner this happens and the sooner we get this relief in the hands of the American people, the sooner *they can begin to do their job of being good consumers* and investing their money in our economy," he remarked on the House floor.¹⁴⁹

The American consumer living in the global free market economy of the 21st century faces a dizzying array of enticements to consume goods and services. The public policy of the United States encourages consumption as a patriotic duty. Financial institutions have made credit easy to obtain and use. Most of the U.S. media is fueled by advertisements urging consumers to buy, buy, buy.

But what does it mean to be an *ethical* consumer? In Rep. Boehner's case, the primary value of concern is the value of economic growth, and he urges us to honor that value by spending money and thereby contributing to the Gross Domestic Product (GDP). While Jewish sources have been used to promote various economic ideologies,

¹⁴⁹ "House Approves White House-Backed Stimulus Bill," *The Houston Chronicle*, Online Edition January 29 2008, <<http://www.chron.com/disp/story.mpl/front/5495371.html>>. (Accessed 6 February 2008). Emphasis mine.

notably socialism and market capitalism. Judaism is not an economic system. Its concern lies elsewhere than the GDP: its concern is the sanctification of life and the repair of the world [*tikkun olam*] via the covenant between God and Israel.¹⁵⁰ In pursuit of sanctity and *tikkun olam*, Jewish tradition has a great deal to say about the marketplace, and it speaks to the businessperson, to the laborer, and to the consumer of goods and services.

All resources belong to the Creator. One expression of that principle is the practice of reciting blessings before consuming food. We say the blessing and thereby gain permission to benefit from God's world.¹⁵¹

Tamari writes that the "Divine origin of wealth mandates that it not be earned through immoral or unjust ways."¹⁵² So much the more so, then, should wealth not be used for immoral or unjust purposes. Therefore it is appropriate to subject the patterns of our consumption, our individual purchases, and our behavior in the process of consuming to ethical scrutiny.

¹⁵⁰ Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), xiv.

¹⁵¹ BT Berakhot 35a-b, also Mishneh Torah, Hilkhoh Berakhot 1.3. Rachel Adler has pointed out in *Engendering Judaism* that this is true for blessings over food, but that other berakhot, notably the ones recited upon seeing the rainbow or performing mitzvot, acknowledge the presence of God. (p. 79).

¹⁵² Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money*, xxii.

II. Patterns of Consumption

Judaism affirms the goodness of creation, and affirms the enjoyment of it. The Talmud Yerushalmi asks: "It is not enough what the Torah has forbidden, that you seek to prohibit yourself other things?"¹⁵³

The blessing upon seeing trees blossoming further underlines the relationship between creation and God's intention of human enjoyment:

Blessed are you, Eternal our God, Ruler of Time-and-Space, who withholds nothing from Your world, and has created in it beautiful creatures and goodly trees for the enjoyment of humanity."¹⁵⁴

Conspicuous Consumption

Other authorities are cautious about the evils of conspicuous consumption. Bachya Ibn Pakuda devoted an entire chapter of *Chovot Halevavot* to the Gate of Abstinence [*Sha'ar Haprishut*]. In it he discusses the self-control required to observe the laws of Torah.¹⁵⁵

Ostentation invites envy. One of the traditional interpretations of Genesis 42:1, "When Jacob saw that there was grain in Egypt, he said to his sons, 'Why are you looking at each other?'" is that in the middle of a famine in Canaan, he had money to buy the Egyptian grain. He was warning his sons not to flaunt their wealth.¹⁵⁶ The tenth commandment forbids desiring the house, fields, servants, animals or any other property

¹⁵³ YT Nedarim 9.1

¹⁵⁴ *Daily Prayer Book, Ha-Siddur Ha-Shalem*, translated by Philip Birnbaum (NY: Hebrew Publishing Company, 1999), 775.

¹⁵⁵ Bachya ben Joseph Ibn Paquda, *Duties of the Heart*, translated by Daniel Haberman (Jerusalem: Feldheim, Inc., 1996), 785-841.

¹⁵⁶ BT Ta'anit 10b.

of a neighbor.¹⁵⁷ When we flaunt expensive things in front of another, we may be guilty of *lifnei iver lo titen michshol*, placing a stumbling block before the blind, if the person is susceptible to envy.¹⁵⁸ This is a sharp contrast to the tone of many advertisements, which suggest that we should enjoy the envy of others.

Another possibility is that a display of wealth may embarrass the poor or pressure them into living beyond their means. In "The Simple Life: The Case Against Ostentation in Jewish Law," Hershey Friedman points out several rules established during the Talmudic period to prevent shaming the poor.¹⁵⁹ First, changes in funerary practice required all funerals to be equally simple and inexpensive, so the poor and the rich are buried with equal dignity.¹⁶⁰ Also, when the young women danced in the fields on the ninth of Av, it was the tradition for all to wear borrowed white dresses, so that all had an equal chance at adornment.¹⁶¹ Even tzedakah is ideally given in secret, to avoid shaming the poor.¹⁶²

During the Middle Ages, however, there was a transition in the Jewish community from an aristocracy of learning to an aristocracy of wealth, as the rewards of education and literacy translated into financial reward. The documentary evidence suggests that there was growing tension in Jewish communities over the matter of luxury, to which rabbis responded with *takkanot* [enactments] and sumptuary laws, out of two concerns: shaming the poor and inspiring envy or worse from Gentile neighbors. The repeated

¹⁵⁷ Deuteronomy 5:18.

¹⁵⁸ Leviticus 19:14.

¹⁵⁹ Hershey H. Friedman, "The Simple Life: The Case Against Ostentation in Jewish Law," *Articles Examining Halacha, Jewish Issues, and Secular Law, Jewish Law*, <<http://www.jlaw.com/Articles/againstosten.html>>. (Accessed 30 January 2008).

¹⁶⁰ BT Moed Katan 27a-b.

¹⁶¹ BT Ta'anit 26b.

¹⁶² BT Bava Batra 9b.

appearance in the books of these laws suggests that the matter was never resolved.¹⁶³

They were difficult to enforce, and after Emancipation at the end of the 18th century, they were all but toothless.¹⁶⁴

The tradition rejects another kind of shaming, the enjoyment of good things while denying those same things to others. In a story cited earlier, Rava was appropriately embarrassed to eat a meal of chicken and wine in front of a man who had none. He modeled a better option: sharing the food.¹⁶⁵

Derech Beinonit: Moderation in Consumption

The sources all suggest that there is a way between the extremes that is the ideal for many people, especially those who have deeper pockets than others. The Rambam has an extended description of that middle way in *Hilkhot De'ot*. He calls it *Derech Hayashar*, the straight path:

This is the middle [*beinonit*] temperament of every personality trait, of all the traits a person may possess. This trait is the one which is the same distance from each extreme, without being close to one or the other. ... Therefore he should not be a master of wrath, easily angered, nor be like a corpse, without feelings, rather, the middle way. ... just so, he should not long for anything other than what the body needs and cannot live without, as it is written, "The righteous person eats to satisfy his soul." [Proverbs 13:25] ... he should not be tight-fisted nor scatter his money, but give *tzedakah* according to his capacity and lend to the needy as is suitable... And this path is the way of the wise.¹⁶⁶

¹⁶³ Eric Berk, "Cosi Revayah: My Cup Runneth Over," unpublished paper, Lorraine Helman Rubin Prize 2005, Hebrew Union College, 2004, 11.

¹⁶⁴ Some congregations have instituted a modern version of a sumptuary tax, requiring families to donate up to 10% of the total cost of a Bar Mitzvah celebration to MAZON, an organization that feeds the hungry. (<http://mazon.org/>)

¹⁶⁵ BT Ketubot 67b.

¹⁶⁶ Mishneh Torah, *Hilkhot De'ot* 1.4.

The Rambam describes a path between extremes of affect, and between the poles of self-indulgence and asceticism. Putting it in contemporary terms, the *Derech Hayashar* avoids extremes: emotional and material self-indulgence, hipster cynicism, self-deception, and destructive self-denial and self-pity.¹⁶⁷ The Rambam condemns forms of excess that are still very much with us today: gluttony, drunkenness and “royal clothing,” while cautioning that a healthy diet and nice clothing are important for health and for the honor of Torah.¹⁶⁸

The term *beinonit*, the middle way, is the core of his approach, and it is interesting to note that we have seen that word before, in Mishnah Avot, when the rabbis discussed the concept of “what is mine is mine, and what is yours, yours.”¹⁶⁹ They said that it was the *middat beinonit*, the middle attribute, but that some say it is the way of Sodom. This underlines the caution with which we must approach the concept of moderation: some things are good in moderation (food, drink, clothing, shelter) but that the same reasonable-sounding language should not be used to justify selfishness. What is mine is mine, but if the person before me is in need then I am called upon to share, as Rava did with the chicken and the wine.

“What’s mine is mine,” but within Jewish tradition, possession of resources does not translate to “It’s my money, I can do as I like.” I am free to make choices, but within the bounds of the covenant. I am not free to damage myself or anyone else. As the Rambam, in his physician’s voice, writes over and over again in *Hilkhot De’ot* and

¹⁶⁷ More about the *Derech Hayashar* and the person who walks it in Ch. 8.

¹⁶⁸ Mishneh Torah, *Hilkhot De’ot* 5.2-3, 9.

¹⁶⁹ Avot 5.10.

elsewhere, excess in eating or drinking or sexual behavior is hurtful to oneself and ultimately a rejection of the Creator.¹⁷⁰

Entertainment

The category of “entertainment” offers a challenge to the ethicist. The tradition puts a high value on rest and renewal of body and spirit, for instance in the priority given to Shabbat observance. God rested on the seventh day, and so shall God’s people. Some forms of entertainment contribute to the growth and renewal of the spirit, and as such are certainly time and money well spent, if spent in moderation. We must examine entertainment on a case-by-case basis, however, because some things termed “entertainment” in modern parlance may actually compromise the well-being of some participants.

For example, gambling has been the subject of much discussion from Talmudic times forward. In Tanach, there is no mention of gambling as a game although the practice usually translated as “casting lots” appears many times. It is sometimes a way to determine the will of a deity, for example, when the sailors cast lots to see who should be thrown overboard in Jonah 1:7, or in the passage in Joshua when God directs the Israelite tribes to cast lots to determine which tribe will settle in which part of the Land.¹⁷¹ Most mentions of gambling employ the word “*godal*,” and others, including Esther and some of the Prophets use the Akkadian loanword, “*pur*” with the same meaning. The closest case to anything like a game is the mention of it in Psalm 22:19: “They divide my clothes among themselves, casting lots for my garments.” Even there, the primary meaning appears to be division of spoils, not a game of chance.

¹⁷⁰ Mishneh Torah, Hilkhoh De’ot 3.3, also Shemoneh Perakhim 5.

¹⁷¹ Joshua 15.1.

In the Talmud, however, there is a discussion of the players of dice games and whether they are fit to be witnesses in a court dispute. The sense of that passage is that gambling is a fairly common activity, and that there are some people who make their living at it, and others who merely play upon occasion. In the Mishnah, Rav Yehudah rules that if a person made his living by gambling, he was an unfit witness, but that if he merely played at it, he could be a witness. In the Gemara, Rami Bar Chama rules that the claiming of winnings is a form of stealing, since the commitment to pay by the other player is an *asmachta*, an insincere commitment, since he believed he would win. Rav Sheshet argued that since gamblers do not contribute to society, and do not contribute to *Yishuvo Shel Olam*, the building up of the world, they are not fit witnesses.¹⁷²

The Rambam frowns upon gambling. He ruled it rabbinically prohibited, and classified it as robbery, since the winner in a gambling game takes the loser's money for nothing.¹⁷³ Elsewhere he softens that stance somewhat, commenting on the passage in Sanhedrin 24b concerning the fitness of a gambler to serve as a witness, that such a person is unfit as a witness only if he makes his living from gambling.¹⁷⁴ Recent Reform responsa have strongly discouraged gambling activities or lotteries for synagogue fundraising.¹⁷⁵

A steady stream of rulings and responsa make it clear that gambling has been a persistent issue in Jewish communities through the centuries. While it is viewed with some concern, some rabbis have felt that within reasonable bounds it is permissible but

¹⁷² BT Sanhedrin 24b.

¹⁷³ Mishneh Torah, Hilkhoh Gezeilah v' Aveidah 6.10.

¹⁷⁴ Mishneh Torah, Hilkhoh Edut 10.4, also Shulkhan Aruch, Choshen Mishpat 34.16.

¹⁷⁵ Jacob and Committee Mann, "166. Games of Chance in Connection with Fundraising," in *American Reform Responsa: Collected Responsa of the Central Conference of American Rabbis, 1889-1983*, ed. Walter Jacob (New York: Central Conference of American Rabbis, 1999), 126.

not to be encouraged.¹⁷⁶ Rabbi David Bassous raised objections to gambling on the grounds mentioned above and also on grounds of time wasting [*bittul z'man*], waste of resources, and the likelihood of bad company. He points out that Israeli rabbinic authorities are divided on the subject of the permissibility of lotteries. However, he also points out that playing games without gambling is quite permissible, citing the commentary of the Rema on Shabbat 46, who concluded that playing chess on Shabbat was permissible.¹⁷⁷

How is it, then, that many different sources cite the game of dreidel on Chanukah as a permissible activity, and do so without even noting the apparent contradiction?¹⁷⁸ For the answer to this, we can look back to Sanhedrin 24b in which R. Yonatan argued that small-time, occasional players of dice were acceptable as witnesses. It was originally a children's game, not a pastime for adults. Chanukah takes place one week a year, and usually the "money" involved is gelt, that is, candy, or pennies, so addiction and self-injury is improbable. It does not depend, as do the state lotteries, on the exploitation of addicts and the poor. It occupies time when we do not ordinarily do productive work (while the Chanukah candles are burning) so no time is wasted. While it does not "build up" the material world, it contributes to the celebration of the holiday and to feelings of Jewish peoplehood. One might even argue, in a time and place of Hebrew illiteracy, that it contributes to people learning at least four letters of the aleph-bet.

I propose, therefore, a Dreidel Standard for entertainments. In evaluating a use of entertainment budget and time, we might ask:

¹⁷⁶ Mann, "166. Games of Chance in Connection with Fundraising."

¹⁷⁷ Rabbi David and Sutton Bassous, Harold, "Gambling in Jewish Law," *Website of Congregation Etz Ahaim, Highland Park, NJ*, Halakha Page, Rabbi David Bassous, <<http://home.earthlink.net/~etzahaim/halakha/gambling.html>>. (Accessed 10 January 2008).

¹⁷⁸ e.g. Arukh HaShulchan 670.9.

- Does it harm anyone, including myself?
- Does it take advantage of the weak, the sick, or the uninformed?
- Does it have any aspect of stealing or robbery?
- Does it encourage me to engage with bad company?
- Does this activity lead me to excess in any form?
- Is it wasteful of the environment and other limited resources such as time?
- How does this activity contribute to the world and/or to the refreshment of body and spirit?

If I can honestly give a negative answer to the first six questions and a meaningful answer to the last, then the activity in question meets the Dreidel Standard.

Good Consumer Practices

The tradition also specifies other considerations in being a good customer.

Despite the dictum of Harry Gordon Selfridge¹⁷⁹ that “the customer is always right,” the tradition teaches that it is wrong to use deception to lower a price (for instance, by claiming that a product is less expensive elsewhere when in fact it is not), and that payment on time is an absolute.¹⁸⁰ This is especially true when one is purchasing a service, given the Biblical injunction that a laborer is to be paid promptly, in full, and before sundown.¹⁸¹

Deceptive behavior and words, *geneivat da'at*, are forbidden in Jewish law.

Saying falsely that a product was on sale elsewhere for less, misleading a seller about our

¹⁷⁹ Selfridge, the founder of Selfridge's on Oxford Street in London, was an executive at Marshall Field in Chicago for many years. He has been credited with marketing the concept of shopping as entertainment. Gareth Shaw, "Harry Gordon Selfridge (1858-1947)," *Oxford Dictionary of National Biography* (2004), Oxford University Press, <<http://www.oxforddnb.com/public/dnb/36010.html>>. (Accessed 31 January 2008).

¹⁸⁰ Mishneh Torah, Hilkhhot De'ot 5.13.

¹⁸¹ Deuteronomy 24:12-13.

own circumstances in an attempt to lower the price, or any such behavior are not ethical by Jewish standards, even if the deception is by misdirection or omission.¹⁸²

Jewish tradition also frowns on some consumer practices that are common and accepted in the American marketplace of the 21st century. One such practice is that of purchasing a product and then returning it after changing one's mind. Another is paying a deposit on a large purchase, and then, after finding a better price elsewhere, canceling the order and asking for a refund of the deposit. While these may be acceptable practices locally, they involve acts of bad faith on the part of the consumer, unless there was a mutual understanding that the transaction was conditional.¹⁸³ Such behavior causes a loss to the seller, both a loss of the sale and whatever restocking costs there may be, and therefore, returning goods is something to be avoided if at all possible, unless the goods are defective. We are commanded to keep our word when engaged in business dealings.¹⁸⁴ Not only is this beneficial for maintaining harmonious interpersonal relations, *darkhei no'am*, it maintains one's *shem tov*, good name.

Another issue that may be new to a typical American consumer but that is important in Jewish law and tradition is the matter of guarding one's speech in talking about others, including the businesses of others. Talking in a manner that may drive business away from a seller is *lashon harah*, literally "evil tongue," even if the content of the speech is true. An example of prohibited speech:

Adina: I'd never shop at ABC! The prices there are sky high!

Boaz: Oh? Thanks for the tip! Where do you recommend?

¹⁸² Hershey H. Friedman, "Geneivat Da'at: The Prohibition Against Deception in Today's World," *Jewish Law: Examining Halacha, Jewish Issues, and Secular Law*, <<http://www.jlaw.com/Articles/geneivatdaat.html>>. (Accessed 3 February 2008).

¹⁸³ Yoel Domb, "Parshat Noach: Reneging on a Deal," Business Ethics Center of Jerusalem, Business Ethics D'var Torah, <http://www.besr.org/dvartorah/Noach.html> (Accessed 30 January 2008).

¹⁸⁴ Mishneh Torah, Hilkhos De'ot 5.13.

The exception to this rule is if someone will suffer actual loss, damage, or harm as a result of a particular transaction. Examples of acceptable warnings:

Boaz: I thought I'd go to ABC and buy a TV.

Adina: You do realize you can get it much cheaper at Costco?

Or

Boaz: Next payday, I'm going to get some XYZ shoes.

Adina: Did you know that they are made in sweatshops? There was an article in last week's *Times*.

In the first case of the prohibited speech, Adina is merely chatting and making a general statement, and her gossip will cause ABC to lose business on the basis of nothing but her general impression. She may think she is being helpful, but her advice is nonspecific and serves only to keep David out of the store.

In the second case, David mentions that he intends to buy a TV at ABC. Adina informs him that he can get a specific item much less expensively elsewhere, potentially saving him a loss, without saying anything bad about ABC store.

In the third case, David is not the person who might be hurt. Adina read in a reliable news outlet about poor labor practices at XYZ plants. David will not be injured if he purchases the shoes, but by the purchase, he will be participating in the unjust practices of the company.

Bargaining is not the common practice for most consumer purchases in the U.S., but the exceptions are extremely large purchases, cars and homes. The tradition takes a dim view of bargaining that disparages the product up for sale. Proverbs offers an

unattractive picture of such a buyer: "'Bad, bad,' says the buyer, But having moved off, he congratulates himself."¹⁸⁵

III. Individual Purchases or Decisions about Consumption: Stakeholders

One can use the method outlined in Chapter 2 to consider a purchasing decision. As before, these lists of stakeholders and values are intended to be suggestive, not exhaustive.

Buyer:

What need of mine does this purchase fulfill? This question requires raw honesty: do I want this particular item because it will assist me in staying alive, being healthy, supporting myself and my family, and fulfilling mitzvot¹⁸⁶? Or do I want it for other reasons, such as boredom, addiction, a desire to inspire envy, or some other reason that is not in keeping with a life of Torah?

The buyer also needs to consider how a purchase fits into the budget. "Can I afford it?" has ethical implications: we are not free to harm ourselves. The use of credit cards and other debt is a particular concern, since it allows a consumer to delay payment, while at the same time increasing the effective price of the goods purchased.

¹⁸⁵ Proverbs 20:14.

¹⁸⁶ A beautiful home and nice clothing are *chiddur mitzvah*: they contribute to the beauty of Shabbat and holiday celebrations, and, for a Torah scholar, to the dignity of Torah. I do not mean to suggest that one should live in a hovel and sit on cardboard boxes. As the Rambam wrote, it is a matter of balance.

Seller

The seller has a right to a reasonable profit.¹⁸⁷ There is a long history and a considerable body of *halakhah* on the subject of just and unjust prices, far beyond the scope of this work. As it applies to the consumer, the issue is that in order to earn a living and stay in business, the seller needs to make a profit. In the opinion of the Rambam, it was reasonable for the rabbinic courts or the people of a city to fix the prices of *chayei nefesh*, goods necessary for life (bread, oil, vegetables), but that on luxury goods, such as spices, a seller might earn whatever the market would bear.¹⁸⁸

Given this right to make a reasonable profit, an ethical buyer will treat the seller with the considerations outlined above under “Good Consumer Practices.” Tricking a seller into selling at a loss, abusing store policies about returns, or other similar behavior is not acceptable Jewish practice.

Another very important aspect of this is the power of the consumer to encourage a company that pursues socially responsible policies. “The supply of corporate virtue is both made possible and constrained by the market,” writes David Vogel in *The Market for Virtue*. Companies that make an effort to be good “corporate citizens” must be rewarded for those policies in the market, or they may be forced to discontinue the policies to remain competitive.¹⁸⁹ Thus it is important to maintain an awareness of such firms in order to patronize them.

¹⁸⁷ Meir Tamari, “Free Entry and Price Gauging,” *Business Ethics Responsa*, Noaber Foundation Business Ethics Library and Resource Center, Business Ethics Center of Jerusalem, Responsum, <<http://www.besr.org/library/responsa/pricegauging.html>>. (Accessed 30 January 2008).

¹⁸⁸ Meir Tamari, *With All Your Possessions: Jewish Ethics and Economic Life* (Northvale, NJ: Jason Aronson, Inc., 1987), 88-94.

¹⁸⁹ Vogel, *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility* (Washington, D.C.: Brookings Institution Press, 2005), 2-3.

At the same time, since 2000, corporate social responsibility (CSR) has become a buzzword and a marketing tool. Not all claims bear up to scrutiny. Sometimes, too, the good that is done does not outweigh other ethical concerns. This is another decision point for the consumer: for instance, McDonald's has adopted the European Union's restrictions on the use of growth-producing antibiotics for its suppliers of beef and chicken in the United States¹⁹⁰, and it has made significant changes to its menu since the criticisms raised by the book *Fast Food Nation* and the documentary *Super Size Me*. Unfortunately, while those changes are for the better, for the consumer who values health (to say nothing of the Jewishly observant consumer who keeps kosher) McDonald's is still a questionable choice.

Suppliers

Suppliers to the local seller of goods are also stakeholders. An ethical consumer will want to know the source of the goods she purchases. According to Tamari, buying goods acquired by fraud or theft is assisting someone in theft:

When one buys stolen goods, or goods on which import duty was not paid, or when one buys from someone who does not pay the relevant taxes, the buyer is assisting the seller to steal.¹⁹¹

It can be tempting to acquire "bargains" by purchasing products that are of unknown provenance, for instance, a watch or designer handbag carrying a trademark from a street vendor. However, such goods carry a high likelihood that fraud was involved at some level: either they are genuine, but were stolen, or they are genuine, but no duty was paid, or they are "seconds" that have defects and have somehow made it to

¹⁹⁰ Ibid.

¹⁹¹ Meir Tamari, *Al Chet: Sins in the Marketplace* (New York: Rowman & Littlefield, 1996), 65.

market by unknown means. If they are counterfeit “knock-offs” they are invariably sweatshop work with the associated moral issues (more on this below). To purchase such goods is to become a party to whatever accounts for the low price.

The purchase of goods upon which customs and other taxes have not been paid violates the principle of *dina d'malkhuta dina* (“the law of the land is the law”). This principle is ancient: it was first articulated in M. Gittin 1.5 by the Babylonian sage, Shmuel. It remains a constant in the *halakhah* to this day.¹⁹²

Joel Cohen, once a prosecutor and now a white-collar defense attorney in New York City has written about the problem of tax evasion and tax fraud in observant communities. He writes:

Perhaps most disturbing is a new breed of fraud involving observant community leaders, sometimes rabbis themselves, and intended to benefit the community itself, such as fraud against government spending programs for education and health care. The perpetrators in these cases don't typically profit personally, but the government and the intended recipients of these government programs are no less defrauded of funds designated for a particular use. And more often than not, the community, including its lay and religious leaders, stands up for the perpetrators by defending, or at least excusing, their behavior. For example, following the convictions of four Hassidim in the New Square scandal, Hassidic leaders defended President Clinton's pardon of these individuals on the grounds that the stolen funds were funneled back into their community rather than into their own pockets.¹⁹³

Whether in consuming, or in practicing the mitzvah of tzedakah, we are bound by the principle of *dina d'malkhuta dina*. Unless civil law requires that we break Jewish law, we are bound to observe the civil law. Cases such as the recent one involving the Spinka organizations, with “allegations of a multimillion dollar tax fraud and money-

¹⁹² Edward Zipperstein, “Business Ethics in Jewish Law” (Ph. D. dissertation, Hebrew Union College, 1981), 150-51.

¹⁹³ Joel Cohen, “Jewish Felons: The Problem of Criminality in Observant Communities,” *Unorthodox Jew: A Critical View of Orthodox Judaism*, 27 August 2006, 26 February 2008
<<http://theunorthodoxjew.blogspot.com/2006/08/jewish-felons-problem-of-criminality.html>>.

laundering ring that stretching from Brooklyn to Los Angeles to Israel and elsewhere," are a *shanda* [disgrace].¹⁹⁴ The wrongdoing, if it is as alleged in the indictment in the U.S. District Court for the Central District of California on December 17, 2007, does violence to Torah and grave damage to *Am Yisrael*.

Workers employed by suppliers and sellers

While workers' rights are primarily the concern of a business owner, consumers have the power to influence the behavior of corporations by their buying choices. Just as the buyer of stolen goods participates in theft, one who buys goods produced by the exploitation of underpaid workers or workers in unsafe or unfit conditions participates in the mistreatment of those workers.

The history of Nike, Inc., offers an example of the power of consumer opinion and activism. In 1993, CBS aired a story about the struggles of workers at Nike supplier in Indonesia, highlighting the low pay and poor working conditions those workers suffered. The following year, a number of prestigious U.S. publications published articles critical of Nike's practices, including *The New York Times*, *Rolling Stone*, and *The Economist*. Nike's initial response was to claim that the firm merely designs sportswear and shoes, and that the policies of suppliers were beyond their control. But in response to consumer complaints about the policies, by the mid-1990's Nike had instructed suppliers to stop applying for exemptions of the minimum wage in their home countries, and in 1999, it announced that workers at the Indonesian factories would receive a monthly wage of 231,000 rupiah/month, higher than the minimum wage.

¹⁹⁴ Amy Klein, "The Spinka Money Trail and the Informant Who Brought Them Down," *The Jewish Journal of Greater Los Angeles* January 11 2008, *JewishJournal.Com*, 26 February 2008 <<http://www.jewishjournal.com/home/preview.php?id=18767>>.

In June 1996, Life magazine published a picture of a Pakistani child stitching a Nike soccer ball. After much publicity and an outcry from activists and consumers, Nike instituted child labor policies and conditions are reported to be much improved, although critics say that some production simply moved to less regulated areas in Pakistan. A similar series of events took place after an Ernst & Young audit of Nike's suppliers in Vietnam revealed terrible working conditions at the Nike plants there in 1997.¹⁹⁵

In response to consumer pressure and public criticism, Nike gradually changed its corporate policies and by June, 2000 had established its Corporate Responsibility and Compliance Department. Labor practices at its suppliers are monitored not only by Nike supervisors but also by outside consultants who analyze the company's wages, use of overtime, availability of benefits, and the age of employees. It is now a member of the United Nations Global Compact, which seeks to promote corporate citizenship among multinational companies.¹⁹⁶ Nike has gone from a public scandal to a leader in multinational corporate citizenship because consumers made it clear to the management that they were unwilling to purchase goods tainted by human suffering.

The Environment

There was a time when there might have been some debate over whether it was reasonable to call the environment a stakeholder in buying decisions. In the first decade of the 21st century, it has become obvious that decisions about consumption affect all of humanity, indeed all of the earth, via their environmental impact. It has become a matter

¹⁹⁵ Richard M. Locke, "The Promise and Perils of Globalization: The Case of Nike," MIT Working Paper IPC-02-007. July 2002, MIT Industrial Performance Center, Massachusetts Institute of Technology, <http://web.mit.edu/ipc/publications/pdf/02-007.pdf> (Accessed 3 February 2008).

¹⁹⁶ Locke, "The Promise and Perils of Globalization: The Case of Nike," 16-18.

of *pikuach nefesh*, the preservation of life, to at least consider the environmental consequences of our financial decisions.

Near the beginning of the Torah, in the second chapter of Genesis, God shows Adam the garden and instructs him to “work it and guard it.”¹⁹⁷ Later, in Deuteronomy 20: 19-20, we read the commandment regarding the siege of a city surrounded by trees:

When in your war against a city you have to besiege it many days in order to seize it, you shall not destroy its trees, wielding the ax against them. You may eat of them, but you shall not cut them down. Are trees of the field human to withdraw before you into the besieged city? ²⁰ Only trees that you know do not yield food may be destroyed; you may cut them down for constructing siegeworks against the city that is waging war on you, until it has been brought down.

From these verses, the rabbis drew the commandment *Bal Tashchit*, “Do not destroy,” and they extended that principle to waste of all kinds, but especially to destruction of the natural world.

In a midrash on the story of the plague of the frogs, the rabbis explain the verse, “The greatest gain for a land in every way is a king that is servant to a field.”¹⁹⁸ The rabbis expounded that “in every way” meant that “even the creatures you judge redundant in this world, such as flies, beetles, and gnats, still have their task in the plan of creation.”¹⁹⁹ Even from these very early times, we have been encouraged to see all of creation as a whole and to treat all of it with respect. The rabbis did not know the concept of “endangered species,” but this midrash suggests that they would see the Fresno kangaroo rat or the Shasta crayfish²⁰⁰ as creatures of God that “have their task.”

¹⁹⁷ Genesis 2:15.

¹⁹⁸ Ecclesiastes 5:9.

¹⁹⁹ Exodus Rabbah 10.1.

²⁰⁰ Lauren Kurpis, *EndangeredSpecies.Com*. 2002, California Endangered Species, <http://www.endangeredspecies.com/states/ca.htm> (Accessed 3 February 2008).

In his introduction to the section on “Eco-Judaism” in *Trees, Earth, and Torah: A Tu B'Shevat Anthology*, Arthur Waskow writes of the *adam – adamah* (human – earth) relationship between humanity and the earth. He traces the modern development of the festival of Tu B'Shevat as an occasion for honoring that relationship and fostering concern for the earth.²⁰¹

Global warming and the other evidences of human impact on the earth and its inhabitants are a very complex topic, and there is debate about the best methods to deal with them. Ongoing awareness and study is required to stay abreast of the best practices in our stewardship of the earth. Some questions that a consumer might consider in contemplating how purchases might impact Stakeholder Earth:

- What physical resources did this thing consume in manufacture? Is there an alternative that consumes less or is renewable?
- By purchasing this thing, am I encouraging the harvest of non-renewable resources?
- What pollution was involved in making it? What pollution will it create in use?
- Did the making of this thing harm the environment in some other way, such as damaging the habitat of an already endangered species?
- How will I dispose of it and its waste?

²⁰¹ Arthur Waskow, "Branches: Eco-Judaism (Introduction)," in *Trees, Earth, and Torah: A Tu B'Shevat Anthology*, ed. Ari Elon, Hyman (Philadelphia: Jewish Publication Society, 1999), 229.

IV. Individual Purchases: Values

As with decisions about tzedakah, every individual will have a slightly different list of values, with a different ordering of priorities. This list is not meant to be exhaustive, but to summarize the most common possibilities, in addition to those already mentioned in Chapter 3:

- *Ahavat Yisrael* [Love of Israel, Love of the Jews]
- *Amitut* [Truthfulness, Trustworthiness]
- *Bal Tashkeit* [Thrift, Not Destroying]
- *Bri'ut* [Health] The Rambam emphasized health as a Jewish value, tied as it is to the principle of *pikuach nefesh*, the preservation of life.
- *Derech Eretz* [Common Decency, Etiquette] literally, “The way of the land.”
- *Din* [Law]
- *Histapkut* [Contentedness] is summed up by the passage from *Avot*: “Who is rich? He who is contented with his lot.”²⁰²
- *Kavod* [Dignity, Respect]
- *Mishpachah* [Family]
- *Shalom* [Peace]
- *Shalom Bayit* [Peace in the Home]
- *Shem Tov* [A Good Name] “One’s reputation is more important than great wealth.” Proverbs 22:1.
- *Shleimut* [Integrity]
- *Talmud Torah* [Torah Study]
- *Tzedek* [Justice, Fairness]
- *Tzniut* [Modesty] has to do not only with modesty about physical dress, but also with avoidance of excess in all its forms..

²⁰² Avot 4.1.

V. Summary

When Hillel the Elder stood on one foot to give the most famous Torah lesson in history, he said, “What is hateful to you, do not do to anyone. All the rest is commentary. Go and study.”²⁰³ This lesson applies also to the Torah of consumption. Jewish tradition bids us to take care not to injure others, directly or indirectly, and most of the material in this chapter points to that basic principle.

However, our responsibility does not end with the simple resolve not to hurt others: in order to be an ethical consumer, one must have an ongoing attitude of curiosity and a practice of asking questions. The work of being an ethical consumer can be frustrating, and it would be all too easy to be overwhelmed by it. For encouragement and counsel, we can rely on the words of the Mishnah: As Rabbi Tarfon said, “You are not required to complete the task, but neither are you free to withdraw from it.”²⁰⁴

²⁰³ BT Shabbat 31a.

²⁰⁴ Avot 2:21.

Chapter 5: Savings & Investment

Overview

The Codes of Jewish Law are all in agreement that we are expected to do our best to remain independent and not in need of tzedakah funds.²⁰⁵ In order to manage the vicissitudes of an ordinary life (accidents, financial setbacks, etc.) and financial independence after we are no longer able to work, we must have savings. Ideally, we should have separate funds set aside for immediate emergencies and for retirement.

The goal of investment is to increase the value of long term savings in order to meet savings goals, whatever they may be. If we do not invest, if we simply tuck the bills in a cookie jar, then the value of our savings will erode over time at the rate of inflation. That rate has remained close to 3% over the past eight years, with a low of 1.14% in February of 2002 to a high of 4.32% in June 2006.²⁰⁶ Therefore, in order for us to simply hold our ground as savers we must engage in investment, and if we wish those funds to grow in excess of the rate of inflation, then we must invest profitably.

²⁰⁵ Tur, Yoreh Deah 251, cited in *Ma'aser Kesafim: On Giving a Tenth to Charity*, 38. Also Mishneh Torah, Arakhim VeCharamim 8.13.

²⁰⁶ "Current Inflation," *InflationData.Com*, 2008, Financial Trend Forecaster <http://www.inflationdata.com/Inflation/Inflation_Rate/CurrentInflation.asp> (Accessed 4 February 2008). Unfortunately, recent economic indicators suggest that inflation is rising.

For most small investors²⁰⁷, investment means either the purchase of shares in a public corporation, or (more often today) shares of a mutual fund which then invests in a portfolio of publicly-traded stocks. In both cases, whether one owns “shares” of Walmart or “shares” of the Fidelity Magellan Fund, one directly or indirectly will profit from a very small piece of Walmart or of the companies in which the Magellan Fund has invested its capital.

For the individual who wishes to use money in an ethical manner, investing may be a daunting prospect. On the one hand, we need to preserve capital and have enough growth to cover inflation and meet our goals. On the other hand, from what sorts of economic activity do we really want to derive benefit?

Values Concerns

Three categories of concerns face the ethical Jewish investor: values concerns, information concerns, and returns. Values concerns are the most obvious problem. Jewish law prohibits a Jew owning part or all of a company that unnecessarily destroys trees, pollutes water or air, collects usury, produces or sells offensive weapons, or engages in deceit or misleading practice.²⁰⁸ Businesses that have poor labor practices, abuse the environment, engage in animal testing when no lives are at stake, or profit from alcohol, tobacco, or gambling may be counter to the Jewish values of an individual investor. For the wealthier investor or for an institution, direct ownership of shares in any such companies might be an issue. But for the smaller investor purchasing shares in a

²⁰⁷ This chapter will deal primarily with the issues facing the small investor. Large investors have choices and challenges that are slightly different.

²⁰⁸ D.B. Bressler, "Ethical Investment: The Responsibility of Ownership in Jewish Law," in *Jewish Business Ethics: The Firm and Its Stakeholders*, ed. Aaron and Pavi Levine, Moses, The Orthodox Forum Series (Northvale, NJ: Jason Aronson, Inc., 2000), 177.

mutual fund: should that investor require of herself that she investigate the list of stocks held by the fund and examine each, maintaining ongoing vigilance about the companies in the portfolio? How careful does a person have to be in order to feel satisfied that his investments are ethical?

Jewish Law on Shareholding

Talmudic and code literature provide an extensive body of business law and guidance about ethical behavior beyond the letter of the law. However, there is an assumption in that literature that we are dealing with a single proprietorship or partnership form of business.²⁰⁹ The modern public corporation was yet to be invented when Joseph Caro penned the *Shulchan Arukh*.

The public corporation poses some interesting issues, since it tends to be viewed by shareholders, directors, and employees alike as a depersonalized economic force.²¹⁰ Walmart is not a person; it is a publicly-held company. Its size aggravates all the consequences of its actions and policies, and yet there is no individual owner to take responsibility for it. Control and management have been separated from ownership, in fact: if a Walmart shareholder were to walk into the local store and attempt to rearrange personnel policies, he or she would be regarded as a crank.

D.B. Bressler argues that the critical issue in the matter of shareholder responsibility for a corporation's actions is *ba'alut*, ownership: if a shareholder is considered an owner, then if the corporation operates on Shabbat, the shareholder would be in violation of Shabbat. If the corporation allows *chametz* on the premises during

²⁰⁹ Bressler, "Ethical Investment: The Responsibility of Ownership in Jewish Law," 179.

²¹⁰ Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), 92.

Pesach, the shareholder would be in violation of Pesach. Obviously, this would pose enormous difficulties for ownership of any stock in any company. After examining several different responsa, Bressler concludes that the impact that an individual small investor can have on a large corporation is in most ways so small as to be negligible. Therefore, they cannot be said to have true *ba'alut*.²¹¹

Bressler notes an exception is the case where there is a shareholder resolution to correct the unethical behavior on the part of the corporation. If there is such a resolution, then he sees the Jewish investor as morally bound to participate in the shareholder action.²¹² A similar situation occurs when proxies ballots are sent out: proxies provide an opportunity for the investor to put voice to his values. One further wrinkle to the issue of *ba'alut* for the small investor is the case in which the investor owns shares in a mutual fund. In that case, our investor holds no *ba'alut* in the companies in the mutual fund portfolio, since the fund investor receives no proxies and has no say in their management.

Therefore, it seems reasonable to say that for a small investor, particularly the small investor in a mutual fund, it is not Jewishly required to divest oneself of investments where there are ethical questions, but it is required that one raise the questions when and if there is an opportunity to do so. An exception to this, albeit rather extreme, would be an investment in the Vice Fund, a mutual fund which invests solely in alcohol, tobacco, gambling, and defense companies.²¹³ There the *intent* is to profit from addiction, poisonous materials, and weaponry, and while the fund may provide a sort of

²¹¹ Bressler, "Ethical Investment: The Responsibility of Ownership in Jewish Law," 199-201.

²¹² *Ibid.*, 200.

²¹³ *Vice Fund VICEX*. 31 December 2007, Morningstar, Inc., <http://vicefund.com/docs/vicex_12_07_final.pdf> (Accessed 10 February 2008).

shield that separates the investor from the companies, it is only within the letter of the law and not in concert with its spirit.

Socially Responsible Investing

The rabbinic principle of *lifnim mishurat hadin* comes into play at this point, for those investors who are able. This is the basis for “the rabbinic concept of business actions that are beyond the letter of the law” (hence the name).²¹⁴ The Sages maintained that in cases where for technical reasons the intent of Torah cannot be enforced, it is still necessary to clear oneself before Heaven. Therefore, even though mutual funds and other financial instruments provide a certain technical insulation from the consequences of ownership, the careful person will want to consider her options for what is known as Socially Responsible Investing (SRI).

Socially Responsible Investing (SRI) offers a number of avenues for action. SRI originated with Christian religious groups who wanted to avoid “sin” stocks such as stock in alcohol and tobacco companies. The concept gathered momentum during the Vietnam War, when some investors wanted to avoid investing in companies that profited from the war. Later, in the 1980’s, the success of the South African divestiture movement convinced early SRI proponents that it was indeed possible to effect change via investment choices and stockholder activism.²¹⁵

²¹⁴ Meir Tamari, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money* (Northvale, NJ: Jason Aronson, Inc., 1995), 134.

²¹⁵ *A Brief History of Socially Responsible Investing*. 2007, Good Money, <<http://www.goodmoney.com/srihist.htm>> (Accessed 10 February 2008).

Socially responsible investment funds and companies may take any of four approaches to ethical investing. First, they can apply “negative screens” to filter out companies in specific industries (nuclear power, weapons, tobacco, etc.). This was the original approach. Second, they can apply “positive screens,” looking for companies with good labor practices, “green” practices, etc.

Both of these approaches are passive: they are based on the idea that one simply avoids problematic issues. More progressive approaches have been developed for SRI in recent years. In the third approach, shareholder activism, the best of the funds engage with companies to monitor policies, improve behavior, and when necessary to initiate shareholder resolutions to bring the combined voting power of many small stockholders together to catalyze change for the better in the corporation. Fourth, SRI funds invest in local banks and bonds that make capital available to disadvantaged communities and locales.²¹⁶ These two approaches have the greatest potential for making positive change, as opposed to mere avoidance of unpleasant issues.

From a Jewish point of view, the shareholder activism and local investment approaches are particularly exciting. Active dialogue with companies that need to improve could be done in the spirit of *tochecha*, holy rebuke, fulfilling the commandment, “You shall surely rebuke your fellow.”²¹⁷ Such a spirit would help to keep the level of dialogue high, making it more productive. We could also be reminded that while we criticize the policies of a corporation, ultimately it is with other human beings that we need to engage in order to make the desired improvement.

²¹⁶ Jeff Reifman, “Investing for Change: A Microsoft Millionaire Wonders If His Money Can Express His Values,” *Seattle Weekly* 26 January 2005, <<http://www.seattleweekly.com/2005-01-26/news/investing-for-change.php?page=full>> (Accessed 24 January 2008).

²¹⁷ Leviticus 19:17.

Investment in disadvantaged communities is reminiscent of the Rambam's highest form of tzedakah, assisting people towards self-sufficiency.²¹⁸ Making capital available at reasonable rates where otherwise it would be very expensive or completely unavailable is an important act of *tzedek*, justice.

Information Concerns

Just as the stock market is in a constant state of change, so also the companies within the market are changing every day. Particularly in the last five years, as corporate social responsibility has become a buzzword and a marketing tool, yesterday's rascal may be today's poster child. For example, General Electric Co. had a poor environmental record and a history of involvement in nuclear weapons, documented in the 1991 film *Deadly Deception*.²¹⁹ However, in the years since the film won an Academy Award (bringing it attention far beyond the scope of most documentaries) GE has gone out of the nuclear business entirely, and spent considerable effort changing its environmental policies. In May 2005 it announced "Ecomagination," a project aimed at reducing its greenhouse gas emissions and spending \$1.5 billion on research on cleaner technologies, including wind power, water treatment, and cleaner coal.²²⁰

Since there are corporations that have behaved poorly in the past but acted to change their behavior in the present, like GE and Nike²²¹, it behooves the investor (or consumer, for that matter) who is intent on activism to make sure that all information is up to date. Moreover, GE and Nike were huge cases that saw considerable coverage in

²¹⁸ It does not qualify as tzedakah because the loans are not interest-free.

²¹⁹ Deborah Chasnoff, *Deadly Deception* (Womens Educational Media, Inc., 1991), 29 minutes.

²²⁰ General Electric Company, <<http://ge.ecomagination.com/site/vision.html>> (Accessed 10 February 2008).

²²¹ See pages 65-66 of this thesis for more about Nike.

the national press; there are ethical issues and shareholder actions every year that receive no attention whatsoever outside a small circle of shareholders and the companies themselves.

The Interfaith Center on Corporate Responsibility is a peerless source of data and networking on Corporate Responsibility Issues. It was founded in 1973 and has grown into a coalition of 275 faith-based institutional investors. The description on their website:

ICCR members are serious, long-term investors for whom financial performance of their socially-screened portfolios is crucial to their investment strategy. They use the power of persuasion backed by economic pressure from consumers and investors to hold corporations accountable. They sponsor shareholder resolutions; meet with management; screen their investments; conduct public hearings; publish special reports; and sponsor letter writing campaigns.²²²

Much of its work is accomplished through various “working groups,” one fruit of which are its publications. For the concerned ethical investor, whether secular or religious, there is no better source of information. ICCR offers partnership for action on its website, allowing individual shareholders a way to join with others in advocating for positive change.

Return Concerns

Finally, we arrive at the famous “bottom line.” How do returns on SRI funds compare with conventional mutual funds? This is an important question, because it brings us back to the point where we began: saving and investment are an important activity for a Jew because we are responsible for keeping ourselves off the tzedakah list,

²²² *Interfaith Center on Corporate Responsibility*, 2008, <<http://www.iccr.org/about/>> (Accessed 10 January 2008).

if at all possible. If the necessary return cannot be made via this kind of focused investing, then the rest of the exercise is moot.

Smart Money, a popular financial periodical, published an article in 2006 that sums it up:

Those who mix money and morals are probably going to pay for it. That said, there are enough SRI funds — 165 at last count — that you could build a respectable portfolio that conformed to your particular moral standing.²²³

Some analysts take a much rosier view of SRI investing than that, arguing that it manages risk in a very efficient manner (if you have no nuclear reactors in your portfolio, then none of them can have a meltdown). Others argue that despite the difference in return, it's simply worth it to them, if they have the means to do so.²²⁴

What then is our ethical investor to do? Bite the bullet and accept a lower return for the sake of his values? Or reassure herself that, as a person who owns shares in a mutual fund, she is not responsible for the misbehavior of a few of the companies in which it invests? Both are viable alternatives, and it is up to each individual or household to decide what is best for them.

Ethical behavior is not a competition; it is an ongoing stance in life. There is no perfect score waiting to be rung up. Our best effort at one stage of life will look a bit different than our best effort at another time, or another situation. *Chesed* [kindness] in dealing with ourselves, and a reluctance to pass judgment on others will serve us well as we go, God willing, from strength to strength in living a life of Torah.

²²³ Jonathan Albertson, "These Funds Do Good," *Smart Money*, 8 September 2006, <<http://www.smartmoney.com/fundscreen/index.cfm?story=20060908>> (Accessed 10 January 2008).

²²⁴ For an in-depth look at such an individual, see Jeff Reifman, "Investing for Change: A Microsoft Millionaire Wonders If His Money Can Express His Values" *Seattle Weekly*, 26 January 2005, <<http://www.smartmoney.com/fundscreen/index.cfm?story=20060908>> (Accessed 24 January 2008).

Chapter 6: Case Study: Sodom

Thus far in this study I have concentrated on answers from the tradition: what has been encouraged or discouraged, what has been allowed or forbidden. I am employing narrative at this point because it can take us much farther: it raises as many questions as answers, and it holds up a mirror in which we can see reflections of our own lives. Ethics without engagement would be poor stuff indeed.

In this and the next chapter we will look at four case studies from the tradition. The first of these is Sodom. According to Genesis 19, the residents of Sodom were so evil that God incinerated the entire city, and they became for all time a symbol of the worst of human behavior.

The account in Genesis seemed incomplete to the rabbis. What were the residents of Sodom doing that was terrible enough to call down a rain of fire? Even the crime described in Genesis 19, the attack on strangers (angels, in that case) by the men of Sodom has a parallel in Judges 19, when the citizens of Gibeah attempt to attack a stranger in town, and thwarted, content themselves with raping his concubine to death. Yet there is no divine destruction of Gibeah, only a war by the Israelites that leaves a remnant of the tribe of Benjamin. The rabbis pondered: what were the sins of the people of Sodom, that every man, woman, and child was burnt to death?

They filled the gaps in the story with midrash, describing the worst people they could imagine. This is the story of Sodom.

The Story of Sodom

When Abraham and Lot had been traveling together for a while, it was apparent that their households were not getting along. Abraham wisely suggested to Lot that they split up. He gave Lot the choice of the lands before them: the valley, or the hills to the west of it? The valley was fertile and green, like Egypt, or even Eden itself.

Lot chose to settle in the Jordan Valley, in the city of Sodom.²²⁵

Sodom was an out-of-the-way place, in the southern reaches of the Jordan, and it was one of the wealthiest places on earth. The water was plentiful, the fields were green, the stones were sapphires, and even the dust was gold. There were no robbers, and no predatory animals. The residents of Sodom enjoyed this wonderful bounty, but they worried that outsiders would come and take advantage of the crops and gold and sapphires that they regarded as their private property.²²⁶

“We do not want outsiders here,” they decided among themselves. “They only want our money, anyway. Let’s arrange things so that people know better than to come here!” They flooded the highways with water, so that it was difficult for travelers to get through. They passed laws to deal with any stranger with the temerity to pass the barriers, and other laws to discourage any impoverished person with the poor judgment to

²²⁵ Genesis 13: 5-12.

²²⁶ Most of the source material for this chapter is from BT Sanhedrin 109a-b, unless noted otherwise.

stay in town .²²⁷ God began to warn them with earthquakes that this was not a Godly plan, but they did not pay any attention.

Lot arrived in town with his wife and his daughters about fifty years after this policy went into effect. Because he was known to be an extremely wealthy man, he was welcomed with friendly smiles. Ultimately the Sodomians²²⁸ planned to rob him of all his wealth, of course, but they would take their time and do a good job of it.

By then they had become experts in the arts of stealing and robbery. With a moderately wealthy newcomer, they would offer him a comfortable seat in the shade by a wall. "Sit here!" they would say, in a friendly fashion, and the tired wayfarer would set down his burdens and sit on the shady bench. Then they would push the wall over on him, and kill him, and they would divide his goods and even his clothing among themselves. They even mistreated the dead: they buried their victims naked, lest they forego some tiny bit of profit.²²⁹

They had many such tricks, all of them concealed behind acts of apparent friendliness. Another trick involved asking a visitor to hold precious balsam for them in safe-keeping. The visitor would hide it in the hiding place he used for his own valuables. Since balsam is highly aromatic, it was easy for the thief to come in the night and follow his nose to treasure. The thief would recover his own balsam and whatever else the visitor had hidden in his secret place. Then in the morning, both the balsam and the money or jewels were gone. The visitor, horrified, would discover the loss. If he left

²²⁷ Louis Ginzberg, *Legends of the Jews*, translated by Henrietta Szold, and Radin, 2d ed. (Philadelphia: Jewish Publication Society, 2003), 209.

²²⁸ I have invented the term "Sodomians" because of the connotations which have attached to "Sodomite."

²²⁹ Ginzberg, *Legends of the Jews*, 208.

town alive, he would be much the poorer, having lost his own goods and paid for the balsam, too.

With some travelers, as with the angels who visited Lot's house, they would call them out for an evening of carousing. If they were foolish enough to come outdoors, then the men of Sodom would seize them, beat them, rape them, and rob them.

Another trick, one that sometimes the Sodomians would turn on one another, when the whim struck: an individual who dealt in goods that came in many small units (a brickmaker, an onion seller) would realize one day that his stock was rapidly disappearing. When he saw someone walking by and picking up a single brick, or a single onion, he would roar at them in rage, demanding payment. "Hey, man, it's just one brick – what's wrong with you?" the Sodomians might say. Or another might simply pop the onion in his mouth, chew it up and laugh, "Now you want it back?" But because they had organized the whole town in this theft, by the day's end, the merchant would be out of business.

And then, poor fellow, he would be penniless. This was the worst that could happen to anyone in that town, stranger or native born. The Sodomians had decided that their beautiful city with its gold dust and sapphire stones could not be sullied by the poor. They resolved to drive all poor people out of town, or even better, starve them to death. They were especially concerned that no one receive benefit from anything unless he paid for it. So they passed laws in Sodom to make the poor pay higher prices and taxes than the rich, and to punish any person who helped another by sharing their own goods.

“A person with one ox must graze all the town oxen for one day, but a person with no oxen must graze all the town oxen for two days.” This meant that while the owners of cattle would take turns tending the oxen, anyone too poor to have an ox must take two days away from his paid work to take care of other people’s oxen. The people of Sodom justified it, saying that this was an incentive to save money and buy an ox, and would result in growth and prosperity. In reality it meant that the poor would be poorer.

“A person who crosses the Jordan by ferry must pay 4 zuz²³⁰. But the person who crosses without using the ferry, he must pay 8 zuz.” This, too, was to promote the growth of the profitable ferry business. A launderer came to town once, and since he was accustomed to getting wet, he crossed the river by wading across. The ferryman was furious, and called the Sodomians to come beat the launderer, and they beat him until he was bloody. He appealed to the court in Sodom, and the judge there ruled that the launderer owed the ferryman 8 zuz for crossing without the ferry, as well as a doctor’s fee for the blood spilled. “Because,” said the judge, “Had you gone to a doctor here for that bloodletting, it would have cost you good money!”

Another way the Sodomians dealt with the poor was that every Sodomian who saw a pauper would give that person a silver dinar. Each piece was marked, “Tzedakah of Plony,” Plony being the name of the giver. They would heap gold and silver upon their poor, but never give them food or allow them to buy food. Then, when the pauper starved to death, the gold and silver would be returned to its owners.

The Sodomians were so stingy that they even killed all the songbirds, because those birds ate birdseed without providing a return on the investment.²³¹

²³⁰ Silver coins.

²³¹ Ginzberg, *Legends of the Jews*, 209.

Their policies towards the poor were ultimately their undoing. There was a beggar in town who seemed to live on air. None of the Sodomians could figure out how he managed to survive month after month without anything to eat. He must be getting food somewhere! So they sent spies after him to watch his every move.

Every day the beggar would go to the city well to get water to drink. He would go into the enclosure around the well, and when he came out he always looked satisfied. One of the spies slipped in after him, and found out the truth: a young woman emptied her water pitcher into his hand, and instead of water, out came a piece of bread! Then she dipped the pitcher full of water, and set off for home. The beggar popped the bread in his mouth, got a drink of water, and left satisfied.

When the spies reported this, the people of Sodom were furious. So this is how the wretch had been living in their midst all these months! They seized the girl to make an example of her. They smeared her with honey, and chained her atop the city wall, where there were a hive of bees. The bees stung her to death as she screamed and cried.

By this time, God had been warning the city with earthquakes for 52 years, and the people had paid no attention. He heard the cries of the young woman, and decided to destroy the city. On the 16th of Nisan, at dawn, when both the sun and the moon were in the sky, the abundant rain turned to brimstone fire and the inhabitants of Sodom were burnt to death for their sins.

The southern end of the Jordan Valley had been one of the greenest, most fertile places of earth. Now, due to the sins of the Sodomians, the soil and water are poisoned, and today we know it as the Dead Sea.

The people of Sodom prided themselves on being “law-abiding” and then made laws that had no concern for justice, only for the profit of the wealthy and the native-born. Their pricing and tax systems gave advantages to the wealthy and punished the poor.

The people of Sodom looked only in the mirror, not into the faces of the poor or the stranger, as Jews are commanded to do. When we fail to engage with the poor and the stranger, like the people of Sodom, we can look into their story for a mirror that shows us which of our “realistic” policies we must change. We behave like the people of Sodom:

- When we balance our civic budgets on the backs of the poor
- When we justify selfish actions by predicting wrongdoing by others
- When we justify cruelty by projecting our own worst inclinations onto others
- When we punish mentally ill people instead of treating their illnesses
- When we use the court system not for justice but for profit
- When we pass laws that keep the homeless out of sight and deny them help
- When our tax system gives advantages to the rich and to large corporations
- When we use limited liability corporations (LLCs) to protect us from all liability for wrongdoing
- When we persecute or prosecute strangers simply for being strangers
- When we indulge in the fantasy that resources are ours to use, without accountability, as if we created them
- When we refuse to share, even when it costs us nothing

The midrash says that God warned Sodom for fifty-two years with earthquakes, offering the people a chance to see what they were doing and change their ways. We, too, can notice our own behavior, and we can change.

Questions about the Story of Sodom

1. Gender in Sodom

The only mention of Sodomian women in the story is that of the young woman who tried to feed the poor in secret, and that raises the question: what about the women of Sodom? Most accounts speak of Anshei Sodom, which is literally “the men of Sodom,” but usually the phrase is translated “residents” or “people” in order to be inclusive. Still, why is it that we only have stories about the men being mean, and that the lone story about a woman is a story about an attempt at goodness?²³⁴

Do we associate sophistication about finances and money-making with male characteristics? Do we assume that justice and charity are feminine qualities? Do we therefore devalue them when we want to be “serious” about money?

Borders of Sodom

The Sodomians attempted to close their borders to keep “undesirables” out. Some of the political commentary arguing for anti-immigrant legislation suggests that if we do not take such action we will be overrun by poor people and “lawbreakers.” The Sodom

²³⁴ Gender bias runs throughout the stories of Sodom. For example, there are tales in Bereshit Rabbah 50:4-6 regarding the wife of Lot, attributing greed and gossip to her, and suggesting that she was responsible for the men of Sodom finding out about the angel visitors. (Thanks to my advisor, Dr. Rachel Adler, for pointing this out.)

stories raise the question: how far may we go (individually and as a society) in protecting our own prosperity?

This question has taken on grave urgency in recent years with the debate in the United States about undocumented workers. Shall we allow their children to receive a public education? If so, for how many years of education are they eligible? For what forms of health care will they and/or their children be eligible?

A Problem of Wealth?

The Sodomians put considerable ingenuity into ways to defraud the wealthy visitor and to oppress the poor, and yet they already had plenty of wealth, living in a fertile place with “sapphire stones.” Some commentators suggest that it was the easily-acquired wealth in their possession that made them arrogant and greedy. One phrase we often read in discussions about public aid for the poor is that the source of such aid is the “hard earned money” taken in taxes to pay such aid.

Does the way in which wealth is acquired make any difference in how willing one is to share it? Should there be different standards for “easy” and “hard earned” money? Does the way that money is earned make a difference in one’s responsibilities? What about money earned for hard manual labor, or money earned at risk of physical harm from pesticides, factory machinery, or disease? What about inheritances, which are not earned but received from relatives or friends?

Does the way in which money is acquired make a difference in how much of it one is required to share? Does it make any difference in our obligations to others?

Chapter 7: Case Studies: Three Role Models

Jewish tradition has many narratives regarding examples of righteous people. The first story is a tale of a real king, Munbaz II of Adiabene around whom stories grew up. How many of these are factual is unclear. Josephus told his story as history (as Josephus understood it) and as an example of a prominent first-century convert to Judaism. The rabbis told his story to illustrate a certain kind of righteousness and to raise questions about the details of righteousness.

The *Talmid Chacham*, the Torah Scholar, is a literary figure in the *Mishneh Torah*. He, too, is an illustration of righteous behavior, but in writing about him, the Rambam was concerned not with a story per se, but with a list of attributes. As narrative, he is a rather thin example, but since he is the “gold standard” against which generations of Jews have measured themselves, he is important in this discussion.

The final narrative is the story of Mordechai Ze'ev Ehrenpreis, a bookkeeper and lawyer in early modern Galicia. He was unknown until very recently except as the

grandfather of a famous rabbi. In 2003 the Jewish Theological Seminary published his tzedakah ledger along with a short biography, which reveals him to have been a Jew who took the mitzvah of tzedakah and the practice of tithing very seriously, turning them into a form of spiritual discipline. His story brings the principles and commandments concerning money into the modern era, raising questions and challenges for the 21st century Jew. Ehrenpreis was both religious and a man of the world, spiritual and practical. His story is a fitting way to conclude this discussion.

Munbaz II

Adiabene was a small kingdom in the upper Tigris region.²³⁵ In the very early years of the Common Era, it was a vassal state of the Parthian Empire, and it was ruled by King Munbaz I.²³⁶ King Munbaz had sent his sons, Izates and Munbaz II, to Charax Spasinu²³⁷ to be educated. There they made the acquaintance of a Jewish merchant named Ananias. They were impressed with Judaism and wanted to convert. Ananias discouraged that, out of fear of their father, suggesting instead that they become "God-fearers" (people who lived Jewish lives but did not undergo formal conversion, including circumcision for males). For a while, that satisfied them.²³⁸

Upon their return to the capital, they discovered that their mother, Queen Helena, had also quietly begun to live as a Jew. Again, they asked about full conversion, but she agreed with Ananias – too dangerous. However, one night the young men, overcome with strong emotion at reading God's commandment to Abraham that he be circumcised, decided to circumcise themselves.²³⁹ Their mother sent word to the king that they had a skin problem and a doctor had ordered circumcision: could they proceed? The king sent his consent to the operation that had already taken place.²⁴⁰

Sometime after that, Munbaz I died, and Izates became king. Queen Helena and Munbaz II moved to Jerusalem, where they completed their conversions with the required sacrifice at the Temple, which was still standing. Inspired by the sight of the Temple,

²³⁵ Today Adiabene is occupied by the Kurdish people.

²³⁶ His name is also spelled "Monbaz," or "Monobazos," depending on the source. I am using the transliteration of his name from the account in BY Peah 5a. because wordplay in the text depends on that pronunciation.

²³⁷ Charax Spasinu was a large port city at the head of the Persian Gulf, from which the Gulf traders started their overland route to Petra. Today the site is that of Abadan, Iran.

²³⁸ Isaiah Gafni, "Adiabene," in *Encyclopedia Judaica*, ed. Cecil Roth, vol. 2 (New York: The Macmillan Company, 1971), 267.

²³⁹ Genesis Rabbah 46:11.

²⁴⁰ Gafni, "Adiabene," 267.

they began to make lavish gifts to the Temple, including gold handles for all the Yom Kippur utensils.²⁴¹ They built a palace in the city, south of the Temple, and members of the family, known locally as the Adiabenes, became fixtures in Jerusalem society and life until the city was obliterated in the war against the Romans.²⁴² They were known for unconventional piety²⁴³ and for fighting fiercely beside the Jews against the Romans.²⁴⁴

Eventually Izates died, about 60 CE, and Munbaz II returned home to Adiabene to rule. There was a famine in the land, and the poor were suffering terribly. Munbaz had inherited an overflowing treasury from his brother and his father, and he spent lavishly from the treasury to relieve the suffering of his people.²⁴⁵

His relatives, who had not converted to Judaism, were appalled by his spending. “Your forefathers added to theirs and their forefathers, while you have squandered²⁴⁶ theirs and their forefathers!” they scolded. “All the more so!” he replied, using a rabbinic idiom, “My forefathers hid treasure on earth, while I have hidden a treasure in heaven!²⁴⁷ My forefathers hid storehouses that did not produce fruit, while I have hidden storehouses that produce fruit!”

He then cited the prophet Isaiah: “‘Say of charity, it is good, for they shall eat the fruit of their deeds.’²⁴⁸ My forefathers gathered in a place over which the hand has power, while I have gathered in a place over which the hand has no power.” Then he recited a verse from Proverbs: “‘The fruit of the righteous is a tree of life, and whoever

²⁴¹ M Yoma 3.10.

²⁴² Gafni, “Adiabene,” 307.

²⁴³ BT Niddah 17a.

²⁴⁴ Gafni, “Adiabene,” 307.

²⁴⁵ The story that follows is from YT Peah 5a. The translation is mine.

²⁴⁶ There is a little word game in this passage on Munbaz’s name and the word for squander [*bizbez*].

²⁴⁷ He replies with another play on words, this time his name and “they hid” [*ganzu*].

²⁴⁸ Isaiah 3.10.

captures souls is wise.²⁴⁹ My forefathers amassed money while I have amassed souls.”

Then from Deuteronomy: “My forefathers amassed for others, while I have amassed for myself, as it is written, ‘And it shall be righteousness for you before the LORD your God.’”²⁵⁰ And he concluded, “My forefathers amassed in this world, while I have amassed for the World to Come.”

The Gemara does not record what his relatives replied.

Comments & Questions

Extreme Tzedakah?

The rabbis speak warmly of Munbaz II in *Y. Peah*, and they quote him making a speech worthy of one of their own, arguing that his “extreme tzedakah” was an investment in the World to Come. Had his relatives been Jewish, they might have pointed out to him that there was a 20% limit on giving except in extreme circumstances. And he might have replied to them that there was a famine, so all limits were off. The questions remain: what are we to make of his tzedakah? Was he a great king, or an overenthusiastic spendthrift? What circumstances in our lives today might merit “extreme tzedakah” that wipes out most of our savings?

Munbaz’s agenda

In his speech to the relatives, Munbaz II speaks of “amassing souls.” Was his tzedakah campaign also a public relations campaign to “sell” Judaism to the common

²⁴⁹ Proverbs 11:30.

²⁵⁰ Deuteronomy 24:13.

people of Adiabene? Was he after conversions, or simple good will? Or was he simply observing the mitzvah of assisting the poor?

Many Jewish organizations today serve both Jews and Gentiles, even though most of their support is Jewish. What attitude do I have as a donor, when I think about non-Jewish beneficiaries? Does it tarnish my tzedakah in any way if I give in hope of improving relations between the Jewish community and outsiders?

The Beneficiary of Tzedakah

Munbaz II says, "My forefathers gathered for others, while I have gathered for myself." Is Munbaz II generous, or selfish, or both?

In what ways does the giver of tzedakah "gather for himself?"

Munbaz II and Joseph

How is Munbaz II similar to, or different from Joseph in the book of Genesis? Munbaz inherited both his position and his wealth. Joseph inherited his membership in the family of Israel, but he was hired by Pharaoh: first to interpret his dream, and then to be vizier of Egypt and to prepare for the seven years of famine. Both men led a nation through a period of famine, and both had experience of difficulties with family.

What can we learn from comparing the stories of Munbaz II and Joseph the Tzaddik?

The Talmid Chacham

The Rambam gives a detailed view of the living habits of the ideal *Talmid Chacham*, the Torah Scholar, in the fifth chapter of *Hilkhot De'ot*, the Laws of Personality. This stands as one of the gold standards for righteous living in Jewish literature. What follows is my paraphrase of his description, edited for length and relevance:

Just as a wise man is recognizable by his wisdom and his temperament, and so is distinguished from the rest of the people, so he should be recognizable by his deeds: in his eating, drinking, sexual relations, in relieving himself, by his words, his walk, his clothing, in financial management, and in his purchases and sales. All his doings should be becoming and absolutely proper.

Such as? A Torah Scholar should not be a glutton. He should eat healthy food, only a dish or two, just enough to sustain him.²⁵¹

He should eat at home, at his own table, not in a store or marketplace, unless he has a great need to do so. He should not eat with ignorant people, or with carousers. He should not dine out unless there is good reason to do so: a feast accompanying a mitzvah, perhaps, but then only when scholars are involved.²⁵²

He should drink only enough wine to moisten the food in his stomach. If he gets drunk in public, it is *chillul Hashem*: a desecration of God's Name. He should not drink wine in the afternoon, except with food. Drink with food is not intoxicating. Wine after the meal should be avoided.²⁵³

²⁵¹ Mishneh Torah, Hilkhot De'ot 5.1.

²⁵² Mishneh Torah, Hilkhot De'ot 5.2,

²⁵³ Mishneh Torah, Hilkhot De'ot 5.3.

Torah Scholars behave themselves with great modesty. They do not demean themselves, and they do not bare their heads or their bodies.²⁵⁴

A Torah Scholar does not shout or wail when he speaks, like cattle or wild animals, nor does he speak in a loud voice. Speaking gently, he should be careful not to stand far away, in such a way that he might seem arrogant. He should greet all people so that they will be pleased with him. He should judge everyone as honorable, speaking warmly of his fellow, and never mentioning shameful things. He loves peace and pursues peace....

He will not distort the truth, exaggerate a situation, or minimize, unless in the interest of peace.²⁵⁵

The clothing of a Torah Scholar should be nice and clean. It is absolutely forbidden that blood or fat stains be on his clothing.²⁵⁶ He should not wear royal clothing, such as gold and purple, which draw the attention of all. He should not wear the clothing of the poor, that shames the wearer, but nice, moderate garments.²⁵⁷ His flesh will not be visible under his clothing, as under the thin garments of Egypt. His clothes should not drag on the ground, as does the clothing of the arrogant, but go to his heel and his sleeve should go to the tip of his fingers. He should not let his cloak hang down, because it looks arrogant, except on Shabbat if he has no other cloak.

In summertime, he should not wear patched and mended shoes. If he is poor, then he may do so in the rainy season.

²⁵⁴ Mishneh Torah, Hilkhot De'ot 5.6.

²⁵⁵ Mishneh Torah, Hilkhot De'ot 5.7.

²⁵⁶ Blood and fat are forbidden as food in Leviticus 3:17. Besides the matter of tidiness, perhaps having them on one's clothing suggests forbidden eating habits.

²⁵⁷ "*Begadim beinonit na'im*," [nice moderate garments]. "*Beinonit*" is a word we have discussed before. See pp. 14-15, and 53-54.

He should not go to the market perfumed, or with perfumed clothing, or with perfumed hair. However, if he rubs perfume on his body to remove filth, that is permitted.²⁵⁸ Also he should not go out alone at night, unless it is the set time to go out for his studies. All of this is for the sake of his reputation.²⁵⁹

A Torah Scholar handles financial matters with good judgment. He eats and drinks and provides for the members of his household in accordance with his means and his success, without spending too much.

The Sages commanded us in the ways of common courtesy. A person should eat meat only with appetite, as in Deuteronomy 12:20, "If your soul craves the eating of meat..." It is enough for health to eat meat from Sabbath evening to Sabbath evening [once a week]. But if he has wealth enough to eat meat daily – eat!

The Sages commanded us saying, "Always one should eat less than his income allows, dress as is appropriate to his means, and honor his wife and children more than his income allows."²⁶⁰

The path of a reasonable man is that first, he will establish work to support himself. Then he should buy a house to live in. Then marry a wife. A fool begins by marrying a wife, then buying a house, and then, at the end of his days, he will look for work or support himself from tzedakah.²⁶¹

It is forbidden for a person to give up ownership of all his possessions, or consecrate all of them, and depend on everyone else. Generally speaking, he should look

²⁵⁸ This may seem a rather odd thing to do with perfume. In the Mediterranean world, perfumed oil was sometimes used instead of water for bathing; it was rubbed into sweaty skin and then scraped off with a curved blade. The Romans called this curved blade a strigil.

²⁵⁹ Mishneh Torah, Hilkhot De'ot 5.9.

²⁶⁰ Mishneh Torah, Hilkhot De'ot 5.10. In the last part, the Rambam is quoting BT Chullin 84b.

²⁶¹ Mishneh Torah, Hilkhot De'ot 5.11.

to improve his finances, and to exchange the temporary for the permanent. He should not intend to enjoy some small pleasure by incurring a great loss.²⁶²

The business dealings of a Torah Scholar [are carried out] in truth and in good faith. When an answer is no, he says, “no,” and when [it is] yes, he says, “yes.”

In his accounting, he is precise. He gives and yields to others in buying from them, but is not aggressive with them. He gives payment on time. He does not act as a guarantor, or receive objects for deposit, or collect debts for a lender. He keeps verbal commitments within the obligations of Torah, and if others have obligations to him under the law, he grants extensions and pardons. He lends and gives gifts.

He does not poach upon the work of another, nor does he hound others. This is the general principle: he will be among the pursued, not the pursuers, among those who accept humiliations, not those who humiliate others.

The person who does all this, of him it is written, “And He said to me, ‘You are My servant, Israel, in whom I will be glorified.’”²⁶³

Questions & Comments

Taking Inventory

The Rambam moves from the most earthy of concerns (“He will not be a glutton”) to concerns of the high rational faculties (“In his accounting, he will be precise”). He does not appear to give greater weight to anything on his list: everything is important. Is there a common thread in this list of behaviors for the Torah Sage?

²⁶² Mishneh Torah, Hilkhhot De’ot 5.12.

²⁶³ Mishneh Torah, Hilkhhot De’ot 5.13, Isaiah 49:3.

How many of the behaviors he lists are relevant for the 21st century? Can we extrapolate from this list an inventory of the habits and possessions of a contemporary Torah Scholar?

How, if at all, would the list be different if it was written today for a *Talmidah Chachamah*, a woman Torah Scholar? What would her standards for clothing be? What kind of jewelry would she wear? What use would she make of perfume? If a man should establish work to support himself, then buy a house, then find a wife, what is the proper plan for life for the *Talmidah Chachamah*? How would she balance the demands of family, work, and Torah scholarship?

A Middle Way?

The word “*beinonit*” appears again in this list of characteristics of the Torah Scholar. In this case, it is his clothing that is *beinonit* [moderate]. Is this list as a whole a “middle way” or does it represent an extreme? Is it something that is attainable by all, or only by a few?

Family Finances

The Rambam quotes BT Chullin 84b: “The Sages commanded us saying, “Always one should eat less than his income allows, dress as is appropriate to his means, and honor his wife and children more than his income allows.” The first part is in concert with the Rambam’s prescriptions for health, and the second is in keeping with the rest of the list. But what about the third? What might be the reasons for maintaining wife and children with more honor than his income allows? Is this to be done with money or by some other means?

He then proceeded to list five articles. To summarize those:

1. From all profits, when profit exceeds expense, tithe (take one tenth) for charity or for an item of commandment [*devar mitzvah*] beginning from the date below.
2. The "item of commandment" refers to books or things that I am not required to own. I may purchase them with tithe money, but articles I am required to own, such as tallit, tefillin, mezuzot, etc., I may not purchase with the tithe money, but only from my own purse. Now, regarding *hiddur mitzvah* [enhancing the mitzvah] – even though I am obligated in the mitzvah – I may add for *chiddur* with the money.
3. Charity comes first before anything else. Purchasing an item of commandment comes before *chiddur mitzvah*.
4. Since I hope that God... will grant me success in my business dealings (according to the teachings of the Sages) it is not possible to figure my profits constantly, I will therefore do this: I will estimate how much profit I have made every week, and set aside my tithe. At year's end, when I do the complete accounting, and determine my earnings and figure what I have set aside, if I have set aside too much, I will take it back, and if I have separated out too little, I will give what is due promptly.
5. If tithe money is available in my fund, I may lend to myself and pay back into the fund, without adding an extra amount.

I accept this upon myself as a binding vow...

15 Av, 1836²⁶⁷

We do not know what prompted young M.Z. Ehrenpreis to take this step, although we know that many years later he took another vow, to abstain from laying tefillin on the third and fourth days intermediate days of Sukkot to commemorate his delivery from financial ruin.²⁶⁸ So perhaps there had been a crisis in his life, or perhaps he had decided to take on the practice of *ma'sar kesafim* [tithing his income] as a form of character

²⁶⁷ Ibid. 1-7. My translation.

²⁶⁸ Ibid. 62.

development, as some rabbinic and medieval sages such as Asher ben Jehiel (the Rosh) had recommended.²⁶⁹

Whatever originally inspired him, he continued the practice, taking time each week to figure his profits, if he had any, and to mark them in the account book. He was a bookkeeper by training, but he made various small entrepreneurial investments over the years, and his ledger is witness to the ups and downs of his financial life. Sometimes he was too poor to make a contribution, when there were no profits beyond his expenses, and on a few occasions he had to borrow living expenses from his charity fund, much to his distress.²⁷⁰

He faithfully recorded his accounts for 20 years, noting financial successes and setbacks, and one near disaster. In difficult times, he wrote prayers as well, asking God's assistance so that he could return to tithing.²⁷¹

Jay Rovner, who wrote a short biography and notes on the ledger for its publication, points out that Ehrenpreis seems to have found a deeply moving spiritual practice in the process of keeping these methodical accounts and disbursing the funds. He notes that again and again Ehrenpreis refers to the act of tithing as "his heart's desire."²⁷² Rovner suggests that just as learning is a form of worship for the Torah scholar, tithing was a form of worship for this accountant.²⁷³

M.Z. Ehrenpreis did well in business over the years; by the time of his death, he was known as a wealthy businessman. His little account book became a family treasure.

²⁶⁹ Ibid. 11.

²⁷⁰ Ibid. 48.

²⁷¹ Ibid. 8.

²⁷² Ibid. 56-58.

²⁷³ Ibid. 61.

It was a prized possession of his grandson, Rabbi Marcus Ehrenpreis, the chief rabbi of Bulgaria and later of Stockholm.²⁷⁴

Questions & Comments

Sanctifying the Profane

Partly as a result of living in a Christian context, we tend to separate God and mammon as if they are competing deities, rather than a Deity and a part of that Deity's creation.²⁷⁵ The practice of *ma'sar kesafim* as practiced by M. K. Ehrenpreis seems to have achieved exactly the opposite for him: his business life was sanctified by the ongoing tally of profits and separating of tithes. The Holy was brought into the counting-house, and the marketplace became a source of holy activity. Rabbi Marcus Ehrenpreis, the distinguished Hebrew essayist and chief rabbi of Stockholm, his grandson, remembers seeing the account book as a child, and viewing it with reverence.

How might our monthly budgets change, if we separated a percentage of money for religious purposes as part of a weekly or monthly routine? If we were to undertake such a practice, what effects might that have on our children?

A Leap of Faith

The question above raises another aspect of this practice: M. K. Ehrenpreis took a leap of faith in committing himself to this practice with a vow. He worried that he would not have enough income to keep his vow. In fact, sometimes he did, and sometimes he did not. In times of real trouble, he was able to borrow from the fund for a little while, and so it functioned not only as a spiritual practice, but as an emergency

²⁷⁴ Ibid. 3.

²⁷⁵ *Mammon* is a fascinating word with a complicated history. For more about it and the other words having to do with wealth, see Appendix 1 of this thesis, "Hebrew Words for Wealth."

fund. His ledger also functioned as a repository for prayers, rather like the cracks in the Kotel: he poured out his heart to God in between the crosshatchings of accounting.

What feelings arise, when we consider taking his vow? For many of us, the first and most powerful feeling is *fear*. Will I have enough to live on, if I do that?

Summary

Just as the story of Sodom offers us a mirror in which we may be able to see and better understand our failures to live a life of Torah, the stories of Munbaz II, the Talmid Chacham, and M.Z. Ehrenpreis give us lenses through which we may be able to see what we are doing well, and spy out alternatives for change.

A life of Torah is not a “one size fits all” affair. What was appropriate for the wealthy King Munbaz II might be foolish or even wrong for a Torah scholar on a tight budget. The tithing practice of M.Z. Ehrenpreis was deeply satisfying to him, but even he recognized it as an extraordinary discipline.

What all three persons have in common is that their behavior around money is part and parcel of their Jewish identity. There is no separation between their lives as Jews and their financial matters. Were we able to interview Munbaz II, or the Rambam, or M.Z. Ehrenpreis in person, each would probably tell us that there was some aspect of his life in which he wished he could do better. We know that the Rambam would have preferred to be a wealthy man who did not need to work as a doctor, but could study Torah all the time. We know, too, that Ehrenpreis was very unhappy when his income was too low for him to tithe, and that from time to time, he even had to borrow from his tzedakah funds. And it is not difficult to imagine that Munbaz would have liked to do

more than he did for Jerusalem and for the poor, and perhaps even for his complaining relatives. Their situations were not ideal.

More than anything else, what they hold for us is the possibility of conducting out financial lives in keeping with Jewish tradition, despite the fact that our lives, like theirs, are real, and the world is not yet redeemed.

Chapter 8: Money & Menschlikeit : Conclusions

I began this study out of my own yearning for direction in the conduct of my personal financial affairs. The question was simple: what is required to be a mensch about money?

Over time, I became aware that I was not alone: many good people wonder how to make a budget that is not only prudent, but ethical, how to choose among countless requests in giving tzedakah, and how to consume in the present and invest successfully for the future without doing more harm than good in the world.

First, we must recognize that many of the financial systems and realities with which we deal are much larger than ourselves. No person can singlehandedly save the world from pollution, corruption, global warming, and poverty. As Rabbi Tarfon said, it is not up to us to finish the work, but neither are we exempt from engaging in it.²⁷⁶ Paralysis in the face of the task is not an option.

Second, among the luxuries of wealth is the luxury of choices. The greater the resources an individual controls, the more choices she will have in building an ethical financial life. Along with the increase in available choices, there is an increase in responsibility, and an increase in the cost that may be reasonably expected. In the days of

²⁷⁶ Avot 2.16.

the Temple, a person of means was required to bring a female sheep for a sin offering, thereby sacrificing not only the meat of the sheep but her future progeny. A person of reduced means was required to bring only two turtledoves, a much smaller sacrifice.²⁷⁷ To put it in the words of the New Testament, more is expected of those to whom more has been given.²⁷⁸

Third, an ethical financial life is not a life lived in terror of the worst possible scenario. It is good and necessary to be prepared to deal with adversity. It is also good to recognize that there is no absolute security in any bank account, no matter how large. It is human nature to want *more*: more security, more money, more things, *more*. As with any other aspect of the *yetzer harah*, we must channel those anxieties and recognize limits.

Fourth, as always, Judaism is not something one does alone. Many of our best options for *tikkun olam* are actions taken in concert with others: consumer actions, shareholder actions, and efforts to share and disseminate information. Too, our greatest security lies in building communal institutions that benefit from the strength of numbers and generations, be they caring committees, insurance pools, geriatric and nursing homes, or simple friendship networks. As that greatest of pessimists, Koheleth wrote:

Two are better off than one, in that they have a good reward from their earnings. For if they fall, one can lift up his friend; but woe to the one who is alone and falls with no friend to help him stand! Also, when two lie together they are warm, but how can he who is alone be warm? And though one might overpower, two can stand up to him. A threefold cord is not quickly broken!²⁷⁹

²⁷⁷ Leviticus 5:7.

²⁷⁸ Luke 12:48.

²⁷⁹ Ecclesiastes 4: 9-12.

Finally, an ethical financial life should be periodically subject to review, because the world is constantly changing. Bad companies become better companies, technologies change, and our personal financial situation shifts, for better, for worse, or just because we have entered a different stage of life.

“Adonai God took the person and placed him in the garden of Eden to till it and to guard it.”²⁸⁰ We are the heirs of that person, living in the wide world beyond the garden. It is up to us to till it and to guard it, to do our best as stewards not only for God, but also for the generations to come.

May we till profitably and guard honorably, balancing those two tasks in harmony. Amen.

²⁸⁰ Genesis 2:15.

Appendix 1: Hebrew Words for Wealth

- **Osher** “Wealth” appears in Biblical Hebrew and is used in all forms of Hebrew up to the present day. It has a consistently **positive** connotation. From the same root we have *ashir* (wealthy).
- **Shefa** “Abundance” appears in Biblical Hebrew and is used in all forms of Hebrew. It has a consistently **positive** connotation.
- **Kesef** “Silver” or “Money” appears in Biblical Hebrew and continues in use in Modern Hebrew. It has a **neutral** connotation.
- **Rechush** “Possession” or “Property” appears in Biblical Hebrew and has a **neutral** connotation.
- **Mammon** “Financial gain” or “Riches” appears in Rabbinic Hebrew, but not in Tanach. It is also found in the Dead Sea Scrolls, and it continues in Modern Hebrew.

Its etymology is uncertain, but most authorities link it to *mamona* in Aramaic, “an emphatic state.” Gesenius suggests it is from *matmon* “treasure,” with assimilation of the letter tet.

It also appeared in the New Testament as *mamonas* (Koine Greek) and passed into Late Latin as “*mammona*.” The New Testament usage has passed into English untranslated, as “mammon.” In the synoptic gospels it appears only in quotations by Jesus. In Matthew 6:24 and Luke 16:13 it is spoken of in opposition to God, as if it were a competing deity. Despite late Christian depictions of Mammon as a demon or demonic force (for instance, in the writings of Gregory of Nyssa), it was never the name of a pagan god. The connotation is usually **negative**, although very early attestations in the Targumim appear to have been **neutral**.

This information was compiled from a variety of dictionaries and reference works, including the *Hebrew and English Lexicon of the Old Testament* by Brown, Driver, and Briggs, the *New Catholic Encyclopedia*, the *Dictionary of Deities and Demons in the Bible* by Van der Toorn, Becking, and van der Horst, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* by Michael Sokoloff, and the *Dictionary of the Talmud Babli, Yerushalmi, Midrashic Literature and Targumim* by Marcus Jastrow.

Appendix 2: A (Partial) List of Jewish Values

<i>Ahavat Yisrael</i>	Love of Israel, Love of the Jews
<i>Anavah</i>	Humility
<i>Atzma'ut</i>	Independence
<i>B'tzelem Elohim</i>	Created in the Image of God
<i>Bal Tashkeit</i>	Thrift, Not Destroying
<i>Briut</i>	Health
<i>Brit</i>	Covenant
<i>Chesed</i>	Kindness
<i>Chochmah</i>	Wisdom
<i>Derech Eretz</i>	Common Decency, Custom of the Land
<i>Dibbuk Chaverim</i>	Loyalty, Cleaving to a Friend
<i>Din</i>	Law
<i>Emunah</i>	Faith
<i>Histapkut</i>	Contentedness
<i>Hoda'ah</i>	Gratitude
<i>Kavod</i>	Dignity, Respect
<i>Kedushah</i>	Holiness
<i>Mishpachah</i>	Family
<i>Rachmanut</i>	Compassion
<i>Shalom Bayit</i>	Peace in the Home
<i>Shalom</i>	Peace
<i>Shem Tov</i>	A Good Name
<i>Shleimut</i>	Integrity
<i>Talmud Torah</i>	Torah Study
<i>Tikvah</i>	Hope
<i>Tzedek</i>	Justice
<i>Tzibur</i>	Community
<i>Tzniut</i>	Modesty
<i>Zikaron</i>	Memory

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