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**MERGING HILCHOT TZEDAKAH AND REFORM IDEOLOGY:  
A NEW LOOK AT SOCIAL JUSTICE**

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**Thesis submitted in partial fulfillment of the  
requirements of Ordination**

**Hebrew Union College - Jewish Institute of Religion  
Cincinnati, 1996**

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*A very special thank you to Dr. Mark Washofsky, without whose keen insight  
and tireless energy this thesis would not have been possible.*



To my son, Joshua, for coming into my life.  
To my wife, Rona, for being my life.

Bibliography

*A very special thank you to Dr. Mark Washofsky, without whose keen insight and tireless energy this thesis would not have been possible.*

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Social justice has always been a primary focus of American Reform Jewish ideology. From the Pittsburgh Platform, to the Social Justice Platform of 1918, to the creation of the Religious Action Center, to today, the institutions of American Reform Judaism have continually weaved social action doctrine and practice into the fabric of the Reform movement.

Numerous books, essays, articles, and the like have been written to encourage Reform Jews to engage in social action work. This literature is expansive both historically and topically, teaching America's Reform Jews to act with a social conscience, prodding them to advocate for social change. In this literature, American Reform thinkers have linked their call for social action to values drawn from Jewish tradition, invoking the prophetic words of Amos, Isaiah, and others, random Talmudic verses, and concepts such as *tikkun olam* to bolster their rhetoric. While some may argue that the relationship between the traditional view of these verses and concepts and the modern Reform understanding of them is tenuous at best, the attempt to forge such a relationship testifies to a desire to ground Reform ideology and practice in Jewish tradition.

A more likely analog in Jewish tradition to which American Reform could directly link its social action work is *hilchot tzedakah*, a rubric that presumably has much to say concerning social improvement and reform. Tzedakah is, after all, that area of traditional Jewish practice which focuses on social amelioration, relief of poverty, and the like. It is in the halachic literature that we really see the laws of tzedakah characterized and expanded to explain those requirements "incumbent" upon every Jew with respect to the poor; halacha is the literature that defines tzedakah in a concrete world.

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But as of yet, no systematic attempt to understand the laws of tzedakah within an American Reform framework has been pursued.

What exactly is the mitzvah of tzedakah? What does tzedakah require Jews to do, and to what extent can the Jewish "duty" to perform tzedakah be likened to the vision and practice of social action in the American Reform context? In short, what does "social action" have in common with the age old value of tzedakah?

This thesis is an exploration of these questions. I will seek to define the mitzvah of tzedakah by studying the halacha of tzedakah and considering, in light of these laws, American Reform theory and practice of social action. Ultimately, I want to determine whether a social vision emerges out of the mass of organized details in the halacha that can be merged with American Reform social action doctrine.

This thesis is arranged into the following chapters:

*Chapter One* explores the relationship between American Reform ethics and the ethics of Jewish tradition and suggests social justice as a marriage of the two.

*Chapter Two*, the bulk of this thesis, consists of a synopsis, translation, and selective modern commentary on the halacha of tzedakah as conveyed in the Aruch haShulchan, Yoreh De'ah, Chapters 247-259.

*Chapter Three* presents halachic themes of tzedakah in Reform literature.

*Chapter Four* offers a plan for social change based on the findings of this thesis.

Chapter One: Introduction  
Social Justice as the Marriage of Reform Ethics and Halacha

Reform Judaism's emphasis on the ethical

Reform Judaism has historically been a religion of ethics. Its proponents have held moral living and ethical standards of conduct to be the essential components of Jewish existence. As Eugene Borowitz and Naomi Patz explain, "From its start, Reform Judaism has always said that acting ethically is the most important human obligation. Prayer, rituals and study are certainly all important parts of being a good Jew, but doing the right thing is the most important part of all. That, said the Reformers, is what God 'wants' most from us."<sup>1</sup> Reform Judaism developed a theology of ethical monotheism based on the notion that God's principle concern is the ethic. It sought to show, as Rabbi Joseph Telushkin explains, that "[h]uman beings are obligated to bring mankind to a knowledge of God, whose primary demand of human beings is moral behavior."<sup>2</sup> Such a God is, in Borowitz's words, "... ultimately good and holy,"<sup>3</sup> meriting emulation in order to spread that goodness throughout humanity and the world.

To bolster their belief in a primarily ethical God, and to ground that belief in tradition, Reform Jewish ideologues punctuated the moral teachings of the prophets. W. Gunther Plaut remarks that "Reform redirected Judaism to its prophetic goals and its universal ethic. ... It saw the possibility of fulfilling the ancient dreams of human salvation, and it reemphasized the

<sup>1</sup> Eugene B. Borowitz and Naomi Patz, Explaining Reform Judaism (West Orange, NJ: Behrman House, 1985), p. 112.

<sup>2</sup> Rabbi Joseph Telushkin, Jewish Literacy (New York, William Morrow and Company, 1991), p. 549.

<sup>3</sup> Eugene B. Borowitz, Liberal Judaism (New York: UAHC, 1984), p. 389.

prophets' concept of Israel's mission in the world."<sup>4</sup> That mission, in the eyes of Reformers, was the dissemination of ethical monotheism beyond Judaism to other religions, peoples, and cultures. When all humanity believes in one God, and when that belief causes people to mimic God's goodness and morality, the messianic age will arrive. This understanding of Israel's mission became Reform Judaism's principle task, much as it was the message of the prophets.<sup>5</sup> Reform Judaism, therefore, became known as "Prophetic Judaism."

From the onset, Reform Jewish practice reflected this burgeoning prophetic ideal. With a new found emphasis on a moral mission, early Reformers began to distinguish between what Abraham Geiger coined the ethical kernel of Judaism and its protective shell; that is, those applicable *mitzvot* and traditions which were essential in achieving moral perfection and those which were not. As a result, Reformers disregarded many, if not most, of the ritual commandments they deemed unnecessary and prohibitive in a modern, assimilated society. According to Michael Meyer, Moritz Lazarus' The Ethics of Judaism conveys the belief that "[t]he ceremonial laws derive their value as vehicles of the moral ideas, and as such they play only a mediating role in the religious life."<sup>6</sup> These ceremonies "... possessed value ... only as ethical symbols, and when this value was no longer apparent, they could and should be cast off."<sup>7</sup> Though, ultimately, Reform Judaism did not totally reject ceremony and ritual, in its eyes "... the true Jew ... was recognized simply by his idea of God and the moral dicta on which he acts."<sup>8</sup>

<sup>4</sup> W. Gunther Plaut, The Rise of Reform Judaism (New York: World Union for Progressive Judaism, 1963), p. 95.

<sup>5</sup> Though, to be sure, the message of the prophets was directed solely at the Israelites.

<sup>6</sup> Michael A. Meyer, Response to Modernity (New York: Oxford University Press, 1988), p. 204.

<sup>7</sup> Michael A. Meyer, "Problematics of Jewish Ethics," in Judaism and Ethics, ed. Daniel Jeremy Silver (United States of America: Ktav Publishing, 1970), pp. 122-3.

<sup>8</sup> Meyer, Response to Modernity, p. 163.



It is not surprising that ethics became the primary concern of Reformers or that they saw their mission to be a universal one. After all, Reform Judaism was a religion of the newly emancipated, those Jews who, after a millennium of being oppressed and sequestered, were able to move beyond the walls of the ghetto and begin to integrate into a greater society. Integration would have its price, as many Jews began to cast off what they perceived to be the shackles of a stifling, cumbersome religious lifestyle.<sup>9</sup> Many Jews wanted to fit in, to be accepted by their contemporaries as productive members of their respective societies. In their zeal to be viewed as equal contributors, these "enlightened" Jews developed universal ideologies. Borowitz explains:

Remembering the discrimination which pressed down on their parents, Jews leaving the ghetto and shtetl were euphoric that ostracism was giving way to equal rights. In their physical well-being, their personal security, their educational, cultural, and economic attainments, they saw the messianic power of inclusive ethics. ... It seemed self evident that the ancient Jewish hope for humankind would best be fulfilled by pursuing universal goals, not parochial ones.<sup>10</sup>

In order to fit in and to realize the eternal hopes of the Jewish people, Jews were willing to extend their ethical beliefs to the non-Jewish world; Jewish ethics became universal.

To suggest, however, that this universalist concern was nothing more than the realization of these hopes or a conciliatory gesture of a Jewish minority to the non-Jewish majority would be naive. Emancipated Jewry did not merely seek to fit in; self-preservation was at stake as well. In his "A People In-Between," Rabbi Robert Marx has suggested that, historically, the Jewish people have been neither of the power structure nor of the masses, but

<sup>9</sup> See below for further discussion

<sup>10</sup> Borowitz, Liberal Judaism, pp. 405-6.



situated in-between and manipulated by both. Marx asserts that in order to avoid future manipulation and prevent the scapegoating and oppression which often arise in its wake, the Jewish people should turn their societal predicament into a positive force for change. Not only would such an impetus better all of society, but it would create an environment in which Jews would be appreciated instead of scorned.<sup>11</sup> The early Reformers certainly realized this and sought to eradicate the prejudice society imposed upon them by adopting a philosophy of ethical universalism.

Liberal Judaism did not develop this ethical universalism out of a void. Though its emphasis on the universal may be unique, a Jewish focus on the ethical was not something new. Ethical and moral considerations have been deeply rooted in the Jewish psyche since the earliest days of the Jewish people. What exactly are the Jewish moral ideas upon which Reform Judaism based its ethical ideology? Asked another way, what exactly is Jewish ethics?

### Normative Jewish ethics

A working definition of normative Jewish ethics can be formulated only by combining a variety of different perspectives. To Rabbi Albert Plotkin, Jewish ethics is a way of life. He remarks that "the insistence of morality as a principle in religion is the very core and backbone of Judaism. ... Without ethics, there can be no belief in judgment, in the meaning of life or what pertains to life beyond. This definite ethical character is the root and foundation of Judaism and the Jewish way of life."<sup>12</sup> Judaism is inseparable from the ethics it espouses. To be a Jew, one has to choose to live an ethical

<sup>11</sup> Robert Marx, "A People In-Between," an unpublished paper.

<sup>12</sup> Rabbi Albert Plotkin, The Ethics of World Religions (Phoenix, Arizona: Albert Plotkin, 1993), p. 7.

life. In fact, such choices constitute life in and of itself. As Plotkin explains: "Life is given to man by God, and man has the task of shaping and forming it. By doing what is right, man 'chooses life' and becomes the creator of his existence."<sup>13</sup> When a Jew chooses to act morally, she is following the path of righteous living. For Plotkin, this is the path of Jewish life.

Theologian David Novack builds upon Plotkin's ideas by suggesting that the guide for this life is a "... normative Jewish tradition ... very much concerned with the true, the good, and the lawful."<sup>14</sup> Jewish tradition is a moral one, embraced by a Jewish people who have historically striven to remain true to its values. Those values are based upon a notion of equality which considers no human any more or less deserving than any other. Nowhere is this better reflected than in Rabbi Hillel's "Golden Rule," what so many Jews consider to be the consummate phrase of Jewish ethics: "What is hateful to you do not do to your neighbor. This is the whole Torah. The rest is commentary - go and learn it."<sup>15</sup> Jewish tradition dictates, then, that "choosing life" includes treating the other as the self.

From Judge Haim H. Cohn's perspective, the equality imparted by Jewish tradition implies that all people are equal before God. Cohn notes that "[w]hat is important to us is that the fundamental equality between people - that we must treat each of them as having been created in the image of God - is a basic principle upon which the entire Torah of Israel is based."<sup>16</sup> Cohn believes that when we treat others with the same respect we demand for ourselves, and when we understand that we are Divinely impelled to do so, we are acting in accordance with the highest values of Jewish moral tradition.

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<sup>13</sup> Plotkin, p. 8.

<sup>14</sup> David Novack, Jewish Social Ethics (New York: Oxford University Press, 1992), p. 14.

<sup>15</sup> Babylonian Talmud, Shabbat 31a as quoted in Francine Klagsbrun, Voices of Wisdom (Boston: David R. Godine, 1980), p. 38.

<sup>16</sup> Haim H. Cohn, Human Rights in the Bible and Talmud (Tel Aviv: MOD Books, 1989), p. 28.

Ironically, as Rabbi Moshe Avigdor Amiel sees it, such an attitude of equality towards the other elicits a material subordination of the self, a subordination that Amiel considers crucial to a true expression of Jewish ethics. Based on his understanding that the tenth commandment of the Decalogue<sup>17</sup> is the source of Jewish ethical conduct, Amiel writes that adherence to it demands

two different approaches, one yardstick for measuring others and another for measuring one's own self. One's own self is to be judged by the strictest means possible: 'Even if the whole world tells you that you are a tzaddik ..., you should view yourself as a rasha ... .' In contrast, others should be viewed with mercy and in a favorable light: 'Judge every man favorably' (Avot 1:6).

Personally, one should accustom himself to a minimum standard of living; one should, however, look upon others as being worthy of only the best.<sup>18</sup>

Jewish ethics are the extension of this personal ideal of subordination, a goal toward which, in Amiel's eyes, all Jews should strive.

Amiel's idea of placing another person's concerns before one's own<sup>19</sup> fits nicely with Menachem Marc Kellner's contribution to a definition of normative Jewish ethics. Kellner remarks "... that Jewish ethical texts tend to emphasize character development and personal virtues over social ethics. The latter are seen as depending on the former."<sup>20</sup> When a Jew lives virtuously and develops his character fully, a development which includes a growing consideration for the other, his contribution to an ethical world naturally flows forth. To Kellner, then, Jewish ethics are a by-product of the pursuit of personal perfection, an ideal to be realized only through the self.

<sup>17</sup> "You shall not covet...", Exodus 20:14

<sup>18</sup> Rabbi Moshe Avigdor Amiel, Ethics and Legality in Jewish Law, trans. and eds. Rabbi Menachem and Bracha Slac (Jerusalem: The Rabbi Amiel Library, 1992), p. 26.

<sup>19</sup> The concerns of the other take precedence except in cases where one's life is at stake. In those instances, one's life takes precedence over another - see Babylonian Talmud, Baba Metzia 62a.

<sup>20</sup> Menachem Marc Kellner, ed., Contemporary Jewish Ethics (New York: Sanhedrin Press, 1978), p. 8.

Others disagree, believing that Jewish ethics are more than an ideal. For Plotkin, ethics are action. It is not enough to hope for the realization of the ethical ideal; a Jew must work actively to achieve it. Plotkin explains that

[t]he very essence of Jewish ethics was the principle that the divine command must be converted into a deed. The teachings of Judaism were not a theoretical discussion of ethical ideas but a religion of action with moral demands to be fulfilled in this life. ... The command to do is as now, and can only be understood as now.<sup>21</sup>

Plotkin believes the Jewish ethical structure cannot thrive when it is merely a by-product to be theorized or idealized. It must be lived actively, immediately, and continually. If not, Jewish ethics become meaningless.

Novack adds that for Jews to live actively moral lives, Jewish ethics cannot be static, but must be amenable to time and place. He cautions that "Jewish social ethics must be cognizant of the historical context in which it conducts its reflection; only in this way can it possibly understand what are its responsibilities."<sup>22</sup> Novack is not suggesting that Jewish ethics are amorphous. Rather, even though time and place create new ethical challenges, he believes in a pervasive Jewish meta-ethical outlook which is constant, timeless, and beyond context. Jewish ethics impart a meta-circumstantial social attitude that adapts to the here and now.

To Plotkin, God is the source of that social attitude. If God is all good and holy, then fulfilling the Levitical command of "You shall be holy, because I, the Lord your God, am holy"<sup>23</sup> requires that we, too, act all good and holy. Plotkin explains that the holy carries

... within itself the seed of ethics. We become aware that the ground on which we stand is holy ground, and that facing the divine God enriches human life with a transforming quality.

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<sup>21</sup> Plotkin, p. 10.

<sup>22</sup> Novack, p. 7.

<sup>23</sup> Leviticus 19:2

Man with the experience of the divine, finds himself put into a higher life and into a nobler manner in which he can express his ethical ideas. Ethics flows out of the religious consciousness transformed by the sense of holy. ... The holy develops into moral and religious ideas and then becomes codified in an ethical form.<sup>24</sup>

To be holy is to be like God, and to be like God is to be ethical. For Plotkin, this is the essence of Jewish ethics.

What, then, is normative Jewish ethics? A synthesis of these various perspectives suggests that it is a life choice experienced through a Jewish tradition which sees all people equal in the eyes of God. To achieve this ideal of equality, a Jew must subordinate himself and strive for personal perfection. Striving must not be passive; rather, a Jew must actively pursue his ethical perfection through the pervasive Jewish social attitude of the particular time and place in which he lives. This attitude, though changing with circumstance, is nevertheless rooted in a meta-ethical standard of holiness which imitates a God Who is the source of all ethics.

#### Halacha as the expression of Jewish ethics

A outline of normative Jewish ethics has now been discerned. But what is the instrument through which this definition is translated into concrete steps or a plan for daily living?

Halacha is *the* expression of normative Jewish tradition and, by extension, the voice of Jewish ethics. Jews must focus on halacha in order to glean Jewish ethics because, as Plotkin explains, "From the prophets to the rabbis, sages, and teachers, the ethical tradition was rooted in the fact that law was not conceived as a revelation from God but as a revelation of God. The

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<sup>24</sup> Plotkin, p. 5.



law of God cannot be conceived as external to Him."<sup>25</sup> Halacha is the recipient of an ethical tradition, transmitted through Moses and generations of the Jewish people, that is nothing less than Divinity itself. It is the source of Jewish holiness, attitude, action, and ideal. To know halacha is to experience God and the ethics which naturally rush forth from God. Halacha, therefore, represents the means by which each Jew and, even more, the entire Jewish people can develop ethically into a Godly people.

It is interesting to note, however, that Jewish ethics are not solely dependent on halacha; the halacha is dependent upon it as well. As Rabbi Amiel sees it, halacha and ethics "... are interdependent, stem from the same source, deal with the same areas, and are directed towards a common goal."<sup>26</sup> The demands of halacha are ethical in nature while, at the same time, true Jewish ethics can only be known through halacha. The connection between halacha and ethics, then, is an intimate one.

If this close relationship truly exists, the question must be asked: If halacha is Jewish ethics, and if Reform Judaism is the religion of ethics it claims to be, then why has Reform traditionally refused to utilize halacha or acknowledge an ethical connection to it?

#### Merging Reform ethics and halacha

Historically, the ethics of halacha revolved around a closed Jewish community. Prior to emancipation, European Jewry<sup>27</sup> was accustomed to living in autonomous ghettos. As such, Jews were responsible for governing their own affairs, which they sought to do under the authority of halacha. Howard M. Sachar conveys that Jewish autonomy "... provided the leaders of

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<sup>25</sup> Plotkin, p. 10.

<sup>26</sup> Amiel, p. 3.

<sup>27</sup> I speak only of European Jewry because this is the arena out of which Reform Judaism grew.

the Jewish community with the opportunity of maintaining the Jewish religion and all that this religion embraced in the way of educational processes, judicial action, and social welfare. ... The Jews administered their own laws, based on their own Talmudic precepts."<sup>28</sup> The security of a closed Jewish community ensured that the needs of its inhabitants, as well as those Jews passing through, would be met.

Jews of the ghetto needed halacha for communal structure and ethical guidance. Beyond that, however, halacha helped Jews remain focused in a Europe overwhelmingly hostile to their very existence. Dr. Eugene Mihaly explains:

The halacha was, during the many dark centuries, perhaps the major factor in the survival of the Jew. The discipline of mitzvot, of commandments, of a halacha which controlled every facet of the Jew's life, preserved and strengthened his humanity; it enhanced his sensitivity and his ethical awareness. In an environment determined to dehumanize him, to brutalize him, to make him a grotesque animal, the halacha kept the Jew human and helped him achieve an amazing - a miraculous - dignity.<sup>29</sup>

For the "ghetto" Jew, then, halacha became more than social indemnity or a prescribed way a life; it was necessary in order to guarantee a continued, dignified existence of the Jewish people.

However, the stringent nature of an halachic absolutism forced upon the community became overbearing for many of those Jews who fled the ghetto with the onset of emancipation. In the insular environment of ghetto life, where everyone and everything was Jewish, Jewish leadership was successfully able to administer the community according to traditional modes

<sup>28</sup> Howard M. Sachar, The Course of Modern Jewish History, rev. ed. (New York: Vintage Books, 1990), p. 5.

<sup>29</sup> Dr. Eugene Mihaly, "Halacha' - Discipline and Reform Judaism," Address presented at the Central Conference of American Rabbis General Assembly, Cincinnati, June 18, 1975, p. 3.



of Jewish authority, because there was no alternative style of Jewish living. In moving into the non-Jewish world, though, Jews became too enmeshed in modern culture to depend upon a legal system that was designed for an enclosed community. Halacha became impractical and, in the eyes of many, inhibited the progressive nature of Judaism. Mihaly adds that "what may have served as a strategy of survival in the medieval ghetto ... becomes a strategy of irrelevance, bankruptcy and may even be suicidal in an environment of freedom, in a mobile, open society which is based on the ideal of equality of all men."<sup>30</sup> To much of emancipated Jewry, halacha was an outmoded means of Jewish existence, and as a result, Jews began to abandon tradition.

In the process of this abandonment, as Jews became progressively enlightened and turned to ethics as the primary expression of their Judaism, they saw ethics not as an extension of halacha but as an inherent aspect of human nature. Ironically, they inherited this understanding of ethics from the very halachic tradition they sought to deny. Eruvin 100b states: "If the Torah had not been given, we would have learnt modesty from the cat, [aversion to] robbery from the ant, chastity from the dove, and [conjugal] manners from the cock."<sup>31</sup> Ethics, to newly enlightened Jews, were part of nature and available to every rational mind. Professor Louis E. Newman observes that "[u]nder the influence of Enlightenment thought, it had been assumed that ethical obligations by their very nature were universal, the same for Jews as for everyone else, and they could be discovered through the

<sup>30</sup> Mihaly, p. 3.

<sup>31</sup> Babylonian Talmud, Eruvin 100b as quoted by Aharon Lichtenstein, "Does Jewish Tradition Recognize an Ethic Independent of Halakha?," in Kellner, p. 102.

proper use of reason."<sup>32</sup> Halacha became *passé* as liberal Jews rejected its authority in deference to the freedom of their rationally ethical minds.

However, within a few generations of this new rational ethic and rejection of its halachic roots, modern Jews found themselves in a quandary: What was Jewish about their Jewish ethics? Newman raises a serious difficulty for enlightened Jewry when he remarks that "... if all moral obligations are universal, then Jewish ethics is merely the particular Jewish articulation of these universal norms."<sup>33</sup> Liberal Jews still considered themselves to be Jewish, but their new universal ethic, which they claimed to be embedded in their Judaism, was not very different from non-Jewish moral norms.

It was not until many generations after the pain of ghetto life had subsided that liberal Jews could see that, perhaps, the original *maskilim* and subsequent reformers had gone too far in their embellishment of prophetic texts and rejection of halacha. Rabbi Daniel Jeremy Silver notes that

[i]n the halcyon days of Reform Judaism some rabbis and many laymen felt that the time had come to be free of the whole concept of halacha. They held that the Torah law no longer was operative. Its authority was challenged. ... Moral values are universal values and known to all reasonable men. The sympathy they felt for the tradition was limited to citations of prophetic ardor and disarming epigrammatic simplicities. They 'knew' what was required of them. Hindsight has made it clear that many mistook solid middle-class burgher virtues for a valid ethic... . In any case, a few prophetic *pesukim* do not represent the sum of tradition. If the halacha and the casuistic method are abrogated, how does anyone get down to specifics?<sup>34</sup>

Today in particular, Reform Jews are beginning to realize that there could be a

<sup>32</sup> Louis E. Newman, "Learning to be Led: Reflection on Reform Jewish Ethics and Halacha," in Reform Jewish Ethics and Halacha, ed. Eugene B. Borowitz (New Jersey, Behrman House, 1994), p. xiv.

<sup>33</sup> Newman, p. xiv.

<sup>34</sup> Daniel Jeremy Silver, p. 6.

middle ground between the universal ethic liberal Judaism has espoused and the halachic determinism it has rejected, a way of meshing tradition with an ever changing modernity. Initiated by Solomon Freehof nearly seventy five years ago, Reform Judaism has begun to look at halacha less negatively. Modern liberal Jews now see that halacha can provide guidance on moral and ethical issues without imposing its views as authoritative governance. It has a vote, but not a veto.

Halacha, then, may have some relevance in our modern Jewish lives. Perhaps it is possible to glean an understanding of how the world ethically worked through the eyes of the sages, taking their historical circumstances into consideration, and apply it to modern ethical living. Realizing that our situation is significantly different today from the Jew of the ghetto, we nevertheless can make halacha a dynamic force in our lives. For our Reform Jewish ethic to be honestly "Jewish," halacha merits a look for the potential historical and moral guidance it may provide.

#### Social justice as an expression of Reform ethics and halacha

Nowhere could the marriage of Reform ethical ideology and halacha be more fruitful than in the area of social justice. Social justice, by its very nature, is a religious issue and has always been a primary focus of American Reform Judaism. Rabbi Edward Israel remarks that the "... recognition of the fact that man's religious life and economic life were indissolubly bound since earliest times is the very cornerstone of 'social justice.'"<sup>35</sup> From the Pittsburgh Platform, to the Social Justice Platform of 1818, to the creation of the Religious Action Center, to today, the institutions of American Reform Judaism have

<sup>35</sup> Rabbi Edward Israel, "As to Social Justice and the Central Conference Rabbis," a newspaper article from 1929.

continually weaved social action doctrine and practice into the fabric of the Reform movement.

Numerous books, essays, articles, and the like have been written to encourage Reform Jews to engage in social action work. This literature is expansive both historically and topically, teaching America's Reform Jews to act with a social conscience, prodding them to advocate for social change. In this literature, American Reform thinkers have linked their social justice ethic to values drawn from Jewish tradition, invoking the prophetic words of Amos, Isaiah, and others, random Talmudic verses, and concepts such as *tikkun olam* to bolster their rhetoric. While some may argue that the relationship between the traditional view of these sources and the modern Reform understanding of them is tenuous at best,<sup>36</sup> the attempt to forge such a relationship testifies to a desire to ground Reform ideology and practice in Jewish tradition.

A more likely analog in Jewish tradition to which American Reform could directly link its social action work is the halacha of *tzedakah*, a rubric that presumably has much to say concerning social improvement and reform. *Tzedakah* is, after all, that area of traditional Jewish practice which focuses on social amelioration, relief of poverty, and the like. It is in the halachic literature that we really see the laws of *tzedakah* characterized and expanded to explain those "requirements" incumbent upon every Jew with respect to the poor; halacha is the literature that defines *tzedakah* in a concrete world.

What exactly is *tzedakah*? In the words of Rabbi Jack Spiro, it " ... is the highest ideal in Jewish teaching, for it leads to Jewish living; it leads to the application of the highest of Jewish ethical precepts. The meaning of *Tzedakah* in its broader sense is not only man's humanity to man; this magic

<sup>36</sup> See Novack introduction, Newman, and others.



word reflects almost all of Jewish conduct."<sup>37</sup> Tzedakah literally means "righteousness." It is a duty imposed upon us by God which implores us to make our society just and equal. It is an attitude toward the poor, guiding us toward an understanding that economic privilege does not make us any better than those who are less fortunate. Jacob Neusner explains:

When we give to the poor, we must do so in such a way that the equality of the giver and receiver is acknowledged. This is not an act of grace or an expression of affection. It is an act of respect, an expression of duty. The use of the word tzedakah in the sense of doing what is right and required is deliberate and definitive. We give not because we feel like it, but because it is our obligation. We do so in a way that will not make us feel superior, and in a way that will not make the poor person feel inferior.<sup>38</sup>

Tzedakah incorporates respect for all individuals regardless of their economic or social status and mutuality in the work of the betterment of society.

Commenting on the Mishne Torah, Reuven Kimelman remarks that

Tsedakah is an untranslatable value-concept. Rendering it as 'charity' is inadequate and misleading. 'Charity' derives from the Latin *carus* denoting love or endearment. The basis of charity is sympathy. 'Tsedakah' derives from the Hebrew *tsedek* denoting justice or righteousness. Tzedakah is based on the sense that justice requires sharing.<sup>39</sup>

Tzedakah is not charity, because it removes charity's inherent condescension. Charity by its very nature makes the recipient feel less worthy than the giver; tzedakah requires a transaction that preserves the dignity and respect of the recipient. Charity can be passive; tzedakah requires action.

In a sense, the very terms "giver" and "receiver" are antithetical to the

<sup>37</sup> Rabbi Jack Spiro as quoted in Tzedakah: Not Charity but Justice! Part II, ed. Lillian Ross (Miami: The Central Agency for Jewish Education), p. 100.

<sup>38</sup> Jacob Neusner, Tzedakah: Can Jewish Philanthropy Buy Jewish Survival? (Atlanta: Scholars Press, 1990), p. 13.

<sup>39</sup> Reuven Kimelman, Tzedakah and Us (New York: The National Jewish Resource Center, 1982), p. 6.

notion of tzedakah, because the concept of tzedakah insists we eradicate the economic inequalities that necessitate a giver and a recipient. Tzedakah revolves around the idea that God is the only true Giver, and we are all recipients of God's wealth. As conveyed in Tzedakah: Not Charity but Justice!

In the Jewish tradition, man is only the *custodian* of the earth, God is the true owner. The notion of custodianship imposes responsibilities for the use of one's possessions. ... We may not withhold part of them from one who is in need, for we do not really own anything more than the needy one does. We have merely been entrusted with a larger share of God's earth to use responsibly according to the demands of justice.<sup>40</sup>

The notion of human giving and receiving, then, is merely the equitable redistribution of God's property. This is not to say that the rich should relinquish their wealth; rather, it implies that we must all work to provide the poor with equal opportunities for success so that they, too, may partake of their fair share of God's domain.

Reform Judaism has utilized a notion of tzedakah not unlike the one just described. But perhaps it can get a different, even better, understanding of tzedakah through halachic discourse. Through halachic guidance, a new expression of social justice work might be developed which would meet the ideological needs of American Reform in our ever changing society.

#### The need for a new expression of social justice

To be sure, a new approach to social justice is desperately needed as current modes of collective programming have become stagnant. Social action has lost much of its support as a focus of American Reform Jews;

<sup>40</sup> Tzedakah: Not Charity but Justice! Part I, p. 2.

people are just not as committed to affecting social change as they once were.<sup>41</sup> The economic and sociological reasons for this are manifold and complex. To say this current marginality of social activism is solely a reflection of the conservative trend in our social climate would be imprecise, because the call for social action has weathered numerous conservative waves in the past. Reform Jews were at the forefront of the pursuit of fair employment practices, a livable wage, and other controversial social issues during the conservative years of the robber barons and the economically disastrous Depression.<sup>42</sup>

Similarly, to suggest that people's current abandonment of the Jewish social ethic is the result of the continued suburbanization of America's Jews would not be entirely true. Granted, being removed from the sight of poverty reduces the likelihood of having any vested interest in it. Nevertheless, social concern among American Reform Jews was at its peak at the time when so many Jews fled the poverty of urban America for suburban security in the first place. Had suburbanization been such a major factor in people's alienation from social justice issues, it would stand to reason that when suburbanization did take place on such a large scale, people would have fled their social idealism then. In fact, the opposite occurred. During the 1950s and 1960s, social activism flourished in the Reform movement, evidenced by the creation of the Religious Action Center, the formation of and active participation in suburban synagogue social action committees, the Jewish communal embrace of the Civil Rights Movement, and the rise to

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<sup>41</sup> When speaking of social justice, social action, social activism, social change, and the like, I am focusing solely on economic justice issues. Forms of social consciousness other than those which focus on economic issues exist but are not applicable to this paper.

<sup>42</sup> See Rabbi Israel's article for early history as well as the CCAR's "Program of Social Justice" of 1928, The Commission on Social Justice's Social Justice Message of 1935 entitled "Judaism and Social Security," and others.



prominence of activist rabbis such as Maurice Eisendrath and Al Vorspan.

Though also pertinent, blaming the relegation of social activism simply on the aftermath of the selfishness of the 1980s would be unfair. Although America's Jewish community is wealthier now than it has ever been,<sup>43</sup> largely the result of economic auspiciousness and opportunity of the previous decade, the unprecedented success of Jewish Federations today in raising funds attests to the fact that American Jewry has not been overly affected by selfish tendencies in society.<sup>44</sup> Furthermore, wealth among Jews has never before been a factor in collective social negligence. In fact, many of the sages who molded the ideal of tzedakah were by and large wealthy people.<sup>45</sup>

Conservatism, suburbanization, and collective avarice and wealth have all contributed to the current wane of Reform Jewish social activism, but other catalysts exist as well. One factor in particular, which is part of the very mechanism of American Reform social activism, merits attention. Eugene Borowitz claims that "... with political liberalism effectively challenged by ethical conservatism and with the liberalism's rational ... academic underpinnings eroded, the identification of Jewish social ethics with a presumed universal human moral consciousness no longer evokes conviction."<sup>46</sup> Prophetic calls of doing what is morally correct, of working to spread ethical monotheism in our society and beyond, have become stale and trite. People have grown tired of hearing the same rhetoric. American Jews

<sup>43</sup> That is not to say that American Jewry does not have its poor people. Recent statistics suggest that the poverty rate among America's Jews mimics greater society; about fifteen percent of Jews live on or below the federally designated poverty line.

<sup>44</sup> However, as noted earlier, passive donation of money is not necessarily what tzedakah entails.

<sup>45</sup> See Joel E. Soffin, The Rabbinic View of Wealth and Poverty, Thesis. HUC 1976 for further discussion.

<sup>46</sup> Borowitz, Reform Judaism and Halacha, p. ix.

see that "social action" has not been working; in fact, they have only seen an escalation of the very problems American Reform Judaism has been calling to eradicate. Programming and rhetoric have not adapted to the ever changing social conditions of the Jewish community.<sup>47</sup> As society evolves, American Reform Judaism needs a message which develops with it, which recognizes that people have changed and might need new solutions to old problems.

Perhaps a modern look at halacha could provide insight or energy; halachic discourse may help form a new approach to social activism.

Halacha covers many facets of tzedakah, from who should give and receive, to how much should be given, to laws of distribution, and the like. And though the halacha of tzedakah focuses primarily on financial transactions between rich and poor, its underlying intent corresponds to the principles of tzedakah expressed above. Given that, a modern look at the halacha of tzedakah might shed light on potential vehicles for social change.

#### *Problems with merging Reform ethics and the halacha of tzedakah*

It is not surprising that the rabbis understood tzedakah in purely financial terms. After all, their notion of poverty was quite different from our own. The rabbis never conceived of a systemic entity called "poverty" which keeps generations of people disadvantaged; rather, their halacha speaks only of individual poor people who were once able to support themselves but who have, for one reason or another, temporarily lost that ability. In his rabbinic thesis, Moshe Machenbaum suggests that Jewish sources view "... poverty as an inevitably recurrent cycle, by the very nature of the cosmos, affecting every person or his descendants. ... [N]ot everyone who is rich to-day

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<sup>47</sup> A survey of resolutions proposed by the Commission on Social Action since its inception shows very little ingenuity and change.

will remain rich to-morrow, and he who is poor to-day need not be so to-morrow."<sup>48</sup> Naturally, in an environment in which one's poverty is viewed as only temporary and part of an inevitable economic cycle, giving money to restore a poor person to his previous status is the best means of fulfilling the ultimate goal of tzedakah.

However, our notion of poverty is quite different. American society views poverty as a cycle as well, but one which perpetually prevents individuals entrenched in its throes from ever becoming self-sufficient. Merely providing money for individual restoration is not a possibility, because so many people who are poor in our society have never experienced financial independence or been given the opportunity to do so. Therefore, a new system of tzedakah must be devised and implemented, one which will achieve economic independence and self sufficiency for all individuals. This is not to say that the halachic system of tzedakah is obsolete; though its mechanisms may be outdated, its inherent message is still applicable today.

Still, other problems exist which make it difficult to apply the halacha of tzedakah to modern American society. As previously mentioned, halacha was designed for those Jews who were confined and self sufficient as a people. On the other hand, we are an integrated, acculturated, even assimilated people. Given this, questions and conflicts are bound to arise. Does our different place in society affect how we help the poor? Now that Jews are intimately part of the greater American society, are our responsibilities to poor Jews different than to poor non-Jews? To ultimately fulfill the intent of economic justice as expressed through tzedakah, can such a differentiation still be made? Perhaps the halacha of a closed community can offer guidance

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<sup>48</sup> Moshe Machenbaum, The Talmudic Concept of Poverty - Legal and Ethical Aspects, Thesis. HUC 1947, p. 8.

to a greater society as well so that the goals of tzedakah can best be achieved.

Not only are our living conditions different from pre-enlightened Jewish communities, but our economic system is different as well. Though the society of the Jewish ghetto, like our current American society, was "goods" and service oriented, the intention behind its economic philosophy was intrinsically different. American capitalism thrives on a consumption-based competition which attempts to ferret out those economic participants least able to adapt to the fast-paced, changing needs of our society. On the other hand, though competition existed as well, the ultimate goal of the ghetto economy was not dominance or capitulation; the Jews of the ghetto did not strive to drive each other out of business. Rather, competition existed in the ghetto only in so far as people needed to make a living in order to survive. Jewish butchers did not care that other butchers practiced in the ghetto as long as they were able to garner enough business to live sufficiently.

Machenbaum comments that, in pre-enlightened Jewish communities, "[t]hough room must be given for free competition in a sound economy, legal devices were resorted to in order to control an undue rise in prices on, and a speculative hoarding of, edibles which are life's necessities... . Even wages were fixed."<sup>49</sup> The pre-enlightened Jewish community pursued a policy of controlled competition in order to ensure that most of its inhabitants would thrive. Conversely, by its very nature, modern American capitalism espouses an unbridled, Darwinian pursuit of economic gain. To be sure, our society has attempted to protect those inhabitants who have not been able to function adequately in our economy, but it is ironic that we have had to create those protections<sup>50</sup> outside the realm of our economic system because of

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<sup>49</sup> Machenbaum, p. 26.

<sup>50</sup> Namely, Welfare, Aid to Families with Dependent Children, Medicaid, and the like.



capitalism's inherent failure to provide adequately for everyone.

This dichotomy may prove to be problematic for the adaptation of the halacha of tzedakah to modern American society. If the halacha on tzedakah was created for an economy so different than our own, how can we legitimately apply it to a modern conception of economic justice?

One more problem exists which makes it difficult to apply halacha to our current social situation. Halacha is a code of *responsibilities* which tells us those duties and obligations incumbent upon every Jew. American society, on the other hand, is a society of *rights* which constitutionally guarantees personal freedoms for its inhabitants. Whereby halacha focuses on the individual as a doer of God's will, American society focuses on the individual as a recipient of certain inherent allowances. Is it possible to impose a system of responsibilities upon a society of rights? Haim Cohn provides an answer:

It is difficult to speak about 'human rights' in the Jewish legal tradition, for the simple reason that this tradition is a religious law ... a Divine law. Such a law, by its very nature, does not grant rights but imposes obligations. ... The word 'right' in its modern meaning of 'that which is coming to me,' is not to be found in either the Bible or the Talmud. ...

Nevertheless, when a legislator imposes an obligation or forbids one to perform a certain action, by implication he is also granting a right. ...

It follows from this that we can only deduce 'human rights' in religious and divine law by means of negation. The obligation, the commandment, is what creates a right alongside it, and recognizes that right.<sup>51</sup>

If the halacha does in fact provide individual rights, then there must be a way to mesh those rights with the ideals of our American society.

Different notions of poverty, places in society, economic systems, and inherent outlooks are all formidable challenges to applying the

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<sup>51</sup> Cohn, pp. 9-10.

halacha of tzedakah to modern American society. Totally ignoring halacha, however, would damage the credibility of any Jew who would like to turn to Jewish texts to better understand how to relate to modernity. If it wants to be true to its ethical assertions, if it wants to renew its vision and call of social justice, and if it honestly wants to ground its ideology in Jewish sources in order to affect social change in our dynamic society, then Reform Judaism must be willing, despite these challenges, to enter into dialogue with the halacha of tzedakah.

What exactly is the mitzvah of tzedakah? What does tzedakah require Jews to do, and to what extent can the Jewish "duty" to perform tzedakah be likened to the vision and practice of social action in the American Reform context? In short, what does "social action" have in common with the age old value of tzedakah?

This thesis is an exploration of these questions. I am seeking to define the mitzvah of tzedakah by studying the halacha of tzedakah and considering, in light of these laws, American Reform theory and practice of social action. Ultimately, I want to determine whether a social vision emerges out of the mass of organized details in the halacha which can be merged with American Reform social action doctrine to form a new Jewish expression of social justice in modern American society.

<sup>1</sup> The translations of the Babylonian Talmud come from Sederqvist's translation, and the excerpts from the Yerushalmi Talmud come from the Neuman Series, *The Talmud in the Land of Israel*.

Chapter Two:  
Synopsis, Translation, and Selective Modern Commentary on  
the Halacha of Tzedakah in  
the Aruch haShulchan:  
Yoreh De'ah, Chapters 247-259

Note: This chapter is designed to be a running commentary on those chapters of the Aruch haShulchan which discuss the *mitzvah* of tzedakah. However, due to the enormity of the text and the mass of intricate details it provides, a commentary on its every word or paragraph would be too enormous and beyond the scope of this thesis. Therefore, the nature of my remarks is selective; I will be discussing primarily those aspects of the halacha which are pertinent to a modern treatment of the poor and the eradication of poverty in American society. This in no way suggests that paragraphs without commentary bear no weight in the formulation of my ideas or are irrelevant today. The entire corpus of the halacha on tzedakah conveys an attitude and an ideal, both of which are crucial to my understanding of a modern response to poverty and to the development of a plan for social justice.

This chapter will be broken into thirteen sections, corresponding to the number of chapters in the Aruch haShulchan that discuss tzedakah. Each section of this chapter will be prefaced with a synopsis of what the particular chapter of halacha says, followed by a statement as to where my commentaries can be found in the text. Commentaries will be demarcated with a solid line and printed in italics. Where possible, talmudic references in the halacha are footnoted,<sup>1</sup> and the pertinent passages of those references are included.

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<sup>1</sup> The translations of the Babylonian Talmud come from Sancino's translation, and the excerpts from the Yerushalmi Talmud come from the Neusner Series, The Talmud in the Land of Israel.



**Chapter 247 - The magnitude of the reward of tzedakah and whether it can be forced upon someone in seven paragraphs**

Synopsis: Tzedakah is an essential part of our world, an act of loving kindness. You may think that your contribution is small and meaningless, but it all adds up. God will help the one who wants to perform tzedakah and will be indebted to that person for doing so. Though material things are temporal, lasting only this lifetime, tzedakah remains with you forever; doing tzedakah brings reward in the world-to-come. If you delay tzedakah, you can kill someone, and desisting from tzedakah is as bad as idol worship. Tzedakah is part of what makes us descendants of Abraham; as Abraham did what was right, so should we. Only if we do tzedakah will God's promises to Abraham be fulfilled, that Israel will be prosperous in her "land of milk and honey." To love doing tzedakah is to bring the goodness of God to earth. Since God will provide for you in times of need, you need to provide for others in their time of need. You are, in a sense, an extension of God and must seek to emulate God's behavior. What goes around comes around; if you do tzedakah, you will be rewarded, if not in your lifetime, then somewhere down your generational ladder. Our wealth is not really ours, but God's. It was given to us in order that we may do tzedakah. Those who fear that doing tzedakah will make them poor are not to worry, because, in fact, the opposite is true; God will make them richer (though not necessarily monetarily richer). However, if as on occasion, people do give and then become poor, this is a mystery to which only God knows the answer. It is for their own good that they became poor, though this does not happen to the majority of people. The *Beit Din* has the power to coerce the giving of tzedakah.

*Commentary found after paragraphs 5 and 6.*

1: Tzedakah is one of the pillars of the world as is taught in the beginning of *Pirke Avot*: "On three things the world stands: On the Torah, on service, and on acts of loving kindness."<sup>1</sup> Tzedakah is in the category of acts of loving kindness. Acts of loving kindness are greater than tzedakah as the sages said

<sup>1</sup> *Pirke Avot* 1:2.

at the end of chapter four of tractate Sukkah.<sup>2</sup> Great is the merit that accrues to one whose heart is open to tzedakah and acts of loving kindness. And thus they say there, "Perhaps you would say that all who come to jump, 'Jump'?" Scripture says: "How precious is Your compassion, O' God" - see there.<sup>3</sup> And it is written: "Transgression will be atoned for through compassion and truth."<sup>4</sup> In order that a person may not say, "What is this coin that I am giving?", the sages said: "And tzedakah is worn as *shiryon* (armor)." (Baba Batra 9b)<sup>5</sup> Just as with *shiryon* that each and every piece joins together to be refined into a big coat of armor, so too is tzedakah that each and every coin is refined into a big account.

<sup>2</sup> Sukkah 49b: "Rabbi Eleazar further stated, *Gemiluth Hasadim* is greater than ... [tzedakah], for it is said, *Sow to yourselves according to your ... [tzedakah], but reap according to your hesed* [(Hosea 10: 12)]; if a man sows, it is doubtful whether he will eat [the harvest] or not, but when a man reaps, he will certainly eat. Rabbi Eleazar further stated, The reward of ... [tzedakah] depends entirely on the extent of the kindness in it, for it is said, '*Sow to yourselves according to your ... [tzedakah], but reap according to the kindness*'.

"Our Rabbis taught, In three respects is *Gemiluth Hasadim* superior to ... [tzedakah]: ... [tzedakah] can be done only with one's money, but *Gemiluth Hasadim* can be done with one's person and one's money. ... [Tzedakah] can be given only to the poor, *Gemiluth Hasadim* both to the rich and the poor. ... [Tzedakah] can be given to the living only, *Gemiluth Hasadim* can be done both to the living and to the dead."

<sup>3</sup> Sukkah 49b: "R. Eleazar further stated, He who executes ... [tzedakah] and justice is regarded as the had filled the world with kindness, as it is said, *He loveth ... [tzedakah] and justice, the earth is full of lovingkindness if the Lord* [(Psalms 33:5)]. But lest you say that whoever wishes to do good succeeds without difficulty [Lit., 'that whoever wishes to leap may leap'], Scripture expressly says, *How precious is Thy lovingkindness, O God etc* [(Proverbs 36:8)].

Rashi on "perhaps he who comes to jump" (my translation): He who jumps to do tzedakah and lovingkindness, people worthy of receiving will be brought forth; therefore, Scripture says, "How precious one needs to give his heart to make an effort to pursue after it [the chance to perform tzedakah], because one does not always merit the opportunity to find worthy ones."

Sancino understands this to mean that "the opportunity of doing real, well-deserved ... [tzedakah] and dispensing it in a judicious manner, is rare ..."

<sup>4</sup> Proverbs 16:6.

<sup>5</sup> Baba Batra 9b: "What is the meaning of the verse, *And he put on ... [tzedakah] as a coat of mail* [(Isaiah 59:17)]? It tells us that just as in a coat of mail every small scale joins with the others to form one piece of armor, so every little sum given to charity combines with the rest to form a large sum. P. Hanina said: The same lesson may be learnt from here: *And all our ... [tzedakah] is as a poluted garment* [(Isaiah 64:5)]. Just as in a garment every thread unites with the rest to form a whole garment, so every farthing given to charity unites with the rest to form a large sum."

2/3: Whoever gives tzedakah, as if it were possible to say, the Holy One Blessed-be-He becomes his debtor as the sages say there.<sup>6</sup> Why? Because it is written: "He who gives graciously to the poor makes a loan to God; [and that which he has given he will pay back]."<sup>7</sup> As if it were possible to say, a debtor is a slave to a man who is his creditor. They also say there<sup>8</sup> that whoever gives a coin to the poor causes himself to be blessed with six blessings, and he who comforts [the poor will be blessed] with eleven blessings. These are described in Scripture - see there.<sup>9</sup> "Whoever pursues after tzedakah, the Holy One Blessed-be-He furnishes him money and does tzedakah with it and provides for him appropriate people for whom he can do tzedakah. Concerning this it is written: 'A pursuer of tzedakah and kindness will find

<sup>6</sup> Baba Batra 10a : "R. Johanan said: What is the meaning of the verse, *He that hath pity on the poor lendeth unto the Lord* [(Proverbs 19:17)]. Were it not written in Scripture, one would not dare to say it: as it were, *the borrower is a servant to the lender* [(Proverbs 22:7)]."

<sup>7</sup> Proverbs 19:17.

<sup>8</sup> Baba Batra 9b: "Rabbi Isaac also said: He who gives a small coin to a poor man obtains six blessings, and he who addresses him with words of comfort obtains eleven blessings. 'He who gives a small coin to a poor man obtains six blessings' - as it is written, *Is it not to deal thy bread to the hungry and bring the poor to thy house etc., when thou seest the naked etc.* [(Isaiah 58:7)]. 'He who addresses to him comforting words obtains eleven blessings', as it is written, *If thou draw out thy soul to the hungry and satisfy the afflicted soul, then shall thy light rise in the darkness and thine obscurity be as the noonday; and the Lord shall guide thee continually and satisfy thy soul in drought ... and they shall build from thee the old waste places and thou shalt raise up the foundations of many generations, etc.* [(Isaiah 58:10-2)]."

<sup>9</sup> Isaiah 58:7-12: *Is it not to share thy bread with the hungry, and that thou bring the poor that are cast out to thy house? when thou seest the naked, that thou cover him; and that thou hide not thyself from thy own flesh? Then shall thy light break forth like the morning, and thy health shall spring forth speedily: and thy righteousness shall go before thee; the glory of the Lord shall be thy rearguard. Then shalt thou call, and the Lord shall answer; thou shalt cry, and he shall say, Here I am. If thou take away from the midst of thee the yoke, the pointing of the finger, and speaking iniquity; and if thou draw out thy soul to the hungry, and satisfy the afflicted soul; then shall thy light rise in darkness, and thy gloom be as the noonday: and the Lord shall guide thee continually, and satisfy thy soul in drought, and make strong thy bones: and thou shalt be like a watered garden, and like a spring of water, whose waters fail not. And they that shall be of thee shall build the old waste places: thou shalt raise up the foundations of many generations, and thou shalt be called, The repairer of the breach, The restorer of paths to dwell in.*

life, tzedakah, and honor.' (same)<sup>10</sup> "Whoever becomes accustomed to doing tzedakah bears children who are wise, rich, and versed in the Aggadah," (same)<sup>11</sup> and this is described in Scripture - see there.<sup>12</sup>

Whomever God graces with wealth, is not that wealth really not his since he is going to die and God can forsake it to others? But tzedakah and acts of loving kindness are his forever. This is the response of Munbaz the king who squandered his treasures for tzedakah as clarified in the *gemara* (Baba Batra 11),<sup>13</sup> Therefore, it is a positive commandment to give tzedakah according to one's means. The Tur writes that a person very much needs to be careful with it (tzedakah), because it is possible to get to the point of spilling

<sup>10</sup> Baba Batra 9b: "Rabbi Isaac further said: What is the meaning of the verse, *He that followeth after ... [tzedakah] and mercy findeth life, ... [tzedakah], and honour* [(Proverbs 21:21)]? Because a man has followed after ... [tzedakah], shall he find ... [tzedakah]? - The purpose of the verse, however, is to teach us that if a man is anxious to give ... [tzedakah], the Holy One, blessed be He, furnishes him money with which to give it. R. Nahum b. Isaac says: The Holy One, blessed be He, sends him men who are fitting recipients of ... [tzedakah], so that he may be rewarded for assisting them."

<sup>11</sup> Baba Batra 9b-10a: "R. Joshua b. Levi said: He who does ... [tzedakah] habitually will have sons wise, wealthy, and versed in the Aggadah. 'Wise' as it is written, ... *He shall find life; 'wealthy' as it is written, [He shall find] ...tzedakah; 'versed in Aggadah' as it is written, And [he shall find] honour: and it is written elsewhere, The wise shall inherit honour* [(Proverbs 3:35)].

<sup>12</sup> making a connection, through *gezira shava*, to Proverbs 8:35 and the fact that wisdom is speaking it in the Proverbs verse

<sup>13</sup> Baba Batra 11a: "Our Rabbis taught: It is related of King Monobaz that he dissipated all his own hoards and the hoards of his fathers in years of scarcity. His brothers and his father's household came in a deputation to him and said to him, 'Your fathers saved money and added to the treasures of their fathers, and you are squandering them.' He replied: 'My fathers stored up below and I am storing above, as it says, *Truth springeth out of the earth and ... [tzedek] looketh down from heaven* [(Psalms 85:11)]. My fathers stored in a place which can be tampered with, but I have stored in a place that cannot be tampered with, as it says, ...*[Tzedek] and judgment are the foundation of his throne* [(Psalms 97:2)]. My fathers stored something which produces no fruits, but I have stored something which does produce fruits, as it is written, *Say ye of the ... [tzadik] that it shall be well with them, for they shall eat the fruit of their doings* [(Isaiah 3:10)]. My fathers gathered treasures of money, but I have gathered treasures of souls, as it is written, *The fruit of the ... [tzadik] is a tree of life, and he that is wise winneth souls* [(Proverbs 11:30)]. My fathers gathered for others and I have gathered for myself, as it says, *And for thee it shall be ... [tzedakah]* [(Deuteronomy 24:13)]. My father gathered for this world, but I have gathered for the future world, as it says, *Thy ... [tzedakah] shall go before thee, and the glory of the Lord shall be thy rearward* [sic.] [(Isaiah 58:8)]."



blood as in the case of Nachum of Gamzu who, in masechet Ta'anit (21),<sup>14</sup> delayed giving tzedakah and a man died of hunger. A number of times we are commanded about it (tzedakah) in the Torah as a positive commandment. There is also a negative commandment against those who desist from it, as it is said: "[If there be among you a poor man, one of thy brethren within any of the gates in thy land which the Lord thy God gives thee,] thou shalt not harden thy heart, nor shut thy hand from thy poor brother: but thou shalt open thy hand wide to him, etc. [and shalt surely lend him sufficient for his need, in that which he lacks]."<sup>15</sup> Because of this matter, "the Lord shall bless thee etc. [in all thy works, and in all that to which thou puttest thy hand]."<sup>16</sup> All who desist from giving tzedakah are considered unworthy and are as if they were idol worshipers (Ketubot 68).<sup>17</sup> Therefore, it is written concerning whoever does not want to give tzedakah: "Beware that there be not an unworthy thought in thy heart, etc. [saying, The seventh year, the year of release, is at hand;] and thy eye be evil against thy poor brother,

<sup>14</sup> Ta'anit 21a: "It is related of Nahum of Gamzu that he was blind in both his eyes, his two hands and legs were amputated, and his whole body was covered with boils and he was lying in a dilapidated house on a bed the feet of which were standing in bowls of water in order to prevent the ants from crawling on him. ... [H]is disciples said to him, Master, since you are wholly righteous, why has all this befallen you? and he replied, I have brought it all upon myself. Once I was journeying on the road and was making for the house of my father-in-law and I had with me three asses, one laden with food, one with drink and one with all kinds of dainties, when a poor man met me and stopped me on the road and said to me, Master, give me something to eat. I replied to him, Wait until I have unloaded something from the ass; I had hardly managed to unload something from the ass when the man died [from hunger]. I then went and laid myself on him and exclaimed, May my eyes which had no pity upon your eyes become blind, may my hands which had no pity upon your hands be cut off, may my legs which had no pity upon your legs be amputated, and my mind was not at rest until I added, may my whole body be covered with boils. Thereupon his pupils exclaimed, 'Alas! that we see you in such a sore plight'. To this he replied, 'Woe would it be to me did you not see me in such a sore plight'."

<sup>15</sup> Deuteronomy 15: 8-9.

<sup>16</sup> Deuteronomy 15:10.

<sup>17</sup> Ketubot 68a: "... R. Joshua Korha said, Any one who shuts his eye against ... [tzedakah] is like one who is worshipping idols, for here it is written, *Beware that there not be a base thought in thine heart*, etc. [and thine eye will be evil against thy poor brother [(Deuteronomy 15:9)]] and there it is written, *Certain base fellows are gone out [(Deuteronomy 13:14)]*, as there [the crime is that of] idolatry, so here also [the crime is like that of] idolatry."



and thou give him nothing; [and he cry to the Lord against thee; for it shall be reckoned to you as a sin]." And concerning the city of idolaters it is written: "The people, the unworthy ones, went out" (Baba Batra 10).<sup>18</sup>

4: Whoever is cautious with tzedakah, tzedakah testifies for him, for he is the blessed seed of the Lord, from the seed of our father Abraham the compassionate one, as it is written: "For I know him, that he shall command his children and his household after him, and they shall keep the way of the Lord, to do tzedakah and judgment; that the Lord may bring upon Abraham that which was spoken of him."<sup>19</sup> Israel's throne can only be established through tzedakah as it says: "With tzedakah shalt thou be established..."<sup>20</sup> Israel will be redeemed only through tzedakah as it says: "Zion shall be redeemed with judgment, and those that return to her with tzedakah,"<sup>21</sup> and it says: "Keep judgment and do tzedakah: for my salvation is near to come, and my righteousness to be revealed."<sup>22</sup> We say at the end of chapter four of tractate Sukkah that "tzedakah is greater than every sacrifice, as it is written: 'To do justice and tzedakah is more acceptable to the Lord than sacrifice.'"<sup>23</sup> Whoever does tzedakah and justice fills the entire world with goodness, as it is said: "He who loves tzedakah and judgment, the earth is full of the

<sup>18</sup> Baba Batra 10a: "R. Joshua Korha says, Whoever turns away his eyes from [one who appeals for] ... [tzedakah] is considered as if he were serving idols. It is written in one place, *Beware that there not be a base thought in thine heart* [(Deuteronomy 15:9)], and in another place, *Certain base fellows are gone out* [(Deuteronomy 13:14)]. Just as in the second case the sin is that of idolatry, so in the first case the sin is equivalent to that of idolatry."

These are based on *gezira shava* - the word "unworthy" is in both texts, so the rabbis can connect the unworthy thought of not lending money with the knowledge of the upcoming Year of Release to the unworthy idolaters.

<sup>19</sup> Genesis 18:29.

<sup>20</sup> Isaiah 54:14.

<sup>21</sup> Joshua 1:27.

<sup>22</sup> Isaiah 56:1.

<sup>23</sup> Sukkah 49b: "Rabbi Eleazar stated, Greater is he who performs ... [tzedakah] than [he who offers] all the sacrifices, for it is said, *To do ... [tzedakah] and justice is more acceptable to the Lord than sacrifice* [(Proverbs 21:3)]."

goodness of the Lord."<sup>24</sup>

5: A person never becomes poor from [giving] tzedakah. It is not a bad thing, and no damage is caused by doing it, as it says: "The work of tzedakah shall be peace..."<sup>25</sup> Whoever is compassionate to the poor, God is compassionate to him. A person needs to truly understand that when he asks, God will at all times provide for his sustenance. Therefore, "like when one asks God to hear his cries, so [that person] needs to hear the cry of the poor" (Tur). Even more, God is nearby in order to hear the cries of the poor. Concerning Job it is written: "...The cries of the poor He shall hear."<sup>26</sup> It is also a decreed covenant for them, as it says: "'I have heard, for I am gracious,' therefore, a person should pay heed to their [the poor's] cries." Also, one should pay heed because it is a recurring pattern in the world. The end of humanity is coming through this state. If it does not come now, it will come during our children's time, or their children's time, and so forth (My tradition is that people collect tzedakah from others and this saves their generations from begging.).

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*Statements such as "A person needs to truly understand that when he asks, God will at all times provide for his sustenance" beg the question: What does this say about poor people? Does it imply that poor people are not genuine in asking for God's assistance?*

*One way to answer these questions is to say that this statement focuses on the doer of tzedakah and has nothing to do with poor people. If a person sustains the poor and realizes that his helping the poor will not jeopardize his financial well-being, God will sustain him in his inevitable time of*

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<sup>24</sup> Psalms 33:5.

<sup>25</sup> Isaiah 32:17.

<sup>26</sup> Job 34:28.

need.<sup>27</sup> To be sure, the sages believed that God would help those givers of tzedakah by protecting them from the throes of poverty, that God would "sustain" them. The Aruch haShulchan says so in paragraph 6 of this chapter. This statement, then, does not reflect on poor people; it does not refer to their neglect of God in any way. Instead, it focuses on the giver, prodding him to continue his work with the poor.

But what about those poor people who do tzedakah and are still in need of sustenance? Does not this understanding of the statement in question ignore their situation? Perhaps a solution may be found through our understanding of "sustenance."

Though the sages believed that financial security was ensured by God, and that God determined who would be rich and poor,<sup>28</sup> our modern understanding of God is not as One who delegates finances. Given this, "sustenance" cannot be financial; when I ask for God to sustain me, I cannot expect God to provide me with my basic needs for survival. Rather, "sustenance" is a spiritual coping mechanism. When I ask God to sustain me, I am asking for the strength to persevere through whatever crisis I may be encountering, financial or otherwise.

The statement in question, then, is one of reassurance. By helping to eradicate poverty, I can be assured that I am doing God's work; this is what God demands of me. Therefore, at times when I might need God to "sustain" me, I know that God will always be with me.

6: Let not a person say: "How can I part from my wealth to give it to the poor?" For he has to know that his wealth is not his but was entrusted to him to do with it the will of the Entruster, and He wants you to give

<sup>27</sup> See Introduction, p. 19.

<sup>28</sup> See Machenbaum thesis.

tzedakah. This is the good portion he will have from his wealth, as it says: "Your tzedakah shall go before you."<sup>29</sup> Furthermore, we know for a fact that a person will not become desolate nor lacking because of the tzedakah he gives, but in fact the opposite will occur; riches and honor will be added to him, as it is written: "... then put Me to the test with that ... if I will not open for you the windows of heaven, and pour out for you blessing immeasurable."<sup>30</sup> The sages say in masechet Ta'anit (9): "It is forbidden to test God concerning anything except for this, as it is written: '... then put Me to the test with that etc.'"<sup>31</sup> (Tur). There are those who say that this only refers to tithing and not to tzedakah, that the verse stands upon tithing and not other kinds of tzedakah, but there is no good reason to distinguish between these. There are others who say only the grain tithe, as it is written: "You shall surely tithe all the increase of your seed that the field brings forth every year;"<sup>32</sup> this means, [through a rereading of *asher ta'asher* in the Deuteronomy verse, that one should] tithe in order to become rich. This applies even more to one who is giving in order to become rich. My opinion is that no thought should be given to distinguishing between these. There is proof from a number of wealthy people who, the more they gave, the

<sup>29</sup> Isaiah 58:8.

<sup>30</sup> Malachi 3:10.

<sup>31</sup> Ta'anit 9a: "R. Johanan met the young son of Resh Lakish and said to him, 'Recite to me the the Bible verse [you have learnt to-day]. The latter replied, *Thou shalt surely tithe* [(Deuteronomy 14:22)]', at the same time asking, 'What may be the meaning of these words?' R. Johanan answered, 'Give tithes that you may be enriched'. The boy then asked, 'Whence do you adduce this?' R. Johanan replied: 'Go test it [for yourself]'. The boy thereupon asked: Is it permissible to try the Holy One, blessed be He, seeing that it is written, *Ye shall not try the Lord* [(Deuteronomy 6:17)]? - R. Johanan replied: Thus said R. Oshaia: The case of tithe-giving is excepted [from the prohibition], as is said, *Bring ye the whole tithe into the storehouse, that there may be food in My house, and try Me now herewith, saith the Lord of Hosts, if I will not open you the windows of heaven and pour you out a blessing, that there shall be more than sufficiency* [(Malachi 3:10)]. (What is the meaning [of the words], *That there shall be more than sufficiency*?' - R. Rami b. Hama said in the name of Rab: Until your lips grow weary from saying, 'It is enough'.) The boy thereupon exclaimed, Had I reached this verse [in my Bible studies] I should need neither you nor R. Oshaia, you teacher."

<sup>32</sup> Deuteronomy 14:22.



wealthier they became. There are also those whose riches are lost, but this is among the mysteries of the Lord our God. Of course it is for their benefit, even though the majority are not so. Tzedakah delays the difficult decrees, and in hunger it will save from death as what happened [when Elijah went] to Tzarefet, because a small cake was given to Elijah the prophet - read there.<sup>33</sup> Also to Jethro because he said: "Call him, that he may eat bread."<sup>34</sup> The opposite happened to Amon and Moav. They were distanced from us because they prevented tzedakah, as is written in the Torah (Nehemiah 13:2) concerning this matter that they did not meet you with bread and water (Tur).

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*It is sad that some people can be motivated to do good only if it benefits them personally. When the rabbis wanted people to give money, they realized the best motivator was one which would bring added wealth and riches to the giver. By pushing such an agenda, the sages were able to encourage more people to give more money.*

*This is not unlike current fundraising techniques in today's American Jewish communities. Organizations and institutions are enticing large givers with promises of fame and public recognition. The biggest donors are rewarded with buildings or programs named after them as fundraisers have learned that this is a great motivator for our day and age.*

*But is this really tzedakah? When we give in order to gain for ourselves, whether it be financial or for recognition, and not for the sake of doing what is morally incumbent upon us as Jews, the giving loses some of its merit as a Jewish act. The ideal of tzedakah as "righteousness" cannot be taken seriously when giving money for the poor, or for any outstanding need for that matter, is exploited for personal enhancement and boasting.*

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<sup>33</sup> I Kings 17.

<sup>34</sup> Exodus 2:20.



*That is not to say that we could not all benefit from doing tzedakah. If we worked to devise and implement a strategy that would tackle the societal inequities which systemically allow those more fortunate to harbor an unfair advantage, that would provide educational and employment opportunities for all individuals to compete in our high-paced technological society, and that would, in effect, eradicate poverty from our midst, we would all benefit financially and socially. Tzedakah is best achieved when done for the betterment of all of society. If, as a by-product of participating in a plan of societal rejuvenation, certain individuals are able to personally derive added benefit, so be it. However, one's intention in doing any tzedakah must not be personal gain. This is the antithesis of tzedakah's true intent.*

7: He who has taken an oath not to give tzedakah, this is not a valid oath that is incumbent upon him, because he made an oath to cancel the commandments. It is written in Ma'harik (161) that if it is found in the accounting books of a man after his death that he sanctified his wealth or his equipment to tzedakah and he did not hand it over to the public or have witnesses account for it, in any case the inheritors are obligated to fulfill it. There is no concern that perhaps he reconsidered - see there. Obligatory tzedakah can be coerced, even though the Torah mentions a reward concerning it and no Beit Din can force concerning this (a Toraitic decree with a reward given cannot be coerced). However, with tzedakah there is also a negative commandment [which a Beit Din has the power to enforce] (Tosephot, Ketubot 49b- acpayah). There are other reasons for this which we clarify in chapter 240, paragraph 6 - see there.

7 Cf. in 70: "And thought I will afford thee that I will give thee my tzedakah... (Tzedakah) I will afford thee... if you do that, I will not again afflict poverty upon you."  
 7 Leviticus 25:36

**Chapter 248: Who is obligated concerning it and who is suitable to receive it in fifteen paragraphs**

Synopsis: There is a disagreement as to whether the poor are obligated to give tzedakah. After a discussion as to what is meant by "poor," it is decided that the poor do need to give. They are required to give a mandatory third of a shekel and can even be forced to do so. Beyond this, the poor cannot be required to give anything else, though they can give more if they so choose. The courts have the right to enforce payment of tzedakah, even going so far as to seize a portion of your possessions if you do not pay as much as the court deems you capable of paying. When one's children are under the age of six, we can say that the feeding of those children is his tzedakah. When they are older than age six, if he does not feed them, the community will, but he will be assessed for it through his tzedakah assessment. If they can go into his possessions to pay for *cheder* tuition, certainly they can do likewise to collect his required tzedakah allotment. Tzedakah can be collected all week, even on erev Shabbat (Friday afternoon). Orphans are not required to give tzedakah of unfixed amounts, but their trustee may give some of their funds to establish for them a good name. Household members may give only a little tzedakah and only with the consent of the head of household. There is a lengthy discussion about husband/wife relationships *vis-a-vis* money. If the wife gives tzedakah and the husband later disagrees with her giving, the burden of proof falls upon him to show that her giving was without his knowledge or against his will. People should not give beyond their means, and tzedakah collectors should not keep going to the same people for more money. Give tzedakah with humility, and give of your best.

*Commentary found after paragraphs 2, 3, and 13.*

1: The sages say in Gitin (7b)<sup>1</sup> that even a poor person who is sustained with tzedakah is obligated to give tzedakah, and when he does, the heavens will no longer show him signs of poverty - see there. Thus it is written in the Tur and the Shulchan Aruch. There is a question about this, and even the Tur itself writes in chapter 251 in the name of our teacher Sa'adia Gaon that a person is not obligated to give tzedakah until he can sustain himself as it says: "... and your brother's life is with you:"<sup>2</sup> Your life takes precedence over your

<sup>1</sup> Gitin 7b: "And though I have afflicted thee: Mar Zutra said: Even a poor man who himself subsists on ... [tzedakah] should give ... [tzedakah]. I will afflict thee no more: R. Joseph learnt: If he does that, [Heaven] will not again inflict poverty upon him."

<sup>2</sup> Leviticus 25:36.

brother's." Also, our teacher Rabbi Moses Isserles wrote there similarly. It seems that this [contradiction] is the reason that our teacher Joseph Caro leaves this (that a poor person has to give tzedakah) out of the Shulchan Aruch as is presented there in his book, Badak haBayit, [where he writes]: "In my opinion, I doubt the truth of Sa'adia's words concerning this." It is clear that he had a difficulty with the judgment that is before us.

2: There is one for whom it appears from his words that here, too, this refers to when he has sustenance. If not, he is not obligated to give tzedakah as it says in chapter 251. One may have a difficulty that if so (if he is working or can sustain himself), how is it permissible for him to receive tzedakah? That is to say that this refers to, for example, when he does not have 200 zuz, then he is allowed to receive tzedakah as it is written in chapter 253 (Siftei Cohen). Those words are surprising, because if he had sustenance it is obvious that it would be forbidden for him to receive tzedakah even when he did not have 200 zuz. The reason that when he has less than this amount it is permissible for him to receive tzedakah is that the rabbis determined that having less than this amount cannot be considered sustenance as what is written there. But, when he has sustenance, who would permit him to receive tzedakah, even if he doesn't have cash at all? This alone is far from being clear.

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*The rabbis had an established "poverty line" of 200 zuz which they determined to be the minimum amount necessary to provide for one's basic needs. Anyone who fell below this line was guaranteed the right to receive tzedakah, even if the person was employed, because one could not possibly sustain himself or his family on less than 200 zuz.*

*Our society has a federally designated poverty line as well. Those who*

fall below it are guaranteed, at least in theory, 'certain forms of government assistance which will help provide the basic necessities of food, clothing, shelter, and medical care. However, the level at which the federal government provides for those people whom it has determined to be in need falls significantly below its own designated poverty line! The federally mandated minimum wage which employers must pay workers falls significantly below the poverty line as well. Not only do welfare programs not provide an adequate safety net for America's poorest inhabitants, but they penalize those poor individuals who manage to find work by removing necessary benefits upon which poor people depend. This is the antithesis of the halacha's intent.

The United States needs a system of government aid which supports people in their attempt to move out of poverty. It should provide guarantees of assistance which comply to its own minimum standards of financial independence and a minimum wage which can provide a livable income. Not only would such a program encourage more people to work, but it would be the first step in eradicating poverty in our society.

3: In my opinion, there is not here the beginning of a difficulty, because they are two different subjects. When it is clarified there (in 251) that one is exempt from giving tzedakah until he can sustain himself, it is concerning continuous tzedakah of a tenth or fifth of his sustenance. But here, this refers to the obligation of tzedakah once in a year to fulfill the positive commandment of tzedakah. Concerning this, they say in Baba Batra (9)<sup>3</sup> that

<sup>3</sup> Baba Batra 9a: "R. Assi said: A man should never neglect to give the third of a shekel [for ... [tzedakah]] in a year, as it says, *Also we made ordinances for us, to charge ourselves yearly with the third part of a shekel for the service of the house of our Lord* [(Nehemiah 10:33)]. R. Assi further said: ... [Tzedakah] is equivalent to all the other religious precepts combined; as it says, *'Also we made ordinances'*: it is not written, 'an ordinance', but 'ordinances'."

a person may never prevent himself from giving less than a third of a shekel in a year. This is clarified in chapter 249. Concerning this they say in Gitin that even the poor who are sustained by tzedakah are obligated to give tzedakah; that is to say, to fulfill the commandment of tzedakah through the giving of a third of a shekel. There is proof of this in Rambam's words in chapter 7 of Matnot Ani'im, halacha 5 when he writes, and these are his words: "One may never prevent himself from giving a third of a shekel in a year, and whoever gives less than this has not fulfilled the commandment. Even the poor who is sustained by tzedakah is obligated to give tzedakah to someone else;" as if to say, that third of a shekel.

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*The halacha goes to great lengths to implore poor people to give tzedakah. Perhaps this is to placate those wealthy individuals who want the poor to be accountable for their situation by insisting they not become too complacent in their receiving of funds. This would not be unlike the current trend in America of demanding accountability of those poor people who are "too lazy" to find employment and are "manipulating" the federal welfare system.<sup>4</sup>*

*However, it is more likely that the rabbis insisted the poor give tzedakah in order to maintain their dignity and feel like contributors to their respective communities. Too often, the poor are dehumanized and villianized. They are blamed for their predicament and made to feel inferior. By providing a means by which the poor could actively participate in society, in a way that made them equal to all other members, the rabbis were creating a humane environment. America could learn much from such an attitude.*

<sup>4</sup> See my commentary on chapter 255, paragraph 2 for further discussion.



4: The Tur and the Shulchan Aruch in the introductory paragraph in chapter 248 wrote that every person is obligated to give, even the poor etc., and that whoever gives less than what is suitable for him to give, the court can force him, even punish him, for his disobedience until he gives what they have assessed him to give. They can go into his possessions in his presence and take from it what is suitable for him to give - until here are his words. There are those who wrote that this does not refer to a poor person. It is clarified in chapter 253, paragraph 8 that a poor person who does not give cannot be obligated to do so (D'risha), but the text does not appear to be telling us this. There is one who has written that here this refers to one who has sustenance from a different place (Siftei Cohen, according to his own theory), but we have already clarified that it is impossible to say this (that we cannot make a distinction between the poor and the working poor making less than 200 zuzim). According to what we clarified, there is no difficulty at all because here refers to the matter of the third of a shekel that [is required to be given] every year and that may be enforced; chapter 253 concerns all other kinds of tzedakah. This teaches us that the tzedakah the poor gives should be accepted. Lest you erroneously think that after he gives his third of a shekel no more can be accepted from him, this teaches us that this is not so. It says that a poor person cannot be obligated to give because he is exempt from the commandment of tzedakah every year after he has given his obligatory third of a shekel.

5: As for what they wrote, that they may go into his possessions in his presence (with his knowledge of it), Rambam also wrote that "there are others who say even in his presence and all the more so when they are not in his presence (Bayit Chadash)." There are those who say definitely in his presence,

but not when he is not present until they inform him, as in a debt in Choshen Mishpat chapter 106. If it is impossible to inform him, then go without him being there (Siftei Cohen). There are also those who say that without him there, there is no taking of tzedakah at all from his possessions in all cases. Truthfully, this is a disagreement among the *rishonim* that arises from the literal meaning of the discussion (Ketubot 48a).<sup>5</sup> It is clear that whoever goes overseas does not need to give tzedakah from his possessions, and the Magen Mishneh already discussed this in chapter 12, halacha *m'ashut*. - see there. However, concerning the opinion of the students of our teacher Yonah [who say] we do take tzedakah [from his property] (Shitah M'kubetzet), they explain the *gemara* differently there. Also, the Ran (Rabbi Nissim on the Alfassi) wrote there that when he (the man who traveled overseas) is rich, tzedakah can be taken [from his possessions] - see there. And so, in the Tur it is written simply enough that they may go into his possessions and it does not mention whether he has to be there or not - see there. Rather, the interpreters wrote that one needs to read thusly (with *b'fanav*) in the Tur - see there - but it does not make it a necessity [that he be present]. The Rambam, at the end of the Hilchot Nachalot, wrote that for whoever is crazy or becomes deaf and dumb, a court may take tzedakah from his possessions (he does not have to be present) - see there. Truly this is not proof, for one has left town intentionally [lit. sanely] as was clarified in our discussion there. There is some surprise concerning the Rambam that he did not mention this judgment of not taking from him when he is not present. Perhaps this is connected to what Rambam said, that in the person's presence they can take from his possessions. It is clear that when he is not present, they cannot do as such.

<sup>5</sup> The discussion on Ketubot 48a concerning this covers the entire page and would be too long to cite here. See the actual *daf* for citation.

6: Furthermore, it is my opinion that these two sides do not disagree at all: Only for a brand new tzedakah assessment is there no judging against him when he is not present. But as for tzedakah which is an ongoing obligation (that has already been assessed against him) and he always gives, why can they not take it from his possessions even when he is not present? Granted that in the case of a new donation, you could say that he will give wherever he is or that he will give when he comes home. But tzedakah that is fixed and can be forced from him, why should it matter if he is present or not? Is it not like [the case of] feeding his sons and daughters older than six years old? We said that when he does not want to feed them, why should we worry about his offspring? Even so, we clarified this in Even Ha'ezer; that is to say, that generally we do feed them - see there. But certainly they can take previously assessed tzedakah, and there is proof of this from his [child's] tuition fee. This was clarified in chapter 245, that they could go into his possessions to pay for his tuition fee for his children - see there. Then why should fixed tzedakah, given that the poor already have claims upon it, be any less valid than the tuition fee? There is more proof from orphans, upon whom the mitzvah of tzedakah is not enforced. They do give a limited amount, as will be clarified later on. Precisely according to the language of the early sages, they wrote in Ketubot that this (taking money from his possessions) refers to new tzedakah pledges. According to what our teacher Rabbi Moses Isserles concluded in Even Ha'ezer, if he began to feed [his children over the age of six], the feeding becomes a tzedakah obligation and he can be forced afterwards to [continue to] do so - see there. How much the more so in this case, and this is a *kal v'chomer*. If he has a wife, or sons, or daughters whom he places upon them the responsibility of household financial expenditures, they (the court) can take from them (the family) the

required amount of tzedakah in all cases, even with a new donation of tzedakah, when they (the family) are acting on his behalf. As such, this is the prevalent custom, and there is no changing that.

7: The sages said (Baba Batra 8)<sup>6</sup> that tzedakah pledges are accepted even on the eve of Shabbat. In spite of the fact that the head of the household might say "I am busy preparing for Shabbat and will give after the Shabbat," do not let this affect you concerning him. It seems this should be only with respect to fixed (previously assessed) tzedakah, the kind which was pledged and the time has come to collect on erev Shabbat - collect it. However, tzedakah that is new and the time of collection of tzedakah is now, he can say "I am busy now and will give after the Shabbat." (Bayit Chadash) Thus it is proven in the gemara there that it refers to the tzedakah collective (the general, ongoing fund) - see there - that they would collect at anytime during the week.

8: The Tur and the Shulchan Aruch in paragraph 3 wrote that there is no forcing orphans (minors who have come into possession of their fathers' wealth) to give tzedakah, even if to free captives, even if they have a great amount of wealth, unless we assess tzedakah upon them for the purpose of their sense of honor so that they will establish for themselves a reputation - to here are Caro's words. Rabbi Moses Isserles wrote that this refers only to: a) tzedakah that has no fixed amount, or b) tzedakah with a fixed percentage of the orphan's property, but can wait until he gets older; for example, if they have an untithed portion and there is no need to eat now (everything is fine).

<sup>6</sup> Baba Batra 8b: "What authority is involved [in collecting ... [tzedakah]]? - As was stated by R. Nahman in the name of Rabbah b. Abbuha, because the collectors can take a pledge for a ... [tzedakah] contribution even on the eve of Sabbath. Is that so? Is it not written, *I will punish all that oppress them* [(Jeremiah 30:20)], even, said R. Isaac b. Samuel b. Martha in the name of Rab, the collectors of ... [tzedakah]? - There is no contradiction. The one [R. Nahman] speaks of a well-to-do man, the other of a man who is not well-to-do; as, for instance, Raba compelled R. Nathan b. Ammi to contribute four hundred zuz for ... [tzedakah]."



But, if they have to eat now, tithe for them. This is the law concerning tzedakah: If they have an allotment from their father each and every year but this (the tithe) is all they have to eat, [feed them with the tithe]. Or, let them go door to door and beg and it will be a disgrace to the orphans that their guardians took the allotment from their (the orphans') possessions to give to their relatives.

9: A clarification of what they (Isserles and Caro) said in Gitin (52a):<sup>7</sup> It is taught that a guardian may take *trumah* or a tithe from the produce of orphans *only* for consumption. It is also taught there that the orphan cannot be forced to give tzedakah or to redeem captives or for anything that has no fixed amount. This clarifies clearly the matter that he (the guardian) has a sum which does have a fixed amount you do give on their behalf (the orphans). So, what it says there in Baba Batra (8a)<sup>8</sup> not to impose tzedakah upon orphans except to make them in better standing, concerns tzedakah without a fixed amount. As explained in Gitin, the language "we do not assess" implies we do not make a new assessment, because it is a new donation. The reason is obvious: Granted that orphans are not responsible for fulfilling mitzvot, it is a mitzvah in and of itself. Therefore, there is no assessing tzedakah from them nor tithing from their fruits in order to fulfill the commandment of tithing. In any case, they themselves are not sinners;

<sup>7</sup> Gitin 52a: "So it has been taught: 'Guardians set aside *terumah* and tithe [from the produce of their wards] which is meant for consumption and not for storing. ...'"

<sup>8</sup> Baba Batra 8a: "R. Assi further said in the name of R. Johanan: All are required to contribute to repairs the town walls, including orphans, but not the Rabbis, because the Rabbis do not require protection. R. Papa said: For the repair of walls, for the horse-guard and for the keeper of the armoury even orphans have to contribute, but the Rabbis [do not, since they] do not require protection. The general principle is that even orphans have to contribute for any public service from which they derive benefit. Rabbah levied a contribution for ... [tzedakah] on the orphans of the house of Bar Merion; whereupon Abaye said to him: Has not R. Samuel b. Judah laid down that money for ... [tzedakah] is not to be levied on orphans even for the redemption of captives? - He replied: I collect from them in order to give them a better standing."



are not the poor maintained by the tzedakah that their (the orphans') fathers gave in the city as part of the various funds (*kuppah*, *tamchuey*, and *sha'arei tzedkot*) or [to] *krovim* (relatives)? The poor have a claim to this money, and if they will not give to them now, they are committing a transgression like when they tithe or take *trumah* from prohibited food, that they should not eat prohibited food, but send it to the *Kohanim*. Here, too, it is as well. Therefore, our teacher Rabbi Moses Isserles thought likewise concerning the untithed portion [with which you are allowed to make a improvised meal before tithing] because of what it says in the *gemara* when it writes concerning the fixed amount, taking relatives as an example. This comes to teach us something bigger: We do not even need to say this has to do with commanded requests that can be forced; [of course you can take this from orphans], because the people of the city are already forced to do this. Rather, this applies even to a fixed amount that can be taken from the estate when orphans can say, "Our father wants to give to them, but we do not want to." In any case, until they have grown up, give it to the relatives since it is a fixed amount. As for what he writes, that it would be a disgrace for orphans, this proves that without this, we would not give much priority to them. This comes to teach us, as if to say, that even if it were in your ability to prevent tzedakah from relatives until they grow up; for example, that their fathers exceed the amount (so that the relatives are no longer poor). In any case, any time that they are minors, the guardian is able to give to boost their reputation, and it is similar to what we said above [that we can give fixed amounts to boost reputation]. (The Bayit Chadash disagrees with Isserles ...)

10: It thereupon becomes clear that giving for them in order to esteem them

is permitted. There is one who says that this applies only to orphans who are "nameless" children, but if they already have a good name, there is no giving in order to give them an even greater reputation (Bayit Chadash and Sifte Cohen, note 6). It is also written that if the guardian says "I do not want them to have a name," listen to him (note 5). There is one who says this applies only when they (the orphans) are quite wealthy (Bayit Chadash), and there is one who says that even if they are not so wealthy (Sifte Cohen). A rich orphan who is sick and the guardians vowed to give tzedakah [out of his wealth] and afterwards the orphan dies, if they already gave a little to tzedakah or the poor, even if these tzedakah things are still in current form, there is no returning it to the inheritance. So it is if they sent [money] to the tzedakah collectors or, if after it is taken, he says "I acquire this on behalf of the poor or tzedakah." If nothing but the mere pledge has still been given, the inheritors are able to nullify what they had said since he is dead.

11: The tzedakah collector may accept only a little [money], not a great amount, from women, slaves, and children, because it can be presumed to be stolen from others. How much is a little? It depends on the husband's wealth or poverty, and these apply in the difficult cases. However, if the husband protests, he (the collector) is forbidden to accept anything from them. If they have punished the wife with such a punishment (a monetary one), the husband is obligated to pay (Sifte Cohen, note 10). He is also obligated to pay whatever she vowed when she was unmarried (Shulchan Aruch - Ba'er Ha'etev). A husband cannot protest when his wife demands from him money to give to her relatives according to her own wealth (same). This matter is surprising - how is she able to give against his will? Indeed, it all comes out well in paragraph 13 - see there.

12: In Choshen Mishpat, chapter 81 it is clarified that whoever enters into an agreement in the presence of the child's father to teach his son Torah and the father is quiet, that quiet is like an acknowledgement of the price, and he is obligated to pay - see there. However, if he hired him when the father was not present, he is not obligated to pay even though he knew [of the agreement], and this applies when another does this. The wife of a man who hires a teacher for her son, even not in his (her husband's) presence, and he knows about it but is quiet, of course it is pleasing to him and he is obligated to pay. However, if he protests against her on the spot when he hears of it, her deeds are null and void. If he is quiet at the time when he hears of it he is obligated to pay, and he cannot protest after the fact. Even when she does business (is a wage earner) within the house, he can protest because everything is his. Know that there is one who thinks that a wife, when she is independently employed, we do not say that what a woman acquires, her husband acquires. Accordingly, from a woman like this of course it is permissible to take tzedakah, even though this law is not clear to us. In any case, concerning tzedakah it is possible to trust this opinion. Know that Yam shel Shlomo (Luria) wrote at the end of Baba Kamma in the name of Rabbi Elezar bar Natan that now even large amounts are accepted from women, that now women are considered to be as administrators of their husbands - see there. It is also written there concerning the law of her hiring of a teacher for her son, in spite of the fact that we did not clearly know that he (the husband) knew, we said that in ordinary cases we declare that the husband knew until he could bring proof that he did not know - see there.

13: It seems, in my humble opinion, that since it has been established for us

that he can be forced concerning tzedakah, and now in this time know that we do not have the power to force, therefore if there is an extremely rich and greedy man, and his wife gives tzedakah without him knowing, of course she herself will not be able to be a judge (how much to give) concerning this. But, if the local rabbi says to her that given his (the husband's) wealth, if we had the power, we would force him to give such and such, she would be able to give a limited amount such as this, and why should we be any worse off, given our inability to coerce him? If we are able to collect the tzedakah that the Law (Torah) obligates him to pay in spite of the fact that this enforcement was with the husband's knowledge, and here (the situation of the wife giving without the husband knowing) it is without his knowledge, in any case, since he is obligated with this amount and even though we are not able to force him, in any case the obligation is incumbent upon him and we have determined concerning this according to his obligation. I have seen one authority who has forbade [accepting tzedakah from a wife like this] (Nidah B'yehudah, vol. ii, responsa 158). Perhaps in his time the Beit Din still had the power to enforce what is not enforceable in our time. Accordingly, it (the difficulty) comes out well at the end of paragraph 11 in the matter of her relatives and his inability to protest - how is she able to give against his will? But, according to our words here it works out fine - concerning that which he is obligated to do, she can do (for her relatives). The matter is obvious, that a wife who says her husband gave her permission is to be believed.

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*The relationship between husbands and wives that has been expressed in the previous few paragraphs is inapplicable to our situation today. In our society, men and women share financial responsibilities in the household. As such, women are not required to relinquish their earnings to their*

*spouses. Of course, any major financial decision which would affect the household should be discussed mutually between spouses, regardless of who initiates the transaction. Any donation to an organization or fund should be based on an intelligent decision made by both husband and wife.*

14: The Tur and the Shulchan Aruch in paragraph 6 quote the Tosephta: A son who is eating at his father's or a slave who is eating at his master's who gives a piece of bread to the poor or to the son of the master or the father, he does not need to fear that he has stolen, because this is the way of heads of households - end of quote. That is the Tosephta at the end of Baba Kamma. Before us is a different text in which he gives a piece of bread to the children and servant of the master or the father, and we should not fear etc. - see there. It seems that the version of the Tur and the Shulchan Aruch is clearer. And so, the Mordechai in chapter 1 of Baba Batra explains as they do - see there. From this is the custom of the servant of his master's house giving a little bread to the poor because this is the custom. However, if the head of the household protests against them, then they should not give. In the Mordechai there he brings another [situation] from masechet Derech Eretz, paragraph 9: Guests who come to the head of the household are not permitted to give to the son of the head of the household, nor to his servant nor his maidservant unless they would get permission from the head of the household - see there. This does not contradict the tosephta because it is a different matter there, that perhaps the head of the household did not have anything other than what he put before them (the son and the servants), and if he gives money to tzedakah he will place the family in danger as is



summarized there. This is also mentioned in Chulin (94),<sup>9</sup> and as what is written in Orach Chayim, end of 170 - see there. In truth, however, if there is much on the table, he can give (Magen Avraham, chapter 170, note 123 to Orach Chayim). In the tosefta, it refers to one who knows that the head of the household has the means to give, for if this were not so, of course it is forbidden because his life takes precedence.

15: A most generous person who gives tzedakah beyond his [financial] ability or squeezes himself to give to the collector in order not to shame himself, it is forbidden to demand and collect tzedakah from him, and the collector who shames him by asking him for money, in the future the Holy One Blessed-be-He will punish him. So the sages said (Baba Batra 8)<sup>10</sup> that as it is written, "I will punish all that oppress them,"<sup>11</sup> this has been extended to tzedakah collectors who pressure givers into giving when the giver is not "estimated" to give that amount - see there. Rambam wrote at the end of Esuray Mizbei'ach: "Whoever wants to merit himself should curb his evil inclination, extend his hand, and bring his offering from the most praiseworthy and choicest that is the very best cow or dove he would bring.

<sup>9</sup> Chulin 94a: "The guests may not give from what is set before them to the son or daughter of the host, unless they have the host's permission to, do so. It once happened that a man in a time of scarcity invited three guests to his house and he only had three eggs to set before them. When the child of the host entered, one of the guests took his portion and gave it to him, the second guest did likewise, and so did the third. When the father of the child came and saw him stuffing one [egg] in his mouth and holding two in his hands, he [in rage] knocked him to the ground so that he died. When the child's mother saw this she went up to the roof and threw herself down and died. He too went up to the roof and threw himself down and died. R. Eliezer b. Jacob said: Because of this three souls in Israel perished."

<sup>10</sup> Baba Batra 8b: "What authority is involved [in collecting for ... [tzedakah]]? As was stated by R. Nahman in the name of Rabbah b. Abbuha, because the collectors can take a pledge for a charity contribution even on the eve of Sabbath. Is that so? Is it not written, *I will punish all that oppress them* [(Jeremiah 30:20)], even, said R. Isaac b. Samuel b. Martha in the name of Rab, the collectors for charity? - There is no contradiction. The one [R. Nahman] speaks of a well-to-do man, the other of a man who is not well-to-do; as, for instance, Raba compelled R. Nathan b. Ammi to contribute four hundred zuz for ...[tzedakah]."

<sup>11</sup> Jeremiah 30:20.

Behold, it says concerning Abel, 'As for Hevel, he also brought of the firstlings of his flock and of the fat parts thereof. And the Lord had respect to Hevel and to his offering.'<sup>12</sup> Similarly, it is the same for everything dedicated to the name of God - praise be God. If he built a house of worship, let it be made from the best and most pleasing [materials]; if in a house where people are sitting to eat, let the hungry be fed from the best and sweetest food that is on the table; if clothing the naked, let the clothing come from the nicest clothing that is in his possession; if sanctifying something, let it be sanctified from the nicest that is in his possession. So Scripture says, 'All the fat parts to the Lord.'<sup>13</sup> All these are things that should be done generously and without reservation.

<sup>12</sup> Genesis 4:4 from Koren Bible, p.4.

<sup>13</sup> Ibid.

**Chapter 249: How much one should pledge to tzedakah and how he should give it in twenty one paragraphs**

Synopsis: When deciding how much to give to tzedakah, a fifth of one's income is the ideal amount, but a tenth is the average. Supporting the family is the first responsibility of a person in life and in death. Tzedakah is a toraitic obligation; the concept of giving a fifth of one's income is rabbinic. This is not to say that the rabbinic decree has Toraitic weight, only that these numbers of a tenth and a fifth come from the Torah as models for rabbinic legislation. The sages are not saying that you have to give twenty percent based on the Torah. Again, you cannot give everything you have to tzedakah. In the first year, give a tenth or fifth of everything you have; after that, take the amount from your adjusted income only. The rabbis map out a complex system of figuring what you owe for tzedakah and what can be considered as part of your allotment, complete with detailed conditions and exemptions. Among these: One should not count giving money to immediate family members as part of one's tenth; all your tzedakah money should not go to buying holy objects; buying books for lending cannot be considered tzedakah, because the books should be given for public use and should not be expected to be returned; and, everyone must give at least a third of a shekel. Tzedakah is greater than all other commandments. It is a meritorious thing to encourage others to do tzedakah, and it is the way of Judaism to respect the dignity of the poor. Acts of loving kindness are greater than tzedakah, because the former prevents the need for the latter. The best form of tzedakah is a partnership where both the receiver and the giver profit. Rambam's eight levels of tzedakah are as follows: The highest level is to help a person become self-sufficient. The next level is when neither the giver nor the receiver know one another. The third level is when the giver knows the receiver, and the fourth is when receiver knows the giver. The next level is giving directly to the poor before being asked, while the sixth level is giving what is suitable after being asked. Seventh is giving less than what is suitable but giving kindly, and the lowest level is giving sourly. A discussion then follows as to whether fulfilling the mitzvah of tzedakah or of maintaining the synagogue is more important. There is no real resolution except to say that since the Israelites had to give a third of a shekel to maintain the Temple although this was more than enough money, how much the more so should that third of a shekel be given for the greater problem of helping the poor, where every prutah is needed! The chapter concludes by explaining how not to glorify yourself when putting your name on a tzedakah donation.

*Commentary found after paragraphs 7, 8, 12 - 17, and 21.*

1: The Tur and the Shulchan Aruch wrote that the amount one should give, if he has the means, is to give according to the needs of the poor as is clarified in chapter 250. If it is not within his means, he should give up to a fifth of his

wealth. This is the best way to fulfill the commandment, though a tenth is the average amount. Less than this is stinginess. The fifth, which is as he said: "The first year [of giving comes] from the principal (your entire estate - give a fifth of all you have). From then on, a fifth of what he earns for the year" - to here are his words. And so, of course the judgment is so concerning giving of a tenth. Rabbi Moses Isserles wrote: "A person should not squander more than a fifth of what he needs to live [so that he himself will not need tzedakah] (Ketubot 50a)."<sup>1</sup> This refers only to all the days of his life, but at the time of death a person can give as much tzedakah as he wants - to here are his words (Ketubot 67b).<sup>2</sup> There in the *gemara* it is explained that a person can divide up to half of his wealth at the time of his death and not more, and the reason is obvious: He should not remove a great deal of his inheritance from his heirs. Up to half he can apportion to tzedakah, because this is like an equal division with his heirs: Half is his for his soul and half goes to his heirs (it seems to me).

2: One needs to understand in the words of the Tur and the Shulchan Aruch why they wrote, "if one has the means to give, then according to the needs of the poor," since one is obligated to give a fifth or a tenth, and more than a fifth he is not permitted to give. If so, in any case it is so if a person is very wealthy and in his giving his tenth or his fifth all the needs of all the poor are

<sup>1</sup> Ketubot 50a: "R. Elai stated: It was ordained at Usha that if a man wishes to spend liberally he should not spend more than a fifth. So it was also taught: If a man desires to spend liberally<sup>6</sup> he should not spend more than a fifth, [since by spending more] he might himself come to be in need [of the help] of people. It once happened that a man wished to spend more than a fifth but his friend did not allow him."

<sup>2</sup> Ketubot 67b: "When he was about to die he requested, 'Bring me my ... [tzedakah] accounts'. Finding that seven thousand of Sijan [gold] denarii were entered therein he exclaimed, 'The provisions are scanty and the road is long', and he forthwith distributed half of his wealth. But how could he do such a thing? Has not R. Elai stated: It was ordained at Usha that if a man wishes to spend liberally he should not spend more than a fifth? — This applies only during a man's lifetime, since he might thereby be impoverished but after death this does not matter."

met. But if that is not enough, what should he do? They should have said that every person is obligated to give a fifth or a tenth, and from this let the poor be satisfied. It is my opinion that this is what it means: Truthfully these pledges of a tenth and a fifth are not toraitic but rabbinic in which they used Scripture to support their enactment: "... of all that You give me, I shall surely set aside a tithe (tenth) for You."<sup>3</sup> [This implies] two tithes (*asher* twice in the verse) as is clarified in Ketubot there that tithing as commanded by the Torah refers only to tithing of the harvest, and this is not for the poor. Rather, the first tithe goes to the Levites, and the second tithe is eaten in Jerusalem by the owners. Only once in three years is there a tithe for the poor (every three years the second tithe is left for the poor). It is a decree from the Torah, and of course this does not exempt from [the toraitic commandment of] tzedakah.

3: The obligation of tzedakah is explained in a number of verses in the Torah:<sup>4</sup> "If your kinsman, being in straits, comes under your authority, and you hold him as though a resident alien, let him live by your side: do not exact from him advanced or accrued interest, but fear your God. Let him live by your side as your kinsman. Do not lend him money at advance interest, or give him food at accrued interest."<sup>5</sup> "[If, however, there is a needy person among you, one of your kinsmen in any of your settlements in the land that the Lord your God is giving you,] do not harden your heart and shut your hand against your needy kinsman. Rather, you must open your hand and lend him sufficient for whatever he needs."<sup>6</sup> The amount for this is

<sup>3</sup> Genesis 28:22.

<sup>4</sup> The biblical translations in paragraph three are taken from the JPS translation of the Tanach.

<sup>5</sup> Leviticus 25:35-7.

<sup>6</sup> Deuteronomy 15:7-8.



whatever the kinsman needs as it is written "according to his needs." Of course, it should be understood [within the context of] this matter that the Torah does not command a person to give everything he has to the poor so that he would become poor or because "its ways are ways of pleasantness."<sup>7</sup> Truthfully, when Israel was in their land and their situation was good and there were only a few poor people, they were able to fulfill "according to his needs, etc." However, when we were exiled from our land and the poor increased and the rich diminished, even if the rich divided up all their wealth it was not enough to satisfy all the poor according to their needs. Therefore, the sages decreed a tenth and a fifth and not more, because of the necessity of making a boundary [of giving], as Rabba said in Ta'anit (20b):<sup>8</sup> "All these things I could myself carry out except the last one ... because there are so many in Mahuza." There are many poor there, and his estate would be consumed - see there.

4: Given this, this is what it means: The amount of its (tzedakah) giving, if he has the means as if to say that if he is very rich and there are only a few poor people there, he should give according to the needs of the poor *even if*

<sup>7</sup> Proverbs 3:17.

<sup>8</sup> Ta'anit 20b-21a: "Raba said to Rafram b. Papa: Tell me some of the good deeds which R. Huna had done. He replied: ... On cloudy [stormy] days they used to drive him about in a golden carriage and he would survey every part of the city and he would order the demolition of any wall that was unsafe; if the owner was in a position to do so he had to rebuild it himself, but if not, then [R. Huna] would have it rebuilt at his own expense. On the eve of every Sabbath [Friday] he would send a messenger to the market and any vegetables that the [market] gardeners had left over he bought up and had them thrown into the river. Should he not rather have had these distributed among the poor? - [He was afraid] lest they would then at times be led to rely upon him and would not trouble to buy any for themselves. ... Then why did he purchase them at all? - This would lead [the gardeners] to do wrong in the future [by not providing an adequate supply]. Whenever he discovered some [new] medicine he would fill a water jug with it and suspend it above the doorstep and proclaim, Whoever desires it let him come and take of it. Some say, he knew from tradition a medicine for that disease, *Sibetha* and he would suspend a jugful of water and proclaim, Whoever needs it let him come [and wash his hands] so that he may save his life from danger. When he had a meal he would open the door wide and declare, Whoever is in need let him come and eat. Raba said: All these things I could myself carry out except the last one ... because there are so many in Mahuza."

this amounts to neither a fifth nor a tenth, because this is the essence of the commandment concerning tzedakah - to give "according to his (the poor person's) need." But, if he does not have the means, that is to say either if he is not so rich or if there is an overwhelming number of poor people, he should give up to a fifth or a tenth *even if this does not fulfill their needs*, and it is impossible to give more. It seems that for the one who does not give a tenth, in any case the commandment of tzedakah is fulfilled, though unsuitably so. This is as with *t'rumah* when a person gives less than 1/50th (two percent) which is the average measurement. Similar to what we have said, Rambam also provides proof in chapter 287 of his *Matnot Ani'im* in which he wrote: "It is incumbent upon a person to give tzedakah to the poor of Israel according to what is suitable for the poor, and if he had the means etc., and according to what the poor lacks you are commanded to give to him etc., If a poor man comes and asks for his needs to be met and there has not been the means to give it to him, give it to him according to his means. How much? As much as a fifth is the best way to fulfill the commandment, etc." - until here are his words. Behold, it is clearly the way we have said it.

5: According to what we clarified, the matter has been decided according to the opinion of the sages who thought that [the amount of] a tenth of one's finances is not a principle found in the Torah (*Bayit Chadash*, end of chapter 331). But there is one who brings proof from here that a tenth of one's finances is found in the Torah (*Turei Zahav*, *Yorei De'ah*, 331). This surprises me, because of what we clarified that, on the contrary, the proof from here (the Torah) indicates the opposite, and the essence of the obligation of tzedakah that is found in the Torah is to give to him [the poor] according to his needs; the tenth and the fifth is a rabbinic decree. So if you should say that

since the Torah obligates to give "according to his needs," how did the rabbis come to their decision not to give more than a fifth even if this does not satisfy "his needs?" There is no difficulty, because in addition to what is written in paragraph 3, our text also says that it is a law in the Torah that a person should not apportion all his money to tzedakah as taught in Arachin (28a):<sup>9</sup> One may devote of his flock or of his cattle, etc. But if he devotes all, it is not considered devoted, etc. How do we know this? That our rabbis taught "from all that is his" and not "all that is his," etc. - see there. And so it is as Rambam wrote at the end of Hilchot Arachin: "A person should never sanctify all his possessions and whoever does transgresses on the intention of Scripture. Behold, it says 'from all that is his' and not [merely] 'all that is his.' This is not piety, it is stupidity, etc. Rather, whoever spends his wealth on mitzvot, let him not distribute more than a fifth, etc." - until here are his words. Behold, it is clear from the Torah (the rabbinic midrash of it) that it is forbidden to apportion all of his possessions. If so, in the necessity of giving an amount for this, the rabbis determined fixed amounts of a tenth and a fifth that resemble what is in the Torah, because from one's harvest came the first tithe (a tenth) then another tithe (a second tenth which, when added to the first tenth, equals a fifth), [that other tithe being] either the second tithe or the poor person's tithe. They used Scripture to support their enactment: "... of all that You give me, etc.,"<sup>10</sup> and all that the rabbis decree, it is as if the Torah decreed it (That seems clear to me). It seems to me that to redeem captives it

<sup>9</sup> Arachin 28a: "*Mishnah*. A man may devote [part] of his flock or of his herd, of his Canaanite manservants or maidservants or of his field of possession. But if he devoted the whole of them, they are not considered [validly] devoted. This is the view of R. Eliezer. R. Eleazar b. Azaryah said: If, even to the highest, no one is permitted to devote all his possessions, how much more should one be [careful about] sparing in regard to one's possessions. *Gemara*. Whence do we know these things? - Because our Rabbis taught: *Of all that he hath*, i.e., but not 'all that he has'; *of man*, but not 'all man'; or *[of] beast*, but not 'all beast'; *of the field of his possession*, but not 'all the field of his possession'."

<sup>10</sup> Genesis 28:22.

is permissible to add to the fifth, and so it is for the hungry and thirsty and other similar types; any situation in which there is the saving of life, one is obligated to go beyond [the fifth].

6: It is clear in the Jerusalem Talmud that the first year of giving a tenth or a fifth comes from the principal (your entire estate - give a fifth of all you have); from then on, of what he earns for the year. It is obvious that a father who gives his son and daughter a dowry or any other gift, even if the father has already separated out a tenth from his wealth, in any case when [the dowry] comes into their possession, they need to separate from their entire estate a tenth or a fifth and, after that, from the yearly income (here: interest). This applies to any similar situation: For example, if one inherits money from his father or any other relative, even if they have already separated out a tenth [before giving it to them], he needs to separate out [a tenth or a fifth] from his new income, and the *g'dolim* (post Shulchan Aruch sages) agree with this (according to Pitchei Tshuvah, note 1). Even though the harvest tithe is not like this, we have already clarified that it is merely an example.

7: It is obvious that the yearly income is calculated each and every year from Rosh Hashannah to Rosh Hashannah. If, in this year, he had been doing business in such a way as to have both income and loss, do a general calculation, and whatever remains of his income, take a tenth for tzedakah. In general, income is considered only the actual income. All his business expenses, even when he traveled and ate and drank, are considered to be business expenses and all are deductible. The remainder of the income, after the deduction of all the expenses, is what is considered "income" (by income, they mean profit). However, household expenses may not be deducted;



therefore, one whose income is a thousand gold pieces in a year gives a hundred or two hundred to tzedakah *even if* his household expenses are more than a thousand gold pieces. In any case, he is obligated to give a tenth from his income, and only those [household expenses] which he gives to tzedakah can be considered a deductible. For example, if he had divided bread on Monday and Thursday, or if had given some change to the poor, or food one day to Talmud students, or welcomed a poor guest on Shabbat or for a festival meal as is the way of Jews, [if he had done any of these, then] he would be able to deduct from a portion of his tenth. However, expenses for his young children [under age 6], even though we have decided that he who is feeding his children when they are young is doing tzedakah (Ketubot 50a),<sup>11</sup> in any case this is not considered tzedakah in the general sense. Concerning the decision [about the feeding of children as being tzedakah], the sages said that this is to say that this is also a commandment, but God forbid one should consider it tzedakah in the general sense. If it were [considered tzedakah in the general sense], not even one *prutah* would ever come to the poor! Even [if it were given to] his older children or his grandchildren, it seems to me, [it] cannot be considered general tzedakah that is part of his tenth; his grandchildren are considered like his own children. However, [taking care of] orphans that are older [than age 6], whether family members or not, only this is a great form of tzedakah and can be considered as part of the tenth. If he must give such a great amount of tzedakah that such a tenth is beyond part of his income (he cannot afford to pay that much out of his income), he can give [what he can of] a tenth and borrow on the amount of future income. Then he can deduct from his income that part of the tenth he can pay and keep the

<sup>11</sup> Ketubot 50a: "Happy are those that keep justice, that do ... [tzedakah] at all times [(Psalms 106:3)]. Is it possible to do ... [tzedakah] at all times? - This, explained our Rabbis of Jabneh (or, as others say, R. Eliezer, refers to a man who maintains his sons and daughters while they are young."



rest for himself. There is proof of this from what we learn in Gitin, end of chapter 3:<sup>12</sup> One who lends to a high priest, etc. may do so on the assumption that they are alive - see there.

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*The halacha here provides an early system of a complex income "tax" complete with provisions, exemptions, and deductions. The rabbis were so concerned that everyone participate in tzedakah efforts that they even allowed individuals who owed their tzedakah allotment to borrow from their future to pay their debts now. This insured that everyone in society worked together to provide for the poor.*

*Poverty in America affects just about everyone. Whether it be through our taxes, a stagnant economy, crime, or urban decay, poverty manifests itself in all economic spheres and classes in our society. Like the system of the rabbis, our income tax is incumbent upon on all citizens of the United States; it insures that all Americans participate financially in maintaining and building our country. However, the priorities of the federal government both in providing disproportionate tax breaks for the very wealthy and in the spending of the money it receives further hinders our ability to eradicate poverty from our midst. If we as a society ever hope to rid ourselves of poverty, we are going to have to commit ourselves, as did the rabbis, to working on collective solutions to the problems which cause poverty in the first place.*

*Such a process is two-fold: On the one hand, we must work outside the government to establish more effective modes of fighting poverty in the*

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<sup>12</sup> Gitin, Mishnah 3:7: "If a man lends money to a Priest or a Levite or a poor man on condition that he can recoup himself from their dues, he may do so, in the presumption that they are still alive, and he does not take into account the chance that the Priest or the Levite may have died or the poor man may have become rich. If [he knows that] they have died, he must obtain the permission of the heirs. If he made the loan in the presence of the Beth Din, he need not obtain permission from the heirs."

private sector. This would involve job training, employment opportunities, the expansion of businesses into poor neighborhoods, and the like.

However, not only do we have to go beyond the poverty programs our government has implemented, but we must also insist that the government be held accountable for the way it spends its income. By eliminating waste and bureaucracy, reevaluating spending priorities, and removing the loopholes which permit the wealthy to avoid paying their fair share, the government could achieve a more equitable distribution of its funds and the collective representation the rabbis so diligently tried to create.

8: Our teacher Rabbi Moses Isserles wrote that there are certain things that are mitzvot that are not part of his giving of a tenth, for example, providing candles for a synagogue or any other ritual mitzvot like this; certainly giving to the poor - until here are his words. However, to be a *sandek* and, as part of this [honor], giving to help with the birth or with the expenses of a circumcision when the father is poor, and so when giving to help with a wedding celebration and things like this, only these are considered part of one's tenth (Sifte Cohen, note 3). So it is with one who buys an *aliyah* to the Torah and gives it as a donation to the *yeshiva*, this is considered part of his tenth. And so it is for anything that is given as *tzedakah* to the government of the Jewish community, certainly if [what is given] is considered to fall in the category of *tzedakah*. It would seem to me that giving to rabbis at the time of the marriage of one's son or daughter is not considered part of one's tenth but part of wedding expenses. However, if at the time of that event he gives money as an act of *tzedakah* to other poor people, it would be part of his tenth.

*Mazon is a Jewish organization which has successfully based its fundraising efforts on this very notion. By encouraging individuals to give three percent of the cost of any life cycle event or party to help in its efforts to purge hunger from the United States, Mazon is promoting a program of giving not unlike the rabbis. Through its efforts, Mazon has become a leading funder of anti-hunger projects in America, an important educator in the causes and effects of hunger, and a major advocate for the elimination of hunger from our midst.*

9: They also wrote that it is permissible [as part of his tenth] to disperse his tenth to his grown children when they need it, [at a time] when he is not obligated to take care of them, since even to his father he can give part of his tenth if his father is poor, how much the more so to his children (Maharam there), and this requires further study. In Kidushin (32)<sup>13</sup> it is said that cursed be the one who feeds his father from the poor person's tithe; however, if he is willing to accept the curse, he is able to do so (Beit Yosef, chapter 240). In any case, to rule this way (as the Maharam did) in principle is surprising. Perhaps since the poor person's tithe is known to everyone, it is more despicable [to take that money and spend it on family], and it is not the case of the coins of ma'aser (there is a difference between the ma'aser of the old days and the ma'aser of today - today's is not tithed/set apart) that not everyone knows. However, if it is permitted for him to give to his father and his children a portion of his tenth, would it not be that there would be nothing left to give to other poor people? This would not be appropriate; therefore, there needs

<sup>13</sup> Kidushin 32a: "Come and hear: Two brothers, two partners, a father and son, a master and disciple, may redeem second tithe for each other, and may feed each other with the poor tithe. But if you say, at the son's expense, he is thus found to fulfil his obligations with what belongs to the poor? This refers only to an extra quantity. If so, could it be taught thereon, R. Judah said: A curse may alight upon him who feeds his father with poor tithe! But if the reference is to an extra quantity, what does it matter? Even so, the matter is humiliating [to the father]."

to be a way to establish this and to find a means of exact calculation. There is one who says also that it is permitted even if he has the ability to provide for them from a different place (same), but this is surely astonishing! It is true as clarified in chapter 251 that they precede others - this is surely when he does not have the means. His father and children take precedence, and this is also when his sons are learning Torah as will be clarified there. However, if he is wealthy it becomes more difficult to say that he should be able to account for his father and children as part of his tenth thereby exempting himself through this from giving tzedakah.

10: They also wrote that it is permitted to buy books as part of the tenth and study with them and to lend them to others to study with them if it is impossible in a different manner (same). However this, too, requires further study. If this is the case, he would also be permitted to buy tefillin as part of his tenth as well as a tallit or anything else that others can use in prayer. He would also be permitted to buy a shofar, an etrog, and a sukkah from his tenth or anything else so that others could use these as well. And if [this is permitted] because we said that in Ketubot (50a)<sup>14</sup> "And the doers of tzedakah at all times"<sup>15</sup> is written in reference to one who writes books and lends them to others to study, similarly, did they not in fact say there that this was in reference to feeding one's young children? In spite of this, we could not account this as part of one's tenth as was explained in paragraph 7. The exponents of the Torah already said concerning this matter "Let him not

<sup>14</sup> Ketubot 50a: "Happy are those that keep justice, that do ... [tzedakah] at all times [(Psalms 106:3)]. Is it possible to do ... [tzedakah] at all times? - This, explained our Rabbis of Jabneh (or, as others say, R. Eliezer, refers to a man who maintains his sons and daughters while they are young."

<sup>15</sup> Psalms 106:3.

come at any time to the sacred;"<sup>16</sup> that is to say that this is concerning tzedakah which they expounded in the verse [through *gezira shava*], that the doers of tzedakah at all times should not come with this to the holy places. Furthermore, even if one were permitted to buy books as part of his tenth, in any case he is like any other [in relation to the books], and would they not be able to say to him, "We do not want you to delay; these books are yours, but they should be in the house of study so that whoever wants to learn with them can."? Therefore, it is suitable to keep away from permitting this. Likewise, tuition he is paying for his young children does not fall into the category of tzedakah from his tenth. Rather, it is a commandment in its own right, and it is like the rest of the mitzvot that one is not able to do as part of one's tenth. So, whoever acquires for his daughter a husband who is a learned student and pays in order that he may learn, in any case he is not able to account this as being part of his tenth, even if he pays for another to learn with him.

11: We have already clarified that even a poor Israelite that begs from door to door and does not have the means to do tzedakah, in any case he is obligated to fulfill the commandment of tzedakah once a year. Thus said the sages (Baba Batra 9a):<sup>17</sup> "One may not neglect giving at least a third of a shekel in a year." If he gives less than this, he has not fulfilled the commandment of tzedakah. Behold, the act in which this positive commandment is fulfilled, the Torah makes incumbent upon each and every Jew, and they need to fulfill it once a year. All who do less, it is as the rest of the mitzvot. The

<sup>16</sup> Leviticus 16:2.

<sup>17</sup> Baba Batra 9a: "R. Assi said: A man should never neglect to give the third of a shekel... in a year, as it says, *Also we made ordinances for us, to charge ourselves yearly with the third part of a shekel for the service of the house of our Lord* [(Nehemiah 10:33)]. R. Assi further said: ... [Tzedakah] is equivalent to all the other religious precepts combined; as it says, '*Also we made ordinances*': it is not written, 'an ordinance', but '*ordinances*'."



reason it is a third of a shekel, the sages taught from a verse in Nehemiah (10)<sup>18</sup> that such was the donation to service the Temple - see there. (Perhaps it is because that in the third of a shekel there are 256 prutahs corresponding to the weekdays in the year excluding Shabbat ...)

12: The sages said there<sup>19</sup> that tzedakah is equal to all the commandments, etc. - see there. And "greater is one who causes to do;" that is to say, that he who collects tzedakah from others as well is greater than one who alone does tzedakah, as it says: "And the collecting of ... [tzedakah] shall be peace, and the effect of ... [tzedakah] quiet and confidence forever."<sup>20</sup> You will not find more difficult, holy work than collecting tzedakah from others; therefore, its reward is great and through it one saves himself and his descendants from ever needing to receive tzedakah (as what is written in chapter 247, paragraph 5). The Rambam wrote in chapter 10 in this language: "One who forces others to give tzedakah and causes them to do it, his reward is greater than the reward of one who gives, as it is written, 'And the collection of ... [tzedakah] shall be peace.' Concerning tzedakah collectors and others like them it is written, '... and they that turn many to ... [tzedakah] [will shine] like the stars for ever and ever.'"<sup>21</sup> - until here are his words.

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*The rabbis knew the significance of everyone doing tzedakah; the job of social change could not be complete without the full participation of society.*

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<sup>18</sup> Nehemiah 10:33: Also we made ordinances for us, to charge ourselves yearly with the third part of a shekel for the service of the house of our Lord.

<sup>19</sup> Baba Batra 9a: "R. Assi further said: ... [Tzedakah] is equivalent to all the other religious precepts combined; as it says, 'Also we made ordinances': it is not written, 'an ordinance', but 'ordinances'.

"R. Eleazar said: He who causes others to do good is greater than the doer, as it says, And the work of ... [tzedakah] shall be peace, and the effect of ... [tzedakah] quiet and confidence forever [(Isaiah 32:17)]."

<sup>20</sup> Isaiah 32:17.

<sup>21</sup> Daniel 12:3.

*They also recognized how difficult it is to involve others and the need to do so. Bringing others to the work of social change is more important than your own participation in it, because change can only come when we all decide to make it happen. By stating that tzedakah is greater than all other commandments, the rabbis conveyed the paramount importance of social change.*

13: Anyone who gives tzedakah to the poor with an angry facial expression, or if his face is cast down to the ground, even if he has given 1000 gold pieces, his merit [which he would have acquired for giving tzedakah] is lost. Rather, give to him with a pleasant facial expression and with joy, and sympathize with him concerning his troubles, as it is written, "Did I not weep for he who was in trouble? Was not my soul grieved for the poor?"<sup>22</sup> Speak to him words of solace and comfort, as it is written, "I caused the widow's heart to sing with joy."<sup>23</sup> If a poor person asks you for something and you do not have it to give to him, placate him with words. It is forbidden to upset the poor or to raise one's voice against him unless you know he is lazy or the like, because his heart may be broken or he may be depressed as it is written, "... a broken and a contrite heart, O God, you will not despise."<sup>24</sup> Do not be patronizing and say, "... to revive the spirit of the humble, and to revive the heart of the contrite ones."<sup>25</sup> Woe, oh woe, to whoever shames the poor; rather, be to him like a father who is pained, whether through compassion or words, as it says, "I was a father to the poor."<sup>26</sup> Do not respond empty-handedly to a poor person who asks, even to give him only one dry fig or a

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<sup>22</sup> Job 30:25.

<sup>23</sup> Job 29:13.

<sup>24</sup> Psalms 51:19.

<sup>25</sup> Isaiah 57:15.

<sup>26</sup> Job 29:16.

morsel of bread, as it says, "O let not the oppressed return ashamed: Let the poor and needy praise Your name."<sup>27</sup> Show him a kind heart, giving him, as is his will, what is suitable so that he will not be in need. Whoever shows compassion, compassion will come to him from the heavens as it is said, "... then the Lord shall give you compassion and be compassionate to you and multiply you, just as He had promised to your ancestors."<sup>28</sup> Whoever is cruel and not compassionate, we should be suspicious of his ancestry; maybe he is from the mixed multitude and not from the seed of Abraham our ancestor, because cruelty is found only among the idol worshipers as it is said, "... they are cruel, and will not show mercy."<sup>29</sup> All of Israel and those accompanying her shall be like brothers with the Holy One Blessed-be-He as their parent as it says, "You are the children of the Lord your God."<sup>30</sup> If one has no compassion for his brother, who will have compassion on him (Rambam there)?

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*The halacha implores us to treat the poor with dignity. Too often, when we see a poor person asking for money in the street, we either ignore or chide him. When we stop to acknowledge a request for money, we begin to recognize the familiarity of the asker, the humanity of the person, that these are people with the same hopes, fears, and dreams as ourselves. Poverty becomes tangibly close, and it scares us; we feel guilty and hopeless at the enormity of the situation. So instead, we forget that the one asking for money is a person like ourselves who deserves to be treated with the same respect we demand for ourselves.*

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<sup>27</sup> Psalms 74:21.

<sup>28</sup> Deuteronomy 13:18.

<sup>29</sup> Jeremiah 50:42.

<sup>30</sup> Deuteronomy 14:1.

The halacha tells us the proper way, as Jews, to behave. It insists that we acknowledge the humanity of the poor and treat them as our equal.

When we see that people, not some unknown entity, are being affected by the squalor of poverty, we might be more moved to act to alleviate their pain and eliminate their suffering. Even if we have no money to give to the one on the street who asks for it, an acknowledgement of his humanity or a short conversation might restore some of the self-respect he must have lost by virtue of his predicament. In the eyes of the rabbis, a Jew who does otherwise, who oppresses and scorns the poor and perpetuates their condition, is no Jew at all.

Our nation's welfare system can learn from the halacha as well.

Unfortunately, many of those who collect government assistance are not treated with much dignity. They must spend all day waiting in lines and are often treated impersonally and with scowls; they are demoralized beyond what their plight imposes upon them. In addition, food stamps publicize the poverty of those who must use them, and our federal public housing system confines the poor to unsafe, unkept, overcrowded complexes. If we are to become the compassionate society we claim to be, and if the rights that the poor deserve by virtue of them being Americans are to be realized, then our system of distribution of government assistance must be infused with an attitude of respect, a perspective of dignity, and an element of understanding. Only then will the words of the rabbis be fulfilled.

14: Acts of loving kindness are greater than tzedakah, because acts of loving kindness establish the situation in which one will not need tzedakah. Know

that we said in Shabbat (63)<sup>31</sup> that the lender is greater than one who does tzedakah, and a business loan is better than anything. The reason for this is that a poor person is not shamed by a situation in which he takes money as his compensation in an equal business partnership, etc. This is because whoever merely lends money to his fellow without return (without the lender making a profit), the borrower is shamed, because he (the borrower) benefits from his fellow (the lender) in a situation in which the fellow (the lender) could not benefit at all. However, a business loan does not bring shame at all since the two of them are benefiting - until here are its words. The Rambam, Tur, and Shulchan Aruch did not write about this detail, that a business loan is the greatest virtue. Their reason, it seems to me, is that certainly if this is done only for the sake of the commandment "[If you brother becomes poor] ... you shall relieve him ...,"<sup>32</sup> it is obvious that there is nothing more meritorious than that. Know, however, that most people do this for the sake of sustenance, and this is not in the realm of tzedakah at all.

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*The halacha is right to suggest that helping people become self-sufficient is the greatest act of tzedakah and that the best way to realize this is through the formation of a business partnership with the poor. However, the rabbis have put the doers of this type of tzedakah in a precarious situation. For the ideal of tzedakah to be truly realized, giving must be solely for the sake of fulfilling the obligation of tzedakah and not for the sake of personal benefit. But, according to the halacha here, the only way in which the recipient of a business loan will not be indebted and ashamed is if both he and the lender make a profit. The lender, then, is in a quandary: If he makes the*

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<sup>31</sup> Shabbat 63a: "R. Abba also said in the name of R. Simeon b. Lakish: He who lends [money] is greater than he who performs ... [tzedakah]; and he who forms a partnership is greater than all."

<sup>32</sup> Leviticus 25:35.



poor person a partner in business and makes a profit, then he is not doing tzedakah for its own sake. If, however, he does not form a partnership with the poor person, but transmits his tzedakah in another, less desirable way, he is not fulfilling the highest form of tzedakah. In addition, he is potentially shaming the recipient, an act that is anathema to the rabbis who saw the self-esteem of the recipient as the foremost consideration in any tzedakah transaction (see previous commentary). It seems that the best way to avoid this dilemma is for the lender to take any profits he may acquire in such a business partnership (beyond what he may need to sustain himself) and reinvest it in another act of tzedakah. This would remove any doubt of the lender's motive in the partnership.

Rambam thought there were eight levels of tzedakah, and they are as follows:

15: The highest level to which there is nothing greater is one who takes the hand of a poor Israelite and gives him a gift or makes him an apprentice or a partner or finds him work in order to strengthen his hand so that he will never need again. Concerning this, it is said, "If your brother is poor, and his means falls upon you, then you shall strengthen him ..."<sup>33</sup> In this time of ours in many cities, there are societies which give poor Jewish youth to employers, and this is the very greatest thing. Only watch over them (the employers and the youth) that they walk in the way of God, and pray everyday that they may be faithful to the heavens and humanity.

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*Helping people help themselves so that they may never again become poor is the greatest act of tzedakah. By teaching a marketable skill or*

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<sup>33</sup> Leviticus 25:35.

*providing a job at a livable wage, a person can affect true change and give someone else a sense of self and purpose. A person who is financially independent and self-sufficient is empowered to control his own life and can fulfill his potential as a productive member of society.*

*Our nation can affect entire communities in this way by ensuring fair lending practices, enticing businesses and industries to open in poorer communities and train and hire local residents, subsidizing job corps training programs and apprenticeships, and giving poor neighborhoods a voice in their own economic destinies. Many individuals are providing these opportunities, but it is painfully not enough. America is one of the wealthiest countries in the world, and it has the ability to spread that wealth to most of its inhabitants through a program centered on Rambam's highest level of tzedakah.*

16: The second level is one who gives tzedakah to the poor and does not know to whom he is giving and the receiver does not know from whom he is receiving like the Hall of Secret Donations that was in the Temple where people would give secretly and the poor people of good stock would be sustained by it (Shekalim, chapter 5).<sup>34</sup> It was taught by the Tosephta there that just as it (the hall) was in the Temple, so too was there one in each and every city. Similar to this is the one who gives to the tzedakah collective, but you should not give to this unless you know that the one appointed over it is a trustworthy person, wise in leadership, who knows the suitable way to act. The third level is when the giver knows to whom he gives, but the receiver does not know from whom he receives. This is like the great sages who

<sup>34</sup> Shekalim, chapter 5: "There were two chambers in the Temple, one the chamber of secret gifts and the other the chamber of the vessels. The chamber of secret gifts - sin-fearing persons used to put their gifts therein in secret, and the poor who were descended of the virtuous were supported therefrom in secret."

would go secretly and cast [food and money] into the openings of the poor [households] (Ketubot 67b).<sup>35</sup> Thus, if tzedakah is sent through a messenger, and the messenger does not tell who the giver is, then the Tur writes that this is suitable to do and a great virtue. If there are no administrators overlooking the tzedakah, act suitably - until here are its words.

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*It would seem that an act of tzedakah would be more righteous if only the receiver knew the giver and not the other way as Rambam suggests. There is an inherent hierarchy in any situation in which money is given to a person in need; condescension and a sense of superiority are potential by-products of such a transaction. This is less likely to occur if the giver does not know the recipient, because the giver does not know to whom exactly his money went. When the giver knows the recipient without the recipient knowing the giver, the possibility of resentment and contempt increases; the giver is more apt to be patronizing as his sense of pity over the unknowing recipient becomes manifest.*

*Furthermore, if the rabbis were concerned that the recipient's shame would be overwhelming if he knew the identity of the person who gave him the money (thereby relegating this type of transaction to the third level of tzedakah), such embarrassment would never have to be realized if the giver remains ignorant of the identity of the recipient. The negative potential of the giver knowing the receiver and the little harm in the receiver knowing*

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<sup>35</sup> Ketubot 67b: "Mar 'Ukba had a poor man in his neighbourhood into whose door-socket he used to throw four zuz every day. Once [the poor man] thought: 'I will go and see who does me this kindness'. On that day [it happened] that Mar 'Ukba was late at the house of study and his wife was coming home with him. As soon as [the poor man] saw them moving the door he went out after them, but they fled from him and ran into a furnace from which the fire had just been swept. ... And what [was the reason for] all that? — Because Mar Zutra b. Tobiah said in the name of Rab ... : Better had a man thrown himself into a fiery furnace than publicly put his neighbour to shame. Whence do we derive this? From [the action of] Tamar; for it is written in Scripture, When she was brought forth, [she sent to her father-in-law]."

the giver suggest that the latter might be a more preferable means of performing an act of tzedakah.<sup>36</sup>

17: The fourth level is when the poor person knows from whom he takes, but the giver does not know to whom he is giving. This is like the great sages who would bundle the money in their bed sheets, cast [the bundles] over their backs, and the poor would come and take in order that they would not be shamed (same). Know that in this time of ours it is impossible to do it this way, because there are those who would seize the tzedakah unfairly, and it would not get to the honest people at all. We see this happening in places where tzedakah is divided openly. The fifth level is when one gives to the poor directly before being asked, and this is according to the way [of Isaiah]: "Then it shall be that before they call, I shall answer ..."<sup>37</sup> Concerning this it is said, "She stretches out her palm to the poor, she sends her hand to the needy,"<sup>38</sup> and great is its reward. The Holy One Blessed-be-He will also provide his (the giver's) needs for him before he asks, and this is the way the greatest givers of tzedakah do it. The sixth level is when one gives what is suitable after being asked, the seventh is when he gives less than what is suitable but gives kindly, and the last is when he gives sourly. The great sages would give a *prutah* to the poor before every prayer service, as it says, "I shall behold your face in tzedakah."<sup>39</sup> (Baba Batra 10)<sup>40</sup> All the more so if one gives

<sup>36</sup> Of course, as the halacha suggests, a situation in which neither the giver nor the receiver know the identity of one another would be most ideal.

<sup>37</sup> Isaiah 65:24.

<sup>38</sup> Proverbs 31:20.

<sup>39</sup> Psalms 17:15.

<sup>40</sup> Baba Batra 10a: "If a man gives but a farthing to a beggar, he is deemed worthy to receive the Divine Presence, as it is written, *I shall behold thy face in ... [tzedakah], I shall be satisfied when I awake with thy likeness* [(Psalms 17:15)]. R. Eleazar used to give a coin to a poor man and straightway say a prayer, because, he said, it is written, *I in ... [tzedakah] shall behold thy face* (Soncino note: I.e., 'When I am in ... [tzedakah] through giving charity I shall behold thy face in prayer.')."

to a tzedakah collective before the prayer service, because this is more preferable (Siftei Cohen, note 10). And so it is as it says in Orach Chayim, end of chapter 92 - see there. Providing the dowry for poor, orphan maidens or the daughters of poor Torah students is the greatest form of tzedakah; therefore, concerning tzedakah collectors, when one has the ability to do so, there is no greater tzedakah than this - to make anguished souls happy (Siftei Cohen, note 11). Our sage Rabbi Moses Isserles wrote that concerning the custom of giving tzedakah for the sake of the dead at the time of calling them to memory, it is a [good] custom of the righteous [in good standing], and beneficial for their (the deceased persons') souls - until here are his words. We have already clarified this in Orach Chayim, end of paragraph 621. There, it is clarified according to the Midrash that the dead also need atonement - see there.

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*The rabbis mention the need to give what is suitable but fail to define what "suitable" means. Perhaps the amount is inconsequential; people should give the amount they personally deem suitable in a particular situation. By not stating what one should give, the rabbis are focusing less on the amount of the giving and more on the act itself. It is more important to the rabbis that a person acknowledge the poor with a measure of compassion and take an active role in alleviating his misery than it is to dictate precisely what that acknowledgement entails.*

18: Our sage Joseph Caro wrote at the end of this chapter that there is one who says that the commandment of [maintaining] the synagogue is preferable to the commandment of tzedakah, but the commandment of tzedakah for teaching children Torah or for the poor sick is preferable to the



commandment of [maintaining] the synagogue - until here are his words. According to the words of our sages, the Tosephists, in Baba Batra (9a - the first big word is "sh'ne'emar") it is clear that tzedakah is always greater than the synagogue, as they wrote, "Even though this verse<sup>41</sup> is about the house of our God, and it is written that we should maintain the Temple, it is a greater *mitzvah* to do so for tzedakah" - until here are their words. If tzedakah is preferable to maintaining the Temple, how much the more so for the synagogue (according to one sage, and his words are difficult to justify - see there). Aside from this, Rabbi Caro's words are surprising, because the source of the law comes from the Jerusalem Talmud at the end of Pe'ah<sup>42</sup> [where it mentions] certain rabbis who were approaching the synagogue of Lod, and they said, "How many lives were lost on account of this building? This is money that people did not have in order to engage in the study of Torah, and it says about them, 'For Israel has forgotten (*v'yishkach* instead of *v'yitosh*) his Maker and builds palaces.'<sup>43</sup>" There is another version in which [sinking money into building the great synagogue of Lod] denies money for Torah study and for the bed-ridden. Surely it is proven from here that the commandments of learning Torah and of healing the sick far outweigh the commandment of the synagogue. Our sage Joseph Caro brought the Maharik (Rabbi Yosef Colon - 15c Italy) who deduced from this text that were it not for learning Torah and healing the sick, then the synagogue would far outweigh tzedakah (according to Caro). Their reason, it seems, is that if they do not say this, the text should have said, "what should have been for the poor for

<sup>41</sup> Nehemiah 10:33.

<sup>42</sup> Y. Pe'ah: "R. Hama bar Hanina and R. Hoshia were traveling to the synagogue in Lod. Said R. Hama bar Hanina to R. Hoshia, 'How much money did my ancestors sink here [building this synagogue]?' Said to him R. Hoshia, 'How many souls did your ancestors sink here! [Since they spent all the money on the synagogue, there was no money to support poor people,] and so there were no people to study Torah!'"

<sup>43</sup> Hosea 8:14.

tzedakah" (instead of "what should have been for the study of Torah or healing the sick"). But what kind of deduction is this? Rather, the Jerusalem Talmud is using these because of their prestige [and not to rule out other forms of tzedakah].

19: Indeed, in the Jerusalem Talmud it is clarified that there were a number of synagogues, because it says they walked "in these various synagogues in Lod" (the text the Maharik and Joseph Caro quoted spoke of only one synagogue in Lod) - see there. According to this, there is no proof at all [which mitzvah is greater], because you can understand it to mean that they (the rabbis walking through Lod) were complaining that there were too many synagogues (not that too much money was put into one), and it was also apparent that they were somewhat ornate. This is what they were speaking to, not the synagogue structure itself. But, in Maharik (Responsum 128), I see that he brought a different version: "Rav saw the gate of the synagogue they had built" - see there. If so, according to this version, there is only one synagogue and still there are those who say that what bothered them (the rabbis) was the decoration and beautification. Additionally, it is clarified in the Maharik that it has nothing to do at all with the structure of the synagogue, but rather on donations to the synagogue like the excess of candles, and I quote: Concerning the matter of one who vows [to ensure that] the need of oil for the lamps of the synagogue [is fulfilled], etc., the authority is in the hands of the community to redirect [the purpose of this] gift and to divert it to the poor even though within the Jerusalem Talmud it appears that the commandment concerning the synagogue is preferable over the commandment of tzedakah, etc. - see there. Accordingly, I do not understand at all the relationship of the Jerusalem Talmud to this; the Jerusalem Talmud refers to the actual building of the

synagogue. According to this, it is necessary to say that the Maharik explained that the Jerusalem Talmud referred to decorations of the synagogue as what I wrote above. He compared the decorations to [the need for] illumination which was also a "frill" of the synagogue.

20: Accordingly, it was also the intention of our sage Joseph Caro [that this refers to] donations for the operational needs of the synagogue and not for the building of the synagogue itself. This is certainly for donations absolutely necessary to run the synagogue; certainly this is a definite obligation. Rather, for matters that are superfluous that we have enough of without your donation, like excessive candles and the like, such was proven by the Maharik and the Jerusalem Talmud, that only those things which are necessities, certainly there would be no doubt [of their importance]. So, it seems clear to me that they wrote that [the commandment of the synagogue] is preferable to tzedakah, not in reference to tzedakah which feeds the sick or the like, but rather to tzedakah which gives him more than mere sustenance (lit. which distances him from poverty); therefore, spending on non-essential things for the synagogue is preferable. They derive this because the Jerusalem Talmud mentions great tzedakah priorities from which it follows that other purposes of tzedakah, the commandment of the synagogue takes precedence over them. In the Tosephot there appears to me a different intention when we look closely, because how is it possible to say that tzedakah is preferable to maintaining the Temple? Does it not explain in Nehemiah: "for the show bread, and for the continual meal offering, and for the continual burnt offering, etc. [of the sabbaths, of the new moons, for the appointed seasons, and for the holy things, and for the sin offerings to make atonement for

Israel, and for all the work of the house of our God.]”<sup>44</sup> How is it possible to say that it is better to give tzedakah than to sacrifice in the Temple? Rather, the Tosephot here are saying that sacrifices in the Temple belong to all of Israel that, seemingly, a prutah from each Israelite would aggregate a large wealth. Nevertheless, all the more so to give a third of a shekel as what is determined for tzedakah, because tzedakah is in each and every place and there are many poor people, that there is a need of at least a third of a shekel from each (according to my humble opinion).

21: Our teacher Moses Isserles wrote in paragraph 13 that, at any rate, a person should not glorify himself with [the giving of] tzedakah. If he does, it is not enough that he does not receive a reward; rather, he should even be punished over it. In any case, whoever sanctifies something for tzedakah is permitted to write his name on it since it will be for him as a remembrance and it is suitable to do as such - until here are his words. This refers only to one who gave from his pocket, but the collector who troubles himself in the gathering of donations for some synagogue implement, he is not able to write his name (it is not his own [money]). Also, he who takes from his pocket does not have the ability to ascribe it to himself except at the time that he hands it over to the synagogue. But, if it is sent to the community [without strings] and afterwards he wants to write his name, they are able to protest (the Tzemech Tzedek, chapter 50). There is a disagreement over this, because there is proof from one of Rashbah’s responsa (number 584) that from a legal standpoint there is no difference here, because there is one who says that when he writes his name upon it, the public does not have permission to change it (Turei Zahav, note 4). From the Rashba, it does not appear to be so,

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<sup>44</sup> Nehemiah 10:34.

because he wrote that the reason is that it is a good thing to provide a reward to those who do a *mitzvah*. Therefore, the *halacha* is that there is no difference, because even when he wrote his name on it, the public is entitled to change it. Therefore, afterwards he has permission to write his name upon it (The Tzemech Tzedek has a different explanation, that when he sent it to the public it was made the property of the public, and it seems to me that this depends on how a particular teacher sees it).

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*As mentioned in my commentary on chapter 247, paragraph 6, modern fundraisers utilize the techniques the halacha is discussing here by encouraging large givers to put their names on their donations, even though this is contrary to what the ideal of tzedakah intends. The rabbis recognized that public distinction is a motivating tool for large giving, and they sought to justify their tacit acceptance of this by rationalizing that such methods encourage people to publicly establish good names for themselves while prompting others to do likewise. However, it is important to reemphasize that doing tzedakah for its own sake is the truest way of realizing its intent.*



IId.

Chapter 250 - *How much is suitable to give to everyone who accepts tzedakah in twelve paragraphs*

Synopsis: Give according to the standard in which the person is accustomed to living; whatever he lacks, his needs should be filled. Fulfilling the needs of the poor is a communal responsibility incumbent upon everyone. A woman being married off is entitled to a minimum of 50 zuz dowry. Door-to-door beggars, even though they are expected and receive funds from individuals, are to receive a small amount from the tzedakah collective to ensure they are not deemed unworthy by the population and unsuitable to receive funds through their begging. The non-resident poor also deserve some benefits, though not at the same level as resident poor people. Poor transients should not take advantage of the system, because it lessens the funds available for others in need. The upper and middle classes disagree as to the best method of distributing funds to the poor. The rabbis agree with the middle class who say that the public should bear the burden of providing for the poor; they should not have to depend on begging. It is impossible today to fulfill the biblical command of "according to his needs," because of the enormity of the situation. Changing times require different responses to the poor.

*Commentary found after paragraphs 3, 5, 8, 10, and 12.*

1: How much do you give to the poor? It is written: "You shall surely open your hand to him, and you shall surely lend to him according to his need, what he lacks."<sup>1</sup> It is taught in *Sifrei*: Why are all these things said? As if to say all of these repetitions, because 'according to his need' is enough. How much the more so if it was written 'according to his need, what he lacks,' then why is it written *lo*? To teach you that you cannot give equally to everyone, but give to each person according to his way of life before this time. To this it is written *lo* as if to say according to his stature. [As for t]he repetition of 'what he lacks', it seems that if the statement 'his need' were said alone, I would have said that this only refers to eating and drinking. This comes to teach us 'what he lacks,' as if to say whatever clothes and household items and ornaments he lacks. It is written *lo* as if to say that in all these

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<sup>1</sup> Deuteronomy 15:8.

things according to his standard of living.

2: How? If he were hungry, feed him. If he needed to be covered, cover him. If he does not have household appliances, buy them for him. Even if it were his way to ride a horse and for a slave to run before him when he was rich, now that he is poor, buy for him a horse and slave. It says in Ketubot (67b):<sup>2</sup> They said about Hillel the Elder that he bought for the poor of good stalk a horse to ride upon and a slave to run before him. One time he (Hillel) could not find a slave to run before him, so he ran before him for three miles. And so it is mentioned there<sup>3</sup> about the one in the upper Galil who everyday bought a beast for the one pound of flesh that was needed to satisfy the needs of the poor of good stalk - see there. It was also mentioned there<sup>4</sup> about two poor people who wanted to eat only fatty meat and [drink] vintage wine.

<sup>2</sup> Ketubot 67b: "Our Rabbis taught: 'Sufficient for his need' [implies] you are commanded to maintain him, but you are not commanded to make him rich; 'in that which he wanteth' [includes] even a horse to ride upon and a slave to run before him. It was related about Hillel the Elder that he bought for a certain poor man who was of a good family a horse to ride upon and a slave to run before him. On one occasion he could not find a slave to run before him, so he himself ran before him for three miles."

<sup>3</sup> "Our Rabbis taught: It once happened that the people of Upper Galilee bought for a poor member of a good family of Sepphoris a pound of meat every day. 'A pound of meat! What is the greatness in this?' — R. Huna replied: [It was] a pound of fowl's meat. And if you prefer I might say: [They purchased] ordinary meat for a pound [of money]. R. Ashi replied: The place was a small village and everyday a beast had to be spoiled for his sake."

<sup>4</sup> "A certain man once applied to R. Nehemiah [for maintenance]. 'What do your meals consist of', [the Rabbi] asked him. 'Of fat meat and old wine', the other replied — 'Will you consent [the Rabbi asked him] to live with me on lentils?' [The other consented,] lived with him on lentils and died. 'Alas', [the Rabbi] said, 'for this man whom Nehemiah has killed.' On the contrary, he should [have said] 'Alas for Nehemiah who killed this man!' — [The fact], however, [is that the man himself was to blame, for] he should not have cultivated his luxurious habits to such an extent.

"A man once applied to Raba [for maintenance]. 'What do your meals consist of?' he asked him. 'Of fat chicken and old wine', the other replied. 'Did you not consider', [the Rabbi] asked him, 'the burden of the community?' 'Do I', the other replied, 'eat of theirs? I eat [the food] of the All-Merciful; for we learned: The eyes of all wait for Thee, and Thou givest them their food in due season, this, since it is not said, 'in their season' but 'in his season', teaches that the Holy One, blessed be He, provides for every individual his food in accordance with his own habits'. Meanwhile there arrived Raba's sister, who had not seen him for thirteen years, and brought him a fat chicken and old wine. 'What a remarkable incident!' [Raba] exclaimed; [and then] he said to him, 'I apologize to you, come and eat'."

They gave it to one of them and not the other - see there. The reason for this was that one was accustomed to it and the other was not accustomed to it. Rather, he who is accustomed to this, so it should be in his poverty, and he who is not accustomed to it, so it should be - see there.

3: Therefore, you need to give to each and every person according to what he needs and to each one according to his standard of living. To whom it is suitable to give bread, give him bread; [to whom it is suitable to give] dough, give him dough; [to whom it is suitable to give] wheat, [give him] wheat; [to whom it is suitable to give] barley, [give him] barley; to whom it is suitable to give hot bread, give him hot bread; to whom it is suitable to give cold bread, give him cold bread. If he were accustomed to eating with his mouth without using his hands, you should surely put the food in his mouth. If it were suitable for [him to have] a bed, give him a bed, and if it were not suitable for [him to have] a bed, [let] him sleep on the ground. See what he lacks, and give him everything. Even if he lacks a wife and needs to marry, find him a wife. Beforehand, award him a house and make for him a bed and give him household objects and afterwards find him a wife. Whatever he lacks, let those lacks be filled.

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*The idea of restoring people to their previous status by providing them what they lack rests upon an assumption that poor people were at one time better off than they are during their current situation.<sup>5</sup> In America today, however, we have an entire underclass of generations of individuals who have never had a previous state of self-sufficiency and to whom such an idea is foreign and remote.*

<sup>5</sup> See introduction for further discussion.

*This does not mean that we cannot create such a standard for them in which the poor can hope for a better lifestyle. If we work to help the poor bring themselves to a level of existence upon which they can comfortably support themselves, a level we would minimally expect for ourselves, then we would be fulfilling the toraitic dictum of "according to his needs" as the rabbis implore us to do. Again, we have a statement of how to treat the poor, with the respect and dignity they deserve.*

*The rabbis' solution for this is simple enough: If someone is hungry, feed him; naked, clothe him; homeless, house him. Supply the poor with what they need to survive.*

*There is an implicit understanding in the halacha that people have a right to the basic necessities of life. These rights grow out of our responsibility as Jews to ensure the well being of all members of society. It is unheard of to the rabbis that someone should be left poor, homeless, and starving. In America, the rabbinic call for "restoration," then, must include both the creation of a minimum standard of existence and an honest attempt to help people reach that standard.*

4: Our teacher Rabbi Moses Isserles wrote in paragraph 1: It seems that all this [applies] whether concerning the tzedakah collector or the populace as an entity. However, an individual is not obligated to give to the poor according to his needs; rather, inform the public of his distress. If the public cannot come to his aid, the individual should if he has the means to do it - until here are his words. This makes no sense at all; either way you argue it, it comes out the same. For example, if one has the means, that is to say if he is incredibly wealthy, and there are only a few poor people so that he would be able to fulfill all of their needs, why is he not obligated? Is not the



commandment of tzedakah incumbent upon every Jew as expressed in the Torah as what I wrote in the beginning of chapter 249? If there is not the means, even the collector is exempt; even the public is exempt. If not everyone has the means, for example if the poor are many and the rich only a few as a result of our many sins as in this time of ours, and so it was in many generations before us, that if it were possible to fulfill according to their needs, they were not obligated except for a tenth or a fifth according to what is written in the beginning of chapter 249 - see there (references to what various commentators say about the individual being obligated to give 'according to his needs' - it is surprising to me that if he has the means, then why is he not obligated?).

5: It would appear to me that this is how we explain it: For example, if our situation is good and there are many wealthy people in the city, and the poor are few, then of course the obligation is on the public as a whole and not on individuals, but also the individual can, himself, fulfill their needs. In any case, it is incumbent on everyone, and this is the intention of our teacher Rabbi Moses Isserles. All this refers to the tzedakah collector, because he alone acts on behalf of the city or the public. However, no individual alone is obligated to give 'according to their needs' even if he has the means, when there are other rich people in the city, and even if the poor come to him. He should inform everyone else, and everyone should give. Truly, if the public does not come to his aid, for example if they (the other wealthy community members) are out of town or if he (the wealthy individual) lives alone, then he alone must provide if he has the means. And so, if the others do not want to give and he has no way to force them, the obligation falls on him alone. This is like all the commandments, that if there are many wicked people in the city, he is obligated to fulfill the commandment when he has the means



Again, there is an emphasis in the halacha on everyone participating to eradicate poverty. The rabbis really want to make a point of overstating the importance of all of us working together; poverty is a communal problem and a communal responsibility. As such, a communal solution is essential if we ever hope to eliminate its causes.

6: The sages commanded in Ketubot (68a)<sup>6</sup> that a woman being married off must not be given less than 50 zuz [in cash]. Even if there is not a sufficient amount in the tzedakah fund, they should borrow and give it to her. If there is a great amount in the tzedakah fund, give her much according to her stature and the stature of her family. This is according to their time, but in this time of ours it is understood that 50 zuz is nothing. There is not a fixed amount, only that everything is according to the times (Siftei Cohen, note 7) and as I wrote below in chapter 253.

7: All these matters and measurements relate to the poor who do not beg for themselves door-to-door to receive money or food, but for those who sit in their homes and conceal their shame. For the poor who beg door-to-door, there is no measurement, and each and every individual gives a little something, and the majority expects them and opens their gates for them. From the technical law, they do not need to give them anything from the tzedakah coffers when they beg from every individual separately. Rather, in

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<sup>6</sup> Ketubot 68a: "Mishnah. If an orphan was given in marriage by her mother or her brothers [even if] with her consent and they assigned to her a hundred, or fifty zuz, she may, when she attains her majority, recover from them the amount that was due to her."

any case, the sages said (Baba Batra 9a)<sup>7</sup> that if the matter is small, give them also from the coffers, because if they (the general population) see that the collector is not going to give him (the poor person) anything from the coffers, they will say about him (the poor person) that he is not worthy, and they will not give anything to him at all and he will die of starvation. Therefore, also give him something small from the coffers.

8: This is for all the poor of the city, but the poor who pass through the city who are from other cities, it is not ascribed to them that they need to be given according to their needs; of course, there is a different amount. And so, the sages taught in Mishna Pe'ah (chapter 8, mishna 7) that there is no offering to the poor who pass from town to town less than a loaf of bread that was bought with Dupondium (Roman coins), the equivalent of 16 prutahs, when the price of the wheat stands at 4 *se'ahs* (of wheat) for a *sela*. Such a loaf contains half a *kav* of wheat at a dupondium. The salesman takes half as

<sup>7</sup> Baba Batra 9a: "A Tanna taught: If he is a beggar who goes from door to door, we pay no attention to him. A certain man who used to beg from door to door came to R. Papa [for money], but he refused him. Said R. Samma the son of R. Yeba to R. Papa: If you do not pay attention to him, no one else will pay attention to him; is he then to die of hunger? But, [replied R. Papa,] has it not been taught, If he is a beggar who goes from door to door, we pay no attention to him? - He replied: We do not listen for his request for a large gift, but we do listen to his request for a small gift."

profit because of the wood sales (Ketubot 64b).<sup>8</sup> Consequently, this loaf has a quarter *kav* flour. If he wants to sleep, give him a night's lodging and a bed to sleep on and a pillow for his head. It is taught in the Tosephot that he must also be given butter and legumes to eat with his bread. If it were Shabbat in the city, give him food for three meals, because a person is obligated to eat three meals on Shabbat. Give him butter and legumes and also fish and vegetables in order to honor the Shabbat. This is for any poor person, but if you know him because he is renowned, give according to his honor. It is obvious with this poor person who passes from place to place that he also needs a donation to sustain his household or to marry off his daughter. Similar to this, give him a small donation and also small gifts - so is the custom. How many days does a poor person need to be in a city before they need to give him a meal? It is not clear. So, it appears from the Mishna that you are required to give him only one meal during the day and one at night, because it was clarified that a loaf of bread contains two meals (according to

<sup>8</sup> Ketubot 64b: "R. Johanan b. Beroka said: A loaf that is purchased for a dupondium [when the cost of wheat is at the rate of] four se'ah for a sela'. R. Simeon said: Two thirds of a loaf, three of which are made from a Kab. Half of this [loaf is the size prescribed] for a leprous house, and half of its half renders one's body unfit; and half of the half of its half to be susceptible to Levitical uncleanness, Now, whose [view is that expressed in our Mishnah]? If [it be suggested that it is that of] R. Johanan b. Beroka [the prescribed TWO KABS would only] be [sufficient for] eight [meals], and if [the suggestion is that it is that of] R. Simeon [the TWO KABS would] be [sufficient even for] eighteen [meals]. — [Our Mishnah may] in fact [represent the view of] R. Johanan b. Beroka but, as R. Hisda said elsewhere, 'Deduct a third of them for the [profit of the] shopkeeper', so here also take a third and add to them. But [do not the meals] still amount only to twelve? — She eats with him on Friday nights — This is satisfactory according to him who explained [TO EAT In our Mishnah as] actual eating. What, however, can be said according to him who explained 'eating' [to mean] intercourse? Furthermore, [would not her total number of meals still] be only thirteen? — The proper answer is really this: As R. Hisda said elsewhere, 'Deduct a half for the [profit of the] shopkeeper, so here also take a half and add to them. (Does not a contradiction arise between the two statements of R. Hisda? — There is no contradiction. One statement refers to a place where [the sellers of the wheat] supply also wood while the other refers to a place where they do not supply the wood.) If so [the number of meals] is sixteen."

Shabbat 118<sup>9</sup> and the Tosephot there). Now, most people say that poor people who pass from town to town are allowed to stay for three days in the city and that you should give him food all three days, and I do not know its source.

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*In America today, there is a call for the elimination of all government assistance to "legal aliens," those people who have come to America legally but who have yet to attain residency status or citizenship. Certain states are now rejecting requests for medical care for "illegal aliens" as well. Both of these trends are the antithesis of what the halacha conveys.*

*In general, our society does not treat transients very well, even those American citizens who have fallen on difficult financial times and find themselves homeless. Forcibly removing the poor and homeless from public facilities such as train stations, airports, libraries, and the like denies transient people the right of access they legally have to those institutions as full-fledged members of the "public." According to the halacha, our responsibilities toward the poor do not end when they become homeless or transient; we still must provide for their needs and treat them as our equal in society.*

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<sup>9</sup> Shabbat 118a: "Now, as to what we learnt: He who has food for two meals must not accept [relief] from the tamhuy: food for fourteen meals, must not accept from the kuppah, — who [is the authority for this], [for] it is neither the Rabbis nor R. Hidka? If the Rabbis, there are fifteen meals; if R. Hidka, there are sixteen? — In truth, it is the Rabbis, for we say to him [the recipient], 'What you require to eat at the conclusion of the Sabbath, eat it on the Sabbath. Shall we say then that it agrees [only] with the Rabbis and not with R. Hidka? — You may even say [that it agrees with] R. Hidka: we say to him, 'What you require to eat on the eve of the Sabbath [before nightfall], eat it on the Sabbath.' And the whole day of Sabbath eve [Friday] we make him spend in fasting? Rather the author of this is R. Akiba, who said: Treat thy Sabbath like a weekday rather than be dependent on men. Now, as to what we learnt: 'A poor man travelling from place to place must be given not less than a loaf [valued] at a pundion when four se'ahs cost one sela'; if he stays overnight, he must be given the requirements for spending the night; while if he spends the Sabbath there, he must be given food for three meals' — shall we say that this is [according to] the Rabbis [only], not R. Hidka? — In truth, it may [agree with] R. Hidkah, [the circumstances being] e.g., where he [already] has one meal with him, so we say to him, 'Eat that which you have with you.' And when he departs, shall he depart empty-handed! — We provide him with a meal to accompany him. 'What is meant by 'the requirements of spending the night?' — Said R. Papa: A bed and a bolster."

9: Indeed, in the Mishna, there is no proof at all that he has permission to be in the city for only one day, because there are those that say that he has permission to be there a number of days. They gave him only two meals because he was given a portion from the food collective, and the food collective is for the poor of every place (Baba Batra 8b).<sup>10</sup> It was distributed everyday (same). Whoever has two meals may not take from the food collective (Pe'ah, same). If so, we should say that what we read in the Mishna there, that there is no offering to the poor who pass from town to town less than a loaf of bread, etc., refers to one who stays for one day, but if he is there the next day, give him more. There is proof of this in the Jerusalem Talmud, masechet Pe'ah, because we said there that if he left the city and then entered it, the giver gives and the taker should be careful, as if to say, if this poor person left the city and returned to it, the giver needs to give, but he (the taker) should be careful lest he lessen the amount given to other poor people. If you were to erroneously say that more than one day and you do not need to give; even if he does not leave the city, you do not need to give to him; how much the more so when he does leave. Rather, certainly there is nothing definite about this matter; therefore, only when he leaves the city does he (the taker) need to be considerate.

10: The authors of the Shulchan Aruch, paragraph 5 wrote that if the poor of the city are many, the rich say that they should beg door-to-door, and the middle class say that they should not beg door-to-door. Rather, their sustenance should be incumbent upon the public according to their wealth.

<sup>10</sup> Baba Batra 8b: "Food for the soup kitchen is collected by three and is distributed by three, since it is distributed as soon as it is collected. Food is distributed every day, the ... [tzedakah] fund every Friday. The soup kitchen is for all comers, the ... [tzedakah] fund for the poor of the town only. The townspeople, however, are at liberty to use the soup kitchen like the ... [tzedakah] fund and vice versa, and to apply them apply them to whatever purposes they choose."



The law agrees with the middle class, because the essence of the obligation of tzedakah is according to one's wealth. There are places where the custom is to give voluntarily and others where there is a tax and the giving is done according to his (the giver's) wishes. One who gives according to how he was blessed, it is suitable that he will be further blessed - until here are his words. This is all from a responsum of Rashba (chapter 280), and he goes on to say in this vein that the strict law is according to the words of the middle class, etc. Rather, this generation is impoverished, and there is no wealth, neither in pocket nor in knowledge. In any case, every place must sustain [the poor] according to the public tzedakah fund and according to the wealth [of the community in general]. If afterward they beg door-to-door, let them, and each person should give according to his opinion and his will, etc. - until here are his words.

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*A little over a quarter century ago, a similar class debate took place in America about how to treat the poor. Middle class America, traditionally represented by the Democratic party in Congress, pushed for legislation that would give the government a larger role in the management of our country. As they saw it, part of the government's responsibility is to care for society's poor. Wealthier America, traditionally represented by the Republican party, felt that a big government would be more likely to interfere in capitalism's natural course. They pushed for a less centralized government that would have less control over the affairs of its citizens. This included programs concerning the poor; wealthier America felt it to be more the responsibility of the private sector and charities to care for the poor than for the government to be involved. Ultimately, our society agreed, as did the rabbis, with a middle class ideology. Poverty programs became the responsibility of the*

*federal government, and it was believed that poverty could actually be eradicated.*

*Today, the debate over the role and responsibilities of the federal government in caring for our nation's poor continues, though the line between the views of the middle and upper classes has become muddled. People of all classes are no longer convinced that current federal programs can succeed in effectively helping the poor. Most see the government as an overburdened bureaucracy which, by its very nature, obstructs any federal program's attempt at functioning competently. People agree that government should still have a role in the administration of poverty programs, but the extent to which that involvement entails is a topic of much concern. Whatever the ensuing outcome of this debate may be, the poor must still be guaranteed certain federal protections against a further decline in their economic status.*

11: It would seem to me, in clarifying these matters, that this is according to what was clarified in the laws of the Torah to give to the poor "according to his needs, what he lacks," according to the laws that were clarified. All this was good in the time that Israel was self supporting, because most of them were heads of household, being sustained honorably on their land and a few from commerce. The poor were few, and tzedakah was enough to fulfill "according to the needs" of the poor. But, due to our many sins, for hundreds of years we were pushed from stumbling to stumbling, and we have neither soil nor a non-perishable thing (source of wealth). Our sustenance is from the air, and we are fed with manna as was in the generation of the wilderness. Most of Israel will live in straits and distress; the poor will multiply, and the rich will dwindle. It is not within our capacity at all to satisfy all the poor

according to their needs, as all the tzedakah funds were dried up in each and every city to satisfy the need. Rather, there are poor who need to go around from door-to-door, and the one who is ashamed sits at home and starves. There are some compassionate people who gather for them. As is known in this time of ours, with every increase of the various forms of tzedakah, it does not address [the needs of] even one-tenth of the poor population. In most cases, the "common" poor people are satisfied with bread; it is the delicate ones who are plagued with starvation because of our sins. Even though recently this happened, that some cities were able to create a general fund so that people would not have to beg door-to-door, and they pay keen attention to the heads of household in that they (community officials) can go into their (heads' of household) property [and take money assessed for the fund]. Indeed, the evidence is that our spirits sink at what we hear, because there is no defense against the tremendous upsurge of needs, God have compassion.

12: In Rashba's time, there were still tzedakah funds and food collectives in each and every city. As Rambam wrote in chapter 9, law 3 and these are his words: "We have never seen nor heard of a community of Israel that does not have a tzedakah fund, etc." - until here are his words. Indeed, in Rashba's time the situation began to deteriorate and poverty increased. Therefore, the wealthy said: "Since our various forms of tzedakah do not satisfy their needs, what advantage is there to us having a tzedakah fund? Let them beg door-to-door, and each person should give as his heart dictates." The middle class added: "... according to one's ability." This is as if to say that there should be a tzedakah fund, and Rashba ruled that the law is as the middle class said, because it is a Toraitic law. If it is because there is not enough, let the poor go afterward and beg door-to-door. This is the one who says that this generation

is impoverished, as if to say that the public coffers is not enough. Therefore, in our time the customs began to change. There are places where people give as their hearts dictate, and there are those who tax, and all of this is because of our pressures. This is economic deprivation, and God will turn the disgrace of His people and bring us joyfully to the Holy Land - Amen.

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*The halacha is acknowledging a particular historical state of affairs in which public Jewish attempts to help the poor could not keep up with demand. Rabbi Yechiel Epstein compiled the Aruch haShulchan to codify the halacha of his time and reflect his society's current state of affairs.<sup>11</sup> Confronted with overwhelming poverty and seeing communal tzedakah funds running out of money, Epstein turned to a halachic plea for public altruism to alleviate the misery that was burdening so many Eastern European Jews at the end of the nineteenth century. Epstein conceded that as long as the majority of Jews were poor and in exile, nothing could be done communally to fight poverty successfully. Stuck in a temporary financial rut, Epstein felt the Jews were compelled to accept their tumultuous fate and adjust accordingly. The laws of tzedakah, then, were not applied as stringently to his time and place. Epstein felt that if and when Jews became affluent again, more stringent tzedakah laws could be enacted. When Jews are financially more secure and most are not poor, they must return to a system of communal responsibility and individual contribution in the fight against poverty.*

*American Jews are precisely in that position. With only fifteen percent of American Jewry living on or below the federally designated poverty line, we are at perhaps the most affluent time in our history. Given this, we are*

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<sup>11</sup> For further discussion, see the Encyclopaedia Judaica entry entitled "Epstein, Yechiel Michael Ben Aaron Isaac Halevi."

once again compelled to find a communal solution to poverty in our society. As Jews are such an integral part of the greater American society, that solution must take place in the framework of the reality in which we live and interact. The halacha grants us the right to devise new strategies to fight poverty, strategies that rest on a premise of complete communal involvement and responsibility. Like Epstein, we are compelled to realize the ideal of tzedakah the best way possible given our current situation. As giving money directly to the poor is not a feasible option, other remedies must be considered and pursued.



Chapter 251 - To whom to give tzedakah and who precedes his fellow in twenty one paragraphs

Synopsis: Your family takes precedence over all others in the personal distribution of tzedakah funds. There is an order of priorities of who receives tzedakah funds. Though this hierarchy has been established, money must be set aside to be given to poor people to whom you are not related. A father is responsible for feeding his impoverished children. Food is a greater priority than clothing. The hierarchy of precedence is discerned by relationships, sex, type of need, level of education, and lineage. If a person asks for food, and you are concerned that he may be an impostor, feed him anyway lest he starve. If he is in search of clothing, though, you may investigate his claim of need. Even poor non-Jews and unintentional sinners should be cared for when they ask for food. The community can do whatever it deems necessary with your donation to the tzedakah collective. Both the money set aside in a fund for a particular tzedakah purpose and the interest made off the principal of that fund must be used for their designated purposes. Have the poor work for you in your household. The poor may give their required tzedakah allotment to a poor friend. When having to choose between a rabbi and a chazan, a community should choose the rabbi. The rabbi may not be paid from the tzedakah collective, because this would be shameful to him. He can, however, be sustained as part of individuals' tzedakah allotments. Tzedakah funds can be redirected to pay off a secular leader.

*Commentary found after paragraphs 1, 2, and 11.*

1: It is written in *parasha R'eh*: "If there be among you a poor man, one of your brothers within one of the gates in your land which the Lord your God gives you, you shall not harden your heart, nor shut your hand from your poor brother."<sup>1</sup> It is taught in *Sifre*: "'Your brother' - this is your half-brother from your father's side; 'one of your brothers' - this is your half-brother from your mother's side. This teaches that a half-brother from the father's side takes precedence over one from the mother's side. 'Within one of the gates' teaches that people of your city take precedence over people of another city. 'In your land' teaches that the poor of the Land of Israel take precedence over the poor outside the Land of Israel. And those inhabitants who live outside

<sup>1</sup> Deuteronomy 15:7.

the Land of Israel but who are dwellers, how do we know? Scripture says, 'which the Lord your God gives you: every place [where Jews settle].' - until here are the words of the *Sifre*. In Tanna d'Beit Elihu (chapter 27) it says: "Cut your bread for the hungry, etc." and "Turn aside from your flesh and blood." How [are these verses related]? Rather, if a man has food within his house, and someone asks that he do tzedakah with part of it in order to sustain others, how should he do it? Let him first sustain his father and mother. If he has leftovers, let him sustain his brothers and sisters. If he has more, let him sustain his relatives. If he has more, let him provide for his neighbors. If he has more, let him provide for the rest of his street. If he has more, let him sustain the rest of the Jewish people, etc." - until here are his words. Similarly, we said in chapter 5 of Baba Metzia<sup>2</sup> "your poor," as if to say your relatives then the poor of your city: Your poor take precedence over the poor of your city, and the poor of your city take precedence over the poor of another city.

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*In listing the order of precedence for the personal distribution of tzedakah, the Aruch haShulchan calls upon a talmudic passage from Baba Metzia, chapter 5 which explicitly states who takes priority. It is interesting to note, however, that Rabbi Epstein leaves out a significant part of the talmudic reference; namely, that Jews take precedence over non-Jews. One could argue that he did this because the halacha is designed for Jews only, and that it*

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<sup>2</sup> Baba Metzia 71a: "Others referred this statement of R. Huna to [the teaching] which R. Joseph learnt: If thou lend money to any of my people that is poor by thee: [this teaches, if the choice lies between] my people and a heathen, 'my people' has preference; the poor or the rich — the 'poor' takes precedence; thy poor [sc. thy relatives] and the [general] poor of thy town — thy poor come first; the poor of thy city and the poor of another town — the poor of thine own town have prior rights. The Master said: '[If the choice lies between] my people and a heathen — "my people" has preference.' But is it not obvious? — R. Nahman answered: Huna told me it means that even if [money is lent] to the heathen on interest, and to the Israelite without [the latter should take precedence]."

should be assumed that in such a system, Jews implicitly take priority over non-Jews. If this were the case, however, the talmudic passage would have left out the same details as well.

Rabbi Epstein knew that, potentially, non-Jewish "censors" might read Jewish texts to ensure that Jews were not propagating any negative attitudes toward the non-Jewish societies in which they lived, albeit marginally. For reasons of *darchei shalom*,<sup>3</sup> the ways of peace, Epstein went to all possible lengths not to offend the non-Jewish world. The Jews were in a precarious situation as it were, and any added incentive for further oppression was not necessary. The *Aruch haShulchan*, then, set a precedent for ignoring Jewish legislation concerning *tzedakah* which speaks negatively of the non-Jewish world or relegates non-Jews to a lesser status.

Our reality in America is much different than was Epstein's. Jews are not an oppressed, marginalized people; rather, we are an integrated and important sector of American society. It would behoove us as well to reevaluate Jewish legislation which belittles the non-Jewish world, but not out of the fear of imminent annihilation that drove Epstein's concern. To be sure, it would advantageous for Jews in America to maintain friendly relations with our non-Jewish co-patriots; *darchei shalom* is not a bad impetus for making Jewish anti-poverty legislation all-inclusive. Beyond this, however, lies the realization that, in our society, a particularist agenda would fail in its objective of eliminating poverty. Jews are too connected to the greater American society in which we live to ignore the systemic realities which affect not only the Jewish poor, but the non-Jewish poor as well. Poverty will not go away in Jewish America simply by Jews deciding to give

<sup>3</sup> See paragraph 13 of this paragraph for further halachic discourse concerning giving aid to the non-Jewish poor.

*our money to Jewish poor alone. The reasons behind Jewish poverty in America, and the remedies to those reasons, are tied too deeply to the rest of our society's economy; to focus our efforts only on the Jewish poor would be naive, ineffective, and totally counterproductive in our search for a solution to a systemic poverty which affects all types of Americans equally.*

*This is not to say that none of our money should go to particular Jews who may be poor. If we want to temporarily alleviate a particular individual's personal suffering, and if that person happens to be Jewish (or, if we choose to help a particular poor individual because she is Jewish), no one would ever suggest denying that person our money. However, with that donation must come the realization that it will do little to pull this individual out of poverty (unless it is such a great amount as to support her until she can find a means to support herself). Whereas it is necessary to provide funds to sustain poor individuals, it is even more important to devote monies to programs which are working to eliminate the causes of their poverty, causes that affect America's Jews and non-Jews alike.*

2: These are the words of Rambam in chapter 10 and the Tur and the Shulchan Aruch in paragraph 3: "He who gives to his adult children [over age 13], whom he is not obligated to feed, in order to teach his sons Torah and to school his daughters in the proper way of behavior [is properly following the hierarchy for doing tzedakah]; so is the one who gives a gift to his father. When they need these things, this is tzedakah. Not only this, but he needs to give them priority over others. Even if he has no children or father, his relatives need to take precedence over all others. A half brother from the father's side takes precedence over one from the mother's side. The poor of

his household take precedence over the poor of his city, and the poor of his city take precedence over the poor of another city." - until here are his words. Consider "the poor of his city" to be those who dwell there, and those who come from another city are considered "the poor of another city" even if they are now here. There is disagreement about this, with the Tur deciding according to the first opinion.

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*Given that our tzedakah funds are limited, we need to make choices as to how we spend our money. What takes priority? Is it more important to us to eradicate poverty or maintain our synagogues? Should we fund religious day schools or subsidize retirement homes for our elderly? Should we strive to preserve Yiddish culture or support resettlement programs for displaced Jews? What about our financial support of Israel?*

*American Jews are very charitable with our donations to Jewish and non-Jewish organizations alike; to be sure, there are many fiscal requests and demands placed upon us. Hospitals, social service agencies, burial societies, community centers, museums, historical societies, schools, religious institutions, and arts councils are but a few of the plethora of causes which desperately need Jewish money in order to survive. How do we decide who gets our money? Only when we, as a Jewish community, make our tzedakah decisions will we know what we value most.*

*The rabbis were caught in the same quandary we find ourselves today. If we were to turn to the halacha for guidance, we would see that helping the poor is of paramount importance. However, the halacha implores us to support our religious institutions, houses of study, and burial societies as well. Every community, then, needs to decide what its priorities are in the*



distribution of its tzedakah funds. As the halacha dictates, that decision should include strong consideration for those members of our society who could not survive without our support. This does not mean that we necessarily should spend all of our money on alleviating the misery of the poor. Rather, financial support should be given to the poor as part of an overall communal package which addresses the most pressing concerns of a particular community. That support should include monies both to relieve the suffering of the poor and to subsidize those institutions which are fighting to eliminate the causes behind that suffering.

3: The Tur wrote in the name of Sa'adia Ga'on that a person is obligated to sustain himself before helping all others, and he is not obligated to do tzedakah until he has provided for himself as it says, "... that your brother may live with you":<sup>4</sup> Your life takes precedence over your brother's. And so, the Tzarfit<sup>5</sup> who came to Elihu said: I shall do for me first over my children, and then my children, etc. After he provides for himself, his parents' sustenance takes precedence over his children, and then his children, etc. - until here are his words. Our teacher Moses Isserles copied this, and these are his words: "He provides for himself, etc. His parents, if they are poor, take precedence over his children and then his children. They take precedence over his brothers who take precedence over all other relatives. His relatives take precedence over his neighbors who take precedence over people in his city who take precedence over [people] from another city unless they are captives and he needs to redeem them" - until here are his words.

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<sup>4</sup> Leviticus 25:36.

<sup>5</sup> I Kings 17:12: "As the Lord your God lives, I have nothing baked, but a handful of meal in a jar, and a little oil in the cruse: and, behold, I am gathering two sticks, that I may go in and prepare it for me and my son that we may eat it, and die."

4: We already clarified in chapter 248, paragraph 3 that they wrote that he is not obligated to give tzedakah until he has provided for himself. This is with the perpetual annual tenth or fifth, but in order to fulfill the commandment of tzedakah, every person is obligated [to give] a third of a shekel per year, even the poor who are sustained by tzedakah. Indeed, concerning the essence of these words, I have a big problem, because if the words are to be understood literally, that these take precedence over these and these take precedence over these, then the intention is that one does not need to give at all to the next level. According to this, it is known that every rich person has many poor relatives; how much the more so an average head-of-household whose tzedakah is limited. If so, those poor who do not have wealthy relatives will die of hunger. How can we say this!?! Therefore, in my opinion, it is clear that the explanation of the matter is such, that certainly every head-of-household or rich person who gives tzedakah is obligated to give a portion to poor people to whom he is not related. He should give more to his relatives than to those who are not relatives, and so everyone [will be covered] at this level. Also with this, since it was written that his sustenance takes precedence, if this is understood as its literal meaning, the majority of heads-of-household would be exempt from tzedakah completely outside the annual third of a shekel. It is known that most Jews, would that it be, have enough for their sustenance and their expenses. If so, everyone would be exempt from [doing] tzedakah except for the very rich, and in places where there are no rich people the poor will die of starvation. How can we say this? Thus, the custom is not as such.

5: Therefore, in my opinion, it is clear that what the Ga'on wrote, that his

sustenance takes precedence, refers to a man without a yearly income who has only meager bread and scant water. Therefore, he brings proof from the Tzarfit. In that case, her very life was hanging in the balance because there was a famine in the world as was clarified in I Kings there. If he has any bread or water leftover, his father and mother take precedence and then his children, etc. However, a person that is sustained on a salary, like a citizen of substance who eats bread, meat, and cooked food as is suitable and who dresses and covers himself as is suitable, certainly he is obligated to give a tenth or a fifth for tzedakah from that which sustains him. He can give a large portion of his tzedakah to his relatives and the poor in his city, but he is obligated to give a little also to non-relatives and the poor of other cities, that if this were not so, a city of poor people would die of starvation, God forbid. Rather, surely it is as I have written. Know that this is the way it is, because if it were not so, how could you draw limits to you own sustenance which takes precedence, because everyone would say, "I need for my sustenance all that I earn, because there is no limit to expenses as is known." Rather, certainly it is as I have written, that all this exists only for one who has scanty bread for him, his wife, and his young children to live on.

6: The proof is that, at first glance, what did the Tur, as well as our teacher Moses Isserles in the name of Sa'adia Ga'on, add concerning the calculation of forming a hierarchy of who takes precedence over whom? [Nothing.] This was already established in his own words, and our opinion makes it clear, that first the law makers wrote the laws in the *Sifre* and in the *gemara* concerning the hierarchy of tzedakah; that is, this refers to the wealthy or average heads-of-household (middle class) who gave lots of tzedakah; a close

relative should take precedence. This is as if to say, that one is obligated to give to everyone, but to relatives he should give a greater portion. This matter needs deliberation, and of course it is impossible to clarify down to the smallest details.

7: Afterwards, they (the Tur and Shulchan Aruch) cited the words of the Ga'on, and he had a different concern completely. They were concerned with a man without a yearly income who has only meager bread and scant water, that his life takes precedence. They also brought the words that were clarified in the *gemara* (Baba Metzia 62a)<sup>6</sup> that this refers to two [fellows] who were traveling without anything, with a jug of water in the hand of one with not enough for the two of them; his (the one with the jug) life takes precedence - see there. And so, the case of the Tzarfit was brought, because it was like this as I have written. Therefore, if he has any leftover bread, his parents take precedence and afterwards his grown children and afterwards his brothers, etc. And so it is with what we brought from the Tanna d'Beit Elihu also has the same intention in this manner. Therefore it says, and these are its words: "If [by chance] there is extra, that is to say if there remains a little bread, this one takes precedence over this one. Therefore, it says, 'If a person has food in his house and wants to do tzedakah with it,' that is to say that he has only enough food necessary to live on, he is exempt [from doing tzedakah] according to the law. If he wants to push himself, he should give first to his parents, etc. according to the order of the hierarchy."

<sup>6</sup> Baba Metzia 62a: "And what does Rabbi Yohanan do with this [verse], 'that your brother may live with you'? He needs it for that which was taught: 'Two [people] who were walking along the way, and in the hand of one of them was a flask of water. If both of them drink, they die, but if one of them drinks, he reaches civilization. Ben Petora expounded: It is better that both of them should drink and die, and let not one of them see the death of his fellow. Until Rabbi Akiva came and taught: 'That your brother may live with you' - your life takes precedence over the life of your fellow.'" (Steinsaltz English Talmud, Vol 4, part 4, pp. 28-29)



8: This which was clarified, that his father and his mother take precedence, this is when he does not have the means as what was written [before]. However, if he has the means, do not think that what he gives to his parents is tzedakah at all. As what was written in chapter 240: "Cursed be the one who sustains his parents from [his] tzedakah [allocation] (Siftei Cohen, note 5). It would appear to me that therefore, in *Sifre*, it did not mention his father because it refers to the verse (Deuteronomy 15:7). This refers to the time when Israel was dwelling in its land, and they had the means, and one did not have to feed his father from tzedakah, and his wife's relatives were as his own. There is one who wrote that he should give a third to his wife's relatives and two-thirds to his own relatives (Pitchei Tshuvah, note 2 in the name of Rabbi Moshe Mintz (16c Poland)), but I do not know from where he got this. This is as was clarified, that the poor of his city take precedence over the poor of another city; that is, even if the poor of his city were common folk and those of the other city were learned students, the poor of his city take precedence. This is as is clarified later on, that he who is greater in Torah wisdom takes precedence over his fellow, this is when the two of them are from his city or when they are both not from his city (there in responsum 390). There is proof of this from his relatives who take precedence over others. This is certain: Even if they are common folk, they proceed their fellows as it is written: "... that you not hide yourself from your own flesh."<sup>7</sup> Accordingly, the rest of the matters are also as they thought the law to be. And so, know that the poor of Jerusalem take precedence over the rest of the poor in the Land of Israel (Chatam Sofer, chapter 233). This is when they do not have even scant bread; however, when the poor of Jerusalem do have bread and the rest of the poor in the Land of Israel do not have bread at all,

<sup>7</sup> Isaiah 58:7.



they (the latter) take precedence (same).

9: Our teacher Joseph Caro wrote in paragraph 4: "Force the father to feed his poor son, even if the son is older. Force him more than the other wealthy people in the city." - until here are his words. This is from the words of Rashba in his responsum. He clarified there, for example, that if the father is rich and gives to the city's tzedakah collective and says 'Let them give to his (my) son from the collective,' do not listen to him. Force the father to feed him from his own pocket and not from the collective. The sense there is that they should give a little from the collective as well (see there), but the principle sustenance needs to be given by the father. There is proof for this in the Gemara (Baba Batra 174b).<sup>8</sup> The Mordechai also wrote in chapter 1 of Baba Batra that the rich person is obligated to sustain his poor relative and not the [tzedakah] collector. It is clarified in chapter 257, and it is obvious that he is able to count this against his tenth when he feeds his son, and all the more so when it is his relative. However, he is also obligated to give to the rest of the poor as what is written in paragraph 4.

10: If two poor people come, one who is hungry for food and one in need of clothing, feed the hungry first and then clothe the naked. If a man and woman come asking for food, the woman takes priority over the man. So it is if they came asking for clothing, because the shame of the woman is greater than the man's. However, when a man asks for food and she asks for clothing, the man takes precedence, because the physical pain is more [urgent]

<sup>8</sup> Baba Batra 174b: "A father in the case of his son always undertakes responsibility, for it was stated: A guarantor for a kethubah is, in the opinion of all, not responsible for payment; a kabbelan for a creditor is, in the opinion of all, responsible for payment."

than shame (Sanhedrin 45a,<sup>9</sup> and even the other side is not similar to here, so look carefully). So it is if two orphans, one male and one female, come to be married, marry off the female orphan first, even though the male is commanded concerning reproduction and the female is not as is written in Even HaEzer, paragraph 1. In any case, in matters concerning precedence, she takes priority. In my opinion, if there is not enough to help the two of them, he takes precedence because he is commanded concerning reproduction and she is not. You should not question that a woman takes precedence over a man concerning food even though at the end of Horiyot<sup>10</sup> it is taught that in life saving matters the man takes precedence over the woman, etc. - see there. That is because "life saving matters" there is not defined as feeding, but rather as saving from death as is argued there.

11: If many poor people come to the tzedakah collector and he does not have enough money on hand to provide for them all or to clothe them all or to redeem them all, the Kohane takes precedence over the Levite, the Levite over the Israelite, the Israelite over the *challal* (unfrocked priest or person of illegitimate priestly descent), the *challal* over the *shtuki* (father is unknown), the *shtuki* over the *asuphi* (a foundling), the *asuphi* over the *mamzer*, the *mamzer* over the *natin* (servant of the Temple), the *natin* over the convert, and the convert over the freed slave. What does all this refer to? This is in a time when they are all equal in wisdom, that one is no greater than all the

<sup>9</sup> "Shall we say that R. Nahman's statement is the subject of a conflict between Tannaim? — No: all agree with R. Nahman, but they differ on the following point: One Master holds that [the avoidance of] personal humiliation is far preferable to lack of bodily pain, and the other holds the reverse."

<sup>10</sup> Horiyot 13a: "A man takes precedence over a woman in matters concerning the saving of life and the restoration of lost property, and a woman takes precedence over a man in respect of clothing and ransom from captivity. When both are exposed to immoral degradation in their captivity the man's ransom takes precedence over that of a woman."

others. However, if one of these is distinguished in wisdom and the second is lesser in wisdom or, all the more so, a common folk, concerning this the sages taught in Mishne Horiyot<sup>11</sup> that a learned *mamzer* takes precedence over an ignorant High Priest. Even if the learned person is in need of clothing and the ignorant one is in need of medication, the learned one takes precedence. Even the wife of a learned person takes precedence over an ignorant person. There are those who say that in this time, we do not apply these rules (Sifte Cohen, note 16). The general rule in the matter is that whoever is greater in wisdom takes precedence over his fellow. If one of them is his teacher or his father, even if there are wiser ones than them, his teacher because he is a learned one [takes precedence over other sages wiser than him because he is his teacher], and his father takes precedence over another [scholar wiser than him], because he is the greatest one of them all.

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*The sages obviously had their own self-preservation in mind here. Why else would there be such an emphasis on giving precedence to the most learned members of society (which they saw themselves as being)? Unfortunately, we do not have a shared language here. Though we modern American Jews place a great value on education and work hard to support our educational institutions, the priorities the rabbis set out here do not speak to us by virtue of the fact that they rest on self-serving principles.*

*This is not to say that we cannot learn from their priorities. The rabbinic concern for self-preservation teaches an important lesson in the formation of our priorities for the poor. Jewish societies empowered their*

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<sup>11</sup> Horiyot 13a: "A priest takes precedence over a Levite, a Levite over an Israelite, an Israelite over a bastard, a bastard over a nathin, a nathin over a proselyte, and a proselyte over an emancipated slave. This order of precedence applies only when all these were in other respects equal. If the bastard, however, was a scholar and the high priest an ignoramus, the learned bastard takes precedence over the ignorant high priest."

rabbis to determine how tzedakah monies should be spent, and they devised a strategy that would ensure their future stability. Perhaps this teaches us that the ones who are most affected by our decisions should have a voice in how those decisions are made. Giving the poor a voice in the decision making process about them makes sense; they know their situation better than anyone and could offer a new perspective on solutions to their predicaments. Listening to the suggestions of the poor for solving their financial difficulties would not only prove economically astute, but it would give them a sense of power over their own destiny as well.

The American democratic form of government was created so that individuals could participate in the decision making processes of our nation. The ability to elect those government officials who determine national policies empowered people with an active voice in their collective destiny. We, the American society, decided long ago that the federal government would set our nation's fiscal priorities. However, it seems as though our elected officials now speak less for their constituents than for public interest groups which fund their reelection campaigns. Communities have lost their say in the formation of policies that affect them directly; the American people have become disempowered. This has affected the poor most of all; they have overwhelmingly become disenfranchised with our political system and have shied away from participating in the electoral process.

It is time to start building consensus once again in our society by electing government officials who honestly speak for the people they represent. Consensus must begin on every street block and build through the neighborhood, community, town, metropolis, and state until the federal government truly reflects the voices of the people upon whom our



democracy is built. It is worthwhile for our government to make fair, prioritized decisions about how it spends our money, but we should still have a voice in that process, especially when those decisions directly affect us. -- Precedence and priority can once again be determined by the American people, but only if we empower both ourselves and the poor with the ability to assert our collective voice for change.

12: The sages said (Baba Batra 9b),<sup>12</sup> "Examine [applicants] for clothes but not [applicants] for food," as if to say that, of course, impostors should not be given [anything] at all. However, this is if he is known to be an impostor. So, if this unknown person comes asking for clothing, check him out. Perhaps he is an impostor, because he is able to suffer until it is worthwhile to check. If, however, he requests food, do not check him out. Feed him immediately; perhaps he is hungry and his distress is great. This is not a difficulty with

<sup>12</sup> Baba Batra 9a: "R. Huna said: Applicants for food are examined (Soncino adds - for imposters) but not applicants for clothes. This rule can be based, if you like on Scripture, or if you prefer, on common sense. 'It can be based if you like on common sense', because the one [who has no clothing] is exposed to contempt, but not the other. 'Or if you prefer on Scripture' - on the verse, *Is it not to examine [paros - (BE: a rabbinic re-reading of the word)] the hungry before giving him thy bread [(Isaiah 58:7)]* [for so we may translate since] the word *paros* is written with a *sin*, as much as to say, 'Examine and then give to him:' whereas later it is written, *When thou seest the naked, that thou cover him [(ibid)]*, that is to say, immediately. Rab Judah, however, said that applicants for clothes are to be examined but not applicants for food. This rule can be based if you like on common sense or if you prefer on Scripture. 'If you like on common sense' - because the one [without food] is actually suffering but not the other. 'Or if you prefer on Scripture' - because it says, *Is it not to deal thy bread to the hungry*, that is, at once whereas later it is written, *When thou seest the naked*, that is to say, "When you shall have seen [that he is deserving]'. It has been taught in agreement with Rab Judah: If a man says, 'Clothe me' he is examined, but if he says, 'Feed me,' he is not examined."



what was brought there (Baba Batra 8a),<sup>13</sup> because Rabi was regretting that he gave his bread to a common person. But there is no checking out for food! [So why is Rabi so upset?] Because there, there is another reason, that without this [rule about not checking for food] there would still be a difficulty. Is it because the unlearned does not need to eat?!? Rather there, there were years of drought, as is clarified there, in the manner in which there was not enough for everyone. Therefore, the learned take precedence over the unlearned as what is written there, that Rabi feared that the learned would lack food and in such a situation he is obligated to keep him alive. Also, he was regretful because he did not know if it was such a necessity because the majority of unlearned people are able to find food more easily than the learned. However, if he is cast down with hunger, of course [we feed him]. Even during drought years we are obligated to save his life, even if there is doubt as to whether there will be enough for the learned later on (It appears to me that this is the interpretation of the Shulchan Aruch, paragraph 11.).

<sup>13</sup> Baba Batra 8a: "Rabbi once opened his storehouse [of victuals] in a year of scarcity, proclaiming: Let those enter who have studied the Scripture, or the *Mishnah*, or the *Gemara*, or the *Halachah*, or the *Aggadah*; there is no admission, however, for the ignorant. R. Jonathan b. Amram pushed his way in and said, 'Master, give me food.' He said to him, 'My son, have you learnt the Scripture?' He replied, 'No.' 'Have you learnt the *Mishnah*?' 'No.' 'If so,' he said, 'then how can I give you food?' He said to him, 'Feed me as the dog and the raven are fed.' So he gave him some food. After he went away, Rabbi's conscience smote him and he said: Woe is me that I have given my bread to a man without learning! R. Simeon son of Rabbi ventured to say to him: Perhaps it is Jonathan b. Amram your pupil, who all his life has made it a principle not to derive material benefit from the honour paid to the Torah. Inquiries were made and it was found that it was so; whereupon Rabbi said: All may now enter. Rabbi [in first refusing admission to the unlearned] was acting in accordance with his own dictum. For Rabbi said: It is the unlearned who bring misfortune on the world. A typical instance was that of the crown for which the inhabitants of Tiberias were called upon to find the money. They came to Rabbi and said to him, 'Let the Rabbis give their share with us.' He refused. 'Then we will run away,' they said. 'You may,' he replied. So half of them [the '*am ha-arez*'] ran away. Half the sum demanded was then remitted. The other half then came to Rabbi and asked him that the Rabbis might share with them. He again refused. 'We will run away,' they said. 'You may,' he replied. So they all ran away, leaving only a certain fuller. The money was then demanded of him, and he ran away, and the demand for the crown was then dropped. Thereupon Rabbi said: See how trouble comes on the world only on account of the unlearned."

13: Any beggar who needs food, give it to him. Even if an idol worshiper comes asking for food, give it to him. Such is as the sages said: Sustain the poor of other nations along with the poor of Israel in order to keep the peace, and not only along with the poor of Israel, but even if one comes alone to take [food], give it to him. Give to him even if he (the Jew), out of his weakness, occasionally transgresses a sin. You are obligated to sustain him as it is written: "The life of your brother with you;" even if he sins, he is your brother. To what does this refer? When he just happens to transgress. However, if he continually transgresses one sin, even if he does this out of his weakness, he is not your brother at all. Therefore, you are not obligated to save him, to loan to him, or to redeem him. In any case, if you *want* to redeem, feed, or save him, there is no prohibition against this since he is doing it out of his weakness. However, one who sins [out of spite] to annoy, even one commandment, even one time, he is an infidel and a heretic, and it is forbidden to redeem, feed, or save him. All this is for those who do not repent, but if they do repent, they are completely suitable [to receive assistance] (I wrote this based on the Shulchan Aruch, paragraphs 1 and 2, and according to the words of the Turei Zahav and the Sifte Cohen - see there. Know that it is written in the Shulchan Aruch that "to anger" occurs when one eats *trafe* in a place where *kosher* food is easily attainable. This is as is written in Gitin 47b. Nowadays, because of our many sins, we see this happen all the time, but it is not out of spite. It is also written in the gemara that you can say that this is the annoyer who says, "Leave off that which is permitted and eat that which is forbidden;" what he is saying is that he does not want that which is permitted at all. This is certainly designed to anger, but it is infrequent, God have compassion).

14: Our sages, the writers of the Shulchan Aruch, wrote in paragraph 5 that whoever gave money to the collector for tzedakah, neither he nor his heirs

have any power over it; the community will do what is good in the eyes of God and humanity. However, if before [the money] came into the hands of the collector a vow was made that the tzedakah was to go only to his poor relatives, that it was considered that it was his intention that it should go to his relatives, only if he had poor relatives at the time of the vow [could the vow be fulfilled]. However, if they were rich then and became poor [later], do not give it to them. All this refers to the individual giver. However, if he gives tzedakah along with the rest of the community, his vow is determined by the community, and they can do with it what they want - until here are his words.

15: A clarification of the matter: Earlier, we clarified how to practice the giving of tzedakah, and we were [referring to] continual tzedakah that a person gives, each person according to his worth and out of the goodness of his heart. Here, we are referring to one who doles out a proper amount for tzedakah but does not declare for what purpose it is. For example, one who, before his death, pledged from his wealth the correct amount of tzedakah or even when he was alive he intended to pledge the correct amount for tzedakah, if he sent the money to the city tzedakah collector, no longer do he or his heirs have any power over it. It seems that even if he still has not sent it to the collectors, but has said, "Here, I donate such-and-such to tzedakah," the money is sent to the collectors and, again, no longer do he or his heirs have any power over it. The community will do what is good in the eyes of God and humanity according to the seven elders of the city or according to the majority vote or according to a court decision; so it is even if he had not yet instructed to give it to the collector but simply made a donation. Indeed, he is

not the only one to make a donation; rather, every town member donated, and it should be a communal decision to make tzedakah appropriations of fitting amounts, and each person would be assessed such and such. In this case, too, neither he nor his heirs have any power over it, because he donated in accordance with the communal decision, because with tzedakah we follow the appraisal of the situation, and then the community will use it as they see fit. However, if he alone donates it and has not sent it to the collectors, nor did he say that it should be sent to them, he can do with it what he wants. This is if he is living, but if he is dead, we appraise his intention, that it was his intention to give to his relatives and then give to his relatives [accordingly]. This is only for his poor relatives that were poor at the time that he vowed. However, if they became poor afterwards, then they do not have to give to them, because certainly his intentions were for those who were in need at the time he made [the vow]. It did not occur to him that there would be those who would need later on. However, when he is alive he can do as he wishes, and this is the explanation [of the Shulchan Aruch].

16: I am surprised by this, even though it is true that there are among the authorities those who think that he who gives tzedakah without specifying, his poor relatives merit it, and also he can give his tithe to his relatives (Mordechai, chapter 1 of Baba Batra in the name of Isserles and as is the intention that is brought from Caro and according to the Turei Zahav, note 3). In any case, a number of the great sages disagree with this. This is as with the Mordechai there with proof from the responsum of Ribam (Rabbi Yitzchak ben Mordechai), I found that he who sets aside money for tzedakah without specifying does not have permission to divide it among his relatives alone, because he is obligated to divide it among all the city's poor equally. And so it comes in the Tosephta, chapter HaGozel: The



one who says, "Give a portion to the poor," that money should be given to the poor of that city - until here are its words. It is written within the Mordechai the response of our sage Abraham: He who set aside part of his wealth for tzedakah, if he had a [poor] relative in the city, he was not entitled to give to his relative alone, etc. - until here are his words. There is one who explains that this was in reference to one who donated with the rest of the community [as part of a general "campaign"] (according to Joseph Caro), but there is not in his words proof of this. At the end of masechet Pe'ah it implies that he can give half to his relatives. The Mishna states there that one who would [give half], saves; that is to say, that he does not want to divide the entire poor person's tithe among the poor that he has and wants to give to his relatives from this; so, he can take half and give half - see there. There is one who says that this is with things the Torah obligates him to do [the 1/3 shekel], but with that which he donates of his own accord, he can give completely to his relatives (Beit Yosef ... there). In my opinion, concerning all of this, a Beit Din can do with it according to what they deem proper, because with tzedakah and donations to the synagogue, we go according to the appraisal of the situation (Sifte Cohen, note 9 in the name Isserles).

17: It is obvious that whoever sets aside an establishing fund for such-and-such tzedakah, that the interest will be made tzedakah for such-and-such, even though the interest is not enough for this matter, in any case you cannot take from the [principle] fund. So, if his children or grandchildren descend from their economic level, you are not able to give them from this tzedakah [fund], because he set it aside for a different purpose, unless he hinted to this in his will. There is one who says the interest can be given to his heir that became poor because we would assume [he would have wanted this]. I do not



know why, because they were wealthy when he did this (started the fund). Certainly, it never occurred to him that they would become poor later on as what is written in paragraph 15; how much the more so if he set aside [funds] for such-and-such tzedakah. How would it be possible to give to his heirs from this [fund]? We need to think this over quite a bit (as with the Tashbetz, volume 3 responsum 289, who tells of a woman who requested, at the time of her death, that her possessions be given to the poor of her city. A little later, a relative came from a far distance who was poor and was "legal" to receive her inheritance. He decided that it should be given to him because of assumption - see there. This is obvious, since he was a legal heir, and he was far away (so that she did not know of his situation), and he was poor at the time of her making her request).

18: In chapter 1 of Avot it is taught: "...let the poor be members of your household,"<sup>14</sup> and this is what it meant: "Let your house be open wide,"<sup>15</sup> because the poor should become accustomed to coming to your house to serve you and be paid by you. Do not buy servants to serve you, [let the poor do it instead], and it is good to be served by a descendant of Abraham (i.e. a Jew). There are other, different interpretations, but this interpretation is the best, because this is how it was clarified at the end of chapter *hazahav* <sup>16</sup> - see there. It was taught in Pe'ah (chapter 5, Mishna 5) of two people who received a field as land tenants and each tithed his poor persons' tithe and gave it to the other. Therefore, our sage Joseph Caro ruled in the Beit Yosef, paragraph 12 that two poor people who are obligated to give tzedakah are able, every one of them, to give his tzedakah to his fellow - until here are his words. Our

<sup>14</sup> Avot 1:5.

<sup>15</sup> Avot 1:5.

<sup>16</sup> Baba Metzia 60b: "What is the purpose of painting men? — As in the case of a certain aged slave who went and had his head and beard dyed, and came before Raba, saying to him, 'Buy me.' 'Let the poor be the children of thy house,' he replied. So he went to R. Papa b. Samuel, who bought him. One day he said to him, 'Give me some water to drink.' Thereupon he went, washed his head and beard white again, and said to him, 'See, I am older than your father.' At that he applied to himself the verse, 'The righteous is delivered out of trouble, and another cometh in his stead.'"

teacher Moses Isserles wrote that this only applies to tzedakah, but if each one of them is obligated to pay a fine to tzedakah for transgressing on such-and-such a matter, each is not able to give to his fellow, because if so, it would not be considered a fine - until here are his words. It is obvious that after they have given to the public tzedakah fund, the collector is able to sustain them from this, and they are no worse than other poor people. Rather, perhaps he should not have promised them beforehand about this, because if he did, this is not a fine.

19: They asked the Rosh the following: A population that is in need of both a rabbi and a service leader (*chazan*) who helps the community fulfill its religious obligations (prayer and the like) but does not have the means [to attain and support] both, who takes precedence? He answered that if the rabbi is a scholar and an expert in the Torah, in instruction, and in making legal decisions, the Torah teaching takes precedence. If not, then the service leader is preferable to absolve the public from their duty - until here are his words. The Tur and the Shulchan Aruch, paragraph 13 add that this implies that the service leader was a necessity in absolving the public, because there were many unlearned people who were not able to pray at all, and no one else was able to stand on the bima and lead services. Even so, a scholarly rabbi is preferable, and this is not surprising, because the Torah is greater than prayer.

20: Our teacher Moses Isserles wrote that you cannot sustain the city's rabbi through a tzedakah fund because it is beneath both his and the community's dignity; rather, they should find enough for him from a different source. However, each person may give to him as part of that individual's tzedakah,



chapter 1 of Megilah<sup>17</sup> brings, in any case the obligation to save a life is greater and supersedes Torah study for this (according to the Turei Zahav, note 6). Now, in European countries, in the days of a compassionate king, there are no wicked problems like this, thank God.

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<sup>17</sup> Megilah 16b: "R. Joseph said: The study of the Torah is superior to the saving of life. For at first Mordecai was reckoned next after four, but afterwards next after five. At first it is written, Who came with Zerubabel, [namely] Jeshua, Nehemiah, Seraiah, Reelaiah, Mordecai, Bilshan, and subsequently it is written, Who came with Zerubabel, Jeshua, Nehemiah, Azariah, Raamiah, Nahamani, Mordecai, Bilshan.

"Rab — or, some say, R. Samuel b. Martha — said: The study of the Torah is superior to the building of the Temple, for as long as Baruch b. Neriah was alive Ezra would not leave him to go up to the land of Israel. Rabbah said in the name of R. Isaac b. Samuel b. Martha: The study of the Torah is superior to the honouring of father and mother. For, for the fourteen years that Jacob spent in the house of Eber, he was not punished ... ."

Chapter 252 - The laws of redeeming captives in ancient times in fourteen paragraphs

Synopsis: The redemption of captives is the greatest *mitzvah* and takes precedence over sustaining the poor. The community may go so far as to sell synagogue building materials to redeem captives as long as the structure has not been built. Some sages suggest that even a built synagogue may be sold. Every member of the community who is able to donate money for a special collection to redeem captives must do so, but one need not sell his personal Torah scroll in order to contribute to the ransom unless it is he who has been taken captive. A person cannot count his required donation to the general *tzedakah* fund as his contribution to a special collection for the redemption of captives unless: 1) the community agrees to redirect his donation (though some sages suggest that communal agreement is not essential in order to transfer funds for the redemption of captives), or 2) he is poor and cannot afford to give more. Every moment of delay in the redemption of captives is like spilling blood. Captives should not be redeemed for more than their price in order not to encourage the kidnapping of more Jews. However, a person may pay as much as demanded to redeem himself, his wife, a Talmud student, or a young boy who has the potential to be a learned student. You cannot attempt to rescue captives, because of the potential danger you will place other captives. A person who has enslaved his family and himself to non-Jews because of an inability to repay a loan, redeem all of them the first two times this happens, but only his children thereafter unless they threaten to kill him. Do not redeem him if he is an intentional sinner who continually sins to annoy. When a man and a woman are taken captive, the woman should be redeemed first unless the possibility of homosexual rape is present; then, the man takes precedence. Redeem your non-Jewish slave as you would any Israelite. Other priorities are mentioned. Use a wealthy person's personal wealth to redeem his wife, himself, or his relatives, even against his will. The person who is redeemed is required to repay the one who redeemed him. Redeem orphans, and you can be repaid from their trusts. None of this applies today.

*Commentary found after paragraphs 1 and 10.*

1: The Rambam wrote in chapter 8, law 10: The redemption of captives takes precedence over sustaining the poor and dressing them. There is no *mitzvah* as great as the redemption of captives, because captives are generally the hungry, the thirsty, and the naked, and their lives are in danger. The turning of one's eyes from one in captivity surely transgresses "... you shall not harden your heart nor shut your hand [from your poor brother],"<sup>1</sup> "... do not

<sup>1</sup> Deuteronomy 15:7.



stand idly while your neighbor bleeds,"<sup>2</sup> and "... they shall not rule vigorously over him in your sight,"<sup>3</sup> and cancels the commandment of "... you shall surely open your hands to him"<sup>4</sup> and the commandments "the life of your brother with you,"<sup>5</sup> "you shall love your neighbor as yourself,"<sup>6</sup> "if you forbear to rescue those who are drawn to death,"<sup>7</sup> and many others like these. There is no commandment as great as the redemption of captives - until here are his words. All this was in ancient times; now, in far off places in the deserts of Asia and Africa, travelers fall captive and are taken into captivity until they are redeemed for a great deal of money as is known from the travelers who go via the western desert.

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*It is interesting that the rabbis chose to include the redemption of captives as part of their tzedakah initiative, though they decidedly kept it separate from general tzedakah as discussed in the latter part of this chapter. At the time of earlier halachic compilations, kidnapping and ransoming of Jews was not uncommon, and Jewish communities had to go to great financial pains to save those Jews taken captive. To do this, the community had to rely on the benevolence of its inhabitants to provide the necessary funds to meet the demands of the numerous ransoms. As with tzedakah, the redemption of captives became a communal responsibility and a financial duty of citizenry, thereby making it a natural component of tzedakah legislation.*

*For reasons already discussed,<sup>8</sup> Epstein is careful to state explicitly that*

<sup>2</sup> Leviticus 19:16.

<sup>3</sup> Leviticus 25:53.

<sup>4</sup> Deuteronomy 15:8.

<sup>5</sup> Leviticus 25:36.

<sup>6</sup> Leviticus 19:18.

<sup>7</sup> Proverbs 24:11.

<sup>8</sup> See my commentary after chapter 251, paragraph 1.

*such events were not applicable to his locale,<sup>9</sup> and in truth, very rarely does ransoming of this nature take place today. The halacha here, then, is not appropriate for our time and place. Rather, the tzedakah of caring for the poor, of which redeeming captives is a part, should take priority for us. Though halachically deemed more important, ransoming is irrelevant to our current situation and needs to be relegated to a less prominent status.*

2: He also wrote: If members of a city collect money to build a synagogue, and an opportunity to fulfill a commandment came to them, they may spend the money [for the *mitzvah*]. If they already bought the stones and the beams, they may not sell to fulfill just any commandment; only to redeem captives. Even if they had already brought the stones and encased them and set the beams and prepared everything for the building, they should sell everything to redeem captives alone. However, if they finished building, they may not sell the synagogue; rather, they should collect from the public for the redemption - until here are his words. This is not because the commandment of the synagogue is greater than the commandment of redeeming captives, because surely there is nothing greater than redeeming captives. Rather, the reason in the *gemara* (Baba Batra 3b)<sup>10</sup> is that the dwelling places of people are not to be sold - see there. This is as if to say that just as a person would not sell his dwelling place even if he is in the most dire of needs, because it is impossible [to survive] without a place to live,

<sup>9</sup> Though, by being so explicit in his denial of such events in his locale, he may implicitly be referring to the fact that they really do happen there.

<sup>10</sup> Baba Batra 3b: "Rabina asked R. Ashi: Suppose money for a synagogue has been collected and is ready for use, is there still a risk? — He replied: They may be called upon to redeem captives and use it for that purpose. [Rabina asked further]: Suppose the bricks are already piled up and the lathes trimmed and the beams ready, what are we to say? — He replied: It can happen that money is suddenly required for the redemption of captives, and they may sell the material for that purpose. If they could do that, [he said], they could do the same even if they had already built the synagogue? — He answered: People do not sell their dwelling-places."

likewise, the status of the synagogue is no less important than one's own dwelling place, because it is the dwelling place of the community of Israel for Torah and for prayer. This is like when a person makes every effort not to sell his dwelling place and labors to find other solutions concerning his needs. Likewise, you are obligated to make an effort to do a new collection from the public. What they are saying here is that anytime it is not built, an effort must be made immediately to sell the materials in order to redeem them (captives) quickly. But, if it is impossible to do a collection at all, it is obvious that you must even sell the synagogue and remove it from its present status, even profane it, in order to redeem lives.

3: It would appear to me that therefore the Rambam was being scrupulous, and these are his words, to say "they collected from the public in order to redeem captives [if the synagogue is already built]," but this presents a difficulty. What is he trying to teach us [by saying they need to raise money from the public through a collection]? Only that if it were not as such, I would be able to say that therefore they should not sell the synagogue, because the commandment of the synagogue is greater than the redemption of captives. However, it is not so; rather, here it says that they are obligated to make an effort to collect their (the captives') ransom from the public, even if it is possible that through this they will delay a little in redeeming them. This reasoning comes from the idea that a person may not sell his house (thus, it appears to me, to come from the Siftei Cohen, note 1 - see there). Know that this is not only concerning the synagogue but also the house of study which they deemed to be like a synagogue (Bayit Chadash).

4: One does not need to ask, that since the redemption of captives is greater

than all other commandments, why do they say in Megilah (27a)<sup>11</sup> that one may not sell a Torah scroll except to study Torah or to marry a woman? They do not also say to redeem captives, because perhaps it is an obvious thing (Tosephot, Baba Batra 8b), and of course it is so. The Rambam also [said] in chapter 10 of Sefer Torah, "One may not sell a Torah scroll except for two reasons: to study Torah or to marry a woman, etc." This is also the language of the talmudic rabbis which he (Rambam) took as his own custom; however, there is no doubt about this. There (Megilah 27a) it refers to an individual, and surely one is not obligated to sell a Torah scroll that belongs to the public to redeem captives. One is not even obligated to give all of his money; rather, they should take up a public collection, and each person should contribute according to his worth (as much as possible). If this were not so, when the time came for the redemption of captives, it would be said to the wealthy, "Give all your wealth." How much the more so that he should not sell his Torah scroll; so it is for anything that is his. If it is for his redemption of captives, it is obvious to me that if it is for himself he should sell [his own Torah], because he needs to pay his creditors even with a Torah scroll if he does not have money, as what is written in Choshen Mishpat, chapter 97; how much the more so to redeem captives. Therefore, it should not be accounted in the name of redeeming captives (... [One sage] wanted to be exact according to what the Rambam said, which is not as the Tosephot said - see there. It is not so, because according to what I wrote, it is not exact at all. Also, according to the Sifte Cohen and the Turei Zahav, this is clear - see there, that the decision is exactly as the Tosephot).

<sup>11</sup> Megilah 27a: "Come and hear, since R. Johanan said in the name of R. Meir: A man should not sell a sefer torah save in order to study the Torah and to marry a wife. From this we may conclude [may we not] that there is no objection against buying one sefer torah with the proceeds of another? — Perhaps study comes under a different rule, since study leads on to practice. Marrying also [is permitted because it says], *He created it not a waste, he formed it to be inhabited* [(Isaiah 45:18)]; but to buy a sefer torah with the proceeds of another is still not permitted."



5: One of the great sages wrote that out of what Rambam wrote, that "if they completed building they should not sell, etc.," that this proves that if they still have not completed building, they should sell (Turei Zahav, note 1). Surely, it is possible to say as such according to what we clarified, that the technical law is that one must sell in order to redeem captives, but [there is a difficulty] because they may not sell a person's dwelling place. Indeed, the [Turei Zahav's] deduction is not so precise because if so, *banu* alone would have been enough (Rambam would not have needed to say *gamru* as well). This use of language teaches he did not write "they are already in their dwelling places," but "if they are building it." If so, we may not say "even if they had already brought the stones and encased them and set the beams;" that is to say, "they are building it" would have been enough. Rather, it would seem to be the opposite, that it (*gamru*) takes something away; that is to say, that as long as they are building it, it is called *gamru*, because before this process there is a status called "preparing to be built" (*hachana*), and when they are building it is called "being completed." This matter of them collecting from the city and of not selling needs to be studied more (The Turei Zahav according to the Tur forbids selling, and there is no prohibition of selling in the Tur; rather, it says they should not sell it. So it is according to the Shulchan Aruch, and this is the language of the Rambam and as with the Gra, note 3 and this needs further study - look closely).

6: Our teacher Moses Isserles wrote that, in any case, one who vows a *sela* for tzedakah, he cannot redeem captives at all, because one cannot redeem with this *sela* [which had been designated for tzedakah]. This is unless the community agrees as explained later in chapter 257, paragraph 5 - until here are his words. However, there is nothing there concerning this, and it seems to me that we need to read the text, it seems to me, 'as explained later on in



chapter 256, paragraph 4.' There, it is clarified that the community is able take from one tzedakah fund to give to another. The intention of our teacher Moses Isserles was that even though generally there is also tzedakah in the redemption of captives, as what is written that through this there is hunger and thirst, in any case in the way people talk, this is not generally [thought of as] unspecified tzedakah. There are those who disagree, and they thought about this that this is tzedakah in general (Bayit Chadash and Turei Zahav, chapter 256, note 4). There is one who upholds his words (Sifte Cohen, note 6), but it is not persuasive (the Gra, note 4).

7: Indeed, I did not know within the essence of the matter what our teacher Moses Isserles came to teach us, for if we say that it is his intention that when they donate to redeem captives not to redeem with this *sela* unless the people of the city agree, if the people of the city do not want to transfer [funds from a different tzedakah fund] or if they are not around to ask them [is this what he means]? [He cannot mean that.] Certainly, it is that since in redeeming captives, every moment of delay from redemption is like spilling blood (Joseph Caro), and if so, how is it possible to say that they should wait for the agreement of the community? And, as for what is clarified, that there is no transferring from one tzedakah fund to another without the consent of the community, this is certainly with all other tzedakah situations except for the redemption of captives. There is proof of this from the Rambam and the Tur who wrote that they are able to transfer for redeeming captives. Even if there are those who say that it is the intention of the community and so it is the truth, in any case, it is obvious that even if they do not agree, do not listen to them. If so, why did he (Isserles) write this law?

for the redemption of captives. He (the giver) cannot say that his intention

8: The source of the law is the Maharik (Shores 7), but there it was a different matter concerning Reuven and Shimon who were partners and they stipulated that they would give equally to tzedakah. Afterwards, there were captives who needed to be redeemed. Reuven claimed that he did not need to give more than Shimon because of the stipulation between them, and Shimon said that the stipulation was only concerning general tzedakah to give to the poor and not for redeeming captives. The Maharik wrote that the law agreed with Shimon, because the way people are, the redemption of captives has its own category, and it is not considered general tzedakah. He concludes there that even if it is said there that it (redeeming captives) is in the category of tzedakah, in any case, surely they intended it to be only for the regular, everyday tzedakah fund and not for the redemption of captives which is not everyday - see there. Concerning this, surely it is so that everyone needs to give to this according to his worth, and this is not included in the general tzedakah fund. However, our teacher Moses Isserles tilted this law toward the issue of "not redeeming with this *sela* without public consent." Surely, there is a difficulty: What does that have to do with it as I have written?

9: It is my humble opinion that such was also Moses Isserles' intention, and that he was being brief as is his pious way and such was his explanation, that for example, there was great need in the city for the poor and for the other types of tzedakah and also for redeeming captives. Every one of the city's inhabitants committed [money] to this (the redemption of captives) and committed one *sela* to tzedakah; [so], they cannot redeem captives at all [with the *sela*]. This is as if to say that they can force him to make another donation for the redemption of captives. He (the giver) cannot say that his intention

[in giving the *sela*] was to redeem captives, because this is not the way people are. The Maharik ruled likewise. This is what he concluded there, that even if [the donation] were to the general tzedakah fund, it likely was not intended for this. He wrote this concerning Reuven's words. However, the principle thought is that it is not tzedakah in the general sense, and it is explained as such there - see there. This is what our teacher Moses Isserles concluded, that they cannot redeem with this *sela* without public consent. This means that surely the law determined that this *sela* is for a different tzedakah fund, and for the redemption of captives one needs to give [money] separate [from the *sela*] unless the public knows that this *sela* is enough for him [to give] and that he is not estimated to give more; then, they (the public) are able to exempt him and give his *sela* to redeem captives. The reason is clear as is expressed later, etc., as if to say, that later it will be clarified that the public has permission to transfer from one tzedakah fund to another. How much the more so that they should have permission to take from another tzedakah fund in order to redeem captives. Therefore, it is in their ability to exempt him from giving more, and that *sela* [of his] can be designated for the redemption of captives, and they must do so because the redemption of captives takes precedence.

10: With all the greatness of the commandment of redeeming captives, in any case, the sages taught in the Mishna (Gitin 45a)<sup>12</sup> that captives should not be redeemed for more than their price because of *tikkun ha'olam*. In the gemara there is a question as to what is this *tikkun ha'olam*. Maybe it is because it might place a burden on the public. According to this, if he has a

<sup>12</sup> Gitin 45a: "Captives should not be redeemed for more than their value, to prevent abuses. Captives should not be helped to escape, to prevent abuses. Rabban Simeon B. Gamaliel says [that the reason is] to prevent the ill-treatment of fellow captives."

wealthy relative and does not need to take the ransom from the public, then it is permitted (Rashi) to [pay] an increased ransom. Or, maybe the reason is so as not to encourage kidnappers to do this and bring an increase in captors; when they see that there are increased ransoms, they will risk their necks to kidnap many of us. Accordingly, even if you do not need the public, it is forbidden to pay an increased ransom. A person may only pay an increased ransom for himself or for his wife because it is as if she is him (Tosephot and the Rosh). However, for anyone else, even for his children, it is forbidden, and the [gemara's] question remains unanswered. The Rambam, in chapter 8, wrote that the second reason is so the kidnappers would not be encouraged. So it is in the Tur and the Shulchan Aruch, paragraph 4 - see there. Even concerning his wife, it was determined in chapter 4 of [Rambam's Hilchot] Ayshut that he may not redeem her for more than her price. This is also according to what is written in Even Ha'ezer, paragraph 88; however, the Tur ruled that his wife is as if it were himself. So it is with Talmud students, or even if he is still young and it is known that he has a keen mind and will be a Talmud student, redeem him for a greater price. There are those who wrote he can pay an increased price even for his relatives (Bayit Chadash and the Sifte Cohen, note 4). Now, in these countries, none of this applies.

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*As important as it was for the rabbis to set limits on how much the community could spend to redeem captives, they were setting a very dangerous precedent. Placing a monetary value on life allows for the possibility of saying that some people are more valuable than others in society, that some people's lives are worth more than others. Here, the rabbis have determined that only certain members of society should be redeemed at any cost. Even though the rabbis are keeping this within the realm of*



redeeming captives, if taken too seriously, these guidelines could spill over into other functions in society. Are the rich more valuable than the poor by virtue of the fact that the latter are burdens on society while the former are benefactors? Are leaders more worthy of redemption than others because of their communal positions? Do the learned deservedly bring a higher price than the unlearned by virtue of the communal emphasis on study? Does this not inherently make people who demand a higher price more important, more "valuable," than others? If taken to the extreme, the rabbinic valuation of individuals in captivity, though designed to avoid communal exploitation, could undermine the integrity and cohesiveness of the very Jewish community they were trying to protect.

11: So there is no freeing captives, bringing them forth from their captors, without ransoming because of *tikkun ha'olam*, so that the enemies will not further burden the rest of the captives nor increase their policing of them. Rather, redeem them for their price. If their rate is not known, then how much? When their lives are in danger, there are those who say to redeem them for more than their price, and there are those who hesitate [and are unsure about this] (According to Pitchei Tshuvah, there are those who say such with the rate equaling their price. There are those who say to appraise them like a slave, and there are those who say like an idol worshiper who is redeemed from their hands since this matter is not clear. In our countries, all of this is infrequent; therefore, we will not expand upon this).

<sup>10</sup> *Shema 46b*: "Although it is a man and his children is a brother, he is not a brother. His children, however, are to be redeemed after the death of their father."

<sup>11</sup> *Tanach*, E. Ami said: This rule applies only if he sold himself a second and a third time. *Cassan* (Jews of the Diaspora borrowed money from heathens and when they were unable to pay the rates asked from for slaves. They appealed to R. Hama, who said: What can I do, seeing that we have a rule IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED? R. Abba thereupon said to him: You have taught us, Master, that this applies only if he has so sold himself a second and a third time. R. Ami replied: Their rule is not to be followed."

<sup>12</sup> *All things being equal, the man takes precedence because he is the one who has to do more tikkun.*



12: We also said there in Gitin (46b)<sup>13</sup> that he who sells himself and his children to Gentiles to be their slaves, or who borrowed money from them so that they (the Gentiles) took them (the Jews) as part of their repayment the first time, [redeem him], and redeem him a second time, but the third time do not redeem him. However, redeem his children after the death of their father so that they will not mix with Gentiles. During their father's lifetime we do not worry about this [mixing], because he protects them (Rashi); therefore, if they are not together with their father, redeem them immediately (Sifte Cohen, note 6). If they want to kill him, redeem him immediately, even after he was sold to them a number of times; how much the more so his children. But, if he continues to commit sins to annoy us (thereby expressing his unwillingness to follow Torah), do not redeem him; redeem only the children.

13: If a man and a woman are taken captive, the woman is redeemed first in order that she not be violated. If they suspect homosexual rape, the man takes precedence. So it is if their lives are in danger or if the two of them are drowning in a river; the man takes precedence.<sup>14</sup> A [Gentile] slave [of ours] who is captured, since he has been immersed [in a mikvah] while in slavery and has accepted upon him the yoke of the commandments, redeem him as an Israelite who has been captured. If he and his father are captured and his

<sup>13</sup> Gitin 46b: "Mishnah. If a man sells himself and his children to a heathen, he is not to be redeemed. His children, however, are to be redeemed after the death of their father.

"Gemara. R. Assi said: This rule applies only if he sold himself a second and a third time. Certain [Jews of] Bemeke borrowed money from heathens, and when they were unable to pay the latter seized them for slaves. They appealed to R. Huna, who said: What can I do, seeing that we have learnt IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED? R. Abba thereupon said to him: You have taught us, Master, that this applies only if he has so sold himself a second and a third time. R. Huna replied: These men do this habitually."

<sup>14</sup> All things being equal, the man takes precedence because he is the one who has to do more mitzvot

teacher is taken with the two of them, he takes precedence over his teacher and his teacher takes precedence over his father. But if his father is a talmud student, his father takes precedence. Even if his teacher is greater than him (his father) or his main teacher, in any case his father takes precedence. If his mother is with the two of them, she takes precedence over everyone, even himself. However, if their lives are in danger, his life takes precedence (same). If he and his wife are in captivity, his wife takes precedence over him. A court of law will go into his possessions and redeem her. Even if he cries out, "Do not redeem her with my wealth!", do not pay attention to him. So it is with one who is taken captive and has wealth and does not want to redeem himself, redeem him with his wealth against his will. As such, a father is obligated to redeem his child when the father has wealth and the child does not. And so it is with the rest of his relatives, force him to redeem his relatives; closer relatives take precedence. He does not need to burden the public if he is wealthy, and all of this is as the court of law sees fit.

14: Our teacher Moses Isserles wrote at the end of this paragraph that he who redeems his fellow from captivity, the redeemed one is obligated to repay him if he can repay; we did not say that this is like one who has to rescue him (rescuing has to be done without any expectation of repayment). He needs to repay him immediately, and he is not able to say, "I will repay you if the court obligates me to." If he (the redeemed one) has afterwards (when he is free) a claim upon him (the one who pays for his freedom) [about the amount], go to court, because without this, no one would ever redeem his fellow - until here are his words. That is to say, even though according to the law one is able to say, "who requested this from you [that you save me]," this does not resemble going into a fellow's field and planting seeds without permission, because in

that case the owner is obligated to repay him as what is written in Choshen Mishpat, paragraph 375, that there he did a favor for him. However, here he saved him from evil and rescued him, so he (the rescued one) may be exempt [from repaying, because you have to save a life without the expectation of being repaid]. In any case, because of a rabbinic decree he is obligated to repay him immediately. He is not permitted to say to him, "I will see you in court." Rather, he should repay him and afterwards go to court if he has a claim against him; therefore, he can re-collect [the money]. Also, redeem young orphans, and you do not have to wait until they get older [to be repaid - (the repayment can be taken from their estate)]. All of this is because of a rabbinic decree (Siftei Cohen, note 13), and he should pay only their price.

Chapter 253 - Who is suitable to take tzedakah in twenty one paragraphs

Synopsis: If one has enough money for two meals, he may not take from the food collective; for fourteen meals and he may not take from the public coffers.

Whoever has 200 zuz may not receive financial assistance. The same applies to one who has only 50 zuz but is engaged in business with them. However, if a person falls below this line by even one dinar, he may take as much money as people choose to give him. When a person goes on a trip to gather tzedakah for himself from various cities, he may collect as much money as he can for the duration of the intended journey; he may not extend the trip beyond what he had originally planned. If bordering at the 200 zuz level, you can spend whatever money you have as long as it has not been set aside to fulfill the obligations of a marriage contract. Other outstanding debts do not prevent you from spending your money; you can spend it and still be considered poor in order to receive assistance. A person cannot be obligated to sell his house or necessary household appliances in order to reach a level of 200 zuz or to avoid the need for tzedakah. A person who relies on his wealthy father for sustenance may not take tzedakah. A person may not take money from another's tzedakah allotment, even in the form of a gift, if he has more than 200 zuz. This would be depriving people who are truly in need from receiving what is designated as theirs. A person in need cannot be forced to sell his property below market worth; rather, give him tzedakah until he is paid fair cost. What is considered fair cost is susceptible to change given time of year and market fluctuations. If it is a poor person in this situation, give him as much tzedakah as you want. However, if it is a wealthy person who cannot sell his property for some reason but who will get market price in a matter of time, provide tzedakah for him on a day-to-day basis. One who runs out of money while on a trip and has no way to feed himself may take tzedakah if he is unable to secure a loan. He does not need to repay it upon his return home, because at the time of his needing it, he was like a poor person. However, it would kind of him if he did repay. When an orphan is sustained by an individual, he should not be expected to repay since it should be assumed that the sustainer was helping the orphan in order to do a *mitzvah*. However, if he were sustaining many orphans, or if he gave money to a head-of-household temporarily in need, it should be assumed that it was in the form of a loan and should be repaid at a later time. The collector may decide if surplus funds may be left with the person for whom they were intended or redirected to another person or cause. Money collected to redeem a captive may not go to his heirs should he die or become lost. Since the collected money came from individual contributions and would therefore be impossible to return, the funds should be used for a public need. Likewise, funds for a female orphan should not go to her heirs were she to die, but this money can and should be returned to its rightful owner or his heirs. If a poor person can give beyond his required third of a shekel if he wants, though he should be discouraged from doing as such. We should make every effort, whether it be directly or through trickery, to give tzedakah to a poor person who may be hesitant to take assistance. However, one who is merely being stingy should be allowed to wallow in his misery. Poor Torah scholars or religiously devout people in need take precedence over others. Money given as tzedakah cannot be used by the recipient to repay creditors unless stipulated as such upon receipt of funds. The only expenditure of those funds, beyond the

fulfillment of one's needs, can be to do a small act of loving kindness.

*Commentary found after paragraphs 1, 3, 4, 5, 7, 13, and 20.*

1: The sages taught in chapter 8 of Pe'ah that whoever had [enough money for] two meals may not take from the food collective; for fourteen meals and he may not take from the public coffers. In their [the sages'] time, everyone in the city would distribute to all the poor of the city [enough money for] two meals a day, and the food collective would take care of any additional need. So it was with the public coffers which were collected from the city['s inhabitants], and [enough money for] fourteen meals was distributed weekly, as will be clarified in chapter 256. Therefore, whoever has [enough money for] two meals may not take from the food collective because he has enough for today; for fourteen meals and he may not take from the public coffers since he has enough for the entire week. Even though on Shabbat, he needs three meals and he will lack one meal, the sages already said (Shabbat 118a),<sup>1</sup> "Make your Shabbat like a weekday;" that is to say that he should eat on Shabbat like on a weekday to avoid taking tzedakah. This is not like the transient poor who are passing from place to place to whom three meals are given [on Shabbat] as what is written in chapter 250. That case is different: Since he has already begun to take, he should take in order to honor the Shabbat. Here is a different case, because he has something and should not begin to take in order to honor the Shabbat (Tosephot and the Turei Zahav, note 2).

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<sup>1</sup> Shabbat 118a: "What you require to eat at the conclusion of the Sabbath, eat it on the Sabbath.' Shall we say then that it agrees [only] with the Rabbis and not with R. Hidka? — You may even say [that it agrees with] R. Hidka: we say to him, 'What you require to eat on the eve of the Sabbath [before nightfall], eat it on the Sabbath.' And the whole day of Sabbath eve [Friday] we make him spend in fasting? Rather the author of this is R. Akiba, who said: Treat thy Sabbath like a weekday rather than be dependent on men."



*It does not seem right that the rabbis would be sanctioning an act which would actually deny an individual the ability to fulfill a commandment, especially one as central as properly observing the Shabbat. Here, the rabbis are not telling the poor who already receive assistance to profane the Shabbat by not eating the required number of meals. Rather, they are telling those individuals who are teetering on the brink of needing assistance that it is better for them to eat on Shabbat as they would the rest of the week than to begin taking tzedakah.*

*I do not think the rabbis suggested this profanation to be cruel or condescending; the rabbis did not believe that financial security determined one's right to be shomer shabbat. Nor are the rabbis making a statement about those already receiving assistance by implying that it is better to dishonor the Shabbat than to be like the poor. Rather, it seems the halacha is attempting to take some pressure off those individuals threatened with the onset of poverty. Financial troubles bring enough hardship as it is, and having to worry about feeding one's family the required third meal on Shabbat might place an undue burden and stress on the entire household. By saying that this meal should be avoided, the rabbis are telling financially threatened individuals not to worry; given their current economic predicament, missing one meal on Shabbat will not be viewed as profaning the Shabbat or not fulfilling a mitzvah to its fullest extent.*

*Despite this leniency of the rabbis, however, if a person in this situation nonetheless finds it necessary to fulfill the mitzvah of Shabbat completely, he should not be denied the ability to do so, even if it means taking tzedakah. The social and religious ramifications of profaning the Shabbat may be greater to such a person than the possibility of depending on*

financial assistance. If so, the community should obligate itself to helping him be as true to Torah as both he and the community would expect him to be otherwise. Even in our more religiously diverse Jewish communities of today, a Jew who is sincere and reasonable in his requests should never be denied the right to practice his Judaism because of financial limitations.

2: We also learn there that whoever has 200 zuz may not take *leket*, *shichah*, *pe'ah*, or the *ma'aser oni* (the gleaning, the forgotten sheaf, the corner of the field, or the poor person's tithe), because the sages calculated that 200 zuz was enough for one year to clothe and feed him, his children, and his household; therefore, he may not take any *tzedakah* this year. And so, whoever has 50 zuz and trades with them may also not take, because the sages calculated that 50 [zuz] that are worked with well are the equivalent of 200 zuz that had not been worked with. If he had 200 zuz but lacked a dinar, even if they give him 1000 zuz [at one time], he should take it. The *poskim* wrote that these calculations concern only their time. In this time of ours, he may take until he has a fund in order to sustain himself, his children, and his household with a yearly income [whether it be the interest from that fund or other income]. The *poskim* are right that everything depends on the time and place (according to the Tur).

3: Our teacher Moses Isserles wrote in paragraph 1 that whoever goes from his house and travels from city to city to collect [money], the entire journey which he considers to travel when he is going from his house is considered one time (one trip). Even if they give him 200 zuz in one city, he is able to accept more, but it is forbidden from then on (after the designated trip) - until

here are his words. This is like what we learned above, that if he has 200 [zuz] but lacks a dinar he is permitted to take; even if [he receives] 1000 [zuz] at one time [he can take], because he is still considered poor in lacking one [dinar]. Similarly, until he returns home he is considered poor and can receive a great deal of money. He (Isserles) was stringent in that it was only the journey which he had considered to travel and not more. There are two opinions in the Mordechai of chapter 1 of Baba Batra. There is one who thinks that there is no limit to this and that as long as he has not returned home he is permitted to take - see there (The Gra wrote on this and it needs further examination, for his intention is not clear. Perhaps it is because before this it is taught that the poor who travel from place to place, etc. This proves that also according to this it is established for this year that whoever has 200 zuz).

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*As mentioned earlier,<sup>2</sup> the rabbis determined that 200 zuz is the minimum amount one needs to survive. In drawing this line, the halacha permits whoever falls below it to actively seek aid in whatever amounts it may come. No matter how far one falls below the 200 zuz level, whether it be 100 zuz or only a dinar, he can do what it takes to get as far above that line as possible.*

*In such a system, there is a danger that an individual who knows he can receive 1000 zuz in tzedakah may intentionally fall just below the 200 zuz limit in order to collect the money. By allowing those who are even a dinar below the level to have as equal an opportunity to garner as much money as possible as those who fall significantly short, those most in need may be denied funds they would otherwise be able to collect. Though the rabbis were undoubtedly attempting to set standards here by which all poor people should be treated, they might have developed safeguards as well to prevent the*

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<sup>2</sup> See my commentary to chapter 248, paragraph 2.

*temptation of intentionally falling just short. This is not to say that those who legitimately fall just short should be denied the ability to climb securely above the designated poverty line. Rather, given the limited amount of funds available and the need to be as equitable as possible, the very poorest members of society should be provided the greatest opportunities for financial assistance.*

4: They also taught there that if the 200 zuz were mortgaged to a creditor or for the marriage contract of his wife, he may take. This is as if to say that if he has a creditor, or if his wife has her marriage contract, even though she is part of his household (lit. - under him), such it is clarified there in the Jerusalem Talmud that these are not part of his account, and he thereby has permission to take. The reason is obvious, because he cannot eat them (he cannot use this money to buy food). The word "mortgage" is not precise here, because in any case where he cannot consume money, it would be as if it were "mortgaged." There are those who interpret this to be only when he has specifically set this [200 zuz] aside as a pledge for his wife's marriage contract (Turei Zahav and Sifte Cohen, note 3), because this is the implication of "mortgaging" (the Hebrew word *m'mushkanim*). You have to say the reason for this is because if not, he could spend them, and this needs further consideration. But, with a debt you do not need this at all, because as such it is clarified in the Tur and the Shulchan Aruch - see there.

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*The halacha here is not giving people permission to spend wastefully in order to take advantage of communal assistance, nor is it condoning living on credit as a suitable lifestyle. Rather, the halacha is giving financially*

strapped people the ability to spend what they need to survive knowing that should trouble come, they can find help while in debt.

Today's American consumer culture promotes the opposite. Businesses which make a great deal of profit through credit encourage people to charge their purchases at exorbitant interest rates. In the same vain, banks and companies eagerly issue credit cards, making them readily available to whoever needs or wants them. We are a society indebted to creditors; too many Americans owe more than they can afford to too many banks and businesses. When personal debt becomes unmanageable, the only recourse is bankruptcy, thereby putting people in even further financial distress. And when they turn to government assistance as their only alternative, we decry their behaviors which put them in their dilemma in the first place.

Credit is a financial convenience for some, a necessity for others. We as a society need to devise a system for differentiating between the two. We need to provide safeguards against creditors who take advantage of those who out of necessity are dependent upon them, creditors who increase the financial burden of the poor. Like the rabbis, it would make sense for us to find a way to help those individuals caught in this predicament. By controlling our system of credit, we could prevent more people from being susceptible to falling too far in debt. Not only would this relieve them of financial obligations which grow far beyond their ability to assume, but it would alleviate the burden of their inevitable dependency on our government as well.

5: They also taught there that they cannot obligate him to sell his house or appliances, and this is as according to our teacher Joseph Caro (the Beit



Yoseph). If he has a house with many appliances but does not have 200 zuz, he may take without having to sell his appliances even if they are made of silver and gold. To what does this refer? To eating and drinking utensils, clothes, bedding, and the like. However, a silver sleigh or pestle should be sold, and he may not take tzedakah. And so it is that they cannot obligate him to sell his silver and gold appliances only when he does not need to take from the public coffers but takes secretly from individuals instead. However, if he does come to take from the tzedakah collective, they should not give to him until he sells his appliances - until there are his words. This is according to the talmudic passage in Ketubot (68)<sup>3</sup> - see there, and according to the opinion of the Rif and the Rambam. There is another opinion of Rabbeinu Tam that the Tur brings, that before he comes to take tzedakah, if he has silver utensils, they can obligate him to sell them. However, if after he has begun to take [tzedakah] these utensils come into his possession, for instance if he inherits them or if they are given to him as a gift, they cannot obligate him to sell them in order that he not take - see there (According to the Siftei Cohen, note 4, that if he had a silver lamp or a silver table, they can obligate him to sell. Rashi's opinion is that if after he has taken tzedakah it is discovered that he did not need to take, they can take from him what he took. If he does not have the means to repay, they can sell his household appliances, and he can use inferior ones - see there).

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*I am not convinced that a person should be required to sell his most*

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<sup>3</sup> Ketubot 68a: "We learned elsewhere: He may not be compelled to sell his house or his articles of service'. May he not indeed? Was it not taught: If he was in the habit of using gold articles he shall now use copper ones? — R. Zebid replied. This is no difficulty. The one refers to the bed and table: the other to cups and dishes. What difference is there in the case of the cups and dishes that they are not [to be sold]? Obviously because he can say, '[The inferior quality] is repulsive to me', [but then, in respect of] a bed and table also, he might say [the cheaper article] is unacceptable to me! — Raba the son of Rabbah replied: [This refers] to a silver strigil. R. Papa replied: There is no difficulty: one [refers to a man] before he came under the obligation of repayment, and the other refers to a man after he had come under the obligation of repayment."

*treasured possessions in order to stay above the poverty line or to avoid needing assistance. Some possessions are invaluable, and by stipulating that one must put a monetary value on them and sell them in order to qualify for tzedakah forces the poor to do something we would never imagine requiring of ourselves. The halacha is implying here that an individual who has just above 200 zuz or can barely survive on what funds he has may have to beg from others secretly to avoid taking from the public coffers for fear of losing his most treasured belongings. Granted, in order to avoid rampant abuse, limits have to be made on how much "non-essential" goods one may keep and still be eligible to receive communal aid, but surely we can have a more humane, compassionate response to this unfortunate situation than to insist on the sale of all an individual's most valued possessions.*

6: There is also the opposite opinion, that with utensils that he was already accustomed to using, he does not have to sell, but if these appliances came to him through inheritance after the collection, he should sell (HaRah (Rabbi HaLevi of 13c Barcelona), there). Our teacher Moses Isserles wrote that such is the law in a place where there is a rabbinic decree that one who has a fixed income may not take tzedakah. They may not account for him his place of residence or his household appliances - until here are his words. This is also according to the opinion that we clarified. He also wrote that whoever is wealthy, it is forbidden to give to his children, even though they are grown, if they rely on their father - until here are his words. That is to say a poor son, even though he has a wealthy father, is permitted to receive tzedakah unless he relies on his father. It has been established for us that anything this son finds belongs to his father; giving to him is giving to his father, and the father

is already wealthy.

7: He also wrote that all of this pertains to tzedakah, but a person is able to receive by way of gifts and honor. As we said, he who wants to benefit, let him benefit like Elisha - until here are his words. There is some doubt as to whether he is able to receive through a gift the money of tzedakah that one gives [him], or only when it is not tzedakah money. This is not similar to what is written in chapter 251, paragraph 20, because there the reason was that since he (the rabbi) was doing city work, benefit was coming to him because they benefited from him. That is not so here; for the remainder of the population (other than a rabbi), any person, even if he is learned, when he has 200 zuz [he cannot take tzedakah]. How much the more so when he has more ... why should he deprive the poor of their tzedakah!?! The head-of-the-household, when he gives him a gift out of his [tenth or fifth of] tzedakah, he deducts from the rest of the poor. Therefore, it seems that from tzedakah money one may not take, even as a gift. If there is a difficulty that if not from tzedakah money, then from where, we would say that this teaches us that he has permission to take from elsewhere, even when he has a great deal of money. To this, proof is brought from Elisha. Even though undoubtedly he is wealthy, a prophet is fortified only with wisdom, strength, wealth, and stature (Shabbat 92).

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*The prophets implore humanity to do what is good and right in the eyes of God. They deplore the maltreatment of the poor as well as society's disregard for the well being of all of its inhabitants. The prophetic call is one of justice and compassion.*

By and large, the prophets were wealthy individuals. Those who were part of the royal court were paid handsomely for their services, and those who were not were successful herdsmen, shepherds, and the like. This financial security is part of the strength of the prophetic word.

What makes the prophetic message so appealing is that the prophets were speaking from consciences which were appalled and moved by the societal injustices around them. They were called to action by the need they saw, not because they were affected by it personally, but because they considered the societal lack of concern for the poor to be morally repugnant. Economically stable people might have been more likely to relate to the prophetic word because they saw that it comes from individuals not financially unlike themselves, individuals who are well off and have nothing monetarily to gain by the values they espouse.

This raises an interesting question for today: Who is more believable, one who has been there or one who has not? In trying to garner communal support for programs which benefit the poor, are people more likely to listen to someone who is, once was, or never has been poor? Those who are currently poor may have the best ideas as to how to address their own situations, but they can be dismissed as being motivated solely by self-interest. Those who were once poor might have viable solutions to the problems of poverty based on personal experience, and they might be successful in moving people because of the uniqueness of their achievement, but there is a risk that people might assume that what brought these individuals out of poverty would alone work for everyone else. Finally, those who were never poor might be able to motivate others with their purely altruistic motives, but they might not know what is best for the poor since they have never been



poor themselves.

*Individually, these three types of people may have their disadvantages, but together they could be a powerful voice for change. It is as important for people to hear from altruism as it is from experience, and when brought together, these various perspectives on the poor can merge into a solid, sensible program for change.*

8: Sometimes there is one who is wealthy through inheritance who has permission to take tzedakah; for example, when he is unable to sell it off and he has no food. This is as is taught in Baba Kamma (7)<sup>4</sup> that if a person has houses, fields, and vineyards but is unable to sell them, feed him the poor person's tithe until he can get half their value. This is also as is explained in the Tur: Whoever has fields, vineyards, and many houses other than his place of residence but has no money and goes to sell them, if no one wants to buy them [for their value] because they see that he is pressed, they cannot obligate him to sell [cheaply]; rather, feed him from tzedakah until he can sell them for their worth and they know that everything [that he is selling] is not because he is pressed to sell. However, if all the property, even [the property] of others, goes down in value, even if it is no longer worth half the price, if he can sell them so that he will have 200 zuz through the cheap price, he

<sup>4</sup> Baba Kamma 7a-b: "... Master ... taught: An owner of houses, fields and vineyards who cannot find a purchaser [is considered needy and] may be given the tithe for the poor up to half the value of his estate. Now the Master discussed the circumstances under which this permission could apply: If property in general, and his included, dropped in value, why not grant him even the value of more [than the half of his estate's value], since the depreciation is general? If, on the other hand, property in general appreciated, but his, on account of his going about looking here and there for ready money, fell in price, why give him anything at all? And the Master thereupon said: No; the above law is applicable to cases where in the month of Nisan property has a higher value, whereas in the month of Tishri it has a lower value. People in general wait until Nisan and then sell, whereas this particular proprietor, being in great need of ready money, finds himself compelled to sell in Tishri at the existing lower price; he is therefore granted half because it is in the nature of property to drop in value up to a half, but it is not in its nature to drop more than that."



needs to sell them and he may not take from tzedakah. If it is during the rain season so that he does not have time to sell, and he can only sell them cheaply (less than half their price), if he can rely on them [to help sustain him] until summer so that he can sell them for their value, then they cannot obligate him to sell. Rather, give him tzedakah until he can sell them for half their price - until here are the words of the Tur. According to him, the words "up to half" refers in this manner to one who must wait until summer. Therefore, if he is able to take half their price from what it would be in the summer, he is obligated to sell them, but less than half and he can wait until the summer and take tzedakah now. However, this matter is surprising, because why should he have to incur a loss based on half the value of the summer price? The reason must be that since now they are not worth more, this is not a cheapening of the price, and since through this price he will have 200 zuz, he is forbidden to take [tzedakah]. However, less than half [the value] and the rabbis took pity on him and permitted him to take tzedakah until the summer.

9: However, the Rambam in *Hilchot Tzedakah* has a different way than this, and these are his words: Whoever has houses, fields, and vineyards, if he can sell them during the rainy season, sell them cheaply. If they (the houses, fields, and vineyards) can support him until the summer so that he can sell them for their value, they cannot obligate him to sell. Rather, feed him the poor person's tithe until he can get half their price. He should not disadvantage himself by selling when it is not a good time to sell, [when] everyone else would take for an expensive price but he could only sell cheaply because he is pressed and troubled. They cannot obligate him to sell;

rather, feed him from the poor person's tithe until he can sell them for their value when everyone knows that he is not pressed to sell - until here are his words. According to his words, we do not abandon him at all; rather, we will feed him from tzedakah until he can sell for a fair price. However, it is also not understood why, during the rainy season, they feed him only until he can get half of the market price of his property. Perhaps it is because it is not the normal occurrence that prices drop to less than half from the rainy season until the summer. Therefore, it is enough for him that we help him with tzedakah to the extent of his loss and not more. This is not the case of it being cheap because he is pressed; in that case, there is no limit to the matter. Therefore, also help him with tzedakah without limit.

10: Know that if he does not have 200 zuz, they can give him even 1000 zuz at once as was clarified. In any case, if he has a great deal of property but is not able to sell it now, they should not give him a great deal [of tzedakah] now; rather, it is a day-by-day thing (Beit Yoseph and Sifte Cohen, note 5 ...). The reason is obvious, because since he is really wealthy but has fallen on hard times as what I have written, if so, how can a great amount be given to him? Perhaps tomorrow he will find someone to sell to at market value, and why deprive the poor? It is enough to feed him day-by-day until he finds someone to sell to at market value.

11: The Rambam wrote in chapter 9 about a head-of-household who was going from city to city and his money ran out along the way so that now he had no money with which to eat. This one is permitted to take *leket*, *shichah*, *pe'ah*, and the *ma'aser oni*, and is allowed to be supported from tzedakah.

When he arrives home he is not obligated to repay, because he was poor at that time. To what is this similar? To a poor person who became rich and is not obligated to repay - until here are his words. And so it is written in the Tur and the Shulchan Aruch, paragraph 4, as well as in a Mishnah in Pe'ah (5:4).<sup>5</sup> The Rambam thought the reason that this is similar to a poor person who became rich who is not obligated to repay is that even though this is not a complete likeness, it is like what he has now. However, when he was traveling and in immediate need to be fed from tzedakah, at that time he was like a poor person. It is surprising to me that in his interpretation of the mishnayot the Rambam wrote that as a measure of benevolence he needs to repay - see there. Why did he not mention this in his treatise?<sup>6</sup> The Jerusalem Talmud also teaches such - see there. Also, in our talmudic passage in Chulin (130b)<sup>7</sup> it states this explicitly - see there. Perhaps he did not write this in his treatise because he wanted to raise only that which pertained to the technical law. Know the matter is obvious that if this is a head-of-household who passes from place to place who is able to borrow, it is forbidden for him to receive tzedakah (This I see in the name of the Gra ...).

<sup>5</sup> Y. Pe'ah (5:4): "[As regards] a householder who was traveling from one place to another and [because he had no money with him] he needed to collect gleanings, forgotten sheaves, peah, or poorman's tithe, let him collect [what he needs]. But when he returns to his home, he must repay [the amount of produce he took as a poor person], [according to] the opinion of R. Eliezer. But sages say, '[He need repay nothing, because] he was poor when [he collected produce designated for the poor].'"

<sup>6</sup> The *Mishne Torah*.

<sup>7</sup> Chulin 130b: "Come and hear: If a householder was travelling from place to place and is obliged to take the gleanings, the forgotten sheaf, or the corners of the field, or the Poorman's Tithe, he may take them, and when he returns to his house he must make restitution; so R. Eliezer. — R. Hisda said: They taught this Only as a rule of conduct for the pious. Said Raba: But the Tanna stated 'he must make restitution', how then can one say that this was stated here only as a rule of conduct for the pious? Moreover, can any objection be raised from the statement of R. Eliezer? Indeed it was from the following clause [that the objection was raised] viz., But the Sages say: He was a poor man at that time. Now this is so only because he was a poor man, but had he been a rich man he would have had to make restitution; but why? Is this not a case of a man destroying or consuming the priestly dues? Whereupon R. Hisda answered: They taught this only as a rule of conduct for the pious."

12: Our teachers, the authors of the Shulchan Aruch, wrote in paragraph 5 that whoever sustains an orphan for the sake of doing a *mitzvah*, and when he (the orphan) grows up he (the sustainer) seeks from him the amount with which he sustained him, he (the orphan) is exempt [from repaying], even if the orphan had [money] at the time, unless it was determined [at the time of the giving] that the sustenance was in the form of a loan. This refers to only if he is an orphan. However, with someone else, if the terms were not specified, we would say that it was made as a loan since he has possessions - until here are is words. These laws depend on how the judge sees it - how this (the sustaining of the orphan) was done, if for the sake of doing a *mitzvah* or to get repaid [at a later time]. Therefore, it was clarified in Choshen Mishpat, the end of chapter 290 that orphans who rely on heads-of-households and are fed by them are obligated to repay, because surely they (the heads-of-household) did not intend to feed everyone for the sake of doing a *mitzvah*. This does not refer to one orphan whom a head-of-household took in; it is more plausible [with one orphan] that he intended to do a *mitzvah*. But, [with respect to] a different person [who is not an orphan but needs money now], we are inclined to think that he did not do this for the sake of doing a *mitzvah*. Therefore, with a head-of-household who passes from place to place and spends his money and someone gives him enough to cover his expenses, it is closer to say that this was done as a loan unless the matter is known to have been done in the name of kindness (according to the Siftei Cohen, note 9, and his words are not too clear or precise).



13: They taught at the end of chapter 2 of Shekalim<sup>8</sup> that the surplus of [money raised for] a [particular] poor person [must be given] to that [poor person]; the surplus of [money raised for the ransom of] captives [must be used] for [the ransom of other] captives; the surplus of [money raised for the ransom of] a [particular] captive [must be given] to that captive; the surplus of [money raised for the burial of] the dead [must be used] for [the burial of other] dead; the surplus of [money raised for the burial of] a [particular] dead person [must be given] to his heirs. Therefore, the Tur and the Shulchan Aruch in paragraph 6 wrote of a poor person for whom they collected to fulfill "according to his need" and they had a surplus, so he was allowed to keep it. If they collect for the poor in general, and there is more than what they [the poor] need, they [the collectors] can help other poor people. And so it is permitted to take [the surplus] from one captive to provide for another captive in the same situation. If there is a collection for captives in general and there is some leftover money, let them protect other captives. So it is for the dead and his heirs as well as between dead people - until here are his

<sup>8</sup> Shekalim, Chapter 2:5: "The surplus of [money set aside for] shekels is common property, but the surplus of [money set aside for the] tenth of the ephah, and the surplus of [money set aside for] bird-offerings of men who had an issue, for bird-offerings of women who had an issue, for bird-offerings of women after childbirth, their surplus [goes to the chests of] freewill-offerings. This is the general rule: Of all [monies set aside] for a sin-offering or for a guilt-offering, the surplus [goes to the chests of] freewill-offerings. The surplus of [money set aside for] a burnt-offering [must be used] for a burnt-offering; the surplus of [money set aside for] a peace offering [must be used] for a peace-offering; the surplus of [money set aside for] a Passover-offering [must be used] for a Passover-offering; the surplus of [money raised for] the offerings of Nazirites [must be used] for the offerings of other Nazirites; the surplus of [money raised for] the offerings of a [particular] Nazirite [must go] to the [chests of] freewill-offerings; the surplus of [money raised for] the poor [must be used] for [other] poor; the surplus of [money raised for] a [particular] poor person [must be given] to that [poor person]; the surplus of [money raised for the ransom of] captives [must be used] for [the ransom of other] captives; the surplus of [money raised for the ransom of] a [particular] captive [must be given] to that captive; the surplus of [money raised for the burial of] the dead [must be used] for [the burial of other] dead; the surplus of [money raised for the burial of] a [particular] dead person [must be given] to his heirs. R. Meir says: The surplus of [money raised for the burial of] a [particular] dead person must be laid aside until Elijah comes. R. Nathan says: The surplus of [money raised for the burial of] a [particular] dead person [must be used] for building a monument for him over his grave."



words. Our teacher Joseph Caro wrote that if the leaders see that there is an immediate need and want to change [where their money goes] they have the authority to do so - until here are his words. This is as the Rambam expressed it in his commentary to the Mishna [in Shekalim] as well as what is in the Jerusalem Talmud there, which says that the you cannot protest against the leaders doing this - until here are his words. This is to say that if they want to change, one may not ask how it is possible to change from this poor person to other poor people. Surely, he (the poor person who lost the money) will not forgive them for this, because he already had been granted the money [and was expecting it]. One could respond that when we look closely at any surplus, why does it belong to this person? [After all,] they gave to him only to fulfill his needs and not for luxuries! Therefore, it is like a gift by mistake. Rather, with all of this, since it was collected from many people, they did not think to look closely; they just gave according to what the collectors thought, and the collectors by themselves thought also the extra would belong to those for whom it was. Therefore, if they themselves decide to give the remainder to another cause, they are permitted because it is their opinion to give as such. There is debate about this among the *rishonim*, whether they may change a surplus for a matter which is not to fulfill a *mitzvah* or only for that which is, and this will be clarified in chapter 256 (The Darchei Moshe in this chapter, paragraph 3 brings this debate, and as what is written in chapter 256, paragraph 9).

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*This appears to be in contradiction with what the halacha says in paragraph 2 of this chapter, that a person who falls even a dinar below 200 zuz may collect as much money as people want to provide. There, Epstein explains that, in his time and place, the custom was for a poor person to*

collect enough funds to enable him to find a means by which he could sustain his family with a yearly income. Behind this custom is an understanding that it does not make fiscal sense to deny a poor person the right to receive more than what will merely provide for his immediate, basic necessities. If giving him a surplus of funds will sustain him until he can provide for himself, then why not let him keep the extra money? By permitting him to keep those funds, the community is avoiding his continued financial dependence upon them. For people in long term financial distress, then, tzedakah is ultimately useless if it provides for nothing more than their immediate, basic needs. It is merely a short term, stop-gap solution to a larger problem.

14: Our teacher Joseph Caro wrote in paragraph 7: Money that was collected to redeem a captive who dies before he is redeemed, there is one who says that it (the money) goes to his heirs, and there is one who says that his heirs do not merit it. For this, the opinion that is taken in this time of ours is that we say that they did not donate [the money] with such intention (to give it to his heirs), and the same is true when the captive is lost before he is redeemed - until here are his words. Our teacher Moses Isserles wrote that the same is true for a different vow, [when the money is] for a female orphan to get married but who dies; her inheritors have no right to it (the money). Nevertheless, as long as she is living, it (the money) belongs to the orphan, and they need to give it to her immediately without waiting for her to get married. If she dies, the money is returned, and this is according to what is in Choshen Mishpat chapter 253, because there is debate there - until here are his words.

15: An explanation of this is that the first opinion is that of the Rashba in his responsum who thought that since the surplus belongs to his heirs, accordingly, all the money [belongs to them] since it was thought to be his. Since they collected all the money with the intention that it be for him, he is entitled to it from the time they collected it. The second opinion is that of the Rosh who in his responsum [said] that only when the *mitzvah* is done properly does the surplus belong to his heirs. However, as long as the *mitzvah* has not begun, it is obvious that people did not donate with this in mind (to give to his heirs). The technical law is that he needs to return the donations to whoever gave. However, this would be an impossibility and a great expense; therefore, they should do with it (the money) according to the needs of the public, and most *poskim* agree with the Rosh. Our teacher Moses Isserles wrote about one who vowed [money] to a female orphan who died and her heirs did get title [to the money]. That is to say, they returned the money to the one who donated it, because this does not resemble a collection from the public. Clearly it is not like that; our rabbis did not sense [the need] to clarify this, because the first law they did according to public need, and in the second law it (the money) was returned to its owners, and this is obvious. But, when she is living, give it to her immediately. However, in Choshen Mishpat there is a debate, because our teacher Joseph Caro in chapter 253, paragraph 16 ruled that they should give it to her before she gets married, and her inheritors would inherit it, and our teacher Moses Isserles ruled that this is not so. We clarified this there in paragraph 25 - see there, that the proper [law] is as our teacher Moses Isserles [ruled], that they should give it to her immediately, and if she dies, she should return it to his heirs and not to hers (and the judgment of the Ramah and the Rashba and the majority and look

carefully).

16: The Rambam, the Tur and the Shulchan Aruch in paragraph 8 wrote that if a poor person gives a prutah to tzedakah, accept it. If he cannot give, they cannot obligate him to give. If they gave him new clothes, and he gave back the old ones, accept them. If he does not give back the old ones, they cannot obligate him to do so - until here are his words. This is from the tosefta in Pe'ah (chapter 4). This is the explanation: Even though every poor person is obligated to give tzedakah as what I wrote in chapter 248, in any case, they cannot obligate him to give, because he can give to another poor person and that poor person can give to him as what I wrote in chapter 251 (Bayit Chadash). The whole matter is surprising, because if so, then why does it tell us to accept from if he is obligated to give (Sifte Cohen, note 11)? There is one who explained that this refers to a poor person who cannot sustain himself, and chapter 248 refers to one who can sustain himself (same). All this revolves around what they wrote at the beginning of chapter 248, and we already clarified there that they are two matters. Certainly everyone is obligated to give a third of a shekel every year. Here, this refers to one who has already given this [third of a shekel], and this [here] does not refer to that; therefore, he is not obligated to give more. I would have said that also, when he gives this tzedakah to the collectors, they should not accept it from him since he is poor and has already fulfilled his obligation with a third of a shekel. To this it comes to teach us that in any case, accept [more tzedakah] from him even though he does not need to, because he is not required to do this according to the law.



17: If there is a poor person who does not want to receive tzedakah and we know that he needs it, we are obligated to make an effort to make him accept it. If he still does not want it, we need to be crafty with it and give it to him as a gift and not as tzedakah. If he still does not want it, give it to him as a loan and do not seek it back from him. It seems that if he makes an effort to repay but is unable to, do not accept it from him. However, the opposite is true if he is stingy and looks miserly after all his money and starves himself by not eating; pay no attention to him, and let him continue on in his foolishness. It seems to me that if he is sick from hunger, feed him and take from him against his will.

18: Even though they are obligated to give to tzedakah to every poor person, even an ignorant person, in any case it is not the same as [giving to] a Torah scholar. A poor Torah scholar is sustained according to his honor, because his is the honor of the Torah. It seems to me that this is the law: If he a religiously devout person, even if he is not a Torah scholar, sustain him also according to his honor. If he is a Torah scholar who does not want to receive [money or food], engage in buying him merchandise that you buy for him cheaply and buy from him for much more money, because this is the way of maintaining his honor. If he himself knows to deal in merchandise, loan him money with which to deal; however, concerning an ignorant person, you are not commanded to do this. Great is the reward of the one who gives merchandise to a Torah scholar so that he can deal with it. And such the sages said (Pesachim 53b):<sup>9</sup> Whoever gives merchandise to a Torah scholar is

<sup>9</sup> Pesachim 53b: "R. Jose b. Abin said: He cast merchandise into the Passover-sacrifice at the time of roasting, this is not the way in which people consecrate animals: therefore his words are invalid. For R. Johanan said: Whoever casts merchandise into the pockets of scholars will be privileged to sit in the Heavenly Academy, for it is said, *for wisdom is a defence even as money is a defence* [(Ecclesiastes 7:12)]."



worthy of merit and will study in the *yeshiva* on high as it says, "For wisdom is a defense and money is a defense..."<sup>10</sup>

19: Our teachers, the authors of the Shulchan Aruch, wrote in paragraph 12: If someone needs help from others and wanders far and wide in search of sustenance and they [a community] give him tzedakah, his creditors are not allowed to be repaid with what was collected through tzedakah unless it was written in his collection that he has obligations to other people and they then give him [money] with the intention that he needs to repay them - until here are his words. This is stated explicitly in the Tosephta at the end of Pe'ah: The poor person's tithe cannot be used for the repayment of a debt - see there. You should not ask about this that if so, why does he need Scriptural proof concerning the gifts one gives when freeing a Hebrew slave that cannot be attached to his (the slave's) creditors as is clarified in Kidushin (15a)?<sup>11</sup> Behold, the gift is also tzedakah, and there is no difficulty at all with this, because for one thing you could say that it is an obligation that the Torah cast upon the master. However, I might have said that because of this, the creditor may take from this. This comes to teach us that this is not so. Moreover, even if we say it is tzedakah, you could say that this is true, and we learn from here about all types of tzedakah, [that their payments cannot be

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<sup>10</sup> Ecclesiastes 7:12.

<sup>11</sup> Kidushin 15a: "What is the reason of the first Tanna who maintained, He who sells himself, no gift is made to him? — Scripture expressed a limitation in connection with one sold by Beth din: *thou shalt furnish him liberally* [(Deuteronomy 15:14)]; *him*', but not one who sells himself. And the other? — He needs that: *'him*', but not his heirs. ('His heirs': why not? The All-Merciful designated him a hired servant [sakir]: just as the wages of a hired servant belong to his heirs, So here too, his wages belong to his heirs? — But [say thus:] *'him*', but not his creditor. [This is necessary,] because elsewhere we agree with R. Nathan, as it was taught: R. Nathan said: How do we know that if a man claims from another and then one claims [the same amount] from a third, that we collect from the last named and give it to the first [creditor]? From the verse, *and he shall give it unto him to whom he is indebted* [(Numbers 5:7)]. Therefore *'him*' comes to exclude that [from the case of a slave]. And the other? — Elsewhere we do in fact disagree with R. Nathan."

attached to the repayment of a debt,] from the fact that the verse revealed it concerning the gift to the Hebrew slave. However, also without the Scriptural decree the reason is obvious, because the givers did not give to him knowing that he had creditors. Therefore, if he wrote as part of his collection that it be written that he has creditors that he needs to repay, then they know that to this they are giving (according to the Siftei Cohen, Choshen Mishpat, chapter 86, note 3 ...).

20: It is taught in the Tosephta (same): Concerning the poor person's tithe, they cannot demand repayment of a loan or debt from it, they cannot repay a payment from it, they cannot redeem captives through it, they cannot use it to marry off a groom, and they cannot give anything to tzedakah from it. However, he can use some of it for acts of loving kindness, and he needs to inform them, etc - until here are his words. This is what it means: You cannot pay from it a repayment for a debt that is secured by note or by oral agreement. You cannot pay back favors from it. You cannot redeem captives through it, even though the redemption of captives is greater than tzedakah as what I wrote in chapter 252. In any case, the Torah gave it to the poor only for food and drink, and he does not have permission to change [it]. As for what it says concerning acts of loving kindness, it seems that this is for a cup in a house of mourning or in the bath house that is spoken of in Nedarim (38b)<sup>12</sup> and is called the cup of peace. It is a small matter, but the poor person needs to inform he who sent it to him so that he knows that this is from the poor person's tithe.

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<sup>12</sup> Nedarim 38b: "R. Jeremiah said in R. Johanan's name: If a man is under a vow not to benefit from his neighbour, the latter may offer him the cup of peace. What is that? — Here [in Babylon] it has been interpreted, the cup drunk in the house of mourning. In the West [Palestine] it was said: the cup of the baths."

*Do we have the right to tell the poor how to spend the money we give them once it is in their possession? Surely we can make conditions to which a person must agree in order to receive funds from us, but once a person has taken possession of the money, we have no right to determine what he can do with it; to do so smacks of condescension. How do we know what is best for that person in his particular situation? For all we know, paying off his creditors, an act the halacha denies him, may be what it takes to get him out of poverty. Making conditions as to how a person can spend his money, even if it is money that we have given him, removes the recipient's power of control over his own life. It might anger us that a poor person may spend some of the funds we give him in ways we feel unacceptable, but ultimately that person can do with his life and his money what he wants.*

21: On the face of it, there is a difficulty against our teachers who learned the law of tzedakah from the poor person's tithe concerning the repayment of debts. If so, why did they not write all of these laws that are in the tosephta? It needs to be said that they thought that only the matter of the repayment of debts can be learned from the poor person's tithe, because probably the givers are stringent about this like the Torah is stringent with the poor person's tithe. However, the rest of the matters cannot be learned because certainly the givers are not stringent with these (the tzedakah monies they have given to the poor). It is concluded there in the tosephta that tzedakah and acts of loving kindness make peace and good advocates between Israel and their

*Of course, the Torah is not a book of laws, but a book of principles. It is the principles that guide us in our lives. The Torah is not a book of laws, but a book of principles. It is the principles that guide us in our lives. The Torah is not a book of laws, but a book of principles. It is the principles that guide us in our lives.*

Father in the heavens, and this is in the gemara (Baba Batra 10a).<sup>13</sup>

<sup>13</sup> Baba Batra 10a: "It has been taught: R. Eliezer son of R. Jose said: All the ... [tzedakah] and deeds of kindness which Israel perform in this world [help to promote] peace and good understanding between them and their Father in heaven, as it says [in Jeremiah 16:5], *Thus saith the Lord, Enter not into the house of mourning, neither go to lament, neither bemoan them, for I have taken away my peace from this people . . . even lovingkindness and tender mercies*, [where] 'lovingkindness' refers to acts of kindness, and 'tender mercies' to ... [tzedakah]."

Chapter 254 - It is forbidden to receive tzedakah from the "Egyptians" in four paragraphs

Synopsis: Jews may take tzedakah from idol worshipers if Jewish tzedakah is not enough to sustain them. Money given to the Jewish community by an idol worshiper must be used for its designated purpose. If it was not designated, and if the Jewish poor do not need it, give it secretly to their poor. There are no idol worshipers among us today. Accept donations to a synagogue from anyone except a convert to Islam, though some sages accept from them as well.

*Commentary found after paragraphs 1, 3, and 4.*

1: It is forbidden for an Israelite to take tzedakah from an idol worshiper publicly because it brings God's name into disrepute. In the gemara (Baba Batra 10b)<sup>1</sup> they expounded the verse "When its boughs are withered [they shall be broken off, the women shall come and set them on fire]"<sup>2</sup> - see there. Accordingly, also when done secretly [is it forbidden]. In any case, if he is unable to survive on Israelite tzedakah, he may take from them secretly. If he cannot take secretly, he should take publicly. The reason for this, it seems to me, is that truly this does not fall within the realm of disreputing God at all; rather, it is not honorable that he needs tzedakah from others. Also, the exposition of "When the boughs are withered ..." in the gemara is merely an

<sup>1</sup> Baba Batra 10b-11a: "Ifra Hormiz the mother of King Shapur sent four hundred dinarim to R. Ammi, ... but he would not accept them. She then sent them to Raba, and he accepted them, in order not to offend the Government. When R. Ammi heard, he was indignant and said: Does he not hold with the verse, *When the boughs thereof are withered they shall be broken off, the women shall come and set them on fire* [Isaiah 27:11]? Raba [defended himself] on the ground that he wished not to offend the Government. Was not R. Ammi also anxious not to offend the Government? - [He was angry] because he ought to have distributed the money to the non-Jewish poor. But Raba did distribute it to the non-Jewish poor? - The reason R. Ammi was indignant was that he had not been fully informed."

Soncino quotes Rashi who explains the Isaiah verse as follows: "When the heathen have received the reward of their pious deeds in this world, their power will be broken."

He also explains that "[t]he alms distributed by heathens were frequently derived from robbery, hence the Rabbis' attitude towards heathen charity ..."

<sup>2</sup> Isaiah 27:11.



*asmachta*.<sup>3</sup> Therefore, when it is a complete necessity and a clear need [to take the tzedakah], it is permitted (This is from an explanation of a difficulty by the D'rishah as well as from the Turei Zahav note 1 - see there). There is one who wants to distinguish between the individual and the public, that the individual is permitted [to take non-Jewish tzedakah] (D'rishah), but there is no [legal or rational] basis for this distinction (Turei Zahav).

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*The reason the rabbis are so concerned throughout the halacha with maintaining the dignity of those living in poverty is best expressed here: It is not honorable that one needs tzedakah. Taking tzedakah by its very nature is demoralizing and demeaning; honor is as fragile and important as financial security and intimately linked to it. The rabbis recognized how potentially detrimental this was to one's ego and morale and strove to minimize the pain associated with the need to ask for help.*

2: If an important person from among them (idol worshipers) sends tzedakah to the Israelites to distribute to the poor, do not return it to them even though there is not a great need to accept from them; in order to maintain peaceful relations, take it from them. And since our poor do not need it, distribute it to their poor secretly. There are those who say we should do this if it was sent to us with no specific instructions. However, if it was sent with instructions that it be given to poor Israelites, it is forbidden to deviate from the intent of the giver, and you must distribute it to the poor of Israel (We wrote this according to the understanding of the Siftei Cohen, note 3 and the explanation of the difficulty of the Turei Zahav, note 3 - see there and read carefully).

<sup>3</sup> An *asmachta* is a mnemonic device that ties a rule to Scripture.

3: Do not be surprised that they were accustomed to accepting without hesitation; certainly, since the need is great, it is as I have written. Also, the Rambam wrote in chapter 10 of Malachim, law 10, and these are his words: A Noahide who wants to fulfill a commandment from the rest of the commandments in the Torah (other than one of the seven Noahide laws) in order to receive a reward, do not prevent from him from doing it properly. If he brings a sacrifice, accept it; if he gives tzedakah, accept it. It would appear to me that they should give it to the poor of Israel since he is fed by the Israelites and it is a commandment to keep him alive, but etc. - until here are his words. This refers to the time of the Temple when he (a resident alien) took it upon himself not to worship idols - see there. Nowadays, we earn a living from each other, and there are no idol worshipers among us.

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*I fail to see the need for Epstein's use of the euphemisms of idol worshiper or "Egyptians" in this chapter. I do not think that, by virtue of the fact that idol worshipers no longer exist, he is telling us not to accept money from non-Jews. This would be contrary to his concept of darchei shalom. Perhaps he did not want to offend the non-Jews around him by equating them with idol worshipers, but he could have stated as such in the halacha. A logical explanation for the way this chapter reads might be that Epstein did not want non-Jews to think that he was encouraging Jews to take non-Jewish money; he did not want to appear to be sanctioning Jewish "freeloading." Such a perception could bring added troubles to the Jewish communities of his time and place, and Epstein probably did not want to be responsible for such a fate.*

*There is another point in the halacha here that merits attention. Epstein recognizes that the financial well being of the Jewish community is*

*intimately linked to the non-Jewish world. In his time and place, Jews and non-Jews made a living off of one another, just as they do now. With such a strong economic link, solutions to economic problems that affect all peoples in a given society must be linked as well. Such is the case with poverty. Americans can hope to eradicate poverty only if we look beyond our own communities and join in greater societal efforts, efforts which acknowledge the comprehensive nature of our economic system.*

4: All this deals with the giving of money for tzedakah, but when something is donated to the synagogue, accept it, because it is like a sacrifice that we receive from them. We expounded on "ish, ish"<sup>4</sup> to teach about them that we should accept vowed offerings and donations; this will be clarified in chapter 259. Do not to accept from an apostate to Islam. However, there are those who say we should accept because this is not like a sacrificial offering (according to the Sifte Cohen, note 5).

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*Epstein was able to reject financial assistance offered by converts to Islam because they were not in his midst or were a very small minority; he did not fear reprisal from the Islamic world or any negative consequences because of them. However, every type of person is in our midst, and as already expressed, American Jewry today cannot base its decisions of whom to help or from whom to receive help based on whom we think might hurt us. Working with other peoples and cultures, and accepting their gestures of support as well, builds necessary bridges in our increasingly fragmented American society. Given that poverty is an overall societal concern, we cannot afford to reject the goodwill of anyone.*

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<sup>4</sup> Leviticus 17:8 - Whether it be an Israelite or one travelling with Israel, whoever has an offering but fails to bring it to God shall be cut off from the people.

## IIi.

### Chapter 255 - It is human nature to push oneself and try to avoid accepting tzedakah in two paragraphs

Synopsis: Take tzedakah only if you absolutely need it. It is better to sacrifice the special nature of Shabbat than to borrow or accept tzedakah in order to pay for meals that one could otherwise not afford. Any work is better than no work. Tzedakah cheats will suffer the consequences. So, too, will one who does not take tzedakah when he and his family needs it. Again, avoid taking tzedakah at all cost unless it is essential.

#### *Commentary after paragraphs 1 and 2.*

1: A person should always try to avoid accepting tzedakah if it is at all possible for him to live, even at a poverty level (lit. with difficulty) and even to eat on Shabbat in the way that he eats during the rest of the week, because the sages said,<sup>1</sup> "Make your Shabbat like a weekday, and do not become dependent on other people." Even if he were a respected sage and became poor, he should engage in gainful work, even a low-class job, so that he not have to borrow or accept tzedakah from others. Such the sages commanded in Pesachim (113a)<sup>2</sup> - see there. However, if there is in this something offensive to the Torah, do not do it. We already wrote about this in chapter 242.

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*There is a keen work ethic in Judaism. Work is not only a financial necessity, but it builds character, refreshes the soul, and gives people a sense*

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<sup>1</sup> Shabbat 118a: "What you require to eat at the conclusion of the Sabbath, eat it on the Sabbath. Shall we say then that it agrees [only] with the Rabbis and not with R. Hidka? — You may even say [that it agrees with] R. Hidka: we say to him, 'What you require to eat on the eve of the Sabbath [before nightfall], eat it on the Sabbath.' And the whole day of Sabbath eve [Friday] we make him spend in fasting? Rather the author of this is R. Akiba, who said: Treat thy Sabbath like a weekday rather than be dependent on men."

<sup>2</sup> Pesachim 113a: "Rab said to R. Kahana: Deal in carcasses, but do not deal in words; flay carcasses in the market place and earn wages and do not say, 'I am a priest and a great man and it is beneath my dignity.'"

of worth as well. It is only natural, then, that the rabbis would implore people to find whatever work they can in order to avoid taking tzedakah money; they did not want people falling into the emotional and psychological traps that unemployment and poverty inevitably foster.

A problem arises, however, when a person is working but still cannot provide for his family; the halacha fails to recognize a whole class of people who are employed yet failing to make ends meet. The stigma attached to receiving any form of assistance, a stigma which the rabbis unintentionally help create here, and which equates need with failing to work hard enough to sustain one's family, prevents many people who need help from asking for it. Though the rabbis have made it a crime not to ask for assistance when in need,<sup>3</sup> the strong work ethic and the shame of having to admit failure makes asking for help difficult. Work is important, but only to the extent that not working for valid reasons or working but not financially succeeding is not viewed negatively by society. The halacha fails to make this distinction.

2: And so the sages taught in a mishna at the end of Pe'ah<sup>4</sup> that whoever does not need tzedakah but takes from it so that the people would be deceived and say "He is poor," he will not die before he truly needs it. And so, it is the opposite when he needs to take and cannot earn a salary, for example if he is old or ill or suffering or has many daughters with nothing with which to marry them and puts on airs and does not take; [if so, it is as if he] is spilling blood. He is fully culpable, and the only sorrows he has are his transgressions

<sup>3</sup> See below.

<sup>4</sup> Y. Pe'ah (8:9): "... [A]nyone who does not need to collect [poor-offerings], but [nonetheless] collects [them], will depart from this world only after he [in fact] comes to depend on other people. ... But anyone who needs to collect [poor-offerings], but does not collect [them], [as a reward for his action] will die of old age only after [he has become able] to support others from that which belongs to him. And with regards to this person, Scripture states, 'Blessed is he who trusts in the Lord, whose trust is the Lord alone.' (Jeremiah 17:7)"



and sins. However, whoever needs to take tzedakah, but skimps and saves and tightens his belt and lives a wretched life on bread and water so that he will not need to take [tzedakah] and be a burden on the public and who does not do this out of pride, he will not die of old age before he has become rich enough to support others, and Scripture says about him, "Blessed is the man who trusts in God and whom God is his security."<sup>5</sup>

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*As alluded to earlier,<sup>6</sup> there is a stereotype in American culture of the "lazy welfare cheat," those able-bodied young men and women who are capable of working but who "loaf" instead. This attitude, not uncommon in Jewish circles, carries with it an indignity that these slothful people are not actively searching for a job; there is no reason for them to be taking advantage of working Americans by wasting hard earned tax dollars and living off the government. They should do as our parents and grandparents did and pull themselves up by their bootstraps; they should skimp and scrap as the halacha suggests and do everything possible to avoid being "on the dole."*

*However, it was much easier for our ancestors of just a few generations ago to pull themselves from poverty and financially succeed. In their industrial economy, unskilled labor could make a decent living. Though a struggle, it was possible for them to start at the bottom of a company and work their way up the industrial ladder, to benefit more as the particular company increased its production to fill the seemingly never ending need for materials to help America blossom. Higher education and specialization were not as necessary as they are today, because manpower and manual labor was in such great demand.*

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<sup>5</sup> Jeremiah 17:7.

<sup>6</sup> See my commentary on chapter 248, paragraph 3.

Today is quite different. The American economy is no longer growing as rapidly as it once was and is no longer industrial-based. High production costs moved companies to countries where they could produce for less, and a decrease in demand for raw materials deflated the manual labor market. Our technology has enabled machines to replace manpower, and the need for higher education and specialization in order to manipulate technology has placed the uneducated, unskilled worker in an impossible bind. Now that America has evolved into a consumer-based service economy, entry level jobs that pay minimum wage rarely lead to better jobs at better pay. In other words, it is virtually impossible for an uneducated or unskilled worker who is given an entry level service job to grow with a company and eventually become financially secure.

Most poor people, then, are not poor, because they want to be. They are not taking tzedakah or are on welfare because they are lazy or do not want to work; to do so would be to admit a total lack of self worth or dignity. Though some may be trying to beat the system, there is simply no work for most of these people which will make them gainfully employed. As mentioned earlier,<sup>7</sup> government assistance programs penalize recipients for finding minimum wage jobs so that people who require help and find work end up with even less money than when receiving only government aid. Remove the disincentive to work, and people will work; most people want a job, but do not have the training, the opportunity, or the financial support to do so.

*Commentary found after paragraphs 2, 7, 13, and 18*

1: In the time of the sages of the Talmud, each and every city had a public fund and a food collective as will be made clear. Even in ancient times there was a public fund in all the cities as the Rambam wrote in chapter 4, and these

<sup>7</sup> See my commentary on chapter 248, paragraph 2.

**Chapter 256 - The laws of the public tzedakah fund and the food collective in Talmudic times in eighteen paragraphs**

Synopsis: In Talmudic times and the generations which followed, every Jewish community had both a public tzedakah fund and a food collective. However, there are too many economic pressures for them to still remain today. Rather, poor people have to beg and depend on individual benevolence. The tzedakah collective is headed by collectors appointed because they are trustworthy. They collect a determined amount from every community member once every week and distribute enough to every poor person for seven days of sustenance. Therefore, one who has seven days worth of food is not eligible for the public tzedakah fund. The food collective is gathered daily and distributed daily, and whoever has a day's worth of sustenance may not take from it. The amount given to the food collective is not fixed. The public tzedakah fund is only for community inhabitants, whereas the food collective is for all in need. Distribute food to the poor on fast days in order that they may break the fast. The public fund must be collected by two and distributed by three. The food collective is collected by three and distributed by three. The community is able to redirect funds from the tzedakah collective to the food collective and vice versa. There is a discussion as to what monies can be redirected from what funds for what purposes. The halacha decides, though not unanimously, that money should not be redirected from the poor. Surplus funds (and some sages say any funds), however, may be redistributed to other poor people or other causes. An individual who gives money beyond his required amount may dictate how that money should be spent, and the community cannot redirect those funds without the giver's consent. Any corporate body which appoints a collector and then the corporation dissolves while the collector still has their tzedakah money, if the collector had permission from the start to do whatever he wanted, now too he should do whatever he wants with the money. If from the beginning he needed to consult the corporate body, now too he should do likewise. If it is impossible for him to consult them or if they are unable to agree amongst themselves, then the collector should do what he wants. There are designated amounts of time one must be living in a community before he is responsible for contributing to the various tzedakah funds. People who travel to other communities to do business and are asked to give tzedakah must do so. If there are many of them, however, they can take the tzedakah money back to their home communities to distribute it among the poor there. If a poor person has been made a partner in a business, half of the tzedakah from his profits must be given to the lending partner in order to distribute.

**Commentary found after paragraphs 2, 3, 13, and 16.**

**1:** In the time of the sages of the Talmud, each and every city had a public fund and a food collective as will be made clear. Even in ancient times there was a public fund in all the cities as the Rambam wrote in chapter 9, and these

are his words: We have never seen nor heard of a community of Israel that does not have a public tzedakah fund; however, there are places that are not accustomed to having a food collective - until here are his words. Now, because of our transgressions, we have neither a public fund nor a food collective. Because of economic pressure and the great number of poor people, it would be impossible; rather, every individual Jew gives tzedakah out of his pocket. The number of poor people who beg door-to-door has increased to the thousands, and everyone gives him a morsel of bread or a little bit of money. It is quite common that in each and every city, almost every week two people go to collect donations for some individual, and despite all the various tzedakah funds in these days of ours, the little is not enough for the large need. We heard that it happens in certain cities that they do as the public funds of old, and they are "driven heavily."<sup>1</sup>

2: What is a public fund and what is a food collective? The Tur wrote, and these are his words: Every city that has in it a Jewish community is obligated to appoint tzedakah collectors who are known and trustworthy and who will call upon all the people each and every Friday and collect from each one of them what is appropriate to give, and the matter is fixed for them (the amount each person is to give is determined for them). They distribute the money each and every week and give to each and every poor person enough food for seven days, and this is what is called the public fund. Therefore, whoever has seven days worth of food may not take from it. And so, they appoint collectors who collect each and every day from each and every household bread and all kinds of food and fruit or money that is donated

<sup>1</sup> In other words, they are pinched because of the overwhelming need. This is an allusion to Exodus 14:25 in which Pharaoh's chariots were slowed because their wheels were heavy with mud.



according to the immediate need. They distribute the collection in the early evening, giving to every poor person a day's sustenance, and this is what is called the food collective. Therefore, whoever has a day's worth of sustenance may not take from it - until here are words. He wrote 'they call upon all the people from Friday to Friday;' this does not mean that they collected only on Friday, but throughout the week in order to distribute on Friday. He wrote 'and the matter is fixed for them' as if to say that concerning the public fund a donation of such-and-such was fixed for every head-of-household. However, for the food collective, there was no fixed amount. This [discrepancy] is because the public fund is for the poor of the city and you can count them, whereas the food collective is for all poor people (gemara, Baba Batra 8b);<sup>2</sup> that is to say, poor people who are transient, so this cannot be fixed, because sometimes they are many and other times they are few.

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*The funds and methods mentioned here and throughout this chapter are good, sound programs which are necessary in the fight against poverty. American society has similar networks today: Numerous charitable organizations, soup kitchens, food banks, homeless shelters, and the like have been created to serve the needs of our nation's poor. Unfortunately, these organizations are as "heavily driven" as the ones that Epstein refers to paragraph 1. Even the begging of which he speaks does not seem to help much in the poor person's struggle to survive.*

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<sup>2</sup> Baba Batra 8b: "Our Rabbis taught: The ... [tzedakah] fund is collected by two persons [jointly] and distributed by three. It is collected by two, because any office conferring authority over the community must be filled by at least two persons. It must be distributed by three, on the analogy of money cases [which are tried by a Beth din of three]. Food for the soup kitchen is collected by three and distributed by three, since it is distributed as soon as it is collected. Food is distributed every day, the ... [tzedakah] fund every Friday. The soup kitchen is for all comers, the ... [tzedakah] fund for the poor of the town only. The townspeople, however, are at liberty to use the soup kitchen like the ... [tzedakah] fund and vice versa, and to apply them to whatever purposes they choose."



*The fight against poverty in America must be two pronged. These funds of which the halacha speaks and which are manifest in American Jewish communities today in the form of food and clothing drives, federation campaigns, and the like are part of a move to alleviate the torturous agonies inflicted on the poor, the hungry, and the homeless. They are compassionate acts which address the effects of poverty and provide short-term, emergency assistance to those most desperately in need of immediate attention.*

*However, these efforts, while essential and merciful, are minimally beneficial if at the same time we are not working to eliminate the causes behind the suffering as well. If we fail to address what is making poor people poor in our society, their suffering will inevitably return once the effects of our efforts to alleviate their misery subside. The methods conveyed here which the rabbis of the Talmud utilized to assist the poor may have helped eliminate poverty in their time, but they are only the first step, a temporary stop-gap measure, in ours.*

3: You can force concerning this kind of tzedakah, and they would force each other to welcome strangers and then distribute tzedakah to them (Siftei Cohen, note 1 in the name of Mordechai). The Tur wrote that the collectors need to be sages and men of understanding who are exact [in checking] over each and every poor person to give him what he needs. They should also be exact in not giving to swindlers except for those who request food because there is no need to be exact concerning them as what I wrote in chapter 251. If the collectors are not wise and worthy, remove them and do not let them collect at all. If you cannot remove them, it is forbidden to give them

1. See Shulchan Aruch, Yoreh De'ah 247, and the comment of M. Feinstein (Iggrot Moshe, Yoreh De'ah 2:100) that the Tur's requirement is not absolute, but that one must be as exact as possible. See also the comment of M. Feinstein (Iggrot Moshe, Yoreh De'ah 2:100) that the Tur's requirement is not absolute, but that one must be as exact as possible.

tzedakah as what the sages said (Baba Batra 10b):<sup>3</sup> A person should not give to a tzedakah fund unless a talmud student is supervising it, and he may distribute it himself. On fast days, distribute food to the poor [in order to break the fast]. The sages said (Sanhedrin 35a):<sup>4</sup> Every public fast day in which they did not distribute food to the poor, it is like they are spilling blood. To what does this refer? To a place that is accustomed to distributing bread and fruit. But, in a place that is accustomed to distributing money or wheat or the like, in which they are not ready to eat, it cannot be considered to be like the spilling of blood - until are his words. Even if they were to give [the food] to them at night (after the fast), they would not be able to eat from it, so it is necessary that they prepare it for them beforehand.

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*As the halacha suggests, at one time, collecting for the poor was a job of honor and import. Only the most well respected, trusted individuals were appointed to carry out this substantial responsibility, and it was an honor to be asked to assume the position. The community obviously felt that caring for the poor was a high priority worthy of being administered by only its most reputable and reliable citizens.*

*Imagine if it were so in our society today. If working to solve poverty were still a priority, and we insisted that only the most trustworthy, well respected, financially astute citizens could be appointed to assume*

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<sup>3</sup> Baba Batra 10b: "R. Eliezer b. Jacob says: A man should not put a farthing into the ... [tzedakah] box unless it is under the supervision of a man like R. Hananya b. Teradion? - In saying [that a man should put his money into the ... [tzedakah] box] we mean, when it is under the supervision of a man like R. Hananya b. Teradion."

Soncino notes: This refers to a person "as reliable as R. Hananya but not necessarily as pious."

<sup>4</sup> Sanhedrin 35a: "Even as R. Eleazar said in the name of R. Isaac: If on a fast day, the distribution of alms is postponed overnight, it is just as though blood were shed, as it is written, *She that was full of justice, ... [tzedakah] etc. [Isaiah 1:21]*. This, however, applies only to bread and dates; but in the case of money, wheat or barley, [postponement] does not matter."

administrative responsibility and leadership over its elimination, people would be campaigning and clamoring to fill such a position.<sup>5</sup> One could only imagine how quickly the problems of the poor would be addressed then.

4: The public tzedakah collective is collected by no less than two people, because you cannot appoint to a public position dealing with money less than two people. This is only for the collection, but after the collection one is believed to be able [to be appointed] collector. It is raised in the gemara there (Baba Batra 8b)<sup>6</sup> a situation in which Rabi appointed two brothers to be collectors over the tzedakah collective, even though they (the brothers) are considered to be as one in matters of testimony. However, concerning the distribution, even two people are not enough, and three suitable, unrelated people are needed as is the law with a court of law,<sup>7</sup> since this is like the laws of money, to consider for each and every poor person how much is suitable to give him. The food collective, because it is distributed by three from the reason which was clarified, is collected by three, because it is not a fixed thing (how much one should give). They need to consider how much each and every person will give, because the food collective is collected according to need and is not fixed like the tzedakah collective as I have written. The Jerusalem Talmud, in chapter 8 of Pe'ah adds that the distribution of tzedakah

<sup>5</sup> This in no way implies that those individuals who work actively to combat poverty in our society are not well-respected, trustworthy, or financially astute. I only mean to suggest that if fighting poverty were a priority in our society, more great minds would be committed to the cause of its elimination and society would be more apt to respond to the long-term needs of the poor.

<sup>6</sup> Baba Batra 8b: "The Master said above: 'Any office conferring authority over the community must be filled by at least two persons.' Whence is this rule derived? — R. Nahman said: Scripture says, *And they shall take the gold* [(Exodus 28:5)] etc. This shows that they were not to exercise authority over the community, but that they were to be trusted. This supports R. Hanina, for R. Hanina reported [with approval] the fact that Rabbi once appointed two brothers to supervise the charity fund [as treasurers, although two brothers count only as one person]."

<sup>7</sup> Three judges must preside over money cases in a Beit Din.

is like criminal and penal law. This brings a refutation: Then why not require twenty three people?<sup>8</sup> In defense of the point: It would endanger them; that is to say, until they collect everyone (all twenty three people), the poor would be put in danger. Therefore, they said that it is enough for three people like monetary law.

5: It is mentioned in the gemara there<sup>9</sup> that community members are permitted to make a tzedakah collective a food collective or a food collective a tzedakah collective, to change it according to whatever they want, and these are the words of the Tur: Community members are permitted to change a tzedakah collective into a food collective if there are many poor people from outside communities upon them and the food collective, which is collected according to need is not enough for them. And so, a food collective can be changed into a tzedakah collective if there are many poor in the city, and the tzedakah collective is not enough for them - until here are his words. It is clear from this that even though according to this you will deplete the amount in the tzedakah collective or in the food collective from that which was before, even so it is permitted. Indeed, this is certainly [permitted] when it is impossible to increase the collection from that which it has been until now, because if they are able to increase [the amount], why would they

<sup>8</sup> In the days of the Sanhedrin, criminal cases were tried before twenty three people.

<sup>9</sup> Baba Batra 8b - see note 2.



deprive the poor? Do not cite the mishna in Shekalim<sup>10</sup> as a difficulty to this, because it is taught there that whatever extra is given to a poor person nevertheless stays with that person as what I wrote in chapter 253. If so, here, when they collect for the needs of the poor of the city, how can they give it to others, especially when they are diminishing what was there before? There are those who say that also there (chapter 253) we clarified according to the Jerusalem Talmud that if the community leaders saw that there was an immediate need and they wanted to change [where the money went], they had the authority to do so - see there. Here, too, the collectors themselves have permission to change [designated funds] according to the community leaders' opinion (Joseph Caro in the name of the Riv). And so, this is clear from the language of the talmudic rabbis who said that community members, that is to say, the leaders [can change designated funds]. The reason needs to be stated also with here because it is according to their opinion that they give the tzedakah.

<sup>10</sup> Shekalim, Chapter 2:5: "The surplus of [money set aside for] shekels is common property, but the surplus of [money set aside for the] tenth of the ephah, and the surplus of [money set aside for] bird-offerings of men who had an issue, for bird-offerings of women who had an issue, for bird-offerings of women after childbirth, their surplus [goes to the chests of] freewill-offerings. This is the general rule: Of all [monies set aside] for a sin-offering of for a guilt-offering, the surplus [goes to the chests of] freewill-offerings. The surplus of [money set aside for] a burnt-offering [must be used] for a burnt-offering; the surplus of [money set aside for] a peace offering [must be used] for a peace-offering; the surplus of [money set aside for] a Passover-offering [must be used] for a Passover-offering; the surplus of [money raised for] the offerings of Nazirites [must be used] for the offerings of other Nazirites; the surplus of [money raised for] the offerings of a [particular] Nazirite [must go] to the [chests of] freewill-offerings; the surplus of [money raised for] the poor [must be used] for [other] poor; the surplus of [money raised for] a [particular] poor person [must be given] to that [poor person]; the surplus of [money raised for the ransom of] captives [must be used] for [the ransom of other] captives; the surplus of [money raised for the ransom of] a [particular] captive [must be given] to that captive; the surplus of [money raised for the burial of] the dead [must be used] for [the burial of other] dead; the surplus of [money raised for the burial of] a [particular] dead person [must be given] to his heirs. R. Meir says: The surplus of [money raised for the burial of] a [particular] dead person must be laid aside until Elijah comes. R. Nathan says: The surplus of [money raised for the burial of] a [particular] dead person [must be used] for building a monument for him over his grave."



6: The Tur also wrote, and I quote: Rabbi Yitzchak ibn Migash wrote that only for the needs of the poor are they able to change them (designated funds); for example, if they need clothing or burial or the like, even though they collected it for a food shortage [they can use the funds]. However, if it is not for the needs of the poor, it cannot be changed. Rabbeinu Tam explained that for all public needs they can change them, and so he teaches to give to the guard of the city from the tzedakah collective. The Rambam also wrote this, and with this the Rosh he agrees, and he wrote: Nevertheless, only the tzedakah collective and the food collective [can their funding be changed], because they are established entities, and if there exists a lack in them, they can collect another time. However, if something happens which merits a collection for the needs of the poor, for example that there is a need to collect for a clothing shortage or many poor people came and there was a collection for their sake, they cannot change [these designated funds] to satisfy a different need, and not even for the needs of other poor people. If there is in the city a "friend" of the city, that is to say a great person whose opinion determines all collections, and he distributes to the poor according to his fancy, he can change them (the funds) to whatever city need he wants - until here are the words of the Tur, and he needs clarification.

7: According to the words of the Rosh in chapter 1 of Baba Batra (paragraph 29), there is a difficulty with Rabbi Yitzchak ibn Migash, that in Shekalim the surplus must stay with that particular poor person, and how can we say that you can change this? Therefore, he explained that the change is with the poor themselves; for example, what they collected for food they can change for clothing, or the opposite, or similar to this. But other changes, even for an

obligatory matter, it is forbidden [to change]. This is the opinion of Rabbi Yitzchak, the author of the Tosephot in Mordechai there and also the opinion of the Rif and it appears so (according to Caro). It needs to be said that our sages thought this, because they said in the Jerusalem Talmud of Shekalim that community leaders have permission to change, and if so, their difficulty never really existed. It is only when there is a surplus when they would collect and have funds left over [that they can change] (they can redirect the surplus once the original problem has been covered). I found this idea in Nimokei Yosef there in the name of Rabbi Yonah, and these are his words: This that is in the Jerusalem Talmud (the community leaders being able to redirect), etc., refers to when they agreed to change the surplus given to the poor to meet public need. And so, with the tzedakah collective and with the food collective they collected enough only to sustain them, and when there was extra they had permission to change [the designation] - until here are his words. According to this, it appears clearly that they do not explain, concerning the tzedakah collective and the food collective, [what would happen] if there would be an influx of poor people of other communities or of the poor of the city as the words of the Tur do which he brought in paragraph 5, that in a case like this, they do not have permission to redirect funds. Rather, since there is extra [here, this is another matter] and concerning this they can redirect [those extra funds]. Also, there will be no

difficulty with their words at the beginning of Arachin,<sup>11</sup> since they have permission to change a donation to the synagogue. And so in Megilah,<sup>12</sup> concerning the synagogue, the representatives of the city are able to sell it, even for something which is non-obligatory. This is only for a donation to the synagogue that they give according to the opinion of the representatives of the city and not concerning the tzedakah of the poor (Rosh there).

8: You cannot question this line of thought, that concerning tzedakah for the poor they do not have permission to redirect. If so, how can they redirect from the poor of the city to give to the poor of other communities like when taking from the tzedakah collective for the food collective or vice versa? You can explain this in one of two ways: Either we explain that this refers to a case of surplus as the opinion of Rabbi Yonah above, or we can think that this is not called "redirecting," because all the poor are considered one, and whoever gives to the poor considers all the poor [to see] who needs it most.

<sup>11</sup> Arachin 2a: "What does 'All persons are obliged to lay on hands' mean to include? — It is meant to include the heir, and this against the view of R. Judah. What does 'All persons can effect a substitute' mean to include? — That, too, means to include the heir, in contrast to the view of R. Judah. For it was taught: An heir must lay on hands, an heir can effect a substitute. R. Judah says: An heir does not lay on hands, and an heir cannot effect a substitute. What is the reason of R. Judah's view? — [Scripture says:] His offering, i.e., but not his father's offering. And he infers the rule concerning the commencement of the dedication of the animal from the rule governing its end. Just as at the end of the dedication the heir does not lay on hands, thus also at the beginning he cannot effect a substitute. And the Rabbis? — [Scripture says redundantly:] And if he shall at all change — that included the heir. And we infer the rule concerning the end of the dedication from the rule governing the commencement of the dedication. Just as at the beginning of the dedication the heir has power to effect a substitute, so at the end is he obliged to lay his hands on the animal's head. But what do the Rabbis do with 'his offering'? [They interpret:] 'his offering', but not the offering of an idolater; 'his offering', but not the offering of his neighbour; 'his offering, i.e., to include all who have a share in the ownership of a sacrifice in the duty to lay on hands. And R. Judah? — He does not hold that all who have a share in the ownership share the obligation of laying hands thereon

<sup>12</sup> Megilah 27b: "**Mishnah.** A synagogue may not be sold save for the stipulation that it may be bought back [by the sellers] whenever they desire. So R. Meir. The sages, however, say that it may be sold in perpetuity, save for four purposes - for a bath, for a tannery, for a ritual bath, or for laundry. R. Judah says: It may be sold for [turning into] a courtyard, and the purchaser may do what he likes with it."

Accordingly, as what they said, a redirection for the poor themselves, like from food to clothing, is permitted. One can interpret this two ways as well; first, that for Rabbi Yonah this was permitted only when redirected for the same poor people and not to others unless there was a surplus. The second explanation that we clarified is that they are able to redirect also to other poor people. As the Tur wrote, "only for the needs of the poor are they able to redirect;" he did not write "for the needs of the same poor people." This teaches somewhat like the second, and even this explanation is only when they collect for the poor in general. Even if the donation was for the poor of the city, they are able to redirect if to the poor of other communities and vice versa. However, if they collected for the explicit need of such-and-such poor person or such-and-such poor people, they are not able to redirect at all unless there is extra. As they taught in Shekalim there, it is permitted to redirect for the same poor person; in my opinion this is the opinion of our sages.

9: It is the opinion of Rabbeinu Tam that they are permitted to redirect it even for a non-obligatory (lit. permitted) matter, and he compares it to that which is in Arachin (Tosephot, Baba Batra 8b). This is the opinion of the Rambam who wrote in chapter 9, law 7 that the city's inhabitants are permitted to turn a tzedakah collective into a food collective and a food collective into a tzedakah collective and to change them to suit whatever public need they want, even though they did not give it for that purpose when it was collected. If there is in the country a great sage that everything is collected according to his opinion, and he distributes to the poor as he sees fit, he is permitted to redirect funds to whatever public need he sees fit - until here are his words. He clearly explains that the public itself is able to redirect

14 The Rabbis interpret the Mishnah to mean all the funds, not just the surplus.



to whatever they want unless there is a great sage in the city; then, the matter rests not on the public, but on him. When the Rambam wrote "in the country" it is known that what he calls a "country" is a city. This is in line with his opinion in his explanation of the Mishnah in Shekalim there, that if the community leaders saw it to be good to redirect, they have permission. He did not distinguish between the surplus and collection in general. And although we wrote in chapter 253 paragraph 13 that this only concerns the surplus, we did not go into such detail there, and we wrote that the law is according to all the opinions, but the Rambam does not distinguish like this.

10: Also in the Jerusalem Talmud of Shekalim there<sup>13</sup> it is clearly stated that this rule [about redirecting] does not only apply to surplus, because a baraita is introduced there [which states] that you cannot collect funds for a particular captive and use them to redeem different captives, you cannot collect a tallit from someone and offer a different one [to the poor], and you cannot protest what community leaders do - see there. It is clear that this refers to all the money for captives or a tallit that they collect for a poor person. This is a great difficulty for the Nimokei Yosef and Rabbi Yitzchak, because they explained this concerning the surplus. Certainly we could explain the mishna that way, but not the baraita. This is not at all through the mishnah; the rule about not protesting what community leaders do is only through the baraita. It is found in the Tosephta at the end of chapter 1 of Shekalim that, before that, they taught there the law of the mishnah, and afterwards, that you cannot redeem etc. The baraita concludes this, that there is no protesting - see there.<sup>14</sup> The

<sup>13</sup> Y. Shekalim 2:5: "It has been taught ... : They do not collect for a given garment [and give the poor man some other] garment. And they do not collect funds for this particular captive and use them for some other captive. But they do not interfere with the ... [tzedakah]-collectors on that account ..."

<sup>14</sup> The baraita interprets the mishna to mean all the funds, not just the surplus.



Rosh wrote there, and I quote: Our version of the Jerusalem Talmud of Shekalim [says] 'surplus, etc., and the surplus to exchange captives for captives, and not protesting what the community leaders do, etc.' - until here are his words. It is possible that this was according to their version, and accordingly that is why you can interpret according to the Nimokei Yosef and Rabbi Yitzchak, but we do not have that version before us.

11: The Rosh makes a different distinction, and I quote: There, in Shekalim, it refers to money that is in the tzedakah collective by happenstance (as a one-time big donation). However, community members who make a general tzedakah collective as they see fit can make it and change it to whatever they may need. And when they need money for the poor of their city, they should collect an additional time etc. - until here are his words. On the face of it, since they [collected money with the understanding that they] can do as they see fit, why do they need to give a reason for an additional collection? It seems that there are two reasons: Because they do with it as they see fit, and because they also collect another time. With this, all difficulties are resolved, because the Tur brings it in his name only because they collect another time, and why change from his words that they do with it as they see fit? Rather, there are two reasons: The Tur does not think it essential to bring both reasons, and he does not want to prolong [the argument]. As the Nimokei Yosef wrote, and I quote: They can change it to whatever they want, even for something that does not benefit the poor, because even though they collected it for the poor and they [the poor] deserve it, in any case it is a public loan, and if the poor need it, they have an obligation to pay them, etc. - until here are his words.

12: Our sage Joseph Caro wrote in paragraph 4 only the words of the Rambam, and his explanation is as what is written in his great composition,<sup>15</sup> that many sages agreed with his opinion, and it is also the custom in every place, to redirect even to something non-obligatory - see there. I have seen one who has written concerning his words and also the words of the Rosh (Sifte Cohen, note 7). It is surprising to me because it seems clear that Rabbi Joseph Caro did not copy his words. Indeed, all this has to do with public tzedakah, because the public apparently goes along with the opinion of the collectors who distribute or according to the sages of the city. However, with individual donations there are different laws as we clarified and as we will clarify in chapter 259, paragraph 4.

13: Rabbi Moses Isserles wrote that the same thing applies to any official appointed by the community who is able to redirect to what he perceives to be the public need, and the same is true for the individual who donates tzedakah and gives it to the collector [for the tzedakah collective]. But, if he designates collectors by himself, the community is not able to change it, because it was not with their consent that he donated. So, if the giver explains that they should give to the poor of the city or to such-and-such poor person, they cannot redirect [the donation], even to benefit Torah study - until here are his words. They criticized him (Isserles' decision), because the collector is not like the public or the city sage, because they have permission to redirect even to a non-obligatory matter, but the collector can redirect only to an obligatory matter (to fulfill a commandment). The halachic authorities agreed with this (against Isserles), and this is indicated in chapter 1 of Arachin (Bayit Chadash and Sifte Cohen, note 8 and the Gra, note 9), unless it is not

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<sup>15</sup> The *Mishne Torah*.

the local custom for the collector to do as he sees fit (Siftei Cohen, there), because whoever gives will give according to how he thinks it should be designated. It seems to me that his words are truly deduced from the statement that Caro wrote concerning the tzedakah collective, because there, the city's inhabitants appoint someone as collector who will act on their behalf, and it is obvious that his power is like their power. The same is true concerning an individual who donated tzedakah and gave it to the collector, as if to say that apart from what the individual gives regularly according to the assessment, he gave [extra] to the city's tzedakah collective through the collector, because apparently he gave knowing that with this (the collective money) the collector would do what he (the collector) wanted. For this reason, he said, "if he appointed a collector by himself, etc."; that is to say, with something that is not part of the city's collective, not even the city's inhabitants are able to redirect ... how much the more so the collectors. And so, "if the giver decides, etc."; that is to say, when he explicitly states the purpose of the gift, even if he gives it to the collector, it is forbidden to redirect his funds. This is clarified by the Maharik (Shores 5), where there is a distinction made between collectors - see there. This is also made clear through the words of Rabbi Moses Isserles himself from what he wrote afterwards, as what we will clarify at the end of the following paragraph.

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*There is a danger, as the rabbis were well aware, in being able to freely redirect funds that have been designated for a specific purpose; the problems for which the money was originally designated may never be addressed. We see this today in our government's redirecting of Social Security funds to satisfy other governmental needs. There is a fear that Social Security will*

soon go bankrupt and be unable to support those for whom it was designed.

The length of the discussion in the halacha concerning the redirecting of funds attests to how serious a topic it is. The rabbis were very contentious in this matter. They realized that circumstances might call for designated monies to be redirected, and they all had their own ideas as to how this could be done most fairly. At the very least, they wanted to ensure that money going to the poor actually got there.

The rabbis recognized that redirecting from funds that benefit our most needy citizens, though sometimes inevitable, is troublesome and problematic. The poor are society's most susceptible citizens; they are the least able and least empowered to respond forcefully to a loss of funding. The rabbis understood this and sought to give assurances without which the poor could be denied the money that has been designated for them, money which the halacha insists is rightfully theirs.

14: He (Isserles) also wrote that any corporate body which appoints a collector and then the corporation dissolves, and they separate from one another and the collector still has [their] tzedakah money, if the collector had permission from the start to do whatever he wanted, now too he should do whatever he wants [with the money]. If from the beginning he needed to consult the corporate body, now too he should do likewise. If it is impossible for him to consult them or if they are unable to agree amongst themselves, then the collector should do what he wants. He should do this as long as he spends it on an obligatory matter - until here are his words. This teaches us that even though they dissolved their corporation and had not instructed how to do [this] (distribute their tzedakah), it would be like them waiving their right,



and he (the collector) would not have to ask them [what to do] (according to Baba Kamma, 111a).<sup>16</sup> In any case, if it were at all possible for him to ask them, he should ask them. However, if this places a great burden on him or if they could not agree, then it stands that he should do as he wills. Still, his power is not like the corporate body's or like a person who has permission to do what he wants, because they have permission to redirect [funds] even for a non-obligatory matter, but he can redirect only for an obligatory matter. It is one thing to say that they indeed waived their rights, but in any case, it is undoubtedly certain they did not waive their rights to let him spend on a non-obligatory matter. It seems to me that if some of them left and others remained, he should ask only those who remained. In chapter 259 more of these laws will be clarified - see there.

15: All who dwell in the city are obligated to give to all city tzedakah funds,

<sup>16</sup> Baba Kamma 11a: "It was taught: Rabbi said: According to R. Judah, if the trespass offering was still in existence, the trespass offering will have to be brought to [whom] the money [is due]. But is R. Judah not of the opinion that the money should be brought to [whom] the trespass offering [is due]? We are dealing here with a case where e.g. the division of Jehoiarib has already left without, however, having made any demand, and what we are told therefore is that this should be considered as a waiving of their right in favour of the members of the division of Jedaiah.

"Another [Baraita] taught again: Rabbi said: According to R. Judah, if the trespass offering was still in existence, the money would have to be brought to [whom] the trespass offering [is due]. But is this not obvious, since this was actually his view? — We are dealing here with a case where e.g., the divisions of both Jehoiarib and Jedaiah have already left without having made any demand [on each other]. In this case you might have thought that they mutually waived their claim on each other. We are therefore told that since there was no demand from either of them we say that the original position must be restored."



and such the sages said (Baba Batra 8a)<sup>17</sup> that "whoever dwells in the city for thirty days can be forced to give tzedakah to the public fund along with the rest of the community. If he dwelled there for three months they can force him to give to the food collective. If he lived there for six months they can force him to give to the clothing fund so that they can clothe the poor of the city with it. If he dwelled there for nine months they can force him to give tzedakah to the burial fund so they bury the poor and cover all burial needs with it." This is according to the versions of the Rif and the Rambam, but the version of the Rosh and the Tur say that it is thirty days for the food collective and three months for the public collective. This is also according to Rashi's version. We can explain the theory behind this version, that giving to the tzedakah fund was greater in amounts than giving to the food collective, because the food collective is daily and the tzedakah fund is weekly. Therefore, whoever does not dwell for such a long time is not obligated to give a large amount. The reason for the position of the Rif and the Rambam is because the tzedakah collective is more urgent than the food collective, because the collective is for the community's poor and the food collective is

<sup>17</sup> Baba Batra 8a: "HOW LONG MUST HE BE IN THE TOWN TO BE COUNTED AS ONE OF THE TOWNSMEN, etc. Does not this conflict with the following: 'If a caravan of asses or camels on its way from one place to another stays there overnight and goes astray with the population, the members of the caravan are condemned to be stoned but their property is left untouched; if, however, they have stayed there thirty days, they are condemned to death by the sword and their property is also destroyed'? — Raba replied: There is no contradiction. The one period [twelve months is required], in order to make a man a full member of the town, the other [makes him] only an inhabitant of the town, as it was taught: If a man vows that he will derive no benefit from the men of a certain town, he must derive no benefit from anyone who has resided there twelve months, but he may derive benefit from one who has resided there less than twelve months. If he vows to derive no benefit from the inhabitants of the town, he may derive none from anyone who has resided there thirty days, but he may from one who has resided there less than thirty days.

"But is twelve months' residence required for all imposts? Has it not been taught: [A man must reside in a town] thirty days to become liable for contributing to the soup kitchen, three months for the ... [tzedakah] box, six months for the clothing fund, nine months for the burial fund, and twelve months for contributing to the repair of the town walls'? — R. Assi replied in the name of R. Johanan: Our Mishnah also in specifying the period of twelve months was thinking of the repair of the town walls."

for passers-by. The Rambam also wrote that there is a tzedakah collective in every place, but not a food collective. It would appear to me that all this applies to someone who lives in a city with his household and is considered a head-of-household. But, if he is "living" in a city with his merchandise, but he himself dwells in a different place with his household, he is considered a guest even if he lives there a long time.

16: All these rates concern one who comes to live [in a community] and says that it is still not his intention to permanently settle in the city until he sees it is suitable for him. However, if he comes to live and says that he intends to settle permanently, they can force him immediately, because immediately he is considered to be a community member. So it is for a new community of people who gather to live in a place; they can force one another immediately for everything. Rabbi Moses Isserles wrote in paragraph 5 that there are those who say that nowadays, the single measure for all tzedakah funds is thirty days - until here are his words. The explanation (Caro) is that the conditions of exile have forced this more extreme measure upon us.<sup>18</sup> We can explain [Caro's] position as is written in Choshen Mishpat, chapter 156: Today, all Jewish settlement is tentative and weak.<sup>19</sup> So, if we were to wait a long time (3 months, 6 months, etc.) [for people to be required to give tzedakah], there might be no one around at that point.

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*Our American Jewish communities today are not as unstable and transient as were the communities in Epstein's time; we are secure and firmly established in our greater society. Still, it is fitting that the rabbis felt the need*

<sup>18</sup> In other words, since we are all "wanderers," there is less of a reason to exempt temporary residents from local tzedakah.

<sup>19</sup> In other words, we cannot count on its long term health and survival.

*to involve new community members in the responsibilities of the community so quickly and urgently. Immediately involving new community members benefits both the community and the new inhabitants. The community receives added financial assistance, manpower, and skills while the new inhabitant feels a sense of worth and belonging. To be part of a community is to both benefit from it and be responsible for it from the moment one inhabits it.*

17: The Tur and the Shulchan Aruch in paragraph 6 wrote that whoever goes from his place to a different city to do business, and the officials of the city to where he goes decide that he should give tzedakah, he should give it to the poor of that city. If there were many that went there and they (the city officials) decided that they should give tzedakah, they should give, and when they come they should bring it with them and sustain the poor of their city with it. If there is a city leader (one who decides how tzedakah money is to be distributed) in the place where they (city officials) decide about them (the business travelers) [giving tzedakah], they should give it to the leader, and he will distribute it as he sees fit - until here are their words. Rambam wrote as such at the end of chapter 7 and this is in Megilah (27a-b).<sup>20</sup> The explanation

<sup>20</sup> Megilah 27a-b: "R. Johanan said in the name of R. Meir: If the representatives of one town<sup>14</sup> go [on a visit] to another town and they are there rated for a ... [tzedakah] contribution, they should pay it and on leaving they should bring the money with them to assist with it the poor of their own town. It has been taught to the same effect: If the men of one town go to another town and are there rated for a ... [tzedakah] contribution, they should pay it, and when they leave they should bring the money back with them. If an individual, however, goes to another town and is there rated for a ... [tzedakah] contribution, it is given to the poor of that town

"R. Huna once proclaimed a fast day. R. Hana b. Hanilai and all the [leading] men of his place happened to visit him [on that day], and they were called upon for a ... [tzedakah] contribution, and they gave it. When they were about to leave, they said to him [R. Huna], Kindly return it to us so that we may go and assist with it the poor of our own town. He replied to them: We have learnt: When does this rule apply? When there is no town scholar in charge there; but if there is a scholar in control there, it should be given to the town scholar, and all the more so in this case, seeing that both my poor and your poor depend upon me."

is that this does not refer to fixed tzedakah funds that are in every city, because if so, how could one city decree concerning another city, and if they request tzedakah from guests that come here as is customary, is it not a known fact that the tzedakah is for the poor of this city? Rather, this refers to, for example, a new or special circumstance like an epidemic or pestilence or any of the rest of the decrees.<sup>21</sup> It remains within the power of the leading city of the district to decree fasts and tzedakah collections upon every city in the country on account of these things. Therefore, an individual who is from a different city, although from the standpoint of the technical law he is entitled to give tzedakah in his own city, nevertheless, he (his independence) is nullified by the majority around him. When many people gather there from a different city, the tzedakah belongs to their city. However, due to the suspicion that they will not give this tzedakah at all, they therefore send it to the city that they are now in and when they leave there they can take it and distribute it in their cities. This is unless there is a leader in the city, as if to say "a great person of his time" (a sage or scholar) who is attuned to all the needs of the city, and they (the visitors) leave it (the money) with him and what belongs to their cities he himself will send to them, and it would be a dishonor to the Torah to take from him (This is the intention of Isserles and the intention of the Sifte Cohen, note 12 and also what is written, that dwellers who buy the honor of rolling the Torah or any of the rest of the commandments of the sanctuary, the tzedakah belongs to that synagogue; this is obvious. The custom of the Yom Kippur candles that is written, we are not strict about it. Everyone should do according to the custom of the city, and this is obvious).

18: Rabbi Moses Isserles wrote that one who holds money belonging to others as part of a business deal, if it is the custom to give a tenth of one's income to tzedakah, one should give the money to its owner (the lender/"partner") and

<sup>21</sup> such as the one which instigated the Crusades or the persecutions of 1348-9.



he will distribute it. This applies unless there is a local rabbinic decree which specifies that all profits shall be tithed - until here are his words. When Rabbi Moses Isserles writes that one must give a tithe of the profit to the owner, he means *half* the tithe, since the other half belongs to the active partner (the borrower), unless the active partner does not take any of the profits in this particular deal (according to the Siftey Cohen and the Turei Zahav, note 7. However, we have never heard of a rabbinic decree like this, so there is no need to expand on this.).

Commentary found after paragraphs 1, 4, 6, 13 and 13.

Chapter 257 - The order of collection and when to collect in seventeen paragraphs.

Synopsis: One who does not give to the poor transgresses the negative commandment in Deuteronomy 23:22 of not delaying the payment of vows made to God. Tzedakah is considered a vow and must be honored. If a person vows money for tzedakah and no poor people can be found, he must set aside that money until there are those who are eligible to receive it. Not all sages agree with this. Stipulations may be attached to tzedakah vows unless there are currently poor people to whom the money could be given, though some suggest that stipulations can be attached even when the poor are currently available. The discussion as to when stipulations on vows for tzedakah can be made is extensive. One who vows to give to the tzedakah collector cannot delay in giving when called upon. If a person vows to give tzedakah to a certain poor person who is not present and there are other poor people around, he can wait for the person to whom he promised the money to arrive, and he need not give to the others. Tzedakah collectors must be both trustworthy before God and publicly scrupulous to avoid any inkling of suspicion of their activities. By the same token, the public must place their trust in the collectors and assume them to be honest. They should not be called upon to give account of the collected funds unless stipulated as condition for employment, but it would be good if they gave account anyhow. None of this applies if the collector is known to be dishonest. In that case, he must give account and should be dismissed of his duties in a dignified manner. When the tzedakah pouch is low on funds, the collector must lend to it from his own money. When the fund is replenished, he may retrieve his money and not worry about public suspicion. However, if the collector is not so believable, the public can demand he take an oath concerning the matter. Whoever sets aside his tithe and then lends to a poor person from his personal funds may pay himself back from the amount he had set aside as a tithe. This is only when the poor to whom he lends is still living, but if he dies or becomes rich, he does not need to pay him back, because he was poor at that time. Being a tzedakah collector is virtuous and worthy of great reward. A tzedakah collector must be careful not to favor his relatives who may be in need. He must also check to see that one in need has no wealthy relatives who could be supporting him. If a wife has been appointed over some of her husband's tzedakah money, she may not in turn appoint someone else over the money. The husband may appoint someone, and the appointee may do with both the interest and the principal as he sees fit unless he is instructed otherwise.

*Commentary found after paragraphs 1, 4, 8, 12, and 13.*

Deuteronomy 23:22

Unto the tithes, which you must bring to Jerusalem at the year of the jubilee, tzedakah is a mitzvah that is always in season.

1: It is mentioned in chapter 1 of Rosh Hashanah (6a)<sup>1</sup> that concerning sacrifices, when one vows to bring a sacrifice he is obligated to bring it on the nearest pilgrimage festival, and if he does not bring it he transgresses a positive commandment. If three pilgrimage festivals pass and he still has not brought it, he transgresses the negative commandment that "[When you take a vow to the Lord your God], you should not delay in paying it."<sup>2</sup> It says there that also with tzedakah when he vows, he transgresses on "Do not delay" when he does not give to the poor. They said there that concerning tzedakah he transgresses immediately [when he does not fulfill his vow] because the poor exist *here and now*.<sup>3</sup> The Rashba wrote in his novella there (Rosh Hashanah 6a) that he immediately transgresses on a positive commandment as he does when [missing] the first pilgrimage festival with the sacrifices; after three pilgrimage festivals, he transgresses the negative commandment of "Do not delay" as with the sacrifices because it is a toraitic decree. However, the Ran wrote there that there is no relation between the pilgrimage holidays and tzedakah at all; rather, he immediately transgresses "Do not delay" when there are poor people. When there are no poor people at all he does not transgress (as from the Ran - see there). For the Rashba and the Tosefot, concerning the three pilgrimage festivals he always transgresses even when there are no poor people, because it is a toraitic decree.

<sup>1</sup> Rosh Hashanah 6a: "With thy mouth": this is ... [tzedakah]. Raba said: For [paying ... tzedakah]-offerings one becomes liable at once. What is the reason? Because the poor are waiting. Surely this is obvious? — [Not so, since] you might think that, as [... tzedakah] is mentioned in the passage dealing with offerings, [it need not be paid] till three festivals have elapsed, as in the case of offerings. We are therefore told that this is not so. Only the others [the offerings] were made by the All-Merciful dependent on the festivals, but this [charity] is not so, because the poor are waiting.

"Raba said: As soon as one festival has elapsed, he transgresses an affirmative precept."

<sup>2</sup> Deuteronomy 23:22.

<sup>3</sup> Unlike sacrifices, which one must bring to Jerusalem at the nearest ritual opportunity, tzedakah is a *mitzvah* that is always in season.

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*The rabbis realized the urgency in helping the poor now. The poor are in dire straits; to tarry in assisting them is to allow their suffering to proliferate. If there are poor people present and we fail to address their needs immediately, we are committing a grievous sin. Poverty is not something that will go away without our immediate attention and help; society's delay in confronting it is an affront to God.*

2: The opinion of Rambam at the beginning of chapter 8 is like that of the Ran who wrote that tzedakah generally is considered a vow. Therefore, he who says, "It is incumbent upon me to give a *sela* to tzedakah" or "This *sela* is for tzedakah," he is obligated to give to the poor immediately. If he delays, he has transgressed "Do not delay," because he can give immediately and the poor are available. If there are no poor people there he must set aside [an amount] and leave it alone until he finds poor people, etc. - until here are his words. It does not mention at all the three pilgrimage festivals [as the time limit for paying off a vow]. As for the requirement to set aside when there are no poor, it seems that he determined this according to the aforementioned talmudic discussion, because there it refers to two situations: one who sets aside [a sacrificial offering] but does not sacrifice and one who vows but does not set aside. Therefore, he wrote two things: "It is incumbent upon me to give a *sela* to tzedakah," this is the one who vows but does not set aside. "This *sela* is for tzedakah," this is the one who sets aside but does not sacrifice; that is to say, he did not give to the poor. This is also the one about whom it says that if there are no poor people there he must set aside, because it is a toraitic decree to set aside even though it is impossible to sacrifice anymore.



3: The Tur also wrote in similar fashion, and he wrote in the name of the Rosh that only when he sets aside in general. However, every person can set aside money for tzedakah which he intends to give little by little as it suits him - until here are his words. It is obvious that as with any vow, a stipulation works here, because it is according to the conditions that they vowed that such would be fulfilled. The Rambam also wrote: If the stipulation is that he does not need to give until he finds a poor person, he does not need to set aside. Likewise, if he stipulated that the collectors are entitled to alter the terms of the gift, this is permitted - until here are his words. Behold, the Rambam wrote that stipulations are valid with tzedakah vows, and this is obvious, because later on it will be clarified that tzedakah collectors exchange money for other [commodities], not only by themselves, but according to the conditions from here.

4: The Tur wrote about the words of the Rambam, and I quote: It would appear from his words that there are only stipulations when there are no poor people, and this is incorrect. Moreover, why does he need conditions when there are no poor people? After all, he is obligated only because the poor are in existence. If so (If what Rambam asserts was the case), it is obvious that one is not obligated until he happens upon poor people - until here are his words. Behold, his second difficulty is not a difficulty at all, because we already clarified Rambam's opinion that he always needs to set aside as with the sacrifices even when there are no people. Here, this was him (Rambam) being exact by saying, "you do not need to set aside;" he did not say, "you do not have to give." The Tur, because it is obvious to him that this is only in reference to sacrifices (the setting aside no matter what),

therefore had a difficulty about it. Indeed, his first difficulty is certainly a difficulty for the Tur. Since the Rambam did not write about stipulations when there are poor people in existence but rather "that one may stipulate that when there *are* poor people ...," we learn from this that the stipulation does not work when there are poor people in existence. It is clear there that there are no stipulations when there are poor people. One opinion holds that Rambam's words reflect the usual circumstance [and are not to be interpreted too strictly], that it is not customary to make stipulations about tzedakah when there are poor people in existence who need it now (Joseph Caro), but this a forced reading [of Rambam] (Bayit Chadash and Drisha). It was the Rambam's intention that stipulations do not work when there are poor people, in the same way that there are no conditions with sacrifices concerning delaying for three pilgrimage festivals (Bayit Chadash). It is my humble opinion that with sacrifices, too, why are there no stipulations when one would vow to bring a sacrifice in a year or two? After all, a vow lies within the power of the one who vows it, so if he makes a vow according to a stipulation, it is obvious that it should be valid. It appears, rather, that when we read Rambam closely when he wrote, "If the stipulation is that he does not need to give until he finds a poor person, he does not need to set aside," it was because he began by talking about giving and concluded by talking about setting aside; rather, he comes to tell us a not so obvious point, that this stipulation is not remarkable at all, because it is obvious that he has the ability to make a vow according to his will. Rather, what is remarkable is the stipulation that he need not give until he finds a poor person! We should say that he (Rambam) means that one need not give to the collector until he (the giver) finds a poor person. I would have said, however, that setting aside is

required. This comes to teach us that in this situation, setting aside is also not required (it seems to me). Another opinion holds that when he says "I will not give unless ...," he refers to setting aside as well as to giving (Turei Zahav, note 3). But I think my own interpretation is more plausible, that even if his intent was upon the giving of tzedakah, he does not need to set it aside. Afterwards, he comes to teach us that conditions can also be for the matter of the collectors, because I would have said that stipulations benefit the collector alone and not the laws of collection. This comes to teach us that also with this stipulations are effective.

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*In chapter 250, paragraph 12 Epstein comments that the halachic system of tzedakah is not relevant in his time because of the extent of poverty in his midst. He continues by suggesting that when the majority of Jews are once again financially secure, either the halachic system or one similar to it should be reinstituted to guarantee that the needs of the poor will be met.*

*Here, the halacha is providing another scenario in which its system of tzedakah may be deemed impractical. The halacha states that if no poverty exists, we do not have to set aside or give tzedakah. People should not have to devote their time and money to a problem that simply does not exist. However, the Torah states in Deuteronomy 15:11 that there will always be poor people in our midst. Why, then, would the halacha be suggesting a response to a situation the Torah insists will never occur?*

*First of all, setting aside money in times of prosperity is intelligent planning. In building a fund in times of little or no need, the community can create a reservoir to be used when poverty is more prevalent, much as the biblical Joseph did for Egypt. Creating a tzedakah fund during periods of*

*communal wealth provides sound insurance for times of need and may prevent emergency collections of substantial amounts at a later time.*

*In addition, if people in a society without poverty were to stop setting aside funds for tzedakah, they could become lax in their duty to their neighbors. With the reminder that "there will always be poor people," Jewish tradition might be telling us to always be aware of the potential for one to be in need. Setting aside funds, then, is more than an exercise in frugality or caution; it is a disciplined reminder of one's responsibility to community as well.*

*Given this, the halacha here acknowledges that it cannot demand this of people. A community may survive on adherence to certain rules, but it thrives on unforced participation. In a hypothetical age of universal wealth, though they do not need to do it, people should nevertheless set aside funds of their own accord; they should smartly build for their community's future as willing partners. By adding to a tzedakah fund at such a time, people can be assured of a swift communal response should need become prevalent at a later date.*

5: The actual law is that all kinds of stipulations are effective with tzedakah. In the Shulchan Aruch, paragraph 3 they wrote the words of the Rambam and also the words of the Tur - see there. They mean that both agree that they thought that all conditions were effective also after three pilgrimage festivals and that you do not need to search for poor people even after three pilgrimage festivals have passed. The issue of "after three festivals have passed" is mentioned only concerning an unspecified vow, that he merely vowed "This sela is for tzedakah" or "It is incumbent upon me to give a sela



to tzedakah:" If there are no poor people he is not obligated to search for them, even after three pilgrimage festivals (as what is written by the Siftei Cohen, note 5). But, according to Rambam's opinion, when there are no stipulations, he needs to set aside when he says "It is incumbent upon me to give a *sela* to tzedakah." And, according to the opinion of the Rashba and the Tosephot, he violates the "three festival" rule even when there are no poor people as what I wrote in paragraph 1. Therefore, it is good to make stipulations that he will do [tzedakah] according to his will. For the most part, Joseph Caro wrote in paragraph 4, and I quote: One needs to be cautious about making vows, and if they decide on tzedakah and he needs to give with them, he should say, "I do this without making a vow" - until here are his words. Especially in this time of ours it is necessary to say this according to every opinion, even the opinion of the Rosh and the Tur, because there are always poor in each and every place, and he immediately transgresses "Do not delay;" therefore, it is necessary either to commit without making a vow or to stipulate that he will do as he wants.

6: Our teacher Moses Isserles wrote in paragraph 3: All this has to do with tzedakah that he distributes by himself, but when he makes a tzedakah vow in the synagogue to give to the collector or the other kinds of tzedakah that he needs to give to the collector, he does not transgress concerning them even though poor people are around unless the collector asks for it (the tzedakah). In that case, he transgresses concerning it immediately if poor people exist [and he does not pay off his vow or set aside funds], and the collector would immediately distribute to them. If the collector does not know, he needs to inform the collector what he vowed in order that he (the collector) can ask for

it. It is not a case of "available poor people" unless there are poor people to whom tzedakah is to be distributed. However, if it is not customarily distributed to them immediately, and if he says "I will give a *sela* to tzedakah for such-and-such person," he does not transgress until that poor person comes, even though other poor people are around - until here are his words.

7: What he (Isserles) means is that even though apparently the collector has the power of attorney for the poor, if so, it is like when one vows to give to the poor and poor people exist, the obligation exists to give immediately; likewise, when he vows to give to the collector and it is known that there are poor people, he would be obligated to give immediately even without the collector asking. It is not so, for as long as the collector does not ask, he (the giver) does not transgress even when there are poor people [around].

However, this is when the collector knows of his vow, but when he does not know, he (the giver) needs to inform the collector. If he does not inform him, then he transgresses immediately when poor people are available.

Against this, however, there is a stringency with regard to the collector which corresponds to the leniency just stated; if he does not give to the collector, he transgresses "Do not delay." The reason is that perhaps the collector needs to pay off obligations to himself or to others (Siftei Cohen, note 6). However, when he knows that the collector does not need his money now because there are no poor people and no obligations, he does not transgress when he does not give immediately when [the collector] asks, even when there are poor people around. Rather, if it is known that they are not distributing to them immediately, he does not transgress.

8: And so, if he vows to give to such-and-such poor person, he does not transgress [the vow] until that poor person comes, even though there are other poor people available. We do not say that his intention in vowing to such-and-such poor person was that he (the poor person) would come immediately, but if he (the poor person) delayed a long time, he would give to other poor people. It is not so, because even if it was extended a long time, he does not transgress [by not giving to other poor people when he has committed to a specific poor person] (It seems to me that this is his intention, because if it were not so, what does he come to teach us [with his words]? Read carefully.). The Mordechai wrote in chapter 1 of Baba Batra that where one commits to giving to a poor person of his choice, he transgresses concerning it immediately if [other] poor people exist and he has the means to give to them, because he did not vow to give to the collector so that he would not transgress until the collector asks for it. Nor can it be said that, by vowing to whomever he wants, he may claim "I do not want to give to these, but to others," for if so, he could exempt himself forever [from giving tzedakah]. - until here are his words. That is to say, rather, that certainly his intention was to give immediately to whomever he wanted; therefore, if he said that he would set aside to give to worthy poor persons "whom I consider deserving whenever I may find them," he does not transgress until he finds those worthy poor people, and God knows [whether he lying when he says he cannot find them].

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*These past few paragraphs have been discussing personal responsibility to the poor within the communal structure. The halacha states throughout that the community holds ultimate responsibility for caring for the poor and may dictate to individuals how much and when they should contribute to*

poverty relief efforts. However, the community is only as successful as its individual inhabitants allow. The honesty and integrity of communal poverty programs rest in each individual's commitment to partaking in social change. If people do not fulfill their social responsibilities and financial obligations which they took upon themselves, they are hampering the community's ability to achieve its goals. The community cannot police everyone, and it must rely on a trust of its members if it has any hope of successfully addressing its social problems.

9: Just as tzedakah collectors need to be careful to fulfill their obligations to God, so too do they need to be careful to be honest in the sight of human beings<sup>4</sup> as it is written, "Then you shall be guiltless before God and Israel."<sup>5</sup> Such the sages taught (Baba Batra 8b):<sup>6</sup> When tzedakah collectors go collecting tzedakah, they are not permitted to separate from one another. This is to avoid suspicion so that [people] should not say, "This one who collects alone is intending to steal." (Rashi) However, they can separate this one to the gate and this one to the store; that is, one can collect from those who work at the gate while the other one collects from those who work in the stores (in the same courtyard), provided that the two of the (the collectors) are seen together. If one of them finds money in the street, it is his, even if he was doing tzedakah work at the time. However, he should not put it in his

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<sup>4</sup> It is not enough that God knows you have done right; you have to make sure that people know it as well.

<sup>5</sup> Numbers 32:22.

<sup>6</sup> "Our Rabbis taught: The collectors of ... [tzedakah] [when collecting] are not permitted to separate from one another, though one may collect at the gate while the other collects at a shop [in the same courtyard]. If one of them finds money in the street, he should not put it into his purse but into the ... [tzedakah] box, and when he comes home he should take it out. In the same way, if one of them has lent a man a mina and he pays him in the street, he should not put the money into his own purse but into the ... [tzedakah] box, and take it out again when he comes home."



pocket while in the street to avoid people saying, "He steals money from tzedakah." Rather, he should place it in the tzedakah pouch and take it out when he gets home. It is not a difficult question concerning his finding an object [that he should not put it in his pocket for the sake of appearances]; rather, even if he is owed a maneh by another and is collecting that money in the market when everyone sees him, even then he should not put it in his pocket, but rather in the tzedakah pouch to be taken out when he gets home.

10: Likewise, tzedakah collectors who collect many prutahs to distribute to the poor and now there are no poor and it is impossible to delay [giving the coins] because they may rust and become damaged, and it is necessary to exchange them for gold and silver coins, they must exchange with others and not with themselves because of suspicion (people might think that they are not giving a fair rate if they exchange with themselves). Collectors for the food collective who have no poor people to whom to give and who need to sell the food must sell it to others and not to themselves. When he comes to count the tzedakah money, he may not count it two at a time; rather, one at a time, so that they [those who see them] do not become suspicious that he is keeping one and placing one. There is no question that the technical law is as

in that they bring this for sale in the market and then come to him and say, "Give me this money." He should not say, "I will give you this money if you give me this money." This is a technical law, but it is not a law of suspicion.

Note: This implies that there are always suspicions.

R. Chasid (4b) ... (It is not a weight. A judge who decided on some matter, he was partly entitled to a thing and the other a portion of what pertained to him, to be unclear or dishonest, or to be a witness, or to be a witness who gave evidence in a law suit, those may in fact buy the matter that was in dispute, but the Sages have said: "Keep clear from anything dishonest or from whatever seems dishonest." — This applies only to matters which are bought by appraisement in this case. However, the selling by weight is proof against suspicion. As in the following instance: Raba once declared an animal a doubtful case of trefah to be permitted and then bought it in the market. Whereupon the daughter of R. Hillel said to him, "My father once permitted a fowling but would not say of his own." To which he replied: "This is suspicious! This applies only to the case of a fowling since it may be sold only by appraisement. In my case, however, the selling by weight is proof against suspicion. What other suspicion can there be? That I desire a choice piece? But every day I am given the choicest meat."

they said at the end of chapter 2 of Yebamot,<sup>7</sup> that with two people there is no need to be suspicious (see there in the Rashi at the comment which begins with the words *hi gufah* that two also are not cause for suspicion), and two people collect tzedakah. You could say that certainly the technical law is not to be suspicious [with two collectors], but because of "what people might say" they need to take extra and publicly visible precautions [to guarantee honesty]. Such is mentioned in Chulin (44b):<sup>8</sup> Everyone has permission to take, but the sages said, 'Stay away from the appearance of evil.' - see there.

<sup>7</sup> Yebamot 25b: "Mishnah. A Sage who has pronounced a woman forbidden to her husband because of a vow must not marry her himself. If, however, a woman made a declaration of refusal or performed halizah in his presence, he may marry her, since he [was but one of the] Beth Din.

"Gemara. This implies that if he had disallowed her vow, he would have been permitted to marry her! What then are the circumstances?<sup>23</sup> "If [he acted] alone, could one disallow a vow? Surely R. Hiyya b. Abin said in the name of R. Amram that it was taught: The disallowance of vows is to be carried out by three! If, however, three were Present, would they be suspected? Surely we learned, IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL OR PERFORMED HALIZAH IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] BETH DIN!-The fact is that [he acted] alone, and as R. Hisda said in the name of R. Johanan, 'By a fully qualified individual', so here also it is a case of one fully qualified individual.

"IF A WOMAN MADE A DECLARATION OF REFUSAL, OR PERFORMED HALIZAH etc. The reason, then, is because [he was one of a] Beth din, but had he been one of a group of two only, would he not [have been permitted]? Wherein, then, does this case differ from the following concerning which it was taught: If witnesses signed on [a document relating to] a purchased field or on a letter of divorce, the Rabbis do not apprehend such collusion! — It is this very thing that he taught us, viz., that the opinion of him who said that a declaration of refusal may be made in the presence of two is to be rejected and that one is to infer that a declaration of refusal must be made in the presence of three."

Note: This implies that two are above suspicion.

<sup>8</sup> Chulin 44b: "... [I]t has been taught: A judge who decided an issue declaring the one party entitled to a thing and the other disentitled, or who pronounced aught to be unclean or clean, or forbidden or permissible, likewise witnesses who gave evidence in a law suit, these may [in law] buy the matter that was in dispute, but the Sages have said: 'Keep aloof from anything hideous or from whatever seems hideous'! — This applies only to matters which are bought by appraisement; in this case, however, the selling by weight is proof against suspicion. As in the following instance. Raba once declared an animal, a doubtful case of trefah, to be permitted and then bought some of the meat. Whereupon the daughter of R. Hisda said to him, 'My father once permitted a firstling but would not buy of its meat'! To which he replied: 'This [suspicion] applies only in the case of a firstling since it may be sold only by appraisement; in my case, however, the selling by weight is proof against suspicion. What other suspicion can there be? That I receive a choice piece? But every day I am given the choicest meat'."

11: Just as collectors need to be careful with everything we clarified in order that they (the people) not be suspicious of them, the people must respect them and not suspect them, for since they (the people) have entrusted them (the collectors) [with the job], in all probability they are honest people. Such the sages taught (Baba Batra 9a)<sup>9</sup> that *the collectors of tzedakah are not required to give an account of the money they collected; that is to say, how they distributed the money they collected (Rashi), nor the treasurers of the Sanctuary. And even though there is no Scriptural proof for this matter, there is at least a hint of it in Kings (2, 12:16) concerning the repair of the Temple: "They did not keep accounts with the men into whose hand they delivered the money to pay out to the workmen for they dealt in good faith."* This is not perfect proof because that case was different there because they were completely righteous (Tosephot) and also because there, there were many workers for the great amount of work, for masonry and stone cutting; for carrying, loading, and building with the trees and the hewn stones, and it was impossible to account [for everything].

12: In any case, the Tur and Moses Isserles wrote that since they should be "guiltless before God and Israel," it is good for them to give an account - until here are his words. Who for us is greater than Moses, and even he gave an account on the tabernacle as is written in *parashat Pikudei*. A Midrash there tells us that "A faithful man shall abound with blessings"<sup>10</sup> refers to Moses, etc. Even though he was the sole treasurer, he called upon others in order to

<sup>9</sup> Baba Batra 9a: "Our Rabbis taught: The collectors for ... [tzedakah] are not required to give an account of the moneys entrusted to them for ... [tzedakah], nor the treasurers of the Sanctuary of the moneys given for holy purposes. There is no actual proof of this [in the Scriptures], but there is a hint of it in the words, *They reckoned not with the men into whose hand they delivered the money, to give to them that did the work, for they dealt faithfully* [(II Kings 12:16)]."

<sup>10</sup> Proverbs 28:20.

give account - see there. One need not ask that, if so, why did the sages not impose a requirement to give account on the grounds that "You should be guiltless [before the Lord and before Israel]"<sup>11</sup> just as they decreed things that are mentioned above. You might say that this is not is not similar, because with accounts there is no way to be suspicious, but with spoken matters there is room for suspicion as we clarified. Also, with accounts there many burdens; therefore, they did not make the requirement. Furthermore, were they not deemed trustworthy beforehand? Therefore, certainly if when they appoint them they do so on the condition that they (the collectors) give account, certainly they are obligated to give account. This would likewise seem to be the custom, and it would seem to me that in a place in which the one appointed takes a salary, certainly he should be obligated to give account.

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*People are always complaining that too much money goes into welfare spending, that the government is wasting too much money on a failing system. But, do we really know how the government spends its welfare dollars? As the halacha suggests, perhaps we should hold the government accountable for the way it spends our money. After all, the government largely consists of publicly appointed officials who have taken upon themselves the responsibility of administering programs for the poor. And whereas a breakdown of budget and expenditure figures for those programs is readily available, rarely do we as a society call upon our elected officials to explain or justify those numbers. As officeholders appointed by the public, the government should be obligated, on an on-going basis, to give an assessment of the state of welfare spending. It should be an examination, of sorts, of the funds they designate for spending on poverty programs. As with*

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<sup>11</sup> Numbers 32:22.



*personal financial audits, the very threat of such a prospect would surely motivate the government to cleanse itself by removing the bureaucratic waste that prevents these programs from maximizing their potential.*

13: Our teacher Moses Isserles wrote in paragraph 2 that all this pertains to collectors who are honest, but he who is not honest or is appointed through violence or power needs to give account. This is for all public appointees. When the public wants, they can remove the collector and appoint someone else, and we do not argue against that decision that if they do they will be casting moral suspicion upon those they remove - until here are his words. This is true, however, only if the officeholder is removed at the end of his term. If he is removed *during* his term, his removal does cast suspicion [and he may have legal recourse] (Siftei Cohen, note 4). If they did not fix a time [for the length of appointment] at all, they can remove him, because this is not a matter of suspicion if they are accustomed to changing the appointees. It is obvious that even if he was appointed by communal agreement and a complaint is heard about him and they become suspicious of him, they can obligate him to give account (Siftei Cohen, note 3). However, he does not need to give account before everyone who complains, because if so, there would be no end to this matter. Also, there are a number of public matters that are not within his ability to show the expenses to everyone. Rather, he may request two or three of the most respected people in the city before whom he may give account.

*The halacha here is an early endorsement of the democratic process. It states that if enough community members lose faith in someone they*

appointed, or if the society in which this officeholder serves determines him to be dishonest, the community has the right to act accordingly. It can assess the claims against the official, remove that person from office if necessary, and appoint someone else in his place. This empowering ability is at the very heart of a democratic society.

14: Our teacher Joseph Caro wrote in paragraph 5: When there are insufficient funds in the tzedakah pouch, the collector needs to lend his own money, and when he gets [money] in the pouch at a later time, he should pay himself back, and he does not need to receive permission from those who put money into the pouch - until here are his words. This is clarified in the Jerusalem Talmud in Ketubot (chapter 6, halacha 5) concerning the matter of marrying off a female orphan, even though there is a dispute ther<sup>12</sup> - see there. It seems there that the *halacha* is according to the one who holds that he needs to make a loan. The matter is obvious that this refers to when he is sure that there will be money in the pouch; therefore, he wrote in paragraph 6 that the collector who said "Such and such I lent to the tzedakah pouch," he is believed without an oath, but not after they removed him - until here are his words. There is a version that says even after they remove him, and this

<sup>12</sup> Y. Ketubot 6:5: "He who marries off his daughter without specified conditions should not assign to her less than fifty zuz. [If] he agreed to bring her in naked, the husband may not say, 'When I shall bring her into my house, I shall cover her with a garment belonging to me.' But he clothes her while she is still in her father's house. And so: He who marries off an orphan girl should not assign to her less than fifty zuz. If there is sufficient money in the fund, they provide her with a dowry according to the honor due her."

"... And to the meaning of the Mishnah ... Said R. Hinena, 'That is to say that they instruct the administrators of ... [tzedakah] funds to borrow money [for the stated purpose of supplying at least fifty zuz to the orphan girl]. For he interprets the Mishnah passage to speak of a case in which the fund does not contain sufficient money. Hence they borrow up to the necessary fifty zuz. But if the fund contains adequate money, they add [a dowry according to the honor due to her]. Said R. Yose, 'That is to say that they do not instruct the administrators of ... [tzedakah] funds to borrow money.' For he interprets the Mishnah passage to speak of a case in which the fund does contain sufficient money. But if the fund does not have sufficient money, they provide less than the stated amount."

correct version (Bayit Chadash), provided that he says this at the time they remove him. However, if at the time they remove him he says nothing and a day or two later he says this, he is not to be believed (Siftei Cohen, note 16). The words of "even after they remove him" do not convey this (same), and this matter needs further consideration (same). However, in the case of a trustworthy and suitable collector, certainly he is believable even after they remove him without an oath (same). It seems that if he is not so believable, he needs to take an oath even before they remove him. Even if he has a *miggo*<sup>13</sup> on his side that he alone was able to take from the pouch, in any case do not allow a case of a *miggo* to exempt him from taking an oath. However, a court of law can make it easier for him and to enforce upon him an easy oath.

15: Our teacher Moses Isserles wrote in paragraph 5: Whoever sets aside his tithe and then lends to a poor person from his personal funds may pay himself back from the amount he had set aside as a tithe. This is only when the poor to whom he lends is still living, but if he dies or becomes rich, he does not need to pay him back, because he was poor at that time. Tithes cannot be set aside for that which no longer exists. [When a person makes this type of loan,] he need not worry that perhaps [this poor person] has become wealthy; it is only when it is known [before the loan that he has become wealthy that he must pay him the agreed upon sum] - until here are his words. This law is derived from the Mishna at the end of chapter three of

<sup>13</sup> A *miggo* is an argument that is believed because, if he wanted to lie, he would tell a better lie than this one. That is, we believe him not because he can prove what he is saying, but because we think it improbable that his statement is false. In this case, we believe he borrowed the money because, in any event, he could have taken it himself with no one knowing that he did.

Gitin:<sup>14</sup> He who lends money to the Kohane, the Levi, or the poor - see there. Even though there we said that when he dies he (the lender) must get permission from his heirs [if he wants to keep his money as payment of the debt their father owed], indeed that case [different because it] refers to the Kohanim and the Levites, and their heirs replace them [as recipients of the tithe]. This is not the case with a poor person who has become rich; [no such entitlement exists for him], and this is noted in the Jerusalem Talmud. Even though in the gemara [to that mishna we read that] this transaction must take place through a third party in order to fulfill the requirement of "You shall surely give to him,"<sup>15</sup> why is such a requirement not made here? Perhaps he (Isserles) assumed that the poor person and the giver are personally acquainted, in which case no third party is required. In any case, it is better that a third party be utilized in order to satisfy all opinions. However, when he dies or becomes rich he (the giver) cannot deduct [the money he gives from his tzedakah assessment]. Indeed, when he makes a loan to the community he can always deduct on their account, even if he died and they became the slightest bit wealthy, because the public cannot die. In the Jerusalem Talmud there they said that all the public cannot become poor and all the community cannot become wealthy.

16: The tzedakah collector is fulfilling a great mitzvah, and he need not fear that they (the public) vilify or curse him. The opposite is true: Because of this, his reward is greater. And so, it is clarified in the Jerusalem Talmud at

<sup>14</sup> Gitin 3:7: "If a man lends money to a Priest or a Levite or a poor man on condition that he can recoup himself from their dues, he may do so, in the presumption that they are still alive, and he does not take into account the chance that the Priest or the Levite may have died or the poor man may have become rich. If [he knows that] they have died, he must obtain the permission of the heirs. If he made the loan in the presence of the Beth Din, he need not obtain permission from the heirs."

<sup>15</sup> Deuteronomy 15:10.



the end of Pe'ah<sup>16</sup> about Rabbi Eleazar who was a community leader. One time, he came home and asked his servants [what had happened]. They responded, "One group of beggars came and ate and drank and praised you." He said to him, "This is not a good reward." He came home a second time and asked his servants [what had happened]. They responded, "Another group of beggars came and ate and shamed you; that is to say, they despised and cursed you." He said to him, "Surely this is a great reward" - until here are its words. The collector needs only to be careful not to give more to his relatives than to the rest of the poor, because this is not his tzedakah to give. Certainly, whoever gives tzedakah from his own pocket can increase the amount given to his relatives as he wants, but the collector cannot do this. Even if he gives from his own pocket, he cannot give everything to one poor person; rather, to this one a little and to this one a little. Such the sages said (Eruvin 63a):<sup>17</sup> Whoever gives his gifts to one Kohane brings hunger to the world. The collector should also be careful [to see if] the poor person has wealthy relatives in the community so as not to give to him from the tzedakah fund; rather, let his relatives sustain him. Even though the rich [relatives] give to the tzedakah fund, do not give him from here, because the fund belongs to the poor who do not have wealthy relatives.

<sup>16</sup> Y. Pe'ah8:7. "R. Eleazar was an overseer. Once he returned to his house [from a collection trip] and asked his [servants] what had happened [in his absence]. They told him, 'A band [of baggars] came by; they ate, drank, and then praised you [as their benefactor].' He told them, 'Some reward! [For all that they praise me, I receive fewer heavenly Brownie-points].' Later he returned to the house after a second [trip] and again asked [the servants] what had happened. They told him, 'Another band [of beggars] came by; they ate, drank, and then cursed you [for your good fortune].' He said to them, 'Now that's a good reward! [The more they curse me, the more merit I shall build up in the long run!]"

<sup>17</sup> Eruvin 63a: "R. Abba b. Zabda stated: Whoever gives his priestly gifts to one priest [only] brings famine into the world. For it is said in Scripture: *Ira the Jairite was priest to David.* Now was he priest to David alone and not to all the world? But the meaning is that David sent to him his priestly gifts; and this is followed by the text: *And there was a famine in the days of David* [(II Samuel 21:1)]."

17: He who gives money to his wife from his salary so that she should give it to whomever she wants for *mitzvah* purposes while the principal remains in her possession, she is not allowed to appoint someone else over the fund, even a righteous person, because it is forbidden to change from his (the husband's) wishes: When the messenger deviates from the intention of his sender, the mission is voided. However, if he appoints the sage of the community or some other great person over this, they said that his intention was that he (the appointee) should do whatever he wants, whether it be with the principal or with the profits (Nekudot HaKesef, but not according to the Turei Zahav, note 6) as long as he did not explicitly state that he should not spend the principal. In any case, he (the sage or outstanding person) does have the right to give the money entrusted to him over to his wife and children, because whoever gives someone an object for safe keeping gives it as well to that person's wife and children.

The following is a translation of the text above. It is a discussion of the laws of *nedavah* (voluntary offerings) and *terumah* (offerings of the first fruits). The text discusses the obligations of a person who gives money to his wife for *mitzvah* purposes, and the rights of the wife and her children to use the money as they see fit. It also discusses the obligations of a person who gives money to a sage or other great person, and the rights of the sage to use the money as he sees fit. The text is a translation of a Hebrew text, and it is written in a style that is typical of Jewish legal texts. The text is written in a clear and concise manner, and it is easy to read. The text is a good example of the style of Jewish legal texts, and it is a good example of the clarity and precision of Jewish law.

### III.

#### Chapter 258 - The law of taking possession and other laws in thirty nine paragraphs

Synopsis: There is debate concerning ambiguous tzedakah vows as to whether to judge them stringently or leniently when confusion about the vow arises. The tzedakah vows of today are like the *hekdesh* of Temple times. A vow must be given directly and cannot be transmitted through an agent. Today, since *hekdesh* is not technically possible, when one speaks of it, it probably refers to tzedakah vows and institutions. However, if one truly means it to be for *hekdesh*, he must seek a release of the vow. Today, you can symbolically gain release of an object vowed through *hekdesh*, whether it be land or a movable object, by casting away a small coin. A vow may also be released through *charta*. A tzedakah vow can be redeemed through three experts. One who vows to tzedakah the amount that he is worth, he should be assessed according to the worth of a slave on the open market. If a person mistakenly states an amount to be given to tzedakah other than what he intended, he need only give the amount he intended. One who made a vow of tzedakah but does not know for how much he vowed, increase the amount he should give until he says, "I did not intend to give this." One who says, "Give 100 zuz or a Torah scroll to the synagogue," but does not explain to which synagogue, he should give it to the synagogue in which he is accustomed to praying in the city in which he lives. If he prays at two synagogues, he may give to both as per his intention. Likewise, one who says, "I am going to give a *maneh* to the poor," and does not specify to which poor, he should give it to the poor of the city in which he lives, even if this was said in a different place. If he has no permanent dwelling in one place, he should give it to the poor of the city in which he made the vow. If he died and his heirs knew for certain that it was never his intention to give to the poor of his city alone, they should distribute it to all the poor. Give tzedakah as the custom of your particular community dictates. One who obligates himself to pay a fine to tzedakah in the event that he does not fulfill his vow and transgresses must give the fine to the poor of [his] community. One who gives tzedakah willingly may give to whomever he wants, but one who is forced to give tzedakah as part of a fine must give to the general fixed tzedakah funds of the city. If a person dies and appoints his heirs over his estate to distribute as they see fit, the heirs can do with the money what they please. If a person makes a pledge to tzedakah which he cannot pay, the community should work out a payment plan as it does with other debtors. Concerning the matter of a will, if a person clearly intended that *two* executors should administer it, another should be appointed should one die. If he did not clearly state this, let the remaining one execute the will. If the heirs decide not to honor the terms of the will, the courts can create a legal situation which forces them to do so. One who makes a vow to tzedakah may not renege on it. He can seek a halachic remedy to annul the vow as with all other vows, but this is before he sent the tzedakah to the collector. However, after he sent it to the collector there can be no annulment of the vow. Sanctifying something for the Temple is the equivalent of giving tzedakah to a poor person. A person can renounce his vow only while he is speaking it. Whoever vowed to give a weekly supply of such-and-such to the poor, the widow, or the orphan and afterward the recipients become rich or something else happens so that they no longer need the provision, the giver no longer



needs to continue his vow; we assume that the intention of the giver was only to give while there was a need. When a person gives money for tzedakah and it leaves his hand, even if it does not go to the collector, he cannot ask for a release from his vow unless he places a condition on it saying, "Keep the money in your possession until I instruct you to give it to so-and-so." However, if he says, "Give this to so-and-so," the one who acquires the money does so on behalf of the poor, and the giver cannot ask for release. A sage who permits a vow of tzedakah to be reneged is worthy of punishment, because he causes the poor to lose out. This is unless he sees that the financial burden is too heavy for the giver, who may have made the vow hastily and without giving it much thought. A person cannot give to tzedakah something that he does not have the power to devote. There is a long, complicated discussion as to under what circumstances a person may devote to tzedakah property that was stolen from him. A tzedakah vow should be made with certainty. A creditor cannot sanctify money which he lent until it is returned to him. However, when the lender, the borrower, and the potential recipient of the tzedakah from the lender's vow (or a designated representative of that recipient) are all present, the lender may confer ownership of the loan upon the recipient, thereby making the borrower indebted to the recipient. We follow a vow only when what the vow states is precisely what the one making the vow intended. We are to ignore vows that are contrary to law. There is disagreement as to whether or not, when pawning an object in order to repay a loan, the money received beyond the price of the loan can be sanctified. When a person vows to tzedakah something that does not yet exist, tzedakah becomes its rightful "owner" and acquires it as soon as it comes into being. A person may make a vow of future sanctification upon any object he temporarily gives to another as long as he does so while it is still in his possession. One who rents a house to his fellow and then gives the house to tzedakah, tzedakah acquires it and the rental agreement expires at that point. Some disagree with this, however, and suggest that only extra profit from the rental may be sanctified. There are different conditions placed upon buyers and sellers who may want to sanctify a given object. One who buys an object from his fellow in order to sanctify it or to give it to tzedakah, and afterwards it is discovered that the object is stolen, the buyer needs to return it to the one from whom it was stolen, because it was sanctified by mistake and something like this cannot be sanctified. Vows of tzedakah are always to be taken seriously; *asmachta* is not recognized. When, in the presence of his predator and a city official, a victim of an incident rejects the compensation he is to receive and insists it go to tzedakah, he cannot change his mind, and the money remains as tzedakah. If two people stipulate a schedule of fines as part of a broken agreement between them and they then reconcile, the fines do not need to be paid. One who promises to give a gift to his fellow and who speaks in a general way can renege on it, but one who says to a poor person, "I will give you a gift," it is as if he was making a vow to tzedakah, and he is forbidden to renege on it, even if he spoke in the language of a gift. You cannot give a gift of tzedakah on the condition that it be returned. One who sanctifies an object to tzedakah and discovers its value to be more than what he had assumed may nonetheless not renege on his vow. However, if at some point between the time he made the vow and the time of the transaction the value of the object increased, he may renege on the vow. If someone thought in his heart to give a certain thing to tzedakah, he is obligated to fulfill what he thought, and he does not need to have said anything, although it would be better if he verbalized his intention.



*Commentary found after paragraphs 1, 4, 15, 17, and 33.*

1: As with effecting an exchange with vows, when he vowed from this loaf but spoke about a different loaf that it would be like this loaf, so it is with tzedakah, because tzedakah is also a kind of vow. Therefore, if there was a sela of tzedakah placed before him and he spoke of another sela that it would be like this one, this one is tzedakah. Even if he did not clearly say that this sela would be like the other one, but he set aside a sela and said, "This is tzedakah," and said about the other sela, "And this one, too," but did not say, "this one is like the first one," when he can say that his intention was that this sela would be for household expenses, even so he could effect an exchange, and the second one would be for tzedakah.<sup>1</sup> In Nedarim (7a),<sup>2</sup> there remains some doubt within the talmudic discussion concerning this law, whether or not speaking in an abbreviated fashion<sup>3</sup> is binding for tzedakah, and it is explained in this manner - see there. However, the Rambam's words at the beginning of chapter 8 appear to suggest that it certainly is tzedakah - see there. He thought that the answer was obvious.

<sup>1</sup> The language of "v'zeh" does not necessarily mean that this one will go to exactly the same purpose as the other one.

<sup>2</sup> Nedarim 7a: "[When thou shalt vow a vow unto the Lord thy God, thou shalt not delay to pay it, for the Lord will surely require it] of thee: this refers to gleanings, forgotten sheaves, and pe'ah.

"Are abbreviations binding in the case of ... [tzedakah] or not? How does this arise? Shall we say, that one said, 'This zuz is for ... [tzedakah], and this one too,' that is a complete [declaration of] ... [tzedakah]! - But, e.g., If one said, '[And] this,' omitting 'too'. What then: did he mean, 'and this too is for ... [tzedakah],' or, 'and this is for my personal expenditure,' his statement being incomplete? Do we say, Since this is likened to sacrifices, as it is written 'That which is gone out of thy lips thou shalt keep and perform; even a free-will offering according as thou hast vowed unto the Lord thy God, which thou hast promised' with thy mouth which refers to ... [tzedakah]: hence, just as abbreviations are valid for sacrifices, so with ... [tzedakah]; or possibly the comparison is in respect of 'Thou shalt not delay' only?

"Are abbreviations valid in respect of hefker or not? But that is ...[tzedakah]? - This problem is based on a presupposition: Should you rule, abbreviations are valid in the case of ...[tzedakah], because there is no analogy by halves, [what of] hefker? Do we say: Hefker is ... [tzedakah]; or possibly ... [tzedakah] differs, ... [tzedakah] being for the poor only, whilst hefker is both for the rich and the poor?"

<sup>3</sup> Abbreviated language implies the use of pronouns, leaving out implied words, and the like.

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In this chapter of the halacha, the rabbis spend an inordinate amount of time discussing the intricacies of vows concerning tzedakah. Traditionally, when a person makes a vow to do something, they are calling God as witness to the statement. In an environment in which such an act carries significant weight, people need to be sure they know what is involved in making the vow. In such a system, it is a grievous sin to utter a false oath or break a vow that was made to God. The rabbis lived in an environment which placed great importance in the oath process; they believed there was nothing more sacred or significant than swearing before God. Therefore, they sought to ensure that every detail concerning vows be defined in order to prevent mishaps. With a matter as important to the rabbis as tzedakah, they took extra caution to specify the terms of oath taking.

Our environment today is one which does not regard oaths as particularly meaningful. Even in our courts of law, where people are called upon to speak truthfully in the name of God, perjury is not uncommon. Invoking the name of God does not compel people in the way it once did; the sacred notion of public oaths has been profaned.

This is not to say that the ideas the rabbis present on vows for tzedakah are superfluous for us. Even if vows do not persuade people as they once did, we can still learn of the sincerity and intense commitment the rabbis had to articulating people's responsibility to do tzedakah. Not only must we commit wholeheartedly to do tzedakah, but when we do commit, we must follow through with our intention. The community expects each individual to participate in tzedakah work; both the community and the poor depend on society's collective effort to eliminate poverty. Making a pledge or promise of

support and not following through leaves the community, which expected those funds as part of its budgetary considerations, in financial straits. Not only that, but by ignoring a financial promise to the poor, the poor are left with false hopes and empty dreams, disillusioning them further and weakening their spirits more than they already are. The rabbis realized this and sought to minimize the likelihood that people would neglect their own stated intentions and spurn their responsibilities.

2: However, all the Rishonim wrote that even though it (the discussion in Nedarim 7a) remains undecided, [we follow the rule that uncertainty on matters of ritual prohibition requires] a stringent decision (the Rosh, the Rashba, and the Nimokei, and as the Rambam wrote there). Therefore, we clarified in Choshen Mishpat, chapter 273 paragraph 14 [that if one makes a similar statement] regarding the renunciation of ownership and adds the ambiguous phrase [v'zeh" concerning another object, we do *not* rule stringently on account of this doubt;] rather, we leave the object in his ownership. There, in the gemara, there remains some doubt concerning this law of declaring something ownerless, and we clarified that this is not like tzedakah that we rule stringently - see there. One of our sages rejects this, and he thought that all money matters, even if there is a ritual prohibition involved, follow a more lenient rule and you cannot take it from its presumed rightful owner (the one currently in possession of it) when there is doubt (Ran, there). This matter is

Tadda's name. [the difficulty, however, remained for us: adduces a reason for his view. For Rashi said, it is written: Do justice to the afflicted poor, what is meant by 'do justice'? Can it mean, if a poor man is in his lawsuit? Surely it is written: Thou shalt not favour a poor man in his cause? Rather it means: Be literal with what he says and give it to him. Raba answered, Here the cow has the status of possession [from din], but the standing corn has the status of being subject to the dues. ... Where the doubt concerns a religious prohibition we must take the more stringent view, where the doubt concerns a monetary matter we must take the more lenient view.]

It is asked in what someone declares an object to Temple use.

Choshen Mishpat 273:4.



explained in Chulin (134a)<sup>4</sup> concerning doubt about *leket* (gatherings for the poor), that you cannot take it from the head-of household except by reason of right of possession through obligation, and thus explains Kesef Mishneh (there). Rashba himself also wrote similarly in his responsum (... 656) that wherever there is a doubt about a vow of sanctification,<sup>5</sup> you cannot take money from its owner - see there. Such is from the Rosh's words; so, too in Baba Batra (chapter 9, paragraph 23). There is one who explains that certainly any doubts concerning money are adjudicated leniently, even when a ritual prohibition is involved, except for tzedakah. 'Since he vowed vocally, and he needs to fulfill "That which has gone out of your lips shall you keep [and do],"<sup>6</sup> you follow a more stringent ruling (Korban Netanel (on the Rosh), the beginning of Nedarim - see there). And so, it seems that it has been established for us that when there is doubt concerning a vow, be stringent; likewise when there is doubt concerning tzedakah, because tzedakah that was committed verbally is also a vow. This will also be clarified with God's help in chapter 259, paragraph 15 - see there.

<sup>4</sup> Chulin 134a: "We have learnt: IF THERE WAS A DOUBT ABOUT IT, HE IS EXEMPT, which shows that the doubt is decided in favour of leniency (Soncino adds: i.e. in favor of the owner). But there is a contradiction to this, for we have learnt: [The grain found] in ant-holes among the standing corn, belongs to the owner; [as for the grain found in ant-holes] behind the reapers, the uppermost layer belongs to the poor, but what is beneath belongs to the owner. R. Meir says, It all belongs to the poor, since gleanings that are in doubt are deemed to be gleanings. To this [R. Johanan] answered: Do not weary me [with your arguments], since I quote that [Mishnah] as the opinion of an individual; for it has been taught: R. Judah b. Agra says in the name of R. Meir: Gleanings that are in doubt are deemed to be gleanings, forgotten sheaves that are in doubt are deemed to be forgotten sheaves, and corners of the field that are in doubt are deemed to be corners of the field. The other [Resh Lakish] retorted: Teach it even in Ben Taddai's name, [the difficulty, however, remains] for he adduces a reason for his view. For Resh Lakish said, It is written: Do justice to the afflicted poor; what is meant by 'do justice'? Can it mean, [favour him] in his lawsuit? Surely it is written: Thou shalt not favour a poor man in his cause! Rather it means: Be liberal with what is yours and give it to him! - Raba answered, Here the cow has the status of exemption [from dues], but the standing corn has the status of being subject [to the dues]. ... Where the doubt concerns a religious prohibition we must take the more stringent view, where the doubt concerns a monetary matter we must take the more lenient view."

<sup>5</sup> A *hekdes* is when someone devotes an object to Temple use.

<sup>6</sup> Deuteronomy 23:24.



3: One of the great sages wrote that a person is not able to appoint an agent to offer something of his to be sanctified, because a vow of sanctification is a matter of words, and words cannot be transmitted through an agent (Maharit). Many have expressed surprise at this, for what does this have to do with words not being sent through a messenger? There, the intent is that one's agent cannot transmit one's words to another agent as is clarified at the end of chapter 6 of Gitin.<sup>7</sup> But certainly he can send an agent to make a declaration for him (according to Pitchei T'shuvah, note 1...)! I say that his words are right, and the meaning is merely what he said in this language: As what Rambam and all these *poskim* wrote at the beginning of Hilchot

<sup>7</sup> Gitin 66b: "R. Jeremiah b. Abba said: An inquiry was sent from the school of Rab to Samuel: Would our teacher inform us: If a man said to two persons, Write and deliver a Get to my wife, and they told a scribe and he wrote it and they themselves signed it, what is the law? — He sent back word: She must leave [her second husband], but the matter requires further study. What did he mean by saying that the matter requires further study? Shall we say it is because only a verbal instruction was given to them, and Samuel is in doubt whether a verbal instruction can be passed on to another agent or not? Has not Samuel said in the name of Rabbi that the halachah follows R. Jose who said that verbal instructions cannot be passed on to another agent? — No; what Samuel wanted to know was this. [When the husband said to the men], 'write', did he mean their signatures or the Get? — Cannot this be determined from the Mishnah: IF A MAN SAID TO TWO PERSONS, GIVE A GET TO MY WIFE, OR IF HE SAID TO THREE, WRITE A GET AND GIVE [IT] TO MY WIFE, THEY SHOULD WRITE AND DELIVER [IT]? — Here too he was in doubt whether 'WRITE' meant their signatures or the actual Get. Surely it is obvious that it must be the Get, from what we read in the later clause: R. JOSE SAID, WE SAID TO THE MESSENGER, WE TOO HAVE IT ON TRADITION FROM OUR TEACHERS THAT EVEN IF HE SAID TO THE GREAT BETH DIN IN JERUSALEM, GIVE A GET TO MY WIFE, THEY SHOULD LEARN AND WRITE AND GIVE TO HER. Now if you say that the writing of the Get is meant, this creates no difficulty, but if you say it is the writing of the signatures, surely there is no Beth din, the members of which do not know how to sign their names? — Yes; this might happen in a new Beth din.

"Now if we adopt the opinion that 'write' means 'write your signatures,' but as to the actual Get, it is in order even if written by others [how can this be seeing that] Samuel said in the name of Rabbi that the halachah is in accordance with R. Jose who said that verbal instructions cannot be passed on to another agent? — We might reply that if we adopt the opinion that 'write' means the signatures, then as far as the writing of the Get is concerned it is as though the husband had given instructions that they should tell [the scribe], and R. Jose admits that [the Get written by the scribe is valid] where he said, Tell [the scribe to write it].

"But does R. Jose admit that it is valid where he says to them, Tell [the scribe]? Have we not learnt: 'If the scribe wrote and there was one witness [besides], the Get is valid,' and R. Jeremiah said in regard to this, Our Version is, If the scribe signs, and R. Hisda said, Whom does the Mishnah follow? R. Jose, who said that verbal instructions cannot be passed on to another agent."

Nedarim, *hekdes* and *tzedakah* have the status of vows, and one's agent is not empowered to make a binding vow for him. Our teacher Joseph Caro wrote in Orach Chayim, end of paragraph 334 that one cannot vow through an agent - see there. If so, in any case, one may also not make a vow of sanctification through a messenger. Thus, while one can say through an agent, "Take such-and-such from my money and give *tzedakah*," or, "Take such-and-such object and give it as *hekdes*," or, "Send an agent to the synagogue on account of the money or the object," if he says, "Make a vow for me to *tzedakah*," or, "Make a vow of sanctification for me," this is meaningless. When he wrote, "There are words for which he cannot send an agent," this was his intention: that for *hekdes* or *tzedakah* he may not send an agent, and this is certainly what it is.

4: Our teacher Moses Isserles wrote in paragraph 1: Let not a person say, "This *sela* is 'for *hekdes*,' but rather 'for *tzedakah*.'" In any case, if he just said it was for "sanctification," his intention was for *tzedakah* for the poor. But, if he said that his intention was truly for *hekdes*, there is no remedy which allows him to derive benefit from it,<sup>8</sup> and he needs to ask a sage for a *heter*<sup>9</sup> like with all other vows - until here are his words. All his words are clear, because certainly there is no *hekdes* in this time, and it is forbidden to

וְיִשְׁמַח בָּהֶן: "IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST. If this be the case, when the law of *hekdesh* (regarding animals) should apply even nowadays? — If it is as R. Hama says (below text), for R. Hama said, [it is prohibited] as a precaution against an animal whose mother died (during or soon after childbirth) being brought into the shed. If this be the case, the same prohibition should have applied originally (when the Temple was standing). (What you must therefore [truly] is that] it is possible for an animal to be made for the *hekdesh* (this being not, here too it is possible to have all sanctification applied by the *hekdesh*). — R. Hama said Raba: The reason is that one might be led to animal sanctification. And who can you prove that we take into account the possibility of one transgressing an offering? — For it was taught: We are not permitted to connect an animal with sanctification. But it is possible as R. Hama says. But if one did connect an animal

<sup>8</sup> In other words, it is no longer his, and he cannot give it away.

<sup>9</sup> A *heter* is a legal permit based on "regret" ("If I would have only known such and such, I never would have made this vow").

make a vow of sanctification in this time.<sup>10</sup> As is brought in Bechorot (53a):<sup>11</sup> "There is no sanctifying and no appraising, etc. in this time," and this is what Rambam ruled at the end of Hilchot Arachin. However, for us, when people speak of "sanctification," they do not have the Temple in mind, because we are not accustomed to this at all. Rather, we refer to "mitzvah" in the language of "sanctification," that is to say, something that is sanctified. In our country, hospitals and places where the poor gather (soup kitchens and the like) are referred to as "hekdesh."

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*The halacha states that, nowadays, the institutions created to aid the poor are equivalent to the Temple of old and that pledging support to these institutions is like devotion to the Temple. Here, the halacha has elevated the status of helping the poor to a level of holiness.*

*In his Tzedakah: Can Jewish Philanthropy Buy Jewish Survival, Jacob Neusner echoes this sentiment when he states:*

*... Judaism has always maintained that the Jewish people is holy. And holiness is not limited to a holy place - a temple, synagogue, or school. The holiness of Israel, the Jewish people, inheres in us as a people, as individuals. What we do contains the potentiality of being holy since we as Israel, as the Jewish people,*

<sup>10</sup> Since there is no Temple, one cannot make a *hekdesh*. Therefore, it is forbidden to use this language, because if one does, the vow must stick, and the person finds himself in trouble. Epstein removes the potential problem by saying that, in his time and place, *hekdesh* means *tzedakah*.

<sup>11</sup> Bechorot 53a: "IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST. If this be the case, [then the law of tithe as regards animals] should apply even nowadays? — It is as R. Huna says [elsewhere], for R. Huna said: [It is prohibited] as a prevention against an animal whose mother died [during or soon after childbirth being brought into the shed]. If this be the case, the same prohibition should have applied originally [when the Temple was standing]? [What you must] therefore [reply is that] it is possible for an announcement to be made [by the Beth din]. [This being so], here too it is possible to have all announcement made [by the Beth din]? — Rather said Raba: The reason is that one might be led to commit an offence. And whence will you prove that we take into account the possibility of one committing an offence? — For it was taught: We are not permitted to consecrate an animal, nor to make valuation, nor to set aside as devoted nowadays. But if one did consecrate an animal, or make a valuation or set aside as devoted, the animal is to be destroyed; fruits, garments and vessels shall be allowed to rot and as for money and metal vessels, let him cast them into the Salt Sea."



do it. Accordingly, the faith of Judaism forms a bridge between this-worldly, practical things - raising money for Jewish purposes, working for Jewish causes - and supposedly otherworldly things, like praying or studying Torah.

... The act of tzedakah by definition is holy. When you work for tzedakah, you are doing the equivalent of prayer or study or keeping the Sabbath or carrying out any other mitzvah. Not only so, but if you do nothing else but tzedakah, you are doing what is all-important.<sup>12</sup>

When we strive to eliminate poverty and alleviate suffering, we are doing sacred, holy work. We must realize this and, as Neusner suggests, view tzedakah work as being as meritorious as any other ritual or practical mitzvah.

5: However, there is a need to clarify what he wrote, that if he said that his intention was actual *hekdesh*, he has no remedy except by asking a sage to release his vow. This teaches that without this, there is no remedy. The Rambam suggests a simple remedy [of redemption of the vowed object or money]: Let him redeem them with a prutah, and let him cast the prutah into the Dead Sea - see there. This is explained in the gemara in Arachin (29a),<sup>13</sup> and there he says four zuzim - see there. Also, the essence of the Toraitic law is likewise, because it has been established for us that "consecrated property worth a *maneh* which is redeemed for a prutah's worth

<sup>12</sup> Jacob Neusner, *Tzedakah: Can Jewish Philanthropy Buy Jewish Survival?* (Atlanta: Scholars Press, 1990), pp. 76-7.

<sup>13</sup> Arachin 29a: "There was a man who ... [made a *hekdesh* vow] in Pumbeditha. He came before Rab Judah, who said to him: Take four zuz, redeem them thereby, throw them into the river, and then they will be allowed to you. This shows that he holds that things devoted generally go to [the fund for] Temple repairs. In accord with whom will that be? In accord with Samuel, who said: If one redeemed an object worth a mina with an object worth a perutah, it is redeemed. But R. Samuel said that only for the case where he had already done so, but did he at all say one may do so at the outset? - That [reservation] applied only to the time when the Sanctuary was still standing, because of the loss of consecrated property, but now one may do so even at the outset. If so, a prutah ought to do as well? - It is necessary in order to make the matter public."



is redeemed" (Baba Metzia 57a).<sup>14</sup> In Temple times this was only after the fact, but in this time it is permitted even beforehand. He requires four zuzim in order to publicize the matter. The matter is as the Rambam wrote, and so it is in Arachin there. It needs to be said that because our sages, the Tosephots, wrote that in every case, this remedy is only [valid] when [redeeming] with land and not with movable objects; therefore, he (Isserles) did not write this remedy (according to the Sifte Cohen, note 3). However, the Rambam and the Rivad wrote explicitly that also with movable objects this remedy applies. Also, the opinion of the Rif is made clear in chapter 1 of Avodah Zarah where he wrote concerning the rule that you cannot sanctify in this time, and if he redeems it for a prutah's worth it is valid, etc. - until here are his words. This Ran expresses surprise with this ruling, because in Arachin we read of a four zuz requirement [rather than a one prutah requirement]. However, it appears that they did not worry about this. And so, the author of the great halachic code in Hilchot Orlah and [R. Ahai Gaon] in the She'iltot (8c book of homiletical questions of R. Ahai Gaon which often carry halachic weight), *parashat* Kedoshim wrote that a prutah's worth [was good for redeeming]. It appears that they thought that this was only in talmudic times which was still close to the time of the destruction [of the Temple]; only then were they concerned that the matter should be public knowledge and not in this time. Therefore, for purposes of the law you certainly should rely on all these sages of ours to redeem that which was sanctified with a small coin and to cast it away, and let the movable objects be permitted.

<sup>14</sup> Baba Metzia 57a: "Now, R. Jonah said [the following] in respect to sacred objects, whilst R. Jeremiah said [it] in respect to real estate, both in R. Johanan's name, viz.: The law of overreaching does not apply thereto, but cancellation of sale does. He who said this in reference to sacred objects, would certainly [say it] in reference to real estate [too]. But he who referred this to land, would not [admit] sacred objects too, in accordance with Samuel. For Samuel said: If hekdesch worth a maneh was redeemed with the equivalent of a perutah, it is redeemed."

6: When he (Isserles) wrote that "the vow may be released through the process of *charta*,"<sup>15</sup> this comes to teach us that concerning a vow made over a *mitzvah*, it is not proper to begin with a *charta* [to annul the vow], and he needs to begin as I wrote in chapter 248. In any case, since vows to *hekdesh* are not acceptable today, such vows are considered transgressions, and it is good to permit *charta* (according to the Siftei Cohen, note 4 who adds a responsum of the Rivtza that for vows of *tzedakah chartot* are not permitted. It is surprising to me that these are compared to each other, because here it is a transgression and not a *mitzvah*, and everyone acknowledges that it is enough with *charta*. Check this carefully).

7: Since we clarified there that today, when we say "*hekdesh*," we mean *tzedakah*, so too it is when one says "devotion [of an object] to Heaven," it is for the poor. And so, we find this to be the language of Ta'anit (24a):<sup>16</sup> I swear, they shall be to you as devoted property, and you shall have no more right to share in them than any poor person in Israel - see there. If this were the language of sanctification in their day, there would not be true sanctification, because if so, how would there be permission to derive benefit like one of the poor of Israel? Rather, it is the language of sanctification for

<sup>15</sup> *Charta* involves a situation when the person expresses regret over having made the vow, saying that he had he known that such-and-such would happen, he never would have vowed this thing.

<sup>16</sup> Ta'anit 24a: "Whenever the collectors of ... [tzedakah] caught sight of R. Eleazar b. Birtah they would hide themselves from him, because he was in the habit of giving away to them all that he had. One day he was going to the market to buy a trousseau for his daughter. When the collectors of ... [tzedakah] caught sight of him they hid themselves from him. He ran after them and said to them: I adjure you, [tell me] on what mission are you engaged? And they replied: [The marriage of] an orphaned pair. He said to them: I swear, they must take precedence over my daughter. And he took all that he had and gave to them. He was left with one zuz and with this he bought wheat which he deposited in the granary. When his wife returned home she asked her daughter, What did your father bring home? She replied, He has put in the granary all that he had bought. She thereupon went to open the door of the granary and she found that it was so full of wheat that the wheat protruded through the hinges of the door-socket and the door would not open on account of this. The daughter then went to the Beth-Hamidrash and said to him [her father], Come and see what your Friend has done for you. Whereupon he said to her, I swear, they shall be to you as devoted property, and you shall have no more right to share in them than any poor person in Israel."

the poor. We find in Gitin (38b)<sup>17</sup> that there, sanctification is not only for the poor who are [part of the] holy people [of Israel] - see there (The language of being sanctified for heaven I did not find except concerning sanctification at the end of chapter 5 of Nedarim and in Baba Batra 133b. I saw in Pitchei T'shuvah, note 3 that sanctification of heaven is for the poor, and proof of this comes from ... - see there. This language is not there as I have noted, and in any case, without proof you can also say this.).

8: The matter is obvious that when one sanctifies for tzedakah some piece of land, let him redeem it according to the assessment of three experts. Even though in chapter 1 of Sanhedrin (15a)<sup>18</sup> it is clear that redeeming land from sanctification requires ten experts, one of whom is a Kohane, the Torah decrees this is for *hekdesh* alone. However, concerning [the various] tzedakahs, three is enough as with all other assessments. And so, one who says, "I owe to tzedakah what I am worth," assess him like [the value of] a slave [on the open market]. And so, if he sanctifies his body or half his body or a quarter of his body or every limb upon which his life depends, he needs to assess his body and this [value] is what he should pay to tzedakah. He, too, should be assessed by three [experts] as I previously wrote.

9: Our teacher Moses Isserles wrote in paragraph 2: If he wants to say, "This *sela* do I vow," but he mentions a different *sela* instead, this is a mistake and means nothing - until here are his words. There is one who explains that neither [his intention or the amount he actually said] mean anything (Turei Zahav, note 2), and there is one who explains that what came out of his

<sup>17</sup> Gitin 38b: "Rabbah said in the name of Rab: If a man sanctifies his slave, he becomes a free man. What is the reason? Because he does not sanctify his body, nor does he say that he is sanctified in respect of his money value. What he must mean, therefore, is that he is to become a member of the 'holy people'."

<sup>18</sup> Sanhedrin 15a: "MOVABLE OBJECTS OF ASSESSMENT. R. Abbahu said: This refers to one who declares, 'I dedicate my value,' when the Priest comes to collect it, [on his failure to pay], movable property is assessed by three; immovable property by ten. ... LAND VALUATION NEEDS NINE AND A PRIEST. Said Samuel: Whence is this inferred? — [From the] ten Biblical references to 'Priest' in the chapter [relating to valuation] ..."

mouth by accident means nothing, but that which he thought in his heart to give he is obligated [to do so], because a tzedakah obligation is also solely in the heart (Siftei Cohen, note 5). In truth, these are two opinions, and our teacher Moses Isserles noted them at the end of this paragraph and favored a more stringent [approach] which he had already noted in Choshen Mishpat, chapter 212, paragraph 10 - see there. Indeed, here, there is not a more stringent opinion, because certainly if he wholeheartedly [felt] in his heart to give this *sela* to tzedakah, he is obligated to give it; but, if he was not completely sure in his heart but rather thought to say this *sela* for tzedakah and he stumbled on his words and said a different amount, certainly this was not completely set in his heart (You do not need to press, as what the Siftei Cohen wrote there, if one wholeheartedly felt in his heart that he was not going to give tzedakah until he declared an amount - see there. This is surprising, because why would he consider this, and also, if so, Isserles' words are stated vaguely. However, according to what he wrote, what he wholeheartedly felt is a different matter. ... [Another sage] in chapter 562, note 1, wrote that also concerning fasts, that only when he accepts it in his heart to fast [should he fast], but if he [merely] thought to fast, this is not a heartfelt acceptance - see there. Here, too, it is so, and this needs to be studied carefully.).

10: One who made a vow of tzedakah but does not know for how much he vowed, increase the amount he should give until he says, "I did not intend to give this." The Rambam and the Tur and the Shulchan Aruch, paragraph 3 ruled thusly and they learned this from here, because it is taught at the end of tractate M'nachot (106b)<sup>19</sup> the matter of one who says, "I declare an amount [but I do not know what I declared. I do not know what the matter of "I declare an amount" would bring until he says, "I did not intend to give this," and obviously, the same is true with tzedakah. It seems that even according

<sup>19</sup> Menachot 106b: "[If a man said] 'I take upon myself to offer gold', he must bring not less than a golden denar; if 'silver', he must bring not less than a silver denar; if 'copper', he must bring not less than [the value of] a silver ma'ah. [If he said] 'I specified [how much I would bring] but I do not know what I specified'. He must bring so much until he says, 'I certainly did not intend to give so much!'"



to the opinion that is in paragraph 2, this is also with tzedakah since this is a monetary matter and money is not taken from its possessor [without proof that he owes it]. Still, the obligation is upon him [to give]. Indeed, it is certain that they may permit his vow openly, because had he known that he would forget, he never would have made the vow in the first place; so, they can release him [from his vow].

11: One who says, "Give 100 zuz or a Torah scroll to the synagogue," but does not explain to which synagogue, he should give it to the synagogue in which he is accustomed to praying in the city in which he lives. The Tur and our teacher Moses Isserles wrote in paragraph 4 that if he is accustomed to two of them, he may give to the two of them - until here are his words - half to this one and half to this one (Sifte Cohen, note 6). I do not understand this, because although this can be done with money, how do you split a Torah scroll [between two places]? Truly, the Tosephta of Baba Kamma, chapter 11 uses this language as is quoted by the Rashbam in Baba Batra (43b). It needs to be said that they can arrange it so that the Torah scroll can be at one synagogue one year and the other synagogue the next year, and it surprises me that this explanation is in neither the Shulchan Aruch nor in its commentaries. Perhaps they thought about it that truly this was only for the money and not for the Torah scroll, and with the Torah scroll it was necessary to see in which synagogue he was more accustomed [to praying] and give it there. It would appear to me that all of this is when he is not with us; for example, if he died or went far away. However, when he is here, he is to be believed when he says that it was his intention to [give it to] such-and-such synagogue. So it is with all the laws that will be clarified like this. Proof of this comes from vows, because he is to be believed when he says that such

was his intention, and even with a distant matter as what I wrote in chapter 208 - see there.

12: Likewise, one who says, "I am going to give a *maneh* to the poor," and does not specify to which poor, he should give it to the poor of the city in which he lives, even if this was said in a different place, and so it is with the previous decision (in paragraph 11). If he has no permanent dwelling in one place, he should give it to the poor of that city in which he made the vow (Bayit Chadash and Sifte Cohen, note 8). Our teacher Moses Isserles wrote: One who says he will give oil for light, he should give it to the synagogue and not the house of study, because when people say "illumination," they are generally thinking about the synagogue [and not the house of study] (Turei Zahav, note 3). It would seem that this was in their day, because in every city there was a synagogue and it was the principle place of worship. However, these days, there are many cities in which no synagogue is found at all, and in those cities where there is a synagogue, it is not necessarily the principle place of worship for most of the community as is well known; so, [he should] give it to the place in which he is accustomed to praying.

13: Our teacher Moses Isserles wrote that all this is in general, but in a case where they know that he did not intend to give it only to the poor of that city alone, for example in places where it is the custom of the rich to give much tzedakah at the time of their death and it is the custom to distribute those funds to all the poor (even to those in other cities), they should follow this [practice]. Even a general vow (and there is a custom concerning this) should follow this custom, and the heirs should distribute the tzedakah to all the poor that find favor in their eyes. Even if they (the poor) are not in their (the

givers') city and even if that tzedakah had been entrusted and placed in someone else's hands, it should be given to those who inherit it and inform them that such he vowed - until here are his words. Since the trustee, even if he is a collector, could have given the money to anyone he wishes without telling us he had it in the first place, we ought not hand the money back to the heirs [who would just do the same thing] (Sifte Cohen, note 9).

However, if he says that he gave him (the trustee) the authority to give [the money] to tzedakah, certainly he is to be believed, and he should distribute it as he sees fit (Turei Zahav, note 4). Even if he does not have a *miggo*, for example if it is known by everyone that he (the wealthy person) gave money to him (the trustee), he is to be believed since we have no reason to distrust him (This appears to me from the language of the Turei Zahav who did not mention a *miggo* at all and from the language of the Mordechai that he (the Turei Zahav) brought).

14: Know that we can deduce from our teacher Moses Isserles' words, because when he wrote that they follow the custom, and certainly it is that whoever gives does so according to the [local] custom (Gra, note 9), if so, why did he write that the heirs must distribute it to all the poor that find favor in their eyes when he already said that they should follow the local custom? And, if it was his intention that it is the custom to give it to his inheritors, then why did not he explain this? It seems that this is his explanation: Certainly, to whom to distribute tzedakah and whom the distributor is are not matters of custom, because certainly sometimes, some wealthy person will instruct that so-and-so will be the distributor and some other wealthy person will instruct that another so-and-so will be the distributor. Rather, [he is referring to] the custom of not distributing in [only] one place. To this he speaks [of the community takes precedence over others; you must concern yourself with the



situation] when one does not instruct whom the distributor should be; therefore, apparently, it was more his intention that the heirs would be the distributors, and they would distribute according to how it would seem [best] in their eyes, but not to give all of it to one place.

15: He also wrote that one who obligates himself to pay a fine to tzedakah [in the event that he does not fulfill his vow] and transgresses also needs to give it to the poor of [his] community, and he cannot say that that he is going to give it to other poor people. The collector is able to demand the money from him, because it is considered money that is claimed by creditors - until here are his words. This is to say that apparently he would be able to say that the city's collector can only collect fixed tzedakah, but tzedakah that is happenstance as with a fine that one is obligated to give, in such a case he [the one who is obligated] should be able to distribute it as he sees fit like one who donates such tzedakah that is not fixed; this comes to teach us that this is not so. Certainly, one who gives willingly should be able to give to whomever he wants, but that is not the case when one is obligated to give because of a fine. He does not actually own this [money as one who donates voluntarily does]; rather, the collector has authority over it. Therefore, he is obligated to hand it over to him (the collector), and it becomes part of the general fixed tzedakah funds of the city.

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*The halacha makes an important point here; namely, that the fight against poverty must begin at home. When we give of our time and money, it is necessary for us to care for those local communities which are plagued by the causes and effects of poverty. According to the rabbis here, your community takes precedence over others; you must concern yourself with the*



needs of the poor in your proximate vicinity before branching out beyond your locale.

Change on a national level can only happen as a result of local, grassroots efforts to eradicate poverty in our most immediate midst. Healthy communities build healthy cities which, in turn, form the foundation for a solid, thriving nation.

Some may disagree with this, insisting we focus our resources on national or global efforts. They contend that our national government represents our local efforts to affect change or that we are rapidly becoming a global community. However, if we ignore the poor who are nearest to us in order to focus our attention solely on national or worldly issues, poverty will never be eliminated. National and global efforts are necessary components in the eradication of poverty; we need the assurance of powerful, legislative bodies that positive poverty legislation will be enacted and that programs will be created and funded. However, these efforts must support successful local programs, not supersede them. Each community is unique, requiring its own plan for revitalization. Only those who live there can know what is best for them; therefore, our best efforts must be put forth locally.

16: Thus he concludes: However, one who devotes a great deal of money and appoints his heirs over it to distribute as they see fit, even to the poor of another city, he (the wealthy man) has no claim to the money, and the collector of the city cannot force them (the heirs) nor demand that they fulfill what the deceased instructed them. Even if they (the heirs) keep the money for themselves and thereby steal it from the poor, he (the collector) has no claim to the money since they are able to distribute to whomever they want.

III These "heirs" act as trustees for deposited funds or property.

Even if there were two trustees and one died, the community would not be able to appoint another; rather, the remaining one would do whatever he wanted as the giver had instructed. Even with communal tzedakah, a person is not able to demand tzedakah unless he has permission from the collector or the city's elders. He who devotes money to tzedakah and is unable to pay, the community works out a payment plan for him as it does with other debtors - until here are his words.

17: It would appear to me that it is true that the collectors are not able to force them and that it would be wealth over which they have no claim. It is clear in Choshen Mishpat chapter 301 that in such a case, one is exempt from laws of "bailiffs,"<sup>20</sup> and they (collectors) have no claim on their wealth. In any case, a court can force them to fulfill the will, because it would be a separate obligation. It would seem that the court is obligated to force them to fulfill his instructions. Concerning what is written, that "when he appointed two people and one died, the community would not be able to appoint another; rather, the remaining one would do whatever he wanted," this is from a responsum of the Rashba. There is one who is surprised by this, because perhaps he (the one who issued the will) put his trust in the *two* executors, [not in either *one* of them alone] (Turei Zahav, note 5). Indeed, you could say it is like what our teacher Moses Isserles wrote above in chapter 215, paragraph 7 that any place it says "so-and-so and so-and-so" means even one of them [is sufficient] until he gives specific instructions requiring the two of them together - until here are his words. This is also in Rashba's responsum - see there. If so, the Rashba follows his (Isserles') line of thought. However, it seems that concerning the matter of a will, if he clearly intended

<sup>20</sup> These "bailiffs" act as trustees for deposited funds or property.

that *two* [executors should administer the will], another should be appointed in place of one [who has died]. If [he did] not [clearly intend this], let the remaining one [execute the will]. However, the custom is not that way today. Since much money has been lost due to incompetent executors, we surely appoint a trustworthy replacement [whether the one who made the will so intended or not] (Turei Zahav, there). This is as he wrote, because with communal tzedakah, a person is not able to demand the tzedakah unless he has permission from the collector. This is certainly true. However, in any case, if one or two of the community's officials make a donation for someone, the collector cannot protest to them and say that because of this they have done damage to the regular tzedakah (Chochmat Adam). And so, the custom is obvious in all of Israel's Dispersion (That which is written concerning the sanctification and his not having to pay for it from his arrangements, it is surprising to me, because why does he not ask about his vow? This is not to say that this refers to after the collector receives it because they cannot be asked as will be clarified, because if so, this does not belong because he does not have to pay. It needs to be said that, truly, the law is such. This only refers to he who says that the set law concerning tzedakah is like other obligations).

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*Deferred giving is a big fundraising technique nowadays. Organizations call upon individuals to bequest a portion of their estates to their causes upon death. Deferred giving ensures that the wishes of the giver are made explicit and are carried out, thereby circumventing any problem which may arise when the giver's heirs are called upon to administer his estate and do not follow through with his intent. By including organizations in the will, the giver is producing a legal statement of financial obligation to those causes, one which divides his funds as he sees fit. Such provisions in a will are not unlike what the halacha seeks to do here by providing a means by which local authorities can enforce heirs to comply with the giver's stated intent.*



intent.

18: One who makes a vow to tzedakah may not renege on it. Even though it is money upon which no claims can be made, because if a poor person would make a claim to it he (the giver) could say that he will give it someone else, in any case the one obligated was obligated to God immediately when he vocally vowed as we learn in Rosh Hashannah (6a):<sup>21</sup> *With your mouth*, this is tzedakah - see there. Indeed, he can seek a halachic remedy to annul the vow as with all other vows, but this is before he sent the tzedakah to the collector. However, after he sent it to the collector there can be no question (the giver cannot demand absolution) like with the *t'rumah* of the Priest which cannot be taken back as we said in Nedarim (59a).<sup>22</sup> This is the language of the Tur: Dedication to God is equal to delivery to a common person (Sanctifying something for the Temple is the equivalent of giving tzedakah to a poor person). Therefore, it is impossible for the one who makes a vow to tzedakah to renege on it, and it [must be given] without question; but, etc. - until here

<sup>21</sup> Rosh Hashannah 6a: [This is a parsing of Deuteronomy 23:24] - "Our Rabbis taught: 'That which is gone out of thy lips: this is an affirmative precept. Thou shalt observe: this is a negative precept. And do: this is an injunction to the Beth din to make thee do, According as thou hast vowed: this means a vow. To the Lord thy God: this means sin-offerings and trespass-offerings, burnt-offerings and peace-offerings. A freewill offering: this has its literal meaning. Even that which thou hast promised: this means things sanctified for the repair of the Temple. With thy mouth: this means ... [tzedakah].

"... 'With thy mouth': this is ... [tzedakah]'. Raba said: For [paying] ... [tzedakah]-offerings one becomes liable at once. What is the reason? Because the poor are waiting. Surely this is obvious? - [Not so, since] you might think that, as ... [tzedakah] is mentioned in the passage dealing with offerings, [it need not be paid] till three festivals have elapsed, as in the case of offerings. We are therefore told that this is not so. Only the others [the offerings] were made by the All-Merciful dependent on the festivals, but this [... tzedakah] is not so, because the poor are waiting."

<sup>22</sup> Nedarim 59a: "Said R. Abba: Vows are different: since if he wishes he can demand absolution from tithes, they are as [forbidden] things that may become permitted and [hence] are not nullified by excess. But with *terumah* likewise he may, if he wishes, demand absolution from it, and yet it can be nullified? For we learnt: If a *se'ah* of unclean *terumah* falls into less than a hundred of *hullin* it must [all] rot. [... but if it falls] into a hundred [*se'ahs* of *hullin*], is it nullified? - I will tell you: This refers to *terumah* in the priest's hands, in regard to which he can demand no absolution."



are his words. His statement of dedication to the sanctuary being equal to delivery to a common person comes from the Mishna Kidushin, chapter 1 (28b).<sup>23</sup> This is only with holy objects of the Tabernacle and with Temple repairs; however, laws of tzedakah are like a common person as what is written in Choshen Mishpat chapter 95. Rather, the Tur chose to speak in ordinary language, because the technical law is that one who obligates vocally, [his] tzedakah is equal to *hekdesh*. Because of "with your mouth - this is tzedakah," (Rosh Hashannah 6a) it is a vow like all vows. You need not ask that if dedication to the sanctuary is equal to delivery to a common person, then how can there be a question (an attempt to absolve the dedication)? Because you can say as I wrote, that this is only with complete sanctification. Also, even with complete sanctification there is question as with all vows, because when he asks about it, it would be like sanctifying by accident (there is proof for this in the Tosephot there ...), and then this would not be like delivery to a common person (I do not understand what Caro wrote ... in the name of the Rashba: We did not say 'dedication to the sanctuary, etc.' concerning sanctification of the poor and that he could renege on it - until here are his words, and also 'with your mouth - this is tzedakah' - this needs further examination, because it is possible to question also with a complete sanctification, and the reason is that which we clarified and this needs much further examination).

19: I saw one who wrote that whoever vows something to tzedakah cannot renege on it even while he is speaking it because "Dedication to the sanctuary is equal to delivery to a common person" (Pitchei T'shuvah, note 7 ... - see there). These words are surprising [for two reasons]: First, because our teacher Joseph Caro in his "great book"<sup>24</sup> in this chapter quotes the Rashba that we do not say "Dedication to the sanctuary is equal to delivery to a

<sup>23</sup> Kidushin 28b: "The Sanctuary's title to property [is acquired] by money; the title of a common man to property by hazakah. Dedication to the sanctuary is equal to delivery to a common person."

<sup>24</sup> The Beit Yoseph.

common person" concerning *hekdes* as *tzedakah* - see there. This is brought in Choshen Mishpat, chapter 95 as clear, decided law: All *hekdes* for the poor, the Temple, and a Torah scroll, the law concerning them is the same as that concerning a vow to give something to an ordinary person. Second (lit. 'also'), because even with a vow to devote [an animal or other property] for [use in the sacrificial ritual], whoever has spoken [the vow] can reverse it within the time required to say it. This is the law in Baba Batra (129b),<sup>25</sup> that "expressions uttered] immediately after one another [are] always [regarded] as having been uttered simultaneously, except, [in the case of] idolatry and betrothal." In Nedarim (87a)<sup>26</sup> it says "except in the case of blasphemy, idolatry, betrothal, and divorce," and it is all the same as what is written in the Tosephta. However, with all matters you can renege. And as for the rule "dedication is like delivery" this applies only when one reneges after he has spoken it. All *hekdes* and *tzedakah* are part of [the jurisdiction of] vows as the Rambam wrote at the beginning of Hilchot Nedarim. And with respect to vows it has been established for us that one can renege on it while speaking it as what I wrote above in chapter 210 - see there. Also, the Rambam explained at the end of chapter 2 of Shavuot that reneging while speaking is the same as making a mistake - see there. If so, what of this has anything to do with it

<sup>25</sup> Baba Batra 129b-130a: "According to the view of R. Johanan b. Beroka, [if one said], 'My estate [shall be] yours, and after you [it shall be given] to X', and the first is [one who is] entitled to be his heir, the second has no [claim] whatsoever in face of the first, for this is not a [specific] expression of 'gift' but [rather] of 'inheritance' and an inheritance cannot be terminated. [Is not this then,] a refutation of [the views of] all of them? — This is a refutation.

May this be regarded also as a refutation of [the view of] Resh Lakish? — [How can] you think so! Did not Raba say, 'The law is in accordance with [the views] of Resh Lakish in these three [cases]? — [This is] no difficulty, [for] here, [the expressions of 'gift' and 'inheritance' may have been uttered] one immediately after the other; there, [the two expressions] may not have been uttered one immediately after the other. And the law is that [expressions uttered] immediately after one another<sup>31</sup> [are] always [regarded] as having been uttered simultaneously, except, [in the case of] idolatry and betrothal."

<sup>26</sup> Nedarim 87a: "Now, the law is that [that which follows an action] within the period of an utterance is as [though it were simultaneous with] the utterance, except in the case of blasphemy, idolatry, betrothal, and divorce."

being like delivery to a common person?

20: Here, it is true that the Rambam at the beginning of chapter 15 of Hilchot Ma'aseh Hakorbanot wrote that you cannot renege on sanctifying even in the midst of speaking - until here are his words. However, there are many great sages who were surprised by his words. There are two talmudic discussions which conclude that one can renege [on a halachic vow] while speaking it, in Baba Kamma (73b)<sup>27</sup> and Temurah (25b).<sup>28</sup> They (the commentators) try mightily to explain his (Rambam's) words [which appear to contradict the Talmudic passages, saying that it was] because such was his version of Baba Batra there. Anyhow, according to the final law, certainly it is not so even for the Rambam with respect to tzedakah, because nowadays the laws [of tzedakah] are like [those concerning vows made to] ordinary people. Such all the great sages determined, and such is the technical law (according to what is written in Choshen Mispat chapter 255 paragraph 5 and let it be most stringent).

21: Whoever vowed to give a weekly supply of such-and-such to the poor, the widow, or the orphan and afterward they (the ones being supplied) become rich or something else happens so that they no longer need the

<sup>27</sup> Baba Kamma 73b: "If a man declares: Let this animal be a substitute for a burnt-offering, a substitute for a peace-offering, it will be a substitute for the burnt-offering, according to the view of R. Meir, whereas R. Jose says: If from the outset he intended this, his words would have to be acted upon, as it was impossible for him to utter two terms at the same time, but if he first declared; 'Substitute for a burnt-offering', and then changed his mind and said, 'Substitute for a peace-offering', it will be a substitute for a burnt-offering only. Now this statement we found strange; for is not the case of a change of mind obvious? And R. Papa therefore said: We assume that the change of mind took place within the minimum of time [required for the utterance of a greeting]."

<sup>28</sup> Temurah 25b: "BUT IF AFTER HE HAD ALREADY SAID [INTENTIONALLY]: THIS SHALL BE A PEACE-OFFERING AND HE CHANGED HIS MIND, etc. Surely this is obvious, that [its young] is regarded as the offspring of a peace-offering! For can he change his mind whenever he wishes? — Said R. Papa: This clause is required only for the case where one statement followed the other in the same breath. You might have said that two statements following each other immediately are considered as one statement and that this man was really reflecting [aloud]. [The Mishnah] therefore teaches us [that it is not so]."



provision, it is obvious that the givers no longer need to continue their vow, because we proceed under the assumption that the intention of the givers was only [to give] while there was a need (there, in the name of Chatam Sofer), and there is nothing more plausible than this. So it is for whoever vowed to give to the poor and before he gave it to him or awarded it to him through another he became aware that he (the poor person) does not need the gift. There is no question that if it was also at the time he made the vow it was not necessary [to give], because the vow was made mistakenly. Rather, even if after [the vow was made] he becomes aware that he (the poor person) does not need it, he need not get a formal release [from his vow], because we go under the assumption that he intended to give only if there was a real need. There is one who disagrees with this and [says] he needs a formal release, but I do not agree.

22: Concerning this which was clarified, that when he hands the money to the collector he can no longer ask about it (ask for the vow to be absolved and for the money to be returned), there is one who says not only to the collector but also if he hands it to someone else. As soon as it leaves his hand, he cannot demand it (according to Choshen Mishpat chapter 125, in Sefer Meirat Einayim note 125, and in the Sifte Cohen note 27) even though there is doubt about this. Indeed, we already clarified in Choshen Mishpat, the beginning of chapter 125 that this is the technical law. One must ask a sage [to annul the vow] whenever the money has left his hand, and the Tur did not specify that the money was received by the collector - see there. This teaches that when it does leave his hand, even when it does not go to the collector, one cannot ask about it unless he says to him (collector) at the time of his giving it to him, "Keep the money in your possession until I instruct you to give it to so-and-so," because then he (the



collector) is acting as his messenger, and he (the giver) can ask for it back. However, if he says [to someone], "Give this to so-and-so," then he is made to be like a collector, and he (the person who was given the money) acquires it for him (the poor).

23: It is obvious that only when he sends the money to another may he not ask for ... [release from his vow]; however, anytime he does not send it to another, even if he has specified them by setting aside a special place for those coins among his other funds, this means nothing and he can ask for ... [annulment of the vow] (same). Know that they wrote in the name of Radbaz (R. David ibn Zimna - 16-17c Egypt) that the sage who permits a vow of tzedakah [to be reneged] is worthy of punishment, because he causes the poor to lose out. I say that if the giver were rich and wanted to renege on the vow for insufficient cause, then certainly the rabbi who releases it deserves punishment. But who would ever engage in permitting vows like this!?! However, if the sage sees that the financial burden is too heavy for the giver to bear and the one who is making the vow is doing so hastily without giving it much thought, certainly he is commanded to permit him [to renege]. It all depends on the situation. If the one making the vow says, "I was permitted [to renege on] my vow," he is to be believed, and the court has no power to force him [to comply to his vow]. But, if the court understands that he is being deceitful with this and that he truly was not permitted [to renege], they can force him to fulfill unless he can prove who it was that permitted him; if they truly permitted him, he is permitted. However, the court may rebuke those who permitted him if they did, in fact, permit him, because this is not a fair thing to do as I have written.

24: The matter is clear that a person cannot give to tzedakah something that he does not have the power to devote. We explained (Baba Metzia 6a)<sup>29</sup> that a person who wants to sanctify his house, etc., whatever in his house that is his possession, even if all of it is possession - see there. Certainly, for items that are not at all his, this verse is not needed. Rather, this is needed for the following case: When someone has stolen property and the property's owner has not yet despaired of getting it back, neither person can sanctify it to the Temple. The thief cannot, because it is not his; the owner cannot, because he does not have control over it, even though he still owns it and has not given up on getting it back. The mere fact that the object is not in the owner's physical possession does not prevent him from giving it to tzedakah. After all, one may sanctify an object entrusted to another, so why can he not give to tzedakah the property stolen from him? It must be that since the thief does not want to give it back, we call it "property not under his (the owner's) control," and he cannot sanctify it. The verse comes for this purpose. It is

<sup>29</sup> Baba Metzia 6a: "R. Zera asked: If one of the litigants seized [the garment] in our presence, what is the law? But [it is immediately objected]: How could such a situation arise? If [the other litigant] remained silent, he really admitted [his opponent's claim]; and if he protested, what more could he do? - [R. Zera has in mind] a case where [the aggrieved litigant] was silent at first but protested later, and the question is: Do we say that since he was silent at first he really admitted [his opponent's claim], or [do we] perhaps [say] that, as he protests now, it has become apparent that the reason why he was silent at first is that he thought [it unnecessary to protest, because] the Rabbis [of the Court] saw [what happened]? - R. Nahman answered: Come and hear [a Baraita]: The ruling [of our Mishnah] refers only to a case where both [litigants] hold [the garment], but if the garment is produced [in Court] by one of them only, then [we apply the principle that], 'the claimant must bring evidence to substantiate his claim.' Now, [let us consider:] how could the case [of one litigant producing the garment] arise? If we say that it was just as stated, then it is self-evident. It must therefore be that one of them seized [the garment] in our presence? - No. Here we deal with a case where both of them came before us holding [the garment], and we said to them, 'Go and divide it.' They went out and when they came back one of them was holding it. One said, 'He really admitted [my claim],' and the other said, 'I let him have it on condition that he pays me for it.' Now we say to him: 'Hitherto you implied that he was a robber, and now you dispose of the garment to him without witnesses!' If you prefer, I could also say that [the Baraita deals with a case where], as stated, one of them was holding it, and the other was just hanging on to it. In such a case [it is necessary to inform us that] even Symmachus, who maintains that disputed money of doubtful ownership should be divided among the disputants without an oath, would agree, for mere hanging on [to a disputed article] counts for nothing."

also so with pledges as is clarified elsewhere.

25: I quote our Rabbi Joseph Caro in paragraph 7: A person cannot sanctify something that is not under his control. An example: Person X has entrusted property to person Y. Y denies that he has that property; the owner cannot then sanctify it. However, if Y does not deny he has it, then the property is still under X's control and X can sanctify it, no matter where it is. To what does this apply? To movable property. But with respect to real estate, if land is stolen, as long as the owner can get it back through legal action, he can sanctify it. This is true even if the owner has not yet gotten the property back through legal action, for land remains in control of its rightful owner. One who steals from another, so long as the owner does not despair of recovering his property, neither party can sanctify it; the thief cannot, because it is not his, and the owner cannot, because it is not under his control - until here are his words. This is from the words of the Rambam in chapter 7 of Arachin and is derived from the discussion in Baba Metzia there. According to what we clarified, the reason is clear, because it is like that with robbery, that even though it is possible to get it back through the court, in any case it is not under the owner's control because the robber does not want to return it. Likewise it is so with movable objects that have been entrusted to another when the trustee denies that he has it. Granted that the depositor can go to court and get back his property, at any rate, since at this moment the trustee denies it, he has become equivalent to a thief, and the property is not under the owner's control. Real estate, however, cannot be stolen, since it stays in the same place and the thief cannot hide it. Thus, if the owner can go to court and recover it, it is regarded as under his control and he can sanctify it. The same is true for tzedakah, which is a similar legal situation.



26: The following is a doubtful case [whose answer is not clear]: When property has been stolen or when a trustee has falsely denied possessing the object in his care, and when the court has determined that the property in fact belongs to the owner and has required the thief/trustee to return it, can the owner sanctify that property *before* it has actually been returned? It seems that if the robber or the trustee says before the court, "I will return it to him," it can be sanctified; but if he does not say this, even if the court instructed him to return the property, then at any rate the property must be recovered by force. Thus, it is not regarded as in the control of the owner until then, and he cannot sanctify it.

27: The Tur and the Shulchan Aruch in paragraph 8 wrote: If he is owed a debt by someone and says, "Let it be sanctified," or, "[Let it be] for tzedakah," his words are meaningless. But, if he says, "The debt that is owed me by so-and-so, *when I receive it* I will sanctify it or give it to tzedakah," he is obligated to fulfill his words and to sanctify or give to tzedakah when he receives it. Even the one who says, "The debt that so-and-so owes me will be for tzedakah," if he said this in the presence of the one in debt and [either] the collector, the city's authorities, or an important person who is in the city, the collector is entitled to it according to the law of "standing before three of them."<sup>30</sup> It is tzedakah, he cannot renege on it, and he cannot change it - until here are his words. In paragraph 10, he wrote: A vow to tzedakah [should be made] with surety; for example, "If I do something to so-and-so, I will give such-and-such to tzedakah;" if he does it, he is obligated to give - until here are his words.

However, when he said, "When I receive it I will devote it," true, now it is not sanctified, but in any case, he is obligated because it is a vow. In the case

<sup>30</sup> Money vows must be made in front of three people who represent the court which has three judges.



28: It needs to be clarified that a debt that one's fellow owes him, whether it be a written or verbal loan, and even if the borrower acknowledges it and says that he will repay him, in any case he cannot devote it; this is not like an object held in trust which exists in its original form. A loan, by contrast, is made in order that the borrower *spend* the money; it is therefore regarded as "not under his (the lender's) control." Even though the Mordechai ruled at the end of chapter 5 of Baba Batra that he (the lender) can sanctify it like a pledge, and our teacher Moses Isserles in his Darchei Moshe cited him - see there, and likewise wrote the Shitah Mekubetzet (a 16c compilation of rishonic commentaries on the Talmud) in Baba Kamma (70a) [who] brought the Me'iri (14c commentator) in the name of "some explain" - see there, in any case, we do not hold thusly. The Me'iri also wrote there that the greatest sages did not think this - see there. The reason, it seems, is that since the Torah excluded from his power to sanctify objects which are his but which are not entirely in his control, even though he could recover them through legal action, if they are movable objects, he cannot sanctify them as what I wrote. If so, then a loan, which is given under the assumption that the money will indeed be spent, is covered by the same rule. Even though the loan may be secured by a note which places a lien on the debtor's property, in any case, since the loan has yet to be collected, the lender's position is not superior to that of the one from whom the property was stolen [or the one who deposited an object with a trustee who denies possessing it]. In either of the latter cases, he [the owner/depositor] can recover the property in court; nonetheless, he cannot sanctify it now, since it is yet to be recovered. So, too, it is with the lender. However, when he said, "When I receive it I will devote it," true, now it is not sanctified, but in any case, he is obligated because it is a vow. In the case

of a vow, he cannot claim that he was not serious when he made it. The Rambam in Arachin there brings proof from Jacob, our ancestor, who said, "If the Lord God is with me ..." <sup>31</sup> and it is written, "... which you vowed to me;" <sup>32</sup> this is a vow. If, when all three parties are present, the lender gives his money, which the debtor now holds, to a recipient [as tzedakah], the recipient becomes the debtor's creditor at that point, for we hold that "standing before three" confers ownership of a debt as is written in Choshen Mishpat chapter 126. But with "standing before three," there needs to be [among them] a collector, a community authority, or some other important person who would acquire it on behalf of the poor, because with every situation of "standing before three" there needs to be a recipient [of the tzedakah money] as is clarified there. Therefore, it is also forbidden to redirect it; it is like [money] already sent to the collector which cannot be redirected as will be clarified in chapter 259. You should not ask that that since he said, "Let it be sanctified," why does this mean nothing? Let it be like the law on vows, because he did not say, "I will sanctify;" rather, "It will be a sanctified object now." However, he is unable to sanctify now [since it is not in his possession] (Sifte Cohen, note 15). With a vow, we follow the understood intention of his words only when he vowed verbally or according to what he completely vowed in his heart, to give such-and-such to tzedakah. However, [we do not allow his vow] when he says something that is not according to the law at all. Even if it is understood to be his will to make such a vow, in any case in the end it is still not a vow.

29: Our teacher Moses Isserles wrote in paragraph 7: If one has pawned with a fellow [to pay off a loan], he may not sanctify the value of the pawn that is

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<sup>31</sup> Genesis 28:20.

<sup>32</sup> Genesis 31:13.

equivalent to the loan, but anything above that he may sanctify. There is one who says that he may not even sanctify the extra. One (a creditor) who devotes to the Temple the promissory note [which testifies to the debt he is owed] can do so only if he writes instructions to that effect and if there are witnesses to that writing and to the transmission of that note, as is the case when one wishes to transfer the note to another person - until here are his words. The reason of the one who says that he may not even sanctify the extra even though the extra is like an object deposited with a custodian is that, in any case, it is not like an object deposited with a custodian, because an object deposited with a custodian may be recovered anytime he wants, but in the case of a pawn, the extra amount, although it is not mortgaged as security for the loan, will not be returned to him (the borrower) until he has paid back the entire loan. If so, the extra is also "yet to be collected," and even though he can recover it in court, this does not have any effect [in giving him actual control over the pledge] as is written (according to Darchei Moshe). That which is written, "The one who sanctifies a promissory note [which testifies to the debt he is owed] can do so only if he writes instructions to that effect and if there are witnesses to that writing and to the transmission of that note, as is the case when one wishes to transfer the note to another person," was clarified in Choshen Mishpat chapter 66, paragraph 52 - see there. There, we noted the opinion of the Ritbah that he does not need a written document and that it would be enough for him to say, "Let the poor of the Temple (*hekdes*) acquire the promissory note." He thought this even with things devoted nowadays, because we say that a verbal declaration which devotes an object to the Temple (today represented in *tzedakah*) has the same legal force as actually handing the object to an ordinary person. Rav Hai Gaon wrote an



explanation of this in Sefer M'kach Umkikar, gate 56 - see there. We clarified there that even for the majority of sages who do not think this, he is still indebted because it is a vow - see there. Know that any place in which it as if he sent it to the tzedakah collector, like with writing and sending or when "standing before three," again he can no longer ask a sage [to find a way to release the vow] as when the collector is in possession of the money (Sifte Cohen, note 18). And so, an object which cannot be legally acquired [but is vowed], such as something which has yet to come into the world or which is not yet in his possession or which has no substance, goes to tzedakah even though tzedakah is not its rightful "owner." In any case, the vow is binding upon him and he needs to fulfill it when the object comes into the world or into his possession or becomes substantive and the like (same, note 16), but he can ask a sage [to absolve the vow].

30: And so, since concerning this, tzedakah is considered to be like *hekdesh* and whatever one cannot sanctify he cannot give to tzedakah, therefore, if a person sells a field to his fellow and says [to him] at the time of the sale, "This field that I am selling to you will be for tzedakah when I repossess it," it becomes the property of tzedakah when he repossesses it, because now it is his to sanctify. However, if he said this after [the transaction], the statement is meaningless, because now it is not his to sanctify. If he said, "This field which I pawned to you, when I redeem it from you it will belong to tzedakah," the sanctification is binding because now it is his to redeem, even if the pawning was for a long time. But if he said, "From now," it is useless because the pawning is really in possession of the lender (Sifte Cohen in the name of the Rambam chapter 7 of Arachin - see there). One who rents a house to his fellow and gives it to tzedakah, tzedakah owns it, and the rental agreement



expires at that point. This is according to the opinion of the Rambam there, but according to the opinion of the Tosephot in Ketubot (59b), he can only sanctify the extra [money he acquires over and above] the rental - see there.

31: The Rambam also clarifies there that someone who was selling gourds or eggs or the like and someone came and took one of them [without paying], if the price of each and every one was fixed, it was as though it was an agreed upon price, and the seller may not sanctify the gourd because it is not in his possession. If the prices are not fixed and he sanctifies it, it is sanctified because it is still in his possession because the one who took it did not steal it. So it is with everything like this - until here are his words. In any case, it is understood that the opposite applies to the one who takes, that if the price is fixed and he sanctifies it, it is sanctified, and if the price is not fixed, it is not sanctified. It appears that even if he intends to pay whatever the seller wants, in any case, in the end, without a fixed price, the price is not complete. If so, it still is not in his possession, and he cannot sanctify it. All this also applies to tzedakah, because the law is one and the same.

32: It is obvious that one who buys an object from his fellow in order to trouble, no *asmachta* would be acknowledged - see there. Since he knows that he cannot sanctify it or to give it to tzedakah, and afterwards it is discovered that the object is stolen, he (the buyer) needs to return it to the one from whom it was stolen, because it was sanctified by mistake and [something like this] cannot be sanctified. Even if the buyer did not know that it was stolen, and not only from the Rambam at the end of chapter 6 in Arachin, because he brings proof that, but even if the seller, after the money had gone to tzedakah, went back to the original owner and paid him, [the object cannot be sanctified]. This is because it has been established for us in Choshen Mishpat chapter 374 that the transaction is void for the buyer, and we said that whatever one person sells

to the next, all rights [to it] should come to him (the one who buys it), because it was assumed by him that he (the seller) stood in good faith - see there.

Nonetheless, the sanctification which was carried out previously is meaningless, because the object he (the taker) sanctified is not his. And, as for the fact that the transaction was legitimate for him, [this ruling refers to] after the seller bought it from the person and not before as was clarified there.

33: Know that concerning this which was clarified, that concerning tzedakah there can be no *asmachta*<sup>33</sup> according to our teacher Joseph Caro in paragraph 10, we noted in paragraph 27 that there is no *asmachta* for all these matters. However, in his Great Book<sup>34</sup> he (Caro) notes in the name of the Riv three differences of opinion concerning this, and I quote: 1) If there is a stipulation for a matter which is not obligatory, for example if he said, "If I do not go to place X, I will fast or I will give such-and-such to tzedakah," this is an *asmachta* since the journey was for a non-obligatory matter. 2) If there is a stipulation for a matter which is obligatory, "If I do not do commandment X, I will give such to tzedakah or fast," that statement is enforceable, and no *asmachta* would be acknowledged. 3) Likewise, if one vows in a time of trouble, no *asmachta* would be acknowledged - see there. Since he wrote this without specification [in the Beit Yosef], this teaches that there is no such thing as *asmachta* in any case [of tzedakah], even for a non-obligatory matter. This can also be learned from his words in Choshen Mishpat chapter 207 and from the Rambam at the end of chapter 6 in Arachin, because he brings proof from Jacob, our ancestor - see there. He does not differentiate to say that only in times of trouble as with Jacob, our ancestor. Concerning the Riv there is

<sup>33</sup> An *asmachta* is a statement, promise, or vow which everyone knows not to take seriously and which is not necessarily enforced.

<sup>34</sup> The Shulchan Aruch.

no difficulty, because there are among the sages some who think that also with tzedakah *asmachta* is valid (Joseph Caro ... ). The Riv makes exceptions on certain details with this, but we do not hold that way. However, [the words of] our teacher Joseph Caro are greatly surprising, because in Orach Chayim at the end of chapter 562 concerning fasts he brings this very opinion, and I quote from there: There is one who says that whoever takes a vow by saying, 'If I do not go to place X, I will fast,' since the condition was such that it was over something non-obligatory, *asmachta* is valid - until here are his words. The commentators have already wondered about this (Nikudot HaKesef and the Magen Avraham there, note 16). In my humble opinion, it seems that our teacher Joseph Caro thinks that even though the Riv equates fasting with tzedakah, in any case it is not similar, because tzedakah is certainly obligatory [while fasting is non-obligatory in the situations presented]. Therefore, even if the stipulation was for a non-obligatory matter, in any case, it (tzedakah) would be obligatory unlike the fast itself. There is a disagreement among the sages of the Talmud as to whether [fasting of this nature] is obligatory or not, and it was ruled there in chapter 471 that for a number of sins, when they fast [it is commanded and thereby obligatory] - see there. Therefore, since it is not clearly commanded, we must rely on the interpretation that the stipulation would be only for an obligatory matter. This is not so with tzedakah, and you should not pay attention to this at all.

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The entire halachic endeavor of tzedakah is rooted in a statement the rabbis make here: Tzedakah is obligatory. Tzedakah is not a matter of will or desire; rather, it is our duty and our God given responsibility, as Jews, to help the less fortunate and work for social change. Tzedakah is what Judaism



*dictates we should do; the rabbis are both adamant about making that clear and passionate about fulfilling its intent.*

34: He who strikes his fellow or insults him so that it becomes a matter in which he is obligated to pay a fine according to a communal ordinance, and he gives him the fine as per the decree, and he (the one who was hit and given the money) says in the presence of the collector or the city authorities or an important person in the city that he does not want the fine but that it should go to tzedakah, and afterward the batterer apologizes and is forgiven, the forgiveness is meaningless, and the poor acquire the fine because he said this in the presence of the collector. The poor acquire it because the collector is acting on their behalf, and again, he (the victim) no longer has the power to forgive [and thereby keep the money or return it to the batterer]. Our teacher Joseph Caro wrote this law in paragraph 9, and his source is a responsum from the Rosh (Klal 13), and he brings proof from something that happened in Baba Kamma (36b),<sup>35</sup> in which someone wanted to renege, but Rav Yoseph said, "We are the hand of the poor." According to this, you need to understand that concerning this you need to say, as did the Nimokei there, that they acquire because of "standing before three" - see there. According to this, you need to say that the one who strikes was present and this is not clear here, or according to the explanation of the Shitah Mikubetzet there, because the money had already been given to Rav Yoseph - see there. This also teaches explicitly that here, he still had not sent the money to the collector,

<sup>35</sup> Baba Kamma 36b: "The solution was gathered from the statement made by Rab Judah on behalf of Rab: 'Wherever money is mentioned in the Torah, the reference is to Tyrian money, but wherever it occurs in the words of the Rabbis it means local money.' The plaintiff upon hearing that said to the judge: 'Since it will [only] amount to half a zuz, I do not want it; let him give it to the poor.' Later, however, he said: 'Let him give it to me, as I will go and obtain a cure for myself with it.' But R. Yoseph said to him: The poor have already acquired a title to it, for though the poor were not present here, we [in the Court, always] act as the agents of the poor ..."



and if so, then how could the collector acquire it? If it is because "with your mouth - this is tzedakah," in which case it would be like a vow, then you would not have to say it in the presence of the collector. Rather, it is certain that this has nothing to do with vows. Rather, if so, he should have said, "I will give to tzedakah" as I wrote in paragraph 28 and as the Tosephot and the Rosh wrote there - see there. For the Tosephot and the Rosh it needs to be said there that it is also because of "standing before three" as is written there from Rabbi Meir of Lublin - see there. If so, why was this not made clear here? Therefore, it needs to be said that this is also a case of "standing before three," because he was present, too. Either they (the Rosh and the Shulchan Aruch) did not bother to clarify this or they thought that since this was through a communal ordinance, the striker did not need to be present and anyone could stand in his place - this needs further examination.

35: Our teacher Joseph Caro wrote in paragraph 11: A man and a woman who accept upon themselves a vow to get a divorce and arrange fines of such-and-such for tzedakah [should he not divorce her], and they then decide not to divorce, there is one who says that they are exempt from their fines, and so it is with all other situations like this - until here are his words. This is from Termat Hadeshet (Rabbi Israel Isserlein, 15c Germany) (chapter 311), and he mentions there another situation with Reuven and Shimon who accepted upon themselves [an agreement] to exchange their possessions, and if they did not fulfill it, they would give such-and-such to tzedakah. Afterwards, they did not want to exchange, and they were exempt from their fines. The reason is clear: It is because they only set up these fines in order to prevent one another from not fulfilling the original agreement, and since now neither is demanding fulfillment, what business does the community have in

interfering in their business, because their words have been fulfilled? He brings proof from chapter 5 of Nedarim:<sup>36</sup> [If one says to his neighbor,] 'Vow that you benefit not from me, if you do not give my son a *kor* of wheat, etc., he too can annul his vow without a Sage by declaring: 'I regard it as though I have received it.' Here, too, one could say: 'I regard it as though I have fulfilled it' - see there. The fine stands only if one transgresses against the will of the other. However, when the second person has the same intention [as the first person], there can be no fine (connecting the words of the Libush with here is surprising as what the Siftei Cohen wrote in note 22). Also, there is no communal ordinance here.

36: One who promises to give a gift to his fellow and who speaks in a general way can renege on it, but one who says to a poor person, "I will give you a gift," it is as if he was making a vow to tzedakah, and he is forbidden to renege on it, even if he spoke in the language of a gift. Likewise, a gift given on condition that it will be returned, even such a gift is valid. The one who swears to give a gift to his fellow fulfills his oath with a gift given on condition that it will be returned as what I wrote in chapter 238. However, with the poor it is not like this, and even without an oath he cannot give a gift given on condition that it will be returned. Since the essential intention is for the sake of tzedakah, of what benefit is it to allow him to give on condition that it will be returned (Siftei Cohen, note 25)?

37: Our Rabbis, the writers of the Shulchan Aruch, wrote in paragraph 13: One who says, "Such-and-such object I give to tzedakah at such-and-such

<sup>36</sup> Nedarim 24a: "If one says to his neighbor, 'Konam (vow) that you benefit not from me, if you do not give my son a *kor* of wheat and two barrels of wine,' - R. Meir rules: He is [so] forbidden until he gives; but the Rabbis maintain: He too can annul his vow without a Sage by declaring: 'I regard it as though I have received it.' Thus, it is only because he says, 'I regard it as though I have received it'; but otherwise it is [a valid] vow."

value," he cannot renege on it [should its value be more than what he thought], because any statement [of dedication] that provides extra for tzedakah, we have said about it that "dedication to the sanctuary is equal to delivery to a common person." However, if it was not worth more at that time and afterwards its value increases, he (the one making the vow) can renege on it since there was no taking of the object nor money given; [all we have is the statement that he will give the object] - until here are its words. The explanation of this is taught in Kidushin (28b)<sup>37</sup> that *hekdes* acquires through money and not through taking, because it is written, "Then give the money," and it has been established for him that "dedication to the sanctuary is equal to delivery to a common person." There is a difficulty, because if *hekdes* acquires through a general statement, then why is the exchange of money needed? It needs to be said that "dedication to the sanctuary is equal to delivery to a common person" only belongs in a place where one intends to be generous with *hekdes*, like by giving a gift or selling for less than its price. However, selling at price is not part of "dedication to the sanctuary is equal to delivery to a common person," and he needs formal exchange. With this, the words of our teacher Joseph Caro are made clear (Here, with the first explanation, the Tosephots separated between something with a known value and something without a known value - see there. But, Joseph Caro takes hold of the second explanation especially because of what is on Baba Batra 133b ... and he only wrote the second explanation - see there).

38: However, you need to understand the relationship between *hekdes* and tzedakah was already clarified, that tzedakah has been judged to be like the "common person," and "dedication to the sanctuary is equal to delivery to a common person," only refers to true *hekdes* and not to tzedakah as what I

<sup>37</sup> Kidushin 28b: "The Sanctuary's title to property [is acquired] by money; the title of a common man to property by hazakah. Dedication to the sanctuary is equal to delivery to a common person."

wrote in paragraph 18, and this is the opinion of most of the sages. If so, why did they say that "any statement [of dedication] that provides extra for tzedakah, we have said about it that 'dedication to the sanctuary, etc.'?" It seems to me that this is its explanation: When we look closely, why when he wants to be generous with *hekdes* do we say "dedication, etc.," and when he does not intend to be generous, do we not say it? This is as what I wrote in the previous paragraph, and there needs to be a reason for this. But, the matter is such that selling truly has nothing to do with "dedication, etc.," because his intention was to sell through formal acquisition, and what the Mishna meant is that "the sanctuary requires money." But in a case when he intended to be generous with *hekdes* we said about him "dedication, etc.," because it was a vow which he vowed to be generous with *hekdes*. Even though this is not an actual vow, nevertheless with his words of dedication it was made like a VOW (this I learned from the Tosephta Baba Batra 133b ... look carefully). Since it is a vow, it also has to be so for tzedakah, and as for what they wrote, that "dedication to the sanctuary....," these are just words, and this is according to the words of the Tosephts. Also, the language in the Mishna is this, and the intention is like a vow, and as I wrote in paragraph 18 concerning the language of the Tur - see there.

39: Our teacher Moses Isserles wrote: If he thought in his heart to give a certain thing to tzedakah, he is obligated to fulfill what he thought, and he does not need to have said anything. Rather, if he had said something, they can force him to fulfill it (if he did not say anything, it is not known to us [what his vow was, so we cannot enforce it]). There is one who says that if it does not come out of his mouth, it is meaningless, and the essence is as the first one thought - until here are his words. The reason for the first opinion,



it seems to me, is that here, concerning sacrifices, it is written, "... all who were of a willing heart brought burnt offerings,"<sup>38</sup> and concerning donations for the building of the tabernacle it is written, "And they came, everyone -- whose heart stirred him up, and everyone whom his spirit made willing, and they brought the Lord's offering for the work of the Tent of Meeting, and for all its service, and for the holy garment."<sup>39</sup> From this, they expounded in Shavuot (26b)<sup>40</sup> that only the one who can obligate himself through mental intention alone, and we said there that we do not learn from this anything else, because it is [a case] of "two verses which come as one," and you should not draw conclusions - see there. Therefore, the second opinion thinks that we do not learn about tzedakah from here. The first opinion thinks that donations for the building of the tabernacle was tzedakah and that, anyhow, also with tzedakah the law is such. However, also for the first opinion, we do not say "firm intention" concerning mere thought. Rather, if so, he must be

<sup>38</sup> Chronicles II, 29:31.

<sup>39</sup> Exodus 35:21.

<sup>40</sup> Sh'vuot 26b: "Samuel said: If he decided in his mind, he must utter it with his lips, for it is said: to utter with the lips [(Leviticus 5:4)]. An objection was raised: with the lips, but not in the mind. If he decided in his mind, how do we know [that he is liable]? Because it is said: whatsoever it be that a man shall utter clearly with an oath [(ibid)]. This itself is contradictory! You say, with the lips, but not in the mind; and then you say, if he decided in his mind, how do we know [that he is liable]? - R. Sheseth said: This is no question; thus he means: with the lips, but not if he decided in his mind to utter it with his lips, and did not utter it. If he decided with his mind simply, how do we know [that he is liable]? Because it is said: whatsoever it be that a man shall utter clearly. But against Samuel the question remains! - R. Shesheth said: Answer it thus: with the lips, but not if he decided in his mind to utter 'wheat bread', and he uttered 'barley bread'. If he decided in his mind to utter 'wheat bread', and he uttered 'bread' simply, how do we know [that he is liable]? Because it is said: whatsoever it be that a man shall utter clearly.

"An objection was raised: That which is gone out of thy lips thou shalt observe and do [(Deuteronomy 23:24)], from this we know only, if he uttered it with his lips; if he decided in his mind, how do we know [that he must keep his promise]? Because it is said: all who were willing-hearted [brought ... an offering of gold unto the Lord] [(Exodus 35:22)]. There it is different, because it is written: all who were willing-hearted. But let us deduce from it. - [No!] because [tabernacle] offerings and holy things are 'two verses which come as one'; and all [cases of] 'two verses which come as one' do not teach [for other cases]. - That is well, according to the one who holds that 'they do not teach'; but according to the one who holds that 'they do teach', what shall we say? - This is hullin, and [the others are] holy things; and hullin we cannot deduce from holy things."



Chapter 259 - *If it is permitted to redirect tzedakah and other laws in eighteen paragraphs*

Synopsis: A person who vows to give a particular coin to tzedakah and then finds he needs it for another purpose may redirect it and give another coin of equal value at a later time to fulfill his vow, though there is some disagreement about this. This only applies when the collector has yet to receive the coin; once the collector has been given it, the coin cannot be redirected. However, the collector may, with the permission of the poor, keep the money he receives and borrow or lend it if it is guaranteed that he will be able to do more good as a result. In a place where it is the custom for the collector to lend money for *gemilut chasidim* from tzedakah money, they should follow the custom. If the collector receives objects that have been sanctified, he may sell them and give their price to the poor unless the giver states otherwise. You may do business with tzedakah money only if that money was not designated to be distributed, but was designed to set up a fund through which interest would be made. It must be guaranteed that the poor will benefit more in the immediate future as a result of the business dealings. Community leaders may redirect assessments that are annually given to established tzedakah funds but not money a person specifically vows to tzedakah. Some disagree and contend that they can redirect funds, even against the will of the giver in certain instances, to fulfill an act of greater sanctity. Whoever sanctifies does so according to local custom as long as it is an established custom. One who gives a Torah scroll to a synagogue or house of study forfeits it unless there is an explicit stipulation at the time of the giving that he is not forfeiting it. In a place where the one who gives his Torah scroll to the synagogue can take it back, his creditor can seize it as repayment for a loan. If a non-Jew donates an implement to a synagogue, accept it from him, and it cannot be used elsewhere until his name is forgotten so as not to offend him. If the giver is Jewish, however, the implement can be used elsewhere for an obligatory matter even when he is still known. After his death, the implement can be used elsewhere even for a non-obligatory matter. For implements of sanctity to be redirected, it must be to something of greater sanctity since the objects are sacred in and of themselves. Such a stipulation is not placed on implements of mitzvah, since they merely aid individuals in fulfilling mitzvot but are not holy in and of themselves. Though some disagree, when a person has money in his possession and doubts whether it is for tzedakah or not, he is not obligated to forfeit it. Instead, he may keep, since money matters usually are decided in favor of the one who possesses it. However, when a healthy person makes a vow to tzedakah, it is a complete vow, and when doubt arises, he must forfeit the money to tzedakah. Whoever finds a pouch of money with "tzedakah" written on it in his own chest, we rely upon the inscription, and it is tzedakah unless it is known that he wrote on the pouch in order to avoid taking an oath concerning its contents. If this chest contained a mixture of money, some for tzedakah and some for other purposes, and it was being spent one after the other so that he was giving a little to tzedakah and then spending some for everyday purposes and then a little more on tzedakah and so on, and afterwards coins presumably from the chest are found, the money is assumed to part of the last thing for which money from the chest was spent. If both monies were spent simultaneously, the coins that were found go for whichever purpose more money was spent. You cannot tax tzedakah money.

*Commentaries found after paragraphs 2, 4, 7, and 10.*

1: It is mentioned in Arachin (6a)<sup>1</sup> that the one who says "This *sela* is for tzedakah" or "It is incumbent upon me to give a *sela* to tzedakah," he is permitted to redirect it whether it be for himself or for another. According to Rashi, he is permitted to redirect it for his needs and pay it (his vow) off at a later time. And so, he is permitted to lend it for another who may be able to use it for his needs and to pay it at a later time. The Tur and the Shulchan Aruch also wrote as did Rashi, but the Rambam wrote in chapter 8, law 4: One who says "This *sela* is for tzedakah" or "It is incumbent upon me to give a *sela* to tzedakah" and sets it aside, if he wants to change it with another, he is permitted - until here are his words. It appears that he understands "to change it" as its simple meaning: To exchange this *sela* which he has set aside for a different *sela*. Certainly, this does not mean that the *sela* for tzedakah is worth more, because if so, how would he be permitted [in his exchanging] to cause tzedakah to take a loss? It is worth more only in that he needs it (the

<sup>1</sup> Arachin 6a: "R. Nahman said in the name of R. Abbuha: If one says, This *sela* is dedicated to ... [tzedakah], he is permitted to exchange it. Now it was assumed that this is permitted only for himself, but not for anybody else; but it was stated that R. Ammi said in the name of R. Johanan that it is permitted both for oneself and for someone else. R. Ze'ira said: We have learnt that only where he said: [I take] upon myself [generally], but if he said: [I take] upon myself to [give] this, then he is obliged to give this [*sela*]. Whereupon Raba demurred: On the contrary! The opposite is logical. If he said: Behold this [*sela*] I take upon myself to pay, then he may use it for himself, so that he may be responsible for it, but when he said: [I take] upon myself [a *sela*], he should not [be permitted to exchange it]? But the fact is it makes no difference. It was taught in accord with Raba: Vows are [like] ... [tzedakah], but consecrations [to the sanctuary] are not like ... [tzedakah]. What does that mean? Neither vows nor dedications are ... [tzedakah]. Is it not rather this that is meant: ... [tzedakah] [is like vows] in respect of the prohibition 'Thou shalt not delay it', but is not like a consecration [to the sanctuary] because anything so consecrated one must not use, whereas [money dedicated to] ... [tzedakah] one may [meantime] use for oneself! R. Kahana said: I reported this teaching before R. Zebid of Nehardea whereupon he said: This is how you stated it; we, however, state it thus: R. Nahman in the name of R. Abbuha based on Rab said: If one said, This *sela* is [dedicated to] ... [tzedakah], he may exchange it both for himself, or for someone else independent of whether he had said: [I take it] upon myself [in general], or [I take it upon myself to pay] this [*sela*]. "Our Rabbis taught: [If one said:] This *sela* shall be for ... [tzedakah], then before it has reached the hand of the ... [tzedakah] treasurer, it is permitted to exchange it, but after it has come into the treasurer's hand, it is forbidden to exchange it."



*sela* he had originally set aside for tzedakah) for some reason. This is not settled because of what they said "whether it be for himself or for another" (Joseph Caro). However, you could say that the explanation of "whether it be for himself" [means] that he is able to exchange it for another, and "or for another" [means] he can exchange it with the consent of the giver. The Rambam and the Tur omit this because it is nothing remarkable, because what does it matter if it is for him or the other? It appears that the law is likewise [omitted], because everyone agrees. The Rambam also acknowledges that he is permitted to lend it (the *sela*) and have it repaid afterward. Rashi also acknowledges that he is able to change it with another, because it is all the same reason, that before the collector had possession of it the holiness of tzedakah did not take effect upon this particular coin. Rather, he was obligated to give a *sela* to tzedakah.

2: When does this all apply? Before the collector has received it, but after the collector has received the *sela* it is forbidden for both the giver and the collector to redirect it; all the more so another [person may not redirect it]. This is not because it is sanctified, because tzedakah does not fall under the realm of *hekdesh*; rather, it is because the poor have already acquired it because the collector is acting on their behalf. It is obvious that a person does not have the right to use someone else's money without that person's permission, and if so, who would give him permission (The money already belongs to the poor, so the giver would have to get the permission of the poor to redirect it, and who would he ask?), even if he were the collector who is acting on their behalf, who would say they give him permission to lend or exchange [the money they have now acquired]? Therefore, if it is clear that the poor will benefit by keeping the money with the collector, because in doing so he will be able to do more

tzedakah, the collector is permitted to lend it or borrow it and repay it afterward, because we witness that they (the poor) are satisfied with such and he (the collector) is acting on their behalf; therefore, even for an obligatory matter, the collector can redirect by himself. Such the Rosh, the Tur, and the Tosephot ruled, and they wrote that such is the essential law (Siftei Cohen, note 1 in the name of Maharik, *shores* 5). In a place where it is the custom for the collector to lend money for *gemilut chasidim* from tzedakah money, they should follow the custom.

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*In giving the collector the ability to keep tzedakah funds if he can find away to increase his tzedakah work, the halacha is telling us that we must do what we can to maximize our resources. We must decide what will do the most good and what is guaranteed to benefit the most people in the long run. If we can create a program that over the long run will bring more people out of poverty, it might behoove us to hold on to some money instead of immediately distributing it to the poor. Granted that their suffering is great now and anything we do immediately to soften the pain of their current existence seems to be the best course of action, but investment in some longer term solutions might put them in a situation where they can benefit so as not to have to suffer again. The halacha gives us that right, and it is the sensible thing to do.*

3: And so, if someone sanctifies articles, and in general, sanctification nowadays goes to the poor as what I wrote in the beginning of chapter 258, the collector can sell them in the presence of three people who are experts in appraisal and give their price to tzedakah. It seems to me that if the giver says

that it was his intention [to give] to the synagogue, the *yeshiva*, or any other type of *tzedakah* where these articles may be used, he is to be believed, and you cannot sell them. However, in general, when his intention is not known, apparently it goes to the poor, and what are the poor going to do with articles? Therefore, sell them. And so, if he vowed to give to the poor clothing that he now wears because he thought that he was going to buy himself new clothing, but it happened that he was prevented from doing this, he can appraise their value and give their equivalent price to the poor. There is one who hesitates about this and thinks that he needs to give only the clothes he vowed. It is obvious that with the consent of the poor certainly it is permitted (It seems to me that this disagreement hangs on the debate between the Rashbag and the sages in Gitin 74b - see there. There, it has been established for us that he needs to give only the clothes ... In my humble opinion, it seems that if he vowed the clothes to a poor person because he needed clothes, he cannot give money unless the poor person consents to it. But, if his intention was for the sake of *tzedakah* in general [that he vowed the clothing], he can give money as his donation.).

4: You cannot do business with *tzedakah* that is going to be distributed to the poor unless you are exchanging money for money or the like from a different currency, and there is no legal objection to this. However, doing business with [*tzedakah* money] is forbidden because perhaps the poor will come for it and you will not have any money to distribute to them. However, *tzedakah* that is not going to be distributed but a fund is going to be established from it in order to gain the interest, it is permitted [to do business with it]. As a matter of fact, they must see that there will be interest made from this. This is the custom, and this is what our teacher Moses Isserles ruled in paragraph 1 - see there. It seems that when they do business with it, they need to see that there will be a pay off in the near future, even a little interest, and that they are far from a loss. This is like what the sages said concerning orphans'

money (Baba Metzia 70a).<sup>2</sup>

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*Again, the halacha is suggesting a two-pronged approach to helping the poor. We should divide funds so as to distribute some money now to alleviate suffering while investing other money in more long term, lucrative, elimination-oriented programs such as job training, affordable housing, and the like.*

*Our human energy should be divided similarly. We must continue to man soup kitchens, homeless shelters, thrift shops, and other alleviation-type centers. At the same time, though, we must spend time addressing the issues of poverty through participation in community anti-poverty ventures, coalition building on the grassroots level, and lobbying efforts on legislation that affects the poor.<sup>3</sup>*

5: The Tosephots wrote in Arachin there<sup>4</sup> concerning what they (the sages) said, that after the collector has it, is forbidden to redirect it, that this is only for the collector. However, the community leaders are permitted to redirect it [once they take possession of it] as what we said, that they are permitted to make a food collective out of a tzedakah fund and a tzedakah fund out of a

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<sup>2</sup> Baba Metzia 70a: "R. 'Anan said in Samuel's name: Orphan's money may be lent out at interest. R. Nahman objected: Because they are orphans we are to feed them with forbidden food! Orphans who eat what is not rightfully theirs may follow their testator! Now tell me, said he, what actually transpired? — He replied: A cauldron, belonging to the children of Mar 'Ukba [who were orphans], was in Samuel's care, and he weighed it before hiring it out and weighed it when receiving it back, charging for its hire and for its loss of weight: but if a fee for hiring, there should be no charge for depreciation, and if a charge for depreciation, there should be no fee for hiring. He replied: Such a transaction is permitted even to bearded men, since he [the owner] stands the loss of wear and tear, for the more the copper is burnt, the greater is its depreciation.

"Rabbah b. Shilah said in R. Hisdah's name — others state, Rabbah b. Joseph b. Hama said in R. Shesheth's name: Money belonging to orphans may be lent on terms that are near to profit and far from loss."

<sup>3</sup> See chapter 4 for a more detailed explication of these two efforts as part of a multi-faceted approach to poverty.

<sup>4</sup> Arachin 6a - see note 1 of this chapter



food collective as I wrote in chapter 256. This applies even to non-obligatory needs, though there are those who say that only for an obligatory matter as I clarified there (It is surprising that it is written there in the Tosephot that it is only for a commanded matter and afterwards ... they also write that it is not only for a commanded matter - see there, and there are two opinions). The Tur and the Shulchan Aruch do not mention this, because they thought that only with annual tzedakah like the tzedakah collective and the food collective can they redirect because it is with the knowledge of the givers. But, with the one who says "This *sela* is for tzedakah," he did not give with this consent [that it might be redirected], and it is only according to his will that he distribute it, and they do not have permission to redirect it (... in the name of the Riv who wrote the two matters in the name of the Tosephot, and we learn that this explanation is not in the Tosephot - see there and look carefully. From what Isserles wrote there concerning individual donations, this is when it is given to the tzedakah collective.).

6: Know that there is one who understands that which they said, that before he gives it to the collector he is permitted to redirect it, that the intention was in order to redirect it to fulfill a different *mitzvah*; for example, if he vowed to give tzedakah to the poor, he can fulfill a different *mitzvah* as long as it has not gotten into the collectors hand. However, this interpretation has been rejected. Certainly, it is forbidden to redirect in order to fulfill another *mitzvah* unless it was his intention to redirect it in order to give a loan as what is written (Tosephot there ... - see there). It seems to suggest that even before he set aside the *sela* it is forbidden to redirect it to fulfill a different *mitzvah*, because since he vowed to give to this tzedakah, he is forbidden to redirect it to a different tzedakah. This is not like the tzedakah of the synagogue which they are permitted to redirect as will be clarified, because there, they gave and relied on the collector's judgment, which is not the case here where it is undesignated tzedakah for the poor. We learned in Shekalim

that the surplus given to one poor can be redirected to another poor person or that the poor person merits keeping it, and even though there it refers to after it is collected, in any case, essentially one who vows to this poor person or these poor people may not redirect, even to other poor people, and all the more so to other tzedakahs.

7: The Tur and the Shulchan Aruch in paragraph 2 wrote: Tzedakah which was donated to satisfy a synagogue or cemetery need, the community leaders can redirect it to satisfy a need in a house of study or Torah study, even if the givers hinder them, but not from a Torah study to fulfill the needs of the synagogue - until here are his words. What this means is that even though it is forbidden to change from this matter to a completely different matter against the giver's wishes, for example if he gave to the poor and they want to redirect it to the synagogue or the Torah study, because even though it is possible that this would be a greater *mitzvah*, in any case, it is forbidden to change from the giver's intent. However, when it essentially is not a change, for example if he gives to satisfy a synagogue or cemetery need and they redirect it to satisfy a need in a house of study, you need to see if this [change] denotes a greater sanctification than what he had given, as with what has been established for us, that the sanctity of the house of study is greater than the sanctity of the synagogue, and how much the more so a Torah study is greater than all of them, and [if so] they can redirect. Even the one who gets up and screams in protest, [they still can change it] because they are raising its level of sanctity. However, to lower its sanctity is forbidden. It seems to me that this [redirection is permitted] when the giver himself does not pray at the synagogue where he made the donation or when he also prays at the house of study. However, if he prays only at the synagogue, it is forbidden to redirect

from there, even to something higher than it, because it has been established for us that when he says, "Give [this] to the synagogue," they need to give it to the synagogue to which he is accustomed as I wrote in chapter 258, and all the more so when he states explicitly for this synagogue where he prays. Rather, here refers to what I wrote and according to what I wrote in paragraph 12 (and according to what I wrote ... [elsewhere]).

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*What do we, as a society, value most? What, to us, constitutes the "greater sanctity" about which the halacha speaks here? The United States, with its vast resources and power, has the potential to address many of the challenging issues that affect the poor and work not only toward their alleviation but their elimination as well. Again, it is a matter of priorities. Do we build a safer infrastructure, a better education system, and a comprehensive health care system, or do we build bombs? Do we see a revitalization of both urban and rural economic development and empowerment, or will we allow our communities to continue to decay? If we as a society are going to accept homelessness as inevitable, which we clearly do by our government policies, we will continue to build shelters. If not, we will build affordable housing. Our nation's domestic policy is failing; what are our priorities? When we decide, as did the rabbis, that the direction our country should take is to confront the challenges of the poor and that doing so would benefit all of us, our nation will actualize the greater sanctity of which the halacha speaks.*

8: Our teacher Moses Isserles wrote that the prohibition against redirecting from a Torah study to a synagogue is only when there is a fear that there will not be enough for Torah study. However, in a place where the community

has provided enough for the Torah study, if they take some money from it to fulfill the needs of the synagogue and replace it with other money when the Torah study needs it, this is permitted. Even if someone is in a place where it is forbidden to redirect, if that which he vowed is not needed, for example if he devoted some land upon which to build a house of study but they could not build immediately, the one who donated may not renege on it (the vow); the money must stay there until they can build upon it (unless he specified explicitly that it was given on condition that it be built immediately). All this is in a place where the communal custom is not known, but in a place where the collector or the community leaders are accustomed to redirecting to whatever they want, or even in a place where it is the custom that a person places something in the synagogue, for example a Torah scroll or silver implements or the like, and when he wants he can come back and take it and when it again becomes his possession he may sell it to others, follow the custom, because who ever sanctifies does so according to local custom. The court stipulates to this provided it is an established custom. In any case, if he stipulates explicitly that they should not redirect his vow and that the community should have no power to do this, then it is obvious that it is forbidden to redirect - until here are his words. All his words are clear and need no elucidation.

9: It is clear from this that in a place where it is not the custom for the one who gives a Torah scroll or silver implements to the synagogue or house of study to be able to take it back, even if he clearly asserted that he was not giving it to the public but to that specific place so that he could take it back anytime he wanted, he is not to be believed. Rather, he needed to have brought witnesses to the claim at the time that he gave [his donation] (Sifte



Cohen, note 6 ... ). Indeed, there are those who say that certainly with silver implements this is so; they should remain forever in the synagogue and he may not take them home since he sent them to the synagogue. However, with a Torah scroll that out of necessity was brought to the synagogue in order to read from it and which is moved back to his house, it is forbidden [to bring it back home]. If so, who would be able to take it out of his or his father's presumed possession as long as it was called in his or his father's name, and he claims that neither he nor his father forfeited it? The fact that it is always in the synagogue is no proof of anything. If so, we cannot take a Torah scroll from its rightful owner (there in the name of R. Yitzchak Cohen - see there). It seems to me that the custom in our land is that one who gives a Torah scroll to a synagogue or house of study in fact forfeits it unless there is an explicit stipulation at the time of the giving with the understanding that he is not forfeiting it (It is difficult to bring testimony about this because those who pray there are affected by the matter, and a court is needed to do according to their understanding of the situation).

10: It is obvious that in a place where the one who gives his Torah scroll to the synagogue can take it back, his creditor can seize it as repayment for a loan as is clarified in Choshen Mishpat, chapter 97. A number of great sages ruled such to be the case (Sifte Cohen, note 7). Concerning this, our teacher Moses Isserles wrote that [what was written in paragraph 8, that] "in a place where there is a custom that one who sanctifies something can come back and take it and when it again becomes his possession he may sell it to others, follow the custom, because whoever sanctifies does so according to local custom," that there are those who disagree about this and who extend a prohibition against this. They wrote that this is because a custom cannot supersede law unless it is a custom determined by the local sages and not by the heads-of-household

(There, note 8 in the name of Maharik). I do not understand this, because truly our teacher Moses Isserles was dealing with an established custom as he said. The essence of the matter, it appears to me, is that this is not a matter of custom superseding law, because the Mordechai wrote at the beginning of chapter *Ha-poolim* (in Baba Metzia) concerning the matter of hiring workers, that when [in hiring workers you] depart from toraitic law [concerning their hiring contracts], the custom can only be made according to the local sages - see there. However, there is no toraitic law concerning donations, and the Torah permits making vows and for everyone to vow as he wishes, so what does this have to do with custom superseding law? Therefore, even if the custom is made by the local heads-of-household, as long as it is an established custom, it is legitimate, and it is known that they can sanctify according to the custom (in my humble opinion).

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*Again, the halacha here is preaching empowerment. The rabbis disagree as to whether the opinions of community members matter or not. Some sages say that only community authorities should have the power to make decisions and create customs. On the other hand, others suggest that lay people can create customs as well, and the halacha appears to side with them. The halacha acknowledges that when community members have a say in their own affairs and can establish their own customs, they are more invested in the outcome. By empowering the masses, the rabbis are legitimizing the common person's role in society.*

11: The Rambam wrote in chapter 8: Whoever donates a *menorah* or light to the synagogue, it is forbidden to redirect it unless it is for an obligatory matter;

then, it is permitted to redirect it even though the original giver is still known. They still say, "This is the *menorah* or the light of Such-and-such." If his name is forgotten, it is permitted to redirect it even for a non-obligatory matter. This is if the giver was a Jew, but if he were a non-Jew, it is forbidden to redirect it, even to fulfill an obligatory matter, until his name has been forgotten. Perhaps the non-Jew would say, "I devoted this object to the synagogue of the Jews and they sold it amongst themselves!" - until here are his words. That is to say, it would be profaning God's name with the object. However, with a Jew, we do not listen to him, even if he protests, because we cannot profane God's name with his gift (Siftei Cohen, note 12). In fact, it is the opposite; when he cries out, he profanes God's name, because a Jew should know that we cannot take it for ourselves, and if it seems necessary to redirect to fulfill a different obligatory matter, such is the law of the Torah.

12: Here, as per the words of the Rambam, the Tur and the Shulchan Aruch, paragraph 3 wrote likewise, and it is stated explicitly in the *gemara* in Arachin. However, what they wrote, that when his name is forgotten it is permitted to redirect even for a non-obligatory matter, is not explicit in the *gemara* there. The Tosephot there wrote the opposite explanation, that for a non-obligatory matter, even when his name is removed it is forbidden [to redirect] - see there. It is surprising to me that they (the Tur and the Shulchan Aruch) did not mention their (the opposing Tosephot) opinions at all. They must think the law is as Rambam states, that the law allows the community to redirect even for a non-obligatory matter as what I wrote in in chapter 256. If so, when his name is forgotten, why would it be forbidden? It is possible that the Tosephot thought that even for a non-obligatory matter it is forbidden, and this was never established for us as what is written there.

Therefore, they did not mention this opinion here (The Siftei Cohen in note 13 also determined this to be the law). This is only for the community, but the collector alone may not redirect (there, note 9). When they are redirecting for an obligatory matter, they can redirect, even to a lesser *mitzvah* than this one, since concerning this they ruled that this is an obligatory matter. Still, the first *mitzvah* cannot be ignored, for if you ignore the first *mitzvah*, surely this is not permitted except to fulfill a greater *mitzvah* (there, note 11)!

Therefore, it is clear in paragraph 7 that they can redirect from the tzedakah funds of the synagogue to the house of study but not vice versa. This is what our teacher Moses Isserles wrote there, that when the community gives enough to the Torah study, they can redirect even from the Torah study to the synagogue. As what I wrote in paragraph 8, everything is based on this foundation (This is the difference between the law of the Jew who donates a menorah, that it is permitted to redirect it even to a lesser place, and the law of tzedakah which they donate to the synagogue, etc., which we see to be the more serious of the two. This is the Siftei Cohen's line of reasoning there in the name of the Maharik - look there closely).

13: There is one who says that, therefore, concerning tzedakah which is donated for the need of the synagogue, we require a change to a greater sanctity, and here, they can redirect when the name of the owner has been forgotten even for a non-obligatory matter, because there, it was as if it was not yet forgotten (Turei Zahav, note 5), and here it is certainly the truth that in his name they donated money for this, and what does this have to do with forgetting? However, from this opinion we learn that they thought that without forgetting, when they redirect for an obligatory matter, they need to elevate to the more serious *mitzvah* of the two, and this is not so according to what I wrote in the previous paragraph. There is one who disagrees, because there, with money that they donated for the needs of the synagogue, that was



for implements of sanctity, and concerning these we said that you must elevate the sanctity and you cannot lessen. However, with a *menorah* for the synagogue, it is merely an implement of mitzvah, because it is only used to provide light for the people praying with prayer books, and this is an implement of mitzvah for that person himself<sup>5</sup> (there, Sifte Cohen in the name of Bayit Chadash). With an implement of mitzvah, you do not need elevation, because these can be discarded. Our teacher Moses Isserles wrote that if the name of the giver is engraved on the menorah which he gave, his name can never be forgotten. This is according to the Jerusalem Talmud, tractate *Megilah*, chapter *B'nai Ha'ear* (Law 2).<sup>6</sup> Anyhow, the text implies there that this is with non-Jews - see there.

14: Idol worshipers who donate a *menorah* or some other donation to a synagogue, accept it from them, and this is not the *tzedakah* about which I wrote in chapter 254. However, he would need to say, "The Jews know that I have donated this." That is to say that they will use this in the synagogue as if it were a Jew who donated it. However, if he does not say this, then it requires being stored away because we are concerned that perhaps his intention [in giving this to us] was to [worship] the stars, or even if his intention was to God, perhaps he intended it as a sacrifice (according to Rashi, *Arachin* 6). It seems to me that this is now irrelevant, because their (non-Jews') intention is to God and not in the name of sacrifice, but merely to

<sup>5</sup> Implements of mitzvah help people perform mitzvot but are not sacred in and of themselves. Implements of sanctity, on the other hand, are sacred in and of themselves.

<sup>6</sup> J. Talmud *Megilah* 3:2: "He who makes a candelabrum or a lamp for a synagogue - before the name of the owner [who has donated it] is forgotten from these objects, one is not permitted to use them for some other purpose. Once the name of the owner [who donated them] is forgotten from them, one is permitted to make use of them for some other purpose [T. Meg. 2:14]."

"R. Hiyya in the name of R. Yochanon: 'If the name of the owner was incised on the object, it is as if the name of the owner [who has donated it] will never be forgotten from the object.'"

donate to the synagogue, and this is the custom.

15: Our teacher Joseph Caro wrote in paragraph 8: Whoever has money in his possession, if he doubts whether it is tzedakah or not, he is obligated to give it to tzedakah - until here are his words. This is because even though with any doubt concerning money you cannot take it from the one who possesses it, in any case, tzedakah is different, because the doubt here is one about [the talmudic dictum concerning vows,] "With your mouth - this is tzedakah," and doubt concerning vows follows a stricter practice; [therefore, they would take the money from him for tzedakah]. There are among the sages those who disagree with this, and they think that also with tzedakah, when there is doubt concerning money, follow a more lenient approach [ and allow the person to keep it], and we already mentioned this in chapter 258 - see there. Indeed our teachers, the writers of the Shulchan Aruch, decided that this is the law, and what difference does it make that it may be a doubt over a vow? Therefore, our teacher Moses Isserles wrote, and I quote:

However, whoever sanctified something in equivocal language and dies so that his [true] intention is not known, his heirs are considered the rightful owners, and the one who comes to take the [supposedly] sanctified object from them, the burden of proof is upon him, and any time he does not bring proof, the possessions rightfully belong to the heirs - until here are his words. His words are clear in their reasoning, because the heirs never made a vow. Anyhow, with them (the heirs), it is as with any doubt concerning money; namely, it remains in the possession of the owners.

16: Many people have a difficulty with our teacher Joseph Caro here because of what he wrote in Choshen Mishpat, chapter 250 concerning a person who

is on his deathbed who gives instructions that his property be sanctified; if he is restored, it is returned to him. According to the *gemara* (Baba Batra 148b),<sup>7</sup> it is unclear whether it remains in his possession or not. Moreover, Caro himself ruled about *hekdesh* or *tzedakah*, that if there is doubt, follow a more lenient approach (according to the Turei Zahav note 8, the Sifte Cohen note 14, and the Gra note 15). According to what I have written, this is not a difficulty, because deathbed promises have nothing to do with vows, but rather are mere testaments. This is because the law of delivery to the common person and the law of sanctification are equal, since they are enacted with mere words, and it would be like any doubt with money. Also, the ones who favor a more stringent approach do so for a different reason which we clarified there in paragraph 30 [of Choshen Mishpat, chapter 250] - see there. However, when a healthy person makes a vow to *tzedakah*, it is a complete vow; when doubt arises, a more stringent approach is taken. It seems to me that the technical law is as the words of the writers of the Shulchan Aruch, and it is obvious that when there is doubt and the owner of the object says that such was his intention, he should be believed in all matters (Their objections are not legitimate - look carefully).

<sup>7</sup> Baba Batra 148b: "R. Aba b. Manyumi said in the name of R. Nahman: If a dying man gave all his property in writing, to strangers and [then] recovered, he may not withdraw [the gifts], since it may be suspected that he has possessions in another country. Under what circumstances, however, is [the case of] our Mishnah, where it is stated [that if] he did not leave some ground his gift was invalid, possible? — R. — Hama replied: [In the case] where he said, 'All my possessions'. Mar son of R. Ashi replied: [In the case] where it is known to us that he has none."

"... Is it assumed that whenever it is a case of consecrated objects the transfer of possession made is unqualified or, perhaps, when it is a matter of personal interests one does not transfer unqualified possession? [If the answer is in the affirmative, the question arises] what [is the law in the case where] he renounced the ownership of all his property? Is it assumed that since [ownerless property may be seized] by the poor as well as by the rich, he transfers [therefore] unqualified possession or, perhaps, whenever it is a matter of personal interests one does not transfer unqualified possession? [If the answer is in the negative.] What, [it may be asked, is the law where] he distributed all his possessions among the poor? Is it assumed [that in a matter of] ... [tzedakah] he has undoubtedly transferred unqualified possession or, perhaps, wherever it is a matter of personal interests one does not transfer unqualified possession? — This is undecided. R. Shesheth stated: 'He shall take', 'acquire', 'occupy' and 'own' [used by a dying man] are all [legal] expressions denoting gift."

17: Our teacher Moses Isserles wrote in paragraph 6: Whoever finds a pouch of money with "tzedakah" written on it in his own chest, we rely upon the inscription, and it is tzedakah - until here are his words. There are those who object to this because of what is written in Choshen Mishpat, chapter 81, that when there is found among his own deeds one with someone else's name attached to it as well, we say that he did this in order to exempt himself from taking an oath upon him saying it is his. Here, too, it also may be that he wrote "tzedakah" on the pouch to exempt him from taking an oath concerning the contents. I am surprised by this, because there is an explicit Mishna in chapter 4 of Ma'aser Sheini<sup>8</sup> which says we do pay attention to the writing and act on that basis. R. Yossi contests this, but the law is as the sages said and as what the Rambam and the Ra'av wrote there - see there. One has to make a distinction here, because in Choshen Mishpat there, the writing is done simply in the name of a common person, and we can properly say that he did it in order to avoid taking an oath. However, this is not so when writing in the name of sanctifying something. I have seen those who disagree for different reasons, but this is not needed, and the matter is obvious as I wrote (according to Pitchei T'shuvah, note 11 who brings it in the name of the great sages, and this is not needed, and he does not need to explain the opinion of the Gra in note 16 who disagrees with Isserles on R. Yossi - see there. This needs further examination; study carefully).

18: If one says to his children, "This is tzedakah money," if it seems to them that he did this so as to transmit his words as testament, fulfill his words.

<sup>8</sup> Ma'aser Sheini 4: "Mishnah 9: ... If a potsherd was found with the money on which was written 'tithe' this is considered second tithe [money].

"Mishnah 10. If a vessel was found on which was written 'Korban,' R. Judah says: If it was on earthenware, it is itself common and what is in it is korban; but if it was of metal it is itself korban and what is in it is common. ...

"Mishnah 11. If a vessel is found on which was written a kof, it is korban; if a mem, it is ma'aser, if a daleth, it is demai, if a teth, it is tebel, if a taw, it is terumah, for in the time of danger, people wrote taw for terumah"



However, if he made a general statement to them so that it could be understood that his intention was that they should take nothing from it or that the rich should not get hold of it, then his words are meaningless. We already clarified this law in Choshen Mishpat, end of chapter 255 - see there. This is not like the writing which was clarified above, because [an action like writing] is a different case [than a verbal statement]; moreover, he wrote it not in their presence. And so, if there was something of his father's hidden someplace and he did not know the place, and a psychic comes and says, "There is the money that your father hid, and it belongs to Such-and such or tzedakah," the sages said in Sanhedrin (30a)<sup>9</sup> that words that come from a dream make no difference, and good reason is given there [in the gemara] - see there. However, if one came and said this to him, they should examine whether this person benefits from a *miggo* and could have kept it or given it to tzedakah [through easier means]. [If he were in fact capable of taking the money through easier means], he is to be believed on account of the *miggo*; if not, then he is not to be believed. This is also clarified there - see there. If this chest contained a mixture of money, some for tzedakah or other matters of sanctification and other money for other purposes, and he was spending it one after the other [so that he was giving a little to tzedakah and then spending some for everyday purposes and then a little more on tzedakah and

<sup>9</sup> Sanhedrin 30a: "Our Rabbis taught: If a man says to them: 'I saw your father hiding money, [say,] in a strong box, a chest, or a store-room, and he told me that it belonged to so and so, or that it was [for the redemption] of the second tithe:' if it [the hiding place] is in the house, his statement is valueless, if in a field, his words stand. This is the general rule of the matter: Wherever he has access [to the hiding place] his statement stands; but otherwise, it is of no value. If they [the heirs] saw their father hiding money in a strong box, chest or store-room saying, 'It belongs to so and so,' or 'It is for the payment of the second tithe': if it [his statement] was by way of giving directions, his words stand; but if it was in the nature of evasion, his statement is of no value. If one felt distressed over some money which his father had left him, and the dispenser of dreams appeared to him and named the sum, indicated the place, and specified its purpose, saying that it was [for the redemption] of the second tithe - such an incident once occurred, and they [the Rabbis on that occasion] said: Dreams have no importance for good or ill."

so on], and afterwards he finds coins [presumably from the chest], we follow the latest thing; that is to say, that money which was used last of which apparently this was a part (Baba Metzia 26b). If he used the two of them simultaneously, we follow the greater. If they found a trench which contained money in it for [apparently] a long time, even if it were the custom to use the money alternately, we follow the greater (same). You cannot tax tzedakah money, because this is of no less importance than the case of Torah sages, and you cannot tax them as what I wrote in chapter 253; how much the more so on a commandment itself! There are many other details concerning matters of tzedakah that will raise more questions, and it is impossible to detail everything. Indeed, from all that we have clarified, I have given you the material from which you can answer the questions that will be raised with God's help.

### Chapter Three: Halachic Themes of Tzedakah in Reform Literature

The rabbis clearly state that tzedakah is a Jewish priority, the fulfillment of which is equal to all other *mitzvot* combined. The halacha on tzedakah details that priority, and a review of it reveals many prevalent themes. First and foremost is the notion of communal responsibility for the poor, a message weaved throughout the entire halacha. Judaism is a communal religion and, as such, must make provisions for all facets of societal living. As the rabbis intentionally overstate, caring for the poor is no exception. The community is to be the conduit through which funds to the needy are to be funnelled. It is the body which assumes responsibility for all aspects of the administration of programs for the poor. It has the power to appoint collectors, assess tzedakah contributions, and coerce those who are tardy or neglect to pay. The community is the entity which sets priorities, creates programs, and dictates solutions. It is the lifeline of the Jewish people, the body through which Judaism can thrive as a vibrant way of life.

However, a community is only as strong as its weakest link. Every inhabitant must take upon himself the responsibility of ensuring that the community's efforts to function effectively remain strong. The halacha conveys that individual accountability is an inherent part of communal responsibility. It asserts that, with respect to tzedakah, people must honestly contribute what they can to those institutions which the community has created to combat poverty. Everyone, even the poor, must participate in communal poverty programs in order to maximize resources, breed trust and equality, and inculcate a true sense of community. Without complete cooperation and participation, the very ground upon which the notion of

community is built can crumble.

The tzedakah collectors, those distinguished individuals appointed to administer communal poverty programs, are the channel through which the relationship between the individual and the community is actualized concerning responsibilities for the poor. The halacha details the qualities the tzedakah collectors must possess as well as the responsibilities they must undertake. The collectors are to be honest and highly regarded in the community. They are to use their judgement in assessing how much each person is to give to the various tzedakah funds and gather accordingly. At the same time, they must decide who is eligible for assistance as well as how much and what kind of tzedakah each poor person is to receive. The collectors are to be held accountable for the money they both acquire and distribute and should be open and willing to respond to public scrutiny.

By the same token, the community must fully trust those whom it has appointed to be its tzedakah collectors and should not question their actions or integrity unless there is reason for suspicion. When concerns arise and are verified, the community has the right and the responsibility to act swiftly to rectify the problem by censuring the collectors and replacing them immediately in a dignified manner. The collectors have authority over poverty programs but must respond to the constituents whom they serve.

The halacha on tzedakah spends a great deal of time prioritizing the scarce available resources the collectors must distribute. Many needs exist, both institutional and personal, and the community must engage both its inhabitants and its collectors in a serious dialogue as to what is perceived to be the most immediate or important inadequacies to be addressed and rectified. The poor are to be given top priority in the distribution of



communal funds, though a system of prioritization must be created for them as well. The community must set guidelines through which the most effective programs in combating poverty can be actualized, but it must take into consideration that time and situation may necessitate a re-evaluation of those guidelines or a redirection of earmarked funds. The halacha is cognizant of the fact that priorities and solutions which work in one context may not be effective in another; therefore, the community must be flexible in addressing its needs. Though the practicalities of the halacha on tzedakah may not be applicable in a given time, its demands are.

The primary halachic demand with respect to the poor is the restoration and preservation their dignity, a theme revisited many times throughout the halacha. Poverty is debilitating and demoralizing. It attacks one's self-esteem and sense of self-worth. The halacha debunks the myth that to become poor is to fail, and by discrediting this misconception, it seeks to remove its debilitating effects on the poor's own self-perception of being unable to contribute adequately to society.

This loss of self-respect is compounded by the social inequalities poverty inherently breeds between the "haves" and the "have-nots." Financial dependence promulgates indignity and condescension. The halacha recognizes this; it understands that the poor are often deemed inferior or are unfairly stereotyped, and it seeks to combat this negative trend. The poor are to be treated fairly and with respect and are not to be made to feel less worthy. The halacha admonishes those financially secure individuals who might be neglecting the poor or propagating harmful stereotypes about them. At the same time, it reassures the poor that they are worthy of the respect every person deserves. Economic status is not a litmus

test for an evaluation of one's merit; all people should be treated equally regardless of financial worth.

The halacha suggests that a first step in ensuring this parity is to give the poor an equal voice in communal affairs. The poor must contribute to poverty programs, not only to maximize resources and inculcate trust among the wealthier segments of society, but to empower the poor with a say in how they are to be treated as well. The poor are to be given "according to their needs," and they know better than anyone what those needs are. Empowerment allows the poor to partake in determining their own destiny, in telling the community what is best for them. The halacha removes much of the potential condescension and indignity which can arise when the wealthy bear the burden of the decision making process as to what is best for the poor. At the same time, it restores the dignity and self-worth of the poor by making their voices be heard and respected.

As indicated, the halacha dictates that we strive to fulfill the commandment of "according to the needs" of the poor. The surest way to accomplish this is to find a means by which the poor can meet their own needs, an agenda the halacha readily embraces. Helping the poor foster and secure continual sources of income allows them the physical and emotional luxury of self-sufficiency. Economic independence allows an individual to provide for herself and her family, it gives her control over her own life, and it restores the dignity inevitably lost through the process of her poverty. As the halacha sees it, financial security is the empowering force behind self-esteem and personal fulfillment as well as the realization of the ideal of tzedakah.

This notion of helping the poor help themselves contains an

underlying theme as well. By promoting a plan of economic self-sufficiency, the halacha is providing a blueprint for the elimination of poverty. The halacha serves as the plan the rabbis created to eradicate poverty from their midst, and though the actualization of its details may do little more than alleviate poverty in our time, it serves as a framework for understanding the rabbinic intention. The halacha continually admits the difficulties in providing adequately for the poor; nonetheless, it never strays from its hopeful thread of working toward seeing that no one ever experience poverty again.

The halacha conveys the urgency with which the process of helping the poor must be set into motion. The poor are destitute and afflicted *now*, and immediate steps must be taken to alleviate their pain and eliminate their suffering. Any delay in addressing their needs is like murder.

This urgency is not restricted to helping the Jewish poor alone. The omission of anti-Gentile rhetoric and the addition of considerations for the non-Jewish poor in later halachic codes such as the Aruch haShulchan suggest that Jews must rush to assist whoever is poor, regardless of racial background or religious identification. Whomever they may be, the poor are in need, and our response must be quick and impartial. Though priorities may be set, none of the poor are to be denied funds to maintain a subsistent level of existence.

These are the major themes of the halacha on tzedakah. In summary, caring for the poor is a communal responsibility incumbent upon every individual, a responsibility parlayed through an administering agent. Together with the agent, the community must set priorities for the distribution of its limited funds, taking extra care to ensure that the dignity of

the poor is respected. The poor should have a say in how their needs can best be met with the understanding that economic independence and the elimination of poverty are the ultimate goals of tzedakah. Finally, the needs of the poor are immediate and must be addressed now, regardless of who the poor are or what their needs may be.

These themes are not contrary to American Reform ideology, nor are they foreign to American Reform literature. In fact, the history of the American Reform movement is replete with examples of works which promote the messages the halacha on tzedakah conveys.

From its earliest days, American Reform leaders have expressed social concern while promoting social justice. And though a social agenda may not have been a priority for American Reformers until the late 1910s, inklings of its burgeoning appeal could be seen as early as the 1880s. Kaufman Kohler and Emil G. Hirsch, two of the most important ideologues during American Reform's infancy years, both spoke passionately for a religious response to the social inequities of the day. During a speech at the historic Pittsburgh Conference of 1885, Dr. Kohler stressed that "... our mission work ought not to confine itself to religious instruction and mere preaching; it should awaken and foster the spirit of mutual help and elevation. It ought to face the great social questions and problems of today."<sup>1</sup> At the insistence of Rabbi Hirsch, the Pittsburgh Conference adopted a social justice amendment to its Platform which stated:

In full accordance with the spirit of Mosaic legislation, which strives to regulate the relation between rich and poor, we deem it our duty to participate in the great task of modern times, to solve, on the basis of justice and righteousness, the problems

<sup>1</sup> Kaufman Kohler as reported by Edward Israel in his "As to Social Justice and the Central Conference Rabbis."



presented by the contrasts and evils of the present organization of society.<sup>2</sup>

The Pittsburgh Platform of 1885 called for Reform Jews to work toward the elimination of the ills which plagued American society at that time, just as the halacha on tzedakah suggests Jews do in every time. In becoming the ideological creed of American Reform Judaism for the next fifty years, the Pittsburgh Platform and its message of social justice became imbedded in Reform ideology and practice.

American Reform's social justice policy became more pronounced in the decades to follow. A look at the Central Conference of American Rabbis' (CCAR) "Program of Justice" of 1928 attests to how far Reform's social agenda had developed along halachically thematic lines in just forty years. The very first section of the Program's declaration of social principles states, "It is part of the great social message of the prophets of our faith that salvation can be achieved only through the salvation of society as a whole,"<sup>3</sup> suggesting that anti-poverty efforts should extend beyond the Jewish community.

Immediately following, the CCAR asserts its position on the elimination of poverty when it says:

Instead of questioning God's goodness because of the evils in individual and communal life, we should address our God-given intelligence to the extermination of those circumstances which allow slums, vice, feeble-mindedness, poverty, degeneracy, and the like to continue, with only palliative efforts for their improvement.<sup>4</sup>

The Program maintains that "[t]he dignity of the individual soul before God

<sup>2</sup> Michael Meyer, *Response to Modernity*, p. 388.

<sup>3</sup> *Program of Social Justice Adopted by the Central Conference of American Rabbis*, (Chicago: June, 1928), p. 1.

<sup>4</sup> *Program of Social Justice Adopted by the Central Conference of American Rabbis*, p. 1.

cannot be lost sight of before men,"<sup>5</sup> thereby validating the worth of every individual. And, in demanding a livable wage that "... includes more than the immediate needs of the worker ... [but] enable[s] him to make full provision against sickness and old age,"<sup>6</sup> the CCAR is promoting economic activities that will lead to self-sufficiency. In the CCAR's 1928 "Program of Social Justice," then, references to halachic themes on tzedakah abound.

However, nowhere are these halachic themes more prevalent than in the writings of Albert Vorspan, the leading Reform social activist of the second half of the twentieth century. In his Jewish Values and Social Crisis: A Casebook for Social Action, Vorspan concisely relays ideas that run throughout many of his works, ideas which express halachic concerns. Concerning communal involvement with the poor, he remarks:

The concept of the welfare state is a deeply ingrained pattern in Jewish communal life ... . *Tzedakah* is a prime communal responsibility. ... It was only natural for the Jew to look upon poverty as the responsibility of the entire community. The existence of the poor was a signal of social inequity which had to be righted by society itself. The system of public welfare became the means of restoring integrity to the community.<sup>7</sup>

Vorspan points out that the community cannot fight poverty alone. In fact,

[t]zedakah is considered an obligation and it impinges upon the individual as well as society. The individual Jew is personally responsible for his fellow human being in need. ... Avoiding it is unthinkable, and so the emphasis in Judaism was placed not only upon the obligation to give but on the *manner* in which the gift was given and received. ... The individual and the community are inseparably bound together.<sup>8</sup>

To Vorspan, tzedakah is both a communal and an individual responsibility,

<sup>5</sup> Program of Social Justice Adopted by the Central Conference of American Rabbis, p. 2.

<sup>6</sup> Program of Social Justice Adopted by the Central Conference of American Rabbis, p. 2.

<sup>7</sup> Albert Vorspan, Jewish Values and Social Crisis: A casebook for social action (New York: UAHC, 1968), pp. 84-5.

<sup>8</sup> Vorspan, p. 82.

the goal of which is "... not to mitigate suffering but to remove it ... to make the once impoverished self-sufficient."<sup>9</sup>

Vorspan's comments on restoring the dignity of the poor are equally telling. He writes:

... [F]or the most part, the poor man in an affluent society lives in another world. Psychologically, it is a world of humiliation, a world which fails to see that a man cannot pull himself up by his boot straps if he has no boots and no straps. The world which callously calls upon the poor to disregard material circumstances asks a man to be more than a man and makes him feel less than a man.

To aid the poor is to 'rehumanize' the children of God. It is to restore rights which have been denied. ... *Tzedakah* is not an act of condescension from one person to one in a lower social and economic status; *tzedakah* is the fulfillment of an obligation to a fellow being with equal status before God. ... Throughout the Bible, the poor man is not called 'poor,' but 'thy brother,' thus establishing a relationship of equality between poor and rich. Precisely because the poor man lacks material blessings, he is likely to feel inferior. Therefore, one is enjoined to treat him like a brother, to protect his feelings, to guard his dignity. Respect from others is the most helpful counterbalance to poverty. Self-respect is poverty's most effective antidote.<sup>10</sup>

In Vorspan, then, we see traces of the union of communal and individual responsibility, the elimination of poverty through self-sufficiency, and the need to restore the dignity of the poor, themes which echo the halacha on *tzedakah*.

Rabbi Richard G. Hirsch, Vorspan's contemporary, conveys similar sentiments. In his There Shall Be No Poor ..., Hirsch argues that "... poverty is a condition of society and ... therefore society at large must recognize its responsibility by opening its hand."<sup>11</sup> Seeing society as the greater

<sup>9</sup> Vorspan, p. 83.

<sup>10</sup> Vorspan, p. 81.

<sup>11</sup> Rabbi Richard G. Hirsch, There Shall Be No Poor ... (New York: UAHC, 1965), p. 5.

community, he insists upon a communal response to the conditions of the poor because of the systemic and cyclical nature of poverty. Concerning future generations, he writes:

Poverty is a vicious circle - poverty, lack of education, more poverty. The very characteristics which make for poverty make it unlikely that the poor will by themselves be capable of assuming responsibility for their children's education. It therefore becomes the responsibility of society to teach all its sons. What is required is a massive investment in all our children, our most precious resource.<sup>12</sup>

Hirsch conveys the immediacy of the need to aid the poor through his detailed and bleak analysis of the state of poverty in America during the 1960s. Through an explication of various federal legislative initiatives aimed at eradicating poverty, he explores the government's role as society's chosen agent to administrate poverty programs while imparting the halachic agenda of poverty's elimination.

Hirsch recognizes that the elimination of poverty involves more than mere financial considerations. Like Vorspan, he sees issues of dignity and self worth playing a significant part in moving beyond poverty's grasp. He notes that "[t]he poor need something more precious than money. They need the environment, the education, the host of goods and services which will equip them to have faith in themselves and motivate them to become useful citizens."<sup>13</sup> When the poor regain faith in themselves, they are imbued with an aura of self-respect. Their dignity is restored.

Hirsch's words mimic the halachic dictates of tzedakah concerning communal responsibility, immediacy, the appointment of a communal agent for administering poverty programs, the elimination of poverty, and the

<sup>12</sup> Hirsch, p. 61.

<sup>13</sup> Hirsch, p. 89.



dignity of the poor. Building upon the notions presented by Hirsch, Lawrence Bush and Jeffrey Dekro provide an updated approach to many of the halachic themes of tzedakah in their Jews, Money, and Social Responsibility: Developing a "Torah of Money" for Contemporary Life. In particular, two of their ideas merit attention because of how strikingly similar they are to the halachic voice. Concerning communal responsibility for the poor, Bush and Dekro suggest that the benefit of actualizing this halachic command goes beyond what the poor might derive. The halachic system of tzedakah, they assert, does more than implore economic balance or the elimination of poverty; it fosters "... the development of a binding Jewish consciousness"<sup>14</sup> as well, a consciousness which actuates the very community Judaism strives so hard to create. Bush and Dekro suggest that

[t]he very root of the Hebrew word, *tzedakah*, from *tzedek* - meaning 'righteousness' or 'justice' - gives indication of the centrality of this *mitzvah* in the Jewish ethical structure as a means of establishing a covenantal community despite inevitable differences in ability, power, wealth and privilege among people.<sup>15</sup>

A system which promotes partnership and rapport generates community. When people from all social and economic strata work together in the fight against poverty, and do so in a non-judgmental way, the Jewish notion of community can be actuated.

However, this consciousness of community can be raised only when society empowers its poor citizens with a voice in their own affairs. Bush and Dekro caution that

[d]emocratization of tzedakah, including a certain degree of 'self-

<sup>14</sup> Lawrence Bush and Jeffrey Dekro, Jews, Money, and Social Responsibility: Developing a "Torah of Money" for Contemporary Life (Philadelphia: The Shefa Fund, 1993), p. 116.

<sup>15</sup> Bush and Dekro, pp. 126-7.

*determination' for recipients, are necessary 'additives' if we want to preserve the humanizing mission of the mitzvah in a contemporary context.*

Ideally, for example, recipients should participate in decision-making about the allocation of *tzedakah* monies ... to help assure the appropriateness and effectiveness of funding efforts within their particular communities.<sup>16</sup>

By prioritizing the empowerment of society's poorest inhabitants, and by placing this empowerment within the framework of a community bound together by a covenantal consciousness, Bush and Dekro are invoking eternal halachic themes.

Eugene Borowitz adds another modern Reform Jewish voice to this invocation of halachic themes concerning *tzedakah*. In his "The Critical Issue in the Quest for Social Justice: A Jewish View," Borowitz promotes the government as the administering agent of poverty programs, much as Richard Hirsch did a quarter of a century earlier. Borowitz implores Jews to support government efforts to do what is socially and morally correct based on the historical Jewish communal experience. He is adamant when he says that

[u]nless Jews are prepared to deny the experience of their own families and ethnic group, they must emphatically reject the notion that government has no proper role in the moral improvement of the social order. Without resolute government leadership in furthering the goals of democracy ... the ethical dimensions of our social life may be counted on to contract.<sup>17</sup>

To Borowitz, the government represents the union of America's multi-facted society; it is through the government that, ideally, the interests of all Americans can be addressed. As he sees it, "[w]hen we are sensitive to the distance we still remain from our social ideals, we must ask what we can

<sup>16</sup> Bush and Dekro, p. 126.

<sup>17</sup> Eugene Borowitz, "The Critical Issue in the Quest for Social Justice: A Jewish View," in Contemporary Ethical Issues in Jewish and Christian Traditions, Frederick E. Greenspahn, ed. (Denver: Center for Judaic Studies at the University of Denver, 1986), pp. 200-1.

all do together, through government, the one 'community' through which we can all act as one, to achieve them."<sup>18</sup> Borowitz's message here is two fold; namely, that the American Jewish community must accept the government as the agent of its social and ethical agenda and that the fate of the American Jewish community is inextricably linked to all other American peoples. In suggesting these ideas, and in urging American Jewry to work to ensure the realization of its historically liberal perspective through the greater social structure, Borowitz promotes the traditional halachic ideals of entrusting an agent with its tzedakah program and extending that program beyond the Jewish community.

Modern sources of social justice in the Reform movement overflow with halachic parallelism. A random sampling of resolutions that CCAR, the Union of American Hebrew Congregations (UAHC), the Commission on Social Action (CSA), the Religious Action Center of the Reform Movement (RAC), and the Board of Trustees have produced over the past thirty years reveals striking similarities to themes delineated in the halacha on tzedakah. Pleas for active communal support of national poverty programs can be seen in a UAHC resolution of 1981 and a CCAR resolution of 1982. Calls for respecting the dignity of the poor and for promoting their right to be self-sufficient are found in resolutions of the Board of Trustees in 1968, the UAHC in 1976, and the CCAR and the CSA in 1994. The same Board of Trustees resolution advocates the empowerment of the poor as well. All these resolutions assume the government to be the communally appointed agent to administer poverty programs that benefit all poor people, and the frequency with which these organizations pass resolutions concerning the poor suggests a constant immediacy in addressing the needs of the poor. To

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<sup>18</sup> Eugene Borowitz, p. 201.

be sure, halachic themes are well represented in the organizational statements of the Reform movement.

Whether it wants to acknowledge it or not, the American Reform movement's ideological stance on social justice is not unlike its halachic counterpart. In fact, from its earliest organized statement of principles to its institutional resolutions of today, American Reform has incorporated into its doctrine notions that are strikingly similar to themes delineated in the halacha of tzedakah: ideals of communal and individual responsibility, empowerment and dignity through self-sufficiency, and the immediate need to eliminate poverty so that all peoples may have the opportunity to thrive. Given this connection, Reform Jews could only benefit by entering into halachic discourse to discover more about their ethical roots and gain new insight into the fight against poverty.



## Chapter Four: Conclusion

### A Pro-active Plan for Social Change

As my commentaries in Chapter Two suggest, the halacha on tzedakah is applicable in our situation today. The halacha teaches us how to treat the poor as well as what needs to be done to help them out of their poverty. It spells out the responsibilities of both the public and private sectors and outlines a blueprint for social change. It preaches equality and cooperation and demands adherence to its principles. Most of all, the halacha on tzedakah gives us a course of action. But how can this be actuated in America today?

Based on my understanding of what the halacha is teaching concerning tzedakah, and building upon my previous commentaries, I propose a multifaceted Jewish approach to addressing the needs and concerns of the poor in America, an approach involving action, education, and mobilization. The ultimate goal is to develop a plan for social change, a strategy of "righteousness," that will respect the dignity of the poor, alleviate their suffering, and eliminate their poverty.

#### Action

On one level, we must follow what the halacha dictates by doing everything in our power to ensure that the basic needs of existence of America's poorest inhabitants are being met in a dignified manner. Financially, this means the continued creation and support of both private and public communal institutions that provide services for the poor: soup kitchens, homeless shelters, health care clinics, and the like. The halacha insists we discipline ourselves to set aside a portion of our wealth, whatever that amount may be, to give to the poor in any number of ways, whether it be directly, through organizations, or through material drives for food, clothing,

or items of personal hygiene. By financially supporting the poor through these methods, we are setting the groundwork by which they can begin to take the necessary steps to become self-sufficient. Even if the plan the rabbis designed in the halacha to eliminate poverty in their time does little more than alleviate in ours, we nevertheless should concern ourselves with fulfilling its economic requirements so that we can move poor people to a point where poverty's eradication is possible.

However, financial support is not enough. For programs and institutions for the poor to thrive, we must actively participate in realizing their potential. *Giving* tzedakah is one thing, *doing* it is another. Whether it be working at a soup kitchen, building low income housing, volunteering at a health clinic, or merely visiting with the homeless on the street, we are adding the manpower necessary to make alleviation-oriented programs work. Institutions that service the needs of the poor cannot survive without the physical participation of the entire community.

In fact, doing poverty work actually builds community by bridging a gap between the rich and poor. Mere financial support of programs for the poor is distant and impersonal. By only giving money, we never have to come into contact with the poor; the poor remain the "other." Without direct means of communication, negative stereotypes about the poor can develop without any means of dispelling them. Interaction with the poor puts a human face on the problem of poverty, allowing both the giver and the receiver the chance to meet on a personal level.

There is a danger, however, in this type of interaction. Any means of direct help involving a "giver" and a "receiver" produces an uncomfortable, awkward situation by virtue of the inherent, unequal relationship it creates. The receiver may feel inferior, while the giver may feel the discomfort of her

voyeurism. Extra care, then, must be given to bolster the dignity of the receiver while minimizing the giver's discomfort.

This can only be done by entering the relationship with the understanding that all people are equal and that poverty work is work that Jews must do as their obligation to their Judaism and their notion of community. The giver must show compassion, not pity or indifference, and recognize the humanity of the receiver. By the same token, the receiver should accept both physical and financial help with the gratitude and comfort of knowing that the community is fulfilling its responsibility to him, a responsibility incumbent upon him as well.

### Education

Action alone is not enough to fulfill our Jewish responsibilities to the poor. Education is another level of social justice programming and a necessary component of any successful plan of social change. Who are the poor? Why are they unable to support themselves adequately, and what is the systemic nature of the problem that perpetuates their cycles of poverty? By speaking to the poor and their advocates, by gaining an historical perspective on our economic system and its shortcomings, and by learning about the psychological effects of and sociological phenomena surrounding poverty, we can get a better grasp of the perspective of the poor and begin to see the roots of their predicament. Only when we educate ourselves about the poor can we begin to understand the complexity of poverty and the steps to its elimination. Combined with financial and physical participation in programs that alleviate the suffering of the poor, a proper and thorough education on the issues of poverty makes the need for solutions painfully manifest.

### Mobilization and the public sector

With education and action comes the need to mobilize, another level on our multi-facted approach to social justice. The government is our society's appointed conduit for the administration of our national poverty programs. As such, it must be held accountable for its actions, much as the halacha implores us to do. Mobilization involves pressuring elected officials through letter writing, calls, and visits. It means challenging them to speak out against the societal ills which foster poverty, maladies which include inequality in public education and career training opportunities, inflation, discrimination, lack of non-skilled labor opportunities, technological change, and the ever growing service economy. Our government needs to know that its constituents care about the poor, that it has a responsibility to ensure the rights of every American to a minimal level of subsistence, and that its inability to produce results or even make an effort in the fight against poverty will result in immediate replacement.

What should we expect our government to do? At the very least, in keeping with the halachic principle of 200 zuz, the government should ensure that people who fall below its federally designated poverty line are provided the means by which they can compensate for that difference. Welfare programs should provide funds for people to live respectably and with dignity; they should not fund people, as they currently do, at a rate less than half of what most states have designated to be a minimal standard of need. Furthermore, welfare benefits should not act as a disincentive to work; people should not be penalized immediately for finding a source of income



outside of government assistance when that income does not include health insurance, child care, and the like. Though it might cost more now, continuing to supplement welfare-dependent individuals who find marginal employment until they can secure a higher paying job with benefits would cost the government less in the long run.

The government can quicken the process of moving people off welfare by providing technical job training opportunities for the unskilled poor<sup>1</sup> and legislating a minimum wage that truly provides a livable income. Most poor people want to work and would jump at the chance to become self-sufficient, but as of now, there is no viable way for most of them to do so. The government needs to help make that happen by reevaluating its welfare policy and creating both the necessary incentives and opportunities for meaningful, productive, gainful employment.

#### Mobilization and the private sector

Of course, moving people off welfare is not solely the government's responsibility. If mobilization means pressuring the government to respond to the systemic needs of the poor, it must include our own response as well. As the halacha suggests, the private sector has its role to play in the eradication of poverty. If we are to realize what the halacha sees as the greatest act of tzedakah, we must do what we can to provide the poor with the tools they need to become economically secure. Whether it be through an apprenticeship program, on-the-job training, or a business partnership, the private sector is going to have to begin taking chances on the poor by seeking their employment and guiding them to self-sufficiency. Not only is this our responsibility as Jews and as members of our society, but it is economically

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<sup>1</sup> This in no way implies that all poor people are unskilled.

sound as well. We cannot expect the poor to climb out of their poverty if we are not willing to provide the opportunities for them to do so.

Mobilization of the private sector does not end with helping the individual; it includes a commitment to communities as well. Mobilization means helping to revitalize communities and empowering neighborhoods to become self-sufficient. It involves investing in a socially responsible way, in banks and institutions that are dedicated to making housing loans to low income developers and community businesses. In short, mobilization means working in cooperation with grassroots organizations to create viable neighborhoods and communities.

*Social justice: a comprehensive programming example*

Social change in America is a long, slow process that requires a clear vision with many small steps. As I have indicated, the facilitation of this process necessitates three aspects of simultaneous programming in the areas of *Education, Action, and Mobilization*. To illustrate how to utilize the Education, Action, Mobilization model and reach any number of people in ways that interest them, an example would be appropriate:

An outline of suggestions for congregations wanting to work on the issue of homelessness based on the Education, Action, Mobilization Model

**Education:** Even though it can be difficult to involve congregants in issues, they are usually interested in short, one-time projects such as serving a meal at a shelter, and that is fine. Such projects provide for the immediate needs of the homeless, they give congregants the satisfaction of being able to see the results of their deeds, and they educate Jews about homelessness through direct contact with those people who suffer its consequences. But, is

it ever discussed in the synagogue why people are homeless?

Educating a congregation about homelessness in America involves discovering who in the community is fighting homelessness and meeting with them to find out what they are doing, what their needs and issues are, and what can be done. It means inviting a representative from a homelessness group, coalition, shelter, or community based organization to the congregation to speak on a Friday night, to sisterhood and/or men's club, to Sunday school classes, or to the youth group. Education includes encouraging the rabbi to dedicate a service and sermon to homelessness and inserting a series of articles on the subject in the Temple bulletin articles. Information tables and study sessions on the Jewish view of homelessness are also valuable. The goal is to spread the word about homelessness any possible way.

Action: As previously mentioned, one-time alleviation-oriented events tend to be the most successful type of social action programming. Perhaps such events could be made more regular or even expanded. Programs such as a synagogue-to-shelter initiative could be introduced in order facilitate relationships between synagogues and shelters. The programming is limitless, from fulfilling the shelter's wish list, to volunteering at the shelter to cook, clean, tutor, and job train, to group programs such as movie night or a ball game, to one day health and hygiene clinics, to providing job and housing opportunities. The synagogue and shelter can form a bond, and the realization will come that people are people and that we are all equal. The synagogue-to-shelter initiative can involve everyone in the synagogue community, and it benefits both participants; the shelter gets much needed assistance while the synagogue not only satisfies part of its tzedakah obligation, but educates itself further on homelessness as

well.

Another source of action around homelessness that can be one time or continual is to help repair low income housing. Paint days, carpentry days, and dry wall days are easy and fun activities in which many people of all ages can participate. Care must be taken, however, in any action situation not to offend those communities where the work commences. Entering a community for a one or two day program might seem helpful, but it can cause resentment among local residents. Therefore, coordination of action programs with local community groups is best, inviting their participation and respecting their wishes.

Mobilization: What is being done on the local, state, and federal levels to combat homelessness? What legislation is pending that could affect the low income housing stock in surrounding communities? Are area banks lending fairly to poorer individuals seeking to buy homes? Are local developers gentrifying lower income neighborhoods, thereby compelling the poor to move elsewhere? Are the homeless being forcibly removed from public places? These are but a few of the questions that must be answered in order to make a plan for mobilization.

For homelessness, mobilization means pressuring elected officials to speak out against homelessness and for an increase in the restoration and building of affordable housing. It involves providing job training and opportunities for the homeless so they can help themselves. It includes the synagogue initiating a low income housing project of its own in cooperation with grassroots organizations or non-profit developers.

When the homeless are treated unfairly, the halacha dictates we mobilize as individuals and as a community against the perpetrators while enjoining others to do so as well. The American Jewish community must



oppose all legislation, institutions, and individuals that promote homelessness through their actions. In addition, we must work pro-actively to reverse the trend of increasing homelessness in our society by supporting efforts to create and maintain safe, clean, affordable housing.

To reach the level of mobilization is a long, hard climb. It requires much time, energy, and leg work. But it is also the way to move to our ultimate goal of social change.

Homelessness is only an example of the Education, Action, Mobilization model of social justice programming, a model that can be used by any individual or group for any urban issue: hunger, health care, education, and the like. And though this model alone may not be able to eradicate poverty from our midst, its implementation throughout American Jewish society and beyond is a step in the right direction.

If we, as American Reform Jews, intend to fulfill the mitzvah of tzedakah, a mitzvah the halacha has stated is equal to all other mitzvot combined and upon which Reform ideology has historically concentrated, we are going to have to begin creating a more comprehensive solution to poverty in our society. Not only that, but we are going to have to excite people about it as well. Both the sages of the halacha and Reform ideologues believe that poverty can be eradicated; if not, they themselves would not have emphasized its importance or forwarded strategies for fighting it. The halacha and the Reform movement have guided, empowered, and implored us to follow in their footsteps, to carry on the Jewish tradition of helping the poor while striving to eliminate poverty. It is up to us to heed their call.

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