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A TRANSLATION OF "THE LAWS OF TZEDAKAH" IN THE ARBA-AH  
TURIM BY JACOB BEN ASHER AND A COMPARISON BETWEEN THE  
TREATMENT OF THE LAWS OF TZEDAKAH IN THE MISHNEH TORAH,  
THE ARBA-AH TURIM, AND THE SHULCHAN ARUCH

By

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To KAREN, whose life is a lesson in the true meaning  
of tzedakah.

# PREFACE

## שקולה צדקה כנגד כל המצוות

"Tzedakah is equivalent to all other mitzvot combined," (Rav Assi, Baba Batra 9a). Indeed, tzedakah is one of the highest ideals for Judaism. We are told by Maimonides in the Mishneh Torah to be more scrupulous about the mitzvah of giving tzedakah than about any other sacred act ordained by a positive commandment. Jacob ben Asher even goes on to say that one should be exceedingly careful about tzedakah lest "he will become a murderer in that the poor person who seeks will die if he does not give it to him immediately." A principle as significant as this must be understood from its origins and through its development. The purpose of this thesis is 1) to translate into clear, readable English the laws of tzedakah as they appear in the medieval code, Arba-ah Turim by Jacob ben Asher: 2) to briefly uncover the development of the laws of tzedakah from Biblical, through Talmudic to medieval times: 3) to analyze the major differences in the three great medieval codes: The Mishneh Torah, the Arba-ah Turim, and the Shulchan Aruch; and then 4) to determine to what extent differences in the authors' various time-settings, academic schools, codifying purposes, and personal styles influenced their treatment of the laws of tzedakah.

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A TRANSLATION OF "THE LAWS OF TZEDAKAH" IN THE ARBA-AH TURIM BY JACOB BEN ASHER AND A COMPARISON BETWEEN THE TREATMENT OF THE LAWS OF TZEDAKAH IN THE MISHNEH TORAH, THE ARBA-AH TURIM, AND THE SHULCHAN ARUCH

CHAPTER ONE: TRANSLATION OF "THE LAWS OF TZEDAKAH" FROM THE ARBA-AH TURIM BY JACOB BEN ASHER

"THE LAWS OF TZEDAKAH"

247: It is a positive commandment to give tzedakah according to one's means. A person must be exceedingly careful in it more than other positive commandments because it is possible that he will become a murderer in that the poor person who seeks tzedakah will die if he does not give to him immediately, like the case of Ben Zoma [Ta-anit 21a]<sup>1</sup>

About it [tzedakah] we were commanded many times with a positive commandment and there is even a negative commandment not to shut one's eyes from it, as it is written in the Tanach, "... . do not harden your heart and shut your hand against you needy kinsman," (Deuteronomy 15:7b). Anyone who shuts his eyes from it is called wicked and is [regarded] as if he worships idols. But anyone who is careful about it, it testifies for him that he is the seed the Lord blessed, for it is written, "... in order that he instruct his children and his posterity to keep the way of the Lord by doing what is just and right, (Genesis 18:19) and the throne of Israel is established and the true religion endures only in tzedakah, as it is written

in the Tanach, "In tzedakah thou shalt be established," (Isaiah 54:14a). Israel will be redeemed only through tzedakah, as it is written in the Tanach, "Zion shall be redeemed with judgement and those that return unto her with tzedakah," (Isaiah 1:27). And the Tanach says, ". . . Keep justice, and do tzedakah; for My salvation is near to come, and My favor is to be revealed." (Isaiah 56:1). And it is greater than all the sacrifices.

Rabbi Eliezer [son of Hircanus] said, "tzedakah is greater than all the sacrifices," as it is written, "To do tzedakah and justice is more acceptable to the Lord than sacrifice," (Proverbs 21:3). Rabbi Eliezer said, "Anyone who does tzedakah and justice is regarded as if he filled all the world with loving kindness," for it is written in Scriptures, "He loves tzedakah and justice." The loving-kindness of the Lord fills the earth." No man is ever made poor from [(giving)] tzedakah. Nor is evil and harm ever caused by it, as it is written in the Tanach, "The deed of the righteous [(giving tzedakah)] shall be peace," (Isaiah 32:17a). The Holy One, blessed be He, has compassion on anyone who has compassion on the poor.

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<sup>1</sup> Ba-er Hetev: It appears to me to be a scribal error. It should say: Nachum Ish Gam Zo, as in Chapter 3 of Ta-anit (21a).



A man should take to heart that just as all the time he is seeking from the Holy One, Blessed be He, that He should prepare his sustenance for him, and just as he seeks from the Holy One, blessed be He, that He should hear his supplication, so it is necessary that he hear the supplication of the poor. Furthermore, also this, that the Holy One, blessed be He promptly will hear the cry of the poor, as it is written in the Tanach, "The supplication of the poor, thou shalt hear."<sup>2</sup> Therefore, a man must be careful concerning their cry. Also, it is a covenant established with the Lord, as it is written in the Tanach, "therefore, if he cries out to Me, I will pay heed, for I am compassionate," (Exodus 22:26b).

Also, one should take to heart that poverty is a wheel turning around in the world, and eventually, the man will come to this stage [(that is, poverty)] and if he does not, his son or grandson will come to it.

One should not bring forth the thought saying, "Why should I diminish my money by giving it to the poor," because he must know that his money is only a deposit,

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<sup>2</sup> (The passage from Job 34:28 is quoted not in its Biblical wording, but in that of the Sephardic ritual.)

with which to fulfill the will of the depositor: and this is His will: to distribute to the poor from it, and this is the good [(ie.,best)] portion of it which he will have, for it is written, "tzedakah will go before you." Furthermore, it is a proven and experienced thing that because of charity which a person gives, he will not become needy, but on the contrary, it will add to his wealth and honor, as it is written, "Since the people began to bring the offerings into the house of the Lord, we have had enough to eat, and have left plenty, for the Lord hath blessed his people," (II Chronicles 31:10). And it is written, "Bring all the tithes into the storehouse, that there may be meat in My house, and test 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 not be room enough to receive it," (Malachi 3:10). And the sages said, "In every matter it is forbidden to try the Lord, except in this matter," as it is written, "and test me now herewith," (Malachi 3:10). Moreover, it [(tzedakah)] nullifies the harsh decrees, and in famine it will deliver from death as in the incident which happened to the woman from Zarephath (I Kings 17), because of the small cake which she gave to Elijah. Refraining from charity will move far away those who were near to the Divine Presence and the Torah, like that which happened to Amon and Moab

who were close to us, but had been removed because they did not welcome us with bread and water. On the other hand, it [(tzedakah)] brings close those who were distant so that they will find refuge under the wings of the Divine Presence, like that which happened to Jethro about whom the Tanach says, "Ask him in to break bread," (Exodus 2: 20b). Therefore, a man must be exceedingly careful to give as is befitting. I explain the entire matter according to what I found written under the name of Rav Saadia, and from the words of Rabbi Moses Maimonides with a few other views, and I will explain first who is obligated to give it [(tzedakah)]; how much one is obligated to give; how he should give it; how much it is fitting for each man to give; to whom he should give it; which one takes precedence; who is qualified to receive it, and from whom; how it is collected and distributed; and its donation and its chance [(for another cause)] before it comes to the hands of the collector and afterwards.

248: Every man is obligated to give to charity. Even a poor man who is himself maintained by charity is obligated to give from that which is given to him. One who does not want to give or gives less than is fitting for him to give, the Court (Bet Din) used to compel him until he would give that which they appraised for him to give. They may seize [some of] his property, i.e., take from it that which is fitting. They may take a pledge[(as security)] for it [(tzedakah)] even on the eve of the Sabbath [(Friday)]. They do not assess charity on orphans even for ransoming captives, not even wealthy orphans. However, if they assess them for [their] honor, in order that their reputation become favorable, then it [(assessing tzedakah)] is alright.

Collectors of tzedakah accept only small amounts from women and slaves, but not a large amount, because it would be presumed to be taken by theft or robbery. How much constitutes a small amount? All depends on the wealth or poverty of the head of the household. My master, my father of blessed memory, wrote in a responsum, "To what do the words refer? They apply to cases in general, because we say [(know)] that in general the husband is not strict about a small amount like this." But if the husband protests, it is obvious that she must not give without his permission; and for him who receives from her, it is like robbery. If she [(the wife)] hired a teacher for his son,

and the head of the household knew and was quiet, he was certainly satisfied with what she did. But if he objects immediately, her deed is null and void.

It was taught in a Baraitah that a son who eats with his father, and a slave who eats with his master may give a piece of bread to a poor person or to the son of his friend without fearing being accused of theft, for this is the way heads of households do.

A noble man [(meaning generous)] who gives more than his share to charity, or who deprives himself and gives to the collector in order that he will not be embarrassed, from such a man, it is forbidden to demand and collect tzedakah. And the collector who puts him to shame and asks from him, in the future will be punished because of it. As it is written in the Tanach, "I shall punish all who oppress him," (Jeremiah 30:20). And the sages said, "These are the collectors of tzedakah."

249:       The amount one should give is as follows: If one has it in his means, he should give according to the need of the poor. If one does not have it in his means to satisfy all the needs of the poor, he should give according to his means.

How much should he give? Up to one-fifth of one's property is the choice mitzvah. One-tenth is an average amount. Less than this is disfavorable. It was taught in the Jerusalem Talmud, in the first year one should give one-fifth of his capital. From then on, it should be one-fifth of the profits of each year, forever. A man should not refrain from giving less than one-third of a shekel per year, which is one-sixth of an ounce [(a small measure)] of silver. If one gave less than this, he did not fulfill the commandment of tzedakah at all.

And when one gives, he should give it kindly, joyfully, and with a good heart. He should sympathize with the poor in his grief, and speak to him words of condolence and comfort. And if he gives while scowling and in a bad mood, he loses his merit.

If a poor man asked of him, and he did not have something to give him, he should not rebuke him nor raise his voice to him, but should appease him with words and show him his goodness of heart that it is his will to give

him, but it is not within his means.

If it is not within his means to give him, but he is able to make others give to him, his reward is as great as the one who gives.

One should give to him in secret lest he feel embarrassed. And if it is possible to give it to him in a manner that he would not know from whom he received it, there is nothing better than this.

Moses Maimonides wrote about giving, eight degrees, and this is his wording: There are eight degrees of tzedakah, one higher than the other. The highest degree to which there is none higher is the one who strengthens the hand of a poor Jew; giving him a gift as a loan, or making a partnership with him, or securing work for him in order to strengthen his hand that he will not need the support of the people, and he will not beg; and concerning this, it is written in the Tanach, "Strengthen him. As a proselyte and one who did not convert, but observes the seven Noachite Commandments, he shall live with you." [(... and hold him as though a resident alien, let him live by your side. JPS, 1962)] (Leviticus 25:35b)

The next lower form is the one who gives charity to the poor in such a manner that the giver does not know to whom he gives and the poor person does not know from whom he received. This is a mitzvah for its own sake. For

example, the Chamber of Secrets, which was in the Temple, where the righteous ones placed money secretly, and where poor people of high lineage secretly sustained themselves from it.

The rank next to this is that of him who gives to the charity box. A person should not give to the charity box unless he knows that the person in charge of it is trustworthy, wise, and knows how to handle it equitably.

One step lower than this is one in which the giver knows to whom he is giving, but the poor person does not know from whom he takes, for example, the great sages who used to go secretly and cast coins in the doorways of the poor. Such as this is fitting to do, and it is a high degree of tzedakah if the people in charge of the charity do not handle it honestly.

A step lower is that in which the poor person knows from whom he takes it, but the giver does not know to whom he gives. For example, the sages who would wrap coins in their scarves and they would cast it behind them. The poor came and took in order that they would not be ashamed.

One step lower than this is one who with his own hand gives to the poor person before he asks.

One step lower than this is one who gives to him that which is fitting only after he asks.



One step lower than this is one who gives less than is fitting to him, but does it in a kindly manner.

One step lower than this is one who gives to him reluctantly.

The greatest sages used to give a small coin to a poor person before every prayer, as the Tanach says, "As for me, I shall behold Thy face in righteousness [(with tzedakah)], " (Psalms 17:15a).

250:           How much should one give to a poor person?  
 ". . . sufficient for whatever he needs," (Deuteronomy 15: 8b). How should it be done? If he is hungry and needs to eat, they feed him. If he is naked[(wearing rags)], and needs to be clothed, they clothe him. If he does not have household utensils, one buys household utensils for him. And even if he was used to riding a horse, and had a servant to run in front of him when he was rich, now that he is poor, they buy a horse for him to ride on and hire a servant to run in front of him. And thus, each and every one is given according to what he needs. It was taught in the Sifre+(a Baraita source)]  
 ". . . sufficient for whatever he needs," (Deuteronomy 15: 8b). Why were all of them mentioned? To teach you that if it is fitting to give him bread, they give him bread; if it is fitting to give him dough, they give him dough; if it is fitting to give him a coin, they give him

a coin; if it is fitting to give him a warm meal, they give him a warm meal; if it is fitting to give him something cold, they give him something cold; and if it is fitting to feed him into his mouth, they feed him. If he does not have a wife, and he comes [(wants)] to take a wife, they provide him a wife, but first, they rent a house for him and furnish him with household utensils. Afterwards, they provide a wife. For a [(poor)] woman who comes [(with the wish)] to be married, they provide her a husband. They give her at least fifty silver Zuz of the state currency, and if they are able to give more, they give it to her, according to her status.

Concerning a poor man who begs from house to house, Maimonides wrote, "They give him a small gift rather than a large gift."

It is forbidden to turn away the poor person empty-handed, even if one only gives him one dried-fig, as it is written in the Tanach, "O let not the oppressed turn back in confusion." (Psalm 74:21a). The wording of my father the Rosh [(Rabenu Asher ben Yechiel)] of blessed memory, literally is: They give him a small gift from the Tzedakah Box rather than a large gift. This means [(implies)] that this refers to the collectors (and distributors) of the tzedakah, but the plausible view is according to the words of Maimonides that this refers to every man [(not just collectors)]; since he

goes around begging, each one need not give "sufficient for whatever he needs," (Deuteronomy 15: 8b). The poor person who passes from place to place, they do not give him less than a loaf of bread which has two measures [(literally, ounces)] in it. If he needs to lodge, they provide him a cot on which to sleep, and a pillow to place under his head, and oil and beans. If he spends the Sabbath there, they give him food for three meals, oil, beans, fish, and a vegetable. If they know him, they give him according to his status. If it is in one's means to give to each one who begs, he is happy. If not, he should give preference to one who ever deserves preference, which will be explained later with the help of God.

251:           They give to everyone who stretches out his hand to take, even if he is a non-Jew, for they sustain non-Jewish poor as well as Jewish poor for the sake of peace. Rabbi Eliezer wrote, "a poor Jew who transgresses one of the commandments is not included in the commandment, (Your brother shall live with you," "[Leviticus 25:36]]. They are not obligated to give him charity until they know that he repented. And likewise, he who is a mumar even only for convenience (eg. one who eats non-kosher food to gratify his appetite); he who supports his adult sons and daughters, whose sustenance he is not obligated for, in order to teach the male children the Torah and to guide the daughters on the proper path; and, he who gives gifts to his father and mother who need them, these are included in the concept of doing tzedakah. Moreover, one must give them [(parents and children)] preference to others. Even if it is not his son or father, but his relative, he must give him preference over any other person.

The poor in one's house takes precedence over the poor of one's city. The poor of one's city takes precedence over the poor of another city. There was a question: Reuben had many poor relatives in the city and Shimon his neighbor did not. Reuben wanted to make a large allocation for the sake of the poor of the city,

to be dispersed to them, and to reduce the allotment for other poor who come (from other places), because he said, "The poor of your city takes precedence." But Shimon did not want this. Rabbi Isaac, son of Baruch said, "They [(the authorities)], should not listen to Reuben for whom they said, 'the poor of your city takes precedence; this means, not to send [(tzedakah)] to another city, but with respect to those poor who come to the city, we do not say, 'The poor of your city takes precedence.' Rather, first they should diminish the amount of tzedakah for the poor in the city. Then, they should give to the poor who come [(from outside)], according to what they are able." This does not seem to be correct to me, for the [(original)] poor certainly takes precedence. [(Jacob ben Asher agrees with Reuben)].

Rabbi Saadia wrote that a man is obligated to put his own sustenance before that of any other man. He is not obligated to give tzedakah until he had his own sustenance, as it is written in the Tanach, "Let him live by your side as your brother," (Leviticus 25:36b) [(i.e.)] Your life takes precedence over the life of your brother. And thus, the woman from Zarephath said to Elijah. "...[I will] make it for me and my son" (I Kings 17:12b). First, for me and afterwards for my son. Elijah agreed with her and said to her, "... and afterward make for thee and for thy son," (I Kings

17:13b).

After one sustains himself, he should put the sustenance of his father and mother before the sustenance of his children, and later, he should take care of the sustenance of his children.

If one's father and son are captives, and he does not have funds to redeem both of them, he should redeem the father and leave the son. After the children, one should redeem his siblings; after his siblings, the relatives; then the neighbors, then, the men of his city and after the men of his city, those who are captives of other lands.

It is a mitzvah that poor orphans should become children [(members)] in one's household. It is preferable that one take employees from them, than to increase slaves. It is considered for him as tzedakah.

One is obligated to put feeding the hungry before clothing the naked in order that the hungry one will not die from hunger.

They give a woman precedence over a man whether feeding or clothing her, because she is embarrassed to beg. Likewise, if both of them came to be married off, they give her precedence to be married off, Maimonides wrote, "If there are before us many poor and there is not in the purse [(enough)] money to sustain, clothe, and redeem all of them, they put a priest

before a profaned person [(cf. Leviticus 21:7)], a profaned person before a shetuki [(a person whose father is unknown)], a shetuki before a foundling, a foundling before a mamzer, a mamzer before a nathin [Temple slave], a nathin before a convert, and a convert before a liberated slave. To what does this rule apply? When they are of equally learned. But if there was an ignorant High Priest and a scholarly mamzer, the scholarly mamzer takes precedence. Anyone who is ahead in wisdom takes precedence over his fellowman. If one of them was his teacher or his father, even though there is one greater than them in wisdom, his teacher or his father who is a scholar takes precedence over the other who is greater than him.

When one comes and says, "Feed me," they do not check after him whether he is a deceiver. Rather, they feed him immediately. If he was naked and came and said, "Clothe me," they check after him whether he is a deceiver. If they know him, they clothe him immediately according to his status.

In a responsum to a question to my master, my father [~~Asher~~ ben Yechiel)], may his memory be blessed, "You asked: a community which had [(means)] to give to either the rabbi or the cantor [(reader of services)], but there was not enough in their means to give to both of them. Which of them takes precedence?" [(Answer:)] If

the rabbi is distinguished and an expert in Torah, in teaching, and in judgements, he takes precedence. If not, the cantor (takes precedence) in order that he fulfill [(certain)] duties for the congregation.

And as to your words that there are those who say that they are able to convert funds even budgeted for the study of Torah for the annual requirement of thirty coins to the ruler [(local Gentile ruler)], because it is a matter of saving lives. For if they do not come to terms with him [now], there are many poor people who do not have means to pay and they will be beaten and stripped naked. They are right [in doing so ~~+~~ taking from school funds], since this will result in saving lives, it takes precedence.

252: Redeeming captives comes before sustaining and clothing the poor. There is no greater mitzvah than redeeming captives. Therefore, for any matter for which they collected coins they are able to convert the funds to redeeming captives, even if they collected it for building a synagogue. And furthermore, even if they bought the beams and stones, and they set them aside for the building, it would be prohibited to sell them for



any mitzvah, except redeeming captives, for which it is permitted. However, if the structure is already built, they should not sell it. They do not pay more ransom for captives than they are worth, for the general good lest the enemies exert themselves to capture them. Even if relatives want to pay more ransom than is the value of the captured person, they do not allow them to. However, a man can redeem himself with all the means he wants; and likewise, his wife because she is like his own body; and likewise a scholar or even if one is not a scholar, but shows himself succeeding and showing potential to be a scholar, they are able to redeem him with all the means they are able.to

They do not help captives escape lest the enemies make their yoke heavy for them, and increase watch over them.

If a person sold himself to non-Jews or he borrowed from them, and they held him for non-payment of his loan, the first and second times they redeem him. The third time they do not redeem him. However, they redeem the children after the death of their father. If they sought to kill him, they redeem him immediately even after many times.

A slave [owned by a Jew] who is captured, they redeem like a captured Jew since for the sake of slavery he ritually immersed and accepted [certain of the] the commandments on himself.

It is forbidden to redeem one who in principle forsook even one commandment, such as eating meat from a navela [prohibited meat] in a spirit of defiance, and the like.

They redeem a woman before a man. But if both of them are wanted for sexual immorality, they give the man precedence in redemption because it is not his nature to do this.

253: One who has food for two meals must not take from the Tamchui [(alms-basket or soup kitchen, from which provisions are distributed daily)]. One who has enough for fourteen meals must not take from the Kupah [(charity fund, money distributed weekly)]. If he has two hundred Zuz, even if he does not use them for business purposes or fifty invested [(doing business with them)] he must not take tzedakah at all. But if he has two hundred Zuz

minus one denar [uninvested], even if they give him one thousand Zuz at once, he may take them. If he has much money, but he is in debt or [his money] is the security [pledge] for his wife's ketubah [(endowment for divorce or widowhood)], he may take. If one has a house and many household utensils, but does not have two hundred Zuz, he may take; and he does not need to sell his household utensils, even if they are of silver and gold. What does this refer to? To eating and drinking vessels, and beds and the like. But if he has a silver menorah or a silver table or the like, he must sell and not take tzedakah. They do not obligate him to sell his silver and gold utensils provided that he will not take from the Kupah. Rather, he may accept secret assistance from individuals and his relatives. They are able to give him and he does not need to sell his vessels. But if he comes to take from the Kupah of tzedakah, they should not give to him. Rather, he should sell his vessels. Rabbenu Tam [(Rabbi Jacob ben Mair)] explained, "Before one comes to take tzedakah, if he has silver vessels, they obligate him to sell them in order that he will not need to take from the Kupah; but if it is after he already began to take, that he happens to get into possession of silver vessels, they do not obligate him to sell, lest he take tzedakah.

Some authorities held that all these limits [(200 Zuz, 50 Zuz)] were meant only for their days [(former times)],

when they had a Kupah and Tamchui, and they would distribute the poor person's tithe in every year. And they would take leket [(gleanings, the poor man's share of the crop)], shichchah [(the forgotten sheaf, the poor man's sheaf)], and peah [(the corner of the field, the portion of the harvest left for the poor)]. Therefore, they estimated that one who had two hundred Zuz should not take, because he is able to pass through the year with them, and the next year he will have enough to live on. However, nowadays, when all this is not so, may take [tzedakah] until he will have a capital on which he is able to sustain himself from the profit. And you should know this because there is a difference when one is engaged in business, for then, even if he has fifty Zuz, he should not take, because it is possible for him to be sustained from the profit. Hence, everything is according to the case [(circumstances)]. It is possible that in their days [(former times)] the expenses were small and it was possible to be sustained by the income from fifty Zuz. But nowadays, it is impossible and everything is according to the place and the time.

One who owns fields, vineyards, and many houses other than his own living quarters, but does not have money, comes to sell them. If people do not want to buy from him because they see he is under financial pressure, [(they do not want to buy at a fair price)], they [(the

collectors)] do not compel him to sell them [(his properties)]. Rather, they feed him from the tzedakah, until he is able to sell at the fair value, and everybody will know that he is not forced to sell. But if all the lands diminished in value, even for others, even if they were reduced to less than half their value, if one is able to sell them so that he will have two hundred Zuz according to the lowered price, he is required to sell them and he must not take tzedakah.

If it is during the rainy season, which is not selling time, and he could sell them only cheaply, and if he would leave them until the warm season when he would be able to sell them at [their] value, they do not compel him to sell. Rather, they give him tzedakah until he will be able to sell them at half-price. Nachmanides [(Rabbi Moses ben Nachman)] wrote, "They feed him up to half of their value (when they reach this point), and he should not press himself to sell when it is not selling time." It appears from his words that they feed him up to the value of half the lands. However, what I wrote [(before)] is the "basic" [(acceptable)] view.

The head of the household who goes from place to place, and runs out of money on the way, and does not have anything to eat, he is permitted to take tzedakah, and when he will arrive home, he is not required to pay back because at the time he took he was poor; and his case is

like that of a poor man who became rich: he is not required to repay what he took.

If they collected for a poor person, more than is necessary to satisfy his wants, the remainder is his. But if they collected for the poor in general, and something remained, they must keep it for other poor. Likewise, the remainder of a ransom collected for a captive belongs to the redeemed one, but if they collected for redeeming captives in general, they keep the remainder for other captives.

If a poor person gives a Perutah to tzedakah, they accept it from him. If he did not give, they do not compel him to give.

If he was given new clothes and he returns his old ones, they accept them from him, but if he did not return them, they do not compel him to give them.

To one who needs to take tzedakah, but who does not want to take, they act shrewdly and give him a gift in an honorable way as if it was not tzedakah. If he does not want it, they give it to him as a loan. If he does not want it, they say to him, "Bring a pledge [for a loan]," in order that he will not be embarrassed, but they do not collect from him later.

Anyone who has means, but is reluctant to eat at his expense, and starves himself, they do not look after him.

They are obligated to give to a poor scholar as befits his status. If he does not want to accept it, they do business for him. They purchase goods for him cheaply and buy his goods from him at a higher price in order that he will be sustained honorably. If he knows how to engage in business, they lend him money to buy with.

254: A Jew is forbidden to take tzedakah from non-Jews in public. However, if he is not able to live on Jewish tzedakah alone, and he is also not able to receive it from non-Jews secretly, then he is permitted [(to accept it from the non-Jew publicly)]

If a non-Jewish king or high official sent money for Jewish tzedakah, they accept it, for the sake of keeping peace with the government, but they take from it and give to non-Jewish poor secretly in order that the king

will not hear about it.

255: A man should forever avoid taking tzedakah, and he should strain himself considerably in order that he will not need [tzedakah], from his fellowmen. And thus, the sages commanded, "Rather make your Sabbath a week day than be dependent on fellowmen," (Pesachim 112a). Even if he was scholarly and respectable, and became poor, he should engage in a trade, even in a despicable trade, so that he will not need the financial help of men. It is better to strip the hides of a carcass in the market than saying, "I am a great scholar." Anyone who does not need to take tzedakah, but deceives the people and takes, he will need the help of men before he will die. Anyone who is so much in need of tzedakah that he cannot live unless he will take—such as, a person who is old or sick or tormented—but is excessively proud so that he will not take, he is a murderer and is guilty for his own death. He has nothing for his suffering except iniquities and sins. Anyone who needs to take, but tortures himself in delaying tzedakah, and lives a life of hardship in order that he will not be a burden on the community, will not die until he will



sustain others from his own means. About him and about anyone like him, it is said in the Tanach, "Blessed is the man that trusteth in the Lord," (Jeremiah 17:7a).

256: In every city where there are Jews, they are obligated to appoint tzedakah collectors, known and trustworthy men who will go about the people once a week every Friday taking from each of the people what is fitting for him to give and what is the assigned quota for him. They distribute the money once a week every Friday giving to each and every poor person enough food for the seven days. This fund is called Kupah of tzedakah. Therefore, one who has food for seven days should not take from it. Furthermore, [(literally, thus)] they appoint collectors who collect daily from each household, and other kinds of food and fruit, or money which is donated according to the momentary circumstances. They distribute that which is collected, toward the evening, and give from it to each poor person daily sustenance. This is called Tamchui. Therefore, one who has sustenance for one day should not take from it. The collectors must be trustworthy, wise, and understanding, who will be

discerning concerning each and every poor person, giving him what he needs. They should be discerning [(investigate)] concerning them that they should not be deceivers, except the one who seeks to be fed, whom they should not investigate as I explained above. If the collectors are not wise and fit, for the task they reject them so they will not collect at all. And if they are not able to reject them, it is forbidden to give tzedakah through them. For thus, the sages said, "A man should not give a Perutah (small coin) to the purses of tzedakah unless a scholar is appointed over it.

On fast days, food is distributed to the poor. If at the end of any fast day, people eat and they did not distribute food to the poor, they are like murderers. To what does this refer? If they did not distribute bread and fruit which are kinds of food, but if they did not distribute money or what (not ready for eating) or the like, which is not ready for eating, they are not considered murderers.

The Kupah is not collected by less than two, because they do not establish a congregational leadership with less than two men, but after it [(the Kupah)] was collected, one is trusted [to keep it until distributing it]. Therefore, even two brothers can be collectors. They distribute only with three because it is like monetary cases, where it is necessary to examine each and every poor person, how

much is fitting to give him. The Tamchui is not only distributed by three men, but it is also only collected by three men, for it is not a fixed amount, and they must examine each and every one how much is fitting for him to give. The Tamchui is collected everyday and the Kupah once a week [(on Friday)]. The Tamchui is for any poor people in the world, while the Kupah is for the poor of that particular city.

The men of the city are permitted to convert a Kupah into a Tamchui, if the poor of the world become very numerous so that the Tamchui [(food)] which they collected for their needs is insufficient for the poor of the world. Similarly, they may convert funds from the Tamchui to the Kupah if there are many poor people in the city and the Kupah which they collected for them was insufficient for them. They are able to convert [tzedakah] funds to anything which they want. Rabbi Joseph Migash, of blessed memory, wrote, "Only for the need of the poor are they able to convert funds, for example, clothing, burial, and the like. Even though they collected them (funds) for the requirement of food, they may be diverted. However, if it is not for the need of the poor people, they may not divert the funds." Rabbenu Tam explained, "For any community needs, they can convert funds." And thus, he decided

to give the city-guards from the Kupah. And thus, Maimonides wrote, and my master, my father Asher ben Yechiel, of blessed memory, agreed, and wrote, "But [this refers] only to the Kupah and Tamchui which are fixed matters, since if there will be lacking from them, they will collect another time. However, if an event occurred that while they were required to collect for the needs of the poor, i.e., they were required to collect for the needs of clothing or that many poor came, and they collected for their sake, they must not change and give for another matter, not even for the needs of other poor. If there is in that city a chaver ir [(scholar of the city)], meaning a distinguished scholar, and they collect everything the way he would like it, and he distributes to the poor according to what appears right to him; Behold he is able to convert the tzedakah funds to any communal need he desires.

After one has lived in a city for thirty days, they compel him to give to the Tamchui. One who has lived there three months, they may compel to give to the Kupah. One who has lived there six months, they may compel to give to the Clothing-Fund for the poor. One who lived there nine months, they may compel to give to the Burial Fund with which they bury the poor and carry out all their burial needs.

One who goes from his place to another city for business, and the men of the city where he went, assign him to give tzedakah, he gives to the poor of that city. If there were many who went there and they assigned them to give tzedakah, they give, but when they return home, they bring it with them, and they sustain the poor of their city with it. If there is a scholar of the city in that place where they assigned quotas to the people, they give the funds to the scholar and he distributes according to what appears right to him.

257: Collectors of tzedakah are not permitted to separate from each other when collecting, except to a distance that one will see the other. If he found money in the street [(literally, market)], or if one pays him a debt in the street, he should not put the money in his pocket lest he be suspect: rather, he should put the money into the tzedakah bag, and when he will come home, he will take it out. They do not count the tzedakah coins two at a time, but one at a time, lest people

suspect him of taking one of every number (of two) for himself.

If the collectors do not have poor to distribute the tzedakah and must exchange the Perutahs [(small coins) (for larger coins)] or sell them, they may not sell or exchange the money for themselves, only for others. Likewise, if they must sell from the Tamchui which they collected, they should sell to others lest there be suspicion.

Honest collectors of tzedakah are not scrutinized. Anyhow, in order that they be innocent before God and Israel, it is good for them to give an account [(record)] of the tzedakah.

Tzedakah is like a vow in that one would transgress the prohibition of ". . .do not put off fulfilling it." (Deuteronomy 23:22). Therefore, one who says, "I obligate myself for a Sela" (a coin worth two common shekels), or "this Sela is for tzedakah," he is obligated to give it immediately to the poor; and he transgresses the prohibition of ". . .do not put off fulfilling it," (Deuteronomy 23:22), if he did not give immediately, for the poor are common all the time. My revered father Rabbenu Asher, of blessed memory, wrote, (that he may not delay in paying vows of tzedakah

refers) "only to one who sets aside money for tzedakah in an unspecified way. But, anyone is able to set aside money for tzedakah, which remains in his possession in order to give them little by little as he may see proper for him." Maimonides wrote, "If there are no poor people, one should set aside [the tzedakah funds] until he will find a poor person. If one stipulates that he will not give until he will find a poor person, he does not need to set aside funds. Likewise, if he stipulated when he gave a vow [(pledged)] of tzedakah or when he donated it, so that collectors be permitted to convert it and to exchange it for gold, they are permitted (to do so)." It appears from his words that a stipulation is effective only when there are no poor, but this is not plausible. And furthermore, why is the stipulation necessary when there are not poor around, since he has the obligation of tzedakah because only poor people are always around. And this being so, it is obvious that one is not obligated until poor people happen to be around.

258: One who makes an inclusive statement [(eliptic, abbreviated, and indirect)] for charity is just as one who makes an inclusive statement with vows. How is this done? If there was a Sela for tzedakah lying in front of him, and he said about another [Sela], "Let that one be like this one," that one becomes tzedakah. If one sets apart a Sela for tzedakah, and he said about another, "And this," then, the second one is also for tzedakah, even though he [(the pledger)] did not explicitly say so.

Maimonides wrote, "He who vows to give tzedakah, but does not know how much he vowed, should keep giving until he will say, "I am certain that I did not intend that much!"

If one says, "Give two hundred Zuz or a Torah Scroll to the synagogue (on my account), they should give it to the synagogue which he (the giver) frequents. If he frequents two of them, they should give it to both of them.

If one says, "Give two hundred Zuz to the poor," they should give it to the poor of that particular city (in which the giver lives).

If a man makes a promise to give something to the Sanctuary (synagogue), it is like actually handling it over to a man [it is valid]. Therefore, if one vows a gift to tzedakah, it is impossible for him to retract it. These



words apply only when there was no attempt of an annulment. However, if he regretted it, and finds a way out of his vow, some authorities held he may be questioned by a sage and he (the sage) annuls it, as long as it did not leave his hand. It is like a thing consecrated erroneously to the Sanctuary [(synagogue)] in which case we hold that it is not a valid consecration. But, if he consecrated [(donated for some holy purpose)] or made a vow over a thing which is not in his possession, such as if he has a credit from another and says, "It shall be for a Hekdesh [(Sanctuary-synagogue)] or for tzedakah," [then] it does not take affect. But if he said, "There is a credit which I have from so-and-so. When it will be paid to me, I shall consecrate it or I will give it to tzedakah," then he is obligated to fulfill his promise to consecrate it and to pay it when it will come into his possession. Even if he says, "I have a debt to so-and-so. It shall be for tzedakah." If he says thusly in front of the collector and the debtor, then, the collector is entitled to it [(this presumes that the creditor did not object)], and it is tzedakah. It is impossible to retract it and it is forbidden to convert it. It is as if it had already come into the hand of the collector.

259: If one says, "This Sela is for tzedakah," or he says, "I vow to give a Sela to tzedakah," and he sets it [(the Sela)] aside, before it comes into the hand of the collector, he is able to convert it: i.e., he may loan it to himself for his needs, and pay another [Sela] instead of it. After the money reaches the collector, it is forbidden for him or the collector to loan it or to pay another coin instead of it. But they are able to convert it from the amount which he voted for his needs for the needs of another mitzvah, even if they do not pay the other charity money for the original mitzvah.

My revered father, Rabbenu Asher, of blessed memory, wrote that the community may convert tzedakah funds which were donated for the needs of the synagogue or the cemetery to the needs of the House of Study or the Talmud Torah [(religious academy)], even if the givers are objecting. However, they may not convert funds from a Talmud Torah to the needs of the synagogue.

Moses Maimonides wrote, "The collector who wants to exchange (small) coins, making them denars (a higher denomination), is not permitted, unless there are no poor people to whom to distribute."

If it is beneficial for the poor to exchange the coins while in the hands of the collector, making other

coins to give them, then the collector is permitted to use them, to lend them, or to pay a debt, for tzedakah is not like a Hekdesh, for which it is forbidden to benefit (to derive a profit from it).

If an individual [(Jew)] donated a lamp or a menorah [(candelabrum)] to a synagogue, and the name of the donor was forgotten, so that it is not called by his name, the community may change it, even for a secular matter, but if his name is not forgotten, they may not change it for a secular matter. But for the matter of a mitzvah, they are able to change it. These words apply to a Jew, but if a non-Jew donated, provided that his name is not forgotten, it is forbidden to change it even for the matter of a mitzvah. Maimonides wrote, a priori they do not accept from a non-Jew who donated for the need of repairing [(maintenance)] the Temple, but if he already gave it, they do not return it. However, for a synagogue they accept from him a priori. He (the non-Jew) should say, "According to the thought of the Jews, I set it aside." If he did not say this, it has to be hidden, lest in his heart he think of idolatry.

CHAPTER TWO: IMPORTANCE OF TZEDAKAH AS A JEWISH PRINCIPLE

What is tzedakah? Tzedakah is a traditional Jewish concept that includes giving charity to the poor, but goes even further. Tzedakah is not a favor to be done for the underprivileged. Rather, it is a Jew's obligation. Dr. Yitzchak Spector defined it as "liberality, an expression of love, or an act of kindness and [it] implies the giving of material and spiritual aid where needed."<sup>3</sup> Kaufmann Kohler considered Jewish charity to be "righteousness in so far as God, the giver of all blessings, claims from His gifts a share for the poor, and, as the actual owner of the land, claims certain portions of the produce for the fatherless and the widow, the Levite and the stranger."<sup>4</sup> Another definition is offered by Maimonides in his Guide for the Perplexed, when he stated that the term tzedakah "denotes the act of giving everyone his due, and showing kindness to every being according as it deserves...we do perform an act of tzedakah when we fulfill those duties

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<sup>3</sup> Itzehak Spector, The Ethics of The Shulchan Aruk (Tacoma, Washington, 1930), p. 49.

<sup>4</sup> KaufmannKohler, "Charity", The Jewish Encyclopedia (New York, 1936), III, p. 667.

towards our fellowmen which our moral conscience imposes on us." <sup>5</sup>

The term tzedakah originally meant righteousness, justice, and equity. The Rabbis (of the Talmudic period) felt, if the poor are not provided for properly, there is no tzedakah. Considering this principle to be of fundamental importance, the Rabbis developed an elaborate system of laws and responsibilities encompassed under their understanding of tzedakah.

Since a number of these laws derived from the "Tanach," it is worthwhile to glance at the Biblical system of benevolence. Whereas our early ancestors primarily lived in an agricultural society, it is to be expected that their system of aiding the poor revolved around the produce of the field. The farmer was obligated to leave three portions of the harvest for the poor. According to the law of Leket, gleanings, (Leviticus 19:9-10) the farmer was not to retrieve those ears of corn that fell while reaping; they were to be left for the poor. The provisions known as Shichchah, forgotten produce, (Deuteronomy 24:19), entitled the stranger, fatherless, and widow to

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<sup>5</sup> Jacob S. Minkin, The World of Moses Maimonides (New York, 1957), p. 369.

the sheaves forgotten in harvesting. According to Peah, corners, (Leviticus 19:9) one must leave a corner of the field to the poor and the stranger. In addition to these three statutes, the poor also had a claim on part of the ma-aser, tithe, (Deuteronomy 14:29). Two other Biblical provisions, Shemitah, the Sabbatical year, and Shenat ha-Yovel, the Jubilee year, benefited the poor. In the system of Shemitah, every seventh year the poor were released from their debts. Moreover, the land was to lay fallow and only the poor could derive sustenance from it (Exodus 23:11). In Leviticus, Chapter 25, the conditions for the Jubilee year, which occurs every fifty years, are set forth. Among others, there are stipulations for freeing defaulting debtors and liberating all Jewish slaves included in these laws.

Ephraim Frisch credits the Bible with a four-fold contribution in laying the groundwork for our vital concept of tzedakah: First, in regard to tzedakah the Bible possesses an ethical fervor especially seen through the prophets; second, Jewish Biblical law was the first to make charity a human obligation for every person; third, it established a defined set of obligatory charitable measures; and fourth, charity was viewed as the inalienable right of the poor in creating a system of true justice—

tzedakah. <sup>6</sup>

During the Talmudic period the complex system of laws concerning tzedakah, as they appear in the later codes, was largely formulated. Whereas agriculture no longer dominated the society as it did in the Biblical era, and pressure to adhere to the Torah injunctions were no longer derived from the King, the priests, and the prophets, the Rabbis felt it incumbent upon them to update the laws in accordance with their times. With the Commonwealth defeated, the Temple destroyed, and prophets not to return, a new authority structure emerged. First the Pharisees, and later the Talmudic rabbis, exerted their influence based on a knowledge of Torah and a concern to establish a system of mitzvot that assured proper behavior for the good Jew. Beginning with the skeleton framework in the Tanach the Rabbis worked out an elaborate set of laws applicable to their new conditions. Within this adapted structure, responsibility for caring for the poor shifted. George Foot Moore observed, "The relief of the poor was not left wholly to the benevolence of individuals; the community assumed its

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<sup>6</sup> Ephraim Frisch, Jewish Philanthropy in the Biblical Era (Cincinnati), p. 29-30.

obligation to care for those permanently or temporarily in need.<sup>7</sup> Specifications were explicated for Biblical provisions such as Peah and Shemitah. Incidentally, an entire tractate of Talmud is devoted to an elaboration of Peah alone. In those Biblical passages which refer to tzedakah denoting only righteousness, the term is re-interpreted as charity. Examples include: Isaiah 54:14a, "through tzedakah thou shalt be established;" and, Proverbs 21:3, "To do tzedakah and justice is more acceptable to the Lord than sacrifice."

Fundamental to the Talmudic system of tzedakah was the method it developed for the collection and distribution of funds. Two trustworthy men, at minimum, were appointed to be Gabbaim, [literally, collectors]. These men gathered the necessary funds for the Kupah, (basket), every Erev Shabbat. Prior to Shabbat, at least three collectors distributed to those residents who lack sufficient sustenance for the coming week funds to provide for fourteen meals. In addition to Kupah, three other Gabbaim collected Tamchui, [dish], each evening. These provisions went to those poor, both residents and strangers, in need of

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George Foot Moore, Judaism (Cambridge, 1958), II, p. 174.



meals for the coming day. Much of the detail concerning alms for the poor evolved in the Mishnaic period. Moore comments,

"...the system was well-established and familiar at the end of the second century, and evidence makes it probable that it was organized or re-organized under Shimon ben Gamliel and the scholars who gathered around him in Galilee after the war under Hadrian. For the preceding period our sources give but scanty intimations. For the second century they are ample." <sup>8</sup>

Thus, it can be concluded that caring for the poor was considered just as important during the Talmudic era, particularly the Tannaitic stage, as in Biblical times.

Following the Talmudic Age, the true meaning of Diaspora became apparent. Jewish communities were spread out from Persia to Spain to Germany. Although these communities usually remained autonomous in religious and legal authority, new circumstances posed problems not specified in the Talmud. In Persia, for a time, Geonim, "geniuses" (heads of the academies) proved competent in handling the complex legal difficulties. However, many communities were isolated and, therefore, dependent upon regional Jewish authority to solve religious problems. The Illustrated History of the Jews remarks, "In the Rhineland and in France and Germany we already find in the

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<sup>8</sup> George Foot Moore, *Judaism* (Cambridge, 1958), II, p. 174.

Twelfth Century that the [Jewish] community ordains that its territory as a sphere of jurisdiction is to be considered an independent, closed, legal entity, and anyone entering it is bound to appear before its court and obey its decision." <sup>9</sup>

The Middle Ages saw a period of more intense persecution, greater dependence on fellow Jews within the community, and a wider range of wealth and poverty amongst Jews. Again, conditions modified the system of charity. Laws concerning redeeming the captive were elaborated and sharpened in order to relate to the critical times. This became a most serious problem particularly when Barbary pirates captured numbers of Jews expelled from Spain and Portugal. Many communities of this age found it necessary to alter the form of Kupah and Tamchui. Kupah collection in some areas were no longer weekly, but monthly or three times a year. As for Tamchui, the noted scholar Israel Abrahams asserts,

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<sup>9</sup> Benjamin Mazar and Moshe Davis, eds., The Illustrated History of the Jews (Jerusalem, 1963), p. 194.

"The Tamchui or daily distribution of food continued in many congregations, but it was gradually superseded by three other methods, a) the reception of poor travelers in the homes of the rich, b) the provision for vagrants in communal hostelries or inns, and c) the benevolent activity of special societies formed for the succour and entertainment of the resident poor and of strangers." <sup>10</sup>

It became common practice for Jewish communities to extend a helping hand to indigent Jewish travelers. To provide for these people and others in need, Chevrot, agencies were established. It has been stated, "In the Thirteenth Century charitable societies were organized all over Europe for supporting and clothing the poor, for the education of the children of the poor, for endowing poor maidens, for nursing and educating orphans, for visiting the sick and lying-in women among the poor, for sheltering the aged, for free burials, and for the ransom of prisoners."<sup>11</sup> These charitable societies were not fully established until the Sixteenth Century. At

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<sup>10</sup> Israel Abrahams, Jewish Life in the Middle Ages (New York, 1958), p. 311.

<sup>11</sup> Kaufmann Kohler, "Charity", The Jewish Encyclopedia (New York, 1936), III, p.670.

this time Jews of Europe were in the throngs of severe poverty. Consequently, fewer rich were then bearing a greater percentage of the burden. Moreover, efficiency in matters of tzedakah was of the essence. Hence, the dispersed Jewish communities, of necessity, responded to the demands upon them. As in Biblical and Talmudic times, the principle of tzedakah remains extremely significant during the Middle Ages.

The concept of tzedakah developed in response to particular periods, and, in doing so, reflected the lifestyle of each specific time. The agrarian Jew in the Bible understood the Torah as divine revelation given to Moses who transmitted it to his people. Its laws, being divine commandments, were not to be challenged. Those references to charity by the prophets are worded forcefully to urge the people to carry out God's will—in this instance, provision for the poor. Thus, the Torah and in turn the entire Tanach presented both irrefutable, divine legislation and dramatic homily for those who espoused the Bible as their guide for living.

The urbanized Jews of the Talmudic period looked to their scholars for an elucidation of the Oral Law which Moses handed down along side the Written Law. The Rabbis saw as one of their missions the building of a fence around the Torah. The elaborate Oral Law assured that

no Jew would transgress a mitzvah. Tzedakah, being a mitzvah required careful attention. Since the Talmud is a large collection of discussions whose primary concern was neither brevity nor organization, statements about tzedakah are scattered. Moreover, mention of tzedakah appears frequently in Tosefta and Midrashim. Though future generations rely heavily upon the Talmud, new problems continued to provoke questions. Scholars, like the afore-mentioned Geonim of Persia answered these questions within the format of the Responsa. This remains, until today, the most satisfactory method of handling difficulties of this nature. Although the Talmud is consulted as the authority, the rabbi uses his own judgement in applying the text to the situation. Rebecca B. Marcus states, "Many of the Talmudic laws were never considered absolute and unchangeable. Where possible, rabbis in authority adjusted these laws to fit the conditions of the times in which they lived." <sup>12</sup> The distinguished scholar, Salo Baron points out that skilled medieval scholars were capable through dialectical

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<sup>12</sup> Rebecca B. Marcus, Moses Maimonides: Rabbi, Philosopher, and Physician (New York, 1969), p. 59.

interpretation, to deduce almost anything they desired from the Talmud.<sup>13</sup> As situations arose, new regulations-takkanot-were declared. Confusion emerged due to conflicting interpretations in the responsa, takkanot, and customs.

A codification of all this material became a necessity if order was to be brought to Jewish Law. Moses Maimonides (1135-1204) compiled the Mishneh Torah as a comprehensive code to obviate the need for other texts. In brief style and clear Hebrew, he set down unilateral, undocumented decisions for the full range of Jewish laws, even those dealing with the Temple. In spite of certain criticisms, it was accepted—primarily amongst Sefardic communities. However, within two centuries, even the Mishneh Torah was considered obsolete. The Arba-ah Turim, authored by Jacob ben Asher (1280-1340) became the code of its era. This work updates the laws of citing recent scholars and considering minhagim he had observed in both Ashkenazic and Sefardic lands. Jacob ben Asher chose to present the

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<sup>13</sup> Salo Wittmayer Baron, A Social and Religious History of the Jews (New York, 1937), II, p. 124.

various opinions and leave the decision to the interpreter. The expulsion of the Jews from the Iberian Peninsula and the resultant dispersion created greater confusion regarding Jewish practice. This tragedy undermined the power of the minhag ha-makom, the custom of the country, which until then had always been given recognition.<sup>14</sup> A new code was required.

Joseph Caro (1488-1575) met the demand with the Shulchan Aruch, a clear, practical guide for all. Only after Moses Isserles (1529-1572) added his hagahot [notes]-referred to as Mapah - which took into consideration the Ashkenazic minhagim, was the Shulchan Aruch finally accepted as a universally authoritative Jewish code. Each type of literature, which treated the laws of tzedakah from the Tanach through the Talmud to the Medieval Codes responded appropriately to its era.

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<sup>14</sup> Louis Ginzberg, "Codification of Law," The Jewish Encyclopedia (New York, 1936), VII, p. 645.

### CHAPTER THREE: SOCIAL, HISTORIC, AND ACADEMIC INFLUENCES ON THE CODIFIERS

It is worthwhile at this point to focus on the social, historic, and academic influences which played on the particular codifiers. Moses ben Maimon (also called Maimonides and Rambam) was born Erev Pesach, 1135, in Cordova, Spain. Although this city no longer retained the glory of its past, Cordova still ranked among the centers for Jewish learning and authority. Moses' father Maimon encouraged his son to study not only Torah and Talmud, but science and philosophy as well. Moses grew up learning Talmud through the eyes of Alfasi and Ibn Migash, while discovering the mysteries of science and philosophy through the works of the ancient Greeks as well as Medieval Arabs and Jews. Nowhere in his writing does Maimonides acknowledge the teachers in his formative years by name. The claim that Rabbi Joseph Ibn Migash personally taught the young Maimonides Talmud while Ibn Roshd (Averroes) explained philosophy to him is most unlikely. Max Felshin, refuting this legend which appears in Kore-ha-dorat by David Comforte, points out that even though these eminent scholars had lived in Cordova, Ibn Migash died while Maimonides was still a child and



it was not until much later after Maimonides left Spain that the purported student became acquainted with the works of Ibn Roshd.<sup>15</sup>

In 1148, Cordova fell to a fanatic group of Moslums known as the Almohades. Rather than conform to the demands of the Almohades, Maimon, faithful to Judaism, fled. After more than ten years of wandering through Spain, the Maimon family settled in Fez, Morocco. Maimonides revived the conciliating Jewish community of Fez and urged them: "Go to a place where we can fulfill the Law without compulsion and without fear."<sup>16</sup> The Maimon family moved on to Eretz Yisrael in the year 1165. This area, generally referred to as Palestine at this time, was in Christian hands. Maimonides found the atmosphere for the unfortunate Jews unwholesome and lacking "intellectual comradeship for him."<sup>17</sup> Eventually, the family settled in Fostat, a suburb of Cairo, Egypt. This lo-

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<sup>15</sup> Max Felshin, Moses Maimonides (New York, 1956) p. 5.

<sup>16</sup> David Yellin and Israel Abrahams, Maimonides (Philadelphia, 1903), p. 48-49.

<sup>17</sup> Ibid., p. 53-54.

cation contained three thousand Jewish families, three times the number in Eretz Yisrael. Following the deaths of his father and brother, Maimonides turned from the vocation of commerce to that of medicine, while maintaining his avocation of Jewish studies. With Siraj, a commentary on the Mishnah completed in 1168 (which includes the Thirteen Principles of Faith), Maimonides established himself as a scholar. The following year, Saladin became Vizir over Egypt. Victorious in battle, he retook much of Eretz Yisrael. As for the land wherein Maimonides resided, it has been said, "The most brilliant period in the Moslem rule over Egypt coincides with the twenty-four years of Saladin's domination (1169-1193)." <sup>18</sup> Maimonides' esteem increased throughout this period. By 1177, he was recognized as the official head of the Jewish community of Cairo. In addition to responsa, he completed the Sefer Mitzvot which enumerates and explains the 613 mitzvot. His greatest work, the Mishneh Torah was completed in 1180. Maimonides was appointed as physician to Alfadhel, the Vizir of Egypt. He remained in this

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<sup>18</sup> David Yellin and Israel Abrahams, Maimonides, (Philadelphia, 1903), p. 115.

capacity for thirty years, until his death. Another dimension of himself was revealed when he completed The Guide for the Perplexed in 1190. Writing for "thinkers whose studies brought them into collision with religion," he showed the reader that through reason the Philosophy of Aristotle could be brought into harmony with Judaism. Thus, we see that the great codifier of Halachah for the Jewish masses, also served as the metaphysician for Jews of a philosophical bent. Maimonides' talents were indeed extensive. Jewish law, medicine, astronomy, history, philosophy, ethics, theology, and metaphysics were all fields in which he achieved excellence. Few men in Jewish history attained the stature and influence of Moses Maimonides.

Jacob ben Asher, the next prominent codifier, led a life quite different from that of Maimonides. Born in Germany in 1280, Jacob ben Asher was the third son of the eminent Talmudic scholar Asher ben Yechiel, the Rosh. Unlike the versatile Maimonides, Jacob ben Asher was learned only in Jewish law. Studying primarily under his father, Jacob ben Asher was essentially a product of the German School.

The Ashkenazim of Germany are known for being more rigorous in regard to halachah. In fact, it has been

noted that the cultures of both Christians and Jews in the Ashkenazic countries have "developed on parallel lines of ascetic tendencies and moral austerity." <sup>19</sup> From the beginning of the Thirteenth Century, German scholars began to excell beyond their esteemed predecessors of the Northern French school from which they derived. The historian and social commentator Salo Baron remarked, "It is no mere chance that the Babylonian Halakah growing out of a society in many ways feudalistic, spread its tentacles most easily in Northern France and Germany, where feudalism was supreme and Jewish corporate life purest." <sup>20</sup> The rabbis immersed themselves in study of the Babylonian Talmud. Meir ben Baruch of Rothenburg (1220-1293) was acknowledged to be the most distinguished Talmudic authority of his day. Concerning tzedakah, Meir of Rothenburg proclaimed, "The poor have a positive claim upon the money coming from the tithe in accordance with a

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<sup>19</sup> Benjamin Mazar and Moshe Davis, eds., The Illustrated History of the Jews (Jerusalem, 1963), p. 211.

<sup>20</sup> Salo Wittmayer Baron, A Social and Religious History of the Jews (New York, 1937), II, p. 118.

custom prevalent in the entire Diaspora." <sup>21</sup> Moreover, he once proclaimed that a donation to charity is preferable to a gift to a synagogue. Meir of Rothenburg wielded considerable influence not only in his own right, but also through his two outstanding students, Mordecai ben Hillel and Asher ben Yechiel, who brought his impact on them to the Slavic countries and Spain respectively. Although Asher ben Yechiel exhibited the Tosafist method he possessed a better sense of order than others of his school. <sup>22</sup>

Though he had once prospered in Germany, Asher ben Yechiel moved his family from their homeland, in 1303, apparently due to persecution. In 1305, after a short stay in southern France, the family moved on to Toledo, Spain where, upon the recommendation of Solomon ben Adret, Asher ben Yechiel was asked to serve as rabbi. At that time there were few Talmudic scholars in all Spain. Asher ben Yechiel along with his eight sons succeeded in transplanting from Germany to Spain "that spirit of honest, but tormenting, narrow-minded and intolerant piety; that gloomy disposition which regards even harmless joy as a sin; that feeling of abjectness, which

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<sup>21</sup> Ibid., II, p. 99.

<sup>22</sup> Heinrich Graetz, History of the Jews (Philadelphia, 1956), IV, p. 35.

characterized the German Jews of the Middle Ages." <sup>23</sup> Moreover, they shifted the Spanish Jews from a study of scientific knowledge and philosophy to study of Talmud exclusively. It is not incongruous that Asher ben Yechiel was involved in excommunicating philosophic thought and science in his day. Anyone found reading Maimonides' Guide for the Perplexed was subject to Cherem. He even opposed Maimonides' Mishneh Torah, which he felt weakened the dayan's reliance on Talmud. Nevertheless, his halachot, written in Spain, show influence of the Spanish School, and were based on the work of Isaac Alfasi, a North African.

Jacob ben Asher lived in Toledo at a time when it claimed to be the largest Jewish community in all Spain. As capital of Castille, in Central Spain, it was the largest city in the country. At the height of Toledo's prosperity, Jews accounted for about one-third of the city's population, which was then over 40,000. <sup>24</sup> With the arrival of the family of Asher ben Yechiel, Toledo became a center for Talmudic study.

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<sup>23</sup> Ibid., IV, p.51

<sup>24</sup> Haim Beinart, "Toledo", Encyclopedia Judaica (Jerusalem, 1971), Vol. 15, p. 1199.

Although little is known about Jacob ben Asher's personal life, we can deduce that he led a modest life, adhering strictly to traditional practice. The historians Margolis and Marx contend, "He was simple in his religious beliefs, humble and contented, charitable to his fellow-men."<sup>25</sup> Although he himself lived in poverty, he was deeply concerned with tzedakah. The sons of Asher ben Yechiel all agreed to contribute a tithe of their income to the poor. In the Testament of Judah Asheri the terms of their formal promise are given:

"We, the undersigned, accept an ordinance which we have in the handwriting of our father, Rabbi Asher, and which he worded thus:...Seeing that in the land whence we are come hither to Spain, our forefathers and our fathers' fathers were wont to set aside for charitable purposes a tithe of all their business profits, in accordance with our sages prescription, we hereby undertake to follow in their footsteps." <sup>26</sup>

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<sup>25</sup> Max L. Margolis and Alexander Marx, A History of the Jewish People, (Philadelphia, 1927) p. 439.

<sup>26</sup> Israel Abrahams, Jewish Life in the Middle Ages, (Philadelphia, 1958), p. 320-321.

In 1317, Jacob and his brother, Judah, were appointed by their father to be the treasurers for the money which their family gave in tzedakah. When their father died in 1327, it was Judah, also a distinguished Talmudist, not Jacob, who took his father's place as rabbi.

Jacob ben Asher, although a money-lender by trade, established a reputation for his vast Talmudic knowledge. In addition to serving his community as a dayan, Jacob ben Asher wrote significant works on halachah. He drew from both his intense exposure to the German school in his formative years, and his familiarity with the Spanish scholars. Thus, he was able to bridge the gap between the austere Ashkenazim and the more lenient Sefardim. Another asset was his knowledge of minhagim acquired in observations he made while wandering through Europe. His first halachic work Sefer Ha-Remazim includes a number of decisions derived from his father. Jacob ben Asher's magnum opus is the Arba-ah Turim. The Tur (as it is frequently called) included only those laws that were practical. Graetz remarked, "His sole merit consists in the fact that he brought the chaos of Talmudical learning into definite order, and



satisfied the need of the time for a complete code of laws for religious practice."<sup>27</sup> Thus, the life and career of Jacob ben Asher, the "Baal ha-Turim", differed considerably from the time, setting, and experiences of the codifier par excellence Moses Maimonides.

In 1492, the once thriving Jewish community of Spain came to an end, with the expulsion notice. Many Spanish Jews, such as the Caro family of Toledo, went to nearby Portugal, only to be expelled from there five years later. Of the 300,000 exiles from the Iberian Peninsula, many, including the Caros found refuge in the fledgling Ottoman Empire which welcomed their talents, especially in the realm of international trade.

At age nine, young Joseph Caro arrived in Nicopolis, where he remained until 1520, when he turned thirty-two. In his early formative years, Joseph studied with his father Ephraim, a distinguished Talmudist. Prior to leaving his Turkish home, Caro was caught up in a duality of ideologies, not uncommon for this time of upheaval and confusion. On the one hand, he was the legalist who

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Heinrich Graetz, History of the Jews (Philadelphia, 1956), IV, p. 88.

expressed his expertise in the Keseeph Mishneh, a commentary on the Mishneh Torah of Maimonides; on the other hand, he was aware of being possessed by a magid, a personal heavenly advisor. From 1520 through 1534, Joseph Caro resided in Adrianople, where he rose to the stature of Chief Rabbi. Here, in 1525, Caro met the mystical herald of the Messiah, Solomon Molcho. "At Adrianople, Molcho converted to the Kabbala the sober-minded Joseph Karo, who had....hitherto busied himself entirely with Talmudic learning."<sup>28</sup> When Molcho was burnt to death in 1532 by the Italian Inquisition, Joseph Caro yearned to be a martyr. Caro began receiving more frequent visits from his magid who now urged him to go to the city of Safed. On his way to this mystical city in the Galilee, Caro spent two years in Salonica, where undoubtedly he availed himself of the abundant rabbinic libraries and renowned scholars. Already a distinguished halachist, and imbued with a mystical mentor, Joseph Caro arrived in Safed in the year 1536. At the time, he was forty-eight years of age.

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<sup>28</sup> Ibid., IV, p. 496.

How is it that Safed, relatively unheard of in Biblical and Talmudic times, came to be the most populous city in Palestine and even outranked Jerusalem in the world of Jewish scholarship? Several factors contributed to this. The peacefulness of the Galilee attracted many. Also, the Jews of the Sixteenth century enjoyed a friendly relationship with the Ottoman Turks who defeated the Mamelukes and took control of the area. This friendly atmosphere assured greater safety for Safed. During the 1520's and 1540's many Spanish Jews flocked to Safed. When Caro arrived in 1536, there were already 1,000 Jewish families. By the 1560's there were close to 10,000 inhabitants of Safed. In addition to the successful agricultural villages which surrounded the city, the cloth-producing industry flourished. Financial prosperity helped establish better conditions for the scholarly class. While high taxes were being imposed on the Jews of Jerusalem, the scholars of Safed received tax-free status. Joseph Caro even wrote that the Yeshiva was filled with students, for scholars, unconcerned about work or money, could devote all their time to study. <sup>29</sup>

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<sup>29</sup> Haim Dimitrovsky, "Rabbi Yaakov Berab's Academy," Sefunot, (Jerusalem, 1962), Vol. 7, p.10.

Safed attracted mystics for two other reasons. The first is its proximity to Mount Meron, where the Second Century Tanna Shimon ben Yochai is buried. This early mystic was presumed to be the author of the Zohar. The second reason stems from the prophecy suggested in many essays on the Zohar and in Midrashim that the Messiah will begin his mission in the Galilee.<sup>30</sup> With messianic fervor active at this time, many mystics wanted to be on hand to receive the Messiah. Thus it is that in the Sixteenth Century, the leading rabbis, scholars, and mystics chose to settle in Safed.

When Caro arrived, Rabbi Jacob Berab was the leading scholar and the head of the Jewish community of Safed. He attempted to reinstate<sup>the</sup> s'michah, ordination, and had twenty-five Safed rabbis ordain him. Afterwards, he ordained four others, including Joseph Caro. This project proved abortive when it met resistance from Rabbi Levi ben Chaviv in Jerusalem. Following Berab's departure from Safed in 1538, Joseph Caro became the recognized leader of Safed Jewry. His signature heads those of his colleagues in most contemporary documents and responsa.<sup>31</sup> He was also chairman of the Bet Va-ad

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<sup>30</sup> Dr. Tamar, Ir Ha-kodesh Tzefat (Israel, 1965), p. 3.

<sup>31</sup> R.J. Zwi Werblowsky, Joseph Karo, Lawyer and Mystic (Cambridge, 1962), p. 126.

and head of the Yeshiva. Two-hundred-ninety fully qualified rabbis congregated in Safed under Joseph Caro's leadership, and consented to all his final decisions. <sup>32</sup> In Caro's immediate circle there were the foremost halachists and Kabbalists of their day. Moses Alshech, a student of Caro, headed the rabbinic court in Safed. Alshech regarded Kabbala as the highest stage of the study of the Law. Another friend of Caro was Solomon Alkabez, the ascetic Kabbalist who composed "Lecha Dodi". Another, Moses Cordovero presented the Zohar as a rational, philosophical system. Isaac Luria, the Ari came to Safed in 1570, when he was thirty-six and died several years later. The elderly Joseph Caro was never able to grasp the further <sup>ure</sup> dimensions of Lurianic Kabbala, for, it is said, he would fall asleep at such lectures. Nevertheless, Caro and Luria held each other in mutual admiration. In addition to outstanding halchists and Kabbalists, Safed maintained a number of chevrot for the purpose of promoting piety. Indeed, Safed during the Sixteenth Century was a community imbued with a level of religious fervor rarely equalled.

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<sup>32</sup> Itzhak Ben-Zvi, "Eretz Yisrael Under Ottoman Rule, 1517-1917" The Jews, Their History, ed. Louis Finkelstein (New York, 1949) p. 126.

In such a rich spiritual milieu, Joseph Caro completed two important works. The Bet Yoseph was Caro's masterpiece. When it was published in 1551, it was acclaimed the most profound legal code ever put together. In this project, Caro traced for the rabbis and dayanim the halachah from the Talmud to the Responsa of his day. He summarized the arguments and presented his final ruling.

Though Caro regarded the Bet Yoseph as his greatest accomplishment, it was the Shulchan Aruch that became the dominant code. Its influence is still felt today amongst traditional Jews. The Shulchan Aruch, composed primarily for the layman, contains the conclusions found in the Bet Yoseph, but expressed in a clear, simple manner. Joseph Caro, ha-m'chaber, the author, was a product of his time, being both a halachist and a Kabbalist. Nevertheless, in preparing his codes, he sublimated the mystical element of his personality. Baron points out, "In his entire code he yielded to the authority of the Zohar on only a few insignificant modifications of Talmudic law." <sup>33</sup>

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<sup>33</sup> Salon Wittmayer Baron, A Social And Religious History of the Jews (New York, 1939) II, p. 139.

And so it was, the Sixteenth Century responding to the expulsion from the Iberian Peninsula, engendered both confusion and subsequently a new spirit of religious zeal amongst Jews. Nowhere was this felt more than in Safed, where the greatest codifier of his day Joseph Caro compiled the Shulchan Aruch, a practical guide whose purpose was to once again bring order and unity to Jewish law.

It was Moses Isserles (1525-1572), a contemporary of Joseph Caro who is largely responsible for the popularity now received by the Shulchan Aruch. Moses Isserel-Lazarus was born into a well-to-do Polish family circa 1525. His father, a Talmudic scholar in his own rite, sent Moses to the Lublin Yeshiva where he studied until 1549. Along with Talmud and Codes, Moses Isserles also studied philosophy, astronomy, and history. Possessing a universal outlook and familiar with The Guide for the Perplexed, Isserles was nicknamed the "Maimonides of Polish Jewry." Indeed, his written works extend beyond halachah into philosophy and science. Isserles preferred philosophy to Kabbalah because of its intrinsic logic. Nevertheless, he stated, "the words of the Zohar were given on Sinai." <sup>34</sup> However, he qualified this statement by saying that Shimon ben Yochai's words

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<sup>34</sup> Salo Wittmayer Baron, A Social and Religious History of the Jews, (New York, 1937), II p. 139.

should carry no more weight than they do in Tannaitic literature. It should be understood that where Kabbalah conflicted with halachah, the latter always took precedence.

Moses Isserles eventually became de facto chief rabbi of Cracow. In 1550, he was made a member of the Bet Din. Soon, the friendly, yet humble rabbi was prominent in the Council of the Four Lands. Indeed, his reputation as an eminent halachist was worldwide. Although there was friction with non-Jews in the Fifteenth Century, Cracow, the Polish capital (till 1609) enjoyed relative tranquility during Isserles' lifetime.

What was Moses Isserles influence on the halachah? In addition to a number of responsa, his two most important halachic works are Darchei Moshe and Mapah. Isserles wrote Darchei Moshe as a criticism of Joseph Caro's Bet Yoseph. Feeling that Caro relied too heavily on Sephardic scholars, Isserles brought out the arguments of the Acharonim (authorities after 1500) together with the Franco-German Tosafists. Moreover, Isserles stressed the importance of the minhag, the local custom, particularly those minhagim practiced in Poland. He



once said, "The minhag is law." <sup>35</sup>

When Isserles became aware of Caro's work on the Shulchan Aruch, he postponed his own code. Then after the publication of Caro's Code, ReMA, as Isserles was known, appended the Shulchan Aruch with his "hagahot" notes, —the Mapah. Taking the major conclusions from the Darchei Moshe, ReMA explained the distinctions found in Ashkenazic minhagim. Isserles' annotations made the Shulchan Aruch not only palatable for Sixteenth Century Poland, but enduring and universal amongst Orthodox Jewry.

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<sup>35</sup> M. Seligsohn, "Isserles, Moses ben Israel," The Jewish Encyclopedia (New York, 1936), VI, p. 679.

CHAPTER FOUR: DIFFERENCES IN THE MEDIEVAL CODES MISHNEH TORAH, ARBA-AH TURIM, AND SHULCHAN ARUCH

With the distinctions drawn between the various codifiers, it is now pertinent to focus attention on the major differences between the three great medieval codes: the Mishneh Torah, the Arba-ah Turim and the Shulchan Aruch. Analysis will be given to the following distinctions: author's purpose, selection of particular name, sources and authorities cited, arrangement of subject matter, style, and criticism and acceptance.

Maimonides organized the most comprehensive code, the Mishneh Torah. In its introduction, Maimonides enunciated his purpose:

"The laws of the Torah are all in clear language and concise form, so that the Oral Law may be completely familiar to all, without difficulty and without argument and answer--not one (sage) says thus and another says thus'--in order that no one will require another book to know a law of the laws of Israel.. I therefore call this composition "Mishneh Torah"--for a person who reads will know the whole Oral Law. And he will not need to read any other book." 36

Thus, in the Mishneh Torah Maimonides intended to present Jewish law in a form understandable to the layman.

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36 Benjamin Mazar and Moshe Davis, eds., The Illustrated History of the Jews, (Jerusalem, 1963), p. 213.

Put another way, "The fundamental purpose of all the halakic works of Maimonides was to bring system and order into the tremendous mass of traditional law and to promote the knowledge thereof by presenting it in a comparatively clear and brief form."<sup>37</sup>

Maimonides selected the name Mishneh Torah with the hope that Jews would consider it the second Law, Second Torah. He hoped this code of laws would obviate the need for any books other than the Torah. Yad Hahazakah, meaning the strong arm or great might, is a name given to the Mishneh Torah. The simple (peshat) connection is that Maimonides saw the Law as divided into fourteen sections. "Yud-Daled" which represents the number fourteen is also the word for hand. The phrase "ha-yad ha-hazakah" appears in the final verse of Deuteronomy. I suspect that on another level (derash) the person who renamed the code identified Maimonides with Moses.

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<sup>37</sup> Isaac Broyde, "Moses ben Maimon," The Jewish Encyclopedia, (New York, 1936), IX p. 82.

in Deuteronomy 34:12:

ולכל היד החזקה ולכל המורא הגדול אשר  
עשה משה לעיני כל ישראל

"And for all the great might ("Ha-Yad ha-hazaka") and awesome power that Moses displayed before all Israel."

Maimonides based his code on numerous sources. In his letter to Phinehas ben Meshullan, Dayan of Alexandria, and in his preface to the Mishneh Torah, Maimonides declared that his code rests upon the Babylonian Talmud, the Palestinian Talmud, Sifra, Sifre, the Mishnah, and the Tosefta.<sup>38</sup> It should be noted that for both Talmuds he used the Sephardic texts. In addition to the afore-mentioned sources, Maimonides drew from Geonim, whom he considered post-Talmudic authorities, be they Palestinian, Babylonian, French, or Spanish. These he referred to only to the extent of their authority, and even then he limited such references. Although Maimonides chose not to cite his sources by name, when he drew from the Geonim he usually phrased it, "The Geonim have decided, " or "There is a regulation of the Geonim." When referring to material from Alfasi or Joseph ibn Migash he began, "My teachers have decided." Incidentally, occasionally Maimonides included material

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<sup>38</sup> Abraham Cronback, The Maimonidean Code of Benevolence (Cincinnati, 1947) p. 471.

on thought or ethics that he derived from Greek or Christian sources. Hence, Maimonides wrote from the perspective of a vast knowledge.

For the purpose of clarifying the law for the layman, Maimonides gave straightforward decisions without disagreements and discussion. This is referred to as a book of Pesakim. In following this format, he sometimes found it necessary to formulate his own opinion and present it as law. In cases where it was obviously his opinion, he would say, "It appears to me that..." or "From this you can infer that..." Although his intention was to record the full scope of Jewish law, where he disagreed with a regulation in the Talmud, Maimonides either omitted it or gave a different interpretation based on a post-Talmudic source or his personal preference.

In the Mishneh Torah, Maimonides introduced a new arrangement of subject matter. Rather than follow the Talmudic organization of six orders and sixty-three tractates, he divided his code into an introduction and fourteen logically arranged sections. Living in an age of reason, he sought a topical-conceptual arrangement. Baron comments, "He gave considerable thought even to

the succession of chapters and sub-chapters; for he strongly believed that such orderliness had already guided Judah the Patriarch in his redaction of the Mishnah.<sup>39</sup> Within the Mishneh Torah's fourteen books are 83 "hilchot", 1,000 "perakim" (chapters), and 15,000 "halachot" (paragraphs of laws). Maimonides sought an order "that would not do violence to the subject matter and that would also be educationally sound."<sup>40</sup> Maimonides distinguished between practice and theory, but he included the full range of Jewish law, even those obsolete laws concerned with the Temple.

One of the finest features of the Mishneh Torah is the author's style. Maimonides chose to write in the beautiful, lucid Hebrew found in the Mishnah. He personally did not like Talmudic Aramaic, and he felt that Arabic or philosophical Hebrew would be unintelligible to the common Jewish reader. Likewise, he avoided the prophetic style of Hebrew because that would be inappropriate for halachot. Other aspects of his style are a quick tempo and a compulsion for brevity. The talented writing style of Maimonides influenced later

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<sup>39</sup> Salo W. Baron, "Moses Maimonides", Great Jewish Personalities in Ancient and Medieval Times, ed. Simon Noveck (Clinton, Massachusetts, 1959), p. 215.

<sup>40</sup> Isadore Twersky, A Maimonides Reader (New York, 1972) p. 17.

codifiers.

The Mishneh Torah received mixed reviews in its day. Max Felshin asserted, "Maimonides knew very well that his work would meet with the opposition of those whose ignorance it would expose, also of those who were incapable of comprehending it, and of those who were inclined to condemn every deviation from their own preconceived notions."<sup>41</sup> The most formidable criticism of the Mishneh Torah came from Abraham ben David of Posquieres. He opposed Maimonides new methods, especially his deviation from the Talmudic order and language. Moreover, he objected to Maimonides occasional preference of the Palestinian Talmud to the Babylonian. Two other charges leveled at Maimonides were: 1) Talmudic-Rabbinic and some other sources are not given, and 2) the author has the audacity to present his own opinion as law. Many feared that scholars would no longer learn Talmud and would rely merely on Maimonides' Code. Maimonides defended himself, asserting that he had no intention to undermine the Talmud. He further defended

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<sup>41</sup> Max Felshin, Moses Maimonides (New York, 1956) p. 16.

himself by claiming he only omitted the sources for the sake of brevity. In spite of the legitimate criticisms directed at this code, the Mishneh Torah won general approval, for it succeeded in giving the layman a clear, concise code on which to base a Jewish life. It has been attributed to him that, "Moses Maimonides was largely...the great awakener, reclamer and savior of his generation in the cause of traditional Jewish learning and observance." <sup>42</sup>

The two centuries following the publication of the Mishneh Torah witnessed considerable Talmudic study. With divergent minhagim developing and new rulings constantly being given, there was a crying demand for a new code. Jacob ben Asher took it upon himself to fulfill this demand with the Arba-ah Turim. In the introduction to "Tur Orach Chayim", Jacob ben Asher even stated that "he was induced to undertake such an immense work by a desire to establish a code suited to the requirements of the times." <sup>43</sup> Familiar with the scholar-

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<sup>42</sup> Max Fleshin, Moses Maimonides, (New York, 1956), p.I.

<sup>43</sup> Max Seligsohn, "Jacob ben Asher", The Jewish Encyclopedia (New York, 1936), VII, p. 28.



ship and customs in both the Ashkenazic and Sephardic worlds, Jacob ben Asher was the right person for this endeavor. He classified the entire practical halachah of his day in a convenient and orderly form.

The title Arba-ah Turim refers to the four rows or columns of jewels that the high priest wore on his breast-plate. Each division or Tur deals with a different branch of the halachah. The first Tur, "Orach Chayim" includes ritual laws related to daily conduct, prayer, the Sabbath and festivals. The second, "Yoreh Deah" concerns itself with lawful and unlawful religious, mostly ritual, practices (Isur and heter) including kashrut, ritual, purity, circumcision, tzedakah, visiting the sick, and mourning. "Even ha-Ezer", the third Tur, concentrates on marriage and divorce. The last Tur, "Choshen Mishpat", deals with civil and criminal law. Within the four Turim, laws are categorized into hilchot. They are further broken down into Simanim, chapters. The units are smaller and more clearly defined than in Maimonides' Mishneh Torah. For the most part Jacob ben Asher's innovative arrangement of subject matter was appreciated for its simplicity, clarity, and suitability to the halachah. Nevertheless,

as Isadore Twersky points out, when comparing it to the Mishneh Torah, the Arba-ah Turim possessed a "lesser degree of logical analysis and abstraction, and did not hesitate to group disparate items together."<sup>44</sup> In format the Arba-ah Turim is both a book of Pesakim and a book of halachot. It resembles the former by giving the individual rules briefly, without going into detail about the sources or authorities referred to. It takes on a characteristic of the latter when it follows individual rules with short quotations presenting varying opinions. In this way the author struck a balance. Another feature in this work is the addition of ethical statements at the beginning of each Tur. This idea may have been derived from his predecessor, Maimonides. Unfortunately, Jacob ben Asher's writing style was neither as lucid as that in the Mishneh Torah, nor was his Hebrew as pure.

Upon which sources and authorities did the "Baal ha-Turim" rely? Whereas Maimonides primarily drew from Talmud, Jacob ben Asher referred more often to post-

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<sup>44</sup> Isadore Twersky, "The Shulchan Aruk: Enduring Code of Jewish Law," The Jewish Expression, (New York, 1970) ed. Judah Goldin, p. 331.

Talmudic authorities. Like his illustrious father, Rabbenu Asher, Jacob frequently followed the opinion of Alfasi. Nevertheless, when the North African scholar was challenged by Maimonides or other posekim, Jacob referred to the opinion of his father. He mentions this practice in the introduction to "Tur Choshen Mishpat." Thus, the major impact on the Arba-ah Turim came from Alfasi, Maimonides and Asher ben Yechiel. Jacob ben Asher also based his work on the code of a lesser known source. Sefer ha-Terumot by Samuel ben Isaac ha-Sardi. This code by the pupil of Nachamanides has been acclaimed by those familiar with it for its "lucidity of presentation, depth of thought, and mastery of material."<sup>45</sup> The Arba-ah Turim contains a good balance between Ashkenazic and Sephardic practice. Although the author was imbued with stringent Ashkenazic piety, only in "Tur Orach Chayim", do Ashkenazic authorities dominate. He even mentions the differences in custom for many instances.

In presenting the halachah, Jacob ben Asher briefly records the alternate views, and unlike the Rambam, he

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<sup>45</sup> Louis Ginzberg, "Law, Codification of," The Jewish Encyclopedia (New York, 1936), VII, p. 644.

refrains from giving his own conclusions. These decisions remain for the Rabbis. Nevertheless, it has been said, "Although he does not give a direct decision, the thoughtful reader may gather the opinion of the Tur from the way in which a point under discussion is presented." <sup>46</sup> Jacob ben Asher was not alone in his reluctance to pronounce law. Graetz commented, "The most famous rabbis of this period had so great a mistrust of their own powers that they no longer dared take an independent view of anything, and relied more and more upon the conclusions of older authorities." <sup>47</sup>

The Arba-ah Turim, meeting the needs of its time, met with great success. Although some Oriental communities favored the Mishneh Torah, Jews of the West, especially Germany, Italy, and Poland followed the Tur. (as the Arba-ah Turim was frequently called. Rabbis found it extremely practical and systematic. In 1475,

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<sup>46</sup> Louis Ginzberg, "Law, Codification of," The Jewish Encyclopedia (New York, 1936), VII, p. 644.

<sup>47</sup> Heinrich Graetz, History of the Jews (Philadelphia, 1956), IV. p. 86.

the Tur became the second Hebrew book published. Other than the Bible, it was the most popular Jewish work printed in the Fifteenth Century. For two-hundred years, the Arba-ah Turim was the standard code.

As previously stated, the Sixteenth Century, with the catastrophe of the expulsion and the confusion in its aftermath, required a code in which the laws were stated simply, briefly, and unilaterally. Toward this end Joseph Caro wrote the Shulchan Aruch. Earlier, Caro had compiled the Bet Yoseph an extensive and intensive examination of the practical halachot dealing with their Talmudic roots and conflicting interpretations. S. M. Lehrman felt, "His intention also was to sift and systematize the numerous local customs (minhagim) which had been introduced in Jewish centers as a result of the influx of refugees from diverse lands." 48

Twersky stated, "The stimulus [for writing the Bet Yoseph] was provided by the worrisome decline in scholarship."

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48 S.M. Lehrman, Rabbi Joseph Karo: His Life and Times (London, 1953), p. 16

49 Isadore Twersky, "The Shulchan Aruk: Enduring Code of Jewish Law", The Jewish Expression (New York, 1970), ed. Judah Goldin, p. 323.

In the Shulchan Aruch, Caro extracted from the Bet Yoseph only final laws as he understood them. He wanted the Shulchan Aruch, to be a practical code for all. The layman can discover proper Jewish behavior by merely studying the simple, concise laws. The dayan can use the code as a basis for deliberating cases, although he may need to refer to other halachic material. Thus, like the Mishneh Torah, Caro's code eliminated many differing opinions. Meanwhile, it resembled the Arba-ah Turim, in concentrating on practical laws.

Several conjectures have been offered as to why Joseph Caro selected the name Shulchan Aruch-Prepared Table. Leo Baeck suggests that "The Author" referred to the 23rd Psalm in which is found the verse: "Thou preparest a table before me in the presence of mine enemies."<sup>50</sup>

Isadore Twersky feels the title may derive from the verses in Mechilta on Exodus 21:1, "And these are the ordinances which thou shalt set before them. Arrange them in proper order before them like a set table (Shulchan Aruch)."<sup>51</sup>

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<sup>50</sup> Leo Baeck, This People Israel (Philadelphia, 1965), p. 301

<sup>51</sup> Isadore Twersky, "The Shulchan Aruch: Enduring Code of Jewish Law", The Jewish Expression (New York, 1970), ed. Judah Goldin, p. 322.

Twersky also asserts that Caro named it thusly "because in it the reader will find all kinds of delicacies fastidiously arranged and systematized and clarified."<sup>52</sup>

In the Shulehan Aruch, Joseph Caro relied on three pillars: Alfasi, Maimonides and Asher ben Yechiel. He would follow the opinion of two of them unless the majority of the later authorities supported the dissenter. Caro sought to pattern his code after the Arba-ah Turim rather than the Mishneh Torah, for several reasons. Firstly, as Louis Ginzberg notes, "He recognized that if his work was to be a universal codex, it must not be based on Maimonides' Yad ha-Hazakah, which entirely ignored the labors of the German-French school, but must be based on the 'Tur', which was highly regarded by both the Ashkenazim and the Sephardim."<sup>53</sup> Moreover, he wishes, like Jacob ben Asher, to include some of the research involved. Like the Arba-ah Turim, the Shulchan Aruch included the same four sections—Turim. Further breakdown contained 120 hilchot, 1,700 simanim, and 13,350 s'ifim. Joseph Caro both added and deleted topics and material from the Arba-ah Turim.

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<sup>52</sup> Ibid, p. 328.

<sup>53</sup> Louis Ginzberg, "Law, Codification of," The Jewish Encyclopedia (New York, 1936), VII, p. 645.

Of particular concern "the Shulchan Aruch pruned the Turim relentlessly exising midrashic embellishments, ethical perceptions and theoretical amplifications."<sup>54</sup> Like both his predecessors, Caro sought brevity and clarity in style. Caro's code is by far the most concise and terse. One Maimonidean technique Caro employed was occasionally presenting his own opinion as law. This he felt was necessary if his code was to be decisive.

The Shulchan Aruch received three forms of criticism. Firstly, scholars objected that sources and authorities were not cited. Secondly, how could Caro, like Maimonides, assume the authority to offer his own conclusions as halachah. The last criticism however, was the major obstacle that might have prevented the Shulchan Aruch's acceptance. Caro included a preponderance of decisions which followed Sephardic authorities and minhagim. To rectify this, the Polish Talmudist, Moses Isserles, wrote hagahot notes, to the Shulchan Aruch. He called his addition Mapah for it was to be a "tablecloth" to put on the "set table." As mentioned previously, Isserles was a firm believer that the "Minhag ha-makom," should prevail.

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<sup>54</sup> Isadore Twersky, "The Schulchan Aruk: Enduring Code of Jewish Law", The Jewish Expression (New York, 1970) ed. Judah Goldin, p. 332.



Shlomo Tal states, "In halakhah, Isserles strove to give to minhag (custom) the force of halakhah even where it had no halakhic source, and at times accepted a custom as binding even where it conflicted with the halakhah."<sup>55</sup> Furthermore, Moses Isserles resented that Caro's three pillars were Alfasi, Maimonides and Asher ben Yechiel. Therefore, he brought forward the opinions of the Franco-German Tosafists and the Ashkenazi rishonim (authorities prior to 1500) and Acharonim (authorities after 1500). Specifically, he reflected the rulings of Jacob Weil, Israel Isserlain and Israel Bruna, three machmirim (stringent Talmudists) who shaped Polish halachah. A number of Ashkenazic scholars opposed the fact that Isserles also relied on the more lenient rishonim. Nevertheless, Isserles' brief, yet decisive glosses, met general acceptance amongst Ashkenazim, even the German Jews who felt that he overly stressed Polish minhagim. Thanks to Isserles' Mapah, the Shulchan Aruch became the most popular code throughout the Jewish world.

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<sup>55</sup> Shlomo Tal, "Isserles, Moses ben Israel," Encyclopedia Judaica, (Jerusalem, 1971), Vol. 9, p. 1084.  
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## CHAPTER FIVE: TREATMENT OF LAWS OF TZEDAKAH IN THE THREE CODES

How do the three great medieval codes Mishneh Torah, Arba-ah Turim, and Shulchan Aruch differ in their treatment of the laws of tzedakah? Consideration will be given to the following topics: where in the code are the laws of tzedakah found; how does the order of laws differ; from where are the laws derived; how did the earlier codes influence the later codes; what is unique in each code; and what are the stylistic differences? The reader is urged to see Appendix B, where he will find charts depicting the laws of tzedakah in the three codes and from whence they derive. The arrangement follows the numerical system and arrangement found in both the Arba'ah Turim and the Shulchan Aruch. This was done a) because the major consideration is with the laws in the Arba-ah Turim which I translated, and b) since two of the three codes basically follow the same order.

Where in these codes are the laws of tzedakah found? In the Mishneh Torah, recall, there are fourteen books. The seventh one encompasses the Talmudic category of Zera-im (seeds). "Matnot Ani'yim" (Gifts for the poor) is the second section in Zera-im. Of the ten chapters

in "Matnot Aniyim" the first six deal with laws for the farmer, many of these, such as peah, were no longer appropriate for the majority of medieval Jews. Chapters 7 through 10, known as the Maimonidean Code of Benevolence, deal with the laws of tzedakah. In both the Arba-ah Turim and the Shulchan Aruch the "Hilchot Tzedakah" are found in "Tur Yoreh Deah," that section which includes lawful and unlawful ritual laws. In the later codes, the "Laws of Tzedakah" follow the "Laws of Talmud Torah" and are succeeded by the "Laws of Circumcision." In both codes the "Laws of Tzedakah" are found in Chapters 247-259. Each chapter is concerned with a different topic. (See Appendix B for the specific topics).

The laws of tzedakah in the Mishneh Torah follow a different order. Maimonides divided the laws into four chapters, whereas the other two codes contain thirteen. Chapter 7 in "Matnot Aniyim" primarily presents laws explaining how much one should contribute, and to whom he should give. Appearing in a slightly different order, most of this chapter is found in Chapters 247-251 in the other codes. Chapter 8 in "Matnot Aniyim" includes

a) laws stemming from the opening verse, "Tzedakah

belongs to the category of vows"; b) laws on redeeming captives; and c) a pecking order for distributing charity funds. Chapter 258 and 259 in the Tur and Shulchan Aruch deal with tzedakah as a vow. Laws for redeeming captives are covered in Chapter 252 in the later codes. And the order for receiving tzedakah could be found in Chapter 251 of Jacob ben Asher and Joseph Caro's codes. Thus, it is seen that Maimonides grouped three divergent topics within one chapter, whereas, the later codes rightfully treat them separately. Although Maimonides was guided by logic in assembling these laws, Jacob ben Asher developed a clearer system for diversion. Chapter 9 in "Matnot Aniyim" relates the Talmudic system of Gabbaim, Kupah, and Tamchui. Jacob ben Asher separated this material, covering it in Chapters 253, 256, and 257. Maimonides' last chapter on tzedakah cites Biblical verses dealing with tzedakah and then presents his eight levels of giving tzedakah. Maimonides eight degrees appear in the later codes in Chapter 249. This chapter as well as Chapters 247 and 255 include other laws in "Matnot Aniyim" Chapter 10. Regarding the arrangement of these laws, Maimonides and Jacob ben Asher both sought order and clarity. Considering the wide range of material covered, Jacob ben Asher did tzedakah more

justice by differentiating thirteen chapters rather than the four of his predecessor. By the way, it should be recognized that Maimonides deserves the credit for assembling the laws from the Talmud and post-Talmudic sources. For the laws of tzedakah, Jacob ben Asher merely sorted them out better. It has been said, "The great codifiers of the Middle Ages, Maimonides, Jacob ben Asher, and Caro, had a special task: Maimonides that of systematizing the law; Jacob ben Asher of sifting it critically; and Caro of unifying it." <sup>56</sup>

The sources and authorities these codifiers relied on have already been identified. In their treatment of tzedakah did they consult their particular guides? As to be expected, the majority of the tzedakah laws in the Mishneh Torah derive from the Talmud. Some even have their origin in the Palestinian Talmud. Incidentally, Maimonides is known to have taken liberties in translating material he includes. This makes it difficult at times to be certain of his sources. Two sections of Talmud from which he certainly drew are "Baba Batra" 9--10 and "Ketubah" 67--68. Moreover, he cites a number of relevant Biblical verses. An example taken from

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<sup>56</sup> Louis Ginzberg, "Law, Codification of," The Jewish Encyclopedia, VII, p. 647.

Midrash is found in "Matnot Aniyim" Chapter 10; "If a poor person asks of you tzedakah and you do not have anything to give, then speak to him consolingly." This quotation is from Leviticus Rabba XXXIV, 15. Maimonides' eight levels of tzedakah was an original idea. Nevertheless, four of the degrees have antecedents in "Baba Batra." Another resembles Sifra on "Behar." Maimonides also borrowed from his own work. In Chapter 8 of "Matnot Anivim" are to be found several passages which appeared in "Arakin 6. Needless to say, those laws which could not be traced to earlier authorities, are likely his own opinions.

Jacob ben Asher begins his laws of tzedakah by mentioning a number of relevant Biblical passages. It is interesting to note that the passage from Job 34:28 is quoted not in its Biblical wording but in that of the Sefardic ritual. He then announces to his reader, "I explain the entire matter according to what I found written under the name of Rav Saadia, and from the words of Rabbi Moses Maimonides with a few other views." This is in line with his practice of crediting previous authorities. On several occasions he says, "My master, my father of blessed memory, wrote in a responsum..." Jacob ben Asher's common practice was to offer the differing views without giving a decision. However, in the

laws of "tzedakah" there are few differing opinions. In one instance the Baal ha-Turim gives his own opinion when he overrules Maimonides by asserting that one always has the obligation to give, for there are poor people at all times.

Like Maimonides, Joseph Caro did not mention his sources. Nevertheless, since most of his laws of tzedakah are taken from the Tur and the Mishneh Torah, we can trace the majority of these to their origin in the Talmud. His dependence on the Mishneh Torah and his inclusion of Jacob ben Asher's statements by his father, substantiate Caro's use of two of his three pillars, namely Maimonides and Asher ben Yechiel. Like Caro, Moses Isserles omits his references. It is obvious though that he represents the Ashkenazic authorities, who are stricter. Whereas both Maimonides and Caro feel that Gabbaim need not submit records, Jacob ben Asher and Moses Isserles hold that they must submit accounts.

In the Arba-ah Turim, the laws of tzedakah are greatly influenced by the Mishneh Torah, and both works have considerable impact on the Shulchan Aruch. This can best be seen in Appendix B. Suffice it to say here, that nine-tenths of the tzedakah laws Maimonides assembled

from the Talmud and post-Talmudic works, also appear in the Arba-ah Turim and the Shulchan Aruch. Therefore, it will be more enlightening to see which laws are unique in each code.

Those laws of tzedakah which only Maimonides includes reveal something about his attitudes towards tzedakah. In Chapter 8 of "Matnot Aniyim" Maimonides states that conspicuous objects donated by non-Jews for the Temple must be returned. Moreover, gifts from non-Jews for the wall or water conduit of Jerusalem are not to be accepted. In the Mishneh Torah Maimonides presented the full scope of halachah including those obsolete laws pertaining to the Temple and Jerusalem. Jacob ben Asher and Joseph Caro, only concerned with practical laws, omitted these statements. A custom appearing only in the Mishneh Torah is, "Today it is a common practice for administrators of the "Kupah" to collect every day, but to disburse only on "Erev Shabbat". This minhag, which deviates from the Talmudic law, was apparently the custom of Twelfth Century Egypt. It was not the custom in Fourteenth Century Spain or Sixteenth Century Palestine and Poland.

Jacob ben Asher was innovative not just in his arrangement of laws of tzedakah, but also in several



additions he included. Besides the many Biblical verses and the citing of authorities; Jacob is the only codifier who charts for his reader in his opening chapter, which topics he will cover. When discussing one's obligation to the poor of his city, Jacob ben Asher draws an illustration about two hypothetical men, Reuben and Shimon, to make his point clear. The other codifiers, whose aim was brevity, did not attempt this. When commenting on Gabbaim, Jacob ben Asher, whose formative training was in the strict Ashkenazic school, adds, "If the collectors are not wise and fit for the task, they reject them, it is forbidden to give tzedakah through them." In one instance the Tur differs markedly from both the other Codes. Jacob ben Asher follows the Talmud when he states that when one resides in a city thirty days he should contribute to the Tamchui after three months, to the Kupah. Both Maimonides and Caro use the reverse—30 days for Kupah and three months for Tamchui, which derives from either "Tosefta Peah" IV, 9 or Alfasi on "Baba Batra" 8a. It could be that Maimonides and Caro were expressing the Sefardic minhag.

Joseph Caro included several laws not found in the earlier codes. In one case he remarks, "Supporting poor students or sick poor is more important than maintaining

a synagogue." Unlike the other codifiers, Caro headed a large Yeshiva. Therefore, he welcomed financial assistance for needy students. Moreover, Maimonides and Jacob ben Asher felt strongly that one should not make his living from the rabbinate. They even include in their codes, the verse, "It is better to strip the hides of beasts than say, 'I am a great scholar.'" Maimonides even goes into further detail. Caro on the other hand, simplifies the matter by saying, "Even a scholar should engage in an occupation (even an unpleasant job)." It may be that it is Caro's style to be brief and avoid detail, or, perhaps, he felt less adamantly about this because aiding scholars came into vogue in his day. In fact, Isserles remarked that even though the rabbi should not be maintained out of the charity fund, "gifts from individuals are perfectly honorable."

Redeeming captives became an important issue in Joseph Caro's time. Therefore, he found it necessary to expand these laws. One interesting new law was, "If a captive has property but does not wish to ransom himself, his ransom is paid against his will." Caro also includes new laws dealing with the "Gabbai". This one would likely be disputed by the earlier codifiers: "Gabbaim" do not have to support a poor person who has wealthy relatives. It is fair to say that laws and customs added

by Caro reflect changes that took place in his time.

Many of Moses Isserles "hagahot" had never appeared in the earlier codes. For example, in commenting on Maimonides' seventh level of charity, namely giving less than is fitting, but kindly, ReMA presented the Ashkenazic minhag, "one may have his name inscribed on anything he donates, as a remembrance, —in fact, it is the proper thing to do." An example of Isserles stressing the minhag is seen in this verse from Chapter 259, paragraph 2: "we follow the usual custom; for we presume that the donor make his donation subject to custom and that the authorities accept it with this condition at heart." To further visualize that material unique in each code, see Appendix B.

The codifiers' differences in personal style are prominent in their presentations of the laws of tzedakah. As expected Maimonides writes in a clear, beautiful, lucid, Mishnaic Hebrew. His concern for brevity is evident. In contrast, Jacob ben Asher's laws of tzedakah appear more systematic, but lack the flow of language. At times he is verbose. Unlike his predecessor, Jacob ben Asher cites some of his sources and even speaks affectionately about his father. In the Shulchan Aruch,

Joseph Caro writes his practical guide in a clear and simple form, easily understood by the layman. Following the same thirteen chapters in the Tur, Caro gives each a simple, topical heading. He subdivides each siman (chapter) into s'ifim (paragraphs). Caro deviates from the Mishnaic Hebrew of Maimonides, but is faithful to his style of concise and decisive language. Likewise, in his glosses, Moses Isserles is, as usual, terse and clear.

A glance at how the three codes treat one law will clearly show their differences in style. Quoting from Maimonides, "Matnot Aniym" Chapter 9:

מי שיש לו מזון שתי סעודות אסור לו ליטול מן התמחוי

Chapter 253 in Tur Yoreh Deah reads:

מי שיש לו מזון שני סעודות לא יטול מהתמחוי

and the corresponding verse in the Shulchan Aruch:

מי שיש לו מזון שתי סעודות לא יטול מהתמחוי

The verse from the Mishneh Torah is beautifully worded. It is more poetic when he says, "it is forbidden for him

to take" than the others who merely say "he should not take." Moreover, Maimonides separates the word min from Tamchui. The later codifiers chose the shorter, contraction form of changing the min to meh and appending it to ha-Tamchui. It is worthy of mention that on occasion Jacob ben Asher was guilty of misspellings or grammatical errors. Joseph Caro was aware of this and made the corrections. An example appears in this verse when Caro gave the correct adjectival form for two - shte after Jacob ben Asher incorrectly used the word - shne. Nevertheless, one can clearly see how the Mishneh Torah influenced the language of the Arba-ahrTurim and how these two had a direct impact on the Shulchan Aruch.

## CHAPTER SIX: CONCLUSION

A number of conclusions have been drawn by contrasting the outstanding codifiers and codes of the Middle Ages. Of major concern has been the determining of the extent to which distinctions in the authors various time-settings, academic schools, codifying purposes, and personal styles are reflected in their codes and in turn their treatment of the laws of tzedakah.

To be certain, each codifier was a unique person. Moses Maimonides (1135-1204) was the product of an essentially Sefardic tradition. A brilliant halachist, he was familiar with the full range of Jewish law. He gained eminence in the world of philosophy through his renowned Guide for the Perplexed. Moreover, he was the esteemed physician for the Vizir of Egypt. Living in an age of thought, he assembled the Talmudic laws with some post-Talmudic modifications in a new, logical order in his comprehensive Mishneh Torah. His intention was to present straight-forward, decisive laws in clear, brief language. In "Matnot Ani'im" Chapters 7 through 10, Maimonides gives his code of benevolence, relying primarily on the Talmud, and written in beautiful Mishnaic Hebrew.

Jacob ben Asher, (1280-1340), the "Baal ha-Turim" received his formative education in Germany from his father, Asher ben Yechiel, the leading student of Meir of Rothenburg. Imbued with the austere Ashkenazic piety, Jacob and his family went to Toledo, Spain, where he soon became familiar with Spanish scholars as well as minhagim he observed in his travels and in Spain. He wrote the Arba-ah Turim to be a practical code for its time. In his "Laws of Tzedakah" found in Chapters, 247-259 in "Tur Yoreh Deah", Jacob ben Asher re-organized these laws into a more logical arrangement, thirteen chapters, each dealing with a different topic. He frequently cites his sources and adds much post-Talmudic material especially from his father Asher ben Yechiel. Occasionally, he adds his own stricter interpretation. In contrast to his predecessor, Maimonides, Jacob ben Asher exhibited less refinement in his Hebrew; wordier language, but greater systemization.

Joseph Caro (1488-1575) lived in a Jewish world fraught with change. The catastrophic expulsion from Spain and Portugal, with the new dispersion of Jews, brought on halachic confusion and more attention to the mystical Kabbala. Caro, a resident of Safed, was an outstanding halachist as well as a mystic guided by a

heavenly magid. In his Shulchan Aruch, "Set Table", Caro laid out a practical guide for the layman as well as dayan, which is clear, brief and decisive. In his "Laws of Tzedakah" also appearing in "Yoreh Deah" 247-259, he basically simplifies and states briefly, laws which appeared in the Tur. Due to his turbulent times, Caro expands the laws regarding redeeming captives. A feature only found in the Shulchan Aruch is chapter headings. Indeed, the Shulchan Aruch succeeded in becoming the standard code. Much thanks for this goes to the hagahot-glosses also called Mapah, which Moses Isserles, the chief rabbi of Cracow, Poland added to Caro's text of the Shulchan Aruch. To Caro's disproportionate reliance on Sefardic authorities, Isserles injects the opinion of the Ashkenazic scholars, particularly those of Poland. He is also a firm believer that minhag should prevail. In his notes on tzedakah, Moses Isserles, writing in the brief, decisive style of Caro, reflected the opinion and minhag of the Ashkenazim.

Hence, it has been shown that the laws of tzedakah have been treated with the fine attention they deserve. In the great Medieval Codes Mishneh Torah, Arba-ah Turim, and Shulchan Aruch these laws remained important and relevant for their times.



## APPENDIX A: BASIC DIFFERENCES IN THE THREE CODES

Code:	<u>MISHNEH TORAH</u>	<u>ARBA-AH TURIM</u>	<u>SHULCHAN ARUCH</u>	<u>MAPAH</u>
Codifier:				
	Maimonides	Jacob ben Asher	Joseph Caro	Moses Isserles
	1135—1204	1280—1340	1488—1575	1520—1572
	Egypt	Germany to Toledo, Spain	Spain, Turkey, Safed	Cracow, Poland
Purpose:				
	Comprehensive code to obviate need for other books; for all	A practical code for its time; does not give opinion	Clear, concise practical guide for all	Inclusion of Ashkenazic (especially Polish) <u>minhagim</u>
Sources and Authorities:				
	Primarily <u>Talmud</u>	More post-Talmudic authorities; Alfasi, Maimonides, Asher ben Yechiel	Alfasi, Maimonides, Asher ben Yechiel	Ashkenazic authorities and <u>minhagim</u> ; Weil, Isserlain, Bruna
Arrangement:				
	14 Books	4 Turim	4 Turim	4 Turim
Hebrew style:				
	Clear, brief, Mishnaic	Not as lucid and concise	Brief, clear, but not Mishnaic	Terse and Decisive
Historical events:				
	Saladin, a high point in Muslim rule; Crusades	Persecution in Germany; Spanish Golden Age declining	1492, Jews expelled from Spain	Good times in Poland; Council of 4 Lands
Academic atmosphere:				
	Thought, Philosophy	Orthodox austerity	Sefardic; mysticism	Ashkenazic
Popularity of code:				
	Abraham ben David opposed its independence; Sefardic acceptance primarily	Most popular code for 200 years	Criticism for independence; With addition of <u>Mapah</u> it acquired universal acceptance	

APPENDIX B: COMPARISON OF LAWS OF TZEDAKAH IN THE THREE CODES

## Key:

Material appearing only in the Mishneh Torah will be in blue.  
 Material appearing only in the Arba-ah Turim will be in red.  
 Material appearing only in the Shulchan Aruch will be in green.  
 Moses Isserles' notes (Mapah) will be in green in parentheses.  
 Material appearing in at least 2 codes will be in black.  
 When material is the same as or similar to material in earlier code, the sign is =.

The laws of tzedakah in the Mishneh Torah are found in "Matnot Ani'im" Chapters VII—X. In both the Arba-ah Turim and the Shulchan Aruch the "Laws of Tzedakah" appear in "Tur Yoreh Deah" Chapters 247—259. The comparison below will follow the arrangement in the latter two codes for two reasons: a.) the focal point of this study is the tzedakah laws and customs in the Arba-ah Turim; and b.) it will be easier to follow, since two of the three codes have this arrangement.

TALMUDIC SOURCE	<u>MISHNEH TORAH</u>	<u>ARBA-AH TURIM</u>	<u>SHULCHAN ARUCH</u>
		247	247 "Greatness of the reward for <u>tzedakah</u> and when it is compelled"
Ketubah 67b, 68a	VII-1 It is a pos. commandment to give <u>tzedakah</u> ...	=	1. =
	X-1 Must be exceedingly careful	=	=
		Many pos. commandments and even neg. about <u>tzedakah</u>	=
	VII-2 Deut. 15:7b	=	=
Ketubah 68a; Baba Batra 10a	X-3 He who shuts his eyes to poor is wicked	=	=
		Rabbi Eliezer said, " <u>Tzedakah</u> is greater than all the sacrifices."	

TALMUDIC S MISHNEH TORAH ARBA-AH TURIM SHULCHAN ARUCH  
SOURCE

X-2 No man is ever  
made poor from  
giving tzedakah

2.

The Holy One, blessed  
be He, has compassion 3.=  
on anyone who has  
compassion on the poor

Poverty is a wheel  
turning round in =  
the world ... (Isserles)

Because of 4.  
giving tzedakah =  
one will not become  
needy.

I explain the entire  
matter according to  
what I found under the  
name of Rav Saadia, and  
from the words of Rabbi  
Moses Maimonides with a  
few other views

I will explain:  
who is obligated,  
how much,  
how to give,  
how much for each man  
to give,  
to whom he should give,  
who takes precedence,  
who is fitting to receive,  
and from whom,  
and how it is collected,  
distributed,  
volunteered,  
and changed.

TALMUDIC SOURCE	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		248	248 "Who is obligated and who is fitting to receive"
Gittin 7b	VII-5 Even a poor man is obligated to give	=	1. =
Ketubah 49b	VII-10 One who refuses to give or gives less than is fitting may be compelled to give  He is penalized with stripes until he pays	=	=
Baba Batra 8b	VII-10 Pledges may be taken, even on Erev Shabbat	=	2. =
Baba Batra 8a	VII-12 Do not assess orphans	=	3. =
Baba Kamah 119a	Only take small sums from women, slaves, and children	women and slaves	4. women, slaves, and children
	Rosh: if husband objects, wife cannot give		(Caro simplifies this and does not credit Rosh)
	Wife may hire teacher for son		5. =
	If eat with father, may give bread to poor		6. =
Baba Batra 8b	VII-11 It is forbidden to solicit from one who is too generous	=	7. =
			8. Conquer evil inclination for divine reward

TALMUDIC SOURCE	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		249	249 "How much one is obligated to give and how he should give"
Ketubah 50a, 67b	VII-5 It is best to give $1/5$ ; $1/10$ is average, less is stingy	=	1. = (But a man should not give more than $1/5$ , lest he need. At death one may leave as much as want to charity)
Baba Batra 9a	VII-5 Do not give less than $1/3$ of a shekel per year X-4 Though he give 1,000 pieces of gold, he destroys merit if gives grudgingly	= $1/3$ shekel = $1/6$ small measure of silver	2. =
Baba Batra 9b	X-4 Give cheerfully	=	3. =
(Lev. Rabba XXXIV, 15)	Appease when cannot give X-5 Woe to him who puts poor to shame	=	4. = (Forbidden to turn away poor man empty-handed; give at least a fig--this is in <u>Arba-ah Turim</u> 250 and <u>Mishneh Torah</u> VII-7 as a berry)
	Inducing others results in greater reward	=	5. =

<u>TALMUDIC</u> <u>SOURCE</u>	<u>MISHNEH TORAH</u>	<u>ARBA-AH TURIM</u>	<u>SHULCHAN ARUCH</u>
	There are 8 degrees of giving	Maimonides wrote	(Caro does not credit Maimonides)
(Sifra on "Behar"); Sabbath 63a	X-7 Noblest is to make a poor person self-sufficient	=	6. (1) =
Baba Batra 10b	X-8 Next is when neither the giver nor re- ceiver know the other	=	7. (2) =
Baba Batra 10b	X-9 The giver knows, but the receiver does not	=	8. (3) =
Baba Batra 10b	X-10 The poor person knows, but the giver does not	=	9. (4) =
	X-11 Gives before being asked, but not enough	=	10. (5) =
	X-12 Gives sufficient amount after being asked	=	11. (6) =
	X-13 Giving less than is fitting, but pleasingly	=	12. (7) =
	X-14 Gives grudgingly	=	13. (8) =
Baba Batra 10a	X-15 Good to give small coin to poor before prayer	=	14. =
			15. Tzedakah may be used for dowries for poor virgins
			16. Supporting poor students or sick poor is more impor- tant than main- taining a synagogue

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

250

250 "How much it  
is fitting to give  
to each and every  
poor person"Ketubah  
67bVII-3 Give to a  
poor person  
"sufficient for  
his needs"  
clothing, house-  
hold utensils,  
horse and slave,  
wife (VII-4 give  
orphan house,  
furnishings, then  
wife)

=

food

1.

=

food

(All this applies  
to Gabbaim, but  
each individual is  
not bound to satisfy  
all the needs of  
a poor man)Provide a  
poor woman  
a husband

2.

=

Baba  
Batra  
9aVII-7 Give door-to- Maim. wrote  
door beggar a small  
gift =

3.

=

VII-7 Forbidden to  
turn away beggar  
empty-handed. Give  
at least a berry dried fig  
Rosh: give small  
gift from tzedakah  
box

4.

Mishnah  
Peah  
viii,7VII-8 Give transient  
poor at least a loaf;  
lodging, cot, pillow,  
oil, beans;  
On the Sabbath provide  
3 meals.

=

=

If it is in one's means to give each one who begs, then, he is happy.  
5. If there are many poor in city, and the rich say, "Go and beg," while the middle classes say, "Do not beg, but be supported by members of the community according to their wealth, then, follow latter

TALMUDIC SOURCES	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		251	251 "To whom they give <u>tzedakah</u> and order of precedence"
Gittin 61a	VII-7 Give to non- Jewish poor for the sake of peace	=	1. =
	Do not need to support Jew who transgressed a mitzvah		=
	Do not give until he repents		2. Forbidden to ransom defiant trans- gressor. May ran- som transgressor who cannot help it
Ketubah 50a	X-16 Helping adult children; helping parents	=	3. =
Baba Metziah 71a	VII-13 and X-16 Give relative preference		Preference given to brother of father before brother of mother
Ketubah 50a	X-16 Poor of house- hold before poor of city; poor of one's city before other city	= =	= =
	The original poor of a city take precedence. Put own sustenance before others.		Poor in Holy Land before other lands 4. Community can compel father to support son
			5. One has no say over the money once it is in the hands of <u>Gabbaim</u> (Unspecified donation goes to one's poor relatives)
Avot i, 5	X-17 Employ poor and orphans in household	=	6. =



TALMUDIC SOURCES	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		Feeding the hungry7. takes precedence over clothing the naked	=
Hor.iii,7	VIII-15 A woman is given preference over a man for food and clothing;	=	8.
Ketubah 67b	the same with orphans to be married off VIII-16	=	=
Hor. 13a	VIII-17 When equal learning, this is order of precedence: Priest, Levite, Israelite, Halal, child with an unknown father, found- ling, mamzer, natin, proselyte, emancipated slave Mamzer scholar precedes ignorant high priest VIII-18	=	9.
Baba Batra 9a	VII-6 If one says, "Give me food!" Give, then investigate; for clothing, investi- gate	=	10.
Yer. Peah 21a			11. Starver must be given food
			12. Two poor men may give <u>tze- dakah</u> to each other (But if community imposes a fine, they cannot)
		Rosh: Get rabbi before reader, if rabbi is knowledgeable	13. = (Rabbi should not be maintained out of <u>tzedakah</u> , gifts ok)
		May use school funds when necessary	14. =

TALMUDIC SOURCES	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		252	252 "Redeeming captives"
Baba Batra 8b	VIII-10 Redeeming captives comes before feeding or clothing the poor; no act of <u>tzedakah</u> is more meritorious than redeeming captives	=	1. =
Baba Batra 3b	VIII-11 May use money or materials for synagogue to redeem	=	=
Baba Batra 8b	VIII-10 Shutter of eyes against ransom violate negative precept		2. =
			3. Delaying is like shedding blood
Gittin 45a	VIII-12 Do not redeem at unreasonable cost	=	4. =
	A man may redeem himself at any price	=	=
Gittin 45a	VIII-12 Do not aid captive's escape	=	5. =
Gittin 46b	VIII-13 Do not redeem someone a 3rd time	=	6. =
Gittin 47a	VIII-14 Do not redeem apostate;	=	7. =
Git. 37b	ransom slave like Israelite	=	=
Yer. Hor. 48b	VIII-15 Woman redeemed before man unless for sodomy	=	8. =
			9. Order: mother, self, teacher, father
			10. May seize property
			11. Above, even against one's will
			12. Father must re- deem son

TALMUDIC SOURCES	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		253	253 "For whom it is alright to take <u>tzedakah</u> "
Peah viii, 7,8,9	IX-13 If have food for 2 meals, must not take from <u>Tamchui</u> ; if 14, then must not take <u>Kupah</u> ; if 200 zuz uninvested or 50 invested, must not take <u>tzedakah</u> <u>Leket</u> , <u>Shichchah</u> , or <u>Peah</u>	=	1. =
Ketubah 68a	IX-14 Not forced to sell house and utensils if lack 200 zuz to take pvt. charity; but, for community funds must sell gold and silver utensils	=	=  (house and household utensils are not reckoned as defin- ite capital)
	The above zuz limits were for former times, everything is according to the case and time		2. =
Baba Kama 7a	IX-16 Do not have to sell out of season; IX-17 Do not have to sell below norman price	=	3. =
Peah v,4	IX-15 Traveler out of funds who takes <u>tzedakah</u> need not repay later	=	4. =
			5. Orphan needn't repay (since patron did not specify)
Shek.ii,5	IX-18 When excess collected for a poor man, give it to him; excess collected for poor in general is saved for other poor	=	6. =
			7. If captive dies, return money
Tos. Peah iv, 10	IX-19 Do not compel poor man to give coin or return old garments	=	8. =

TALMUDIC SOURCES	<u>MISHNEH TORAH</u>	<u>ARBA-AH TURIM</u>	<u>SHULCHAN ARUCH</u>
Ketubah 67b	VII-9 Use cunning to give poor man who does not want	=	9. =
Ketubah 67b	VII-9 Need not help a rich man who is cheap	=	10. =
		Should help scholar in need	11. =
			12. Door-to-door charity could not be claimed by creditors (unless the money was given to him to pay debts)

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

254

254 "Not to receive  
tzedakah from others"Sanhedrin  
26bVIII-9 A Jew is  
forbidden to take  
charity from non-  
Jews in public,  
unless he cannot  
otherwise exist

=

1.

=

If a non-Jewish prince  
donates to Jewish  
charities, the money  
is accepted, but  
secretly distributed  
amongst non-Jewish  
poor

=

(Some hold that if  
he specified a  
purpose, the money  
should be used for  
that purpose. But  
donations for a  
synagogue are  
always accepted)

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

255

255 "Refraining  
from receiving  
tzedakah"Pesachim  
112aX-18 Avoid taking  
tzedakah; rather,  
make your Shabbat  
like a weekday;  
even a scholar  
should engage in an  
occupation;

=

=

=

X-18 It is better  
to strip the hides  
of beasts than say,  
"I am a great  
scholar"

=

Ketubah  
68aX-19 Anyone who does  
not need tzedakah,  
but deceives the  
people and takes, will  
eventually need

=

X-19 He who really needs  
tzedakah to live, but  
does not take, is a  
murderer.

=

He who needs, but leads  
a humble life and does  
not take, will live to  
help others

=

1.

=

=

=

2.

=

=

=

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

256

256 "Kupah and  
Tamchui, how they  
are collected and  
distributed"

Baba Batra 10b	IX-1 Every city with Jews must appoint <u>Gabbaim</u>	=	1.	=
Baba Batra 8b	IX-1 They distribute <u>Kupah</u> money each Fri;	=		=
Baba Batra 8b	IX-2 Distribute <u>Tamchui</u> daily towards evening	=		=
	IX-3 All Jewish communities have a <u>Kupah</u> ; some lack <u>Tamchui</u>  Today it is a common practice for admin. of <u>Kupah</u> to collect daily, but disburse only on Eveve Shabbat	Collectors must be trustworthy and... strict... If they are not sages and fit, the commun. suspends them. If they cannot suspend them, it is forbidden to give them <u>tzedakah</u>		=
Sanhedrin 35a	IX-4 Night of fast distribute food to poor	=	2.	=
Baba Batra 8b	IX-5 Must have at least 2 collecting <u>Kupah</u> , 1 could be treasurer, 3 to distribute;	=	3.	=
Baba Batra 8b	IX-6 <u>Tamchui</u> is collected and distributed by 3; <u>Tamchui</u> is for any poor, while <u>Kupah</u> is only for poor of that city	=		=
Baba Batra 8b, 9a	IX-7 May convert a <u>Kupah</u> into <u>Tamchui</u> or vice versa; a wise man may change them for another purpose	=		=

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

Joseph Migash wrote, (A duly elected  
that they can only Gabbai can con-  
convert funds for vert funds, un-  
the needs of the less someone who  
poor. donated appointed  
Rabbenu Tam: for any his own trustees;  
community needs they community cannot  
can convert funds change funds if  
the person spe-  
If they collect for cified only for  
special needs of the poor)  
poor, they cannot  
change funds

Baba  
Batra 8a  
for A.T.;  
Alfasi on  
Baba  
Batra 8a  
for M.T.  
and S.A.

IX-12 After 30  
days in city,  
give to Kupah;  
after 3 months,  
give to Tamchui

After 30 days, 4.  
give to Tamchui;  
after 3 months,  
give to Kupah

=

IX-12 After 6 months,  
give to clothing  
fund for poor;  
after 9 months,  
burial fund

=

=

=

=

When dwell in place  
temporarily the  
above applies.  
However, if come  
to settle perm.,  
must contrib. at  
once

Megilla  
27a

VII-14 If assessed  
when come to city,  
must give to poor;  
group of merchants  
will be given back  
this money only to  
be given to poor in  
their own city

=

5.

=

=

=

(One need not pay  
usual taxes in  
strange city)



TALMUDIC SOURCES	MISHNEH TORAH	ARBA-AH TURIM	SHULCHAN ARUCH
		257	257 "The order of the <u>tzedakah</u> collection"
Baba Batra 8b	IX-8 <u>Gabbaim</u> must be within sight of each other	=	1. =
B.B. 8b	IX-9 Money found in street is put into charity bag till home	=	=
B.B. 8b	IX-10 Do same with personal debt col. in street; count <u>Kupah</u> coins one at a time	=	=
B.B. 8b	IX-11 When no poor may exchange for higher value coins	=	2. =
B.B. 9a	IX-11 <u>Gabbaim</u> are not subject to audit	It is good for them to give an account of the <u>tzedakah</u>	= (They should submit accounts espec. if there is any suspicion)
Rosh Hashana 6a	VIII-1 <u>Tzedakah</u> is in general class of vows; if vow Sela, must give immediately	= =	3. = =
	One is always obligated to give, because there are always poor around (One must inform <u>Gabbai</u> how much one vows)		
			4. One should avoid vows
			5. When treasury lacks funds, <u>Gabbai</u> should make a loan to it
			6. While in office, believe <u>Gabbai</u> who says, "I loaned so much amount"

SHULCHAN ARUCH

7. Gabbai should not take to heart the insults of the poor

8. Gabbaim do not have to support poor person who has wealthy relatives

9. One should not give all his tzedakah to one poor person

10. Distributor of tzedakah should not be partial to his relatives  
(that is, a Gabbai)

11. If one invests money and the income is to be devoted to religious education and his wife is to give it to whom-ever she wishes, she cannot deposit it with another...but, if the donor appoints a prominent scholar over the funds, he has the right to deposit them with his wife

TALMUDIC  
SOURCES

MISHNEH TORAH

ARBA-AH TURIM

SHULCHAN ARUCH

258

258 "An inclusive  
statement for  
tzedakah"

Nedarim 7a	VIII-2 An inclusive statement for <u>tzed</u> . is like an inclus. statement for vows	=	1.	=
Ned. 7a	VIII-2 If say that a Sela set apart for <u>tzedakah</u> is like another, so it is	=	2.	=
Ned. 7a	VIII-3 He who forgot how much he vowed, should give until he says, "I did not intend that much"	=	3.	=
Tos. Baba Kama xi, 3	VII-15 If one says, give 200 zuz or a Torah scroll to the synagogue, they give it to the syn. he frequents; if he frequents 2, the money should be divided between them	=	4.	=
Tos. Baba Kama xi, 3	VII-15 If one says to give 200 zuz to the poor, give it to the poor of his city	=	5.	=
				(Where know that he intended it for more poor than in the city, follow the custom of the place)
	Cannot retract vow to give <u>tzedakah</u> unless obtain release from a rabbi; after the money reaches the <u>Gabbai</u> cannot apply for a release		6.	=
	Cannot con- secrate anything not in own possession		7.	=

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

Real estate always  
continues in the  
possession of the  
true owner

If A owes B a 8.  
debt, and B says, =  
"Let it become hallowed  
or go to tzedakah,"  
it does not take  
effect; but, if he  
says, "When I get =  
the money...,"  
then he must

9. If A strikes B  
or insults him, A  
could say, "Let the  
fine go to charity

10. One must pay,  
if stipulate a  
condition and it  
happens

11. If decide to  
divorce and fine  
self, then change  
mind, some hold  
that exempt from  
paying the fine.

12. If promise to  
give gift to poor  
man, must give it

13. If one says,  
"I give this ob-  
ject to charity  
and then finds out  
that is worth more,  
he cannot retract.  
(If one has a  
promise in his  
mind, he should  
fulfill it. When  
it is verbal, he  
could be compelled  
to fulfill it)

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH

259

259 "One who vows but does not know what he vowed; the case of talking about collecting (if one is permitted to convert tzedakah; and what the Gabbai does with the tzedakah or funds"

(Arakin  
6a)

VIII-4 If one says, "Let this Sela go to tzedakah..." and he separates the coin, he may still change the coin as long as the collector does not come to collect it

=

1.

=

(If vessels or utensils have been consecrated, they may be sold according to the appraisal of 3 experts and the proceeds go to tzedakah)

(Arakin  
6a)

VIII-4 After the money reaches the collector, it must not be loaned to anyone

=

=

Rabbenu Asher wrote that the community may convert tzedakah funds which were donated for the needs of the synagogue or the cemetery to the needs of the House of Study or the Talmud Torah, even if the givers object. However, they may not convert the funds from a Talmud Torah to a synagogue

Baba  
Batra  
8b

VIII-4 The collector who wants to exchange small coins for denars is not permitted, unless there are no poor

=

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH(Arakin  
6b)

VIII-5 If the poor can  
benefit if collector =  
retains the money for  
a time, he may borrow  
it and then pay it back;  
only funds not meant  
for immediate distrib. =  
may be invested

=

(=)

2. (May convert  
funds from school  
purposes to synagogue  
where community gen-  
erously supports  
school and will give  
more; all this applies  
where there is not an  
established custom;  
where collector or  
community could con-  
vert funds from one  
charity to another,  
follow the custom, for  
we presume that the  
donor makes his do-  
nation subject to  
custom and the author-  
ities accept it with  
this condition at  
heart)

(Arakin  
6b)

VIII-6 A menorah or  
lamp donated to a  
synagogue cannot be  
exchanged, except  
for a mitzvah, when  
it is ok even if the  
donor's identity is  
not fully forgotten

=

3.

=

(Arakin  
6b)

VIII-7 If given by a  
non-Jew and his name  
is not forgotten, it  
is forbidden to change  
it even for a mitzvah

=

TALMUDIC  
SOURCESMISHNEH TORAHARBA-AH TURIMSHULCHAN ARUCH(Arakin  
6a)

VIII-8 A priori they  
do not accept from a  
non-Jew who donated  
for the need of re-  
pairing the Temple,  
but if he already  
gave it, they do not  
return it, for a  
syn. they accept from  
him a priori

=

(Arakin  
6a)

VIII-8 If a non-Jew  
gives to a syn. he  
should say, "According  
to the thought of the  
Jews, I set it aside"

=

Gifts from non-Jews  
are not accepted for  
the wall or for the  
water conduit of  
Jerusalem

4.

=

5. If have money  
and not sure if it  
belongs to charity,  
give it to charity

(If one consecrates  
something with an  
ambiguous expression  
and dies, then, it  
stays with the heirs)

6. The community  
has no right to assess  
or tax tzedakah funds

(A purse saying charity  
is charity; it is also  
if one said to his  
children, "This is  
charity" ... Words of  
dreams are of no  
account; money on floor  
belongs to chest he  
used last; if he used  
both simult. then goes  
to larger sum; if in  
crevice, goes to larger  
fund)

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