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Report on the Rabbinic Dissertation Submitted by

Amy Schwartzman

in Partial Fulfillment of the Requirements for Ordination

The Halakhic Understanding of Gemilut Hasadim

The intersection of Jewish law and ethics in traditional literature remains a murky area as most writers on Jewish ethics have preferred to substantiate their claims by citations from the Bible or rabbinic aggadah. There are few studies indeed in which the ethical implications of halakhic literature are explicated. Fortunately the Talmudic Encyclopedia now makes it possible for students who have not grown up in the world of the halakhah to find all the major relevant sources on a given topic as well as to have the editors' introduction to the meaning of the basic terms and major relevant themes. This confluence of problem and resource made possible this unusual study.

For all the high estimate of gemilut hasadim in rabbinic aggadah and contemporary writing, no one has ever offered a very clear understanding of what the term means, as the varying translations of the term indicate. Being herself a person of great moral sensitivity and concern, as well as desirous of learning how classic Jewish insights could help us work out our own ethical responsibility, Amy decided to pursue this research. This took considerable bravery on her part for despite her fine academic record, our curriculum does not prepare one to work with the fullest range of halakhic texts. Bowed but not broken by the difficulties she encountered, she persevered and emerged triumphant.

Carefully collecting the legal texts, she studied and analyzed not only the directly relevant passages but their contexts. She thus had a splendid if daunting introduction to the history and procedures of Jewish jurisprudence. She finally determined that a thematic approach would best expose her findings. She first points out the sense in which the halakhic masters consider gemilut hasadim actional, that is, requiring specific acts as is common in such literature. Yet already here there was no consistency in what was required though clearly there was a "family resemblance." But many of the sages rather treat the theme, even as law, as more a matter of character than of specific duty. This led on to certain specific topics: the limits of an apparently unlimited obligation, its status as deoraita or midirabbanan, and its close relationship to the duty of tzedakah. The whole concludes with a treatment of the theme in the aggadah.

Thesis Report - Amy Schwartzman

What emerges from this work is a clear recognition that in this topic as in some few other certain halakhic matters, we cannot merely of the usual requirements of fixed duties. Rather gemilut hasadim involves both doing certain things and being a certain kind of person -- and this as a matter of Jewish law, not as a topic in Jewish preaching. One cannot identify the halakhah with simple law and Amy's concluding reflection on this unusual theme and its roots in the Jewish understanding of human beings and of God open up this idea with great sensitivity.

In sum, Amy distinguished herself in this effort, demonstrating intellectual acuity, academic discipline, analytic capacity and exemplary personal dedication to the completion of a difficult task. I am therefore happy to recommend the acceptance of this thesis.

Respectfully submitted,
Dr. Eugene B. Borowitz
Referee

April 2, 1990

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College - Jewish Institute of Religion
Graduate Rabbinic Program
New York, New York

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Referee: Dr. Eugene B. Borowitz

THE HALAKHIC UNDERSTANDING OF GEMILUT HASADIM

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**Thesis Submitted in Partial Fulfillment of
Requirements for Ordination**

**Hebrew Union College-Jewish Institute of Religion
Graduate Rabbinic Program
New York, New York**

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 understanding. This thesis is dedicated with love, devotion and appreciation
 to my parents,

Elisabeth and Robert Schwartzman

who, through their acts of gemilut hasadim,
 have taught me about love and life,
 and inspired me on my journey in the rabbinate.

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INTRODUCTION

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INTRODUCTION

This thesis is first and foremost a study of the halakhic status of gemilut hasadim. Although this is the academic purpose of this paper, a greater, more important goal lies at the root of this work. Gemilut hasadim is among those concepts which serve as the foundation for ethical and moral behavior in the Jewish tradition. It also captures that unique relationship which can exist between God, the people Israel and all human beings which is based upon love. As I study this term, which is more complex than we in the modern world think, I hope not only to deepen my knowledge of this subject, but to deepen my commitment and devotion to living my life according to Jewish ideals and traditions as well.

Thus, this thesis will investigate and attempt to explain the many primary sources which discuss gemilut hasadim in order to gain some understanding of the halakhic nature of the term. The majority of these primary texts are cited in the notes to the article on gemilut hasadim in the Encyclopedia Talmudit. Although this article serves as the

main source for this work, the texts cited there do lead to others which are not initially mentioned.

To gain the most complete understanding of gemilut hasadim the texts, which range from the time of the Mishnah to the modern day, will be presented in an organized and systematic fashion. The upcoming chapters will address the following issues: The various ways in which scholars have defined gemilut hasadim over the centuries. The limits and parameters which one must observe when engaging in this mitzvah. The authority of this commandment: torahitic or rabbinic. The relationship between gemilut hasadim and tzedakah, a closely related term. The importance and value of gemilut hasadim as demonstrated by aggadic texts.

It is my hope that these chapters will demonstrate that gemilut hasadim is a unique concept, both within the parameters of Jewish law and Jewish lore. Although we, in the modern age, use the term in a broad way, our ancestors did have a more concrete understanding of gemilut hasadim. Their insights will hopefully enrich our comprehension of this concept, as well as our knowledge of halakhic issues.

Because the earliest text presented in this halakhic discussion dates to the period of the Mishnah, it is necessary to give some background to the term here. To the best of our knowledge the phrase "gemilut hasadim" first appears in Mishnah Peah 1:1. One would naturally ask then, where this term originates. The logical place to begin is

with the major work which precedes the Mishnah, the Bible. There both Hebrew roots, 'gm1' and 'had', can be found. However, with one somewhat abstract exception, they are never found together. Interestingly though, the roots themselves have similar meanings.

'Gm1' is most commonly translated as to treat kindly, to be kind to someone, to be helpful, to spare or save.¹ It always has a personal subject and a personal object, either human or divine. It is most often used to describe the relationships between humans. For example we find it in the stories of Joseph and his brothers (Gn 50:15), David and Saul (I S 24:18), various kings and their hosts (2 S 19:37), and husbands and wives (Pr 31:12). Thus, within the context of these direct personal actions, 'gm1' almost always comes out of the milieu of concrete social relationships. It relates to an act one performs intentionally and deliberately toward another and when used with words connoting goodness, implies an ethically reverent deed.²

Strangely, 'had', which is commonly translated as kindness, goodness, love or mercy,³ is only found connected to 'gm1' in one instance. Proverbs 11:17 reads "the kind

¹Theological Dictionary of the Old Testament, V III, "Gamal", (Grand Rapids, Michigan: Eerdmans Publishers, 1986.) pg. 23.

²ibid. pg. 23-33.

³The Interpreter's Dictionary of the Bible, V III, "Love", (Philadelphia: The Westminster Press, 1961.) pg. 164.

(hesed) man does good (qamal) to his own soul". Nonetheless, like 'qml' it is used within relationships, both among humans and between God and an individual or people. For example, the word appears in the context of Sarah and Abraham's relationship (Gn 20:13); that of Laban and Isaac (Gn 24:49); Jonathan and David (1 S 20:8); and Solomon and the sons of Barzillai (1 K 2:7), to note just a few. It is found with slightly less frequency between God and individuals, but some examples include: Genesis 24, where Abraham is the recipient of God's kindness; Genesis 32 where it is Jacob; David in 2 Samuel 7; and even the thousandth generation of those who are devout in Exodus 20.*

On the basis of the larger context of these passages it may be suggested that one who receives an act of hesed responds with a similar act of hesed or at least that the one who demonstrates hesed is justified in expecting an equivalent act in return. Abimelech, for example, having taken in Abraham as a guest, asks him to show the same hesed to his host and the land where he has sojourned (Gn 21:23); Abraham so swears and this agreement is called a covenant in v. 27. Just as David asks Jonathan for an act of hesed so Jonathan also asks hesed of David (1 S 20:8). The mutuality of hesed is also mentioned in 2 Samuel 2:5 where David, among other things, promises to do good to the men of Jabesh-gilead

*A Hebrew and English Lexicon of the Old Testament, "Hesed", edited by Brown, Briggs and Driver, (Oxford: Clarendon Press, 1955), pg. 338-339.

because they had shown hesed to Saul and buried him. Thus, there seems to be a sense of reciprocity within the term. It is more than an action, but an attitude which emerges from both giving and receiving. Further, when given by God, hesed serves to shape the relationship we have with God as well as that relationship which exists among human beings themselves."

How and when these two terms were connected is unknown. Clearly, by the time of Mishnah Peah they had come together in the construct state gemilut hasadim. The phrase, at least conceptually, seems to be similar to a hendiadys, two words put together to form one meaning. Both words, although different, are very close in meaning. When grouped together they strengthen each other and suggest the idea of doing "kind acts of goodness", commonly translated as "acts of loving kindness."

Although this translation seems to reflect the true tone of the term, the phrase gemilut hasadim will not be translated throughout this work. Through the texts which describe and discuss gemilut hasadim each reader will have the opportunity to derive his/her own rendition of the term. Further, as the reader has most likely already observed, gemilut hasadim and all other Hebrew words appearing in transliteration, will be underlined. Additionally, it is

*Theological Dictionary of the Old Testament, V. IV, "Hesed", pg. 44-64.

important to note that, to the best of my ability, I have translated all texts into gender free language.

These introductory and technical notes aside, it is my hope that the reader will find as much interest and inspiration from the upcoming material as I have found in my research which has brought me to this point. I consider this work to be a beginning and not an end of my understanding of gemilut hasadim as well as a new motivating force in the continuation of my fulfillment of this mitzvah.

CHAPTER ONE

GEMILUT HASADIM: AN ACTION ORIENTED MITZVAH

Gemilut hasadim is a term which, for most modern Jews, lacks a precise meaning. "Acts of loving kindness" is the popular translation, but few specifics are attached to the phrase. At best it is a term which connotes good deeds, often actions which help others in some way or another. But if one were to investigate what the term meant to the rabbis of the Talmud and those who composed the Codes which followed, it would become clear that gemilut hasadim does have specific activities connected to it.

A survey of literature beginning as early as the Mishnah through the rabbinic and medieval periods suggests that there are two distinct understandings of gemilut hasadim. The first, representing the majority opinion states that gemilut hasadim is an action oriented mitzvah. Both through broad general statements about the term and detailed explanations this approach suggests that gemilut hasadim consists of up to eight specific activities. The second understanding of the term, which is not exclusive of the first, is of the opinion that gemilut hasadim is a character

trait. This perspective will be discussed in the next chapter.

For those who want to emphasize the former approach, it seems that certain activities are more frequently associated with the term than others. The total group consists of the following actions: To bury the dead, to visit the sick, to console the bereaved, to clothe the naked, to rejoice with the bride and groom, to accompany the stranger, to lend money or possessions to one in need and to speak words of good will and sound advice. Various combinations of the first four are often found together in the texts and of those combinations almost all have burying the dead as one component. Although fewer texts cite the later three, they too are frequently discussed in connection with burying the dead.

Ideally this material would present itself in such a way that a system of organization would be clear. Unfortunately there are no distinct trends within the material which would allow us to group it by way of common themes. Thus, the following material, all of which attests to the idea of gemilut hasadim as an action oriented mitzvah, will be presented chronologically.

The earliest citation of gemilut hasadim is in Mishnah Peah 1:1. It reads:

These are the things which have no fixed measure, the corners of the field, the first fruits, the three festival offerings, gemilut hasadim and the study of Torah. These are the

things the fruits of which a person enjoys in this world, and the reward of which remains for him in the world to come, honoring one's father and mother, gemilut hasadim, making peace between a person and his fellow, but the study of Torah is equal to them all.'

Nothing in this text, however, provides an understanding of how the rabbis of the mishnaic period understood the term. At best the Mishnah's commentators, who date much later than the Mishnah itself, can provide some insight. The first place that a clear concept of gemilut hasadim is presented is in talmudic literature. Both the Babylonian and Palestinian Talmuds, have references to gemilut hasadim. Although the Palestinian Talmud was completed about 100 years before the Babylonian, and therefore might be considered an earlier work, let us begin with those citations in the Babylonian Talmud, as they are much clearer and more detailed.

The text which seems to provide the most details about gemilut hasadim is in tractate Sotah 14a. There R. Hama the son of R. Hanina is discussing the meaning of the verse "You shall walk after the Lord your God." (Dt. 10:5) He asks how it is possible to fulfill this commandment and "and walk after God" when it says in Dt 4:24 that "the Lord your God is a consuming fire?" The response is as follows:

[the meaning is] to walk after the attributes of the Holy One, blessed be God. As God clothes the naked, for it is written, "And the Lord God made for Adam and for his wife coats of skin and clothed them," (Gn. 3:21) so shall you also

¹ Mishnah Zeraim, translated by Philip Blackman, (London: Mishnah Press, 1951), pg. 81.

clothe the naked. The Holy One, blessed be God, visited the sick, for it is written, "And the Lord appeared unto him by the oaks of Mamre," (Gn. 18:1) so shall you visit the sick. The Holy One, blessed be God, comforted the mourners, for it is written, "And if came to pass after the death of Abraham that God blessed Isaac his son," (Gn. 25:11) so shall you also comfort mourners. The Holy One, blessed be God, buried the dead, for it is written, "And God buried him in the valley," (Dt. 34:6) so shall you also bury the dead. (Sotah 14a)*

After this passage one might not be able to deduce that these four activities are subsumed under the term gemilut hasadim - for the term itself is not used. It is only when one reads further ahead that the connection becomes clear. On the same page the discussion continues:

R. Simlai expounded: Torah begins with gemilut hasadim and ends with gemilut hasadim, for it is written, "And the Lord God made for Adam and for his wife coats of skin and clothed them," (Gn. 3:21); and it ends with gemilut hasadim, for it is written, "And God buried him in the valley." (Dt. 34:6) (Sotah 14a)

From this statement it seems that R. Simlai considered gemilut hasadim to consist of clothing the naked and burying the dead. It is unclear whether or not he would include the other two activities mentioned in the earlier citation, but this passage certainly does not exclude that possibility.

*All translations of material from the Babylonian Talmud are from the Soncino Edition unless otherwise noted. In addition the following changes have been made: All male pronouns used to describe God have been changed to "God." The word 'man' has been changed to 'person.' 'Thy' and 'thou' have been changed to 'you' and 'your.' All British spellings have been changed to American spellings.

In tractate Baba Metzia we find a similar type of discussion. As in Sotah a biblical verse is being interpreted. Rabbi Joseph explains the verse "You shall show them the way wherein they must walk, and the work that they must do." (Ex 13:20) as follows:

"And you shall show them"- this refers to the their house of life; "The way"- that means the practice of gemilut hasadim; "They must walk"- to visit the sick; "Therein"- to burial; "And the work"- to strict law; "They must do"- to [act] beyond the requirement of the law. (Baba Metzia 30b)

This passage is problematic at first glance because gemilut hasadim, visiting the sick and burying the dead are mentioned as separate entities. Based on the preceding passage, one would expect visiting the sick and burying the dead to be components of gemilut hasadim, but this citation seems to suggest otherwise. In anticipation of this difficulty the text continues, clarifying this seemingly repetitive statement.

The Master said: "they must walk"- this refers to visiting the sick. But that is the practice of gemilut hasadim!- It is necessary [to provide this second reference to explain that] even for a person who is of the same age [as the sick person.] For the master said: if a person is the same age [as the sick person] he will take on one sixtieth of his illness; yet even so, he must visit him. "Therein"- to burial. But that too is identical with the practice of gemilut hasadim!- It is necessary only in respect of an old man for whom it is undignified; [yet even so, he must do it.](Baba Metzia 30b)

To be clear, the text is saying that in most cases a person who is the same age as the one who is sick does not have to

pay him a visit, lest a sixtieth of the illness invade the healthy person's body. This would put him in danger of becoming sick himself. As a general rule in Jewish law, people do not have to put themselves in danger, but in this case the mitzvah is so important that such a person must visit the sick.³ Similarly, it would be undignified for an elderly person to be involved with burying the dead, but the mitzvah is so great that "even so, he must do it." It seems then, that from this passage one learns that gemilut hasadim consists of burying the dead and visiting the sick. Furthermore, the text also seems to be saying that these mitzvot are of exceptional importance. They are so important that even in a circumstance where one would not normally have to do them, one must.

Although its connection is somewhat indirect, Ketubot 8b is another place where insights about the meaning of gemilut hasadim may be found. The text is relaying a story about Rabbi Hiyya whose son died. Resh Lakish, his contemporary, goes to visit him and says:

Rise and say something with regard to the comforters of the mourners. He [Rabbi Hiyya] spoke and said: "Our brethren, bestowers of gemilut hasadim, sons of bestowers of gemilut hasadim, who hold fast to the covenant of Abraham our father...our brethren, may the Lord

³ Baba Metzia, vocalized and explained by Adin Steinsalz, (Jerusalem: Israel Institute for Talmudic Publications, 1980.)

of recompense pay you your reward. Blessed are you, God, who pays the recompense. (Ketubot 8b)*

The connection here is between those who comfort mourners and those who are involved in gemilut hasadim. Rabbi Hiyya seems to be saying that those who have come to comfort him have done gemilut hasadim. He asks that God, whom he calls "the Lord of recompense" give those who have done this deed as well, their reward. This passage is similar to Sotah 14a where the activities of gemilut hasadim reflect God's own actions.

Finally, there is a citation in the talmudic treatise Soferim which also hints to the essential actions connected with gemilut hasadim. Soferim is one of the minor tractates printed in the Talmud at the end of the order of Nezeikin. It consists of 21 chapters divided into 255 paragraphs which, like the mishnayot in the Palestinian Talmud, are called halakhot. Though it can be found within the Talmud, it is not certain that it was written during the same time period. As a result, it is less often cited as an authoritative work.³ Although it is in the form of a midrash, this quote from chapter 12 is another attestation of gemilut hasadim as an action oriented mitzvah.

*The hebrew word for 'recompense' is gamal. The connection becomes clearer to those who had come to do gemilut hasadim for Rabbi Hiyya. Perhaps a better translation would be - "may the Lord who does good pay you your reward. Blessed are you, who pay those who do good."

³Encyclopedia Judaica, Volume 15, "Soferim", (Jerusalem: Keter Publishing House, column 81.)

Solomon saw the greatness of those who did gemilut hasadim and built two gates for Israel, one for bridegrooms and the other for mourners and excommunicated persons. On the Sabbath the inhabitants of Jerusalem used to congregate, ascend the Temple Mount and take their seats between these two gates to show kindness to these persons. Since the Temple was destroyed it was enacted that bridegrooms and mourners should go to the Synagogue so that kindness could be shown to them. (Soferim 42a)

According to this text, gemilut hasadim consists of no less than comforting mourners and rejoicing with bridegrooms. Presumably this would be done by way of their words of happiness or comfort. By building gates for those people who were either mourners or bridegrooms Solomon made it easy for the Jews to fulfill this essential mitzvah. Even when the Temple no longer stood, the custom was continued in the synagogues.

In the Palestinian Talmud two more texts lend support to the interpretation of gemilut hasadim as an action oriented mitzvah. In tractate Peah 1:1 there are two sections which address gemilut hasadim. The first, which does not fit into this section of the discussion, will be presented in the upcoming chapters. Through a midrash, the second makes the connection between gemilut hasadim and the mitzvah of rejoicing with the bride and groom. It is the part of the gemara to Mishnah Peah 1:1 interpreting the phrase "gemilut hasadim." It begins with the verse from Proverbs chapter 21, verse 21 - "The one who follows righteousness (tzedakah) and mercy (hesed) will find life, prosperity and

honor." The midrash then comes to explain the quote. It tells of R. Samuel the son of R. Isaac, who danced with a stick before a wedding party. His peers accused him of shaming them. But when R. Samuel died his stick came down from heaven in fire and stood between the coffin and the congregation. In the end the people said, "look how his stick stood by him." R. Samuel was proof of the biblical verse. He sought to be merciful (hesed) during his life by fulfilling the mitzvah of rejoicing with the bride and groom. Although his friends mocked him, after his death the stick, which he had used to entertain the bride and groom, came down from heaven as if to say to them that R. Samuel's activities had been worthy. As a result, he gained "life", i.e. life in the afterworld, "prosperity and honor."

The final talmudic citation is from tractate Bikkurim of the Jerusalem Talmud which supports the popular connection of gemilut hasadim and burying the dead. Although the larger context is not directly related, the following line can be found in 3:3:

Those who stand before the dead are not actually standing before the dead but before those who did gemilut hasadim for the one who died. (Bikkurim 3:3)⁷

Again the connection is not explicit but the text seems to be saying that not only does one have to stand to honor the

⁷Explained by P'nai Moshe. Moses ben Simeon Margolot of Lithuania who wrote a commentary to the Jerusalem Talmud.

⁷My Translation

dead, (presumably when the funeral procession passes by you in the street), but also to honor those who have been involved in the preparation and burial of the body. Those people have engaged in gemilut hasadim, a mitzvah that in itself deserves recognition.

Thus, the talmudic texts which support the assumption that gemilut hasadim is an action oriented mitzvah cover five of the eight possible actions previously mentioned. Further, in all instances except one, (Peah 1:1 of the Jerusalem Talmud), activities concerning burying the dead or comforting mourners were among those listed.

This trend continues into the body of literature which followed the Talmud, the Codes. These books arose out of the need to formulate certain rules for guidance in the many cases of difference of opinion in the Talmud. It was probably not accidental that the first attempts at codification were made in the time of the Geonim, (750-1010 C.E.), shortly after the rise of Karaism. The many and frequent controversies between the rabbis and the Karaites soon convinced the former of the necessity of codifying the rabbinic law.

One of these first halakhic compendiums was the Halakhot Gedolot. It is not entirely clear who was the actual author of this work. There are some who would attribute it to Rabbi Jehudia, who was the Geon of Sura in the late 8th century and there are others who would attribute

it to Rabbi Simon Kairo, who lived in the late 9th century.* Whichever author one wants to attribute this book to, it is clear that he was intending to make the Talmud more accessible for practical and theoretical investigation. By eliminating many discussions and aggadic material in the Talmud, as well as the material that was no longer applicable to diaspora life, he made the study of halakhot more approachable for the average scholar. The organization of the book follows that of the Talmud for the most part, however, sections which deal with the same issues which are scattered throughout the Talmud, are brought together.

In the introduction to the book, the author provides the reader with a list of all of the positive commandments. Here, there are a number of items that have been seen previously in the Talmud sections connected to gemilut hasadim. Included in the list are these seven commandments: 1) "to walk in God's way" (from Dt. 13:5); 2) to clothe the naked; 3) to visit the sick; 4) to console the bereaved; 5) to bury the dead; 6) to do gemilut hasadim; 7) to rejoice with bride and groom. This list is especially problematic. Some talmudic passages suggest that the essence of the biblical quote "to walk in God's ways" is gemilut hasadim; and gemilut hasadim consists of a number of specific commandments, five of which are listed here. What prompted

*Louis Ginsberg, Geonica Volume 1, (New York: Jewish Theological Seminary of America, 1909), pg. 95-117.

this author to list these items as separate entities? Is he suggesting that gemilut hasadim does not entail clothing the naked, visiting the sick, comforting the bereaved and burying the dead? Because these specific mitzvot are not spelled out in the body of the book, it is impossible to know what the author was thinking. It seems that he had no intent to explain these commandments or their relationship to one another; he simply listed them.

Many scholars had great difficulty with the enumeration found in Halakhot Gedolot. Among those who expressed their opposition was Rabbi Moses ben Maimon (1125-1204). In response Maimonides created a new literary form for the Codes found in his Mishneh Torah. As an introduction to this book, Maimonides wrote Sefer Hamitzvot. Here he listed all 248 positive commandments and 365 negative ones. Unlike the author of Halakhot Gedolot, Maimonides explained each of the laws listed. He also included the fourteen principles which guided him in his identification of these laws. It is here, in the Sefer Hamitzvot that Maimonides attacks the author of Halakhot Gedolot for listing certain activities as torahitic, which he considers to be rabbinic. Among those listed are some of the components of gemilut hasadim previously articulated in the Talmud. This discussion of the authority of these mitzvot will be addressed in a later chapter. It is only in his Mishneh Torah, which is divided into fourteen books, each representing a distinct category of

Jewish law, that Maimonides makes the connection between those specific activities and gemilut hasadim. In chapter 14 of Evel, found in Shoftim the last order, he writes:

The following positive commands were ordained by the Rabbis: visiting the sick; comforting the mourners; joining a funeral procession; dowering a bride; escorting departing guests; performing for the dead the last tender offices; acting as pallbearer; going before the bier; making lamentation for the dead; digging a grave and burying the body; causing the bride and the bridegroom to rejoice; providing them with all their needs for the wedding. These constitute gemilut hasadim performed in person and for which no fixed measure is prescribed. Although all these commands are only on rabbinical authority, they are implied in the precept: "And you shall love your neighbor as yourself." (Lev. 19:18), that is: what you would have others do unto you, do unto him who is your brother in the law and in the performance of the commandments.*

This listing is obviously much more extensive than the one mentioned at the beginning of this chapter. For the most part, however, no new categories have been added. Where the Talmud lists burying the dead, Maimonides lists all the specifics there in - such as carrying the bier and digging the grave. Where other texts simply say rejoicing with bride and groom, Maimonides includes dowering the bride and providing the their needs for the wedding. Another difference worth noting here is the implied biblical source for these activities. Maimonides cites the verse "love your neighbor as yourself" (Lev. 19:18), where the Talmud cites either "You

*The Code of Maimonides, Book 14, the Book of Judges, Translated by Abraham Hershtman, (New Haven: Yale Press, 1949), pg. 200.

shall walk after the Lord your God," (Dt. 13:5) or "Show them the way wherein they must go." (Ex. 13:20) This question of the biblical source of the mitzvah will be addressed in a later section. But despite it, Maimonides comes out fairly close to those ideas previously seen in the Talmud texts.

Another text which is consistent with the passages cited in the Talmud is Sefer Yere'im. This book, written by Eliezer ben Samuel of Metz (1159-1198) between the years 1171-1179, is an enumeration of the mitzvot organized into sections along the lines of Maimonides' Mishneh Torah. Although essentially a halakhic work, Sefer Yere'im also contains ethical maxims and homilies. The rulings of the book, as well as those in Eliezer's commentaries on the Talmud were accepted as authoritative by the rishonim, those scholars who lived from 950-1550 C.E.¹⁰

Among those specific commands listed are: to comfort mourners, to visit the sick, to bury the dead, and to clothe the naked. The first two and the last two are listed as pairs. Both cite the familiar Talmud texts Sotah 14a and Baba Metzia 30b. The quotations are virtually verbatim with the exception of two changes. The discussion of comforting mourners uses the word 'lidabek', to adhere or to cling, when interpreting the biblical verse "You shall walk after the Lord your God." (Dt. 13:5) It is asked "how one can adhere to

¹⁰ Encyclopedia Judaica, Volume 6, "Eliezer ben Samuel of Metz", column 629.

God," where the Sotah passage asks "how one can walk after God?" Another difference comes in the section on clothing the naked. After citing the biblical source of this command as Sotah does, Sefer Yere'im inserts another passage. The complete text looks like this:

To clothe the naked...as it says in Sotah 14a "As God clothes the naked, for it is written, "And the Lord God made for Adam and for his wife coats of skin and clothed them," (Gn. 3:21) so shall you also clothe the naked." And also it is written "and the life of your brother with you" and clothing the naked is in the category of "the life of your brother." And it is also written in Isaiah "when you see the naked, cover him."'''

So the text of Sefer Yere'im expands upon the biblical citations in the Talmud passages. There are however, no major deviations from the point being made about gemilut hasadim - that being its action oriented nature.

Not too long after the Sefer Yere'im was compiled Rabbi Moses ben Nachman (1194-1270), a prolific commentator of both biblical and talmudic works, began to publish. Torat Ha'adam is one of seven halakhic literary works which comprise his halakhic monographs. It is a comprehensive and unique work on all the laws concerning death, starting with what is prohibited and permitted, what is a mitzvah with regards to the sick and dying, and concluding with the laws of mourning. Towards the end of the book the same midrashic text that was in Soferim is cited. Again the text is more

'''Sefer Yere'im, #'s 153, 154, 219, 220. My translation.

extensive than that found in the Talmud but covers the same basic points.

Solomon saw the greatness of those who did gemilut hasadim and built two gates for Israel, one for bridegrooms and the other for mourners and excommunicated persons. [The people of] Israel would come on Shabbat and sit between the two gates. When a person would enter the gate for grooms they would know he was a groom and they would say to him: "may he who dwells in this house make you happy with sons and daughters." And the one who entered the gate for mourners with his upper lip covered, they knew he was a mourner and they said to him. "May he who dwells in this house comfort you." And if he entered the gate of the mourner and his upper lip was not covered they knew he was excommunicated and they said to him: "may the one who dwells in this house allow you to hear the words of your friends and relatives. [Solomon did this] in order that all of Israel could fulfill their obligation of gemilut hasadim. And after the destruction of the Temple the sages established that the grooms and the mourners would go to the synagogues and academies. And the people of the place would see the groom and celebrate with him and see the mourner and sit with him on the ground. [This was done] in order that all Israel would fulfill its obligation of gemilut hasadim and upon them one says: "Blessed is the one who gives reward to those who do gemilut hasadim."*

Thus, according to this text, comforting mourners and rejoicing with bridegrooms seem to be the essence of gemilut hasadim. Like the other literature of this period, Nahmanides expanded upon an earlier text. He did not change the basic content but provided more details for the reader.

A relative and contemporary of Nahmanides, who also wrote on gemilut hasadim was Jonah ben Abraham of Gerondi

*Torat Ha'adam, pg. 214. My translation

(1200-1263.) Although his earlier works were primarily campaigns against Maimonides' philosophical material, most of his later books focused on ethical and moral issues. There, he emphasized social justice and personal ethics and suggested that all communal activities be incumbent on every Jew, not just the communal leaders.¹³ The Iggeret Teshuvah is one such work and it appropriately contains a section on gemilut hasadim. This is a unique text as it describes the term almost entirely to be the speaking words of comfort and good advice to the poor. Gerondi lays out four basic components of gemilut hasadim: 1) to offer pleasant words to the poor; 2) to accompany the poor; 3) to give good counsel to the poor; and 4) to encourage others to do tzedakah and gemilut hasadim.¹⁴ This is one of the few instances where no mention of burying the dead or comforting mourners or even the other actions seen above is made. The focus of this text is primarily the poor. All of the other activities mentioned above would be done to both rich and poor. This is clearly a very different approach.

One final text will demonstrate a more modern reading of the term. Ahavat Hesed is a book written by Rabbi Israel Meir ben Arie Zev, commonly known as the Hafetz Hayyim (1828-1933) about various types of charity. The entire book is

¹³ Encyclopedia Judaica, Volume 10, "Jonah ben Abraham Gerondi", column 180.

¹⁴ Iggeret Teshuvah, pg. 226-227.

centered around the word hesed and naturally then gemilut hasadim is mentioned quite often. At times it even seems as if the author uses the terms interchangeably. The book is divided into three sections. These divisions alone can be interpreted as the author's attempt to define hesed and it's related term, gemilut hasadim. Section one is entirely dedicated to "The Laws of Loans and Pledges." This material will be especially relevant to our discussion of the limits of gemilut hasadim. Although it is not necessary to go into the details of these laws, they are obviously, considered part of hesed and gemilut hasadim according to the Hafetz Hayyim. The second section of the book is entitled "The Traits of Hesed." Here again the activity most often discussed is that of lending money or possessions to one in need. The final section, which is not titled, explains a number of the mitzvot also connected to hesed or gemilut hasadim. It includes: to welcome strangers, to visit the sick, to comfort mourners, to bury the dead, to rejoice with bride and groom and to offer words of good will. The section then precedes to outline what each one of these mitzvot would entail.¹²

This last text almost serves as a summation of the material covered in this chapter. The citations from the Talmud connect gemilut hasadim to burying the dead, comforting mourners, visiting the sick, clothing the naked

¹² Ahavat Hesed, section 3.

and rejoicing with bride and groom. The Codes add to that list accompanying the stranger and speaking words of comfort and advice. Finally a modern work adds lending to those in need. These texts represent the majority of material which explain what gemilut hasadim entails. If this survey is accurate it would be appropriate to also assume that the majority of texts support the idea that gemilut hasadim is an action oriented mitzvah.

Although this is only the beginning of our study, some of the challenges associated with investigating this topic are becoming apparent. It is not clear whether gemilut hasadim is a general term for a number of activities or if it is its own specific mitzvah. On the one hand this is a concept that many scholars want to define; on the other no one can agree on that definition. It is certainly clear that this is among the most important of the commandments; so it is unusual that it has such a strange halakhic status. Its legal elements aside, the aggadic material continually testifies to the value of this concept - as it seems to be connected to such concepts as life after death, the essence of the Torah, and the customs surrounding the building of the Temple. Whether it is an action oriented mitzvah or not, it certainly is held in high regard by the Jewish tradition.

CHAPTER TWO

GEMILUT HASADIM: A CHARACTER TRAIT

As the previous chapter made clear, there are many texts which suggest that gemilut hasadim is an action oriented mitzvah. This chapter will present those texts which suggest that gemilut hasadim is a general character trait. Although this approach is different than the one presented in chapter one, it is not mutually exclusive of it. That is to say that theoretically both could exist and be considered correct up to a point. As in the last chapter, the texts which hold this position are not limited to one period; they stretch from the time of the Talmud through the time of the Codes. Interestingly though, no text of this kind comes from the Babylonian Talmud. In addition, the literature of the Codes which holds this view was either written by Maimonides himself or by someone whose work reflects the Maimonidean approach. As in the previous chapter, the information will be presented and analyzed chronologically.

Although the earliest citation of gemilut hasadim in Mishnah Peah 1:1 was mentioned in the previous chapter, it did not seem to provide support for the view point represented there. The connection to this chapter is not

significantly more direct, but one might interpret the tone of the text to indicate that the Mishnah understands gemilut hasadim to be a general, broad term. Certainly it is no less out of place in this section as in the preceding one.

Furthermore, as we shall see in the upcoming passage from the Palestinian Talmud, the rabbis do use this text as a basis for discussion of gemilut hasadim. They obviously viewed it as an appropriate source from which to expound upon the term.

It reads:

These are the things which have no fixed measure, the corners of the field, the first fruits, the three festival offerings, gemilut hasadim and the study of Torah. These are the things the fruits of which a person enjoys in this world, and the reward of which remains for him in the world to come, honoring one's father and mother, gemilut hasadim, making peace between a person and his fellow, but the study of Torah is equal to them all.¹

Once again, the first place a relevant text is found is in the Talmud. In this case however, the first and only talmudic source is in the Palestinian Talmud. It was mentioned in the first chapter that there are two sections about gemilut hasadim found in this book. The second was discussed in chapter one, the first fits into this framework. The text is part of a larger piece of material which discusses a number of facets of gemilut hasadim. The other sections will be discussed in the upcoming chapters; the one relevant to this chapter reads:

¹ Mishneh Zeraim, Translated by Philip Blackman, (London: Mishnah Press, 1951), pg. 81.

R. Ishmael explained [the verse] "This is my God whom I will adorn." (Ex. 15:2) Is it possible for a person to adorn his creator? Rather I will adorn God through the mitzvot which I will do: adorning the lulav, sukkah, shofar, tzitzit, and tefillin. Abba Shaul [interpreting the verse] said: I will emulate God. Just as God is merciful and gracious, so shall you be merciful and gracious.*

Despite the fact that there is no direct mention of the term within these specific verses, this text is connected to gemilut hasadim because it is found within the gemara which attempts to explain the phrase in the Mishnah.

Interestingly, although the final message is different, this text is similar in style to those cited in chapter one.

Where the texts there say "just as God buried the dead, so shall you bury the dead," the text here say "just as God is Gracious so shall you be gracious." Although the content is different, the form is similar and the ultimate goal - to imitate God - is the same.

Despite the fact that the lack of direct association raises a question as to the strength of this citation, we shall soon see additional texts which, although problematic for other reasons, also indirectly lead to the conclusion that gemilut hasadim is a general character trait. All of these texts are from the period of the Codes. The correlation to gemilut hasadim has been made for primarily two reasons. First, these upcoming texts all employ the same biblical verse which the Babylonian Talmud uses in its

*my translation

explanation of gemilut hasadim as an action oriented mitzvah. These texts, however, will use the verses to describe a character trait. Second, this association can be found in the Encyclopedia Talmudit³, a comprehensive modern source of halakhic subjects.

Progressing chronologically Maimonides' Sefer Hamitzvot is the next book which articulates these ideas. The work, which enumerates and defines all 613 commandments lists "walking in God's way" as one law.⁴ The sources of this commandment are Deuteronomy 28:9, 10:12, and 13:5. Where the Babylonian Talmud understands this phrase to mean specific activities which are components of gemilut hasadim, the Sefer Hamitzvot understands this to mean character traits. Maimonides explains the verse as follows:

By this injunction we are commanded to be like God as far as it is in our power. This injunction is contained in God's words, "And you shall walk in God's ways" (Dt. 28:9), and also in an earlier verse "to walk in all of God's ways" (Dt. 10:12.) On this latter verse the sages comment as follows: Just as the Holy One, blessed be God, is called Merciful, so shall you be merciful; just as God is called Gracious; so shall you be gracious; just as God is called Righteous, so shall you be righteous; just as God is called Chasid, so shall you be a chasid. This injunction has already appeared in another form in God's words "after the Lord your God shall you walk" (Dt. 13:5), which the sages explain as meaning that we are to imitate the good deeds⁵ and lofty attributes by which the

³ Encyclopedia Talmudit, Volume 6, "Gemilut Hasadim", pg. 149.

⁴ Sefer Hamitzvot #8.

⁵ The term here is 'ma'asim tovim' not gemilut hasadim.

Lord is described in a figurative way - God being indeed immeasurably exalted above all such description.⁴

Again this is an instance where the connection is not explicit. Maimonides never uses the term gemilut hasadim in this section. It is only through the presence of the common biblical verse that the connection may be made. Clearly though, this is another instance where the style of the Babylonian Talmud is applied. The content is different but both are attempts to imitate God.

The Mishneh Torah, written not too many years later expounds upon that which was stated in Sefer Hamitzvot. In Deot, which is in the first of the fourteen books, chapter 1 halakhah 6 also interprets the verse "to walk in God's ways."

In the explanation of the text [to walk in God's ways] the sages taught, "Even as God is called Gracious, so shall you be gracious; Even as God is called Merciful, so shall you be merciful; even as God is called Holy, so shall you be holy."⁵ Thus too the prophets described the Almighty by all the various attributes "long-suffering and abounding in kindness, righteous and upright, perfect, mighty and powerful," (Ps. 7:12) and so forth, to teach us that these qualities are good and right and that a human being should cultivate them and thus imitate God, as far as he can.⁶

Although Maimonides is the author of both above texts which basically say the same thing; they are not exactly alike. In

⁴Charles B. Chavel, The Mitzvot (New York: Soncino Press, 1967), pg. 11.

⁵Shabbat 133b

⁶Mishneh Torah, Deot, translated by Moses Hyamson, (Jerusalem: Boys Town Jerusalem Publishers, 1962) pg. 47b.

Sefer Hamitzvot the adjectives merciful, gracious, righteous and chasid are used. The Mishneh Torah lists merciful, gracious and holy as well as long suffering, abounding in kindness, righteous, upright, perfect, mighty and powerful. It is not clear why he chose to include more adjectives in the later text, but the essential point here is that they are just adjectives. Assuming there is some validity in making the association between this biblical verse and gemilut hasadim, it may be suggested that Maimonides understood gemilut hasadim to be no less than a character trait which enables individuals to emulate God.

The last two texts which this chapter will address are from approximately the same period. Sefer Mitzvot Gedolot and Sefer Hahinnukh are usually dated to the thirteenth century. The precise date of the later text, however, is questionable; therefore we will begin with the former. Sefer Mitzvot Gedolot was written by Moses ben Jacob of Coucy, a French scholar and tosafist. His work was unique among the rabbinic writings of the period as it arranged the commandments into two sections, one for the positive laws and one for the negative ones. Although the material is based on Maimonides' works, the author varied his arrangement by grouping together those commandments which were applicable to the time and those which were not. Appropriately, this book marks the penetration of the works of Maimonides into the halakhic world of France. It became

very popular among scholars and posekim and many manuscripts survive to this day.

In its discussion of the commandment "to walk in God's ways" the Sefer Mitzvot Gedolot first lists all of the biblical texts which Maimonides mentioned in his Sefer Hamitzvot. The author then goes on to acknowledge and quote directly the section of Sotah 14a which interprets the biblical verse as a call to bury the dead, comfort mourners, visit the sick and clothe the naked. He does not include, however, the additional passage presented in chapter one which connects that interpretation to gemilut hasadim. Moses ben Jacob then continues in his own voice saying:

But, I have interpreted [the verse "to walk in God's ways"] like the sages of France explain the verse "know the Lord of your ancestors and worship God." Just as God is merciful and gracious and does kindness, justice and righteousness in the land, so shall you.*

This text is important to our discussion. Moses ben Jacob knows of, accurately cites and acknowledges the text from Sotah. Maimonides, who is known for his disregard for the importance of citations, seemingly dismisses this and other texts altogether. Although it is known that Maimonides' rulings had a great amount of authoritative weight, this situation suggests that other interpretations were at least present enough to be acknowledged.

*Sefer Mitzvot Gedolot, #7.

The final source for this discussion of gemilut hasedim as a character trait is from Sefer Hahinnukh. This book, as its title implies, was written as a means to teach the commandments to the author's sons and his peers. Although the laws are those cited by Maimonides, the organization follows the weekly Torah portions. Unfortunately, the author of the work is unknown. Many have speculated that it was written by R. Aaron Ha-Levi of Barcelona. The reason being that in the end of the preface he describes himself as a Jew from the house of Levi. Although there was such a person, and he was a great halakhic scholar, many doubt that he was the actual author. Some suggest that the that the work was written by Rabbi Pinhas ha-Levi of Barcelona who lived during the thirteenth century.¹⁰

Nonetheless, commandment number 611, "the precept to emulate the good and right ways of God", addresses the topic at hand. The text seems to use as its source both Mishneh Torah Deot 1:6, and Sefer Hamitzvot #8, both cited above. It appears that the author was expanding upon the verses there, providing his reader with more detail and practical advice about the attributes listed. However, he does not add any new terms than the combined list from both of Maimonides' texts. An example of his expanded explanation is:

¹⁰ Beth Klafter, " (Rabbinic Thesis, Hebrew Union College-Jewish Institute of Religion, submitted March 1988.)

Thus we know from the Torah that this is the way of the Lord and this is what God wants from God's creatures, in order that they shall merit God's goodness, for God desires righteousness, and about this it is said "You shall walk in God's ways" and this mitzvah is also supported by the phrase "to walk in the ways of the Lord." It is said in Shabbat 133b: As the Lord is called merciful so shall you be merciful; as the Lord is called gracious so shall you be gracious; as the Lord is called righteous so shall you be righteous; as the Lord is called Chasid so shall you be a chasid. The issue in its entirety teaches that we must learn to walk within good deeds such as these, and honorable measures which God will count.

Thus, it is clear that the same ideas are presented but this author seems interested in stressing the reward and merit one would gain from acquiring these traits. The text continues in this fashion, expanding upon those characteristics mentioned by Maimonides with similar comments. Once again, the term gemilut hasadim is not mentioned in this text. The connection is indirect by way of the use of the biblical verse which is commonly associated with the term.

In sum, there are five texts which have contributed to this secondary understanding of the gemilut hasadim. They are all relatively mainstream works. Unfortunately, as has been mentioned numerous times already, the direct connections between these texts and gemilut hasadim is not as strong as that of the preceding chapter. Nonetheless, if the assumption that this association has some merit is accepted, then the conclusion can be made that there is a body of literature which understands gemilut hasadim to be a character trait which allows a person to imitate God.

CHAPTER THREE

THE LIMITS OF GEMILUT HASADIM

After having presented the two main approaches to the definition of gemilut hasadim, the question remains as to the extent to which one must engage in these activities. There are a substantial number of texts which attempt to explain the phrase found in the Mishnah Peah 1:1 which states that gemilut hasadim is among those things which "have no limit," ("she-ayn lakhem shiur.") This is the text to which the material in this section is responding. As seen in the preceding chapters, the information spans from the time of the Mishnah to the modern age and will be presented in chronological order.

For the convenience of the reader, and because it is the textual source of this chapter, Mishnah Peah 1:1 will be presented once again. It reads:

These are the things which have no fixed measure (or limit), the corners of the field, the first fruits, the three festival offerings, gemilut hasadim and the study of Torah.

The upcoming texts which explain this sentence do not try to draw common links between those items listed. With one exception, they do not address why gemilut hasadim is

mentioned in the same breath as the first fruits, for example. Rather most only try to explain the term gemilut hasadim in relation to the over arching statement - that it has no fixed measure. This attempt to make the general more specific, to provide detail and explanation for a broad statement, is the nature of halakhic interpretation.

The gemara text to this Mishnah, found only in the Palestinian Talmud, explains the meaning of the above phrase in significant detail. Although it is not an especially long piece, it is the text which contains the most discussion on the limits of gemilut hasadim. It states:

GEMILUT HASADIM [has no limit]: Thus it is taught with [regard to] one's person, but with one's money there is a limit. R. Simeon ben Lakish came before the Master and said in the name of R. Yosi ben Hanina, In Usha they say that a person may distribute one fifth of his property for the mitzvah, but to what extent? R. Gamliel ben Ayneenu and R. Abba bar Kahana differed [on the matter.] One said no less than 3%. The other said (quoting Proverbs 3:9) "Honor the Lord with your wealth, the best of your produce." The best of your produce [is at least 2%.] R. Gamliel ben Ayneenu asked R. Hanna, if one is required to give a fifth each year, would he possess nothing at the end of five years? [R. Hanna] said to him in the first year he would be paying from the principal but thereafter it would be from the income. R. Huna said to fulfill the mitzvah one may give up to a third [of his income.] Is it for all the mitzvot combined [that one may give] up to a third or for one mitzvah alone? They thought he said for all the mitzvot together [one may give] up to a third.*

*My translation. These numeric values are computed in the French translation:

*my translation

The opening statement, that there are limits to gemilut hasadim when done with money but not when done with one's own person, appears in almost all of the upcoming texts. None, however, go into this amount of detail ~~about~~ the minimum and maximum percentages necessary to fulfill the mitzvah. The discussion and diversity of opinion might suggest that this was an operative issue for the community.

Although there are many specifics in this text, the approach to the concept of gemilut hasadim here is quite general. There is no mention of the particular things for which this money would be going. Thus, if one were to associate this text with one of the two preceding definitions, it would fit best into the second - gemilut hasadim as a general character trait.

In brief then, our first text sought to explain the phrase which states there are no limits to gemilut hasadim. In the process, however, it presented some very specific guidelines for this commandment when done with one's money. All opinions considered, the minimum being two percent of one's earnings and the maximum being thirty-three and a third percent.

Maimonides' Mishneh Torah, the next text chronologically, does not provide the limits of gemilut hasadim as the Talmud text did. Rather, it simply lists those things which Maimonides considered part of gemilut hasadim and concludes with the statement: "These constitute

gemilut hasadim performed with one's person and for which no fixed measure is prescribed." This falls nicely into place with the other texts cited thus far, as well as with those to come. One problem, however, remains unresolved. Among the items in the Maimonides' list are "dowering the bride" and "providing the bride and groom with all their needs for the wedding." These responsibilities may very well require a person to make a donation from his finances or possessions. This would seem to be categorized with those things done "b'mamono," with one's money and would therefore require a limit. It would appear that either Maimonides assumed that these activities were not done with one's finances or that he saw them as exceptions to the rule.

Among those Maimonidean texts which discuss gemilut hasadim in some way or another, this is the only one that mentions the fact that there is no fixed measure to the activity. Where the previous citation from the Palestinian Talmud seemed to be connected to the more generalistic approach to gemilut hasadim as a character trait; this one seems to align itself to chapter one, gemilut hasadim as an action oriented mitzvah. The fact that the phrase follows the list of action oriented activities leads one to make such a connection. In addition, the other Maimonidean texts which discuss gemilut hasadim as a general character trait make no mention of the limits of this concept. Nonetheless, in the

end the idea that gemilut hasadim has no limit when done with one's person remains clear.

Thus far, the sum information from the two texts examined suggests that gemilut hasadim has no limit when done with one's person, the Talmud text also clearly stated that there is a limit when done with one's money. The Sefer Hahinnukh, dated only a hundred years or so later than the Mishneh Torah, adds yet another dimension to this discussion of limits. Mitzvah 66 addresses the commandment of lending to the poor. This mitzvah was discussed in chapter one. There the Hafetz Hayyim directly connected it to gemilut hasadim in his book Ahavat Hesed. Although the discussion in the Sefer HaHinnukh does not originate as an explanation of limits, there are some comments within the text which are relevant to this section. In discussing the basis of the mitzvah of lending the author writes:

The root reason for the precept is that God wished for humans to be educated and accustomed in the quality of gemilut hasadim and compassion, since it is a noble quality. Then out of their physical, bodily training in the good qualities, they will become fit, worthy to receive goodness.²

Within this discussion there is also a comment as to the limit of this mitzvah. It is short and to the point. "One must lend a poor person as much as one can afford, according

²Charles Wengrov, The Book of Education, (New York: Feldheim Publishers, 1978), Page 265. (A translation of Sefer Hahinnukh.)

to what that person needs in order to bring him relief and ease his anguish.**

Thus it seems that lending money is not the same as giving money. With regards to lending one must give as much as he can. Although little is added to the definite limits of gemilut hasadim, (because each person can determine that amount for him/herself), an important point is made by distinguishing loaning money or possessions from giving them away. The two activities are understood to have different limits even though they may not be clearly defined. Other texts written in later years will also address this point. There is no other text in the Sefer Hahinnukh that can be connected in some way to the limits of gemilut hasadim.

One of those later texts addressing both the concept of lending and as well as the limits of the other aspects of gemilut hasadim is the commentary to the Mishnah, Tiferet Yisrael. It was written by Israel ben Gedaliah Lipschutz who lived from 1782 to 1860 in Germany. Lipschutz is known for his brief but thorough comments which include both "traditional" interpretations and more recent explanations. In addition, he included within his comments halakhic rulings based primarily on the Shulchan Arukh. In the section addressing Mishnah Peah 1:1, Tiferet Yisrael attempts to explain the limits of gemilut hasadim:

*ibid.

GEMILUT HASADIM [has no limits]: with one's body but not with one's finances. It is not permissible to spend more than a fifth of one's earnings. Further, there are those who say that there are three types of gemilut hasadim: 1) by the power of one's body; 2) by the power of one's money; 3) by the power of the advice one may give to his fellow to benefit that person. And none of these have a limit, for all that we can do for the goodness of our fellow, we must hurry to do. And how is gemilut hasadim done with one's money - namely by loaning a person what he needs. But to give tzedakah permanently, for this there is a limit. That is that a person should not spend more than a fifth. With one's body...one is obligated even to enter into danger to save his friend."

Thus, this seems to be almost a summary of the material already seen. To be clear, Tiferet Yisrael states that there is definitely no limit to gemilut hasadim when done with one's body. There seems to be two different ways to do gemilut hasadim with one's money. The first is to make a loan. For this there is no limit. The second is to give money permanently. For this there is a limit - one fifth of one's earnings. This is consistent with the Talmud text and Sefer Hahinnukh cited above.

It is also worth noting here that almost all of the commentaries to the Mishnah suggest this same interpretation, most with less detail. The only one which adds a slightly different approach is Obadiah Bertinoro, of fifteenth century Italy. He holds the same view as Tiferet Yisrael but explains the terms of one's person and money differently. "With one's body", he explains, would include visiting the sick and

*my translation

burying the dead. Gemilut hasadim "with one's money" would mean clothing the naked or feeding one who is hungry or other deeds to help one in need. This nuance nicely connects back to the texts found in chapter one explaining the action oriented side of the term. In sum, from our Mishnah commentaries there is a sense once again that doing gemilut hasadim with one's money does have a limit, but there is no fixed measure when done with one's body.

Ahavat Hesed, written in the late 19th century, does not address the idea of the limits of gemilut hasadim in an extensive way. There is no chapter or even section which addresses only this point. However, within discussions of other aspects of the term, one may determine that the Hefetz Hayyim did have a sense of its limits. As mentioned in chapter one, the entire first section of the book is dedicated to the topic of loans. There the following paragraph address this topic:

Because of my own limitations, I have not been able to discover any mention by chazal of a fixed measure for loans. Nor can any conclusions be drawn from the laws of charity. There the maximum limit is one fifth of one's possessions, because this is an outright gift. Here, however, the lender regains possession of his money. Nor can the opposite inference be drawn, viz. that the Torah has ordered one to allocate all his idle capital to money loans, since the owner might find the opportunity to make some profitable investment, advantageous to his household, and then he would not have the money available. The logical approach would be that each person should act in accordance with his means, and should extend whatever favor he can to his friend. I have found with God's help, that the Sefer Hahinnukh too, has followed this

principle. It may further be inferred from the Sefer Hahinnukh that the amount of the loan will also depend on the needs of the borrower, as the lender can afford such an amount.*

Other relevant statements made throughout this chapter add to the sense of the limits of loaning. Found in the same chapter as the above statement, the Hafetz Hayyim states that one must loan to both the rich and the poor; one may loan money, utensils and cattle; there is no limitation as to the number of times a loan may be granted; and that there is no fixed time frame for returning a loan, but thirty days is a logical time.

The other aspects of gemilut hasadim are mentioned in section three of the book. Here too, one cannot find a specific section addressing the limits of these aspects of gemilut hasadim, but one relevant comment is made in passing. In the discussion of visiting the sick it says: "Now the mitzvah of visiting the sick has no fixed measure or limitation. The distinguished is required to visit the plain person. The mitzvah is to be performed even several times a day." In addition to lending support for the idea that certain mitzvot have no limit, this comment seems to intensify it. Unfortunately although the discussions of this commandment and those of burying the dead, rejoicing with bride and groom, comforting mourners and offering words of

*Ahavat Hesed, by Hafetz Hayyim, translated by Leonard Oschry, (New York: Feldheim Publishers, 1976) Page 34.

*ibid. page 200.

advice and good will, are present in full, no mention of limits can be found in any of these other sections. It seems then, that only in the area of loans has the Hafetz Hayyim added to this discussion. The information however, does not, contradict that which has already been cited.

The final text of this section has not been directly cited before. The Encyclopedia Talmudit, which is currently, being completed, is a topic oriented work which summarizes the most important texts addressing an issue. In its article on gemilut hasadim there is a section addressing the limits of the concept. This text is the only one which addresses the other items in the list of things which "have no measure" in some way or another. It reads:

Gemilut hasadim, according to the Rabbis, has no limit, meaning gemilut hasadim with one's body. That which is in one's power to do for the good of one's friend, he is obligated to do. There is a difference between those remaining things which have no limit, such as the corners of the field, and the first fruits, and gemilut hasadim. With regards to these remaining things, the essence of those mitzvot does have a limit. But if one wishes to add on [to the basic amount] he does so and there is no limit to this and it is considered a mitzvah. But the essence of gemilut hasadim has no limit, such as [in the case of] the study of Torah.*

This is important, not only because it helps to understand gemilut hasadim, but also because no other text made this connection or attempted to explain the list found in the

*Encyclopedia Talmudit, "Gemilut Hasadim", (Jerusalem: Talmudic Encyclopedia Instituted, 1973.) column 142. My translation.

Mishnah. Does the fact that the essence of the mitzvah has no limit, according to this text, suggest that this text supports the idea that gemilut hasadim is a general character trait? For we know from chapter one, that if gemilut hasadim is an action oriented mitzvah it may very well require one to give up either possessions or finances. That issue aside, one cannot pass over this text, which does not add much to the idea of limits but does use a term we have not seen before. No one else discussed the "essence" of the mitzvah. Although the section continues with the reiteration of those ideas already mentioned (i.e. of not spending more than one fifth if doing gemilut hasadim with one's money and of lending as much as you can), this comment about the "essence" of the mitzvah seems most significant.

In sum, the texts addressing the comment made by the Mishnah that gemilut hasadim has no fixed measure all seem to understand that to be in terms of activities that involve money. It is not entirely clear if lending money would fall under this category or not. There is, however, a consensus that gemilut hasadim, when done with one's own person, has no limit at all. This interpretation seems to fit into the framework of Jewish law. It is known that there are limits when giving charity. Although this mitzvah is important, one may not impoverish him/herself while trying to fulfill it. With regards to those activities which require only personal time and energy, for which there is no limit, there appears

to be no direct financial loss. But the time one must take out of the working day to fulfill them might cause one to incur a loss. It seems that, despite these possibilities, these activities are so important that they must be done nonetheless.

Thus, in addition to learning about the limits of gemilut hasadim when done with one's money, this chapter has also provided some more insights into the importance and even the "essence" of gemilut hasadim.

CHAPTER FOUR
THE AUTHORITY OF GEMILUT HASADIM

Is gemilut hasadim a commandment derived directly from the Torah, or is it a commandment that the rabbis themselves enacted long after biblical times? This question was an operative one for the scholars of the medieval period. Determining the status of a law and there by making a statement about its authority was the concern of the author of Halakhot Gedolot, Maimonides, Nahmanides and other scholars and commentators of the post-Talmudic age. These authors of the Codes, whose job it was to clarify and concretize the laws of the Talmud, concerned themselves with the authority of commandments. They categorized mitzvot into two groups: torahitic and rabbinic. Torahitic implies that the origins of the mitzvah lie in the Torah itself. Rabbinic implies that the law was inferred or instituted by the rabbis from another source or by means of their own interpretive principles.

This ability to distinguish between biblical legislation and rabbinic injunction was important for practical purposes. The rabbis did not engage in this type of study and debate for strictly academic reasons; rather,

legal determinations arose from this knowledge of the authority of each mitzvah. For example, if there are two differing opinions on an issue and there is no statement as to which is legally correct, then if a biblical law is involved the more stringent opinion is followed, whereas if only a rabbinic law is involved the less stringent view holds. Thus, the importance of this type of information for practical decision making is clear.

This chapter will present the arguments which discuss whether the mitzvah of gemilut hasadim and those activities which make it up are torahitic or rabbinic. The subject is complex as we know that the term itself does not appear in the Bible. Clearly the law must be derived from other verses. The important question which will be addressed by the texts presented in this chapter is whether or not those sources are enough of a basis upon which to categorize gemilut hasadim as torahitic; or is gemilut hasadim a rabbinic enactment of a lesser authority.

The author of Halakhot Gedolot is the first to make the claim that gemilut hasadim and those activities which comprise it, are among the 613 commandments found in the Torah. In the introduction to his book, he provides the reader with various groups of torahitic commandments. As mentioned in chapter one, within the list of positive mitzvot, he includes clothing the naked, visiting the sick, comforting mourners, burying the dead, rejoicing with bride

and groom and gemilut hasadim.¹ Although the body of the book does not go on to address each one of these commandments individually, it can be assumed by their presence in the list of positive commandments, that the author considered them to be torahitic. The fact that he does not provide any justification or explanation for his listing is problematic for many other scholars who followed him. The most vocal among them is Maimonides.

In his introduction to Sefer Hamitzvot, Maimonides presents the principles which he used to compile the list of torahitic commandments in his book. There he makes it clear that the author of Halakhot Gedolot improperly labeled gemilut hasadim and its components as torahitic. These commandments, Maimonides insists are rabbinic. His reasoning is clear in his explanation of the first two principles which guided him in compiling his list of the 613 commandments. The first principle states: "We are not to include in this enumeration commandments having only rabbinic authority." Elaborating on this statement Maimonides says:

You are to know that it should not have been necessary to comment on this matter which is perfectly clear. Since the text of the Talmud has it: 'Six hundred and thirteen commandments were declared unto Moses at Sinai,' how is it possible to say concerning anything which is of rabbinic authority that it be included in this enumeration?...It is this point which eluded someone and for this reason he counted the clothing of the naked [among the commandments]

¹The exact term is l'gamel hesed, (an active form). I have equated that with gemilut hasadim.

because he found in Isaiah: "When you see the naked, you shall cover them." (Is. 58:7) But he was unaware that this [specific duty] is embraced within God's general words: "You shall surely open your hand...and lend him sufficient for his need and that which he wants." (Dt. 15:8) For it is clear beyond a doubt that the purport of this commandment is that we should feed the hungry, clothe the naked, give a mattress to him who has none, and cover to him who has none, and provide the means of marriage to him who has none, and transportation to him who has none, as is known from the text of the Talmud that all these matters are included in God's general words, "sufficient for his need."...This point is clear beyond any doubt. Whatever is of rabbinic authority is not to be counted in the sum total of 613 commandments, since that figure is all based upon verses in the Torah, there being nothing among them which is of rabbinic authority as we shall explain. But such a condition [which these scholars introduced] - of counting some injunctions which are of rabbinic authority and leaving out others just as a matter random choice - cannot be accepted under any circumstance, regardless of who is its author.*

This statement demonstrates Maimonides' view that the elements of gemilut hasadim are rabbinic enactments. He seems to come to the conclusion that they are all subsumed under the commandment "to give a person what he needs." Where the author of Halakhot Gedolot cited one biblical verse as his source, Maimonides, has cited another. Nonetheless, the important point made here is that gemilut hasadim is rabbinic not torahitic.

Maimonides goes on to further emphasize this point in his discussion of the second principle. That being: "We are

*Charles B. Chavel, The Mitzvot, (New York: Soncino Press, 1967), pg 371.

not to include in this enumeration laws derived from scripture by any of the thirteen exegetical principles by which the Torah is expounded or by the principle of inclusion.* This Maimonides explains in the following way:

The substance of the matter is thus as follows: whatever is not explicitly stated in the Torah and you find the Talmud deriving it by one of the thirteen exegetical principles - then, if [the sages] themselves clearly affirm that 'it is of the essence of Torah' or that 'it is of scriptural authority', it is proper to count that particular law [among the commandments], since those who received the tradition explicitly stated that it is of scriptural authority. But if they have not clearly explained it or stated it to be so, then it is of rabbinic authority, since there is no verse directly indicating that [law].*

Then addressing himself to gemilut hasadim and its related mitzvot, Maimonides adds:

Those [authors] depending as they do upon baseless comparisons, count among the positive commandments visiting the sick, consoling mourners and burying the dead - all because of the following interpretation mentioned in connection with God's words... "And you shall show them the way wherein they must walk and the deeds they must do." (Ex. 18:20)... [On the basis of this text, these authors] thought that each and every duty mentioned constituted a commandment in itself, but they were unaware that all these and similar duties are embraced within the terms of one of the commandments explicitly stated in the Torah, as contained in God's words: "And you shall love your neighbor as yourself." (Lev. 19:18)*

Here again, it is clear that these mitzvot are considered by Maimonides as rabbinic and not torahitic. Its interesting

*ibid. pg. 374

*ibid. pg. 375

that Maimonides and the author of Halakhot Gedolot differ once again on the biblical verse which would determine the origin of these activities. Further, in the first principle cited above, Maimonides attributes these activities to the commandment "to give a person what he needs." Here, he attributes these very same mitzvot to "love your neighbor as yourself." Thus, in addition to making the point that these are not torahitic mitzvot, Maimonides also seems insistent upon interpreting their source differently than the source which the Talmud and Halakhot Gedolot chose to use.

By far, Maimonides gives the most attention to this matter of the authority of gemilut hasadim. Later thinkers also address this topic, - not to debate the nature of gemilut hasadim, however, but to try to resolve the two opinions put forth by these two early codifiers. Rabbi Moses ben Nachman, (Nahmanides), who was mentioned in chapter one in reference his book Torat Ha'adam, appears again here as one of the commentators addressing Maimonides' argument with the author of Halakhot Gedolot. He wrote a commentary to the Sefer Hamitzvot and there responded to the statements made by Maimonides about the authority of gemilut hasadim and its related mitzvot.

In his response to Maimonides, Nahmanides brings in the perspective of the author of Halakhot Gedolot and almost weaves the two thinkers into one dialogue. He presents both opinions, as well as interjecting his own once in a while.

With regard to the issue of the biblical source of gemilut hasadim, Nahmanides gives both men credit, citing post-biblical sources which express both of their views. The opinion of Halakhot Gedolot is the same as that articulated in the Talmud passage, Sotah 14a. The opinion of Sefer Hamitzvot is the same as that found in the Sifre. Nahmanides asks: "why is Maimonides so surprised by the author of Halakhot Gedolot? He used that which was taught in the Sifre to [discuss] this mitzvah and the author of Halakhot Gedolot used that which was taught in the gemara." However, more often than not, Nahmanides does side with Maimonides. After discussing the four specific activities connected with gemilut hasadim, he adds that in his opinion they should all be subsumed under one mitzvah. He further concurs with Maimonides in attributing these mitzvot to the source text "love your neighbor as yourself." Nahmanides adds a new explanation for this reasoning. The phrase "you should walk in God's ways" comes from Jethro's advice to Moses. Nahmanides claims that it would be improper to use the words of a gentile as the source of a biblical commandment. Thus, in the end, Nahmanides does not resolve the issue of torahitic verses rabbinic but attempts to clarify the presentations of the two scholars who preceded him. For him, the issue of authority does not seem as pressing as it was

*my translation, from "The First Principle" of Sefer Hamitzvot.

for Maimonides. Nahmanides is either simply trying to make sense out of the two different opinions previously presented, or he feels he can't reach a decision and leaves it to the individual to make up his/her own mind.

This same type of presentation is made in Halakhot Gedolot. Between the enumeration of commandments and the body of the book itself is a section of "additions and comments." Presumably this was added to the text long after it was first written, but it is not ascribed to anyone in particular. (Since Maimonides lived after the Halakhot Gedolot was written and this group of glosses brings in both works, we know it is a later addition.) Like Nahmanides above, the anonymous author tries to present both opinions and give some credit to each. He acknowledges that the author of Halakhot Gedolot used the text from Sotah 14 to arrive at the conclusion that clothing the naked, visiting the sick, burying the dead and comforting mourners were torahitic commands. He even points out that this is similar to Maimonides explanation of mitzvah #8, "To Walk in God's Ways," in his Sefer Hamitzvot. The author also acknowledges that he is explaining the debate in a similar fashion to Nahmanides, stating: "I have found the words of Nahmanides' in Maimonides First Principle in Sefer Hamitzvot to explain the author of Halakhot Gedolot as I have."⁴ This writer though, adds one new thought when he says: "Nonetheless,

⁴Halakhot Gedolot, Introduction.

seven commandments will be missing [from our counting] if we follow the words of Nahmanides."⁷

It appears that this author has presented an explanation similar to that of Nahmanides. But, he ultimately returned to the task at hand, counting the mitzvot, and revealed an additional problem. He, like the author of Halakhot Gedolot, wants to end up with 613 commandments. Although he has added to the discussion, he has still left us unresolved about whether or not these commandments should be counted as torahitic or as rabbinic.

There is one final text which makes a passing comment about the topic at hand. Kiryat Sefer was written by Moses ben Joseph Trani, who lived from 1500-1580. The main source for this work is Maimonides' Mishneh Torah. Although the body of this text is about burying the dead, the section opens with the following comment:

The mitzvah of gemilut hasadim is generally from the Torah by way of "Love your neighbor as yourself" and some also teach from the verse "you shall walk in God's ways" as our sages taught, and the details of gemilut hasadim come from their [the sage's] words.*

This seems to sum up the above comments. It is also the general opinion which comes out of the article on gemilut hasadim in the Encyclopedia Talmudit. (Mentioned in the previous chapter.) No one denies that gemilut hasadim is not

⁷ibid.

*Kiryat Sefer, chapter 14.

directly found in the Bible and therefore it must come from another verse. However, despite this fact, as we saw above, the Halakhot Gedolot is willing to categorize the mitzvot as torahitic, where Maimonides and Nahmanides classify it as rabbinic. Although these prominent thinkers engage in this debate about the authority of gemilut hasadim, no one discusses how that would effect the practical application or fulfillment of the activity. One may not do gemilut hasadim less often or with less vigor because it might be rabbinic rather than torahitic. The limits of gemilut hasadim were presented in the previous chapter and they seem to state that one must do this to the extent that it is physically and financially possible. The debate over the authority of this mitzvah, torahitic or rabbinic, may have been one of legal import for those who wrote about it. This seems to have little effect, however, on the way in which one would engage in the mitzvah of gemilut hasadim. Despite their disagreements, these texts do not diminish the value of the concept in any way at all.

CHAPTER FIVE

THE RELATIONSHIP BETWEEN GEMILUT HASADIM AND TZEDAKAH

Gemilut hasadim is often found in conjunction with discussions of tzedakah. The relationship between these two concepts, however, is not entirely clear. Tzedakah could be seen as an aspect of gemilut hasadim, as some of the texts cited in the chapter three might indicate. (They discuss the limits of gemilut hasadim when done with one's money.) Or tzedakah may be a mitzvah which is completely independent of gemilut hasadim. Although this chapter will not present texts which discuss tzedakah alone, it will explore those texts which contain both concepts, providing some indication of the relationship between them.

The perspective of these passages is not halakhic or legal. There are no discussions, for example, of the differences in how one would fulfill these two mitzvot. Nor are there comparisons of the extent of one's legal obligation to uphold them. Rather, these texts discuss the value of the commandments in relation to one another. Some address the issue of which of the two is more meritorious, tzedakah or gemilut hasadim. Others group both together and then compare them to all the other commandments in the Torah. It is

important to note at this point that, perhaps because of the more aggadic nature of the texts in this chapter as well as the next, the word hesed is often used interchangeably with gemilut hasadim. Where this rarely happened in more halakhic discussions, here it is common.

Certainly there are more texts available on this topic which would add to the discussion of the relationship between these two concepts. The few presented in this chapter serve as an initial confirmation that these two mitzvot are somehow connected - either practically or conceptually or both.

The earliest citation comparing these two terms is in the Tosefta to Mishnah Pesh. The Tosefta is a body of literature which contains material from the Mishnaic period which cannot be found in the Mishnah itself, but which elucidate and embellish that material. These passages, called baraitot, are not commentaries to the Mishnah but additional texts addressing the same subject. It is not entirely clear who compiled all of these texts, but some scholars suggest that the tanna, R. Hiyya bar Abba redacted the work.

In the Tosefta to tractate Pesh, parts of which have been cited in other chapters, the following statement is made:

Tzedakah and gemilut hasadim outweigh all of the commandments in the Torah. But, tzedakah [can be given] only to the living, but gemilut hasadim [can be given] to the living and the dead.

Tzedakah [can be given] only to the poor, but gemilut hasadim [can be given] to both the poor and the rich. Tzedakah [can be given] with one's finances, but gemilut hasadim [can be given] with one's finances and with one's person.'

This text reappears in a number of other places. There are very slight differences in syntax, and some texts add additional comments, but all retain the core concept that gemilut hasadim can be given to another in more ways than tzedakah, and hence, by rabbinic standards, it has been shown to be a mitzvah of greater import. This text, as well as those others, make additional statements that are relevant to this chapter. They will be examined after all the variety of texts addressing the above passage have been explored.

In the Palestinian Talmud a very similar version of the above quotation may be found. One additional line is added at the end of the text which supports the suggestion that in the end gemilut hasadim is a mitzvah of greater value than tzedakah.

Tzedakah and gemilut hasadim outweigh all of the commandments in the Torah. But, tzedakah can be conducted only with the living, but gemilut hasadim can be conducted with the living and the dead. Tzedakah can be conducted with the poor, but gemilut hasadim conducted with both the poor and the rich. Tzedakah can be conducted with one's finances, but gemilut hasadim can be conducted with one's finances and with one's person. R. Yohanan bar Meir in the name of R. Yohanan [said:] we do not know which is more precious, tzedakah or gemilut hasadim - for it says "The kindness (hesed) of the Lord is everlasting upon those who fear God; and God's

'Tosefta Zeraim, translated by J. Neusner and R. Sarason, (New Jersey: Ktav Publishing House, 1986) pg. 73.

righteousness (tzedakah) unto one's children's children. (Ps. 103:17) Therefore it is said that gemilut hasadim is more precious than tzedakah.*

There are two differences which this text presents. The first, a very minor change, is the use of the word 'noheget', (to conduct one's self, to act or behave). Where the Tosefta text had no apparent verb in the sentence, this text has added one, presumably for greater clarity. The other change is the addition of R. Yohanan's statement. The biblical verse from Psalms is brought in enabling a value judgement to be made on these two terms. The Hafetz Hayyim, in Ahavat Hessed, interprets this use of the Psalm verse to mean that God's kindness is forever, but God's righteousness extends only until the third generation (the children's children.) This interpretation is aggadic and most likely meant to be taken seriously but not with utter literalness. Nonetheless, this use of the biblical verse is what allows the next statement to be made: "Gemilut hasadim is more precious than tzedakah."

There is a third instance where this text, again with additions and slight changes can be found. In the Babylonian Talmud in tractate Sukkah 49b the following statement is made:

R. Eleazar further stated: gemilut hasadim is greater than tzedakah, for it is said: "Sow yourselves according to your tzedakah but reap according to your hesed." (Hos. 10:12) If a person sows, it is doubtful whether he will eat [his harvest] or not, but when a person reaps, he will certainly eat. R. Eleazar further said:

* Palestinian Talmud, Tractate Peah 1:1.

The reward of tzedakah depends entirely upon the extent of the kindness (hesed) in it, for it is said "Sow yourselves according to tzedakah but reap according to hesed."

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

The second paragraph of this text is again almost the same as that which was in the Tosefta. The paragraph that precedes it sets up the image that gemilut hasadim is greater than tzedakah. Like the one found in the Palestinian Talmud, it uses a biblical text to prove its point. When we arrive at the second paragraph the idea that gemilut hasadim is superior to tzedakah has already been made clear.

The above three texts may have all come from the early Tosefta version, or may have had some other common source. They are however, the only passages which suggest that gemilut hasadim is greater in some way than tzedakah. There are no such discussions found in the Codes or other later responsa. A few additional passages which discuss gemilut hasadim and tzedakah are also found within this early period of literature. They present different perspective on the relationship between the two concepts.

The Tosefta to Mishnah Peah has one other comment of relevance to this chapter. Unlike the earlier citation, this one groups gemilut hasadim and tzedakah together.

R. Eleazar b. R. Yose: From which [verse may we derive that] tzedakah and gemilut hasadim are great peace-makers and intercessors between [the people of] Israel and God in heaven? It is stated "For so says the Lord: Do not enter their house of mourning or go to lament or console them. For I have taken away my peace from this people, says the Lord, kindness (hesed), and mercy (rachamim)."³ (Jer. 16:5) Kindness - this refers to gemilut hasadim, mercy - this refers to tzedakah. The verse thus teaches that tzedakah and gemilut hasadim are great peace makers between [the people] Israel and God in heaven.

The use of the biblical verse here is key to the understanding of the argument that gemilut hasadim and tzedakah are great peace makers. This text suggests that the way God's peace might be removed from the people Israel, would be by the removal of gemilut hasadim and tzedakah. When they would be returned, God's peace would be returned as well. Thus gemilut hasadim and tzedakah are great peace makers and intercessors.

One final text which suggests another relationship between the two terms is in the Sukkah passage cited above. Where the Tosefta passage joined gemilut hasadim and tzedakah together, this text sees tzedakah as a component of gemilut hasadim.

R. Eleazar further stated, the one who executes charity (tzedakah) and justice (mishpat) is regarded as though he had filled all the world with kindness (hesed). For it is said "the one who loves charity and justice, the earth is full of kindness of the Lord."³ (Ps. 33:5)²

³ Sukkah 49b

Once again the sense of the relationship between these terms comes from the understanding of the biblical verse. This seems to be saying that if one loves and does tzedakah and mishpat (charity and justice) then the earth will be filled with gemilut hasadim. Thus these two things could be seen as components of gemilut hasadim or as activities which bring about that end. Here we see the concept of gemilut hasadim expressed in its figurative sense, more as a quality of existence than as a specific duty.

After having surveyed a number of texts which address the relationship between gemilut hasadim and tzedakah very few conclusive statements may be made. The fact that they are found together is the best evidence to prove some degree of connection. This material would certainly have fit into the upcoming chapter which addresses gemilut hasadim in midrashic texts. However, the presence of this small but significant number of passages using the two terms together warranted some special attention. Gemilut hasadim does seem to be a commandment which can be fulfilled through a variety of activities. Tzedakah is primarily something which requires one to use one's finances. It is not clear, however, which is more meritorious or precious.

Despite the lack of conclusions about these two ideas, much can be learned from their appearance together in so many passages. It seems that these two mitzvot are connected not only by the texts cited here but also by their

very nature. They both are activities where one gives of one's self, through finances or through energy, to better another's position in this world. - As it said in the Tosefta passage cited earlier in this chapter: "Gemilut hasadim and tzedakah outweigh all the commandments in the Torah." They seem to contain the essence of mitzvot and bring about the most important of ends - the helping of other people. Clearly both are key concepts in Jewish thought and life without which a Jew could not fulfill his/her responsibilities to the Jewish people or to God.

CHAPTER SIX

THE IMPORT OF GEMILUT HASADIM AS DEMONSTRATED THROUGH AGGADAH

Some of the most powerful and meaningful statements about gemilut hasadim are made in non-halakhic literature. With the exception of the last chapter, all of the texts cited thus far have had a legal or halakhic perspective. Although they provide a sense of the importance of gemilut hasadim, it is in the aggadic material that this impression comes across most clearly. The aggadah is the body of literature which, in contrast to halakhah, is not legalistic but narrative. This broad category of literature contains many varieties of texts. Homiletical works, exegetical passages and even simple non-legal statements are included in this corpus. In this chapter aggadic texts of the later two types will be presented. Those passages of an exegetical nature are called midrashim. The word midrash is derived from the root 'drsh', to search, seek or investigate. These are examinations and explanations which goes far beyond the literal interpretation of a passage. Many of the texts cited thus far are of a midrashic nature. Most, however, would fall under the category of "midrash halakhah," exegesis of biblical texts used to determine legal issues. The texts

which will be explored in this chapter fall into the category of "midrash aggadah," exegesis which has a moralizing or edifying tendency. Such texts are extremely numerous. One hundred and seventeen are cited in the midrashic anthology Yalkhut Eleazar, and still more exist. This chapter will present a handful of aggadic texts, some of which are midrashim, which capture the sense of the significance of gemilut hasadim to the Jewish people. It will become clear that this mitzvah, whether an action or a character trait, is among the most valued concepts in Jewish tradition.

The upcoming texts span from mishnaic times through that of the codes and rishonim mentioned in earlier chapters. Unlike the presentation of the preceding material, these passages will be introduced by common theme not in chronological order. We will begin with the most general and end with those texts which speak very specifically about gemilut hasadim. The first text, an aggadic passage, comes from Mishnah Avot 1:2. It states: "Shimon Hatzadik was ministering over the Great Assembly¹ and he said: Upon three things does the world stand, upon Torah, upon worship and upon gemilut hasadim." How could anyone be more explicit about the importance of a concept than that! It seems obvious that according to this text gemilut hasadim is one of the three most important things in the world, a pillar of its existence. Similar statements are made about the people

¹The supreme court during second Temple times.

Israel, the relationship between God and the people Israel and even about the Torah.

In the Palestinian Talmud in tractate Kiddushin, halakhah 4, the following comment is made about the various gifts God gave to Israel:

Then David said, "there were three good gifts that the Holy One, blessed be God, gave to Israel: compassion, modesty and gemilut hasadim. Compassion, from where [in scripture can this be proven?] "the Lord shall turn from the fierceness of anger and show you compassion." (Dt. 13:18) Modesty, from where [in scripture can this be proven?] "And Moses said to the people, Do not fear; for God has come to prove you, and the fear of may be before your eyes that you may not sin." (Ex 20:20) This is a mark of a modest person, who will not readily sin. And as to whoever is not modest, it is certain that his ancestors did not stand at Mount Sinai. Gemilut hasadim, from where [in scripture can this be proven?] "because you harken to these ordinances and keep them and do them the Lord your God will keep the covenant with you and the kindness (hesed) which God swore to your ancestors to keep." (Dt. 7:12)

Again the texts lists the three good things the Lord gave to Israel. It seems that it is referring to the characteristics God gave to the people Israel, not actual tangible things. If the later had been true the Torah would certainly have been present in the list. Nonetheless, gemilut hasadim is among the items on the list indicating its importance as a trait for Israel.

From this passage come two more texts. Both suggest that there are specific traits that all members of the people Israel possess. They are, of course, compassion, modesty and gemilut hasadim as mentioned above. In tractate Yebamot 79a

of the Babylonian Talmud, the text appears almost exactly as it does in the above passage. In Maimonides' Mishneh Torah, it takes on a different slant. In the "Book of Holiness", in the chapter on forbidden relations it says:

Similarly, if a person exhibits impudence, cruelty or misanthropy, and never performs an act of kindness, one should strongly suspect that he is of Gibeonite descent, since the distinctive traits of Israel, the holy nation, are modesty, compassion and gemilut hasadim.*

Because this is a late text, one might assume that it had as its source one of the above mentioned texts. It is saying, in no uncertain terms, that the way to distinguish the behavior of an Israelite is to look for a few distinctive characteristics, one of them being gemilut hasadim.

Not only might one know the importance of gemilut hasadim from the suggestions of these midrashim, according to other texts one would also know it from the Torah. As the citation in chapter one of Sotah 14a suggests: "Torah begins and ends with gemilut hasadim." The person who devotes a great deal of space to proving this point is the Hafetz Hayyim. In the introduction to his book Ahavat Hesed, he suggests that not only does the Torah begin and end with gemilut hasadim, but that gemilut hasadim is present in almost every paraasha. He opens his introduction by citing the entire Sotah 14a passage and then continues:

Here chazal have made us aware of the great importance of gemilut [hasadim] by showing that

*Be'ah 19:17.

the Torah begins and ends with this topic. In truth, however, these are not the only such passages. Many other sections of the Torah deal with the subject as we shall, please God, demonstrate... Now we shall demonstrate for everyone's benefit how the Torah is replete with acts of hesed...³

He then begins to go through many parashiot and demonstrate the presence of some aspect of gemilut hasadim which is evident. His approach suggests once again not only the importance of this topic to the people Israel, but its importance to God, who placed it throughout the Torah - making it, as it were, the an "essence" of the Torah.

There are other midrashic texts which echo this sentiment through slightly more particular connections. The Avot de R. Nathan, a homiletical exposition of the mishnaic treatise Pirke Avot whose date is unclear, connects gemilut hasadim with atonement. In chapter four paragraph one it says:

Once R. Yochanan b. Zakkai was leaving Jerusalem. R. Yehoshua was following behind him and saw the ruins of the Temple. R. Yehoshua said: Woe to us for this! The place where atonement was obtained for Israel's sins is in ruins. [R. Yochanan b. Zakkai] replied: My son, let this not sadden you. We have another form of atonement which is equal to this. And what is it? - Gemilut hasadim, as it is said: "For I desire hesed and not sacrifice." (Hos 6:6)

Atonement is a concept of great import to Jewish thought and life. When the Temple was destroyed animals could no longer be sacrificed in atonement for people's sins. To suggest that

³ Hafetz Hayyim, Ahavat Hesed, Translated by Leonard Oschry, (New York: Feldheim Publishers, 1976), Page 21.

acts of gemilut hasadim could replace this important institution is to suggest that gemilut hasadim has extreme importance and value.

There is a midrash which suggests that King Solomon knew of the great value of gemilut hasadim even before the Temple was destroyed. This text links its value to the activities of comforting mourners and rejoicing with bridegrooms. In Pirke de R. Eliezer, Torat Ha'adam and tractate Soferim the following story is relayed:

Solomon saw the greatness of those who did gemilut hasadim and built two gates for Israel, one for bridegrooms and the other for mourners and excommunicated persons. [The people of] Israel would come on Shabbat and sit between the two gates. When a person would enter the gate for grooms they would know he was a groom and they would say to him: "may he who dwells in this house make you happy with sons and daughters." And the one who entered the gate for mourners with his upper lip covered, they knew he was a mourner and they said to him. "May he who dwells in this house comfort you." And if he entered the gate of the mourner and his upper lip was not covered they knew he was excommunicated and they said to him: "may the one who dwells in this house allow you to hear the words of your friends and relatives. [Solomon did this] in order that all of Israel could fulfill their obligation of gemilut hasadim. And after the destruction of the Temple the sages established that the grooms and the mourners would go to the synagogues and academies. And the people of the place would see the groom and celebrate with him and see the mourner and sit with him on the ground. [This was done] in order that all Israel would fulfill its obligation of gemilut hasadim and upon them one says: "Blessed is the one who gives reward to those who do gemilut hasadim."

*Pirke de R. Eliezer, end of chapter 17, "Loving service to mourners. Torat Ha'adam, pg. 214. Soferim, #12.

This passage was cited in chapter one to demonstrate the action oriented approach to gemilut hasadim. It reappears here to show the great import it had on a practical as well as religious level. Gemilut hasadim is clearly secondary to Temple rites, yet the rabbis felt it was so important that they gave us a legend about it and thus creating a direct association.

Many more midrashim of this sort could be provided to support the belief that gemilut hasadim is among the most important mitzvot one can fulfill. One last text provides an additional connection which brings this chapter to a very nice close. That is the connection between gemilut hasadim and the world to come. It is through our actions in this world that we will inherit the world to come, and there are midrashim that suggest that gemilut hasadim will certainly help a person reach that end. In the Palestinian Talmud one finds the explanation of gemilut hasadim when done with one's finances. Following that discussion is this midrash:

Monabaz the king went and gave to the poor all of his possessions during the years of famine. His brothers sent [the following message] to him: "Your ancestors stored up treasures and increased the wealth [left for them by] their ancestors. But you went and gave away all of your treasures, both your own and your ancestors." He replied to them: "My ancestors stored up treasures for this lower world, but I have stored up treasures for the world above, as it is said: 'Faithfulness will spring up from the ground below and righteousness will look down from the sky.' (Ps. 85:11) My ancestors stored up treasures [for the material world] where the hand can reach, but I have stored up


treasures [for the non-material world] where the hand cannot reach as it is said: 'Righteousness and justice are the foundation of your throne, steadfast love and faithfulness go before you.' (Ps 89:14) My ancestors stored up treasures that produce no benefits, but I have stored up treasures that do produce benefits, as it is said: 'Tell the righteous that it shall be well with them, for they shall reap the benefits of their deeds.' (Is 3:10) my ancestors stored up treasures of money, but I have stored up treasures of souls, as it is said: 'The fruit of the righteous is a tree of life and a wise person saves the souls of the poor.' (Pr. 11:30) My ancestors stored up treasures [which benefited] others, but I have stored up treasures [that will benefit] myself and others, as it says: 'It shall be a righteousness to you before the Lord your God.' (Dt. 24:13) My ancestors stored up treasures in this world, but I have stored up treasures for myself in the world to come, as it is said: 'Your righteousness shall go before you and the glory of the Lord shall be your rear-guard.' (Is. 58:8)*

By fulfilling the mitzvah of gimelut hasadim, even in a way restricted to finances, Monabaz is sure he has inherited much more than his children could have inherited if he had not spent his wealth, i.e. the world to come.

According to all of these aggadic texts, the power of gemilut hasadim is truly great. It is essential for the survival of the world; it is a definitive characteristic of a Jew; the Torah speaks of it constantly; a person can gain atonement from it; and one can even acquire eternal life. This is the nature of aggadic literature; it comes to pump up the value of the mitzvot about which the rabbis were preaching. One might be able to find other commandments

*Halakhah 1, my translation

where similar value statements are made through aggadic and midrashic passages. Although gemilut hasadim is not totally unique then, it still does receive some very high praise. These texts, as well as actual life experience, suggest that gemilut hasadim is truly one of the precious concepts in Jewish life and thought.



CHAPTER SEVEN

CONCLUSIONS

A great deal about gemilut hasadim has been learned through this study. The speculation that gemilut hasadim is not a broad undefined term lacking any precise meaning has been confirmed in the preceding six chapters. Although it cannot be summed up in one brief sentence, clearly some concrete statements may be made at this point about the term. It is accurate to say, for example, that for most scholars within Jewish tradition throughout the ages, gemilut hasadim is an action oriented mitzvah. Those actions most commonly connected to the concept include: visiting the sick, clothing the naked, burying the dead and comforting the bereaved. A significant number of texts add to this list rejoicing with bride and groom and accompanying the stranger. The most recent texts add yet two more components: lending one's possessions or finances to those in need and offering words of comfort and advice to the poor or disadvantaged. Various combinations of the above appear together and in the majority of cases, burying the dead or comforting mourners are among those activities listed.

Although the majority of texts aligned themselves to the above approach, a significant number suggested that gemilut hasadim is a general character trait. It may be possible for this character trait to lead to the above activities, but these thinkers seem to understand the essence of the term to be less specified. Once again, the specific attributes are not agreed upon by all. The sum total includes begin merciful, gracious, righteous, kind, upright and holy. Although this approach is much different than the above action oriented one, it is interesting to note that both groups of scholars use the same biblical verses to draw their conclusions about gemilut hasadim.

No matter which understanding one might be more comfortable with, certain issues and problems arise. For example, in its earliest text, Mishnah Peah 1:1, it is stated that gemilut hasadim has no limit or fixed measure. How does this affect the concept, either as a character trait or as an action oriented mitzvah? The texts in chapter three clearly show that when gemilut hasadim is done using one's money there is a clear limit. One may not give up more than a fifth of one's earning lest one becomes a charge of the community. But, when gemilut hasadim is done with one's person, even if it means a financial loss in the long run, there is no limit to the length of time or number of times one must engage in that activity. The Encyclopedia Talmudit even goes so far as to say that the very essence of the mitzvah has no limits,

thus differentiating it from all those other things listed in the Mishnah which have no fixed measure.

Another issue which our scholars concern themselves with is the authority of this mitzvah. Again whether the focus is action oriented or characteristic is not important in the discussion of the authority of the concept. The scholars of the medieval period insist on distinguishing between torahitic and rabbinic. With the exception of the anonymous author of the Halakhot Gedolot, all consider gemilut hasadim to be essentially rabbinic. Some admit that the specifics of the term might be torahitic, but that the concept was derived by the rabbis.

This debate over authority, however, has no apparent effect on the importance of fulfilling the mitzvah. Among the texts which make this most clear are those which come out of the body of literature called aggadah. There the value of the gemilut hasadim comes across most clearly through the texts which suggest that gemilut hasadim is one of the pillars of the world, a distinguishing trait for the people Israel, the essence of the Torah, the ultimate form of atonement and a great peace-maker, among other things. There is no question that gemilut hasadim is among the most treasured concepts in Jewish life and thought.

Although there is great clarity about the import of this mitzvah in Judaism, the same clarity is not evident when studying gemilut hasadim as a halakhic concept. The lines

are somewhat blurred in this area. The above summary attests to the fact that on the one hand this is a very important duty, but on the other, no one can agree to what that exactly means. Many scholars sought to define it, but there is no consensus about that definition. It is not clear whether this is a specific mitzvah in itself, or a general term for other activities. Gemilut hasadim is a commandment that surpasses many others in its value, yet this vital duty cannot be specified. Since we know that the halakhah is interested in defining terms and delineating limits, it seems that gemilut hasadim has a very unique halakhic status.

It is both surprising and interesting that a mitzvah of such import cannot be pinned down to particular actions. But perhaps this is part of the very nature of gemilut hasadim. Perhaps this curious phenomena bridges the realms of law and lore by necessity. People are commanded to bring hesed into the world through the actions and attitudes connected to gemilut hasadim. But hesed is not a measurable commodity. As stated in the introduction, it is an internal human quality as well as the desirable state of all relationships. On the one hand it would be impossible to achieve such ends through law alone. On the other, it would be unreasonable to suggest that no specifications at all can or should be provided. Halakhah and aggadah must exist side by side here; for just as it is impossible for one's life to be entirely law or entirely lore, it would be impossible to

achieve hesed without both elements providing the balance necessary to reach the desired ends. Thus, it appears that what seemed problematic at first glance, now provides us with insights about the very essence of gemilut hasadim.

Another aspect of gemilut hasadim which further supports this dialectical quality of the concept is the idea that through gemilut hasadim humans emulate God. Both the discussions about gemilut hasadim as an action and as a character trait use the analogy that one must do or be a certain way because God does or is that way. This idea of "imitatio dei", by its very nature, suggests that gemilut hasadim cannot be fully specified. It is impossible to provide detailed directions which would enable one to imitate God, for God is too far beyond our comprehension. Thus, once again the concept is forced to exist simultaneously in both the realm of halakhah and that of aggadah.

This unique halakhic status only adds to the value and import of gemilut hasadim in Jewish life and thought. It demonstrates that the scholars of our tradition had insights into and were concerned with making statements not only about specific concepts, but also about real life. Just as gemilut hasadim could not be reduced to a list of laws, so too, our existence cannot be summed up by the chemicals and compounds of which we are composed. The aggadah must exist simultaneously with the halakhah; it supplements that system,

providing it with nourishment - one might say - both for the body and the soul.

When this understanding of the essence of gemilut hasadim is added to all the texts that attest to its significance, we are confronted with a concept whose merit and consequence is immense. When one does gemilut hasadim, hesed is brought into the world. It is this hesed, as the introduction suggested, upon which all relationships, among people and between people and God, are based. To do gemilut hasadim then is to both affirm and maintain those bonds. The gemilut hasadim which God has shown to humans is the motivating source of that gemilut hasadim which we do to and for each other. Thus as we engage in gemilut hasadim we affirm our love and commitment to God and to each other while sustaining those same covenantal relationships. For all these reasons gemilut hasadim can be seen as among the most significant mitzvot in which Jews engage. It is this type of activity that will bring us to our ultimate goal, to be closer to God and our people and to thereby bring about the days of the Messiah.

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