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Jewish Philanthropy—
Whither?

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Were I, my distinctive assignment notwithstanding, to undertake a properly comprehensive account, be it only for the purpose of context and background, of the character and scope of *zedakah*, I should probably include some minimal account of several basic issues. At the very least, these should include definition of the term as it appears, textually and conceptually, in primary sources; some description of the place the phenomenon occupies within the overall complex, communal and personal, of moral and spiritual life, as Halakhically conceived; and discussion of the degree and character of interplay between the several distinct senses of *zedakah*—among them, credit, virtue, fidelity, or supererogatory conduct. Given my limited focus, however, I shall largely confine myself, as sufficient for our purposes, to the primary prevalent denotation: philanthropy.

If I read my marching orders—within the broader context of this conference's structure—correctly, I fear that I have been

assigned a nearly impossible task. We are informed that the issues relating to “a halachic analysis of Jewish charity law,” to include a panoply of pressing questions such as the balance between luxury and philanthropy or between *aniyei irkha* and Israeli needs; or, in a different vein, the impact of globalization upon the theory and practice of *zedakah*, will be discussed under another aegis. I have been dealt the seemingly broader and yet possibly blander hand of discourse regarding a single, admittedly major, concern: “Should the Jewish, and particularly the Orthodox, community be inward-looking, focused on self-preservation, or outward looking, seeking to influence the broader world through philanthropy?” The implication that my topic should be treated sans recourse to the Halakhic codex is clear; but, given my training and perspective, the prospect that this course will be implemented is palpably dark. The *mizvah* and value which were singled out by the Ribbono Shel Olam Himself as a prime basis for Avraham Avinu’s election:

כי ידעתיו למען אשר יצוה את בניו ואת ביתו אחריו ושמרו דרך ה' לעשות צדקה ומשפט;¹

which, in light of that *pasuk*, *inter alia*, was daringly accorded singular normative status by the Rambam:

חייבין אנו במצות צדקה יתר מכל מצוות עשה;²

whose observance, in the face of presumably relevant principles of coercion, could apparently be compelled;³ that of all *mizvot* is to be analyzed beyond the scope of Halakhah? I apprehend, in any event, the crux and parameters of our respective foci, and shall strive to minimize possible duplication. But should I falter in this respect, the reader will at least have been forewarned by an anticipatory caveat: אתי תלין משוגתי: . Beyond that, *mea culpa*.

Implicit in the formulation of the question posed for my consideration is the assumption that both suggested options have merit. Each is endowed with ethical and religious content, each entails a response to genuine needs, and each enriches the human arena in

accordance with the will of its Creator. Conceived in formal Halakhic terms, narrowly defined, the specific gravity of the respective choices may seem quite disparate. The former enjoys the status of a clear *mizvah*—indeed, of several; and of the most prominent, to boot. Its status is most sharply delineated by the Rambam, previously cited; but the emphasis finds ample precedent in Hazal as well. It is variously described as the harbinger of redemption—

גדולה צדקה שמקרבת את הגאולה (בבא בתרא י.)

as endowed with the power to avert divine wrath—

אמר רבי אלעזר גדול העושה צדקה בסתר יותר ממשה רבינו דאילו במשה רבינו כתיב כי יגורתי מפני האף והחמה ואילו בעושה צדקה כתיב מתן בסתר יכפה אף (בבא בתרא ט:)

and, conversely, the failure to respond to its challenge is equated with the gravest of sins—

כל המעלים עיניו מן הצדקה כאילו עובד עבודת כוכבים (בבא בתרא י.)⁴

The latter, by contrast, is devoid of such credentials; and this factor surely deserves consideration. Nevertheless, we could be gravely in error were we to leap to the conclusion that, in and of itself, this point can resolve our issue apodictically or provide categorical guidelines, dictating the details of philanthropic budgets. The point may be clarified by reference to the concept, familiar to Halakhists, as *shevet*, “inhabitation,” the mandate for “enlarging the bounds of human empire,” in Bacon’s language, by amplifying man’s presence (and, to some extent, mastery), within the natural world, through procreation. Obviously similar to the command of *pru urevu*,⁵ it nevertheless differs insofar as the latter was evidently interpreted by Hazal as a personal obligation, while the former denotes a general charge, confronting humanity collectively.⁶ The term derives from a *pasuk* in *Yeshayahu*, “לא תהו בראה לשבת יצרה,” Not for chaos has He created it, for habitation has He molded it” (45:18), which, patently,

does not address its audience in a normative mode. Nevertheless, in a number of contexts, the *gemara*,⁷ on Tosafot's view, singles it out as particularly significant; as being, for instance, only one of three *mizvot* for whose fulfillment it is permissible to sell a *sefer Torah* or emigrate from Erez Israel.

Or again, to note a very different analogy, the Gaon of Vilna explicates the conclusion of *Megillat Esther* by focusing upon the nature and status of *tov* and *shalom*, respectively:

דרש טוב. הוא מעשים טובים ומדות טובות והמדות טובות הן יותר מכולן כמ"ש שלא נכתבו המדות טובות בתורה כי הם כולליין כל התורה כמ"ש כל הכועס כאלו עובד עבודה זרה וכל המספר לשון הרע ככופר בעיקר וכן כולם ושלום הוא כלל הכלי לכל המדות והוא הלבוש של כל המדות... והמדות הם כלל של המצות ובירך אותם בשלום שיהיו יכולים לקבל את התורה.⁸

The attempt to explain the Torah's relative silence with respect to cataloguing ethical mores is interesting in its own right. However, the assertion that the omission can be ascribed to the fact that these—goodness and the quest for peace being singled out particularly—were omitted because they are so basic and comprehensive, is almost startling. Hence, it illustrates our point graphically; and the conclusion that the *mizvah* aspect of *zedakah* invariably militates its preference to other courses of public policy may be o'er hasty, indeed.

From an alternative perspective, the potential weight of the "outward-looking" option needs, unfortunately, to be emphasized for a very different reason. The ethical charge of *nevi'im* and the example of wellsprings of our very existence notwithstanding, many in the Torah world persist in remaining oblivious to *hesed's* universal aspect. I have lamented this tendency in a previous Forum essay, but the point needs to be hammered home, repeatedly: "The tendency," I wrote then and I reiterate now, "prevalent in much of the contemporary Torah world, in Israel as in much of the Diaspora, of almost total obliviousness to non-Jewish suffering is shamefully deplorable."⁹ The insouciance springs in part from failure, often grounded in a blend of ignorance and prejudice, to appreciate the scope and value of Gentile *avodat Hashem* and spirituality. Unquestionably, the complex of demands

and opportunities divinely conferred upon Jewry is unique: רצה הקדוש ברוך הוא לזכות את ישראל לפיכך הרבה להם תורה ומצוות. Clearly, however, this fact hardly warrants or even justifies the widespread disdain frequently experienced and expressed in relation to normative Gentile religious existence, as Halakhically formulated. How many of our confreres are aware that, quite apart from the minimal-core seven Noahide *mizvot*, the Ramban and the Rama held that Gentiles are committed to much of the civil law encoded in *Hoshen Mishpat*?¹⁰ Or that the Rambam stated that any Gentile performance of any *mizvah* would be rewarded—לפי שכל מצוה שהגוי עושה, נותנין עליה שכר אבל אינו כמי שהוא—¹¹ And of course, the most basic strains of religious experience—*ahavah*, *yir'ah*, *devekut*, *tefillah*, *karbanot*, *teshuvah*—as well as the demands of veracity and sensitivity, are incumbent upon the non-Jew as upon ourselves. Similarly, the cardinal *mizvah* of *talmud Torah* bears a universal aspect. It is sharply reflected in the Rambam's vision of the Messianic era as one during which the whole world will be exclusively engaged in pursuing knowledge of God: ולא יהיה עסק כל העולם אלא לדעת את ה' בלבד¹². More explicitly, it emerges from Rabbi Mayer's assertion that Gentile Torah study is on a par with its Jewish counterpart:

היה רבי מאיר אומר מניין שאפילו עובד כוכבים ועוסק בתורה שהוא ככהן גדול שנאמר אשר יעשה אותם האדם והי בהם כהנים לויים וישראלים לא נאמר אלא האדם הא למדת שאפילו עובד כוכבים ועוסק בתורה הרי הוא ככהן גדול.¹³

Whatever the causal nexus, we ask ourselves in disbelief: Are the *midrashim*, imbibed from childhood, recounting Avraham Avinu's *gemilut hasadim*¹⁴—including the well-worn homily that his hospitality was superior to Lot's, inasmuch as he thought that his noontime guests were dusty nomads, while his nephew knew they were angelic—of no practical moment? Was the test of Rivkah's sensitivity futile, as it involved no Jews? Are we to regard Mosheh Rabbenu's bold defense of a group of Midianite lasses as merely a chivalrous gesture by an aspiring shepherd? And is the divine rebuke to Yonah solely a phase of our Yom Kippur ritual, to be heard on *yom zomah rabbah*, only to remain unheeded on the morrow?

There are, of course, rationalizing rejoinders. It may be contended, for instance, that whatever preceded *matan Torah*, does not count, as the normative thrust of Sinai reoriented priorities. But can men or women of professed faith and ethical sensibility be content with such self-serving ripostes? For committed Orthodox Jews—and, *a fortiori*, for serious *bnei Torah*—the utter dismissal of universally oriented *hesed* as an expression of *avodat Hashem* cannot be accounted a live option. Our polestar is, rather, the Rambam's invocation of the divine order as an implicit norm, in the spirit of *והלכת בדרכיו*, informing our actions and perceptions:

הרי נאמר טוב ה' לכל ורחמיו על כל מעשיו ונאמר דרכיה דרכי נועם וכל נתיבותיה שלום.¹⁵

Divine universal beneficence and the Biblical focus upon the Torah's symbiotic relation to peace and harmony are more than a model. They constitute a charge.

Acknowledgment of our multiple philanthropic obligation lies, then, at the heart of our issue—as a point of departure at one plane, and as a possible conclusion at another; and it serves in that role because it constitutes the core of our theoretical perception of the scope of our commitment to *gemilut hasadim*. The ground of that commitment may be viewed from two perspectives. It may be regarded as deriving, exclusively, from our specifically Jewish identity, as a linchpin of the legacy of the patriarchal fountainhead of *kneset Israel* in general, and of its ethic in particular; of Avraham, whose progeny and disciples, בניו וביתו אחריו, are devoted to the realization of דרך ושמרו דרך ומשפט ה'. לעשות צדקה ומשפט. Alternatively, it may be construed as a reflection of a Jew's dual identity, comprising both universal and particularistic components. In this connection, we may ponder the import of a relevant passage in the *Mekhilta*. Commenting upon the *pasuk* מכה איש יומת ומת מות יומת, the *tanna* Issi ben Akavyah notes:

קודם מתן תורה היינו מוזהרים על שפיכות דמים לאחר מתן תורה תחת שהוחמר ווקלו? באמת אמרו פטור מדיני בשר ודם ודינן מסור לשמים.¹⁶

This was identified by the *Beit Yosef*, in his commentary upon *Mishneh Torah*, as the source of the Rambam's view that murder of a Gentile is punishable by divinely ordained death;¹⁷ but its ramifications extend far beyond the confines of this specific judgment. It is probably reflected, for instance, in the *gemara's* wonder at the possibility that consumption of the meat of an animal which has been slaughtered Halakhically, but is still alive and active biologically, might be proscribed for Gentiles but licit for a Jew: “מי איכא מידי דלישראל שרי? ולעובד כוכבים אסור”¹⁸ Is there, then, anything? Rav Aha ben Yaakov asks rhetorically, “which is permitted for a Jew but forbidden for an idolater?”¹⁸ Presumably, the underlying premise is that *matan Torah* and concomitant election of *knesset Israel* were intended to superimpose a higher level of obligation, rooted in newly acquired identity, but not to supersede prior commitment, grounded in preexisting, universal identity.¹⁹

On this reading, the possible ramifications for our implementation of *hesed* should be self-evident. Rishonim disagreed as to whether, over and above the seven Noahide *mizvot*, a non-Jew, as perceived from a Halakhic perspective, is enjoined to give *zedakah*. Possible evidence elicited from the *gemara* is sparse and inconclusive. However, the message is seemingly encoded in a rebuke addressed by Yehezkel to treasonous Jerusalem, and it is sharp and telling. The royal city, proclaims the prophet, has rebelled more grievously than the paradigm of sin, classical Sodom; and it is worthy of correlative punishment. And what constituted the epitome of Sodomite vice? Failure to support the indigent:

הנה זה היה עון סדם אחותך גאון שבעת לחם ושלות השקט היה לה ולבנותיה ויד עני ואביון לא החזיקה.²⁰

Manifestly, contends the author of *Hiddushei Haran*,²¹ its citizenry ought, normatively, to have sustained the poor, and their abstinence became the cause of their destruction.

Given our prior premise, the import of this critique, at once instructive and devastating, bears upon the Jewish world—which Yehezkel is castigating—as well. The *ani v'evyon*, the poor and the

impoverished, deserted by Sodom's smug and affluent bourgeoisie, is, of course, Gentile. Applying, therefore, Issi ben Akavya's principle to philanthropy, the population we would have been commanded to support prior to Sinai remains, in light of our vestigial universal component, an aspect of our moral responsibility.

The point is greatly reinforced if we contemplate the full range of our commitment to the pursuit of *zedakah* and *hesed*. This commitment is doubly rooted. Most obviously, it is oriented to assist the recipient needy; and that is, palpably, the primary thrust of both of the *parshiyot* which deal with the obligation to give *zedakah*—that of (וּכִי יִמּוֹךְ אֶחָיִךְ וּמִטָּה יָדוּ עִמָּךְ וְהִזְזַקְתָּ בּוֹ גֵר וְתוֹשֵׁב וְהִי עִמָּךְ (ויקרא כה:לה) כי לא יחדל אביון מקרב הארץ על כן אנכי מצוך לאמר פתח תפתח את ירך לאחריך (דברים טו:יא), respectively. Concomitantly, however, it is intended to educate the affluent donor—primarily by engaging him in *imitatio Dei*, emulation of, *mutatis mutandis*, the ethical qualities which, by dint of both prophetic revelation and personal intuition, we ascribe to the Ribbono Shel Olam. This character, and the role He has chosen to assume in history is, however, as amply manifested in the *siddur*, itself dual. The concluding chapters of *Tehillim*, recited daily as the backbone of *pesukei d'zimra*, alternate between the predominantly universal strains of *ashrei* to the largely national focus of זמרה or שיר חדש כי טוב זמרה. The fusion of the universal and the particular in *malkhuyot*, *zikhronot*, and *shofarot* in *mussaf* of Rosh Hashanah engendered the Hafez Haym's reputed remark, that if the *goyim* knew how much we pray for them, then they would rush to print *mahzorim*. Most prominently and most familiarly, the same theme is struck in the twinned assertions with which *shema Yisrael* opens. And most daringly, we are witness to the conjunction of seemingly incongruous statements in a remarkable *pasuk* in *Yeshayahu*:

כי בעליך עשיר ה' צ-באות שמו וגאלך קדוש ישראל א-לקי כל הארץ יקרא ישיעה
(ג:ה);

the most intimate and visceral relationship aligned, side-by-side, with the attribution of abstract mastery and sovereignty.

This fusion does not, however, entail benign neglect of the broader venue. To be sure, בני בכרי ישראל, and the reciprocity of אתה היום and האמרת היום, as reflected in the asseveration of אתה בארץ אחד ושמך אחד ומי כעמך ישראל גוי אחד בארץ, in *minhah* of Shabbat, is essential to our perception of God's relation to us and of our relation to Him. But there are other children as well. They, too, need to be fed; and, in contemplating His bounty, we express the faith that places have been set for them at the table:

אהב צדקה ומשפט, חסד ה' מלאה הארץ; הזן את העולם כולו בטובו בחן ובחסד וברחמים הוא נותן לחם לכל בשר כי לעולם חסדו; פתח את ידיך ומשביע לכל חי רצון.²²

If that is our paradigm, can we confine our principled concern to our confreres?

At the level of concern, our answer must be resoundingly negative. Insouciance to suffering, regardless of its locus, is unconscionable. If the Halakhic order took into account the anguish of brute animals—according to most *rishonim*, Biblically so²³—surely, *a fortiori*, it instills empathy for Gentile pain. And indeed, this inference is clearly implicit in the *gemara*. Within the context of a discussion as to whether the *halakhot* regarding response to possible animal pain is mandated *mi'd'oraitha*, the *sugya* cites a proof-text which notes that the *mizvah* of coming to the aid of a fellow's animal, be he even an enemy, only applies to a Jewish enemy, but not to an idolater. But, asks the *gemara*, if concern for the animal is a factor, why discriminate?

אי אמרת צער בעלי חיים דאורייתא מה לי שונא ישראל ומה לי שונא עובד כוכבים.²⁴

As this very passage clearly indicates, mandatory sensitivity may be overridden by other elements—revulsion from idolatry figuring most prominently among them. Independently considered, however, it exists.

At the level of implementation, however, the translation of concern into contribution is neither automatic nor certain. For here

the analogy between the divine and human spheres breaks down. The crux of ethical living in general, and of philanthropy in particular, is the problem of priority—at once the tragedy and the challenge, the bane and the glory, of groping and coping, within the context of confrontation, with choice. “מרובים צרכי עמך ודעתם קצרה,” Many are the needs of your people, and their minds limited,” intones the lament and plea of the *piyut*. And of course, it is not only wisdom that is limited. Likewise, lifespan, likewise powers, likewise talents and resources. No such issue confronts the Ribbono Shel Olam, however. His initiative can inundate the world, in a positive or negative vein. *זחסד ה' מעולם ועד.* Absent this boundless bounty, however, man or woman is impelled to choose; and, as regards the world of Halakhah in particular, choice is the quintessential key. Every hour devoted to any activity preempts every other; every ounce of energy expended in the pursuit of one value obviates, as of that moment, all possible alternatives; every fellowship dollar granted to one aspiring candidate is denied every rival. Hence, whether in the budgeting of personal activity or in regulating disbursement to others, we are impelled—at times against our better judgment or inclination, and with little penchant for possibly supercilious evaluation—to grade. Moreover, we frequently are constrained to grade not only individuals but their contexts—with whom they associate, which causes they espouse and possibly represent, what will be the likely result of our predilection.

Choice, as either process or result, can be exhilarating as well as cruel. As manifest in the realm of triage, it aids one sector at the expense of another, it saves one life but discards numerous others; and, in extreme cases, satisfactory resolution being deemed impossible, may entertain the prospect of apparent absurdity, in preferring the sacrifice of all to the arbitrary selection of one. Hence, as applied to philanthropy in particular, determining the validity and value of a given initiative still leaves us in need of principled guidance and operative direction. I take it that we are gathered here in search of such direction, with an eye to mapping strategy in light of current reality, as well as establishing some basis for axiological priority.

My own assignment has been largely confined to a single question regarding the relative merits, pragmatic and spiritual, of

insular and catholic philanthropy, respectively. In coming to grips with the issue, let me stress at the outset that, on the one hand, it does not constitute an endemic Jewish problem; yet, on the other hand, its Jewish component is probably more significant than the comparable cognate factor relevant to other communal contexts. The core question relates to the blend of collective altruism or egoism; and, as such, whether as a fundamental orientation or as delicately nuanced, constitutes one of the chestnuts of general ethical theory and of its religious variants. Concurrently, it bears a distinctly Jewish mien; and this for at least two primary reasons. First, the focus upon special election and the privileged uniqueness of Jewry both provides a conceptual base and induces a psychic mindset which are conducive to intensifying insular sensibility. Second, this proclivity is further buttressed by sociohistorical factors—the record of millennia of persecution and the concomitant struggle for survival, on the one hand, and the reality of Diaspora dispersion, bonding across borders and oceans, defining “us” and “the other” differently than for the denizens and citizens of a delineated geopolitical entity.

Our first task, therefore, shall entail reflecting upon this general issue, and its possible implications for contemporary Jewish, and particularly Orthodox, philanthropy. Subsequently, we shall strive to relate to some of the nuts-and-bolts of the question of more specific priority, harnessing, to that end, paradigms of the relevant *halakhot* as formulated in principal sources. No conspectus of the laws of *zedakah* and *hesed* is hereby offered, and there is no pretense of exhaustiveness. Hopefully, however, even a cursory survey can shed some light on the principled issues here under consideration.

Our first question itself bears a dual aspect. Its primary thrust relates, presumably, to the venue of Jewish philanthropy and to the identity of the beneficiary community. As formulated, however, it also touches upon a second factor—the telos of the respective options. The questioner asserts that the inward Jewish focus is geared to self-preservation, while the outward-looking emphasis aims “to influence the broader world.” It is evidently assumed that the two issues are intrinsically and intimately related. I, for one, am far from certain that this is indeed the case. It is entirely conceivable that some historical

and/or sociological bond can be perceived. Universalist philanthropists may indeed be more likely to be impelled by an ideological manifesto than their insular counterparts. Nevertheless, who is being serviced and to what end are logically separate concerns. Self-preservation may very well be defined as encompassing both physical and spiritual components. Conversely, engagement with the broader world may include—and perhaps even primarily incline to—meeting the personal physical, economic, and cultural needs of the destitute, the underprivileged, and the disenfranchised, quite apart from impacting upon their ambient milieu. Moreover, we should assuredly beware of the tendencies associated with the impulse to influence. It may, unquestionably, be motivated by pure *yir'at shamayim*, by the paradigm of Avraham Avinu's call—א-ל עולם 'שם בשם ה'. However, it may also be adulterated by selfish urges, tinged with a modicum of what Steven Schwarzschild used to denominate “the imperialism of the soul.” At worst, it may even entail some patronizing and paternalistic exploitation of distress in order to push the envelope of one's supposedly enlightened agenda.

These reservations notwithstanding, the formulation does touch upon a cardinal truth—upon a truth, moreover, which rests on a firm Halakhic base. Philanthropy is oriented to two distinct—albeit possibly intertwined—aims. At one plane, it strives to ameliorate suffering and to enable, more equitably, prevalence of a reasonably satisfactory standard of living. Alternatively, it seeks to enhance the quality of life by advancing cultural, intellectual, moral, and spiritual values at both the personal and the institutional planes.

Halakhic equivalents of these twin goals find expression in various sections of the Torah, as elucidated by Hazal and subsequently codified by classical *mefarshim* and *poskim*. Our first aspect, the *mizvah* of aiding the poor, appears in two *parshiyot*—that which opens, וכי ימוך, אהיך, in *Vayikra* (25:35), and the much fuller exposition, related to the prospect of שערריך באחד אהיך באחד שערריך, כי יהיה בך אביון מאחד אהיך באחד שערריך, in *Devarim* (15:7). Both, however, are complemented by prior discourse, narrative as well as normative, regarding contribution to the establishment of the *mishkan* and its appurtenances. *Prima facie*, one might have thought that the latter bears no connection

to *zedakah* at all, and is, rather, subsumed under another category. However, Hazal evidently assumed otherwise, as, in dealing with certain Halakhic minutiae, the *gemara* in *Arakhin*²⁵ conjoins funding a *beit hakhnesset* with assisting the indigent. Moreover, the Rambam, who paid scrupulous attention to classification, included both in *Hilkhot Matnot Aniyyim*.²⁶ Hence, formulation of an ethic of Jewish philanthropy needs to consider policy with respect to both axiological and socioeconomic ramifications.

The question of separatism confronts us here in two respects. It needs to be examined historically, through the prism of a survey of our past; and it challenges us contemporaneously, with an eye to our current status, with regard to which this discussion is being conducted. As to the former, it has unquestionably been identified *ab initio*—regarded by some as a source and reflection of strength, and by others as a manifestation of turpitude—as a hallmark of our existence. Hazal's view of Avraham—*רבי יהודה אומר כל העולם כולו מעבר אחד והוא מעבר אחד*²⁷—as well as their perception of jealously guarded singularity in Egyptian bondage; perhaps even Balaam's depiction (who knows by which impulse driven)²⁸ of *knesset Israel* as *עם לבדד ישכן ובגוים לא יתחשב*; Haman's angry portrayal of clannish resistance to dicta of the imperial melting pot; the phalanx of *takkanot* and *gezerot* legislated in order to avert significant social intercourse—all attest to the prominence of our separatist streak; and it has, of course, served since Paul as a crux of Jewish-Christian polemic.

To this trait we freely admit, and from our point of view it requires no apologia. A kindred point needs to be addressed, however, and briefly expounded. The critique of our posture is not confined to separatism *per se*. We are subject to moral reproach as well, charged with being not only clannish but selfish; obsessively and, if need be, unethically concerned with promoting our own interests, even to the point of exercising duplicity and adopting double standards. On this score, I find myself conceding some factual assertions, but rejecting the assessment of “guilty as charged” deriving from them. Admittedly, if judged by the canons of professed Christian ethics, we may be found wanting. We advocate neither transfer of one's only cloak nor turning the other cheek. This, however, not out of moral lassitude

but out of principled conviction. We certainly preach the centrality of *gemilut hasadim* and strive to practice it, as both the linchpin of personal character and the bond of social cohesion. We can admire munificent individuals or communities who share their bounty with the less fortunate, and then some. Nevertheless, ours is a balance of altruism and egotism, which is grounded in distinctly Jewish roots and tradition, and which owes no fealty to alien value systems. We neither espouse nor cultivate Franciscan penury, and harbor no guilt over the omission. Up to a critical point, we do indeed recognize the primacy of personal interest—and this not only at the national plane, in the spirit of Reinhold Niebuhr’s *Moral Man and Immoral Society*, but at the individual level as well. “As a *tanna* has stated,” notes the gemara,

שנים שהיו מהלכין בדרך וביד אחד מהן קיתון של מים אם שותין שניהם מתים ואם ישתה אחד מהן מגיע לישוב דרש בן פטורא מוטב שישתו שניהם וימותו ואל יראה אחד במיתתו של חברו עד שבא רבי עקיבא ולימד וחי אחיך עמך חייד קודמין לחיי חבריך.²⁹

Moreover, this credo is not confined to life-and-death situations, such as that of the duo exposed to the ravages of dehydration, with only sufficient water to enable survival of one. It is legitimized with respect to far milder contexts, applying likewise to mere financial matters, such as the *mizvah* of *hashavat avedah*:

אבדתו ואבדת אביו אבדתו קודמת אבדתו ואבדת רבו שלו קודם . . . מנא הני מילי אמר רב יהודה אמר רב אמר קרא אפס כי לא יהיה בך אביון שלך קודם לשל כל אדם.³⁰

The principle was most sharply articulated by the Ramban. Commenting upon the charge of *כמוך* לרעך *כמוך*, and *ואהבת* לרעך *כמוך*, he expounds:

וטעם ואהבת לרעך כמוך הפלגה כי לא יקבל לב האדם שיאהוב את חברו כאהבתו את נפשו ועוד שכבר בא רבי עקיבא ולמד חייד קודמין לחיי חבריך אלא מצות התורה שיאהב חברו בכל ענין כאשר יאהב את נפשו בכל הטוב.³¹

The Ramban’s description of Rabbi Akiva’s *גדול בתורה* as “hyperbolic” *haflagah* is astonishing; and precisely for that reason it attests, dramatically, to the depths of his moral realism, which

recognizes the right to pursue one's own interest more than one's fellow's. And this notwithstanding the fact that concern for the welfare of others constitutes a *mizvah*, whereas pursuit of self-interest presumably does not.

The principle of *hayyekha kodmin* attains further significance—and particular relevance for our own discussion—by dint of its incorporation into the *Shulhan Arukh*. At the apex of the pyramid of worthy recipients of support, the Rama places the prospective “donor” himself:

פּרנסת עֲצֻמוֹ קוֹדֶמֶת לְכֹל אָדָם וְאִינוּ חַיִּיב לְתֵת צְדָקָה עַד שִׁיְהִיָּה לוֹ פְּרִנְסָתוֹ.³²

Even allowing for the assumption that the exemption is not total, it retains considerable import.

The implications for our problem are self-evident. I have earlier stressed that outward-looking philanthropy, that which is sensitive to privation beyond our community and strives to share in its amelioration, should be acknowledged and encouraged as an aspect of our responsibility to *hesed*; that we should internalize the full force of Hazal's designation of *להחיותו*, מצוה להחיותו, as including the non-Jew;³³ that the normative ideal of *imitatio Dei* as grounded in *בהלכה בדרכיו* charges us to strive to emulate divine munificence. I remain firmly committed to these positions. However, in practice, these demands inevitably clash with meeting multifaceted *עֵמֶךָ צְרִכֵי*, the needs of our own community. These ordinarily enjoy priority on several grounds. First, they are our own—a blend, in a sense, of self-interest, insofar as donor and recipient are fused in an organic entity, and of altruistic concern, insofar as, at the personal plane, the two are differentiated. Second, as we invoke the principle of *אפשר לעשותה על ידי אחרים*,³⁴ the prospect that a given need can and, hopefully, will be met by others, dilutes my own obligation and releases energy and resources for other ends, frequently affecting the balance between inward- and outward-looking responses. Many universal causes have, almost by definition, broader appeal and a wide spectrum of potential supporters. Specifically Jewish institutions by contrast—and especially those related to sacral *devarim shebikdushah*—can only draw upon a far more limited base. Finally, to a significant

extent, support of our brethren as a fulfillment of the *mizvah* of פתח ידך לאחיך לעניך ולאבייך בארצך serves to advance the cause of the *zedakah* of *mishkan* as well, by sustaining and empowering the community of its adherents. Hence, the dictates of priority may militate maintenance of an inward focus after all.

Nevertheless, the difference between the course which I am espousing and that which I have rejected should be readily apparent. At one plane, it is attitudinal—possibly of little interest to treasurers and bursars, but of great import to persons of spirit and educators. Whether an individual fails to extend support because he lacks the means or because he lacks commitment leaves the indigent in equally dire straits. The respective options are of momentous significance, however, as regards the philosophic and ethical stance of the “non-donor.” To share in the agony of general need, wishing that one could ameliorate it, confident in the assumption that were financial response feasible, it would constitute a fulfillment of the *mizvah* of *zedakah*, is, even if one defers and demurs, one thing. To assume that the suffering is immaterial and its relief purely neutral, insofar as the parameters of *zedakah* are concerned, is something else entirely.

Moreover, there is some pragmatic fallout as well. If an inward-looking focus is dictated by the necessity of priority, it should presumably be subject to its limits as well. The factors governing priorities of *zedakah*—and, presumably, *gemilut hasadim*—are varied and, in detail, numerous. Broadly speaking, however, they fall under five rubrics:

1. The personal identity and level, however determined,³⁵ of the prospective recipient *per se*, with the spiritual hallmarks of a *talmid hakham*, presumably Torah scholarship and virtue, at the pinnacle.
2. The degree of relation—be it familial linkage, interaction issuing in indebtedness, e.g., a student-teacher relationship, common residence, etc.—between the donor and recipient.
3. The nature of the need as regards kind and degree, whether evaluated in accordance with objective or subjective standards, with an eye to determining utility and worth.

4. Apart from the “points scored” on the scale of *zedakah* on the basis of the foregoing, the possible interposition and impact of other norms, such as *kibbud av v'em*, within a situation of *hesed*.
5. The weight possibly assigned to relatively adventitious general guidelines, such as the sequential order of ³⁶על המצות (the Halakhic equivalent of “first come, first served”).

All are relevant to the world of *hesed*, and all enter into decisions necessary to that world, my preceding reflections included. In this regard, however, an important qualification must be borne in mind. The *gemara* in *Erubin* 63a states that a person who channels all of his *matnot kehunah* to a single *kohen* “brings hunger unto the world”; and this statement served *rishonim* as a source for proscribing the donation of all of one’s *zedakah* to a single pauper—presumably even if he was among his prioritized relatives.³⁷ This view has been authoritatively set down in *Shulhan Arukh*. לא יתן אדם כל צדקותיו לעני אחד בלבד. Evidently, a clear and essential distinction is hereby postulated. The list of criteria recognized by Halakhah, properly and sensitively applied, collectively determine what should be done in a particular situation. However, general policy, whether personal or communal, needs to be conducted with a broader perspective; and if, for instance, repeated application of the formal criteria will issue in exclusive concentration upon one sector and the desiccation of others, the mix requires revision. How that is to be effected, whether by recourse to a reserve objective pattern or by resort to subjective intuition, obviously needs to be judged thoughtfully, as do many other questions of priority. My point is simply that with regard to our question, an inward-looking focus ought not necessarily to preclude the inclusion of general needs of a broader clientele in the implementation of philanthropic strategy. I am firmly convinced that, for the foreseeable future, an inward-looking focus—to which, under ordinary circumstances, I am committed—should continue to characterize our philanthropic policy. Concurrently, I contend that our community needs to be more forthcoming in recognizing the needs of others and responding to them more generously than we are currently doing. This is doubly true with respect to periods of relative affluence, but ought not to be confined to them.

The prospect of possible practical ramifications is reinforced if we take account of a limitation of the principle of *hayyekha kodmin*. In the *gemara*—and subsequently in *Shulhan Arukh*—no mention is made of the respective stakes. In the archetypal case of desert thirst, there is, ordinarily, no difference. However, with respect to *hashavat avedah*, there certainly can be a very substantial gap. I may have lost a Timex watch, and my fellow, the Hope diamond. And yet, this factor goes largely ignored.³⁸ The *mishnah* does state that the finder may strike a deal with his fellow, whereby he volunteers to forgo recovering his own object on the condition that he be reimbursed for its loss; and the *mehabber* states that under the circumstances, the finder should be accommodating. But he is not legally required to initiate the concordat.

ואף על פי כן יש לו לאדם ליכנס לפנים משורת הדין ולא לדקדק ולומר שלי קודם אם לא בהפסד מוכח ואם תמיד מדקדק פורק ממנו עול גמילות חסדים וסוף שיצטרך לבריות.³⁹

This moral counsel, too, however, is proffered *lifnim mishurat hadin*.

The Ba'al Hatanya, conversely, regarded such behavior as unconscionable—even at the level of *din*. Addressing himself to reports of a Jewish community which had evidently suffered an economic downturn, as a result of which its elite had cut back on charity, even as their own lifestyles remained largely intact, he rebukes their conduct and takes pains to conjecture and condemn their possible rationale:

כל זה לא טוב הם עושים לנפשם לפי הנשמע אשר קפצו ידם הפתוחה מעודם עד היום הזה ליתן ביד מלאה ועין יפה לכל הצטרכות ההכרחיים לדי מחסורי האביונים נקיים אשר עיניהם נשואות אלינו ואם לא נרחם עליהם ה' מי ירחם עליהם והי אחיך עמך כתיב ולא אמרו חיך קודמין אלא כשביד אחד קיתון של מים וכו' שהוא דבר השוב לשניהם בשוב לשנות להשיב נפשם בצמא. אבל אם העני צריך לחם לפי הטף ועצים וכסות בקרה וכי האי גוונא כל דברים אלו קודמין לכל מלבושי כבוד וזבח משפחה בשר ודגים וכל מטעמים וכב"ב ולא שייך בזה חיך קודמין מאחר שאינן חיי נפש ממש כמו של העני שוב בשובה ממש כדאיתא בנדרים דף פ'. והנה זהו עפ"י שורת הדין גמור.⁴⁰

Adoption of this qualification would obviously greatly enlarge the gap between the opposed positions previously outlined.

In principle, therefore, I fully agree that Jewish, including Orthodox, philanthropy should feel a measure of responsibility for universal causes, and should act on that feeling. However, when confronted by the arguments in favor of an outward-looking focus encapsulated in the question posed to me, I find that my assent is quite limited. Surely, we ought to share in “funding environmental causes, alternative energy sources, or medical research.” And this, for two complementary reasons—one selfish, and the other altruistic. The former relates to the fact that we are beneficiaries of these initiatives, and should recognize that, in all fairness, we ought pull our oar in enabling them. Moreover, even if we should have no compunctions about parasitism, it is not inconceivable that the broader world will not allow us the luxury. A major American transplant center is reported to have warned that if Orthodox Jews fail to donate organs, they will be denied their receipt; and similar caveats might be issued elsewhere. Hence, quite possibly not only our reputation but also our welfare, could be on the firing line.

The altruistic motif inheres in the awareness, previously noted, that we are ethically charged to assist in sustaining and improving the quality of life for the inhabitants of this planet as an expression of *hesed* and to aid in “enlarging the bounds of human empire,” as our contribution to *yishuvo shel olam*, one of the two central aims which the Rambam designated as exclusively worthy of persistent pursuit: אין⁴¹ I am mindful of the fact that some contend that, having been designated as a ממלכת ראויה לאדם שיעסוק כל ימיו אלא בדברי חכמה וביישוּבו של עולם. 41 מַמְלַכַת וְגוֹי קְדוֹשׁ, “a priestly kingdom and sacred nation,” we, like the *kohanim*, deserve to receive while exempt from giving. However, there are surely more appropriate areas—spiritual, ethical, and religious—to manifest our clerical status.

The second contention relates to the prospect of using outward-looking philanthropy “to instill Jewish values into social programs.” At this point, I find myself in somewhat of a quandary. I confess that I was already a little confused by the first suggestion. I had rather naively

assumed that an outward-looking focus was not solely bound with research and development, but was in some way related to helping suffering individuals cope with privation; that it was even akin to Emma Lazarus's invitation to "teeming millions" to partake of the New World's cornucopia and share in the realization of the American dream; that it entailed funding Lambaréné or Biafra and extending a helping hand to UNICEF. Having readjusted my sights on that score, as I am now confronted by researchers in white coats laboring in state-of-the-art facilities as they grapple with extending the frontiers of scientific and technological achievement, I still find myself befuddled by the second suggestion.

What is the scope and magnitude of the social programs under consideration? Presumably, if the focus is indeed outward-looking, seeking to influence the broader world, very extensive. In that case, however, is the prospect of instilling Jewish values, desirable as it may be, truly realistic? I am inclined to assume that such an enterprise requires very substantial sums. Exceeding the capacity of the ordinary Maecenas, and on the assumption that the Gateses and the Buffetts of this world are not included in our discussion, a meaningful change of focus could very well result in sapping the viability and strength of existing Jewish enterprises, while barely making a dent in the values and direction of the broader world. I don't believe that this game is worth the candle.

If, on the contrary, the programs involved are far more constricted—referring, for instance, to the secular Jewish world and its institutions—the prospective impact could conceivably be far more substantial. Even so, however, my intuitive response remains skeptical. Any major shift would, in all likelihood, issue, axiologically, in costs exceeding benefits. However, as I am barely a neophyte in this area, I prefer to receive guidance from veteran laborers in the vineyards before making any but a tentative assessment. In conclusion, let me briefly submit a further response to the question posed to me. In relating to it, I believe a dual perspective is not only legitimate but highly advisable. As formulated, the question has a clear contemporary ring, as reflected in both its general thrust and the very contemplation of a major revision in the direction and substance of Jewish philanthropy. Clearly,

no such prospect would have been seriously entertained by our forefathers in the premodern era. The live option herein presented would probably not even have occurred to insular Jewish communities in Poland or Morocco. On the one hand, they lacked the means to expand their philanthropic activity significantly, and, given their relatively limited interaction with the broader world, were also generally bereft of the impulse to do so. On the other hand, inasmuch as the general welfare state within which post-Emancipation Jewry could find its niche had yet to assume part of the burden of supporting Jewish individuals and institutions, the obligation of family and indigenous *kehillah* to minister to our own was more keenly felt. The Rambam attested that while he knew that not all communities had a *tamhui* to provide daily needs to the indigent, מעולם לא ראינו ולא שמענו, ⁴²None of us would have to travel any great distance to find a community which, *mirabile dictu*, manages without a *kupah* to distribute weekly stipends.

To us, the question occurs. And we convene here, in the hope that out of our conference will emerge, if not conclusive resolutions, at least, a measure of direction—without pontification, without presumption, without pretense; but with animated commitment, with sharpened responsibility; with an acute perception of what we owe the Ribbono Shel Olam and what we owe our people; and with a prayer that we may be worthy of the *siyatta di'shmaya* which we so desperately need.

Against this background, particularly given the realization that we are so deeply immersed in issues of priority, it is essential, I repeat, that we maintain a dual-perspective. Clearly, the objectives encoded within *sifrei psak*, buttressed by much historical precedent, are for us a polestar. They assign relative value and provide guidance in the implementation of *zedakah*. Nevertheless, we should beware of excessively mechanical application. By their very nature, the details are not all etched in stone, and the total picture very frequently includes many variables. The question of weighing the respective claims of *mishkan* and of *aniyyim*, for instance, epitomized by the Maharik's decision⁴³ to permit the diversion of funds earmarked by their contributor for the poor to the reconstruction of a fire-gutted shul, can

obviously be treated at the abstract plane of the formulation of general policy. But can anyone seriously contend that an identical answer will obtain in all situations? Indeed, even as concerns the Maharik's specific *teshuvah*, in reading and analyzing the responsum, we note that major consideration, so spiritually and psychologically understandable, but without significant roots or standing in Hazal, was given to the fact that the envisioned shul was to replace the recently destroyed *beit haknesset* in the heart of Jerusalem. Can we fail to take account of the impact of any decision upon the population and regard its likely response as irrelevant? And what of the donor? Ought we to suppose that the balance between his spiritual enrichment through engagement in *hesed* and pragmatic ameliorating of the tragedy of destitution will always remain in identical equilibrium? How do we factor heroic relief for the prioritized or most acutely agonized few against the routine needs of a multitude? Finally, can the depth of spiritual or material need of a given town be ignored? Is the level of danger of assimilation or starvation of no moment?

The answer to these rhetorical questions is clear. In this area in particular, the variables are numerous and too substantive to admit disregard. And they are, collectively, sufficiently flexible both to warrant consideration and to enable it. Halakhic guidelines will certainly be invoked in determining philanthropic policy and practice. However, their application needs to be sensitive and contextual, with an eye to a constellation of relevant factors which we ignore at our peril—spiritual and material, personal and communal. Historically, first-class *poskim* have marshaled ingenuity and responsibility in confronting frequently delicate and controversial issues of *zedakah*; and theirs can hopefully serve as an instructive model.

Such an approach is rendered even more essential if we bear in mind the possible impact of an additional factor—not specifically related to *zedakah* but nevertheless of critical moment in almost every meaningful area of our religious life. I refer to the prospect of *kiddush hashem*—or, sadly, the reverse—in the broad sense of the term: impact upon regard for Torah and *avodat hashem*. Precisely because of its position at the interface of the private and public sectors, how distributive justice is meted out by the committed and their

leadership can influence the standing of tradition and its adherents. We perhaps ought not to exaggerate this factor. Decision should, possibly, be preferably grounded in substantive elements rather than in promotional terms; and, contrary to much popular sentiment, the impact upon *shem shamayim* proper can result from the measure of consonance of an action with the immanent divine presence, rather than with its public relations effect. Nevertheless, we remember that Hazal, following many *pesukim*, attached great significance to the status of divine names and their public standing. This is reflected in relation to oaths, often intimately linked to use of *shem shamayim*.⁴⁴ Thus, on the one hand, the Rambam describes a proper link as a hallowing process:

השבועה בשמו הגדול והקדוש מדרכי העבודה היא והידור וקידוש גדול הוא להשבע בשמו.

Conversely, abuse of that link constitutes a mode of blasphemous defamation, regarded as the nadir of sin:

עון זה מן החמורות הוא כמו שבארנו בהלכות תשובה אף על פי שאין בו לא כרת ולא מיתת בית דין יש בו חילול השם המקודש שהוא גדול מכל העונות.⁴⁵

Hence, judicious and sensitive decision is critical; and so, likewise, with respect to our specific issue.

As this paper draws to a close, it suddenly dawns upon me that it has not quite succeeded in its mission. With respect to the preferable direction of contemporary Jewish philanthropy, I trust I have adequately clarified that I believe it should be animated, *inter alia*, by a principled recognition of universal responsibility for *zedakah* and *gemilut hasadim*, to be reflected, in some measure, by efforts to respond to that obligation; but that in practice it should focus primarily upon meeting Jewish needs. However, insofar as I have emphasized the importance of contextual judgment in the light of significant variables, I have fallen short of unequivocal delineation of the precise optimal balance some readers may have sought. I was asked a simple question, susceptible of definitive response, and I am afraid I only proffer a qualified response.

However, at least the basic direction of my position and the preference expressed and reflected in it should be clear. And as to the flexibility, I cite, by way of precedent, two supportive analogous sources: a *gemara* in *Berakhot* regarding the dissemination of Torah; and, closer to our immediate topic, the Ramban's recourse to a text concerning a balance between *talmud Torah* and *gemilut hasadim*. *Tanya* opens the first citation, of a passage from the Tosefta:

הלל הזקן אומר בשעת המכניסין פזר בשעת המפזרים כנס ואם ראית דור שהתורה חביבה עליו פזר שנאמר יש מפזר ונוסף עוד ואם ראית דור שאין התורה חביבה עליו כנס שנאמר עת לעשות לה' הפרו תורתך.⁴⁶

Qualification with respect to so primary and prominent a duty places the need for proper assessment and knowledgeable perception in bold relief.

And finally we note that the Ramban, in his treatise *Torat ha-Adam*, dealing with the possible interruption of Torah study in order to pay homage to a funeral cortege, cites a relevant proof-text—drawn from the Yerushalmi in *Kil'ayim*:

תני אין מדקדקין במת ולא בכלאים בבית המדרש ר' יוסא היה יתיב מתני והוה תמן מיתא מאן דנפיק ליה לא אמר ליה כלום מאן דיתיב ליה לא אמר ליה כלום.⁴⁷

In certain circumstances, that recoil from rigidity, determined but in no sense carefree, constitutes the incarnation of responsible decision.

NOTES

1. *Ber.* 18:19. For a crucial discussion of the link to election, see Ramban, ad loc.
2. *Matnot Aniyyim* 10:1.
3. See *Baba Bathra* 8b, and *Ketubot* 48a and 50a. Many *rishonim* assumed, on the basis of a *gemara* in *Hullin* 110b, that positive commandments whose reward is explicitly stated in the Torah are not subject to coercion; and many also included *zedakah* in this category. Some therefore concluded that it could not indeed be compelled, while others sought to explain why it was nonetheless actionable. See Tosafot, *Baba Bathra* 8b, s.v. *akhpei*; Ritva, *Rosh Hashanah* 6a, s.v. *tanna*; Rambam, *Matnot Aniyyim* 7:10, and *Nahalot* 11:10–11 and *Kesef Mishneh* thereon; and *Kzot Hahoshen* 290:3.

4. The equation with idolatry is not, of course, to be understood too literally. Similar statements appear in Hazal in diverse contexts, in some of which, indeed, the analogy relates to a clearly grievous sin, and may have Halakhic ramifications. Thus, for instance, with respect to a *mehallel Shabbat* who, for certain purposes, is treated as if he were a non-Jew; see *Hullin* 5a and Rambam, *Shabbat* 30:15. However, in other cases, despite the equation, no such sanctions are ever envisioned. See, e.g., *Shabbat* 104b, with respect to a person who is subject to fits of violent anger, with the resultant loss of self-control; or a similar critique of one marred by the blight of inflated pride; see *Sotah* 4b and Rambam, *De'ot* 2:2; or again, of one who demeans (*hamevazeh*) the holidays, even, as Rashi explains, be that only as regards *hol hamoed*; see *Pesahim* 118a. Obviously, however, the equations are nonetheless pregnant with ethical and religious import.
5. See *Yevamot* 65b, and Tosafot, s.v. *velo*. The possibility that the *pasuk* can be interpreted as a blessing rather than as a command has been entertained; see Maharsha, *Sanhedrin* 59b, s.v. *gemara vaharei*. This has not been accepted normatively, however.
6. On my view, this distinction is reflected in the position, endorsed by some *rishonim*, that even persons exempt from the *mizvah* of *pru urevu* are included in the commandment to engage in procreation, within the parameters dictated by *shevet*. In a similar vein, the midrash's citation of *shevet*, rather than *pru urevu*, as the ground for compelling the master of a servant prevented from raising a family by his status to manumit him (see *Gittin* 41a) is best understood in the light of this suggestion. The owner could not be charged to act in order to enable the servant to fulfill the latter's personal obligation but could be coerced on the basis of his own responsibility to the general mandate.
On a totally different note, the sixteenth-century author of *Shnei Luhot Habrit* took this *pasuk* as discouraging asceticism, while legitimizing worldly experience. See *Massekhet Sukkah*, *Ammud Hashalom* II:76 (5623 ed.).
7. See *Megillah* 27a, *Avodah Zarah* 13a, *Yevamot* 62a–b, and *Gittin* 41a–b. See also *Avodah Zarah* 13a, Tosafot, s.v. *lilmod*, which cites and rejects a diametrically opposed view that the *mizvot* cited are of lesser gravity, and the intent of the *gemara* is to innovate that even they are sufficient to warrant the sale or the departure.
8. *Perush Hagra*, *Esther* 10:3. See *Shabbat* 105b; cf. Rambam, *De'ot* 2:3, where he postulates that the *via media* he generally advocated did not apply to anger, from which one should distance oneself maximally; and *Teshuvah* 7:3, where it is included among traits which require penitence.
9. *Jewish Perspectives on the Experience of Suffering* (Northvale, N.J., 1999), p. 59.
10. See Ramban's commentary on *Bereshit* 34:13, and *Sh'eylot u-Teshuvot Harama*, Resp. 10, respectively.
11. *Teshuvot Harambam*, ed. Y. Blau, 148. Cf. also *Perush Hamishnayot*, *Terumot* 3:9.
12. *Melakhim* 12:5.

13. *Sanhedrin* 59a. For ancillary reasons, the *gemara* goes on to restrict the range of the Torah material included in the license. This has no bearing, however, upon the principled view of Torah study as such.
14. During the course of this essay, I have not distinguished between *zedakah* and *gemilut hasadim*. The *gemara* does clearly differentiate them, as the former is largely confined to financial assistance given to the poor, while the latter encompasses many forms of aid and support, even if extended to the affluent. See *Sukkah* 49b. However, as I sensed that this distinction was not particularly relevant to my presentation, I assumed the liberty of interchanging the terms indiscriminately.
15. *Melakhim* 10:12; cited with reference to *zedakah* for Gentiles. Cf. *De'ot* 1:5–6, and *Hanukkah* 4:14.
16. *Mishpatim, massekhta di'nezikin*, sec. 4; in the Horowitz-Rabin ed., p. 263.
17. See *Roze'ah U'shmirat Nefesh* 2:11 and *Kesef Mishneh*, ad loc.
18. See *Hullin* 33a.
19. See *mori v'rabbi* Rav Yitzchak Hutner, *Pahad Yitzchak, Pessah* (Brooklyn, N.Y., 1988), p. 145, who assumes this position generally, but regards *shabbat* and *yamim tovim* as exceptions.
20. *Yehezkel* 16:50. Note the acerbity with which previous *pesukim* chastise Jerusalem for being worse than Sodom. Cf. *Yeshayahu* 1:9–10.
21. See his comment on *Sanhedrin* 56b, s.v. *vayezav*. The editor of the Mossad Harav Kook edition (Jerusalem, 2003) notes, however, that the Rambam may have felt otherwise, as he evidently classifies *zedakah* as meritorious but voluntary for a Gentile. See *Melakhim* 10:10, and the discussion listed in the *Sefer Hamafte'ah* of the Frankel edition.
22. The omission of any ethnic reference in the familiar Midrashic statement that the Ribbono Shel Olam only rises to judgment (as opposed, figuratively, to a sedentary posture) in response to outcries of the poor, is perhaps also noteworthy. See *Bereshit Rabbah* 75:1 and *Shemot Rabbah* 17:4.
23. See *Baba Mezi'a* 32a–b.
24. *Baba Mezi'a* 32b. The distinction between idolatrous and monotheistic Gentiles, a linchpin of Halakhic thought in the area of Jewish-Gentile relations, of course entails discrimination of another order. The topic lies, however, beyond my immediate ken.
25. See *Arakhin* 6a–6b.
26. Rabbi Brody asserts that the Rambam confined the *mizvah* of *zedakah* to giving to the poor. I do not find his argument fully convincing; and, in any event, that surely has not been the thrust of the Halakhic tradition as a whole.
27. *Bereshit Rabbah* 42:13. Other interpretations of the term *ha'ivri*, referring to descent from Ever or trans-river origins, are also cited by the *midrash*.
28. At which point divine intervention reversed the import of Balaam's declamations is unclear.

29. *Baba Mezi'a* 62a. The discussion here turns upon the quandary as it affects and confronts the parties. In this connection, questions have been raised about the possible role of a disinterested observer who has the flask in his possession.
30. *Baba Mezi'a* 33a; cf., with respect to a different situation, and with recourse to another proof-text, 30a.
31. *Vayikra* 19:17. In a note, Rav Chavel comments that Ramban here possibly alludes to, and challenges, the Rambam's more idealistic position, as formulated in *Sefer Hamizvot*, *Assei* 206; see also *De'ot* 6:3.
32. *Yoreh Deah* 251:3. Surprisingly, the specific case of Rabbi Akiva's scenario was codified by neither the Rambam nor the *Shulhan Arukh*.
33. See *Pesahim* 21b and the Ramban's catalogue of *mizvot* he contends the Rambam had erroneously omitted; see his animadversions upon the *Sefer Hamizvot*, *Assin*, 17. It should be stressed that in this context, the term להחיותו is not confined to literal life-saving but refers to general sustenance as well.
34. See, with respect to a clash between *talmud Torah* and *kibbud av v'em*, *Kiddushin* 32a; and, more generally, that between *talmud* and *ma'asseh*, *Mo'ed Katan* 9b. Obviously, application of this factor depends, in large measure, upon how possibility is defined and upon the ability and the readiness of the "others" to undertake the task in question.
35. See *Horayot* 13a, where, on the one hand, technical factors of one's formal status in the scale of *yohasin* is presented as a ground for priority, while, on the other hand, at bottom, personal spiritual qualities are assigned supremacy. Currently, the element of *yohasin* as a yardstick of triage is relatively neglected—whether because, as Rav Moshe Feinstein held, its use being rather impractical in the modern reality, it was also no longer decisive, or for some other reason.
36. See *Yoma* 33a, *Megillah* 6b, and *Menahot* 64b. The priority evidently applies to both selection and sequence.
37. *Yoreh Deah* 258:9; see also *Sifte Kohen* 258:19.
38. See *Baba Kama* 115a–b. The *gemara* in *Baba Mezi'a* 30a, does speak of possible exemption from *hashavat avidah* if מרובה משל חבירו, implying that if the stakes were equal, one ought to engage in *hashavah*. This seems to contradict the *gemara* of 33a. *Rishonim* raised the issue and suggested various possible resolutions to reconcile. See various *hiddushim*, 30a, of Ramban, Rashba, Ritva, and Meiri.
39. *Hoshen Mishpat* 264:1.
40. *Iggeret Hakodesh*, chap. 16. The same point was made, in the moderate tones of a medieval Provencal commentary and without the Ba'al Hatanya's moralizing passion, in יהודשי רבנו אברהם מן ההר נדרים פ, ed. Rav M. Y. Blau (New York, 1962), p. 167.
41. *Gezelah v'Avedah* 6:11. The formulation invites some question as to whether the Rambam refers solely to exclusive lifelong pursuit or even to more limited involvement.

42. *Matnot Aniyyim* 9:3. See *Baba Bathra* 8b–9a.
43. See his *Sh'eylot Uteshuvot*, sec. 5, for the specific case to which I allude. The better-known general formulation appears in sec. 128; see Rabbi Broyde's discussion of that text in this volume. I would only add that his assertion that the Gra disagreed with the Maharik seems a bit far-reaching. The Gra only states, with respect to the source cited by the Maharik, ואינו מוכרח.
44. See Rambam, *Shevuot* 2:1–4, and Ran, *Nedarim* 2a.
45. *Shevuot* 11:1 and 12:2. Unlike many other *rishonim*, the Rambam regarded the use of a properly administered *shevuah* very positively, and not as a mere occasional necessity.
46. *Berakhot* 63a. As recourse to the last *pasuk* cited should indicate amply, the counsel of this *baraita* raises important questions. These, however, cannot be discussed fully here.
47. *Torat ha-Adam*, in *Kitvei Haramban*, ed. Rabbi C. B. Chavel (Jerusalem, 1963), 2:104. My citation here is grounded on the assumption that in the incident discussed, the issue turned on leaving in the middle of the *shi'ur*. However, alongside this interpretation, the Ramban suggests an alternative view, that the problem was one of the continued presence of *kohanim*, despite the intrusion of a defiling cadaver. *Prima facie*, the prospect of continued presence does not appear to constitute a viable option, as the prohibition with respect to a *kohen* is clear-cut and, depending on a number of variables, probably *mi'd'oraitha*, and is presumably not overridden by the prospect of hearing a *shi'ur*. Be that as it may, in any event, the position that the first issue was open to subjective preferential resolution was certainly entertained by some *rishonim*. See the Ramban here and the *sugya*, *Ketubot* 17a, and *rishonim* ad loc.