



MAKING A DIFFERENCE: PRIORITIES IN TZEDAKAH

Even the most devoted practitioners of *chesed* (acts of kindness) and charity are human and are restricted by the limitations of reality. Resources are finite; time, money, and emotional energy all require careful allocation. Since resources that are bestowed in one place cannot be bestowed elsewhere, the halakhah has formulated principles of prioritization to guide the maximal fulfillment of the crucial mitzvah of tzedakah. In general, the discussion is complicated by the fact that the expression of charity and *chesed* will generally allow for some measure of personal discretion. Discretion, by definition, would seem to be incompatible with regulation. It is noteworthy that

one method of charitable donation and disbursement in contemporary times is the “rabbinic discretionary fund.” Rabbinic discretion is a special kind — one that, by its very nature, suggests a judgment informed by values that are rooted in legislated principles found in the Talmud and codes. The existence of the rabbinic discretionary fund is indicative of the unique place tzedakah occupies within this reality.

On the one hand, tzedakah is a concrete religious obligation, codified in the “*Yoreh De’ah*” section of *Shulchan Arukh* along with much of what makes up the curriculum of rabbinic training. Nonetheless, the subjective factors applicable in evaluating charitable priorities are

manifold, often obscure, and at times willfully misrepresented. While every area of Jewish law involves variables that affect the application of halakhah, tzedakah would appear to be complicated to the point of defying any regulation. To calculate urgency of need, priority, proportionality, honesty of supplicants and countless other factors, and emerge with clear direction, is a daunting task. Nonetheless, when all is said and done, individual judgment will steer the course. A frequent theme in rabbinic responsa is that after carefully analyzing the pertinent halakhic aspects, it is up to the donor, administrator, or rabbi to assess the application.¹

The Vilna Gaon is quoted as having

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homiletically understood the verse, “*lo tikpotz et yadkha mei-achikha ha-eyyon*,” “you shall not... close your hand against your destitute brother” (Deut. 15:7), as an instruction about the evaluative responsibility contained within the tzedakah imperative.² When the hand is closed in a fist, all the fingers appear to be the same size. However, when the hand is open, it becomes clear that the fingers are all of different length. Similarly, the appearance of objectivity in tzedakah standards is deceptive. In real life, appropriate giving will always require a judgment call based on the subjective elements. This discussion, accordingly, will make no attempt to finalize rules, but rather to present some of the halakhic reasoning that has been established throughout the centuries.

Concentration or Diversification?

One general question at the outset can be simply expressed as the issue of quantity versus quality. What is the preferred approach toward the distribution of a limited sum: a focused, single gift of considerable impact, or smaller allotments, making possible a broader “sharing of the wealth?”

Maimonides, commenting on the mishnaic phrase, “*vihakol le-fi rov ha-ma’aseh*,”³ “everything is judged by the “*rov*” of action,” asserts that:

שהמעלות לא יושגו לפי שעור גודל המעשה, אלא לפי רוב מספר המעשה. וזה, שהמעלות אמנם יושגו בכפול מעשי הטוב פעמים רבות, ובזה יושג הקנין, לא בשיעשה האדם מעשה אחד גדול ממעשי הטוב, שבזה לבדו לא יושג קנין. משל זה, שהאדם אם יתן למי שראוי אלף דינר, בפעם אחת ולאיש אחד, לא תושג לו מעלת הנדיבות בזה המעשה האחד הגדול, כמו שתושג למי שיתנדב אלף פעמים באלף

דינר, ויתן כל דינר מהם על צד הנדיבות, לפי שזה יכפל על ידו מעשה הנדיבות אלף פעמים, ויושג קנין חזק, וזה פעם אחת בלבד התעוררה הנפש התעוררות גדולה למעשה טוב, ואחר כן פסקה מזה. וכן בתורה אין שכר מי שפדה אסיר במאה דינר, או נתן צדקה לעני במאה דינר שהיו די מחסורו, כמו מי שפדה עשרה אסירים, או השלים חסרון עשרה עניים, ואפילו בעשרה דינרים. ולזה תקיש. וזה הוא ענין אומרו: לפי רוב המעשה אבל לא על פי המעשה.

The higher levels will not be attained by an individual through the magnitude of an action but rather through a multitude of actions; for example, when an individual gives a thousand gold coins to a needy person, and to another person gives nothing, he will not acquire the quality of generosity through this one action as much as one who donates a thousand gold coins in a thousand instances, and gave every coin in the spirit of generosity, because the latter repeated the act of generosity a thousand times and achieved a strong acquisition, while the former aroused his soul to do good once and then ceased; and thus the phrase, all according to the multitude (rov) of the action and not magnitude (godel) of the action.

Others, such as the Maharal of Prague and R. Yaakov Emden, adopted a different perspective, emphasizing quality over quantity;⁴ Maimonides’ position, however, appears to have exerted a greater influence on the halakhic literature.

The reason for, and focus of, Maimonides’ view remains to be determined. On the one hand, Maimonides’ language suggests an emphasis on the spiritual elevation that comes from performing a mitzvah act. The benefits to the soul of the doer justify the dilution of the concentration of the act itself; the act impacts positively with each repetition. Similarly, some

commentaries⁵ highlight the growth resulting from continuously resisting uncharitable impulses.⁶

Alternatively, there are those who base a preference for multiple donations over large single gifts because of the enhancement accrued by the recipients. In other words, diversification is ideal because the world is better off when more people are helped, and the world is worse off when the minority benefits disproportionately at the expense of others.

Even if this is not a correct reading of Maimonides, it is explicitly the position of the *Bayit Chadash (Bach)*. In the laws of giving to the poor on Purim, the *Bach* states that it is clear to him that one who could give a large gift to one needy person or smaller gifts to a hundred should opt for the latter route, thus “sustaining one hundred lives.”⁷ This notion is alluded to in the Talmud where it recorded that one who offers all his priestly gifts to one *kohen* “starves the world.”⁸

The difference between the two interpretations of Maimonides’ position is significant and directly relevant to an administered fund. If the preference for quantity is derived from the benefit to the soul, then such a factor is relevant only to the donor himself, and not to one administering the funds of others. If, however, the advantage is a reflection of wider benefit being more halakhically desirable, this concern is directly relevant to an administered fund as well.⁹

It is also conceivable, as is often the case, that the ideal path is somewhere in the middle. If diversifying the donations can be done without diluting the effect to the point of insignificance, then such an approach

is preferred. If, alternatively, only concentration will yield an effect of demonstrable impact, then that is the path to take.¹⁰

In any event, the principle that one should not direct all his resources toward one recipient is codified in the *Shulchan Arukh*.¹¹ Nonetheless, as the *Maharsham* observes, it is likely that the *Shulchan Arukh* disapproves only of a consistent policy of exclusivity. An occasional concentration of efforts on one needy case is not covered by this admonition.¹²

Dei Machsoro

After determining the method of distribution, it is necessary to determine what is demanded of the donor or disburser in relation to a given recipient. The Torah, in mandating the support of the needy, indicates a goal of supplying “*dei machsoro*,” “his required need” (Deut. 15:8). The Talmud understands this expansively, including even the provision of “a servant to run in front of him” if this is the accustomed standard of the recipient.¹³ R. Shmuel Wosner emphasizes, however, that the Talmud limits the obligation at the same time as it expands it: the same passage rules that *dei machsoro* does not extend to enrichment.¹⁴

Some question how such a policy can be reconciled with the Talmudic mandate that one not give away more than 20% of one’s income, lest he himself join the ranks of the impoverished.¹⁵ Surely a standard of *dei machsoro* would impose a much higher burden on the donor.¹⁶ The basis for the resolution of these seemingly conflicting requirements is found in the rulings of the Rama. As the Rama understands it, *dei machsoro*

is not an obligation on the individual, who is, indeed, absolved after having donated 20%, but rather on society as a collective.¹⁷ While the Rama’s opinion is not the only one on the matter,¹⁸ it is nonetheless compelling. Further, as R. Wosner observes, “reality” has ruled in accordance with the Rama: it is practically unrealistic to assume that any individual, in a modern economic context, can alone undertake the support of someone else to the point of “*dei machsoro*.”¹⁹

Thus, according to the Rama, it is specifically a public fund, such as the rabbinic discretionary fund, that has the responsibility of fulfilling *dei machsoro*. Nonetheless, those funds are likewise not infinite, and prioritization will continue to take a strong role in the allocation process. Practically, then, *dei machsoro* is rarely attainable; the concept, however, remains instructive in defining some core elements within tzedakah, as will be discussed below.

A much more limited obligation of fulfilling *dei machsoro* concerns the roving supplicant, who is himself “diversifying” and can be assumed to be drawing support from multiple sources. According to the *Shulchan Arukh*, such an individual is entitled only to a “small gift.”²⁰ The *Taz* relates that there are a number of disputed points regarding this ruling, particularly as to whether the reference is to individual or public funds. He concludes by noting that consensus seems to settle on a small gift comparable to the value of one meal.

In addition to the positive commandment to provide for the needs of the poor, there are two Torah prohibitions that would seem to apply to anyone approached for

funds. In the context of the mandate of tzedakah, the Torah warns, “... you shall not harden your heart or close your hand against your destitute brother” (Deut. 15:7). Thus, it bears determining whether every refusal to give charity violates the two Biblical commandments of “you shall not harden your heart” and “you shall not close your hand.”

It is possible that these prohibitions are binding even without an overt request on the part of the poor person; perhaps knowledge that there are needy people nearby is enough to create a responsibility. This appears to be the position of Maimonides in *Sefer Ha-Mitzvot*,²¹ although his phrasing in *Mishneh Torah* has left open some room for question.²² The Rashba, however, seems to restrict the obligation to one who has been approached directly.²³ Some contemporary authorities assume this latter view to be normative.²⁴

The possibility of violating two Torah prohibitions certainly is a factor when making the decision to bestow charity. However, many authorities limit the scope of these prohibitions. For example, R. Meir Auerbach suggests that the prohibitions only apply in a situation where the entire responsibility of *dei machsoro* is binding; when, however, the petitioner will, in any event, turn to other sources, they do not apply.²⁵ Furthermore, others suggest that the prohibitions only refer to reluctance resulting from a “hardening of the heart;” when the issue is limited funds, or questions as to the qualifications of the recipients, they may not apply.²⁶ Along these lines, R. Leib Baron suggests the following distinction: the positive obligation of tzedakah is addressed both to the

material needs of the recipient and the spiritual needs of the donor.

The prohibitions, however, are only directed at the donor, instructing that he not allow his sense of compassion to be eroded. Accordingly, when he is justified in not giving, the prohibitions do not apply.²⁷

Prioritization between Individuals

Perhaps the most famous principle of prioritization is that of “*aniyei irkha kodmim*,”²⁸ — the poor of your city take precedence — indicating preference to those in closest proximity. The Meiri maintains that this is the overriding priority, and all other factors are evaluated only within this context.²⁹

A comment found in the later Biblical commentary *Panim Yafot* has made a greater halakhic impact than might be expected for a homiletic commentary, largely due to the author of that work having been R. Pinchas Halevi Horowitz, author of the *Sefer Hafla’ah* and one of the primary mentors of the *Chatam Sofer*. The *Panim Yafot* identifies two significant textual clues towards prioritization in the verse “*Ki yihyeh bekha evyon ...*,” “If there shall be a destitute person among you ...” (Deut. 15:7) The words “*bekha*” and “*evyon*” are of particular relevance. “*Evyon*” is a stronger term for a poor person than “*ani*,” suggesting true indigence. Etymologically, the word is related to the word “*ta’ev*,” indicating “need.” This becomes a guiding principle in prioritization: *kol ha-ta’ev, ta’ev kodem* — the neediest comes first. This is the dominant rule, according to the *Panim Yafot*, overriding even the priority of *aniyei irkha*. All preferences of proximity presume comparable need; if there is

a disparity in this area, priority goes to those in greatest need.³⁰

However, even this rule is not absolute; the word “*evyon*” is preceded by the word “*bekha*.” When family is concerned, their needs come first, even if others outside the familial group are more urgently lacking. This may be another area in which there is a distinction between private charity and an administered fund. R. Moshe Feinstein suggests that a distributor of funds bears a greater responsibility toward objectivity and thus must be more mindful of disparities in need. An individual donor, however, retains the right to bestow his largesse as he feels comfortable, and may be less attentive to this criterion.³¹

Thus, two distinct factors compete for priority in charitable giving: severity of need and closeness in relationship.³² The analysis of the *Panim Yafot* was adopted by his famous student, the *Chatam Sofer*, who ruled accordingly that all priorities of proximity are only operative in cases of comparable need, although he dispensed with this standard when the recipient was the father of the donor.³³

The parameters of the *Chatam Sofer’s* definition of family have sparked some analysis among later authorities.³⁴ However, from the perspective of discretion, such delineation would be secondary to the emerging principle, a balancing of the often competing elements of urgency and proximity.

The next prioritized category in the distribution of charity is *aniyei Eretz Yisrael*, the poor of the Land of Israel.³⁵ The *Chatam Sofer* posits that within this category, the poor of Jerusalem take precedence over those of other cities since the sanctity of the city outlasts the destruction of the Temple (*kidshah le-atid lavo*) and Jerusalem is,

in any event, the home of the Divine presence.³⁶

A number of elements may play a role in the prioritization of the poor of Israel. For one thing, supporting this population is a direct fulfillment of the imperative to settle the Land of Israel.³⁷ Another perspective, however, sees this priority as an expansion of the *aniyei irkha* principle.³⁸ This notion itself allows for two possibilities. On the one hand, it may be argued that the stake the entire Jewish nation has in the welfare of the Land incorporates the Land of Israel into the orbit of *irkha*; alternatively, the fact that the whole world benefits spiritually from development in the Holy Land accomplishes the same status.³⁹

Authorities debated the status of individuals who are rooted in and have a close connection to a Diaspora community but are currently residing in the Land of Israel. According to R. Chaim Sanzer, no preference is shown to this group, which is now a part of the larger population of the needy of the Land of Israel.⁴⁰ The Muncaczer Rebbe cites R. Chaim Volozhiner, who does recognize a preference in this case.⁴¹ He then attempts to reconcile the two approaches, suggesting that the operative element is the question of whether this group is receiving any assistance already. Ultimately, he concludes that there is priority given, upholding the principle as established above: Those with the closest connection to the donor come first.⁴²

Prioritization between Causes

In addition to a system of prioritization among recipients, there are preferences indicated between

different causes, once the urgent needs of the poor without food have been seen to. The *Shulchan Arukh* maintains that one who has funds to spare could do no better with them than to assist in the marrying off of poor young women.⁴³ Another priority in charitable giving is Torah education. The structure of the local school system is, to some extent, derived from a system put into place by R. Yehoshua ben Gamla, who created a centralized system for children to be educated outside of the home.⁴⁴ In the opinion of some authorities, as a result of this enactment, supporting local schools is not only tzedakah but part of the basic obligation of Torah study; others understand that it is still tzedakah that is fulfilled, but of an even more mandatory nature.⁴⁵ Halakhic authorities quote from earlier sources that in a community in which not all parents are able to afford tuition for their children, the obligation falls on the community members as a whole in accordance with their capacity to contribute.⁴⁶

The needs of the larger world population, outside of the Jewish community, also merit a place on the list of causes supported by Jews. While the Talmud mandates assisting the poor of the world “together with the poor of Israel,”⁴⁷ authorities have ruled, following the Ran, that this language is not meant to exclude situations in which no Jews are involved.⁴⁸

The opportunity to guide, direct, and optimize the charitable sensitivities of public and private funds is a profound one. It is hoped that further study of the underlying principles will hone the discretion to the point where it is most reflective of the Divine command.

Endnotes

1. See, for example, R. Moshe Feinstein, *Responsa Iggerot Mosheh, Yoreh De'ah II*, 115. See also R. Shmuel Vosner, *Responsa Shevet Ha-Levi I*, 199; *Responsa Givat Pinchas*, 64; R. David Shperber, *Responsa Afarkasta De-Anya I*, 183; and R. Chaim Kanievsky, *Derekh Emunah, Hilkhhot Matnat Aniyyim* 10:49.
2. See *Responsa Teshuvot Ve-Hanhagot I*, 567.
3. *Avot* 3:15.
4. Maharal, *Netivot Olam, Netiv Ha-Tzedakah*, ch. 4 and R. Ya'akov Emden, *Lechem Shamayim* on *Avot* 3:15.
5. See R. Yitzchak Sorotzkin's *Gevurat Yitzchak* and R. Ovadiah Yosef's *Anaf Etz Avot* to *Avot*; compare, as well, *Mitzvat Ha-Tzedakah* of the Lubavitcher Rebbe, #26. Note also R. David Cohen, *Birkat Ya'avetz I*, p. 48. See also R. Aharon Yehudah Grossman, *Responsa Ve-Darashtra Ve-Chakarta I, Yoreh De'ah* 35, in reference to the question of granting one large loan or many smaller ones.
6. The general question of the impact of quantity or quality in the halakhic realm is one analyzed at length in Talmudic commentary; see, for example, R. Yosef Engel's *Lekach Tov*, #15, and in particular, the comments of the Ran, *Yoma* 4b in pages of the Rif, s.v. *ve-garsinan*, where it is suggested that slaughtering an animal on Shabbat is less objectionable than eating non-kosher food because the latter option involves repeated transgressions with each bite, even though the former is, by itself, more severe. [Note also R. Engel's observation on Maimonides' comments in his *Gilyonei Ha-Shas* to *Bava Batra*, 9b.]
7. Bach, *Orach Chaim* 695. See also Magen Avraham, *Orach Chaim* 695:12.
8. *Eiruvin* 63a.
9. See R. Natan Gestetner, *Responsa Le-Horot Natan II*, 102; R. Shammai Kehat Gross, *Responsa Shevet Ha-Kehati II*, 220; and R. Yitzchak Zilberstein, *Chashukei Chemed, Ketuvot*, pp. 459-460. See also *Pardes Yosef He-Chadash, Parshat Re'eh*, #174.
10. See R. Elyakim Devorkes, *Be-Shvilei Ha-Parshah*, p. 71-2; See also *Responsa Minchat Yitzchak VI*, 102, and *Responsa Shevet HaKehati II*, 220.
11. *Yoreh De'ah* 257:9.
12. Note that the *Chatam Sofer, Responsa, Yoreh De'ah* 229 exempts from this exhortation one who is supporting a parent.
13. *Ketuvot* 67b.
14. *Responsa Shevet Ha-Levi VI*, 130.
15. *Ketuvot* 50a.
16. See, for example, R. Yehudah Gershuni, in the journal *Barkai*, vol. 11, p. 77-81.
17. *Yoreh De'ah* 250:1.
18. The *Shakh* observes that the Rama follows the *Beit Yosef*, against the *Tur*. See also *Bach* and *Biur Ha-Gra*.
19. *Responsa Shevet Ha-Levi X*, 13. See also R. Chaim Elazar Schapiro, *Responsa Minchat Elazar VI*, 46. Note also *Responsa Va-Ya'an David (Yoreh De'ah, 146)*, who notes a difficulty in the statement of the Rama.
20. *Yoreh De'ah* 251:3.
21. Prohibition #232.
22. *Hilkhhot Matnat Aniyyim* 7:1. See *Responsa Shevet Ha-Levi I*, 199; R. Yisrael Meir Lau, *Responsa Yacheil Yisrael III*, 15, and *Reshimat Shi'urim She-Ne'emru Al Yedei Maran Rav Yosef Dov Soloveichik, Shevu'ot*, p. 175.
23. *Shevu'ot* 25a, citing earlier opinions.
24. See, for example, R. Yaakov Yeshaya Bloi, *Tzedakah U-Mishpat*, ch. 1, n. 3; R. Chaim Kanievsky, *Derekh Emunah, Hilkhhot Matnat Aniyyim*, ch. 7. #7; R. Shimon Malkah, *Mishpetei Shimon: Halva'ah Le-Or Ha-Halakhah*, pp. 12-16; and *Responsa Mishneh Sakhir*, cited in *Responsa Shraga Ha-Meir VIII*, 90:5:2.
25. *Imrei Binah, Orach Cha'im*, 13:3. See *Tzedakah U-Mishpat*, *ibid.*, who considers this position in combination with other factors in assuming that the prohibitions are not violated when failing to respond to a letter appealing for funds.
26. See *Responsa Avnei Yoshpeh IV*, 101:2; *Smag*, prohibition #289; *Einayim La-Mishpat, Bava Batra* 9a; and *Nikdash Be-Tzedakah*, p. 231-232.
27. *Misamchei Lev*, 17.
28. *Yoreh De'ah* 251:3.
29. *Meiri, Ketuvot* 85b. The works of the Meiri were unavailable for centuries; during that time, this position was associated with the *Responsa Shemesh Tzedakah*, cited by the

Pitchei Teshuvah. See footnotes to the Meiri.

30. It is noteworthy that some authorities factor into the equation the level of embarrassment involved, thus according priority to a potential recipient less needy but at risk of greater embarrassment due to his reluctance to ask for help, while others reject this consideration; see R. Avraham Avidan, *Ahavat Tzedakah*, ch. 9, 51, and fn. 163.

31. *Responsa Iggerot Mosheh, Yoreh De'ah I*, 144.

32. See also the discussion in *Responsa Avnei Yoshpeh IV*, 100.

33. *Responsa Chatam Sofer, Yoreh De'ah*, 234; *chiddushim* to *Nedarim* 80b.

34. See *Responsa Shevet Ha-Levi V*, 135:4.

35. *Yoreh De'ah* 251:3

36. *Responsa, Yoreh De'ah*, 234. See also *Torah Temimah*, Deut. 15, #22, who independently suggests the Jerusalem distinction. *Responsa Shevet Ha-Levi V*, 135:5 questions the

preference for Jerusalem, noting that the factors presented would only apply to the old city of Jerusalem. R. Chaim Kanievesky, *Derekh Emunah I, Hilkhos Matnot Aniyyim*, #239, assumes the issue is dependent on the sanctity of Jerusalem in contemporary times.

37. See *Pe'at Ha-Shulchan, Hilkhos Eretz Yisrael* 2:22.

38. See R. Avraham Yitzchak Kook, *Responsa Da'at Kohen*, 133.

39. An extensive analysis of the priority given to the poor of the Land of Israel can be found in R. Shmuel Gershon Marel, *Zikhron Ya'akov*, 5.

40. *Responsa Divrei Chaim II, Choshen Mishpat*, 68.

41. *Responsa Minchat Elazar IV*, 8.

42. The dispute between R. Chaim Sanzer and R. Chaim Volozhiner may also be related to the above question regarding the reasoning for the priority of *aniyei Eretz Yisrael*; if it

stems from an expansion of "*irkha*," that notion would be doubly relevant if the recipients share a geographical history. See R. Moshe Nachum Yerushalimski, *Responsa Be'er Moshe I, 2*, who discusses this question at length.

43. The question of how exactly to relate to this priority when it conflicts with serving the needs of the severely destitute is addressed by R. Ya'akov Meir Stern in the journal *Mi-Beit Levi* 16, pp. 101-108.

44. *Bava Batra* 21a.

45. See *Responsa Teshuvot Ve-Hanhagot III*, 283, and *Responsa Shraga Ha-Meir IV*, 64.

46. See *Darkhei Moshe, Choshen Mishpat* 163, citing Rabbenu Yerucham, and *Rama, Choshen Mishpat* 163:3, and *Biur Ha-Gra*, 80.

47. *Gittin* 61a.

48. *Shakh, Yoreh De'ah* 251:2, and *Biur Ha-Gra*. See also *Responsa Avnei Yoshpeh I*, 193, and *Emet Le-Ya'akov, Yoreh De'ah* 251, fn. 137.

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