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## **Poverty and tzedakah in Jewish law**

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Chapter I. AGAINST POVERTY. From the Torah to Secular Judaism

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## Chapter I

### AGAINST POVERTY From the Torah to Secular Judaism

Walter Jacob

This is a success story with an unpromising beginning. The Torah stated: "There shall be no needy among you..." (Deut. 15.4) and a few verses later "There shall never cease to be needy ones among you..." (Deut. 15.11), even while appealing for help, it appeared to give up on a solution for poverty. Despite this unusual pessimism, we have made the elimination of poverty a major aspect of Judaism. How did *zedakah* become such an important element of Judaism? After all, it is not among the demands of the Decalogue, nor is an unusual amount of space devoted to it in the Bible or the later rabbinic literature.

Poverty has haunted us through the millennia. The threat of poverty and starvation was ever present in the stories of the patriarchs Abraham, Isaac, and Jacob. Only utter despair could have forced such herdsmen to seek refuge in strange lands. The specter of hard work lost through drought or natural disaster was ever present to the biblical peasant as shown throughout the historical and prophetic books of the Bible. Meager harvests occurred at four-or-five-year intervals until the eighteenth century.<sup>1</sup> They, of course, intensified the danger of diseases and epidemics that struck the poor especially hard.

The attitude toward poverty in the ancient world is hard to establish. It was taken for granted that a high percentage of the population was poor and hungry. In Greek and Roman times it was seen as largely their fault; sufficient food was to be provided for public safety and to prevent social unrest. There was no religious obligation to care for the poor.<sup>2</sup> Judaism and later Christianity had a different view and sought to alleviate poverty. Our task is to investigate the Jewish view.

We will examine the evolution of *tzedakah* through revolutionary ideas to realism, an ingeniously simple system that served small communities well through the millennia, and efforts to create systems for larger scale solutions. What motivated the flexibility of approach when so often ancient laws were considered immutable? This was a human problem that had history and theology as motivating forces. The long historical past of our people from the days of slavery provided a basis for action. God was not on the side of the poor as justice was God's concern, but *tzedakah* was justice. Furthermore, the demand for social justice was directly tied to the message of doom of the prophets; the failure to heed their plea on this and other issues, was seen as the direct cause of the end of the Jewish state. The dream of the perfect future meant faithfulness to God and social justice which would lead to a return to the land of Israel. This meant that in modern times social justice and Zionism became powerful elements of Judaism with an almost instinctive appeal. First, this paper is interested in a working system that deals with poverty; secondly, it will deal with the theological foundations that have propelled Judaism into creating and recreating successful working systems with little attachment to what did not succeed. Prophetic and rabbinic preachments, *midrashim* with their appeal to conscience, and modern concerns were and remain important in keeping the system going. We shall see that in contrast to much else in the halakhic system, most of the methods for collecting and distribution successfully used through the millennia had no basis in biblical Judaism and were developed independently. The demand that the poor be helped was biblical, but the means actually used were not.

Prevention of poverty was part of the biblical program with legislation that demanded that the laborer be paid promptly (Deut. 24:14 ff). Equally important were loans extended to the poor (Deut. 15:8 ff). Both of these matters were discussed and developed much further in the Mishnah, Talmud, and later Jewish law. A portion of



this is discussed in the paper of Rabbi Rheins in this volume. Labor law and the economic implications of loans will be treated in a later volume of this series.

The biblical interest in overcoming poverty began with the specific demands of Leviticus that we not harden our hearts against our poor brother (Ex. 23:6; Deut. 15:7). Such statements led to prophetic reminders (Is. 3:14; 10:2; 41:17; Jer. 22:16, which linked impending doom of the land to social injustice (Hos. 4.1f; 5.10f; ; Amos 2:6 ff; 5:11 f; ; 8:4 f; Micah 2:1; 6:8 ff; Zeph. 1:9 f; Zech. 11:4f; Mal. 3:8f; Is. 1:23f; 3:14; 5:8; 58:2 ff; Jer. 5:25ff; 6:7 ff.; 7: 6ff.; 34:13ff; Ez. 18:5 ff; 22:12 f, 29 f), a major factor second only to idolatry. This is balanced by a vision of social justice (Is. 11:4ff; 41.17ff There are the sharp statements of Proverbs and Psalms (12:6 14:4; 35:10ff.; 37:9ff.; 82:3f; 94:3 ff; 113:7 ff.) which led to a working plan. We should note that the poor were not blamed for their plight; God hears their cries (Ps. 113:7; Prov 31.9; Job 5:15), but it is a human duty to hear them and to help.

Not part of the actual legislative system, but an appeal for the poor when everyone is rejoicing in the redemption of Purim (Est. 9:22) is incorporated into the custom of *shelah monet*, as well as Nehemiah's incorporation of gifts to the poor in the celebration of the New Year (Neh. 8:10), but both of these were only incidental ways of helping. We will look at the legislation that succeeded and that failed.

We will make no attempts at dating the biblical material, as much of that remains speculative. Let us begin with idealism.

#### SABBATICAL YEAR

In the seventh year the land was to lie fallow and rest - the crops of the field, vineyards and olive groves, whatever grew, were open to use by everyone - the owner of the field, the poor, and wild

animals (Ex 23.10; Lev. 25.2-7). All debts were to be canceled (Deut 15:1-3) and all male Hebrew slaves released (Ex 21:2-6); Deuteronomy extended this to females (Deut. 15:12-18). Jeremiah's protest (34:8-12) showed that when the people were reminded of these laws by King Zedekiah, they briefly observed them. Otherwise we hear nothing of them until the time of the Maccabees (1 Mac. 6:49, 53; 16:14; Josephus, *Antiquities* xii, 9, 5; 8,1). The fact that this was observed at all in a poor peasant society is amazing and demonstrates the power of the goal of social equality. At least one scholar felt that they continued to be observed until the 11th century by some. The best evidence for their observance in the first and second centuries is the detailed discussions of the Mishnah and for a slightly later period in the Jerusalem Talmud.

They were not observed in the Diaspora because the Levitical statement spoke of "your land," which was interpreted as restricting this legislation to the Land of Israel. Even in Israel, a more competitive economy made the laws concerning the cancellation of debts counterproductive, and so they were replaced by the *prosbul* ascribed to Hillel; it transferred debts to the court and prevented the drying up of all credit sources (M. Shev. 10:4). In this legal transaction one or both parties were required to possess real-estate. The *prosbul* was used through a portion of the talmudic period but then fell into disuse as the Babylonian Talmud made clear.

Asher ben Yehiel in 12th century Spain tried to revive the practice, but with little success. A small group of farmers in modern Israel follow the segment of the law that demands that the land lie fallow, some use hydroponics to circumvent the letter of the law but voiding its spirit as realism prevails.



### THE JUBILEE YEAR

A much more idealistic and original way of dealing with the long-term effects of poverty was the Jubilee Year, a great social leveling mechanism (Lev. 25:10ff). After fifty years, all rural property was to be returned to its original owner and all those who sold themselves into bondage and their descendants were freed (Lev. 25.10). The urban property was excluded. This verse proclaims the famous words: "Proclaim liberty throughout the land, unto all the peoples thereof," which we in the United States quote but forget the next section. The fundamental principle undergirding this concept is that the land was inalienable - it belonged to God. This is highly idealistic and was probably never observed. Yet the *Book of Jubilees* (200 B.C.E.-100 C.E.) attempted to recreate the history of the patriarchal period by reorganizing it in fifty-year periods. *Jubilees* was not included in the canon and remained forgotten until the nineteenth century, when one complete manuscript along with some fragments were discovered.

There were some discussions in the talmudic and midrashic literature, but of a purely theoretical nature. This fascinating absolute communism would have done little for the immediate plight of the poor, but would have solved the long-range social problem. It takes little imagination to understand the resistance to this notion and its rejection.

### THE TITHE

Even if carried out, neither the Sabbatical Year nor the Jubilee legislation would have any immediate effect on poverty. It would have provided long-term hope, but would have done nothing to prevent immediate starvation. Several immediate remedies were legislated. The tithe was one of them. It was intended initially as a

gift to God, so the patriarch Jacob promised one tenth to God (Gen.28:18-22). The later legislation specified that "seed from the ground and fruit from the tree" along with herd and flock were to be tithed (Lev. 27:30 ff). There is some confusion about the use of the tithe. One text indicated that it was to be "consumed in the presence of God," in other words used for pilgrimage to Jerusalem (Deut. 14:22ff), but every third year it was to be given to the Levites (Deut. 14:27ff). A slightly later verse specified that it was for the poor and the Levite in the third year (Deut 26:12), which was interpreted as every third year. Another text indicated that the tithe was simply for the Levites (Nu. 18:21), as the priests received first fruit along with other gifts that could be used to maintain the sanctuary.

A second tithe diverted occasional funds to the poor. The second tithe was to be used primarily for pilgrimages to Jerusalem, but in the second and sixth year of a seven-year cycle, it was to be given to the poor.

Tithes were mentioned in 2 Chronicles. (31:2-12) but in none of the other later books. Details of the system of tithing were provided by two tractates of the Mishnah and in the Jerusalem Talmud, but as these laws applied only to the Land of Israel, they were academic, for a high percentage of the world Jewish population by that time lived in the Diaspora. The prophets sought to extend the obligation to Babylonia and the early rabbis to Egypt and the neighboring lands (Demai 6:11), but we do not know with how much success.

The tithe was clearly part of Israelite life until the destruction of the Temple. The later rabbinic literature, especially the midrashim, sought to use it as a moral force to aid the poor. The ideal of providing ten percent of one's income for the poor remained and was important in Judaism as well as later in Christianity. There was



considerable talmudic discussion about how such funds were to be used.

In the biblical period, the tithe remained a solid way of helping the poor and was one of the primary methods of dealing with this problem. Later, as we shall see, it was replaced as an effective tool by more assertive methods.

#### CORNERS AND GLEANINGS - BIBLE AND MISHNAH

More realistic, successful, and less ambitious was the practical legislation that left the corner of the field and the gleanings for the poor and the stranger (Lev. 19:9-10; 23:22; Deut. 24:19-21; amplified in Jud. 8.2; Is. 17:5-6; 24:13; Jer. 49:9; Mic. 7:1; Ruth 2:3, where we also see that this demand was followed). This simple system alleviated poverty and was psychologically effective because it was not a dole; the crops had to be harvested by the poor and the stranger. Furthermore, these statements were an entitlement backed by the demand that each farmer take the appropriate action and were therefore far reaching. The system seems to have been effective in a simple agricultural setting and solved the problem for the rural villagers. It depended, of course upon the vagaries of the weather and the problems of grain storage. Hunger was endemic in the ancient world, and everyone lived close to poverty.<sup>3</sup>

The success of this system along with the need to deal with numerous details can be seen in the legislation of the later Mishnah and the two Talmuds. Much of what has been spelled out there must already have existed as law or custom earlier, as the simple biblical statements provide few definitions.

We must remember that in 70 C.E. Jewish sovereignty ceased in for the Jewish community in Israel. The civil authorities whether



Seleucid, Ptolemaic, Parthian, Sassanian, or Roman, permitted local autonomy to all groups. The legislation reported in the Mishnah and the two Talmuds was therefore effective in Israel and possibly beyond.

The Mishnah, as a practical legal code, took the statements of Leviticus and dealt with the obligations of the farmer and the rights and limitation of the poor. The statements read like court decisions. For this system to be workable, numerous details had to be spelled out. These discussions continued in the Talmud Jerushalmi and to a lesser extent in the Babylonian Talmud. As with any system of taxation, the specifics and the need to close loopholes are constant in the face of ever changing agricultural conditions. The rabbinic authorities were concerned with fairness and the creation of a system that would deal with the problem of poverty.

This tractate, *Peah*, concerned with this problem, began with ethical encouragement, then continued in a practical vein with specifics. The farmer was liable for at least 1/60 of his crop, although there was no limit and all depended on the size of the field, the number of the poor, and his generosity (Peah 1.2). "Everything which is food, stored, and grows from the ground (excluding mushrooms, for example) and gathered at the same time (so that figs and olives which were harvested at various times were excluded), and placed into storage (greens are exempt) and grains as well as pulse (beans and peas) were subject to these laws" (Peah 1:4). The law included trees and enumerated "carob, nuts, almonds, vines, pomegranates, olives, date palms" (Peah 1:5). What could be gleaned as well as definitions of "forgotten sheaves" were provided (Peah 7) along with "droppings" (Peah 4.10). What constituted a field was specified, as were fields with mixed crops, partnerships, undivided estates, and so on. The farmer could not hide gleanings under a bundle of grain; when winds blew the gleanings away, an estimate of what should have been left was mandated (Peah 5:1). Such details and others demonstrated

an effort to be fair and not to permit the natural inclination to minimize this tax to prevail.

The law took into account the peculiarities of the vine and date palm harvest and permitted the farmer to harvest and distribute the fruit rather than let it be gathered by the poor; if poor person wished to harvest it themselves, however, permission had to be given (Peah 4.1, 2).

The farmer was protected against excessive crowding of the fields by limiting gleaning to three times per day. The gleaners were protected by an ordinance that forbade anything that could be used as a weapon from being taken into the field (Peah 4.4, 5). The farmer could not favor one poor person over another; the gleanings were on a "first come" basis (Peah 4:9), nor could he set it aside for his relatives (Peah 4:3). Special provisions were made for the elderly and weak among the poor (Peah 8.1). If there was doubt whether a gleaner was actually poor, he was initially believed and questioned later (Peah 8.2). The itinerant poor were permitted to glean (Peah 5.4) with a division of opinion of whether they should make restitution upon returning home (Peah 5.4).

We can see that the corners and the gleanings were understood as an entitlement, that the poor had well-defined rights, and that the courts enforced them. These details were effective for a rural population, but did nothing for the urban poor, so the latter section of this tractate turned to them in a highly original manner to which we shall turn in a moment. Mishnah Peah concluded, as it had begun, with a set of moral injunctions as at the beginning..

The Mishnah provided a generous safety net for the poor; the tractate (Peah) is the second in the Mishnah, immediately following



the section on prayer (*Berakhah*). This was a clear indication of the importance of *tzedakah*.

The next tractate (*Demai*) which dealt with produce that may not have been tithed to support the Temple staff, also made provisions for the poor by stating that such produce could be given to the poor who were permitted to consume it (*Demai* 3.1)

#### THEOLOGICAL BASIS FOR THE BIBLE

A theology of divine ownership of the land undergirded the practical biblical legislation and its mishnaic expansion. God wished the land and its produce to be distributed fairly to all. Furthermore, God would hear the outcries of the poor and would hold those who did not follow the legislation responsible. Equally important was the elevation of the poor to the status of "brother"; the poor were not the object of occasional help, but part of the immediate family, which demanded proper attention. God took a personal interest in the poor and would not only help them, but reckon their neglect against individuals and the entire nation. The disasters that led to the conquest of Judah and Israel were attributed to this neglect. The unique status of the land of Israel represented an additional theological premise. This was interpreted to limit these biblical commandments to the land of Israel. Here we have theology narrowly interpreted.

#### A REVOLUTION

At the end of the tractate *Peah*, in chapter 8, the Mishnah was revolutionary; it turned to the urban poor. None of this had anything to do with the previous legislation about "corners" and "gleanings." It began by specifying a minimal support of the poor with the additional statement that it must suffice for two meals if sold. Then follows a set of statements that established a system of dealing with

the itinerant and local poor through two collections, *tamhui* and *kupah*<sup>4</sup> along with the regulations for distribution. *Kupah* took care of the longer term needs of the poor on a weekly basis and so dealt with the local poor. The sums were generally distributed on Friday by three officials and were intended to provide fourteen meals, two per day, for an entire week. Funds were collected by two communal officials from anyone who had been in residence for three months. *Gabbai* or *parnas* were the titles used to designate these collectors, so they were leaders of the community. The task was an honor but involved much work and responsibility. The intermingling of funds as well as the exchange of coins, and so on were prohibited. Everything possible was done to raise the system above suspicion.

*Tamhui* consisted of daily collections, that were immediately distributed and so were largely intended for the itinerant poor; this was a kind of soup kitchen. Collection of it – in kind or moneys –, was mandatory and was gathered by two communal officials and distributed by three; in other words the equivalent of a *bet din*. The distribution was considered more difficult than the collection (B. Shab. 118a). These individuals received absolute trust and were not required to present an audit (B.B.B. 9a). Those who did not contribute were subject to fines, whipping, or the ban.

Other specifics were also included so the itinerant who could not store anything must be given a loaf of bread (defined by the value of a Roman coin), a place to sleep or funds to rent one, and three meals if he stayed over *shabbat*. Anyone who had enough for two meals could not qualify for *tamhui* distributed each evening (for the non-local poor); if he had enough for fourteen meals, he could not collect the next distribution of *kupa*, which took care of the local poor. (Peah 8:1). It was collected on a weekly, monthly, or twice annual basis. Those too proud to receive it could be forced, in a nice



way, to take it. Everyone was obligated to give and should also give small amounts when a poor person appeared at the door.

The Mishnah tried to deal separately with the special circumstance of the fallen rich who had sunk to the level of poverty. They were not to be shamed, and some effort was made to sustain them at their former level. This demonstrated concern for the psychology of the poor, a thought important in the Talmud Jerushalmi and in the later Code literature.

This Mishnah defined poverty as possessing less than 200 *zuzim* in money or property. The detailed discussions indicated that the details of this eligibility test had been well worked out. If these funds were pledged to a creditor, for example, or represented a wife's marriage contract, the man was eligible. The poor person was not compelled to sell his house or his clothing; if he received an expensive gift of pottery after he had been accepted as poor, he remained eligible. He was also not considered poor if he had 50 *zuzim* in working capital. (Peah 8:8 and 9). These sums dealt with a single individual, not a family unit. This legislation had no foundation of any kind in the Bible although it was followed by a number of general moral injunctions from Scripture.

Although this section of the Mishnah began with the harvest legislation, it defined poverty and set the broad standards for welfare which were to endure through the centuries. It dealt with itinerants and local poor. This revolutionary system was presented as if it had always existed and became the foundation of all future poor relief. This followed the pattern of so much else in the Mishnah – even the opening section that dealt with the time for reading the *shmah* without any stipulation that the *shmah* had to be read nor any statement of how the service was constructed. We may speculate about dating this revolutionary approach, but the texts provide no hints.

TALMUD JERUSHALMI

The Talmud Jerushalmi, in contrast to the Babli, continued discussion of agricultural laws much in the same vein and dealt with specific details that had not been treated earlier. It added little that was new. That was also true of *kupah* and *tamhui*, and the limit of eligibility remained at 200 *zuzim*.

The Talmud Jerushalmi raised no questions about the expansion of the system of care for the poor. It provided details in the same fashion as with the other statements of the tractate, that is, as if responding to specific question and providing the opinions of various scholars on them and also being practical. Here is a sample passage:

The provision was for three persons to distribute to the poor. R. Huna said, the *tamhui* is collected by three persons, because it is given out on the spot. R. Helbo said in the name of R. Abba bar Zavda, that one does not appoint less than three providers. Come and look, money matters are judged by three, matters of life and death not so much more? But then they should be twenty-three [a major court]. Until one assembles them, he is in danger. R. Yose in the name of R. Hohanah: One does not appoint two brothers as providers. R. Yose removed one of the two brothers. He came and said before them: There is nothing wrong with Mr. X only one does not appoint two brothers as providers. ... They wanted to appoint R. Akiba as provider. He said that he had to seek counsel at home. They followed him and heard him say: In order to be cursed, in order to be insulted. R. Abba bar Zavda said: Rav and R. Johanan disagreed. He said one checks out before giving clothing, but one



does not check out for the necessities of life. The other said, even before giving clothing one does not check out, because of the covenant of the patriarch Abraham..." (J. Peah 8:7).

As we can see, there was no discussion of the basis for these laws, but attention given to their practical execution. As new issues were raised they were discussed; here are a few examples:

If a farmer neglected to leave the corner of his field, he was required to provide an equal amount from the grain that he had harvested, but under supervision so that he did not provide inferior grain (J. Peah 4.3).

The problem of gentile ownership of land in Israel produced its own complications as the gentile was not subject to these rules, but a Jew could not purchase such grain without sinning as the "obligation rests on the land which belongs to God, not the owner." This was contested through a contrary opinion (J. Peah 4:6; J. Demai 5:9). An additional problem was raised through the fact that all these duties ceased with the Babylonian Exile; the returning community re-assumed them voluntarily through the covenant with God described in Nehemiah (10.1) but that now provided a potentially different status to the obligation.

There was the special circumstance of a gentile who converted in the midst of the harvest. Was he free from corners, gleanings, and forgotten sheaves? R. Judah made him responsible for forgotten sheaves if he converted at that stage of the harvest (J. Peah 4:4).

Those responsible for collecting the various charitable funds were also designated to raise money for the ransoming of hostages when this became a new problem. Such redemption also took precedence over any efforts for the poor. A new fund for dowries

was created to deal with this need. The limits of eligibility were expanded to exclude garments not only for weekdays, but also for *shabbat*. In other words, for a more prosperous society.

The discussions in the Jerushalmi testify that the laws of gleanings and "corners" continued to be in effect in the Land of Israel through the Byzantine era, but it was not enforced elsewhere, probably because of agricultural competition. Jews who lived elsewhere were not included. *Tamhui* and *kupa* replaced them.

#### BABYLONIAN TALMUD

As the Babylonian Talmud did not discuss the agricultural laws that applied only to the land of Israel and therefore not the laws about poverty, its material is widely scattered. The legal obligation was expanded by various scholars who also cited the ethical obligation. New issues such as ransoming captives were discussed and the duty toward orphans was emphasized.

There was some debate about whether charitable giving could be made compulsory; as Rava forced R. Nathan bar Ami to give four hundred *zuzim*, this was cited subsequently as a basis for communal enforcement (B. B.B. 8b; B. Ket. 49b). These discussions were continued into the Middle Ages, but never disrupted the system of enforced collections.<sup>5</sup> The Babli and Jerushalmi permitted the movement of funds between *tamhui* and *kupah* according to need (B.B.B. 8b; J. Peah 8.6). Orphans were helped, especially with a dowry and in setting up a home (B. Ket 67a).

Numerous statements in the talmudic and midrashic literature encouraged *tzedakah* so that this went beyond the legal implications. *Tzedakah*, both when mandated by the communal officials and when given voluntarily was considered more important than any sacrifices



that might have been given when the Temple existed (B. Suk. 49b). Now that Temple no longer exists charity atones as once did the sacrifices (B. Ber. 55a). He who saved a single life was reckoned as if he had saved the entire world (B.B.B. 10a). Helping God's creatures was reckoned akin to creating them (Tanh. Noah 16a). *Tzedakah* was equal to all other commandments combined (B.B.B. 9a). Furthermore it brought the Messianic Age nearer (B.B.B. 10a).

People were encouraged to include the poor in their daily eating routine with statements such as let poor be part of the household (M. Avot 1.5). R. Hunah opened doors to needy whenever he sat down to eat (B. Taan. 20b).

There was this worldly encouragement, so *tzedakah* was said to lead to the blessing of sons (B.B.B. 10b) or wealth (B. B.B. 9b). As the wheel of fate turned constantly, *tzedakah* would prevent poverty at the next turn (B. Shab. 151b). Charity might even deliver from death (B. Shab. 156b). The poor do more for the rich than vice-versa (Ruth R. 10a). Ultimately all our possessions were seen as a loan from God (M. Avot 3.8).

A heavenly reward was promised in the form of an advocate in the next world (B.B.B. 10a; B.Git. 7a), or it saved from hell (B.Git. 7a).

Jews who refused to provide for the poor were reckoned as part of the mixed multitude that accompanied Israel in the desert (B. Bez. 32b) or equated with idol worshipers (B. Ket. 68a).

Preventive measures were stressed, so a comment on strengthening the hand of your brother (Sifra 109b on Lev. 25:35) emphasized preventing the total collapse of an individual; it was like a load resting on a wall. A single person could hold it up, but once fallen it would take four or five to raise it once more.

Investing with the poor was considered to be better than a gift (B. Shab. 63a) As a small gift may shame the poor, it would be better to give nothing (B. Hag. 5a). Personal service, *gemilut hasadim* was valued even higher than monetary gifts (B. Suk. 49b).

The dignity of all human beings was assigned a high value, so giving to the poor publicly and with publicity was considered shameful (B. Hag 5a). With a proud person one should suggest a loan, give it, and then turn it into a gift (J. Peah 21b). Some scholars understood human frailty well, so if a poor person was found eating meat and drinking wine, it was an effort to remove bitterness from his life and did not indicate fraud (J. Peah 21b). Possible fraud, however, should be ignored rather than making a donor overcautious (B. Ket. 68a).

Many acts of *tzedakah* were recorded for women, sometimes putting even learned men to shame. This was a quiet way of providing a more significant role for women in rabbinic Judaism.

The obligations were clarified so that anyone in residence for thirty days was obligated for *kupah* and after ninety days for *tamhui*. After six months he was also obligated for the clothing fund and after nine months for burial (B.B.B. 8a). If some seemed to give beyond their means, their gift was refused (B. Taan. 24a). That limit was set at twenty percent (Ket. 50a). On the other extreme came the suggestion that the twenty percent limit did not apply to estates that could be entirely donated (B. Ket. 67b). Priorities for distribution were discussed, beginning with parents, then older children, followed by other relatives. After this came neighbors, fellow townsmen, then other towns, with the poor of Israel given preference (*Tana d'bei Elijahu* 27; Sifei Deut. 15:7). There were also some other priorities, so women precede men and scholars precede others (Ket. 67a).



Some citations dealt with the psychological effect on the poor - they must not be shamed; this is especially important in a small town or village setting. Acute problems always took precedence. Orphans were at the top of the list of every-day concerns. They needed proper physical care and also proper psychological care. The outstanding emergency mentioned often was the taking of hostages or kidnaping. Here men and women were in great danger and women even more than men. Everything possible had to be done, but keeping in mind that the kidnappers not be encouraged. There were issues of fairness as well as communal relations that had to do with the gentile poor. From the earliest times - in other words - the Mishnah, they were included. The Talmud expanded and clarified this while on the other hand, just as the Mishnah, refusing to take *tzedakah* from non-Jewish sources for the Jewish poor. If given, it was quietly diverted to gentile poor, so as not to offend the donor. Numerous scattered citations exist on this theme; they along with later ethical statements on charity were later collected by Elijah ben Solomon of Smyrna (d. 1729), who also provided a commentary on them.<sup>6</sup>

These were only a portion of the refinements made in the existing structure through discussions carried on over the centuries. Nothing absolutely new, however, was added.

#### THEOLOGICAL BASIS FOR THE TALMUD

Rabbinic commentaries on the biblical passages dealing with the poor abound in the talmudic and midrashic literature. As idolatry was no longer a paramount issue, the elimination of poverty ranked high.

The rabbis of the talmudic period emphasized the temporary nature of human riches since everything belonged to God, so it should be used in part to help others. Thanks for such beneficence should be

shown not only through prayers, but through the human act of *tzedakah*. Human efforts were not discounted, but the transitory nature of life was stressed.

*Tzedakah* provided a way through which human beings could perfect the world and bring about the Messianic Age. Here was a practical path open to everyone, not dependent upon learning or mysticism. It brought that grand vision within reach.

Helping the poor also changed people's attitude toward other human beings and enabled them to be seen as equal creatures of God. By looking after the dignity of the poor person, the dignity of all human beings became clearer.

#### THE EARLY CODES OF JEWISH LAW

The Codes of Jewish law and responsa continued this pattern of refinement and adjustment. The Gaonic period (650 - 1100 C.E.) brought a further expansion of the poor laws now in the form of responsa but more important for us was the development of codes and lists that made the vast material of the Babylonian Talmud accessible to those who had to make decisions, beginning with Simeon Kayyara (early 9th century). Most of their authors, as this one, limited themselves to the practical material of the Talmud Babli. Simeon Kayyara based his work primarily on two earlier efforts, the *Sheeltot* of R. Aha of Shaha and the *Halakot Pesukot* of Yehudai Gaon. Some codes followed the sequence of the Talmud, others organized themselves as Torah commentaries, and still others followed various organizational plans, many quite original, but not necessarily useful. The codes were interested in making the vast material of the two talmuds accessible through abbreviation and omission. They also made their own decisions, as the text of the Talmud often left questions undecided. Aside from the more detailed codes, several



shorthand guides to what was significant in Judaism developed through a listing of the 613 commandments – both positive (248) and negative (365). In all of them taking care of the poor was listed under several headings.

Isaac of Narbonne's code (1110-1179 C.E.) contained a section entitled *hilkhot tzedakah*. It went into considerable detail about both the collection and distribution of *tzedakah* as well as decisions on the priorities of distribution.

The *Mahzor Vitri* (11th century) indicated that collections were made for the poor in the synagogue not only on Purim, but also during daily services that could be interrupted for this purpose (*Mahzor Vitri*, p. 7).

#### MORAL IMPERATIVES OF THE SEFER HASSIDIM

Aside from midrashim and numerous sermons, the popular *Sefer Hassidim* of Judah ben Samuel of Ratisbon (d. 1217), his sons and circle of disciples sought to move people beyond the strict requirements of the law.<sup>7</sup> This ranges over every aspect of Judaism, but often turns to the problems of the poor. Riches were seen as a temporary trust that must be shared with the poor (1345). Donations should not be used to gain social position (846, 851). Gifts to the poor were considered as repentance (112, 127) and would yield different rewards such as resurrection (880) or entrance to Paradise (879). Failure to be kind would bring punishment (1345, 1713). Furthermore, *tzedakah* can be used by the living to aid those already dead (273). *Sefer Hassidim* also pointed to communal punishment that faced those who did not at least give the minimum demanded by the community (911, 914, 915).

Those who gave reluctantly were chastised (841, 1713) as were those who did not pay their pledge in a timely fashion (917), not at all (1679), or used some other trick (1680, 1686).

Many sections dealt with the the psychology of giving so that the poor would not feel humiliated (1690, 1694, 843). If possible, the help should enable the poor person to earn or seem to earn a living (884, 886, 887). Helping one individually properly was preferable to providing a little bit for many (842, 846).

Family members take precedence, and their support can be communally enforced (928, 1712). Students and scholars were to be given preferred treatment (862, 919, 1707). Religious individuals were to be helped before others (1029) as are the sick (1029). When considering a charitable act, a home for the poor takes precedence over a synagogue (1529) It demands that the wealthy do not overcharge for food in scarce times (478) or that unneeded property be provided rent free to the poor (1710). Advice was also provided for those who are charged with the distribution of *tzedakah* in its various forms.<sup>8</sup>

On the other hand those undeserving of help were also discussed; they include gamblers (853), thieves (1024), bandits (1926), drunks (857), adulterers (1926), etc.

This widely read work provided the moral background for the halakhic and commnual efforts. This was especially helpful during the difficult period following the Crusades.

#### MAIMONIDES - AN IDEALISTIC FURTHER STEP

Many of these works faded after the appearance of Moses Maimonides' (1135-1204) *Mishneh Torah*; it was absolutely



systematic, decisive, brief, and written in simple Hebrew. Its brevity and decisiveness were immediately attacked. Maimonides made *tzedakah* the most important of the positive *mitzvot* and 14 of his list of 613 dealt with *tzedakah*. As Maimonides' system included all laws, even those that would be useful only in a new Jewish state, he placed the material dealing with poverty under "agricultural laws" as in the Mishnah. He considered ten percent, a tithe, as the normal contribution to *tzedakah* (*Yad Hil. Matnat Aniyyim* 7:5), which other codes also considered obligatory (*Or Zarua* 1:15). Maimonides produced the well-known eight degrees of *tzedakah*, beginning with the grudging gift, continuing through anonymous giving, and culminating in providing the means through a loan or a job to make gifts unnecessary. This presented a practical, but revolutionary step forward.

This statement was not original; the Babli (*San.* 63a) had stated that "Lending is greater than giving to the poor, but granting a business partnership is the greatest of all." Another source may be a midrash that puts it colorfully: "One person can unload a donkey before it falls, but it takes five men to do so after it falls" (*Sifra Behar*, Lev 25.35). Al-Nakawa provided a similar final step (*Menorat Ha-Maor*, *Shaar* 8).<sup>9</sup>

There is no indication in the medieval codes or the responsa literature of any efforts to turn Maimonides eighth step into an obligation. Individual philanthropists through the ages, however, were inspired by it and created institutions that sought to fulfill this purpose.

#### TUR AND SHULKHAN ARUKH

The other influential work of the Middle Ages was Jacob b. Asher's (d. 1340) *Turim*. In contrast to Maimonides, he omitted all

material not applicable after the destruction of the Temple and the end of Jewish national independence. He devoted a section to *tzedakah* and dealt with many details; giving in accordance with one's means was obligatory as was the organization of collection and distribution wherever a community was established. Apostates were excluded, but not their family; an obvious sinner had to repent before receiving help. Jacob ben Asher was stricter in his test for eligibility. If the person took *kupah*, he needed to sell items of value (*Tur, Yoreh Deah, Tzedakah, 253.1*); on the other hand, he did not limit a poor person to 200 *zuzim* to be eligible as he felt that this sum may have been appropriate in the time of the Mishnah but was now too low for the current standard of living (*Tur, Yoreh Deah, Hilkhoh Tzedakah 253*). He defined poverty to include anyone who did not possess sufficient capital to make a living. This step had already been taken by Isaac of Vienna (1180-1260), who felt that the limit of 200 *zuzim* had to be adjusted according to the need of the family; he also insisted that a tithe was the minimum charitable contribution (*Or Zarua, Hilkhoh Tzedakah*). An unusually large charitable bequest was to be shared with neighboring communities (*Or Zarua 20*), and fines were often allocated for the welfare of the poor (*Or Zarua 26*). Moses of Coucy (13th century) insisted that even poor Jews be provided with bread, fish, meat, and wine (*Semag II 16d*), and the *Tur* stated that if the donor recognized the person, he should treat him with the respect deserved (*Tzedakah, 250*). The criteria of assessment were well summarized by Caro in his commentary to the *Tur* (*Bet Yosef to Tur 250*). Alfasi, Maimonides, and the later Codes insisted that a tithe was compulsory and used the threat of flogging, property seizure, and the ban in order to enforce this measure. Funds for their support were not accepted from non-Jews in contrast to gifts to synagogues. If such gifts were made, the community tried to channel them to the support of gentile poor.



Asher ben Yehiel's family (1250-1327) set a fine example in Toledo where they resided after moving from Germany. They signed a statement through which they accepted their father's ordinance, which obligated them and their children to provide a tithe of all their profits to the poor and agreed to pay it within eight days of the due date. The example of this leading family and others led to the tithe becoming fairly universal.<sup>10</sup>

The most influential code was that of Joseph Caro (1488-1575) who, along with Moses Isserles (1520-1572), produced a work that remained dominant. Here we also find *tamhui* not limited to gifts of food but to include money (*Shulhan Arukh Yoreh Deah* 256.1). The *Shulhan Arukh* placed all the material that dealt with the poor under the heading of *zedakah* as had the *Tur*. Neither felt obligated to deal with the older agricultural system. As in previous works, the community was given the right to compel contributions (*Yoreh Deah* 248.1). The *Shulhan Arukh* was clear, provided a few ethical exhortations, and did not include Maimonides' "Eighth Step." He followed Jacob ben Asher and did not limit eligibility to 200 *zuzim*.

#### COMMUNAL EFFORTS

Poverty grew after the expulsion of Jews from Spain and Portugal and the wars of the next centuries. In the eighteenth century large groups of beggar Jews (*Betteljuden*) often overwhelmed smaller Jewish communities.<sup>11</sup> They attempted to ease this problem by specifying a route for the groups, for example in Franconia.<sup>12</sup> Among them were occasional bands of robbers and thieves who worked together with Christian bands.<sup>13</sup> The local Jewish populations sought to distance themselves from the beggar Jews as their own right of residency was not too firmly established and tried to hinder their entrance into the ghettos.

Although some details of this growing problem is available for earlier centuries, the problem became clearer from the beginning of the eighteenth century onward. The Jewish population tripled as did the general population for a variety of reasons. The Jewish poor increased as emancipation was a distant dream and the old restrictions on residency and work remained. So, for example, Hamburg had to deal with 800 Jewish beggars in a four-month period of 1721. Many wandered from place to place throughout their short lives. The overwhelmed communities now refused to treat them as part of the community, registered their births and deaths separately and often established special unmarked burial plots or cemeteries for them. Frequently new-born children were abandoned along the way. The communities, normally, provided only a one-night stay, except for *shabbat*, and sent them on their way. Some communities still tried to place the poor in individual homes. The local governments passed restrictions and regulations, but usually to no avail, as they could not effectively control their borders.<sup>14</sup>

The growing poverty meant that the biblical efforts to alleviate poverty and those developed by the Mishnah and Talmud well suited to the agricultural or small town setting were no longer effective. The burden on the *gabbaim* in minor and major urban setting must have been overwhelming; the problem could only be solved through a larger organization. No accurate population counts exist before the eighteenth century; anecdotal evidence, for example, from the responsa, indicates that most Jewish communities were small. Even in larger centers they were divided into manageable groups as for example in Italian towns into *ashkenazic*, *sephardic*, and Italian communities with their own synagogues, cemeteries, etc.<sup>15</sup> The only organization for which there is some evidence, sometimes disputed, that it existed in talmudic times is the *Hevrei Kaddishah*.<sup>16</sup> Nothing indicates, however, that this group looked after the sick or poor until later. Societies that buried the dead and helped sick



members can be documented in Spain from the thirteenth century onward at least in Spain as Nissim ben Gerondi and others reported.<sup>17</sup> Emigres fleeing the Inquisition may have carried such organizations to the lands around the Mediterranean and eventually Germany. In any case, such organizations rapidly increased; the multiplicity of such societies in Italy led to an effort to combine them, for example, in Padua in 1580.<sup>18</sup> By 1699 even the Jews of Bordeaux, precariously living openly as Jews, established an organization for *tzedakah*.<sup>19</sup> We should not discount the influence of such Christian organizations that can be dated much further back on their Jewish neighbors.<sup>20</sup>

We possess only fragmentary information about communal charitable efforts from *takkanot*, a few communal documents, as well as records of larger councils. There is virtually nothing in the responsa; no codifier dealt with it. As communities grew and as needs expanded, new ways of dealing with poverty beyond the collectors of *kupa* and *tamhui* that were insufficient must have been tried. A charitable gifts in connection with being honored by an *aliyah* to the Torah, which after a time also became compulsory as did gifts on special occasions such as weddings and funerals helped to raise funds (*Or Zarua* 130; *Rokeah* 217).<sup>21</sup> Prayers could be interrupted to collect funds (*Mahzor Vitri* p. 5). At the same time every effort was made to eliminate begging on the street, in front of the synagogue, or house to house.<sup>22</sup> For those with at least small means, food was sold at its cost price.<sup>23</sup> In small communities synagogue space had been used to house and feed travelers, some of whom were poor (*Pes.* 101a). Parallel separate housing also existed (*Sota* 10a) as did much praised hospitality provided by individuals (*Pirkei Avot* 1:5).

In the Middle Ages shelters were created for both the poor and the itinerant. In some Spanish communities a third collection, called *kesut*, which provided clothing for the poor, was formally added to *tamhui* and *kupah*.<sup>24</sup>

The *Zikaron Leyom Aharon* society of Prague (1564) provides the first record of a burial society that also helped the poor. Various authors presume that this trend existed earlier.<sup>25</sup> Yet this did not become a major part of the work of the *Hevrei Kadishah* till the eighteenth century, when on occasion expenses for this purpose exceeded those spent on burials.<sup>26</sup> This and later organizations in Central and Eastern Europe assumed the organizational form of Christian societies.<sup>27</sup> Such societies seem to have existed in every large Jewish community; they have been described in detail in Frankfurt, Prague, Amsterdam, Worms, and Breslau.<sup>28</sup> Names of prominent donors, such as Mordecai Meisels of Prague (d. 1600) or Samuel Oppenheimer (1635-1703) of Austria were held up as examples. In many smaller communities with their restrictions on the settlements of Jews, the community provided for the poor in the older fashion as well as through the *Hevrei Kaddishah*, but also sought to restrict the number of poor permitted to reside there.<sup>29</sup> The *Hekdesh* is another institution that looked primarily after the sick, including the poor, that can be traced to 1255.<sup>30</sup>

The Lithuanian Council (1623) provided special authority to the local court to protect the assets of minor orphan. It went further and established three permanent "fathers of orphans," for individuals who may not have been poor, but were likely to be impoverished through the neglect or fraud of their guardians. The accounts of those guardians were subject to regular audit. In 1639, during the Thirty Years' War and the emergence of wandering orphans, the Council arranged for their placement in various communities.<sup>31</sup> Eventually orphanages like those in the surrounding gentile communities were established; the first in 1648 in Amsterdam.

In the matter of ransoming captives when communities were faced with large numbers, especially after a war, they turned to distant communities for help. As these were often emergency situations, the



Lithuanian Council in 1649, after the Cossack attacks, authorized communities to proceed with ransoming without consultation.<sup>32</sup> Medieval Jews were known for their readiness to ransom their coreligionists, and few remained in captivity for any length of time.

Details of the community of medieval Egypt provided by material found in the Cairo Genizah provide a picture of charitable efforts there from the ninth to the eleventh centuries. As so much material was preserved, we have a more thorough overview of charitable endeavors than available for any other community.<sup>33</sup> Many charitable foundations helped the poor; although this multiplicity was inefficient, it kept the sums in each foundation small enough to escape raiding by the government. The foundations as well as general appeals were broadly supported by numerous small donors as well as major contributors.<sup>34</sup> The communities of Cairo, Fustad, and Alexandria also owned properties dedicated to poor relief (entitled *kodesh*). Often only a portion of the property was so designated, and this led to a rather complicated set of administrative tasks. The income was used for general communal purposes as well as poor relief.<sup>35</sup> In Alexandria the main source of revenue for all social services was the communally regulated kosher slaughtering of animals.<sup>36</sup> *Kupa* remained as a source according to Goitein mainly because small coins were often unavailable, and gifts in kind were more easily arranged. Distribution regularly consisted of bread or wheat along with other food when possible. The resources were frequently overwhelmed, and the distributions were minimal. Communal planning was accomplished through pledging (named *pesikah*) during the High Holidays, with payments made on a weekly basis, often in connection with the Monday and Thursday synagogue services. In addition, pledges were obtained by visits to wealthy members of the community. Clothing was also distributed and lodging provided in houses owned by the communities.<sup>37</sup> As poor and persecuted Jews sought refuge in Cairo and Fustad, charitable funds were also sent

from other places; on the other hand, the Egyptian communities often sent funds to Jerusalem or other places in Palestine.<sup>38</sup> A poll tax (*jaliya*) was levied by the Islamic government on all Jews; this needed to be paid for the poor and many other members of the community who needed some assistance with this tax. Such help was considered akin to "ransoming captives."<sup>39</sup>

#### RESPONSA

For more than a thousand years responsa have dealt with specific issues surrounding *tzedakah*. The questions along with their answers provide an insight into the problems faced and the changing demands made upon the specific communities. A thorough study of the responsa literature would enhance the history of the development of social services in various communities and lands through the age. My reading of a limited portion of that literature suggests that no revolutionary new ideas were proposed.

The selection provided here demonstrates the range of issues about which questions were asked. The selection makes no attempt to be representative for a scholar or a period of history.

*Ahai Gaon* (680-752), Persia

QUESTION: What shall the *gabbaim* do with surplus food given to them for distribution or with coinage they have been given?

ANSWER: If they have food and there are no poor who need it, they shall sell it, but they may not purchase it themselves. They need to be careful with coinage and not place it immediately into the *tzedakah* purse, and not even temporarily into their own and count it out carefully. (*Sheiltot R. Ahai "Ki Tisa"* 64)



*Meshulam Kalonymus* (910-985), Germany

QUESTION: 100 minas (probably 100 lb of silver) that belonged to orphans was left with A for safe-keeping. Later, he claimed that he had returned the sum, but an investigation showed that this was not the case. To force a return, a ban (*herem*) was placed upon him – no one was permitted to eat or have any contact with this individual (this was a complete ban, so no one could ignore it).

ANSWER: The community must separate themselves from this individual, and talmudic citations were provided to prove this. Persons who refused to abide by it were subject to whipping.

The arrangements were made without witnesses and probably hurriedly or on a journey when the father was near death. The arrangement of such deposits was common and a necessary part of life in difficult periods. Trustworthiness was essential to communal life.

Normally, A would have been forced to take an oath that he had returned the money – here this had not been done and the decision followed the talmudic ruling of creating a “fence around the law” as circumstantial evidence was used. This offense was seen as a criminal act as concerned with orphans; the court was the defender of orphans.

The fact that some members of the community disobeyed led to the question whether there was sufficient authority for it. The individuals that did not obey the ban were to (1) repent. (2) be whipped – even if this was done only symbolically – and (3) had to promise better behavior in the future. (Mueller, ed. *Responsa* II 217)

QUESTION: A person who was ill but of sound mind wrote a will that left some property to his brother, a son of his brother, the poor, and the remainder to his wife. It had been properly witnessed and signed. Later, orally in the presence of witnesses, he stated that

he wished to give a Bible to his brother's sons and once more stated that the remainder of his property was to go to his wife and the poor.

We can see here a desire to protect his wife, as the will allowed for more than the *ketubah*, so the basic amount could not be challenged.

The belated gift of the Bible provided the problem. Should the amount now reduced include the amount to be given to the poor?

ANSWER: At issue was the matter of *kinyan* for the poor. The court usually seized property designated for the poor immediately, though normally a promise is not binding until delivery, but gifts to the poor were in a special category; they were sacred and needed to be protected immediately from seizure by the government. Although the wording provided for the poor generally and not a specific person, R. Meshulam ruled that this was to be treated as permanent assignment. (Mueller, ed., *Responsa*)

*Meir of Rothenberg* (1215-1293), Germany

QUESTION: A man promised funds for charity upon the recovery of his mother; he then discovered that his mother had made a similar promise. Is he obligated to pay?

ANSWER: He must pay as he made the promise without any reservations. (*Responsa, Yoreh Deah* 185)

QUESTION: The previous inquirer was persistent and asked whether he could give it to the poor of a community other than Merseburg.

ANSWER: No; he is obligated to his home community. (*Responsa, Yoreh Deah* 186)



QUESTION: A and B were sentenced to give money to charity. Each belongs to a different synagogue in the same town, one larger, one smaller. Must the fines be divided equally or in proportion to the membership?

ANSWER: Custom or communal agreement govern charitable fines. If there is no established custom and the community cannot reach an agreement the distribution is to be made according to the number of recipients in each synagogue. This is on the basis that all the poor of a town have equal claim on such a gift. If it had been allocated to two towns it would have been necessary to divide it equally, but as the two synagogues are in the same town, we do not do so. (*Responsa Yoreh Deah* 191)

*Solomon B. Aderet* (1235-1310), Spain

QUESTION: When is a charitable pledge enforceable?

ANSWER: When one has said that one would give, it must be done according to the statement "Guard what comes out of your mouth and act according to it." This does not apply if the property is not in his possession or stolen. If he said that he would give a certain amount to the poor, however, it must be given, even if that is not possible immediately, as this is a vow. If he makes a promise for a specific object – that it is to go to the poor of his city and the *gabbaim* responsible for charitable distribution are at hand, they force him to give. (*Responsa* 3:298)

QUESTION: May charitable contributions be accepted from women?

ANSWER: It is appropriate to accept small amounts as stated in the Talmud, as the husband expects his wife to make such donations, but not large amounts. This should be adjusted, however,

according to local custom. If the woman is wealthy then large amounts may be accepted from her. (*Responsa* 5:57)

QUESTION: A brother-in-law has challenged the will of his deceased sister-in-law. She had clearly specified that her entire estate should go to the *hekdesh*. Reuben claims that her husband asked him to look after the needs of the children. May he challenge her decision?

ANSWER: All the communities of the country have a set policy. When a piece of land is transferred it is announced in the synagogue and anyone who has a claim to it must speak up within 15 days. Any protesters after that period are put under a ban. As no timely protest was raised, it cannot be done now. (*Responsa* 3:296)

*Asher ben Jehiel* (1250-1327), Germany and Spain

QUESTION: Does a husband have the right to refuse to pay the pledge of his wife for *tzedakah* or to support a student?

ANSWER: Although a woman may on her own provide a small charitable gift, she may not make a large pledge without his approval. Accepting it is akin to theft. The husband's permission for her to participate in business at home is limited and akin to permission given by a guardian. (*Responsa* 39:8)

*Jacob ben Judah Weil* (d. 1456), Germany

QUESTION: Funds have been pledged to the synagogue with the specific that they not be used for the poor. What are the limits of their use?

ANSWER: The wishes of the donor must be followed. We should be mindful, however, that general *tzedakah* funds may be used



for all the needs of the community, including a Torah, candles, and the other needs of a communal hall and even to the watchmen of the city. This is the custom in all our communities. (*Responsa* 110:5)

*Abraham ben Mordecai Halevi* (17th century), Egypt and Venice

QUESTION: Under what restrictions do the charity *gabbaim* function?

ANSWER: He quotes the earlier Mordecai and its talmudic source which stated that they function as a team of two and they may borrow from the charitable funds without taking an oath and that is equally true for one of the pair., which is not so with guardians of orphans. This has been established opinion without additional comment. The fact that the question has been asked again leads me to state that the generation of Moses was composed of completely righteous individuals, so even one of the pair was trusted and need not provide a detailed accounting. If a *gabbai* seems to have strayed and can no longer be believed, then the community shall treat him as any other person and investigate and have him take an oath. (*Ginat Veradim, Hoshen Mishpat* 3:4)

QUESTION: May funds designated for the Sephardic community be switched to the Ashkenazic community of Jerusalem?

ANSWER: Although there are Sephardic poor, the switching of such funds is permissible now as the Ashkenazim are currently hard pressed without sufficient support from the German cities. We are one people and bear the yoke of the Gentiles; the name calling between the two groups must stop. (*Ginat Veradim, Hoshen Mishpat* 3:5) In another responsum, however, he rejects such a transfer under ordinary circumstances. (*Ginat Veradim, Hoshen Mishpat* 3:9)

QUESTION: Reuben has taken care of services and *tzedakah* for many years *pro bono*; now a group wishes to assume this role. Must he surrender it?

ANSWER: The patterns fixed through the years is to remain in place; the new group cannot assume these responsibilities. (*Ginat Veradim, Yoreh Deah 3:4*)

*Jacob Reischer (1661-1733), Worms and Metz*

QUESTION: A dying man left a portion of his estate for the ransoming of captives; just then the bubonic plague struck and many families needed help desperately. Could the funds be transferred to this cause?

ANSWER: The most ancient source dealing with this matter, the Talmud (B.B.B. 8a), stated clearly that the redemption of captives took precedence over everything else, as captives were liable to suffer hunger, lack of clothing, as well as disease, in addition to humiliation, so the high priority of ransoming them is clear.

Yet we should understand that this was a statement from a time when the surrounding world was generally friendly and only the lawless kidnaped. Now we face the situation in which Jews have been blamed for the plague and the entire community is captive in its sealed ghettos and lack even food. These victims, including those who have fled and hidden in fear of their neighbors, can turn to no one for food. They face the same situation as captives. The conditions are sufficiently similar to permit the use of these funds for this purpose.

(*Shevut Yaakov 2.104*)

*Moses Sofer (1762-1839), Frankfurt and Pressburg*

QUESTION: A son found himself in the following



predicament: He has always set aside a tithe for the poor; now he finds that his parents need help and will not accept it from charity. Can he use his charity funds to support them and does this not violate the statement of *Yoreh Deah* 257.9, that one cannot give all one's charity to a specific individual.

ANSWER: Charity begins at home. The initial duty of the son is the support of his parents and his family. As parents are the closest, they take priority. (*Responsa, Yoreh Deah* 229)

*Isaac Aaron Ettinger* (1827-1891), Lemberg

QUESTION: As a project the community has collected funds for a homeless shelter in Jerusalem. Now a letter requesting such funds for Safed arrived. Can they transfer the funds to this cause?

ANSWER: This should not be done for the following reasons: If the funds went to Safed, it is unlikely that another collection for Jerusalem would be undertaken and no shelter would be erected there. Secondly, Jerusalem possesses a higher degree of holiness than Safed, so funds should not be diverted.

One might think it possible to reason in the other direction according to a decision given by Shach's commentary on *Yoreh Deah* 259.11 that a menorah given to a synagogue may be used for ordinary lighting. Ettlinger, however, reasoned that this was true only if the synagogue already possessed enough *menorahs*. This was not so with Israel, as the need there remained great, especially in Jerusalem where there are often people without sufficient bread. For this reason the transfer should not be permitted. (*Responsa Mahari* 1.80)

*Moshe Feinstein* (1895-1986), Minsk and New York

QUESTION: Is it possible to join an organization that

desecrates Shabbat and the holidays?

ANSWER: It is absolutely forbidden for any man or woman to join such an organization even if it does charitable work. Even if you do not desecrate the *shabbat*, you assist others to do so publicly.

(*Igrot Mosheh Orah Hayyim 2:61*)

QUESTION: Should the Orthodox community be involved in the charitable efforts of the Federated Jewish Charities?

ANSWER: The problem was both in the people collecting for the charity and the distribution. Non-Orthodox organizations and individuals should not be recipients as they led people astray, nor should nonobservant Jews becoming *gabbaim*.

QUESTION: Are there different requirements for the distribution of private and public *zedakah*?

ANSWER: Private charity can be distributed according to the wishes of the donor; he may distinguish among the poor and give more or all to one, even if there are others of equal or greater need. The *gabbaim* of the public charity, however, are permitted to make no such distinction and must distribute equally to all according to need.

(*Igrot Moshe, Yoreh Deah 1:144*)

*Ben Zion Ouziel* (1880-1953), Israel

QUESTION: A donor has given *zedakah* privately; is he obligated to support the public charity?

ANSWER: This individual is obliged to support the public charity of the community in addition to any gifts that he may have given privately. *Tzedakah* is a communal obligation. (*Mishe-p'tei*



*Uziel Yoreh Deah 2:41)*

QUESTION: A donor has given a tithe to the synagogue to be used for general purposes. Has he fulfilled his *tzedakah* obligations?

ANSWER: He has done so as these funds can be used for the poor and associated needs. Gifts given to other causes to which he may be obligated, however, do not fulfill his *tzedakah* requirements. (*Mish-p'tei Uziel 3:7*)

*Solomon B. Freehof (1897-1991), Pittsburgh*

QUESTION: Does Judaism set priorities in a world of diminishing food supplies?

ANSWER: The Jewish legal literature provided for priorities within the Jewish community. Family needs came first; then within the broader community women before men, the learned before others, and ones own community before others. We can apply these principles to the broader world situation. (*Reform Responsa for Our Time 13*)

*Walter Jacob (1930-), Pittsburgh*

QUESTION: Should Reform Jews contribute to organizations inimical to Reform Judaism?

ANSWER: We make no distinctions in alleviating poverty as well as assisting the basic institutions of our communities. We should not assist organizations, however, that promote hostility to Reform Judaism. (*Contemporary American Reform Responsa # 25*)

W. Gunther Plaut (1912- ), Toronto

Mark Washofsky (1952-), Cincinnati

QUESTION: May Jews participate in a communal construction effort to build housing for the poor on *shabbat*? Does this *mitzvah* override *shabbat*?

ANSWER: We agree with the responsum of 1986 that Jews should not participate. This is not a case of "danger to life" and it can be undertaken on any other day; Jews may contribute financially to the project. The sanctity of the *shabbat* should not be violated.

(*Teshuvot for the Nineties*, p. 169)

#### SOME CONCLUSIONS

The success of the efforts at *zedakah* far exceed the wildest dreams of any talmudic or earlier sage. Through the centuries the communities, no matter how poor and beleaguered, have taken care of the poor. Scholars inflexible in other areas were willing to change the poverty line in accordance with the standard of living in their time, encouraged different methods of collection and distribution, turned voluntary efforts into taxes, and welcomed foundations and other institutions. Anything that met the changing needs was adopted, even if it went counter to long-held traditions. In our own age of the welfare state, *zedakah*, interestingly enough, has become the main pillar of modern Judaism for middle-and upper-class Jews.

What happened to the revolutionary spirit of the unknown biblical reformers who advocated the Jubilee and Sabbatical Year? It, too, survived, but often as in modern times through prophetic voices on the periphery of Judaism, such as Karl Marx, Moses Hess, Emma Goldman, and kindred souls.



Normative *tzedakah* continually took new forms as it has in our time and reinvented itself. As orphanages closed they were replaced by counseling centers; group homes have replaced family efforts for the handicapped.

Beginning in the middle of the nineteenth century, based on talmudic dicta to look after non-Jewish poor, the Jewish community became more involved in broad efforts to alleviate all poverty. This was accomplished in part through participation in communal welfare associations and equally in pushing for social welfare legislation in all western countries. This natural development of Emancipation has vastly expanded in the twentieth and twenty-first centuries and many Jews have taken leadership positions in such efforts.

Within the Jewish communities the *gabbaim* as Federation presidents continue to lead *tzedakah* efforts and consider it a privilege, although also hard work. We honor them for their efforts and sometimes as in the past, try to instill, a spirit of anonymous charitable efforts, but accept the human condition as it is.

#### TZEDAKAH AS A CORNERSTONE OF MODERN JUDAISM

Modern Jews, religious and secular, have found new meaning in *tzedakah*. Those who are secular have little interest in theology, the synagogue, or study. They are ethnic Jews, but that has not been sufficient to satisfy their definition of Judaism. This group has seen Israel and *tzedakah* "their Judaism." Both have frequently appeared synonymous to them. *Tzedakah* has thus loomed larger in the broader Jewish world than in any previous age.

The burden of overwhelming poverty that faced the worldwide Jewish community through the centuries and into the middle of the twentieth century has suddenly diminished, and the poverty that

remains is manageable.<sup>40</sup> The majority of Jews belong to the middle class, a phenomenon that may not have existed since the days of Abraham, Isaac, and Jacob. A million Jews in the former Soviet Union, Israel, and elsewhere still live in poverty or close to it. They need our help and we fortunately have been more than able to provide it.

Our new level of prosperity has enabled us to expand the meaning of *zedakah* to include more than the basic necessities of food, shelter, and clothing. We can provide job-training, which is Maimonides' eighth step – in previous centuries an idealistic dream – psychological and social counseling, and health care. Nursery schools are available for poor working families. Special programs of all kinds have been created for the handicapped; they provide sheltered living quarters, workshops, as well as respite care. We have arranged for this within the Jewish communities in many places around the world or we have partnered with general social agencies to provide them.

For the first time Jews in large numbers have been active in communal social service agencies. They sit on the boards of virtually every communal charity and social agency and are involved in the daily volunteer efforts, though we should remember that an idealistic minority has engaged in such efforts and often provided leadership and ideology since the middle of the eighteenth century in western Europe and North America.

The Social Action Center of the Reform movement in the United States and in Israel has engaged many in broad national and international social efforts which extend beyond simple *zedakah*, but it remains at the core. Tens of thousands have been involved in *zedakah* projects of all kinds in North America and other Western lands and volunteered to assist other lands through the Jewish World



Service, the Peace Corps, and other organizations. Direct aid along with funds have gone in those directions.

*Tzedakah* has taken a new and much broader meaning for both the religious and secular Jews for idealistic and social reasons. The organizations that collect and disburse funds provide considerable prominence to those who lead them, more than in previous eras. As there is more limelight on the presidency of a Federation than of a synagogue, country club, or social club, those positions have attracted able members of the Jewish community. As similar leadership positions in the world of general charities are now also open to Jews, many have been attracted in that direction, both for the fulfillment of *mitzvah* of *tzedakah* and for community-wide honors. This has meant that Jewish leadership must be shared with the broader community far more than in earlier times.

It is good and very much part of Judaism to help the poor and neglected of all humanity, but it cannot be at the cost of neglecting our own community. This balance is not easily established and that will always present a problem.

The renewed emphasis on *tzedakah* has also united the Jewish community which is otherwise splintered not only into synagogue denominations, but also into innumerable social groups. Here is a forum where all meet and share the common tasks.

So strangely enough, in an era of lesser need, we have seen *tzedakah* become a cornerstone of Judaism for many who do little else that could be considered formally Jewish. They have made it an essential obligation for themselves and their children in the Jewish and broader general community. It represents a way of expressing Judaism through their lives. Having discovered this *mitzvah*, they may find others too. This represents another revolution in the long path of

*tzedakah*. As the pattern of our well-being changes, and it surely will, it will be our task to continue to emphasize the *mitzvah* of *tzedakah* that has been so important to Judaism through the millennia.

### Notes

1. Charles R. Wihittaker, "Der Arme," in Andrea Giardina, *Der Mensch der römischen Antike* (Frankfurt a.M. Magnus Verlag, 2004), p. 315.
2. *Ibid.*, 305 ff.
3. Oded Borowski, *Agriculture in Iron Age Israel* (Winona Lake, Eisenbrauns, 1987).
4. *Kupah* could refer to the general communal treasury and was often designated as *kupah shel tzedakah*. *Tamhui* means basket.
5. S. Kawior "On Obligations of Charity," *Hadarom* 41: pp. 87 ff.
6. *Meil Tzedakah*, 1704.
7. *Sefer Hassidim*, ed. Jacob Freiman (1924). Abraham Cronbach, "Social Thinking in the Sefer Hasidim," *Hebrew Union College Annual* (Cincinnati, Hebrew Union College Press, 1949).
8. *Ibid.*, 27 ff.
9. Abraham Cronbach discussed the degrees of giving of these two scholars and Moses of Coucy in "Gradations of Benevolence," *Hebrew Union College Annual* (Cincinnati: HUC Press, 1941), pp. 163 ff.
10. Israel Abrahams, *Jewish Life in the Middle Ages* (London, Edward Goldstone: 1932), pp. 344 f.
11. Rudolf Glanz, *Geschichte des nieder jüdischen Volkes in Deutschland. Eine Studie über historisches Gaunertum, Bettelwesen und Vagantentum* (New York, 1968), pp. 128 ff. Yacov Guggenheim, "Von Schalantjude zu den Betteljuden. Jüdische Armut in Mitteleuropa in der Frühen Neuzeit," Stefi Jersch-Wenzel, *Juden und Armut in Mittel-und Osteuropa* (Cologne, Böhlau Verlag, 2000), pp 55 ff-



12. Ibid., 66.

13. Rudolf Glanz, *Geschichte des nieder jüdischen Volkes in Deutschland*, pp. 96 f, 236, 291, 295, 299, 312 ff.

14. Ibid., pp. 128-147. Various other sections of this book provide additional information.

15. The responsa of Meir of Rothenburg, for example, dealt with the lack of a *minyan* in small settings, assessments for synagogal and other needs, the rights of artisans to exclude others in the same craft as the community was too small to maintain them, the rights of rabbis in communities too small to afford more than one scholar, along with other issues. Even if a community numbered a thousand, including women and children, it remained manageable. In the fourteenth century Jews were slaughtered in three hundred German communities, but many consisted of only a few families. Some population estimates are provided by Gross, *Galia Judaica- Geographical Dictionary of France*, Paris, 1897, Moses Shulvass, *The Jews in the World of the Renaissance* (Leiden: E.J. Brill, 1973), pp. 26 ff. He also discussed the separate groups within the Italian communities (pp. 57 f). A good picture of such communities in Italy has been incidentally provided by Roni Weinstein, *Marriage Rituals Italian Style - A Historical Anthropological Perspective on Early Modern Italian Jews* (Leiden, Brill, 204). He described the sub-communities that maintained their identity for centuries, quite unlike the situation in later North America.

16. B. M. K. 27b indicates that such groups existed in the third century, but there is little evidence that they continued. For a summary of the arguments on the origin of the *hevrei kaddishah* see Jacob R. Marcus, *Communal Sick-Care in the German Ghetto* (Cincinnati: Hebrew Union College Press, 1947), pp. 55 ff. And the detailed discussion in Appendix 8, pp. 248 ff. Salo Baron, *The Jewish Community - Its History and Structure to the American Revolution* (Philadelphia: Jewish Publication Society, 1942), Vol. 1, pp. 352-54, Vol. III, pp. 89-91 with its bibliography.

17. Nissim b. Gerondi, *Responsa* # 84 as cited by Moritz Güdemann, *Geschichte des Erziehungswesens und der Cultur der Juden in Deutschland Waehrend des XIV und XV Jahrhunderts* (Vienna: Alfred Hoelder, 1888), Vol. 1, p. 50. These included a society for visiting the sick, for providing light, for the study of law, for burial, and for helping the poor.

18. Avigdor Farine attributed the growth of such societies to the influx of Spanish Jews, the sub-communities that made up the general community and the influence of similar Christian associations. See "Charity and Study Societies in Europe of the Sixteenth-Eighteenth Centuries," *Jewish Quarterly Review*, 1973-74, Vol. 64, p. 32. Moses Schulvass, *The Jews in the World of the Renaissance*, p. 81.
19. Arthur Herzberg, *The French Enlightenment and the Jews* (New York: Columbia University Press, 1968), p. 27.
20. Jacob R. Marcus, *Communal Sick-Care in the German Ghetto*, pp. 61ff.
21. "Statutes of the German Congregation of Amsterdam (1737) Sec. 61, 62, 80, as quoted in Ephraim Frisch, *An Historical Survey of Jewish Philanthropy* (New York: Macmillan, 1924), pp. 104 ff.
22. Abraham Cronbach, "Jewish Philanthropic Institutions," *Religion in Its Social Setting* (Cincinnati: The Social Press, 1933), p. 148.
23. *Sefer Hassidim* # 949.
24. Salo Baron, *The Jewish Community - Its History and Structure to the American Revolution*, Vol. 2, p. 320.
25. Andreas Reinke *Judentum und Wohlfahrtspflege in Deutschland* (Hannover, Verlag Hahnsche Buchhandlung, 1999), pp. 31 ff.
26. *Ibid.*, pp. 116 f. Moses Schulvass, *The Jews in the World of the Renaissance*, p. 82.
27. *Ibid.*, 68 ff.
28. Marcus Horovitz, "Die Wohltätigkeit bei den Juden im alten Frankfurt," *Israelitische Monatsschrift*, 1896, Vol. 27, pp. 17-27. Patricia Stahl, "Die Tradition juedischer Wohlfahrtspflege in Frankfurt," *Zedaka - Jüdische Sozialarbeit im Wandel der Zeit - Ausstellungskatalog jüdisches Museum Frankfurt* (Frankfurt, 1992), p. 58. Jacob Katz, *Tradition and Crisis: Jewish Society at the End of the Middle Ages* (New York, 1993), p. 319; Andreas Reinke, *Judentum und Wohlfahrtspflege in Deutschland*, pp. 32, 40, 45, 49; also Andreas Reinke, "Wohltätige Hilfe im Verein," Steif Jersch-Wenzel, *Juden und Armut in Mittel-und Osteuropa* (Cologne: Boehlau Verlag, 2000), pp. 216 ff.



29. Moritz Güdemann, *Geschichte des Erziehungswesens und der Cultur der Juden in Deutschland Waehrend des XIV und XV Jahrhunderts*, Vol. 3, pp. 173 ff. See also Baron, *Op. Cit.*, p. 323, who reported that a the Lithuanian Council of 1623 adopted a resolution restricting itinerant poor to a single day in the community unless upon investigation local relatives were discovered. Later Councils adopted similar ordinances.
30. Alexander Philipsborn "The Jewish Hospital in Germany," *Yearbook IV of the Leo Baeck Institute*, (London: East West Library, 1959), Vol. 4, p. 186. The citation shows the development in various places through the centuries.
31. Salo Baron, *op. cit.*, pp. 330 f
32. *Ibid.*, 335.
33. S. D. Goitein, *A Mediterranean Society* (Berkeley: University of California Press, 1971), Vol. II .
34. *Ibid.*, 101.
35. *Ibid.*, 121 ff.
36. *Ibid.*, 104.
37. *Ibid.*, 130 ff.
38. *Ibid.*, 95.
39. *Ibid.*, 132.
40. In the 1920s and early 1930s more than two million Polish Jews depended upon soup kitchens for their daily meals. World War II, the Holocaust, and the early years of the creation of Israel stretched the capacity of the world Jewish communities to their limit. In the previous century persecution and pogroms along with the resettlement of millions of Jews in North and South America called for prodigious efforts.