

In Service of Man and God Alike
An Analysis of the Halakhic Ethos of Tzedakah¹

Parashat Re'eh

I.

Attitudes towards charitable giving, *caritas*, range dramatically across ideologies and faith traditions. At one extreme, one might identify a strand of utterly secular humanism which places enormous, and even singular, emphasis on the significance of human benevolence, compassion, and material generosity. At the other plane, one might find committed theists, who may reject charity as an arrogant anthropocentric repudiation of the Divine will, be it punitive or purgative, that a poverty stricken individual suffer dire financial straits,

The halakha, most directly expressed in Parshat Re'eh, has categorically rejected either of these extremes. On the contrary, the halakha has placed singular emphasis on the mitzvah of tzedakah as the defining mitzvah of the Jewish people, essential to their nation fortune and eschatological destiny, and one which, in practice, requires a greater degree of care than any other single positive commandment².

Moreover, the halakha has conceptualized *tzedakah* as a mitzvah which straddles the plane of interpersonal commandment and obligations to our creator, and has placed it within a constellation of mitzvot which serve to reinforce this dual character.

II.

In Re'eh, the Torah introduces us to the fascinating paradigm of the cycle of *ma'aser sheni* and *ma'aser ani*³. The Torah requires during the first, second, fourth, and fifth years of the seven year shemita cycle that a second tithe, over and above the annual obligation of *ma'aser rishon*, used to sustain the levite, that certain foods be brought to Jerusalem and consumed within the

¹ For purposes of this essay, little attention will be paid to the distinction between tzedakah, the act of giving material support, and gemilut chasadim more generally. Of course, these distinctions exist (see Sukkah 49b).

² See Rambam Mishneh Torah Hilkhhot Matanot Aniyim 10:1.

³ Devarim 14:22-29.

walls, as is the halakhic requirement for *kodshim kalim*. Alternatively, should bringing the food to Jerusalem be excessively cumbersome, an opportunity exists to redeem the second tithe and replace it with an equivalent sum of money, coupled with a redemption fee, and to purchase and consume food in the same space.

Clearly, in light of this optionality, the Torah's emphasis in the context of *ma'aser sheni* is the pilgrimage to Jerusalem itself, which is non-negotiable, whether one is bringing foodstuffs or money. Indeed, the Torah addresses this point explicitly, and directly addresses the rationale associated with the mitzvah, *v'achalta lifnei Hashem elokekha...l'ma'an tilmad l'yirah et Hashem elokekha kol ha'yamim*.

The proximity, either to the Mikdash itself, with the attendant avodah and all of its majestic choreography⁴, or to the Sanhedrin⁵, which was based there, or both⁶, is meant to have a profound, even transformative impact on the pilgrim. *Ma'aser sheni*, far from being an obligation rooted in agriculture alone, exists to generate an intensive bond between the pilgrim and the Divine presence, based in Jerusalem.

In the third and sixth years of the shemita cycle, respectively, the Torah mandates a second tithe of a completely different nature. During these years, the Torah demands that we eschew the awe inspiring pilgrimage to Jerusalem, and rather, enjoins us to remain at home, *b'she'arekha*⁷, where we will sustain the indigent and most vulnerable members of society, "*u'va ha'levi ki ein lo chelek v'nachala imach v'ha-ger v'ha-yatom v'ha-almanah asher bishe'arekha v'akblu v'save'u*."

The implications of *ma'aser ani*, in these years, supplanting *ma'aser sheni*, can hardly be overstated. Indeed, if the Torah has given us one modality of drawing close to the Divine, by

⁴ See Rashbam to Devarim 14:23.

⁵ See Ramban and Seforno, ad loc. As usual, Ramban's language is particularly stirring, "for the kohanim and the judges who stand there before the Lord, are the instructors of Torah, and they shall teach him to fear the Lord and instruct him in the Torah and the mitzvot." According to this approach, the relationship between *ma'aser rishon* and *ma'aser sheni* emerges anew, with the former being an obligation to sustain the educator class, and the latter being a mandate to maximize benefiting from them.

⁶ See Chizkuni, ad loc.

⁷ The fact that the Torah repeats this term in this brief section is highly revealing. The emphasis on being in one's own sha'ar, as opposed to Jerusalem, is unmistakable.

coming to the “place where He has chosen to rest His presence,” it has given us a necessary, indispensable complement. Every third year, we are obliged to draw close to the Divine, not through physical proximity, but rather, by staying home, while imitating His actions by caring for those in greatest need, with the highest degree of vulnerability.

As Rambam emphasized, it is precisely this orientation to those in greatest need that helps us become closest to Hashem, “there is no greater and more sublime joy than gladdening the heart of the indigent, the widows, the orphan, and the converts. For one who gladdens the hearts of these downtrodden is likened to the Divine Presence, as the verse states, “for He revives the spirit of the low, and he revives the hearts of the oppressed⁸.”

III.

Appreciating the halakhic axiom that engaging in heartfelt acts of chessed, including tzedakah, is not only the foundation of our interpersonal ethic, but an indispensable element of our relationship with the Almighty, is critical to understanding the next section of the parsha.

After concluding its discussion of the *ma'aser sheni-ma'aser ani* paradigm, the Torah begins its classical presentation of the mitzvah of tzedakah⁹. In that narrative, the Torah warns of refusing to extend credit on the basis of the septennial remission which goes into effect at the conclusion of the shemittah year.

In that context, the Torah refers to such a narcissistic refusal in the harshest possible terms, referring to it as a “*devar beliya'al*.” Noting that this term, “*beliya'al*”, is only utilized in one other place in the Torah, in the setting of the *ir ha'nidachat*, the Talmud¹⁰ likens turning away from tzedakah to nothing short of idolatrous behavior.

⁸ See Rambam Hilkhos Megillah U'Chanukah 2:17. See also Rambam Hilkhos Yom Tov 6:18.

⁹ Devarim 15:1-18.

¹⁰ Talmud Bavli Ketubot 68a.

One can opt for a figurative understanding of this passage, as R. Baruch Ha-Levi Epstein did¹¹, in arguing that one who does not give his assets to tzedakah in effect denies Divine sovereignty in apportioning those resources to him for that very purpose.

However, it seems to me that a more literal reading of the passage is in fact warranted, even if the comparison between neglecting tzedakah and idolatry is in point of fact tempered by the use of the term “*k’ilu*.” As we have established, giving tzedakah is not only an act of basic humanity, nor is it merely an implicit recognition of the ultimate Divine ownership over all material resources.

Tzedakah, rather, is an indispensable part of a person’s encounter with the Divine, in imitating His ways¹², and walking in His paths. One who, as the Torah describes, perversely and deliberately chooses to turn away from a legitimate tzedakah need is indeed compromising his entire relationship with the Almighty, and can reasonably be likened to an idolater. Indeed, as Chazal aver in a different location, “one who engages in Torah study but not in act of gemillut chasadim is as one who does not have a God¹³.”

IV.

The climax of the Torah’s discussion of the mitzvah of tzedakah is the introduction of the mitzvah of *ba’anakah*¹⁴ to the indentured Hebrew servant. Chazal note that the vast majority of the laws governing this halakhic persona have already been discussed, and yet, the Torah chose to reintroduce this discussion for the sake of the detail of *ba’anakah*, giving certain materials assets, from one’s heart, from one’s grains, and from one’s winepress, to the servant or maidservant. It seems, at minimum, somewhat curious, that the Torah had to reintroduce the discussion of this category for this particular halakha¹⁵.

¹¹ See Torah Temimah to Devarim to 15:9 gloss 30.

¹² See Sotah 14a and Rambam Sefer Ha’Mitzvot Number Eight.

¹³ Talmud Bavli Avodah Zarah 17b.

¹⁴ Devarim 15:12-15.

¹⁵ See Rashi to Devarim 15:12. In fairness, another halakha is also introduced here, that the maidservant who has not reached physical maturity is also emancipated at the end of a six year period.

And yet, in light of our understanding of the mitzvah of tzedakah, as a reflection not only of an interpersonal ethic but a referendum on our capacity for *imitatio Dei*, we can perhaps more fully appreciate the lynchpin role which ha'anakah plays in this context.

As the Torah states explicitly, the mitzvah of *ha'anakah* is a clear and unequivocal manifestation of precisely this concept, "v'halakhta b'derachav." When we left Egypt, Hashem ensured that we did not leave empty handed, but rather, with abundant assets. As such, the Torah emphasizes, "and you should remember that you were slaves in Egypt....this is why Hashem your God commands you to do this [ha'anakah] today."

As such, the 'backloading' of the Torah's discussion of the mitzvah of ha'anakah to Sefer Devarim, relative to earlier discussions of *eved ivri* in Sefer Shemot and VaYikra is fully understandable. The capstone to the Torah's classical discussion of the mitzvah of tzedakah is one which serves to forcefully reinforce the basis of the mitzvah of tzedakah, emulating the Divine, and thereby, developing a more holistic relationship with Him.

V.

It is striking that Rambam, in his elegant formulation of the vital nature of the mitzvah of tzedakah, references our national commitment to the institution as a reflection of our status as descendents of Avraham¹⁶.

Indeed, it was Avraham who sought out the Divine, with utter indefatigably, and famously, first journeyed to the place where the Almighty would one day choose to make His presence rest. Equally, it was Avraham who engaged, ceaselessly and at great personal sacrifice, in acts of chessed.

The Torah makes no secret of the reason for Avraham's selection as the patriarch of what would one day be the Chosen People: "for I have known him, that he will command his children and his household after him, to guard the way of the Lord [*derekh Hashem*] to do justice and righteousness [*tzedakah u'mishpat*]."

¹⁶ Rambam Matanot Aniyim (ibid.)

In the persona of Avraham, we have the halakhic ethos of tzedakah personified. Avraham as the *av ha'chessed*, the paragon of kindness, is inextricably linked to the Avraham as Divine seeker, *koreh b'shem Hashem*. Tzedakah, for Avraham, exists as an expression of an attempt to walk the “*derekb Hashem*” that Avraham would transmit to his children, and which would later be normalized in the mitzvah of *v'halakhta b'derachav*.