

are an easy case. The explicit sexual activity in exploitative pornographic films is also easy to judge. But there will always be a large middle ground that cannot be ruled in or out *a priori*, but must be weighed according to the principles that have been developed throughout this chapter. And there would seem to be no essential difference between answering that question for those viewing the performance or for those performing in it. Art is not reality, but it can color our view of reality and even change reality. Whether a specific act of artistic expression will glorify and encourage illegal and immoral acts or depict them in ways that will prompt a reasonable person to ponder the nature of the society is the pivotal question in evaluating the worth of such artistry. ❧

## Charitable Giving

ELLIOT N. DORFF



Civilized societies have confronted poverty for millennia, but in very different ways. Some have seen the poor as criminals worthy of imprisonment in "debtors' prisons" once they fail to pay their debts; others have maintained that the poor are merely lazy and therefore deserving of no special treatment by others. Jews, in contrast, have developed an ideology and a code of law and ethics affirming that it is an obligation of both the individual and the community to care for the poor and, if possible, to help them earn a living. Nor does the tradition view the poor themselves as mere passive recipients of others' largesse: they too have duties incumbent upon them. Additionally, Jewish law requires that Jews provide for communal needs by building and maintaining synagogues, schools, and healthcare institutions of various sorts.

### *Tz'dakah*

One concept fundamental to the matrix of laws and traditions relating to *tz'dakah* concerns the nature of the relationship between the community and the individual. Americans, and the citizens of Western republics in general, are used to voluntary communities that people can join or leave at will. Thus one

can decide to join a club or synagogue, and one can just as easily decide to leave it. Americans who have not committed a felony can even give up their American citizenship at will. That is because the United States, like most Western countries, is based on Enlightenment philosophy, which sees each person, as the Declaration of Independence asserts, as an individual possessed of certain inalienable civil rights.

In contrast, although Judaism affirms that we are all unique individuals created in the image of God, it also asserts that we are fundamentally and inextricably part of a community. Furthermore, when we Jews stood at Sinai as a community, we did not receive rights at all, but rather 613 obligations. In fact, Jews who convert to another religion become apostates (*m'shummadim*), thus losing many of the privileges of being Jewish. (For example, apostates are excommunicated, such that it is forbidden even to talk to them, let alone do business with them [MT Hilkhot Avodat Kohavim 2:5 and 9:17–18]; they are not eligible for receiving charity from the Jewish community [SA Yoreh De'iah 251:1–2] or serving as witnesses [MT Hilkhot Eidut 11:10]; they are not buried as Jews in a Jewish cemetery [M Sanhedrin 6:5 and SA Yoreh De'iah 345:5]; they cannot immediately become Israeli citizens as Jews under the Law of Return [cf. the Brother Daniel case, High Court Case 72/62, *Piskei Din* 16:2428–55]. Yet they are still burdened with all the responsibilities of Jewish law! That is an important expression of the organic nature of the Jewish community: just as your foot cannot decide to leave your body, so too individual Jews do not have the ability to abandon their identity as Jews, for “a Jew, even if he or she sins, is still a Jew” (BT Sanhedrin 44a; see also Nalmanides’ commentary on Deuteronomy 29:14). This Jewish understanding of community, in which our membership and our obligations to each other are both inescapable, is thus a much thicker sense of community than Americans and other Westerners are used to.

One corollary of this thick view of community is that Jewish tradition does not see contributions to its welfare as mere charity (that English word derives from the Latin for “love”) or philanthropy (which derives from the Greek for “love of humanity”), but rather as *tz'dakah*, literally “acts of justice.” That is, donating to the poor and to other social needs is not a supererogatory act of especially generous people, but rather an expected act of each and every Jew and of every Jewish community. Maimonides went so far as to say, “We have never seen nor heard of an Israelite community that does not have a charity fund” (MT Hilkhot Matt'not Aniyim 9:3).

Furthermore, *tz'dakah* is demanded of us not only because we are all part of a thick community that can legitimately make demands on its members, but also because all our assets ultimately belong to God (Leviticus 25:23;

Deuteronomy 10:14; M Avot 3:8; BT K'rubbot 67b). Indeed, the ancient rabbi saw refusal to assist the poor as outright idolatry precisely because such behavior demonstrates that the person does not recognize God's sovereignty and ownership of the world (T Pe'iah 4:20).

In addition to these two general concepts that serve as the foundation for all acts of *tz'dakah*, support of the poor is also motivated by a series of other Jewish concepts and values, which I have described in detail in two books: *To Do the Right and the Good: A Jewish Approach to Modern Social Ethics* (Philadelphia: The Jewish Publication Society, 2002; ch. 6) and *The Way Into Tikun Olam (Fixing the World)* (Woodstock, VT: Jewish Lights Publishing, 2005; chaps. 2 and 5). Among these are the concept of *piku'ah nefesh* (saving or guarding human life), compassion, God's commandment to donate to the poor, the dignity of human beings created in God's image, membership in God's covenanted people, and our aspirations for holiness.

### The Duty to Give

The Torah, presuming a primarily agricultural economy, specifies a number of gifts to the poor that a landowner must provide: leaving for the poor the corners of the fields (*pe'ah*, as described at Leviticus 19:9 and 23:22), sheaves or fruit forgotten while harvesting (*shikh'bah*, as described at Deuteronomy 24:19), the stalks that by chance fall aside from the edge of the farmer's sickle (*leket*, as described at Leviticus 19:9 and 23:22 and illustrated in the Book of Ruth), grapes separated from their clusters (*peret*, as described at Leviticus 19:10), and defective clusters of grapes or olives (*ot'lot*, as described at Deuteronomy 24:21–22). During the sabbatical year, when fields were to lie fallow, the poor had first rights to the sabbatical produce (Exodus 23:11, but see Leviticus 25:6–7, where it is the owners of land together with their slaves and hired workers who are entitled to it). In addition, during the third and sixth years of the sabbatical cycle, a title of all of one's crops was to be designated for the poor (*ma'aseir ani*, the title of the poor, as mentioned at Deuteronomy 14:28–29 and 26:12–13). The first tithe (*ma'aseir rishon*), given yearly to the Levites, was also a form of aid to the poor, for the Levites had no other income. Finally, the Torah provides that every fifty years, during the jubilee year, all land reverts to its original owners; this was intended to prevent permanent impoverishment (Leviticus 25:8ff.). These laws are discussed in more detail elsewhere in this volume by Rabbi Martin S. Cohen in his chapter on Israel.

In addition to these agricultural gifts, several other provisions of biblical law helped to prevent poverty. Specifically, workers were to be paid promptly

(Leviticus 19:13 and Deuteronomy 24:14-15), and those who had money were expected, indeed commanded, to extend loans to their fellow Israelites in need without interest (Exodus 22:24, Leviticus 25:36-37, and Deuteronomy 23:20). During the sabbatical year, debts were to be cancelled altogether, but Israelites were nevertheless forbidden to "harbor the base thought" of refusing to loan money to needy Israelites merely because the onset of the sabbatical year was near (Deuteronomy 15:1-2, 7-11). If clothing had been taken as a pledge for a loan, it was to be returned for use by the poor person at night (Exodus 22:25-26). Furthermore, when collecting such a pledge, the creditor had to stand outside the poor person's home (to avoid invading his or her space), thus reinforcing the abiding dignity of the poor person despite his or her poverty (Deuteronomy 24:10-15). Also, it was the duty of the judge to protect the rights of the downtrodden (Exodus 23:6-9; see also Deuteronomy 16:18-20 and 23:17-18, and Psalm 82:3). The poor, though, were not to be preferred in their legal cases before the court just because they were poor any more than the rich were to be given special consideration; rather, fairness to all litigants was to be the rule (Leviticus 19:15 and Deuteronomy 1:17).

It is surprising that there is any provision for the poor at all, much less to the extent that the Torah requires. No other ancient law code makes ongoing provisions for the poor based on each year's crops, as the Torah does. The closest we have to anything like that is in the Egyptian work called "The Instruction of Amen-em-Opet," a letter from sometime between the tenth and the sixth centuries B.C.E., which advises that widows should be permitted to glean unhindered and that gifts of oil should be given to the poor. This is described positively as conduct approved by the gods, but it is clearly not required by them—and certainly not by human governing authorities. (See *Ancient Near Eastern Texts Relating to the Old Testament*, ed. James B. Pritchard [Princeton: Princeton University Press, 1955], p. 424.)

In most law codes prior to modern times, in fact, it was assumed that poor people were not just unfortunate, but that their poverty was caused by some moral fault and therefore they did not deserve to be helped. On the contrary, they were to be punished. In England and the United States, for example, debtors' prisons were common until the nineteenth century, and even though they were theoretically abandoned at that time, imprisonment on other charges, such as concealment of assets, continued to propagate the idea that debtors should be imprisoned for their wrongdoing. (For a brief account, see "Debt" in *The New Illustrated Columbia Encyclopedia* [Garden City, NY: Rockville House Publishers, 1979], vol. 6, p. 1850.) These biblical laws, then, which proclaim that the poor are not to be blamed but to be helped,

were truly unprecedented and innovative, and they can only be explained on the basis of the Israelites' theological convictions described in the previous section.

Building on biblical precedent, classical Jewish law legally required members of a community to contribute to its needs—the functional equivalent of a tax in modern society. The amounts varied with the wealth of the individual, but there was no escaping this obligation, as Maimonides noted (*MT Hilkhot Matt'not Aniyyim* 7:10): "The court may even seize property in its owner's presence and take from that person what it is proper for that person to give. It may pawn such possessions for purposes of charity, even on the eve of the Sabbath." (Maimonides is drawing on sources at *BT Gitin* 7b, where it is noted that the poor too must give charity. In this regard, see also *BT Bava Batra* 8b and *BT K'tubot* 49b, where the point is made that compulsion may be applied to effect compliance. The *Tosafot* disagree; see also the *SA Yoreh Dei'ah* 248:1-2.) Furthermore, the degree to which a person was obligated to contribute to the poor became the mark of membership in a community (*MT Hilkhot Matt'not Aniyyim* 9:12, drawing on rabbinic sources found at *T Pei'ah* 4:9, *Y Bava Batra* 1:4, 12d, and *BT Bava Batra* 8a). Thus, one who settles in a community for thirty days becomes obligated to contribute to the charity fund together with the other members of the community. One who settles there for three months becomes obligated to contribute to the soup kitchen. One who settles there for six months becomes obligated to contribute clothing for the poor. One who settles there for nine months becomes obligated to contribute to the burial fund for burying the community's poor people. The thick sense of community underlying Jewish law thus means that Jews do not have the luxury of saying that the poor should just take care of themselves or go elsewhere to seek the aid of some other community; the members of a Jewish community are responsible for each other, whether they like it or not.

In rabbinic law, there are three primary forms of granting relief to the poor: feeding them in soup kitchens, arranging for low-cost or cost-free medical attention, and supplying them outright with monies drawn from charity funds.

The Mishnah establishes soup kitchens for the daily dietary needs of the poor. It also prescribes that a traveling poor person be given no less than a loaf of bread at such a kitchen, called a *tambui* in the traditional literature; if he or she stays overnight, the townspeople must supply enough food for a night's lodging. If the stay includes a Sabbath, however, the locals must give the traveler three meals (*M Pei'ah* 8:7; and see *T Pei'ah* 4:8, 10; *Y Eiruvin* 3:1, 20d; *BT Shabbat* 118a, *Bava M'tzi'a* 8b-9a, and *Sanhedrin* 17b). In the medieval

period, synagogues were the site of daily food distribution to the local and traveling poor. As demonstrated by Israel Abrahams (in *Jewish Life in the Middle Ages* [1896; reprint, Philadelphia: The Jewish Publication Society, 1993], p. 311), this system was gradually superseded by three other forms of aid that included dietary assistance: reception of poor travelers in the homes of the rich, provision for vagrants in communal hostels or inns, and aid offered by benevolent societies for strangers and the resident poor.

Although there was no formal institution akin to the *tamhui* to give medical care to the poor, physicians gave of their services freely. The Talmud (at *BT Ta'anit* 21b) approvingly notes the example of Abba the Bleeder, who placed a box outside his office where his fees were to be deposited. (Taking blood from a sick person was a common medical therapy in ancient times.) Whoever had money put it in, but those who had none could come in and take advantage of his services without feeling embarrassed. When he saw people who were in no position to pay, he would offer them some money, saying, "Go, strengthen yourself [with food after the bleeding operation]."

S. D. Goitein (in *A Mediterranean Society* [Berkeley: University of California Press, 1971], vol. 2, p. 133) offers similar examples among medieval Jewish physicians, and the ethic must have been quite powerful because it was not until the nineteenth century that a rabbi needed to rule that the communal court should force physicians to give free services to the poor if they do not do so voluntarily (Rabbi Eleazar Fleckeles, *T'shuva Me'ahava*, to *SA Yoreh De'iah* 336 [ed. Prague, 1815, vol. 3, p. 69b]). Moreover, the obligation to heal the poor devolves upon the community as well as the physician. The sick, in fact, enjoy priority over other indigent persons in their claim to private or public assistance, and they may not refuse medical aid out of pride or a sense of communal responsibility (*SA Yoreh De'iah* 249:16 and 255:2).

The most substantial form of assistance to the poor was the charity fund. Eligibility for its beneficence was generally limited to the resident poor rather than to passers-through, however (*T Pe'ah* 4:9). The charity fund provided clothing as well as food, although food for the starving took precedence over clothing for the naked (*BT Bava Batra* 9a, *SA Yoreh De'iah* 251:7). Community authorities also arranged for shelter, usually through a compulsory hospitality rotation wherein the townspeople were required to take turns providing lodging for guests (gloss of the Rema to *SA Hoshen Mishpat* 163:1; see also *Avukh Ha-shulhan*, *Hoshen Mishpat* 163:1).

Moreover, our sources tell us: "Even a poor person who lives entirely on charity must give charity to another poor person" (*BT Bava Kamma* 119a, *BT Gittin* 7b, *MT Hilkhot Mat'not Aniyim* 7:5, and *SA Yoreh De'iah*

248:1 and 251:12). This requirement is rooted not only in the thick sense of community that includes the poor as well as the rich, but also in the tradition's pervasive concern with preserving the dignity of the poor (*Deuteronomy* 24:10–11, *M'rubbot* 13:3, *BT K'rubbot* 43a, *SA Yoreh De'iah* 251:8 and *Even Ha-eizer* 112:11, 16, and 93:4). In fact, the Talmud describes poverty as a paradigmatic example of degradation to which other forms can be instructively compared (*BT Bava Kamma* 86a). Thus, even if this provision of the law meant that one poor person would give something to another poor person who, in turn, would return it to the first, each person had to have the dignity of being a contributor to the community's welfare.

### *Limits on the Duty to Give*

The rabbis of classical times were worried that some people would not give enough, but also that others would give too much, thus risking pushing themselves into poverty. To avoid both, the rabbis defined this duty's upper and lower limits. Specifically, each person had to give a minimum of a third of a *shekel* (*BT Bava Batra* 9a), but normally one was expected to give ten percent of one's income—for when the economy switched from an agricultural base to a monetary one, the rabbis applied the laws demanding a tithe of one's crops for the poor codified at *Deuteronomy* 14:28–29 to money (*Siftei D'urim* §52 on *Deuteronomy* 14:22). At most, however, people may give away no more than one-fifth of their assets (*BT K'rubbot* 50a, *MT Hilkhot Mat'not Aniyim* 7:5), and having done so once, they may give only from their income in succeeding years (*SA Yoreh De'iah* 249:1). They may, however, specify in their will their desire to distribute any amount of their assets to charity as a gift (*SA Hoshen Mishpat* 241–249, especially 241:5 [where it is noted that one may specify the use to which a gift one offers will later be put]), and there are even leniencies in the procedure for specifying such disbursements if the person is seriously ill (*SA Hoshen Mishpat* 250–258). In modern times this would include permission for Jews to establish in their lifetime foundations or charitable remainder trusts that will distribute any amount of their assets to charities of their choosing after their death. (For more about the specific methods available to the observant Jew who wishes to give gifts posthumously to charitable institutions, see the chapter on inheritance law by Rabbi Martin S. Cohen elsewhere in this volume.)

In addition to contributing to communal efforts to help the needy, individuals were also held responsible for responding directly to a beggar's request (*MT Hilkhot Mat'not Aniyim* 7:7, where Maimonides extends the



rule given in *BT Bava Batra 9a* to apply not only to communal collectors but to each individual in need), although one may give a minimal amount in such circumstances. One must remember that "God stands together with the poor person at the door, and one should therefore consider before whom one is [actually] standing" (*Va-yikra Rabbah* 34:9).

### *The Duty to Give in Our Time*

Today, governments at various levels shoulder some of the responsibility to care for the poor and to provide all segments of the population with cultural resources and public education, which is now provided free of charge to everyone through high school. Thus, the respective obligations of the individual, the Jewish community, and the government to aid the poor in various ways and to provide for other communal needs must be reevaluated and adjusted. Do our taxes, or a portion of them, fulfill part of our religious obligations to provide for these services?

In some ways, the answer would have to be that they do. Some of the poverty provisions in the Torah's laws were, after all, simply taxes on a person's income. It is therefore legitimate to argue that at least part of the Jewish duty to care for the poor is fulfilled through paying taxes to the secular government that provides basic necessities for the poor. At the same time, however, American social policy specifically presumes that the safety net for the poor and the funding for educational and cultural resources will not be borne by government alone, but that private charity will also play a significant role in this endeavor. Tax provisions permitting deductions for charity make that intention explicit. Jews therefore can fulfill only a part of their obligations to the poor through their taxes; they must, in addition, contribute some of their income to the charities of their choice. Because, at least in the United States, Jewish educational facilities and synagogues receive no government funding, the duty to support Jewish religious and educational institutions continues to rest completely on the Jewish community, thus creating a special claim on American Jews to support these institutions. Talmudic tradition (as presented at *BT Gittin* 61a) and our full citizenship in contemporary Western countries also obligate us to contribute to general causes as well as Jewish ones.

Because Jewish courts no longer have authority to force Jews to give an amount commensurate with their income and the community's needs, modern fundraisers for Jewish causes must now depend on convincing people to donate by honoring those who do so and by reminding people of their religious duty.

### *Duties of the Recipient of Charitable Gifts*

Donors and distributors of *tz'dakah* funds have certain specific halakhic obligations, as discussed above, but so do the poor. Based on God's words to Adam, "By the sweat of your brow shall you eat bread" (Genesis 3:19), the rabbis assert that people have a moral right to eat only if they earn it by their own effort (*BT Bava Batra* 110a; *B'reishit Rabbah* 14:10). The poor do not have to sell their homes or tools nor do they have to sell their fields at a substantial loss, but they are required to work and to sell off any luxurious possessions in a good-faith effort to become independent of public assistance (*M. Pei'ah* 8:8, *BT K'tubbot* 68a, *MT Hilkhot Matt'not Aniyyim* 9:14-17).

Jewish law could assume that the poor would strive to make themselves self-sustaining in part because respect for labor runs deep within the Jewish tradition. In sharp contrast to many in the ancient world, including some of the greatest Greek philosophers, Jews are to disdain neither the working classes nor labor itself but are commanded, rather, to "love work and hate lordship" (*M. Avot* 1:10; see also Rav's "pearl" in respect of the physical laborer at *BT B'rakhot* 17a). Furthermore, Jews are not permitted to wage war or engage in robbery or piracy to earn a living, as many other peoples did. It is also forbidden simply to rely on God to provide: "A person should not say, 'I will eat and drink and see prosperity without troubling myself since heaven will have compassion upon me,' for Scripture says, 'You have blessed the work of his hands' (*Job* 1:10), demonstrating that people should toil with both their hands, for only then will the blessed Holy One grant divine blessing" (*Midrash Tanhuma*, Va-yeitzei §13).

Moreover, the rabbis of ancient times were sensitive to the extremely positive psychological effects of work, citing two of its greatest teachers, Rabbi Judah and Rabbi Shimon, as declaring, "Great is work, for it honors the worker" (*BT N'darim* 49b). Because of this ethic, and because poor Jewish communities could not provide much in the way of doles to the poor anyway, Jewish sources do not express the worry, as American legislators regularly do, that offering too much assistance to the poor will serve as a disincentive to them to become self-sustaining.

The poor who need aid until they can earn a living are encouraged to apply to the community fund and are discouraged from door-to-door begging, because that would diminish their own dignity (*BT Bava Batra* 9a, *SA Yoreh De'ah* 250:3-4). Moreover, in classical Jewish sources, Jewish poor people who could not sustain themselves through the provisions of the Jewish community alone were discouraged from taking charity from non-Jews in public, for that would bring shame on the Jewish community that obviously

did not fulfill its duty to provide for the poor. This could even be considered a kind of *hilkul ha-sheim*, a profanation of the divine name, because such behavior lowers the status of the Jewish people in the estimation of the non-Jewish community. (The sources for this idea may be found in the Talmud at *BT Sanhedrin* 26b and *Bava Batra* 10b, in Maimonides' *MT Hilkhot Mat'not Aniyyim* 8:9, and in the *SA Yoreh De'iah* 254:1.) Because taking from non-Jewish sources shames the Jewish community and the poor themselves, those who do so become ineligible to serve as witnesses (*BT Sanhedrin* 26b and *Rashi ad locum*, s.v. *okh'lei dauar d'beir p'sulin le'eidut*; *MT Hilkhot Eidut* 11:5). If a non-Jewish king gives Jews money for charity, Jews may take it "for the sake of peace," so as not to offend the ruler, but Maimonides' decision (at *MT Hilkhot M'lakhim U-milḥ'moteihem* 10:10; see also *SA Yoreh De'iah* 254:2 and 259:4) is that they are discreetly to give such funds to non-Jewish poor people so that the king does not hear of it. Since the king will be able to recognize donated objects, however, those must be retained by the Jewish community (gloss of the Rema to *SA Yoreh De'iah* 254:2).

All of this changes in modern times, when Jews are full-fledged citizens of the Western democracies in which they reside rather than tolerated minorities. As citizens, they may, if eligible, avail themselves of government welfare programs such as unemployment benefits and food stamps without worrying about sullying the reputation of the Jewish people. Still, both because the Jewish tradition imposes this burden and because American law presumes the aid of private charities, the Jewish community continues to have the duty to take care of its own needy and, to a lesser extent, needy non-Jews so as to make sure that everyone's basic needs with respect to food, clothing, shelter, and healthcare are met, and that everyone gets needed assistance to qualify for and find a job. Rather than begging or endangering their lives, Jews in need not only may, but must, avail themselves of the assistance offered by both the government and the Jewish community to help them satisfy their immediate needs and ultimately become self-sustaining (*MT Mat'not Aniyyim* 10:19; *SA Yoreh De'iah* 255:2).

### *Establishing a Hierarchy of Need*

As a general rule, women were traditionally to be aided before men—assuming that there were not enough funds to assist both men and women—because "it is not unusual for a man to go begging, but it is unusual for a woman to do so" (*BT K'tubbot* 67a; *SA Yoreh De'iah* 251:8). This gender-based differentiation presumably was based on fear for the physical safety of women who wander in the streets soliciting funds.

According to traditional sources, family members (and, again, especially women) are to be aided first, then close friends, then the poor of one's own community, then the poor of other Jewish communities, and then the non-Jewish poor (*Siftei D'varim* §63 on Deuteronomy 15:7, *MT Hilkhot Mat'not Aniyyim* 7:13, *AT Yoreh De'iah* 251, and *SA Yoreh De'iah* 251:3). However, the record of medieval Jewish communities that put themselves out for refugees fleeing persecution and expulsion is truly amazing, with many communities displaying the impressive ratio of four contributors coming together to help one single relief recipient. (For evidence of this, see S. D. Goitein, *A Mediterranean Society*, vol. 2, pp. 139–142; see also p. 128, referring to the Egyptian Jewish community in 1160.) Redeeming captives (called *pidyon sh'vuyim* in the sources and discussed in detail elsewhere in this volume in my chapter on the *halakhah* of caring for the needy), though, takes precedence over helping homeless or destitute Jews, for those in captivity are in greater danger than the poor of sexual violation and, ultimately, of losing their lives. Furthermore, Jews must support synagogues and other communal needs. The *Shulhan Arukh* thus summarizes the hierarchy of recipients of one's donations as follows: "There are those who say that the commandment to [build and support] a synagogue takes precedence over the commandment to give charity (*tz'dakah*) to the poor, but the commandment to give money to youth to learn Torah or to the sick among the poor takes precedence over the commandment to build and support a synagogue" (*SA Yoreh De'iah* 249:16).

Because starvation is taken to be a more direct threat to a person's life than exposure, one must feed the hungry before clothing the naked. If a man and a woman come to ask for food, we help the woman before attending to the man's needs, because the man can beg with less danger to himself. For the same reason, if a man and woman come to ask for clothing, or if a male orphan and a female orphan come to ask for funds to be married, we help the woman before attending to the needs of the man (*SA Yoreh De'iah* 251:7–8). As noted, however, redeeming captives takes precedence over sustaining the poor and clothing them, and there are few commandments depicted in halakic literature as being more important than redeeming captives. "Therefore, the community may re-allocate the usage of any money it collected for communal needs for the sake of redeeming captives" (*SA Yoreh De'iah* 252:1; see also 252:3).

Interestingly, despite the fact that Jews were often persecuted by non-Jews and were almost never supported by them, both the Talmud (at *BT Git'in* 61a) and Maimonides (at *MT Hilkhot Mat'not Aniyyim* 7:7) require us to care for the poor and sick among the gentile nations of the world, and also

to bury their dead. The reason for this is given both negatively as *mi-p'nei eivah* ("to avoid stirring up gentile hatred of Jews") and also positively as *mi-p'nei darkhei shalom* ("for the sake of maintaining peaceful relations between gentiles and Jews"). The poor of other nations, though, come at the bottom of the list of eligible recipients.

### *Tz'dakah Priorities in Our Time*

World overpopulation, illness, and poverty are probably more acute now than they have ever been. Even in the United States, poverty is spreading, with many of the "working poor" in unskilled or semi-skilled jobs living below the poverty line. Since the 1960s, many of these people have received government benefits that have enabled them to achieve a minimal standard of living, such as housing subsidies, food stamps, Aid to Families with Dependent Children, and direct cash payments, but during the administration of President George W. Bush, Congress curtailed or severely limited many of these programs. Narowing the focus further to the Jewish community, the 2000 National Jewish Population Study (available at [www.ujc.org/njps](http://www.ujc.org/njps)) found that a full 19 percent of Jewish households in the United States earn less than \$25,000 a year, which sum is under the 2011 Federal Poverty Level for a family of four.

How, then, shall we distribute our funds? The old rabbinic model of concentric circles of recipients would argue that after taking care of oneself and one's family, one should donate first to one's synagogue and educational institutions, for such institutions have no other sources of funds. Then one should donate to other Jewish causes, such as Jewish Family Service, Jewish Federation Council, Israeli charities, and the like. Finally, one should donate to general causes, such as American Jewish World Service and United Way. That category is last not only on the basis of the model of concentric circles of concern, but also because those charities are the most likely to get support from non-Jews and/or the government.

While I know of no rabbinic ruling that sets actual percentages for temporary giving based on the Jewish tradition, it seems reasonable to suggest that fifty percent of one's gifts should go to synagogues and Jewish educational institutions, forty percent to other Jewish causes, and ten percent to non-Jewish causes. Depending on one's income and stage in life, one might, or might not, include one's synagogue dues as part of this calculation of *tz'dakah*, and one might, or might not, include the tuition for one's children or grandchildren to attend Jewish schools, youth groups, and camps as part of one's *tz'dakah* (MT Matt'not Aniyyim 10:16; SA Yoreh De'ah 251:3).

Synagogues and Jewish educational institutions regularly try to keep what they charge as low as possible so as not to discourage participation, and they provide for dues relief and scholarship aid as well; in doing so they depend on wealthier Jews to contribute beyond the stated dues or tuition amounts to keep these institutions afloat, and so Jews who can afford to help should contribute beyond the stated costs and should support these institutions even when their own family is not using them at present so that the Jewish tradition and community can thrive.

With what should we provide the poor whom we help? Here Jewish values set clear priorities: we must first seek to save life and health by supplying food, clothing, shelter, and medicine. The methods for doing so will surely differ in many respects from those of the past, but even the classical *tambui* (soup kitchen) and shelter provided by the synagogue are alive and well as projects of many Jewish communities today. We must also seek to provide the skills and tools needed to enable people to become self-sufficient. Finally, we must help children and adults attain a Jewish education through support of Jewish institutions and of scholarship aid.

### *Giving Gifts to Individuals*

The concerns of meeting the needs of the poor without robbing them of dignity are the governing principles of Maimonides' famous ladder of gifts, graduating from least to most virtuous: (1) to give, but to do so without joy; (2) to give less than is fitting, but to do so in good humor; (3) to give what is fitting, and to do so cheerfully, but only after being asked; (4) to give what is fitting, and to do so cheerfully and before being asked; (5) to give what is fitting, and to do so cheerfully and before one is asked, and to give one's gift in such a manner that, although the recipient of the gift knows the donor's identity, the donor does not discover who the recipient of the gift is; (6) to give what is fitting, and to do so cheerfully and before being asked, and to give one's gift in such a manner that, although the donor knows the identity of the recipient, the recipient does not know the identity of the donor; and (7) to give what is fitting, and to do so cheerfully and before one is asked, and to give one's gift in a way so that neither the donor nor the recipient knows each other's identity. Finally, (8) the highest form is not to give recipients anything at all as a handout, but rather to lend them money, take them into a business partnership, or find work for them—for in all these cases, they will be able to support themselves and thus to retain their full measure of self-respect (MT Hilkhot Matt'not Aniyyim 10:7–14).

In our own time, individuals often worry that their gifts to individual beggars in the street may be given to people who do not really need their aid, or that the funds they give out may be misused to finance a drug habit or to purchase alcohol. Individuals approached on city streets for gifts of charity may also worry about their personal safety. Furthermore, it is certainly the case that charitable institutions are generally much more able than individual citizens to discern who is truly needy, and such agencies can, in accordance with Maimonides' principles, deliver goods or services without compromising the identity of the donor or receiver.

It is therefore best of all to refer beggars (and maybe even offer to take them) to the offices of organizations established specifically to deal with these needs, including governmental and private facilities, Jewish Free Loan societies, and Jewish Family Service agencies. When that is not possible, one must donate something if one can and, in any case, one must at least treat such people kindly (*BT* Bava Batra 9b, *MT* Hilkhot Mat' not Aniyyim 10:5). When possible, one should try to give gifts that cannot be abused or misused. Certificates for food from supermarkets or restaurants, for example, are better gifts than money.

In the end, then, even though the vast majority of one's charitable giving should be to social service, religious, and educational institutions, Jewish law requires us to respond to a beggar's immediate needs. In that situation, even though Jewish law would prioritize giving to Jews over non-Jews, it does not seem practical or kind to attempt to discover if a beggar is Jewish. Furthermore, one should try to ensure that the gift will be used for food or clothing rather than alcohol or drugs.

### *Gifts to the Community*

As Rabbi Jacob Neusner points out in his *Tz'dakah: Can Jewish Philanthropy Buy Jewish Survival?* (1982, reprint, New York: URJ Press, 1997, pp. 32 and 67ff.), in our own day, the shared work of collecting and distributing charity is a significant mechanism through which individual Jews become a Jewish community. Many of the details described in the traditional laws for collection and distribution, though, are out of place in the modern world. Designating two people to collect funds and three people to decide how to distribute them, as Jewish law does (*BT* Bava Batra 8b, *MT* Hilkhot Mat' not Aniyyim 9:5), seems blatantly autocratic to us; even thirty is too small a number for the boards of directors of many of our larger charitable organizations, to say nothing of governmental agencies. And delivery of the aid is much more effi-

ciently and honorably done through the mail or through direct deposits in bank accounts rather than by delegations traveling door-to-door.

If paying taxes fulfills some part of our obligation to provide education, social services, and general culture for the poor, then we have a concomitant religious duty (as well as a civic one) to get involved in government so as to be in a position to ensure that the funds are equitably, honestly, and wisely apportioned. Jews *qua* Jews certainly do not have the right to determine government policy; but we do possess not only the right, but also both a Jewish and a civic duty, to get involved in the discussion of public policy on these issues, and in such discussions we may and should bring to the table our specifically Jewish perceptions and values. (For more on this, see my *To Do the Right and the Good*, ch. 4.)

The Jewish tradition cannot be interpreted to require any particular ideological or political stance in responding to the problem of poverty. Nevertheless, some guidelines clearly emerge from Jewish concepts and law. Specifically, in light of the notion that God's image is embedded in each of us, preserving the dignity and economic viability of all concerned must remain a paramount concern when determining the recipients of aid, the methods of collection and distribution, the programs of prevention, and all other related factors in this area.

Because the best type of aid by far is to prevent poverty in the first place, the clear mandate of the Jewish tradition for both teenagers and adults is to support governmental and private programs of education in general and job training in particular (*BT* Bava Batra 8b; see also Maimonides' comments at *MT* Hilkhot Mat' not Aniyyim 9:5). Tutoring programs to help teenagers finish high school and sex education programs to help them avoid pregnancy are critical to enable young people to become self-sustaining adults. This priority supports the Jewish parental responsibility—and, by extension, the community's duty—to teach children a form of gainful employment (*BT* Kidushin 29a), and it accords well with Maimonides' hierarchy of charitable obligations.

For those who permanently or temporarily cannot work, immediate sustenance should be available with few, if any, questions asked. Jewish programs like Mazon and Sova do this now on an ongoing basis. The late Mickey Weiss, a Los Angeles produce distributor, began what became a nationwide effort to get produce distributors to donate their leftover fruits and vegetables each day to local soup kitchens, and some restaurants and caterers donate their leftover food to them as well. In addition, synagogues and Jewish Family Service agencies collect money for the needy before Passover in *ma'ot bitum*



campaigns and/or on Purim as part of the *mitzvah* of *matanot la-eyyonim*, the giving of gifts to the poor that is traditionally one of the components of Purim celebration (Esther 9:22). In the end, Jewish law holds us responsible for ensuring that our combined private and governmental efforts supply food for the hungry, just as Jewish soup kitchens of yore did.

In addition to food, Jewish law requires us to provide clothing and shelter to the destitute. Therefore, housing must be provided to the homeless, preferably on an ongoing basis, but at least on nights with cold or inclement weather. If poor people have housing of their own, they should be permitted to retain it even while getting public assistance. Long before modern bankruptcy law protected one's home and one's means of earning a living, Jewish law stipulated that qualifying for welfare programs should not require that poor people lose their homes or sell their tools for employment (MT Matt'not Aniyyim 9:14), for the ultimate goal is to help people become self-sufficient.

Collectors and distributors of charity funds have a responsibility to act honestly, discreetly, and wisely in their sacred tasks. This includes striking a delicate balance between assuring that those who ask for aid are truly in need, while simultaneously preserving their privacy and honor as much as possible.

For their part, the poor also have duties. These include the obligation to manage responsibly whatever resources they do have, and, if at all possible, to seek training and employment that will extricate them from poverty (MT Matt'not Aniyyim 10:18). Those who cannot work or find employment must try to contribute to the community in some other way. Communal officials have the right and duty to ensure that people receiving aid are living up to these responsibilities, but they must do so tactfully and respectfully.

### *Charitable Gifts to Foundations and Institutions*

In recent years, some of the wealthiest Jews have chosen to establish their own eleemosynary foundations rather than contribute to existing charity funds. They do this to better control how their money will be used and, at least in some cases, to guarantee some name recognition for their gifts. Although classical Jewish sources speak most often of communal agencies collecting and distributing funds, historically there have always been wealthy individuals like the Rothschild family that distributed funds on their own. One can hardly gainsay the good that these foundations do, and donors certainly have the right to contribute to the causes of their choice. However, wealthy people, like people of lesser means, have the duty to contribute to

communal charity funds as well. That is part of the thick sense of community within Judaism that insists that we work together in meeting communal needs. Private giving on one's own terms and in one's own name must come after fulfilling one's obligations to the community's organizations and funds.

### *When a Service Is Offered*

May a charitable institution that offers services give preferential treatment to donors and volunteers? For example, the Ramah camps almost always have a long waiting list. May children or grandchildren of their major donors and of the members of their lay committees jump to the head of the line?

In a legal setting, the Torah establishes crystal-clear guidelines. "You shall not be partial in judgment. Hear out low and high alike. Fear no one, for judgment is God's alone" (Deuteronomy 1:17; see also Exodus 23:2, 6). "You shall not render an unfair decision. Do not favor the poor or show deference to the rich; judge your kinsman fairly" (Leviticus 19:15). "When a stranger resides with you in your land, you shall not wrong him. The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the land of Egypt: I, the Eternal, am your God" (Leviticus 19:33-34).

The rabbis of the Mishnah and Talmud added many more procedural rules to ensure impartial treatment of all who come before the court. For example, one litigant may not be required to stand while the other is permitted to sit (BT Sh'vu-ot 30a); both parties to the case must wear clothing of similar quality (BT Sh'vu-ot 31a); judges must understand the languages spoken by all the people appearing before them (BT M'naḥot 65a); and witnesses may not be related to each other or to the litigants (M Sanhedrin 3:1 and 4). Through rules such as these the Torah and the rabbis of classical antiquity made procedural justice a reality. If these rules are applied directly to our case, they would clearly require that no special privileges apply to our donors or to volunteers.

But are rules devised to ensure fairness in court reasonably applied to nonprofit organizations? In some ways, they are. Like courts, those making decisions on behalf of nonprofit institutions must be concerned with questions of fairness, for that moral (and quintessentially Jewish) duty applies to all people and all groups in every setting. Moreover, nonprofit organizations are well warned to "hear out high and low alike," for otherwise they stand in danger of failing to serve some of the very people they were created to aid.

In other ways, though, nonprofit organizations differ from courts. First, while courts are established and funded by communities, nonprofit institutions

depend for their very existence on the voluntary service and donations of people who believe in their cause. The nonprofit setting therefore invariably involves a level of passionate commitment that ideally never exists in court, where judges are supposed to be neutral to all parties. Furthermore, the basic nature of justice requires that judges not have any financial relationship with anyone involved in the trials over which they preside. Nonprofit institutions, on the other hand, are almost always run by paid employees whose salaries are funded by gifts they themselves must solicit from donors committed to the cause—in some cases, because they themselves or members of their family benefit from the service the institution provides. (For instance, in the example given above, the decision about which children will come to camp rests with a camp director whose salary is paid by an organization that depends on donations, some of which come from the parents or grandparents of the children involved.) As a result, the level of dispassionate fairness expected of judges in court can rarely, if ever, be achieved in running nonprofit organizations.

In fact, one could reasonably argue that nonprofit agencies should not treat everyone alike. The money and effort that some people contribute to their favorite cause, after all, do create a kind of debt of gratitude, and there is nothing inherently ignoble about acknowledging and responding to the reality of that debt. Indeed, when someone has been donating to an institution or working for it on a volunteer basis for a long time and only then needs a special favor, there does seem to be a debt of gratitude that the institution bears toward that person. The extent of that debt and what the institution should be prepared to do in response will appropriately vary with the nature of the request, the size of the donated money or service, and the length of time over which the relationship has developed. But Jewish sources do recognize such debts of gratitude: one is supposed to recognize favors not only in words, but also in deeds. This is clearly true with regard to God, as the Mishnah at *M. B'rakhot* 9:5 says that “a person must thank God for the bad as well as the good. . . . One must be thankful without measure for whatever God measures out to you.” Similarly, one needs to show gratitude to human beings who have helped us. (Volunteer work and donations that are undertaken in the first place for the sake of garnering special treatment, however, undermine the very character of charitable work or philanthropy. As a result, it would be morally less worthy—and possibly even wrong—for someone to donate money to an institution for the sole sake of getting special treatment. That is the kind of situation educational institutions sometimes encounter, when rich donors suggest that they will finance the school's new building but only on condition that their own children are admitted. Many nonprofit institutions are not able to resist such financial pressure, but surely everyone

involved understands that such gifts, although a definite contribution to the institution, are not morally pure.)

Along these lines, Rabbi Joseph ibn Migash (1077–1141, writing in his responsa no. 202, ed. Warsaw, 1870, p. 31a) discusses the talmudic saying, “Into the well from which you have once drunk water, do not throw clods of earth” (found at *BT Bava Kamma* 92b). If, says ibn Migash, this applies to inanimate things, how much the more so should one show gratitude to human beings! (For a fuller discussion of the rabbinic concept of appropriate gratitude, see Louis Jacobs, *Theology in the Responsa* [1975; reprint, Oxford and Portland, OR: Littman Library of Jewish Civilization, 2005], p. 41.)

Moreover, as we have seen, Jewish law, as well as general morality, recognizes that duties flow out of relationships. Hence my obligations to my family are greater than my duties to my community, and those, in turn, are greater than my obligations to other human beings. Through donating money and/or time, a person becomes part of an institution's extended family. Viewed this way, special treatment for such people would be justified as part of the general sense that one's obligations to one's own relatives exceed one's obligations toward others.

To avoid even the taint of unfairness, however, nonprofit organizations would be well advised to establish official policies defining these forms of special treatment and who is eligible for them. In doing so, institutions are free to decide for themselves how long a relationship with a donor must go on, and to what extent, before that donor acquires any special claim on the services of the institution. Some organizations have already done this. For example, the Los Angeles Jewish Home, which has a long waiting list of individuals hoping to be admitted, has created a specific policy to govern such matters, thus guaranteeing that everyone can know the rules of the admissions procedure. This does entail the danger that people will give to the institution in order to get the special favors later on, thus sullying at least somewhat the purity of their gifts. The longer the relationship with the institution goes on, however, the less that will be a problem.

### *The Morals of Fundraising*

In raising funds, many moral issues may arise. Three of the most common problems are gambling for charity, the collection of unpaid pledges, and donations of ill-gotten gain.

May bingo and more serious forms of gambling be used to raise funds for synagogues and other Jewish institutions? The United Synagogue of Conservative Judaism has prohibited this for years, based on the sense that gambling, by its very nature, is morally problematic. Because everyone who par-

tipitates knows perfectly well that not everyone will win, but still, somehow, personally expects to be the winner, one could argue that whoever does win is effectively stealing from all the rest. Moreover, for some, gambling becomes an addiction, sometimes to the point of making such people unable to earn a living or keep enough to sustain themselves and their family. The Mishnah and Talmud already recognize these dangers (*M Sanhedrin* 3:3; cf. *BT Sanhedrin* 24b–25b). Thus Jewish fundraising activities should not “put a stumbling block before the blind” (*Leviticus* 19:14) by using casino nights and other gambling opportunities to raise funds. On the other hand, one might argue that as long as the money involved is not substantial, such evenings are effectively social evenings that also garner some money for the synagogue, and so some synagogues have allowed bingo nights, stipulating that the amounts of money involved are small. The question of synagogue-sponsored gambling is discussed elsewhere in this volume by Rabbi Craig Scheff in his chapter on the *halakhah* of synagogue life.

What should a Jewish institution do with donors who repeatedly make pledges and then fail to make good on them? When this happens once, every effort should be made to ensure that the donor did not pledge under one set of economic circumstances and then find him or herself with vastly less money than anticipated. In such a situation, the institution should discreetly and reasonably work out an arrangement with the individual involved. (Sometimes, it will even be appropriate for an institution to forgive a pledge entirely.) When an individual fails again and again to make good on his or her pledges, however, institutions guided by halakhic principles should refuse to accept any further pledges from that person. Needless to say, honors awarded to donors in that setting should not be extended to individuals who merely pledge, but do not actually pay.

Finally, nonprofit organizations occasionally accept donations from people who, as it later turns out, obtained their assets illegally. What should happen to the money donated or facilities endowed? How should the donors be treated within the community? These are hard issues, dealt with in my rabbinic ruling for the CJLS, “Donations of Ill-Gotten Gain,” which is now available on the website of the Rabbinical Assembly.



Although much regarding the economic and social realities in which Jews have found themselves has changed over the centuries, the perceptions and values of Judaism’s traditional sources still have much to say to us in in-

forming our own understanding of poverty and our approach to respond to it. Judaism’s keen sense of communal responsibility requires us to go beyond thinking only about ourselves and our families to care for the entire community and, indeed, for other human communities as well. In doing so, Judaism counters a selfish, individualistic strain in Enlightenment thought and thus contributes immensely to making us moral and worthy of existing in an ongoing covenantal relationship with other Jews, with other human beings, and with God. ❧

