

*Toward a Renewed
Ethic of Jewish
Philanthropy*

Toward a Renewed Ethic of Jewish Philanthropy

EDITED BY
Yossi Prager

Robert S. Hirt, Series Editor

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Series Editor's Preface

Especially in a time of economic stress, the sage Hillel's maxim, "If I am not for myself, who will be for me, and if for myself, what am I, and if not now, when?" aptly frames our challenge for establishing priorities for Jewish philanthropy. The focus in our society on personal achievement, rather than on responsibility for the community as a whole, is evident in young people's career choices and in the decline of interest in supporting organized, institutional Jewish life.

This is no less true in the realm of religious life, when personal growth commands greater attention than concern for the welfare and holiness of communal life. Seeking spirituality is essentially a private matter; pursuing holiness (*Kedusha*) is an aspiration achieved in a communal setting. As an example, the recitation of *Kaddish*, an act of holiness (a *davar shebkedusha*), can only take place in the presence of a minyan—a quorum of ten—symbolically representative of the Jewish people (*Knesset Yisrael*) as a whole. While individual growth and supporting one's own ideological group are praiseworthy, concern

for the communal welfare is a paramount Jewish value for advancing our people's mission in the world.

This volume, the nineteenth in the Orthodox Forum Series, capably edited by Yossi Prager, Executive Director of The AVI CHAI Foundation in North America, invites us to rethink the way we go about allocating our philanthropic resources. Will we choose to lend support only to those entities that benefit Orthodox Jews and strengthen Orthodox Judaism? If so, what would Hillel say about sectarianism within the Jewish People? Proverbs 3:17 reminds us: "The Torah's ways are pleasant, and all its pathways promote peace." If the thrust of Orthodox Jewish philanthropy is primarily inner-directed, will respect for our Torah way of life be enhanced or diminished in the broader community? The sensitive philanthropist, regardless of his or her own personal or ideological commitments, will feel the pain and the need not only of other Jews, but of fellow human beings—all created in the image of God. The implication of this vision should guide the way we educate in our schools, synagogues, and institutions.

It is our hope that the thought-provoking articles in this volume, authored by scholars in diverse disciplines, drawing upon both classical Jewish and contemporary sources, will provide the reader with new insights to inform the philanthropic choices we make individually and as a community.

Robert S. Hirt
October 2009

Editor's Introduction

Yossi Prager

The Orthodox Forum conference that generated the articles in this book took place in March 2008, just a few months before the onset of the Great Recession, America's worst economic crisis since the Great Depression of the 1930s. The recession has constricted philanthropy and challenged non-profits mightily. It has also created or exacerbated a range of social service needs among Jews and non-Jews. Jewish non-profits suffered an additional blow, as many Jewish philanthropists and a select group of Jewish charities had invested funds with Bernard Madoff, whose perfidy will live in infamy.

In Herbert Hoover's Inaugural Address, on March 4, 1929, he declared, "I have no fears for the future of the country. . . . In no nation are the fruits of accomplishment more secure." The tone of some of the articles in this book may in retrospect seem as misplaced as Hoover's words. Few predicted the extent of the economic downturn or its impact on Jewish philanthropy. However, in rereading the articles, I believe that their central arguments and sources remain as relevant as they were during the days the papers were discussed in 2008.

The essential premise of this book is that recent decades have brought about social and economic changes within the Jewish

community generally, and Orthodoxy in particular, that generate a need to revisit issues relating to Jewish charity and philanthropy. These changes include dramatically increased wealth and a higher standard of living, as compared to earlier generations; a correlative increase in living expenses, which has put great pressure on middle-income families as well as Jewish non-profits such as day schools; and globalization, which has expanded social circles and publicized philanthropic needs around the globe more than ever before.

These changes must be seen in light of the biggest change in communal life, which, while less recent, continues to generate dissonance between modern life and our traditional sources: the end of autonomous Jewish communities that levied taxes to fund various communal and philanthropic needs. As a result, charitable decision-making is today a private rather than a public or communal responsibility.

These economic and social changes give rise to a series of questions:

1. What do we know about Orthodox philanthropy today, against the backdrop of Jewish philanthropy generally?
2. What can history teach us about how the community funded its institutions and needy individuals that might be a model for our own thinking?
3. To what extent is the Orthodox community involved in broader Jewish communal philanthropy? How has the relationship between the Orthodox community and Federations changed, and is the change for better or worse?
4. Should the Jewish, and particularly the Orthodox, community be inward-looking, focused on self-preservation, or outward looking, seeking to influence the broader world through philanthropy?
5. How does halacha take into account the changed circumstances, including the realities that (1) the *Shulchan Aruch* was framed on the assumption that Jewish communal institutions would be funded through communal taxes rather than charity (see Choshen Mishpat, *hilchot shutfut*) and (2) American Jews pay taxes to the general government that cover social services to a degree and religious institutions not at all?

6. What are the implications, advantages, and disadvantages of the dominant trend toward direct philanthropy and philanthropic innovation, rather than giving to existing or communal institutions? Do key funders play too large a role in setting the priorities of communal institutions?
7. What is the role of rabbis, educators, and Jewish communal professionals in the fiscal health of their institutions, including fundraising?

Each of the fifteen papers in this book addresses one or more of these questions.

Sociology and History

Dr. Jacob B. Ukeles, Ms. Margy-Ruth Davis, and Dr. Perry Davis examine Orthodox philanthropy today. Culling data from the 2001 New York population study, Dr. Ukeles reports that Orthodox Jews give primarily to Jewish causes but also give to nonsectarian causes and New York Federation, more so than is perhaps commonly assumed. The Davises, relying on existing research and their decades of fundraising consulting in the Orthodox as well as broader Jewish community, discuss the patterns, motivations, successes, and shortcomings of charitable giving and volunteering in the Orthodox community. The Davises note the ways in which Orthodox giving parallels and departs from giving by other Americans. Both papers recognize the paucity of data on Orthodox giving. I hope that one outcome of this Orthodox Forum will be additional research in this area.

Dr. Chaim Waxman traces the history of organized Jewish philanthropy in America, tracking especially the rise and subsequent decline of giving to Israel and the cultural shift from giving through centralized institutions to direct giving, especially by the largest donors. The atomization of Jewish philanthropy, Dr. Waxman argues, threatens the communal cohesion and identity of the Jewish community.

Dr. Judah Galinsky and Dr. Jay Berkovitz provide the necessary historical perspective. Dr. Galinsky examines the history of “public charity”—collective giving as well as communal allocations—in Germany in the twelfth and thirteenth centuries. Drawing on halachic

writings, Dr. Galinsky concludes that while we have not found evidence for the kind of public charity referred to in the Talmud as *kuppa*, it appears that most established communities engaged communal administrators responsible for coordinating the charitable efforts of the community. However, the evidence suggests that these public charity funds were generally the result of voluntary donations rather than mandatory assessments. The voluntary nature of the giving suggests parallels to our own times.

Dr. Jay Berkovitz surveys Jewish poor relief from the late medieval period through the nineteenth century. His article shows the rich texture of a diverse philanthropic system until the era of Emancipation, composed of funds levied by mandatory assessments as well as private donations and also private philanthropic foundation. (Private philanthropic funds in general date to even earlier periods, as is evidenced from responsa of the Rashba.) Jewish communities in this period dealt with mass migrations of Jews, which brought new challenges to the scarce resources of the receiving communities and new charitable policies. Post-emancipation, Dr. Berkovitz focuses on the evolution of the private and non-governmental communal philanthropic sectors in France, and in particular on the use of charity to promote public policy goals.

Orthodoxy and Federations

Turning to Orthodox support for, and interaction with, Federations, three articles lay out different perspectives. Barry Shrage, who heads the Combined Jewish Philanthropies (the Boston Federation), argues for greater Orthodox involvement in Federations and other charities, Jewish and non-Jewish, because our religious values call for Jews to care about the larger Jewish community and all of humanity. Shrage makes the further point that just as the Jews are a diverse bunch, which creates the possibility of thinking about “us” and “them,” so too are the Orthodox ideologically diverse. Shrage, as a person rather than a Federation executive, accepts the need to prioritize the institutions that are necessary for the continuity of the Orthodox community but urges that Modern Orthodox Jews support only Orthodox causes whose values align with their view of God’s values and wishes.

Dr. Marvin Schick takes a diametrically opposing view. Focusing on *tzedaka* as alleviating the needs of the poor and weak, Dr. Schick argues that the Orthodox community, much more than Federation, has developed efficient delivery mechanisms for *chesed*. Their effectiveness gives these delivery systems the greater claim, he argues, on our philanthropic resources. Dr. Schick further sees the Federations as hostile to Orthodox religious sensibilities (for example, regarding intermarriage and gay issues) and insufficiently sensitive to primary Orthodox charitable needs, such as day school education. Dr. Schick also suggests that the Orthodox community has room for improvement: it needs to increase its charitable giving and volunteerism, and expand *kiruv* activities—by including more children from less observant homes in day schools and by engaging more non-Orthodox Jews in the delivery of its *chesed* activities.

Rabbi Dr. Michael Berger departs from the ideological focus of the first two papers and bases his sociological analysis on interviews and data from specific Federated communities outside the largest Jewish population centers. Dr. Berger deftly sketches the evolution of both Federations and American Orthodoxy (within Orthodoxy distinguishing integrationists from separatists) and then turns to the interrelationships between the two. Noting that much is dependent on local factors, such as geographic proximity of the Jewish denominations within a city, the nature of the local leadership, the extent of philanthropic resources, and the presence of flashpoint issues, Dr. Berger reports variations in Orthodox involvement in Federations across communities. Nonetheless, he argues that even separatist Orthodox Jews and leaders in smaller Jewish communities are more likely to be involved in Federation than are their integrationist counterparts in larger communities. Given the shrinking number of affiliated non-Orthodox Jews, Dr. Berger expects the Federations in the smaller communities and the Orthodox to become even more interdependent. This can be seen not only as a practical benefit for Orthodox institutions but also as an opportunity for the Orthodox to contribute to the Jewish identities of their coreligionists.

Halachic Perspectives

The next set of articles turn to halachic and moral perspectives. Rabbi Aharon Lichtenstein first proves our obligations to feel compassion and do chesed for all people, Jewish and non-Jewish. Commanded in the Torah, this is also the example we see in the Ribbono shel Olam as well as our *avot*. However, at the level of implementation, Rabbi Lichtenstein recognizes that limited resources force difficult choices. Within its parameters, halacha recognizes the primacy of personal interest and national interest, particularly since universal charitable causes can draw from the large pool of non-Jews, while Jewish causes appeal only to Jews. However, giving priority to Jewish causes does not relieve us of responsibility for including universal causes in our philanthropic strategy. Rabbi Lichtenstein reminds us that there are few fixed rules. The application of halachic guidelines must be “sensitive and contextual, with an eye to a constellation of relevant factors . . . spiritual and material, personal and communal.”

Dr. Baruch Brody uses a framework he has developed for moral decision-making, rather than traditional Jewish sources, to analyze the question of Jewish responsibility for supporting non-Jews, which he frames more broadly as an “us-them” distinction. After laying out six types of moral considerations, or “appeals,” Dr. Brody discusses which of them permit us-them distinctions. Dr. Brody suggests that his approach could also inform a halachic analysis of hard cases in this area.

Rabbi Michael Broyde outlines the halachot of tzedaka, focusing at the end of his article on the specific questions raised for this Orthodox Forum. Rabbi Broyde describes a dispute among the Rishonim as to whether tzedaka is limited to support for the needy or extends to support for communal institutions and Torah study. The consensus view is that supporting communal institutions and Torah study counts as tzedaka. Rabbi Broyde also notes that few of us reach the ideal charitable giving level mandated by the *Shulchan Aruch*, which is 20 percent. Turning to the modern world, Rabbi Broyde then points out a significant factor in modern life that changes the traditional calculus: American citizens pay taxes that cover a government safety net for the needy. Thus, according to Rabbi Broyde—in a statement challenged during the Orthodox Forum discussion:

Our national and state governments have relieved the Jewish community of the basic burden of caring for the ill and the desperately poor, and have made the redemption of captives a rarity in America. This has allowed for a blossoming of giving to various communal needs designed to further the Jewish community by building social, religious, and Torah institutions that serve our community.

Given the lesser need in America to support the poor, Rabbi Broyde argues, the concentric circles of priority listed in the *Shulchan Aruch* (relatives, neighbors, Israelis, and then all other Jews), which apply only to giving to the poor, have far less relevance. The result is that there are no firm guidelines and much personal discretion in our giving decisions once the needs of the profoundly hungry are met.

Rabbi Ozer Glickman tackles the question of whether globalization in the modern world affects the traditional proximity-based tzedaka priorities outlined in the *Shulchan Aruch*. Rabbi Glickman first analyzes the nature of the halachic priority system based on the writings of Rambam. The critical point is that the tzedaka obligation is determined and defined by the relationship between the donor and the beneficiary. In this sense, order of preference is not a concession to the human spirit but a concretization of the moral principle that underlies the mitzvah itself. Furthermore, the obligation is defined by the characteristics of each party to the relationship. The beneficiary is entitled to tzedaka according to his or her needs; the donor is only obligated to give what he or she can afford.

Having defined the legal nature of the halachic order of priorities, Glickman argues that we must use principles of law (what he terms “immanent moral rationality”), rather than moral aspirations, to define the parameters of the law. Against this standard, Glickman argues that (1) giving to communal institutions, rather than the poor, should not be treated as fulfilling the obligation of tzedaka; and (2) given that human relationships continue to be built around family and community, there is no reason to suspend the order of priorities that is built on these relationships.

Taken together, Rabbis Lichtenstein, Broyde, and Glickman cover overlapping territories, with somewhat different emphases. For Rabbi

Glickman, answers to questions about tzedaka must be answered by reference to halacha, as *poskim* can best reveal it through their analysis. Rabbi Lichtenstein describes a decision-making process that sees no divide between halachic and moral/spiritual considerations, still subject to traditional halachic decision-making. Rabbi Broyde takes the extreme view that in the modern social welfare society, halacha mandates the level of giving but has little to say about prioritizing and choosing the recipients of tzedaka dollars. Rabbi Glickman stands alone in his view that only contributions to poor individuals, rather than communal institutions, satisfy our tzedaka obligations.

Rabbi Kenneth Brander's contribution to this volume adds an additional halachic consideration of considerable relevance: whether and when the community or a charity can accept tainted money, that is, money gained through illegal actions (e.g., tax fraud) or unethical practices (e.g., family contributions without the express approval of the donor). Rabbi Brander offers a number of halachic grounds for refusing an object whose origin is tainted, while greater flexibility is available for objects purchased with tainted money. This is especially so if the donor is seeking to repent for prior wrongdoing (e.g., contributing money he stole that can no longer be returned to the original owner). However, on both halachic and educational grounds, Rabbi Brander urges against any public recognition for donors contributing money gained in questionable ways.

Contemporary Philanthropy

In our contribution to this volume, Mark Charendoff and I sketched recent changes in the philanthropic climate that preceded the current economic crisis and are almost certain to survive it. The changes include increased wealth, the concentration of massive resources and therefore huge philanthropy in the hands of relatively few, the shift to "venture philanthropy," an increase in charity to universal causes, and a far more individualistic philanthropic culture. All of this has shifted power from community organizations, rabbis, and elected or appointed leaders to wealthy individuals. After noting the advantages and risks of this change, Charendoff and I suggest practices and public

policy options that can help the community to reap the great potential embedded in this new philanthropic era and suffer less from its evident pitfalls.

The Role of Rabbi As Fundraiser

In an inspiring and informative article, Rabbi Haskel Lookstein draws on his decades of experience and lessons from his father to show how personal rabbinic example can inspire others to great acts of *chesed* and *tzedaka*. Addressing the role of the rabbi in raising funds for his shul, Rabbi Lookstein suggests that a rabbi should see himself as the head of the congregation—the CEO and, in a way, the CFO. However, unlike the corporate CEO, the rabbi can succeed only if he is completely devoted to service of the congregation and its members—CEO as *eved* rather than master, inextricably bound to congregants. Once he views himself in this way, the rabbi naturally becomes a fundraiser. He is motivated to meet the needs of the congregants, and the congregants respond because they recognize his devotion to them. Rabbi Lookstein closes with the practical/logistical process for his annual campaign, but the larger lesson is that success turns on the self-perception of the rabbi and his devotion to his congregation.

Concluding Thoughts

Taken together, the papers in this volume both affirm and detail the cultural and economic changes that underlie the session. They also suggest the need for additional research on Orthodox giving, deeper analysis of how historical precedents might enlighten current decision-making, and continued halachic clarification of the application of sacred precedents to our contemporary situation.

One tension weaved through the always robust and enriching discussion at the Forum: *tzedaka* as a means of spiritual growth and religious expression versus *tzedaka* as the most effective instrument for achieving charitable, educational, and social policy goals. Rambam, in a source not otherwise quoted in this volume, best represents the first view. In his *perush* to the mishna in Avot 3:18 (Kapach edition), Rambam suggests that a person with the opportunity to give 1,000

dinars give one dinar to each of 1,000 poor people rather than make one grand gift. Rambam's reasoning is that the grand gift may be effective in alleviating one person's need in a significant way but will not inculcate within the giver the trait of generosity. However, the habit of 1,000 small, repeated gifts transforms the donor into a generous person, which Rambam implicitly sees as a goal of *mitzvat tzedaka*. Thinking of tzedaka as a spiritual expression affects many of the issues raised in this volume, from modern philanthropy to accepting tainted money. During the Orthodox Forum, Rabbi Lichtenstein often returned to this theme.

To me, it is self-evident that Jews today must achieve both goals through tzedaka—personal spiritual development of the donor and effective philanthropy toward the achievement of concrete goals. This is even more necessary now that the Jewish community depends on voluntary contributions rather than communal taxes to meet the needs of both individuals and communal institutions. The need for resources is too great for us to sacrifice effectiveness to gain spiritual growth, while our responsibilities as *avdei Hashem* (servants of God) cannot permit our tzedaka to take on the character of just another business we are in. This volume opens, rather than closes, the discussion.

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I also want to thank my Fellow Orthodox Forum committee members, Rabbis Mark Gottlieb, Adam Mintz, and Jeremy Weider, and the full Orthodox Forum Steering Committee. Yeshiva University has been my spiritual home for three decades, and I am proud and grateful to have been included in this work.

October 2009

Part 1

Sociology and History

1

Philanthropic Behavior of Orthodox Households

Jacob B. Ukeles

EXECUTIVE SUMMARY

The focus of this conference is on the ethics of Orthodox philanthropy, and this paper focuses on the philanthropic behavior of Orthodox Jews, using the best available data. Unfortunately the data to probe deeply into the behavior of Orthodox Jews simply do not exist. For example, there is no information that breaks down Orthodox giving into giving to Orthodox and to non-Orthodox causes. But even the less detailed data that are the basis of this paper suggest that Orthodox Jews act ethically in their tzedakah. They respond to a vision of shared humanity, the vision of Tzelem Elokim, by giving tzedakah to non-Jewish causes. They respond to the ideal of Klal Yisrael even in a highly imperfect form by giving to UJA-Federation, and they respond to specific needs that are meaningful to them, reserving their greatest tzedakah for specific Jewish causes, including, but not limited to,

Orthodox ones. Younger Orthodox Jews are somewhat less likely to give to nonsectarian causes, more likely to give to Jewish causes, and dramatically less likely to give to UJA-Federation. It is not clear whether this pattern is a harbinger of the future or whether the behavior of these younger people will change as they age.

It is clear from these data that those who believe that Orthodox Jews do not contribute to the broader society or to the umbrella campaign of the Jewish community (UJA-Federation) are simply mistaken. American Jewish leaders who have made this argument would be better served by focusing their attention on nondenominational and secular Jews who used to give to Jewish causes, including UJA-Federation, and today are much less likely to do so. UJA-Federation leaders specifically need to be concerned about the sharply diminished giving of all younger Jews. To those inside the Orthodox community who are urging Orthodox Jews to turn inward in their philanthropy, the data suggest that the rank-and-file knows better.

At the same time, the data are clear that the Orthodox give more to specific Jewish causes than to the Jewish umbrella (UJA-Federation) or non-Jewish causes. While this higher level of giving includes causes specific to the Orthodox community as well as causes of broader Jewish interest (e.g., direct support for Israel), anecdotal evidence suggests that much of the giving to Jewish causes is directed at Orthodox causes. And finally, it appears that the majority of Jewish households miss an opportunity to contribute to Jewish charity via deferred giving, and this includes Orthodox households. This is a subject that should receive the attention of those who raise funds for Orthodox causes.

Hopefully these data, and even more useful data that should be collected and analyzed in the future, will help us to know ourselves in greater depth and with greater clarity—which is a prerequisite for building a better, more caring, and more engaged community.

INTRODUCTION

The purpose of this paper is to begin the process of creating a profile of the philanthropic behavior of Orthodox Jews today—disentangling fact from anecdote, reality from fiction. The focus of this paper is on Orthodox Jews in the New York area. This choice of focus does not reflect a New York–centric view of the United States. Rather, it is because the 2002 comprehensive survey of New York’s Jewish population includes by far the largest statistically valid sample of Orthodox Jews of any community in the United States.¹ The Orthodox community in the New York area includes more than half of the Orthodox Jews in the United States.² This paper begins the exploration of two questions:

1. How does the philanthropic behavior of Orthodox Jews differ from the philanthropic behavior of non-Orthodox Jews? And especially, do Orthodox Jews give to non-Jewish causes and to a Jewish community-wide umbrella organization (i.e., UJA-Federation)?
2. Within the Orthodox community, what characteristics are associated with Orthodox philanthropy to Jewish causes, and to UJA-Federation in particular?

In every sense, this paper is only a beginning. For example, the New York data set differentiates giving to non-Jewish causes, UJA-Federation, and “other Jewish” causes. It does not differentiate giving to Orthodox and non-Orthodox Jewish causes. A great deal more data collection and research remains to be done.

CONCEPTUAL FRAMEWORK

Social and religious identity categories of people are, by definition, artificial constructs. “Jewish” and “Orthodox” are subject to multiple definitions and interpretations. To the extent possible, Jewish population survey research relies on self-definition, which does remove a certain amount of arbitrariness, but is no guarantee of clarity or certainty. Increasingly, identity is fluid and dynamic. In response to the question “Do you consider yourself Jewish?” simple answers like

yes and no are today accompanied by statements such as “I was born Jewish, but no longer consider myself Jewish,” “I am partially Jewish,” or “I am both Jewish and [Buddhist, Catholic, etc.],” and even “I am not sure.” Similarly, the term “Orthodox” to some people may mean a set of beliefs, to others a set of practices, to others a description of how they were raised, and to others, it is the synagogue they don’t go to. The Jewish Community Study of New York, 2002, like virtually all of the Jewish community population studies in the United States, relies on self-definition for defining identity.

The Jewish Community Study of New York, 2002

The Study, sponsored by UJA-Federation of New York, was conducted in an eight-county area representing the eight-county service area of New York UJA-Federation. Other parts of the New York area, such as Rockland County or Bergen County, were not included.

- New York City: the Bronx, Brooklyn, Manhattan, Queens, and Staten Island
- Nassau, Suffolk, and Westchester counties
- The estimates in this presentation are projections based on the results of 4,533 Jewish household telephone interviews of which 894 were with Orthodox respondents.
- The survey was a single-stage, stratified random sample.
- Potential sampling error for 894 Orthodox respondents is from a minimum of $\pm 1\%$ to a maximum of $\pm 4\%$ depending on the specific question analyzed.

Definitions

Jewish persons are either adults (age 18+) who consider themselves Jewish or children being raised as Jews.

Jewish households are households that include one or more Jewish adults at least 18 years old. These households may also include non-Jewish adults and/or children who are not being raised as Jews.

Orthodox households are households with a respondent who self-identifies as “Orthodox.” These households are among the ones that have previously indicated that their religion is Judaism.

THE JEWISH POPULATION OF THE NEW YORK AREA

The New York area Jewish community is, by far, the largest in the United States. The next largest Jewish community in the United States is Los Angeles, with 247,700 Jewish households (1997 Study).

Exhibit 1. Jewish Households, Jewish Persons, and People Living in Jewish Households in the Eight-County New York Area, 2002

Jewish Households	643,000
Jewish Persons	1,412,000
People Living in Jewish Households (Including Non-Jews)	1,667,000

Orthodox Jews in the New York Area

The New York area Orthodox community is, by far, the largest Orthodox community in the United States with over 100,000 Orthodox households and nearly 380,000 Jewish persons.³ The Los Angeles Orthodox community is tiny, by comparison, with about 10,000 households. So New York is *sui generis* in size as an Orthodox community.

Exhibit 2. Orthodox Jewish Households, Jewish Persons, and People Living in Orthodox Jewish Households in the Eight-County New York Area, 2002

Orthodox Households	110,100
Jewish Persons in Orthodox Households	378,200
People Living in Orthodox Households (Including Non-Jews)	408,600

Orthodox Judaism is the largest Jewish denomination in the New York area as measured by number of persons. Reform is the next-largest denomination. Because Orthodox households are, on average, larger than other Jewish households, there are fewer Orthodox households than Conservative or Reform households or than households with no religion or no denomination.

Exhibit 3. Number of Households and Number of Jewish Persons, by Denomination, New York Area, 2002

	Households	Jewish Persons
Orthodox	110,100	378,200
Reform	168,400	345,400
Conservative	149,900	317,900
No religion/No denomination	146,300	262,200
Reconstructionist	8,200	18,800
Total*	582,800	1,322,500

*Excludes 60,200 households and 89,500 Jewish persons, reflecting approximately 10 percent of respondents, including non-Jewish spouses, who did not answer the denomination question.

In this and all subsequent tables, totals may not equal the sum of rows or columns because of rounding to the nearest hundred or nearest percentage.

Increase in Number of Orthodox Jews in New York Area

Religious affiliation in the New York Jewish community shifted between 1991 and 2002. More respondents self-identified as Orthodox in 2002 than in 1991 (19% vs. 13%). Fewer identified with the Conservative movement (34% vs. 26%) or the Reform movement (36% vs. 29%).

More did not identify with any religious movement (25% vs. 13%). This increase was generated in large measure by the increase in the number of immigrant Jews from the former Soviet Union, most of whom do not identify with a denomination.

Orthodox and Non-Orthodox Philanthropic Behavior Compared

Almost all Jews in the New York area give to charity (88%). Only 7 percent of Orthodox Jews reported no gift to charity in the last year compared with 14 percent of non-Orthodox Jews.

Exhibit 4. Charitable Giving, All Causes, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
No Charity	7%	14%	12%
Any Charity	93%	87%	88%
TOTAL	100%	100%	100%

Do Orthodox Jews contribute to causes that are not specifically Jewish (hereinafter: non-Jewish)? Sixty percent of Orthodox Jewish households contributed to non-Jewish causes—not very different from non-Orthodox Jewish households, of whom 67 percent contributed to non-Jewish causes (see Exhibit 5).

Exhibit 5. Charitable Giving to Non-Jewish Causes, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Non-Jewish charity	59%	67%	65%
No non-Jewish charity	41%	33%	35%
TOTAL	100%	100%	100%

How does giving to Jewish causes compare as between Orthodox and non-Orthodox Jewish households? There was a much greater gap between Orthodox and non-Orthodox with regard to giving to Jewish causes than non-Jewish causes. Orthodox households were *much* more likely to give to Jewish causes than non-Orthodox households—85 percent compared with 53 percent.

Exhibit 6. Charitable Giving, Jewish Causes, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Any Jewish Charity	85%	53%	58%
No Jewish Charity	15%	47%	42%
TOTAL	100%	100%	100%

When one combines giving to non-Jewish causes and to Jewish causes, the differences between the philanthropic behavior of Orthodox and non-Orthodox households become even clearer (see Exhibit 7).

Half of all Orthodox Jews contributed to non-Jewish causes as well as to Jewish causes, compared with 40 percent of all non-Orthodox households. But whereas Orthodox Jews were much more likely to give to Jewish causes only than to non-Jewish causes only (36% vs. 8%), the reverse was true of the non-Orthodox—34 percent gave to non-Jewish charity only, and only 13 percent gave to Jewish causes only.

Aside from an Orthodox vantage point, the category of “non-Orthodox” is not terribly meaningful. Within the non-Orthodox group there were substantial variations in the likelihood of a gift to a Jewish cause: Conservative Jews were the second most likely to give to a Jewish cause (74%) and Reform Jews the third most likely to give to a Jewish cause (55%). Households with no denomination or who were “secular”—i.e., considered themselves Jewish but had no religion—were less than half as likely to give to any Jewish charity as Orthodox Jews. Conservative Jews who belonged to a congregation were slightly

more likely to give to a Jewish charity than Orthodox Jews (88% vs. 85%) [not shown in Exhibit 8].

Exhibit 7. Charitable Giving to Jewish and Non-Jewish Causes, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
No charity	7%	14%	12%
Non-Jewish charity Only	8%	34%	29%
Jewish only	36%	13%	17%
Both Jewish and Non- Jewish	50%	40%	41%
TOTAL	100%	100%	100%

Exhibit 8. Charitable Giving, Jewish Causes, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Any Jewish Charity	85%	74%	55%	39%
No Jewish Charity	15%	26%	46%	61%
TOTAL	100%	100%	100%	100%

While most Jews, Orthodox and non-Orthodox, give something to Jewish charity, how does the giving of these two groups differ if one also takes into account how much people give? Exhibit 9 compares the giving patterns of Orthodox and non-Orthodox households for charity, for those giving \$1,000 or more per year. Here the differences are striking. Whereas nearly half of Orthodox households gave \$1,000 or more to Jewish charities per year, only about a fifth of Conservative or Reform households and only about a tenth of nondenominational or secular Jewish households gave to Jewish charities at this level.

Exhibit 9. Giving to Jewish Causes, Under and Over \$1,000, by Denomination, New York, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contributes \$1,000 or less	55%	78%	77%	90%
Contributes more than \$1,000	45%	22%	23%	10%
TOTAL	100%	100%	100%	100%

If one also takes into account income, the differences are even more striking, especially since Orthodox incomes are somewhat lower than non-Orthodox incomes. Only 5 to 10 percent of non-Orthodox respondents with incomes under \$100,000 a year reported contributions to Jewish charity totaling \$1,000 or more per year, compared with 35 percent of Orthodox respondents with incomes under \$100,000 who contributed \$1,000 or more to charity.

Exhibit 10. Giving to Jewish Causes, Under and Over \$1,000 for Households Earning Less Than \$100,000 a Year, by Denomination, New York, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contributes \$1,000 or less	65%	91%	90%	95%
Contributes more than \$1,000	35%	9%	10%	5%
TOTAL	100%	100%	100%	100%

For higher-income Orthodox households, giving at least \$1,000 a year to Jewish charity was a norm: 75 percent of Orthodox households contributed at this level, compared with 26 to 44 percent of non-Orthodox households.

Exhibit 11. Giving to Jewish Causes, Under and Over \$1,000 for Households Earning \$100,000 a Year or More, by Denomination, New York, 2002

Incomes over \$100,000	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contributes \$1,000 or less	25%	57%	62%	74%
Contributes more than \$1,000	75%	44%	38%	26%
TOTAL	100%	100%	100%	100%

Giving to UJA-Federation

About the same proportion of Orthodox Jewish households (31%) and Non-Orthodox Jewish households in New York (27%) reported a contribution to UJA-Federation.

Exhibit 12. Giving to UJA-Federation, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Contribution to UJA-Federation	31%	27%	28%
No Contribution to UJA-Federation	69%	73%	72%
TOTAL	100%	100%	100%

As in the case of giving to Jewish causes, there were substantial differences among the non-Orthodox in their giving to UJA-Federation. More Conservative Jews (41%) than Orthodox or Reform Jews reported a gift to UJA-Federation. The lowest percentage giving to UJA-Federation—only 16 percent—is among those with no denomination or who are secular. If there was ever a time when secular Jews were the ones most identified with UJA-Federation, that time is long gone (Exhibit 13).

Exhibit 13. Giving to UJA-Federation, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contribution to UJA-Federation	31%	41%	29%	16%
No Contribution to UJA-Federation	69%	59%	72%	84%
TOTAL	100%	100%	100%	100%

Of those who gave to UJA-Federation, Conservative and Reform Jews were more likely to give larger gifts (\$1,000 or more) than Orthodox households. Only 9 percent of Orthodox Jews who donated to UJA-Federation reported gifts of \$1,000 or more, compared with 13 percent of Conservative and 15 percent of Reform households. Orthodox households gave more large gifts proportionately than nondenominational or secular Jews (9% vs. 6%).

Exhibit 14. Giving to UJA-Federation, Gifts of \$1,000 or more, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contributes \$1,000 or less to UJA-Federation	91%	87%	85%	94%
Contributes more than \$1,000 to UJA-Federation	9%	13%	15%	6%
TOTAL	100%	100%	100%	100%

The real differences between the philanthropic behavior of Orthodox and other Jewish households in the New York becomes clearest when one contrasts giving to UJA-Federation with giving to other Jewish causes, taking into account how much households gave to each.

Whereas only 9 percent of Orthodox households gave more than \$1,000 to UJA-Federation, 46 percent gave more than \$1,000 to other

Jewish causes. When compared with other groups, the 9 percent of Orthodox households reporting a gift of \$1,000 to UJA-Federation was only a little bit less than the level of giving of Conservative or Reform households (9% vs. 12% or 15%). When comparing giving to other Jewish causes, Orthodox giving at the \$1,000 level was twice as high as that of Conservative or Reform households, and five times as high as that of nondenominational or secular Jewish households.

Exhibit 15. Giving to Jewish Causes Other Than UJA-Federation, Gifts Under and Over \$1,000, Orthodox, Conservative, Reform and Nondenominational / Secular Jewish Households, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Contributes \$1,000 or less to Jewish causes other than UJA-Federation	54%	76%	77%	91%
Contributes more than \$1,000 to Jewish causes other than UJA-Federation	46%	24%	23%	9%
TOTAL	100%	100%	100%	100%

Planned Giving

In addition to information about current giving, it is also interesting to examine information about planned giving behavior, specifically wills or estate-planning documents.

About two-thirds of Orthodox Jews and half of non-Orthodox Jews in the New York area did not have a will (Exhibit 16). Most of those who did have a will, Orthodox and non-Orthodox, did not make any provision for any charity. Of those who did make a provision for charity, virtually all Orthodox and two-thirds of non-Orthodox made a provision for Jewish charity.

Exhibit 16. Will or Estate-Planning Document, Orthodox and Non-Orthodox Households, New York Area 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Will	37%	50%	48%
No Will	63%	50%	52%
TOTAL	100%	100%	100%

To probe this subject a little bit further, it is helpful to focus on the group one would most expect to contribute to Jewish charity via their wills: respondents over 40 with incomes of over \$100,000. A radically different picture emerges: More than three-quarters of Orthodox Jews and non-Orthodox Jews in the New York area who were over 40 and with incomes of \$100,000 or more had a will (Exhibit 17).

Exhibit 17. Will or Estate-Planning Document, Respondent over 40, Income \$100,000 and Over, Orthodox and Non-Orthodox Households, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Will	77%	80%	48%
No Will	23%	20%	52%
TOTAL	100%	100%	100%

But like their younger and poorer counterparts, most of those who had a will, Orthodox and non-Orthodox, did *not* make any provision for any charity.

But Orthodox Jews were more likely to have a charitable provision in their will than non-Orthodox Jews—37 percent vs. 23 percent.

The most striking difference between relatively older and relatively more affluent Orthodox and non-Orthodox respondents who recognized charity in their wills relates to the inclusion of a Jewish cause. Every Orthodox respondent with a will who had made provision for charity included as least one Jewish charity in the will; while only

half of the non-Orthodox respondents with a will and with provision for charity included a Jewish cause in the will.

Exhibit 18. Provision for Charity, Wills or Estate-Planning Documents, Respondent Over 40, Income \$100,000 and Over, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Charity	37%	23%	24%
No Charity	63%	77%	76%
TOTAL	100%	100%	100%

Exhibit 19. Provision for Jewish Charity, Wills or Estate-Planning Documents, Orthodox and Non-Orthodox Households, Respondent Over 40, Income \$100,000 and Over, New York Area, 2002

	Orthodox	Not Orthodox	ALL HOUSEHOLDS
Jewish Charity	100%	52%	60%
No Jewish Charity	<1%	48%	40%
TOTAL	100%	100%	100%

REASONS FOR GIVING

Are the reasons for giving of Orthodox Jews and non-Orthodox Jews the same or different?

The Value of Tzedakah

More than half of all respondents indicated that the Jewish value of tzedakah was very important in their decision to contribute to a Jewish organization. But whereas tzedakah was an important consideration to nine out of ten Orthodox respondents, it was important to two out of three of the Conservative and nondenominational/secular Jews, and three out of five Reform Jews.

Exhibit 20. Reasons for Giving: Tzedakah as a Value, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Very Important	91%	67%	59%	65%
Somewhat Important	6%	27%	30%	21%
Not Important	3%	6%	12%	15%
TOTAL	100%	100%	100%	100%

Responsibility to Take Care of Needy Jews

Similarly, most respondents cited “the responsibility that Jews have to take care of needy Jews throughout the world” as an important reason in their decision to contribute to a Jewish organization. But respondents in Orthodox households were much more likely to answer “very important” than other respondents—86 percent of the Orthodox, compared with 65 percent of Conservative, 61 percent of Reform, and 72 percent of nondenominational or secular households.

Exhibit 21. Reasons for Giving: Importance of Taking Care of Needy Jews Throughout the World, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Very Important	86%	65%	61%	72%
Somewhat Important	14%	29%	31%	23%
Not Important	1%	6%	8%	5%
TOTAL	100%	100%	100%	100%

Combating Anti-Semitism

On a third possible reason for giving, Orthodox households were indistinguishable from other Jewish households: “Combating Anti-Semitism” was stated as a very important reason for charitable giving by 72 percent of respondents; Orthodox respondents were slightly less likely to cite anti-Semitism as a very important reason to give than other groups.

Exhibit 22. Reasons for Giving: Combating anti-Semitism, by Denomination, New York Area, 2002

	Orthodox	Conservative	Reform	Nondenominational/ Secular
Very Important	68%	74%	73%	77%
Somewhat Important	18%	16%	17%	12%
Not Important	14%	11%	10%	11%
TOTAL	100%	100%	100%	100%

The next part of this paper focuses on the characteristics within the Orthodox community associated with greater or less participation in philanthropy—giving to non-Jewish causes, to UJA-Federation, and to other Jewish causes.

INSIDE ORTHODOXY: WHO GIVES TO WHAT

Age

Data from virtually all Jewish communities across America suggest that younger people are more likely to give to non-Jewish causes than older people. In the New York Orthodox community, the opposite is true. While the differences are not huge, 53 percent of respondents under the age of forty reported a gift to a non-Jewish cause, compared with over 60 percent of those 40 and over (Exhibit 23).

On the other hand, giving to Jewish causes (other than UJA-Federation) was somewhat higher among younger respondents:

91 percent of those 18 to 39 reported a gift to a Jewish cause (non-UJA), compared with 82 percent of those 60 and over (Exhibit 24). The most dramatic differences among age groups relate to giving to UJA-Federation. Forty-two percent of Orthodox households with respondents 60 and over and 34 percent of those 40 to 59 gave to UJA-Federation, compared with only 18 percent of those under 40 (Exhibit 25). A lower level of giving to UJA-Federation among younger households was true of all denominations, and the gap between older and younger respondents was greatest among Reform households.

Exhibit 23. Charitable Giving to Non-Jewish Causes, Orthodox Households, by Age of Respondent, New York Area, 2002

	18 to 39	40 to 59	60 and over	ALL RESPONDENTS
Non-Jewish Charity	53%	63%	61%	58%
No Non-Jewish Charity	47%	38%	39%	42%
TOTAL	100%	100%	100%	100%

Exhibit 24. Charitable Giving to Jewish Causes (Other than UJA), Orthodox Households, by Age of Respondent, New York Area, 2002

	18 to 39	40 to 59	60 and over	ALL RESPONDENTS
Jewish Charity (Other than UJA)	91%	86%	82%	87%
No Jewish Charity (other than UJA)	9%	14%	18%	13%
TOTAL	100%	100%	100%	100%

Exhibit 25. Charitable Giving to UJA-Federation, Orthodox Households, by Age of Respondent, New York Area, 2002

	18 to 39	40 to 59	60 and over	ALL RESPONDENTS
Contribution to UJA	18%	34%	42%	30%
No Contribution to UJA	82%	66%	58%	70%
TOTAL	100%	100%	100%	100%

Some of the most interesting variations in philanthropic behavior emerge when one analyzes intra-Orthodox giving in relation to a series of values identified in Exhibit 26.

Exhibit 26. Percent of Orthodox Respondents who View Different Values as Very Important, Somewhat Important, or Not Important, New York, 2002

Values	Very Important	Somewhat Important	Not Important	TOTAL
Survival of the State of Israel	94%	3%	4%	100%
Making the World a Better Place	89%	7%	3%	100%
Giving Children a College education	72%	16%	11%	100%

Importance of Survival of Israel

While 94 percent of Orthodox households regarded the survival of the State of Israel as very important, this was not true of all Orthodox households. Orthodox households which regarded the survival of the State of Israel as very important were more likely to give to non-Jewish charity than those that viewed the survival of the State as somewhat or not important—61 percent vs. 35 percent (Exhibit 27). There was

virtually no difference in giving patterns to Jewish causes (other than UJA-Federation) related to this value, but there was a substantial difference with regard to the percentage who gave to UJA-Federation (Exhibit 28). For those who viewed the survival of the state as somewhat important or not important only 4 percent gave to UJA-Federation.

Exhibit 27. Charitable Giving to Non-Jewish Causes, Orthodox Households, by Importance of Survival of the State of Israel, New York Area, 2002

	Very Important	Somewhat or Not Important	ALL RESPONDENTS
Non-Jewish Charity	61%	35%	59%
No Non-Jewish Charity	39%	65%	41%
TOTAL	100%	100%	100%

Exhibit 28. Charitable Giving to UJA-Federation, Orthodox Households, by Importance of Survival of the State of Israel, New York Area, 2002

	Very Important	Somewhat or Not Important	ALL RESPONDENTS
Contribution to UJA	34%	4%	32%
No Contribution to UJA	66%	96%	68%
TOTAL	100%	100%	100%

Importance of “Making the World a Better Place”

While Tikkun Olam has been adopted by Reform and secular Jewish leadership as a motto, it also resonates with Orthodox households—89 percent of Orthodox households view the value of “making the world a better place” as very important. There was a strong relationship

between this value and the percentage who gave to non-Jewish causes and to UJA-Federation, and a modest relationship to giving to other Jewish causes (Exhibits 29, 30, and 31). In all three cases, those who believed that “making the world a better place” was very important were likely to give more.⁴

Exhibit 29. Charitable Giving to Non-Jewish Causes, Orthodox Households, by Importance of “Making the World a Better Place,” New York Area, 2002

	Very Important	Somewhat or Not Important	ALL RESPONDENTS
Non-Jewish Charity	62%	37%	59%
No Non-Jewish Charity	39%	63%	41%
TOTAL	100%	100%	100%

Exhibit 30. Charitable Giving to Jewish Causes (other than UJA), Orthodox Households, by Importance of “Making the World a Better Place,” New York Area, 2002

	Very Important	Somewhat Important	ALL RESPONDENTS
Jewish Charity (Other than UJA)	88%	79%	87%
No Jewish Charity (other than UJA)	12%	21%	13%
TOTAL	100%	100%	100%

Exhibit 31. Charitable Giving to UJA-Federation, Orthodox Households, by Importance of “Making the World a Better Place,” New York Area, 2002

	Very Important	Somewhat Important	ALL RESPONDENTS
Contribution to UJA	34%	14%	32%
No Contribution to UJA	66%	86%	68%
TOTAL	100%	100%	100%

Giving Children a College or University Education

The New York Jewish Community Study did not include an explicit question leading to a self-definition of a *modern Orthodox household*.⁵ Rather, it was decided to include a surrogate or proxy question, “How important to you is giving children a college or university education?”⁶ The three groups—those who viewed college as very important, somewhat important, or not important—differed substantially, not only in location and demographics, but on some key variables associated with modernity, e.g., the secular education of women or the importance of the survival of the State of Israel (see Exhibit 32).⁷

Exhibit 32. Differences in Location, Demography, and Values Related to the Importance of Giving Children a College Education, Orthodox Households, New York Area, 2002

	College Very Important	College Somewhat Important	College Not Important
Geography (% in Brooklyn)	40%	79%	89%
Age (% under 35)	29%	46%	47%
Household Size (% 5 or more persons)	22%	37%	52%
Income (% under \$50,000)	46%	61%	77%
Secular Ed: Women (% College/Grad Degree)	51%	35%	5%
Importance of Survival of State of Israel (% very important)	97%	95%	64%

Applied to philanthropy, there were substantial differences in giving to non-Jewish causes and to UJA-Federation, and no discernable difference in giving to (other) Jewish causes (see Exhibits 33 and 34). Six out of ten of those who viewed a college education as very important or somewhat important gave to non-Jewish charity, compared with one-third of those who believed a college education is not important. In the case of giving to UJA-Federation, a very small percentage of those who believed college is somewhat important or not important gave to UJA-Federation.

Exhibit 33. Charitable Giving to Non-Jewish Causes, Orthodox Households, by the “Importance of Giving Children a College or University Education,” New York Area, 2002

	Very Important	Somewhat Important	Not Important	ALL RESPONDENTS
Non-Jewish Charity	62%	58%	33%	59%
No Non-Jewish Charity	38%	42%	67%	41%
TOTAL	100%	100%	100%	100%

Exhibit 34. Charitable Giving to UJA-Federation, Orthodox Households, by the “Importance of Giving Children a College or University Education,” New York Area, 2002

	Very Important	Somewhat Important	Not Important	ALL RESPONDENTS
Contribution to UJA	34%	12%	<1%	32%
No Contribution to UJA	66%	88%	100%	68%
TOTAL	100%	100%	100%	100%

SUMMARY

Nine out of ten Jews in the New York area, Orthodox and non-Orthodox, give to charity.

Three out of five Orthodox Jewish households contribute to non-Jewish causes—slightly less than non-Orthodox Jewish households. Orthodox households are much more likely to give to Jewish causes than non-Orthodox households.

Jewish households with no denomination or who are secular—i.e., consider themselves Jewish but have no religion—are less than half as likely to give any Jewish charity as Orthodox Jews. Conservative Jews are almost as likely to give to Jewish causes as Orthodox Jews, Conservative Jews who belong to a congregation are slightly more likely to give to a Jewish charity than Orthodox Jews.

Whereas nearly half of Orthodox households give \$1,000 or more to Jewish charity per year, only about a fifth of Conservative or Reform households and only about a tenth of nondenominational or secular Jewish households give to Jewish charity at this level.

One-third of Orthodox respondents with incomes under \$100,000 contribute \$1,000 or more to Jewish charity; very few non-Orthodox respondents with incomes under \$100,000 a year report contributions at the \$1,000 level. Three out of four Orthodox households with incomes of over \$100,000 give at least \$1,000 a year to Jewish charity; less than half of non-Orthodox Jews with similar incomes do so.

About the same proportion of Orthodox Jewish households and non-Orthodox Jewish households report a contribution to UJA-Federation. Of those who do give to UJA-Federation, Conservative and Reform Jews are more likely to give larger gifts (\$1,000 or more) than Orthodox households.

More than three-quarters of Orthodox Jews and non-Orthodox Jews in the New York area who are over 40 and have incomes of \$100,000 or more have a will. But like their younger and poorer counterparts, most of those who have a will, Orthodox and non-Orthodox, do not make a provision for any charity. Among the minority who do recognize a charity in their will, virtually all Orthodox respondents

include at least one Jewish charity in their wills, while only half of the non-Orthodox respondents with a will and with provision for charity include a Jewish cause in their wills.

More than half of all respondents indicate that the Jewish value of *tzedakah* is very important as a reason in their decision to contribute to a Jewish organization. But whereas *tzedakah* is an important consideration to nine out of ten Orthodox respondents, it is important to two out of three of the Conservative and nondenominational/secular Jews and three out of five Reform Jews.

Similarly, most respondents cite “the responsibility that Jews have to take care of needy Jews throughout the world” as an important reason in their decision to contribute to a Jewish organization. But respondents in Orthodox households were much more like to answer “very important” than other respondents.

Data from virtually all Jewish communities across America suggest that younger people are more likely to give to non-Jewish causes than older people. In the New York Orthodox community, the opposite is true. Orthodox respondents under the age of 40 are a little less likely to report a gift to a non-Jewish cause than those 40 and over.

On the other hand, giving to Jewish causes (other than UJA-Federation) is somewhat higher among younger Orthodox respondents. Nine out of ten of those 18 to 39 report a gift to a Jewish cause (non-UJA), compared with eight out of ten of those 60 and over.

The most dramatic differences among age groups relates to giving to UJA-Federation. Among Orthodox households with respondents 60 and over, four out ten give to UJA-Federation, compared with only two out of ten of those under 40. Lower levels of giving to UJA-Federation among younger households hold true for all denominations, and the gap between older and younger respondents is greatest among Reform households.

More than nine out of ten Orthodox households regard the survival of the State of Israel as very important. The minority of Orthodox households which regard the survival of the State of Israel as only somewhat important or not important are less likely to give to non-Jewish charity and are as likely to give to Jewish causes (other

than UJA-Federation) as those who regard the survival of the State of Israel as very important. Those who regard the survival of the state as somewhat important or not important report few gifts to UJA-Federation.

While Tikkun Olam has been adopted by Reform and Secular Jewish leadership as a motto, it also resonates with Orthodox households. Nine out of ten Orthodox households view the value of “making the world a better place,” as very important. There is a strong relationship between this value and the percentage who give to non-Jewish causes and to UJA-Federation and a modest relationship to giving to other Jewish causes. In all three cases, those who believe that “making the world a better place” is very important are likely to give more.

Seven out ten Orthodox respondents view giving a child a college or university education as very important. Six out of ten of those who view a college education as very important or somewhat important give to non-Jewish charity, compared with one-third of those who believe a college education is not important. In the case of giving to UJA-Federation, a very small percentage of those who believe college is somewhat important or not important give to UJA-Federation.

CONCLUSION

Hopefully these data, and even more useful data that should be collected and analyzed in the future, will help us to know ourselves in greater depth and with greater clarity—which is a prerequisite for building a better, more caring, and more engaged community.

NOTES

1. Jacob B. Ukeles and Ron Miller, *The Jewish Community Study of New York: 2002* (UJA-Federation of New York, 2004).
2. The New York Study estimates 378,000 Orthodox Jews; the 2001 NJPS estimates 529,000 Orthodox Jews in the United States. If the NJPS is correct, the New York area includes 71 percent of the Orthodox Jews in the United States. If the NJPS underestimates Jews, as many suspect, and/or if the NJPS underestimates Orthodox Jews, as the author suspects, the New York percentage will be lower, but it is certainly at least 50 percent of the national total.

3. Some people may be surprised by the presence of non-Jewish persons in Orthodox households. First, the number is very small, only about 7 percent; second, since the definition is by self-reporting, some respondents who consider themselves Orthodox may not in fact live an Orthodox lifestyle; and third, human beings and their situations are always more complex than any categories or definitions. For example, a convert might still have responsibility for a non-Jewish child from a previous marriage.
4. It is possible that age and income are intervening variables.
5. Some prefer “centrist and modern.” There is no operational distinction between these two groups relevant to this type of data.
6. The use of the “importance of college” question as a proxy for modern Orthodox was suggested by Professor Samuel Heilman, the preeminent expert on the sociology of the Orthodox community. The most serious limitation of this definition is that it assumes that importance of college is an intrinsic value associated with modernity. It is virtually certain that at least some respondents who are not modern Orthodox would say that college is important for its economic benefits.
7. This table is organized differently than the others—neither row nor column totals to 100 percent. Please read as follows: e.g., cell in 1st row, 1st column: Of those Orthodox respondents who believe that college is important, 40 percent live in Brooklyn.

2

For the Poor and the Stranger: Fundraisers' Perspectives on Orthodox Philanthropy

Margy-Ruth Davis and Perry Davis

INTRODUCTION

We approach this assignment instructed that our combined fifty or more years as professional fundraisers are important, or at least instructive. In 1986, we started a fundraising consulting firm that we continue to run. It is from this experience that we are expected to draw conclusions about Orthodox philanthropy that carry the weight of “real world” experience.

This is a mighty expectation, but not one to be taken too seriously. Our client roster at Perry Davis Associates was not selected

in any scientific manner and may include significant gaps that will distort some findings and conclusions. We have not kept a journal recounting important lessons learned. For their part, the sociologists and halakhic authorities contributing to this conference have had their own extensive experiences within the community.

So it is important to make clear at the outset who we are and what we offer. Both of us are products of Yeshiva University education. We are self-trained in the work of fundraising, and we are Orthodox Jews who modestly make our own charitable contributions. We have had a lot of experience looking at nonprofit organizations and leaders—Jewish, Orthodox, and non-Jewish. We have also worked closely with donors large and small. Our goal, simply, is to reflect on these experiences as we respond to the questions presented.

This paper will begin by addressing general trends in Jewish philanthropy and move on to a discussion of Orthodox giving in particular. Similarities to overall charitable giving will be noted, and then the paper will focus on the unique positive and negative points of Orthodox philanthropy. Finally, we will raise some practical concerns, note new trends, and make recommendations related to Orthodox philanthropy.

What Are the Trends in Jewish Philanthropy today?

As a whole, Jews do not give more than anyone else.

Steven M. Cohen, a sociologist of American Jewry at Hebrew Union College–Jewish Institute of Religion in New York, offers what many would consider unexpected statistics on Jewish philanthropy. According to Dr. Cohen’s research: “Jews are no more charitable than the rest of the U.S. population—they give slightly less than 2% of their income to charity—and they’re increasingly giving to non-Jewish causes rather than Jewish causes.”¹

Still, we observe and are told that there is a disproportionately greater percentage of wealth in the Jewish community and a disproportionate number of Jewish philanthropists. In 2007, four of America’s five largest donors were Jewish—each committed or donated \$500 million or more—but, again, most of their money was divided among non-Jewish causes.²

This is confirmed by our own extensive research into Jewish foundation giving. Jews continue to be generous to charities, but not necessarily to Jewish organizations.³

According to the Institute for Jewish and Community Research (IJC) headed by Gary Tobin:

- Jews “accounted for 1,107 mega-gifts from 2001–2003, which amounted to nearly \$7 billion. Jewish giving represented 12% of total gifts and 16% of total dollars among all American donors.”
- This example is illustrative of the general trend; of the gifts over \$10 million, only 5% went to Jewish causes, down from 6% in the previous period. Jewish philanthropists made just 11 gifts of \$10 million or more totaling \$269 million to Jewish causes.⁴

Tobin added that \$269 million is probably a generous estimate, “as he and his researchers were lenient in classifying Jewish causes.” For example, they included a \$25 million gift to Mount Sinai Hospital and two \$32 million allocations from the AVI CHAI Foundation to its Israeli offices as part of the total.⁵

Unlike Orthodox philanthropists, non-Orthodox Jewish and non-Jewish mega-donors generally contribute to arts and higher education rather than for social services. According to another study by Gary Tobin: “Human services, federated charitable appeals, including Jewish Federations and United Ways and civic causes, combined for just over 1% of total dollars from gifts of \$1 million or more between 2002 and 2007.”⁶

Younger donors are not giving to Jewish causes, let alone established Jewish causes, and at the same time, they want to have much more decision-making power on where to give. This has led to a decline in Federation giving. According to a recent report by United Jewish Communities, Federation giving has declined “precipitously” among Jews under 50. The same report found that nearly half of Jews between 55 and 64 gave to Jewish causes, while less than one-third of those between 18 and 34 did.⁷

If established causes like Federation are not attracting younger Jewish donors, what is motivating their giving? Rabbi Jacob J. Schacter,

Yeshiva University professor of Jewish history and thought, speaks of the “religion of the sovereign self.”⁸ He credits Steven Cohen and Arnold Eisen, stating:

The principal authority for contemporary American Jews, in the absence of compelling religious norms and communal loyalties, has become the sovereign self. Each person now performs the labor of fashioning his or her own self, pulling together elements from the various Jewish and non-Jewish repertoires available rather than stepping into an “inescapable framework” of identity—familial, communal, traditional—given at birth. . . . American Jews speak of their lives, and of their Jewish beliefs and commitments, as a journey of ongoing questioning and development. They avoid the language of arrival. There are no final answers, no irrevocable commitments. There are no longer any norms that are compelling, there are no loyalties, no fundamental givens.⁹

Seen as a “black hole” by most Federations and many mega-donors, day schools and other more standard Orthodox causes are rarely the recipients of secular Jewish grants and donations. The AVI CHAI Foundation and the large foundations supporting the Partnership for Excellence in Jewish Education (PEJE) are the exceptions to this general rule.

Finally, as general Jewish grant making becomes more discretionary and personal, some donors have begun to approach philanthropy in a more systematic, critical, and businesslike fashion. This is perhaps the most instructive and useful lesson for Orthodox philanthropists and will be explored in greater depth below.

HOW DOES ORTHODOX PHILANTHROPY COMPARE TO GENERAL JEWISH/GENERAL SECULAR GIVING?

Orthodox donors are similar to non-Orthodox donors in many ways. Rabbi Adin Steinsaltz once quipped, “The Jews are like everyone else, only more so.” In that vein, one might also add, “Orthodox donors are

just like all other donors—only more so.” While it is true that Orthodox Jews are responding to the divine command of the halakhah, they are also driven by the same very human motivations that propel all giving, at least in our society.

The first question every donor asks, whether consciously or not, is “Will I benefit?” Benefit may be tangible; it may be psychological; it may even be spiritual or posthumous—but there is a quest for benefit nonetheless. The story is well known of the Orthodox donor who established a new yeshiva for his children because he was dissatisfied with the educational standards elsewhere. Other benefits abound as well: the recognition of one’s peers, a sense of satisfaction, relief from guilt (perhaps induced by the solicitor), the desire to leave a legacy for one’s children, and even the belief that one has somehow “earned” one’s vast fortune through giving back.

The most fundamental rule of fundraising—“people give to people”—also applies to the Orthodox donor. We know that the person making the “ask” is the most important element of a solicitation, and that the solicitor can inspire a reaction based on friendship, business, or social obligation. The benefit here lies in the mutuality of the relationship.

We also have learned that many prospective donors will react best to a solicitation that lays out a vision—and that being a part of a larger dream can be a great benefit to donors. The square footage of a new school building or the key elements of a new program are less important than the lofty goals for students that this new “home” will provide or the alleviation of pain and suffering that a new hospice can provide.

Benefits may be communal as well as personal. The Orthodox congregation Shearith Israel—also known as the Spanish and Portuguese Synagogue—is America’s oldest Jewish congregation. Its long and rich history is filled with stories that illustrate the congregation’s efforts at *darchei shalom*, the fine art of being a tiny and free minority in a new Christian environment.

[T]he Jews of New York also participated in charitable acts towards members of other groups. In 1671, Asser Levy

advanced money to the Lutherans of the city to enable them to establish their first church in New York. In 1693, the General Assembly of New York passed an act that levied assessments on all citizens in order to support the ministry of the Church of England at Trinity Church. In a spirit of communal cooperation, thirty-four Jews paid their share. In 1711, Trinity Church raised funds for the completion of its steeple. Seven Jews, including . . . the congregation's hazzan, Abraham Haim de Lucena, were among the contributors.¹⁰

But there is a deeper issue lurking behind the question “Will I benefit?” It is: Who is the “I” here? How do I see myself? As I make this contribution, am I doing so as an Orthodox Jew? As an American? Does this contribution fit into my view of who I am? When I give to save the people of Darfur, am I doing so out of a Jewish obligation—or am I reacting on a simple human level? For better or worse, many of us live bifurcated lives, seeking to satisfy several sets of obligations at once, whether real or imposed.

Alternatively, we may choose to draw a very small circle and define the “I”—the one who will benefit—in the narrowest of terms.

Rabbi Josef Ekstein is the founder of Dor Yesharim, an extraordinary initiative that has all but wiped out Tay-Sachs disease in our lifetime through the simple mechanism of pre-*shidduch* genetic testing. One might think there could be no greater cause than saving so many Jews from needless suffering. Yet Rabbi Ekstein tells us that when he approaches Orthodox donors, he is sometimes told, “I only give to Torah causes.”¹¹

The rabbi's prospective donors may not simply be brushing him off. Instead, they are saying that in their value system, nothing is more important than Torah learning—they see themselves as devoted to Torah, first and only.

Yet the members of Shearith Israel were among those who saw themselves as part of the larger world. On March 8, 1847, Chazzan Jacques Lyons addressed the congregation with an appeal to help victims of the great Irish potato famine. He said that all should continue

to contribute to the immediate needs of the congregation and the local Jewish community but added that there was one “indestructible” and “all-powerful” bond between the Irish victims and the Jews: “That link, my brethren, is Humanity! Its appeal to the heart surmounts every obstacle.”¹²

As we know anecdotally, and as is confirmed by a recent Pew study of religion in America,¹³ religious identity is very fluid in our times. It is not unusual for father and son, even in prominent Orthodox families, to define themselves quite differently. There is the generational story of Max Stern and his son Leonard. Max founded Stern College for Women and was one of the pillars of Yeshiva University. Leonard, too, is the pillar of a university and has named one of its colleges. The difference is that Leonard’s allegiance is to New York University, and his school is the Stern School of Business. The father gave to YU; the son gives to NYU. The move from Yeshiva to New York may be seen as the shift in identity from American Jew to Jewish American.

The question “How do I see myself” is at the heart of a vigorous debate about Jewish philanthropy and goes to the very status of Jews, and even Orthodox Jews, in our welcoming and generous society. Here is how Richard Marker, the former director of the Samuel Bronfman Foundation and now a professor of philanthropy at New York University explained the issue:

[I] think it is a definition of the way in which the Jewish community sees itself as an open society. A person who supports a university that has Jewish studies may feel they are better supporting Jewish life in America than they could by supporting a day school. If someone gives money to Harvard or the University of Pennsylvania . . . they can say, “My goodness, look at this university where people can get kosher food and be shomer Shabbat [Shabbat observant]. Why am I not supporting a vision of Jewish life in American society?”¹⁴

How is Orthodox philanthropy different?

Yet despite the similarities to larger trends in philanthropy, Orthodox giving is still very much a product of its own culture and circumstance. Several elements drive our tzedakah.

Above all, Orthodox philanthropy differs from secular philanthropy because it is impelled by a religious obligation. The obligation applies to rich and poor alike, and its origins are found in the Torah itself. When the Jews of the Exodus were each asked to contribute a half-shekel for the construction of the Mishkan, they were told, “The rich shall not give more, and the poor shall not give less.”¹⁵ Halakhah provides guidelines for how much we must give, what our priorities ought to be, and how we are to make the donations. For example, we are instructed that anonymous giving is preferred and that a double-blind gift is ideal. At the same time, the concept of a “giving heart” emphasizes the benefits of voluntary acts and sanctions the subjective and free-will aspects of tzedakah. But give we must.

In light of this religious obligation—and the way tzedakah has been defined over the millennia—the term tzedakah is more elastic for Orthodox Jews than it may be for others. In Orthodox terms, giving tzedakah is not necessarily synonymous with the gifts the IRS considers tax-deductible. Yeshiva tuition payments are not tax-deductible, even though the cost of educating one’s child is often considered part of the halakhic definition of tzedakah. The IRS will likely disallow the cost of supporting an adult child as he sits and learns in yeshiva; halakhic authorities may include this cost as part of *ma’aser*, tithing.

Other expenses associated with Orthodoxy are rarely journalized as *ma’aser*: the extra costs of kosher food and the mitzvah of hospitality that permeates our community on Shabbat or holidays. In addition, Orthodox Jews do not tally the economic value of the “opportunity-time” lost as they volunteer countless hours to fulfill mitzvot. Yet all of these instances of “giving” are part-and-parcel of the Orthodox ethos of philanthropy.¹⁶

Beyond its halakhic mandate, giving tzedakah is also reinforced culturally, and is indeed highly mimetic. Most of us remember being sent to school each day not just with lunch money but with some coins

for the *pushke* (charity box). The obligation is reinforced twice a day, six days a week, as the *pushke* is passed around during prayers. And the sense of obligation is “exploited” by *meshulachim* (solicitors) knocking on our doors on Sunday or calling in the evening—aware of the fact that the outstretched hand of the hungry or needy Jew may not be ignored. Even on Shabbat, the most sacred activity—reading the Torah portion—“takes a break” for fundraising at the *Mi Shebeirach* prayer and the most elemental activity, *Kiddush*, is often used as a memorial sponsorship opportunity for a *Yahrzeit*. Indeed, charitable giving is built into the liturgy of *Yizkor*.

We should point out that many non-Orthodox donors tell us that their early experiences in traditional homes are still fresh in their minds. However much they may now be part of the American mainstream, they still remember that their childhood and adolescent years were infused with table talk about Jewish crises and the need to—at the very least—make a generous contribution to the Jewish National Fund or the local synagogue. Sadly, this generation is disappearing from the scene; their children often do not have the same sense of history.

For today’s Orthodox families, however, that table talk—the focus and attention paid to Jewish concerns—is still very present. As they look around their communities, the Orthodox find that their giving is often motivated by sheer pragmatism and practicality, even beyond the halakhic and mimetic forces that we have just described. It is the very uniqueness of Orthodox communities that makes *tzedakah* so compelling. For example, Orthodox Jews must reside within walking distance of their synagogues if they wish to attend services on Shabbat. This proximity, this clustering, produces close-knit communities and local loyalties. Three communal centers of Orthodox Jewish life—the shul, the school, and the mikvah—are unsustainable without charitable support. And, in turn, the community itself cannot survive without these institutions.

In recent decades, the local Jewish Community Center has become another center of Jewish life, and it, too, seeks user support. All denominations, for example, contributed nearly \$100 million to

build the Manhattan West Side JCC. While many Orthodox Jews feel the compulsion to add the JCC to their “must-do” local charities, for non-Orthodox Jews it has often trumped the other three centers.

Institutional loyalty, especially at the local level, may be more important for Orthodox Jews than for other donors. Forced proximity often serves to reinforce community commitments. We greet one another as we walk to synagogue on Shabbat; we see one another in the butcher shop; we learn with each other in the *beit midrash*; and we send our children to the same schools that our neighbors do. These simple, neighborly acts reinforce our identities as members of a community, responsible for community institutions and “in it” for the long term.

For a different perspective, last year our firm was asked to help a Reform congregation in New Jersey complete a modest capital campaign. Our efforts were impeded by the synagogue’s revolving-door membership. Each year, about fifty new families join the temple, in preparation for their children’s bar and bat mitzvah celebrations. And each year, about that many resign their memberships as their children become teenagers and the temple is no longer needed. It became painfully clear that about half of those on the roster of this 500-family congregation were “consumers,” not members. They did not see themselves as part of an ongoing community whose purpose is larger than their own personal needs. Instead, the synagogue became a service contracted, much like a gym membership.

Judging by our anecdotal experiences, Orthodox wealth is growing, but there are still only two or three Orthodox mega-donors, in the American sense of the term. To take an almost random sample, of the 400 richest Americans—as listed in the 2007 edition of the *Forbes* 400—about 25 percent are Jewish or come from Jewish families. While Orthodox Jews comprise about 10 percent of all American Jewry, none of the approximately 100 individuals on the *Forbes* 400, as far as we can tell, is an Orthodox Jew, although one does have ties to Chabad.

Although we may have less, however, there seem to be more demands upon us, more claims on our charitable dollars from within our own communities. Orthodox Jews are faced with competing demands that find little parallel in general society. Charedi neighborhoods are

still among the poorest ones on the Jewish scene, and their needs are concomitantly greater: kosher food for Shabbat and holidays, dowries for brides, welcoming strangers and guests, emergency health needs, and, above all, the cost of education at every level. Some of the additional costs come from the socially approved high birth rate and from the communally endorsed practice of full-time learning. Both mean that parents and/or wives—who mostly have only high school or specialized degrees—are supporting large families. The strain can be enormous.

And it's not just Charedi Jews who are feeling the strain of competing priorities. According to a position paper developed by the Orthodox Caucus, "to 'tread water,' a modern Orthodox Bergen County family with three or four children in day schools needs approximately \$250,000 annually in pre-tax income. Family size seems to be rising as well, with many families having four or more school aged children." According to the Caucus, the single largest expense faced by these families is day school education. Over the past four years in Bergen County day school, tuition has risen by an average of 7 percent; scholarship funding has grown by 12 percent, and the number of children on scholarship has grown to 27 percent.¹⁷

The Orthodox community has responded in unique and very positive ways to these additional burdens. Local Orthodox agencies and their donors respond to physical and ritual needs. Tomchei Shabbos, the *g'machs* (charity centers) that provide everything from loaner wedding dresses to living-room furniture, free-loan societies, and scholarship funds—all these grass-roots, home-grown efforts are meant to help out one's neighbor.

Orthodox Jews also tend to blur the line between tzedakah and chessed, and when they do, their efforts often extend beyond the community. Contrary to some widely held beliefs, many Orthodox chessed organizations serve all those in need, regardless of denomination. *Bikur cholim* societies visit every Jewish patient at the hospital regardless of denomination; volunteers pack the food bags at Tomchei Shabbos for Charedi homes and for the homes of new immigrants who may not have any affiliation; and Hatzalah

paramedics help all those in distress, regardless of religious affiliation. Thousands of Orthodox Jews go far beyond writing checks and donate time, money, and emotional devotion in order to aid all Jews.¹⁸

The above examples all underscore the local nature of much Orthodox giving. Even so, local giving may have national policy ramifications. Specifically, yeshivot and Jewish day schools may be local, but Jewish education policy is a communal issue of national importance. It is primarily Orthodox Jewry that has shouldered the financial and communal burdens of the Jewish education network. As Marvin Schick has pointed out:

We now recognize that day schools are crucial to our communal well-being, to any prospect for Jewish continuity. This alone should induce gratitude for the Orthodox contribution to the larger community. They sustained the belief in day schools in the face of harsh neglect, and they established these institutions in dozens of communities through their personal giving and sacrifice. . . . The Orthodox schools have especially reached out to the needy, as well as to immigrant and marginal families, by maintaining scholarship policies that demonstrate concern for families that cannot afford full tuition or who are unwilling to pay it.¹⁹

These stellar virtues, however, are balanced by the limitations—in some cases, the flaws—inherent in Orthodox giving, as we see them.

Because so much of giving reflects how we see ourselves and how we want to be seen, Orthodox Jews tend to ignore those issues which seem to be an affront to the Orthodox way of life. Domestic abuse, the plight of the *agunot* (“chained wives”), mental disabilities, drug addiction among Orthodox teens: it is difficult to admit that we have these problems, and even more difficult to address them. Especially in locales where any flaw—whether real or perceived—might wreck a proposed marriage match, the pressure is to conform and to smooth over the rough edges of our humanity.

Orthodox giving is also often insular. It is true, as we have noted above, that Orthodox institutions, funded by Orthodox donors in the main, assist many who are not Orthodox. But it is also true that Orthodox Jews shy away from Federations and other charitable venues where they are not in control. When Federations are seen as the “other”—that is, belonging to non-Orthodox Jews—then their utility is measured by how much they help “our” causes. The larger picture can be lost. Has any effort been made to influence Federation policy? Is it simply seen as a “lost cause”?

So much of giving depends on how we define ourselves. Are the *ba’alei teshuva* (Torah-observant Jews who were not raised as such) “us,” or should they be seen as “other” because they do not share our experiences and backgrounds? In 2007, when the Novominsker Rav, Rabbi Yaakov Perlow, announced that the Agudah should focus more on *kiruv*, outreach to the non-Orthodox, some of our Charedi acquaintances objected. They cited the limited resources of communal dollars, and questioned whether they should be spent for outreach efforts that are not certain to show real results.

Other limitations of insularity—the flip side of community—lie in the ready forgiveness we show to the failings of our own. Orthodox Jews allow themselves liberties in their charitable endeavors that would never be tolerated in American business life, or in their lives on the “outside.” Orthodox giving is often sloppy; professional standards can be low—often because charities are founded “on the ground,” by individuals who see a need and want to respond to it, but do not have the training or education needed to sustain the organization’s growth. There is often a disdain for the donor—if I am doing God’s work, why should I tell you precisely how your money is being spent?

Some organizations are on the line—or over the line—of illegality. The same insularity sometimes suggests that it is okay to cheat other Jews, or the government—all seen, again, as “the other.” The Hasidic leader recently indicted for money laundering is only a recent example of this point, and other scandals can, unfortunately, be readily found through the decades.

Insularity leads some Orthodox donors and professionals to say “I am my charity”—for the founder to see his organization and

himself as one. That outlook leads, for example, to the blurred lines between dynasty and nepotism—hiring one’s relatives, handing over the leadership to one’s children without regard to their suitability. It also means that the founder often ignores the lay board and closest donors in the belief that she or he is the organization’s key shareholder and that the others have no say. Such an attitude may be at the heart of the scandal that rocked and helped unseat the Israeli prime minister at the end of 2008.

Finally, naive compassion by donors is hardly a virtue. Unwarranted trust translated into an unwillingness to ask tough questions of charity recipients does no favor for the recipient nor for the donor who might improve the value of his/her gift with prudent demands for accountability. Proper due diligence might also redirect the charitable dollar to a more appropriate and worthy recipient—all for the overall good of the community. Lax donor standards, however, are hardly a uniquely Jewish problem. A recent study by the Center for High Impact Philanthropy found that donors with a capacity of \$1 million annual giving or more had negative views of evaluation, relied on peers for advice on their giving, and worried that their investigation would indicate a “lack of trust” in the recipient or would overburden them. They did not want to be perceived as “high-maintenance donors.”²⁰

Finally, and ironically, in one respect at least we are not inward-looking enough. For all of the focus on community, Orthodox Jewry lacks the cohesiveness and the benefits of the earlier *kehillah* systems—times when the community as a whole undertook to care for its own, rather than leave it to wealthier Jews to pick and choose their own priorities. In effect, therefore, Jewish education—again an instructive microcosm of Jewish philanthropy—has gone from being communally supported to a user-pay system:

The system is broken. For millennia, the responsibility of funding Jewish education fell on the broad backs of the entire Jewish community—consistent with the idea of Jewish education as a communal need and the most important key to Jewish survival. The last 75 years in

America have seen a shift to a user-pay system. The burden falls on a much narrower—and inherently less financially able—group: the parents of young children.²¹

How can Orthodox giving be improved? **SOME QUESTIONS TO CONSIDER**

We have so far described the Orthodox donor and the milieu in which she or he lives. We have pointed out both the virtues and the flaws of Orthodox philanthropy. The question remains: How can we do better? Taking into account our halakhic imperatives and our place in American society, what can we learn from our own tradition and from the world around us?

Do We Behave in a Halakhically Modest Manner?

Are we wasting funds as we glorify ourselves? With all the discussion of halakhic imperatives, are we in fact behaving in accord with the ideals of Orthodoxy? Celebrations of charitable giving—better known as the annual dinner—have become increasingly lavish as Orthodox donors want to see themselves as part of society's upper strata. As an extreme, but by no means an isolated, example: a recent Orthodox fundraiser boasted both a 15-piece orchestra and three hours of speeches lauding two honorees.

Jewish billionaire William H. Gross, himself not Orthodox, recently commented: "A \$30 million gift to a concert hall is not philanthropy, it is a Napoleonic coronation."²² In our own terms, a \$10 million contribution toward a yeshiva building should not be cause for a coronation either. We might take a closer look to see how the laws of modesty, of *tzniut*, apply to Orthodox philanthropy and Orthodox private events (weddings, bar mitzvah celebrations, etc.). Attempts to promulgate and enforce sumptuary laws have largely failed.

Do We Sufficiently Support Our Own Orthodox Institutions?

The short answer is: not enough.

- There are more poor Jews in the United States than in Israel, and many of them are Orthodox.²³

- Our yeshivot and day schools continue to struggle—as do our young families as they face rapidly rising tuition rates. In addition to placing strains on these families, we lose the students whose parents cannot afford a Jewish education.
- And we continue to sweep unpleasant issues under the rug, preferring not to deal with such vexing communal issues as Orthodox domestic violence, single-parent families, drug abuse, and mental disease, among others.

Further, while we know the actual rate of giving among Jews as a whole, no study has yet been done on the rate of Orthodox giving. Are we really giving as much as we should?

Do Donors Care Enough About How Our Money Is Being Spent?

Once the dollar leaves your pocket, do you have an obligation to follow it until it is used as directed? Or is your halakhic obligation simply to give the funds? If we are investing funds in our community, shouldn't we track its return? We are missing the very essence of the mitzvah if we do not apply the same rigor to our tzedakah that we do in other aspects of our lives.

In many ways, this is the simplest of the questions to answer. The secular philanthropic world has much to teach us in this regard:

- *Research prospective charities.* If possible, visit the center where the money will be spent. Speak to beneficiaries. More and more frequently, American philanthropists employ giving advisers who will investigate an organization's structure and paperwork before they finalize their pledges.
- *Train fundraising professionals.* The high turnover in fundraising professionals is symptomatic of unrealistic expectations coupled with inadequate preparation and a fee structure that often relies on commission and contingency.
- *Make sure the funds are used wisely.* "With today's donors it is more of a business transaction," according to Stacy Palmer,

editor of the *Chronicle of Philanthropy*. “They want to know they are getting the most out of it.”²⁴

- *Face up to failures.* In a recent annual report, the Carnegie Corporation showcased its grant to the government of Zimbabwe and noted, “This is the anatomy of a grant that failed.”²⁵
- *Defund projects that don’t work* and shift funds to programs that are likely to have a greater return on investment.
- *Ask for—and evaluate—specific performance measures.* Israeli philanthropist Avi Naor advised, “There is no justification for investment that does not have a measurable and proven return.”²⁶
- *Consider mergers as a way to eliminate waste and duplication.* A managing director at Accenture, Walt Shill, commented, “This is a trend that is going to accelerate. . . . Many people on nonprofit boards have been through for-profit mergers and see the benefits.”²⁷
- *Increase the size and impact of free loan funds.* Much larger revolving loan funds, especially at the larger communal level (beyond the local *g’machs*) may be useful in helping indigent families meet extraordinary needs. Payback can be stretched over time, family budget planning services may be offered or required as part of the loan terms, and the fund could be automatically replenished. This will help us to aid many more families.

Do We Sufficiently Support the Larger Jewish and Non-Jewish Community?

As a whole our experience tells us that the centrist Orthodox community supports secular Jewish causes and, to a much lesser extent, non-Jewish causes.

Our own review of foundation tax returns—all of it public information and available online—shows that many prominent modern Orthodox donors give quite broadly—mostly to Orthodox institutions here and abroad, but also to secular Jewish and Israeli causes and to hospitals and medical research. The secular Jewish beneficiaries are often local community centers or social service agencies—again reflecting the local nature of Orthodox giving. Local Federations are

often included in the roster of major gifts. Younger Orthodox donors tend to give to more secular causes, and to target their giving, as do younger donors in general.

How Do We Choose to Give?

As noted above, how we define ourselves and how we want to be seen by others remain a pivotal element that influences our giving. In addition, Orthodox donors are influenced by inertia—giving patterns become habitual. So how are the patterns broken? There are always limited resources available. Tuition, poverty, and other crises in our local communities, in the United States, and in Israel present a barrage of new demands. How can limited resources be allocated? More starkly, how do we decide what to ignore? Can we afford to focus only on the closest concentric circles of demand?

The drumbeat of criticism against the insularity of the Orthodox donor is incessant. But consider this story. In the 1990s, the Detroit Jewish Federation (not an Orthodox group by any means) grudgingly did a census of its Jewish population. One of the most active Federations nationally, the Detroit agency felt a census was not really needed; it knew almost all 60,000 Jews in the area. The Federation did find those 60,000 Jews—but it found 30,000 more—Jews who were “hiding” in plain sight and were not affiliated with the community. A debate then ensued: did the Federation have enough money to increase its services by 50 percent? If those Jews had not wanted to be found, was the Federation obligated to serve them? *All* donors, Jewish, non-Jewish, and the Orthodox, face these dilemmas, and the concept of triage looms very large.

Assume—as many of us try to do—that we were able to develop a clear, thoughtful, and halakhically sound annual giving plan: would it prevail against the unexpected demands arising during the year—the dinner we have to go to because our friends are being honored, the synagogue boiler breaking down, the bloodshed in Israel? What if our income suddenly rises or drops?

Of course our plan would change.

But what about the less obvious “intrusions”? Might we be so moved by a hurricane disaster or the work of a innovative new local

non-Jewish anti-poverty association that our giving plan would change?

Will our hearts dictate to our giving hands? What will inspire our hearts? Will we listen to Chazzan Lyon's potato famine appeal—"Humanity"? Or will we say "Enough is enough; limited resources must be applied to the most needy, local, Jewish cause"?

It all depends on how we have been taught to interpret the words of Hillel—"If I am not for myself, who will be for me? But if I am only for myself, who am I? If not now, when?"²⁸

We have no dearth of good teachers to help us interpret Hillel—they have to begin teaching, and we have to begin listening. Our giving hearts will decide the rest.

CONCLUSION

Our experience as detailed in this paper is that Orthodox philanthropy has a great deal in common with general philanthropy. Many of our personal motivations for giving are similar to those of other Jews and of non-Jews. We could also do better. We can give more. We can be more discriminating and ask tougher questions of our recipient organizations—and this would result in a greater return on our philanthropic investment and increase the size of the charitable pot. Introspection will help change insular attitudes that are harmful (e.g., the sense that a school's support is only the responsibility of its current parent body—and not the broader community).

By and large, however, our past giving patterns—amounts, processes, openness, and overarching attitudes passed on to our children—remain a noble chapter in our history. In the face of perhaps the most expensive lifestyle governed by strict religious obligation, we seek few excuses to avoid giving. We need not beat our breasts too hard nor allow ourselves to be bullied by those who would heap scorn on us. We certainly have a lot to learn and can do better—but above all we have a lot to be proud of and some wonderful lessons to teach.

NOTES

The title of this paper comes from Leviticus 23:22. For recommending the title and for extensive content advice and editing, we thank our son, Moshe Shai Davis, Jerusalem, Israel.

1. Quoted in Ben Gose, "Looking to Increase Support for Jewish Causes? Just Take a Hike," *Chronicle of Philanthropy* 19, no. 21 (August 27, 2007): 3 (online edition).
2. Brad A. Greenberg, "Welcome to the World of Do It Yourself Philanthropy," *Jewishjournal.com* (October 19, 2007).
3. Jacob Berkman, "Study: Jewish Causes Get Few Top Gifts," *Jewish Telegraphic Agency* (January 8, 2008): 1 (online edition).
4. Gary A. Tobin and Aryeh K. Weinberg, "Mega-Gifts in Jewish Philanthropy: Giving Patterns 2001–2003" (San Francisco: Institute for Jewish and Community Research, 2007), p. 10.
5. Berkman, op. cit. 2 (online edition).
6. "Jewish Organizations Shut Out from Philanthropists Largest Gifts," Press release from Institute for Jewish Community and Research as picked up by Religious News Service (January 8, 2008): 6.
7. Sacha Pfeiffer, "Philanthropic Shift: Young Jewish Donors Go Beyond Traditional Groups," *Boston Globe* (December 13, 2007).
8. Rabbi Jacob. J. Schacter, "Individualism Challenges Community," *Reimagining Federated Philanthropy* (New York: Jewish Telegraphic Agency, 2008), p. 10.
9. Steven M. Cohen and Arnold Eisen Schacter, *The Jew Within: Self, Family and Community in America*, as cited by Rabbi Jacob J. Schacter, op. cit.
10. Rabbi Marc D. Angel, *Remnant of Israel* (New York: Riverside Book Co., 2004), p. 105.
11. Conversation (January 23, 2008).
12. Angel, op. cit., p. 107.
13. Sue Fishkoff, "How Jews Fit into US Religious Landscape," *Jewish Telegraphic Agency* (February 26, 2008).
14. Berkman, op. cit., 2–3.
15. Exodus 30:15.
16. The authors are indebted to Rabbi Shaul Robinson for his advice and guidance on various halakhic points raised in this paragraph and elsewhere.
17. "Funding the Jewish Future—The Bergen County Match Fund." Presentation submitted by Orthodox Caucus and UJA of Northern New Jersey.
18. Marvin Schick, www.mschick.blogspot.com (February 15, 1999).
19. Ibid.
20. Kathleen Noonan and Katherina Rosqueta, "'I'm Not Rockefeller': 33 High Net Worth Philanthropists Discuss Their Approach to Giving," Center for High Impact Philanthropy (September 2008).
21. "Funding the Jewish Future—The Bergen County Match Fund."
22. Stephanie Strom, "Big Gifts, Tax Breaks and a Debate on Charity," *New York Times* (September 6, 2007).

23. Ruth Sinai, "Study Claims Jewish Poverty Rate in US Is Higher Than in Israel," *Ha'aretz* (November 17, 2007).
24. Greenberg, op. cit.
25. Stephanie Strom, "Foundations Are Facing Up to Failures," *New York Times* (July 25, 2007).
26. Avi Naor, www.jewishphilanthropy.com. (January 30, 2008): 2.
27. Stephanie Strom, "Charities Are Trying Mergers to Improve Bottom Line," *New York Times* (November 11, 2007).
28. Ethics of the Fathers 1:14.

3

American Jewish Philanthropy, Direct Giving, and the Unity of the Jewish Community^{*}

Chaim I. Waxman

AMERICAN JEWISH PHILANTHROPY

During the early twentieth century, American Jewish philanthropy was organized and the Federation movement emerged. The concept of a Jewish Federation in the United States, or a Jewish community chest, dates back to 1895, when the Federated Jewish Charities of Boston was organized.¹ The original idea of Federation was to make fundraising more efficient. With the masses of new immigrants, a variety of social and educational agencies had emerged. These developments paralleled those in the larger society when, in the second half of the

^{*}Sincerest appreciation to Adam Ferziger, Kimmy Caplan, Yehuda Galinsky, Yossi Prager, and Jack Ukeles, for their valuable comments on earlier drafts of this article.

nineteenth century, many private social welfare agencies had sprung up across the country and attempts to organize them led to the formation of the Charity Organization Society (COS). Though not directly related, the American COS was modeled after the London COS, which was organized in 1870 for the express goal of coordinating the efforts of and designing guidelines for London's numerous charitable organizations.²

At the turn of the century, it became increasingly apparent that the traditional patterns of fundraising within the Jewish community, namely, with each agency raising its own funds independently, was wasteful and self-defeating. The joint fundraising campaign of the Boston Federation proved to be so successful that other Jewish communities soon followed suit. In 1900 a National Conference on Organized Jewish Charities was held, and representatives from thirty-six cities attended. By 1917, there were forty-seven Federations in the larger American cities. The Federation concept was also adopted by many general, non-Jewish social welfare agencies, and Federation became the model for community chests and councils of social agencies in cities and towns across the country.³ Increasingly Jewish philanthropy came to reflect to what Charles Liebman defined as the ambivalence of America's Jews, that is, the value of group survival, on the one hand, and liberal American values on the other.⁴ Even if these values are not mutually exclusive, there is, at best, a very tense relationship between them.

American Jews and Israel

Allon Gal has analyzed how American Zionism and American Jewish philanthropy to Israel attempted to mold the Yishuv and the State of Israel in their image.⁵ The major way American Jews expressed, then and currently, their pro-Israel and Zionist proclivities, which are reflections of the value of group survival, is through philanthropy.

How did the organized American Jewish philanthropic efforts develop? The structural unity of the second generation of Eastern European Jews in the United States (1925–1945) was reinforced by the serious rise of threats and actions against Jews in foreign lands, especially in Europe with the rise of Nazism, and in Palestine, with the rise

of Arab nationalism and anti-Jewish massacres. The two major American Jewish overseas aid organizations, the Joint Distribution Committee (JDC) and the United Palestine Appeal (UPA), founded by the Zionists in October 1925,⁶ recognized that competing for contributors was inefficient, but the ideological differences between them—especially about whether helping Jews in their own countries was preferable to encouraging them to go to Palestine—precluded any united fundraising campaign. The Council of Jewish Federations and Welfare Funds (CJFWF, or CJF for short) had a special reason for wishing that the two overseas aid agencies should come to some agreement, since it ran the fundraising campaigns in the local communities. After several years of negotiations, the Council of Jewish Federations worked out a formula with the JDC and UPA, and the two overseas aid agencies became the major partners of a new body, founded in 1939, the United Jewish Appeal (UJA).⁷ For several years the United Jewish Appeal itself remained rather unstable, and its relationship with the Council of Jewish Federations was precarious at best. This initial effort at cooperation established a pattern that spread during the period of the third generation, namely, the increasing coordination of fundraising activities between the Council of Jewish Federations and the United Jewish Appeal in Jewish communities throughout the country. As a result of these efforts, not only was fundraising streamlined and more dollars raised; the joint campaigns have resulted in the rise of the Council of Jewish Federations to a position of dominance in domestic Jewish communal affairs. Concurrently the United Jewish Appeal became the major fundraising agency involved in overseas aid, and the United Palestine Appeal, subsequently renamed the United Israel Appeal, became the major power bloc within the UJA.

The watershed of American Jewish giving to Israel was probably 1967. As it has been described by many, the Six-Day War affected American Jews in ways which were previously unpredictable. As Naomi Cohen described it, synagogues and other Jewish organizations

called a moratorium on their usual money-raising drives and all concentrated on the Israel Emergency Fund run by the United Jewish Appeal. Many communities launched

their own campaigns even before they were approached. Illustrations abound on the magnitude and even sacrificial elements of the campaign. The results amazed the professional fund-raisers and caused a log-jam in tabulating the receipts. By the end of the war, i.e., less than a month's time, over \$100,000,000 was raised, and the figure climbed to \$180,000,000 before the campaign was closed.⁸

Similarly, when the October 1973 war broke out, America's Jews responded unprecedentedly. One headline proclaimed, "\$100,000,000 in Five Days," and the story went on to detail the efforts of the UJA, CJFWE, and Israel Bonds Organization to raise \$100,000,000 within the next five days. Just two days later, the Israel Bonds Organization announced that it had sold the record-breaking sum of more than \$20 million in State of Israel Bonds to more than 600 New York business, civic, and Jewish religious and communal leaders, and a month later, Max Fisher, the chairman of Jewish Agency Board of Governors, honorary general chairman of the UJA, and chairman of the United Israel Appeal, confidently announced that the 1967 campaign figure would be surpassed three and one-half times by the current campaign.⁹

American Jews again rallied to support Israel during and after the Second Lebanon War of last summer, as will soon be indicated, but the change in American Jewish philanthropic patterns was already obvious by the end of the 1990s. It began to change, not as a result of the Begin-Likud election victory of 1977, the 1982 war in Lebanon and the Sabra and Shatila massacres, the Pollard spy case, nor as the result of any other Israeli actions, as some assert,¹⁰ but earlier, and as the result of domestic American processes. Data show that donations from the UJA to the Jewish Agency, calculated in 1982–1984 dollars, rose in 1967 from about \$110 million to about \$580 million, and the peak was reached in 1973, when they reached \$870 million. Since then, such donations have declined considerably and in 1994 were only slightly higher than at the beginning of 1967.

A more careful look at contemporary American Jewish patterns of philanthropy presents a somewhat different picture. Data on UJA

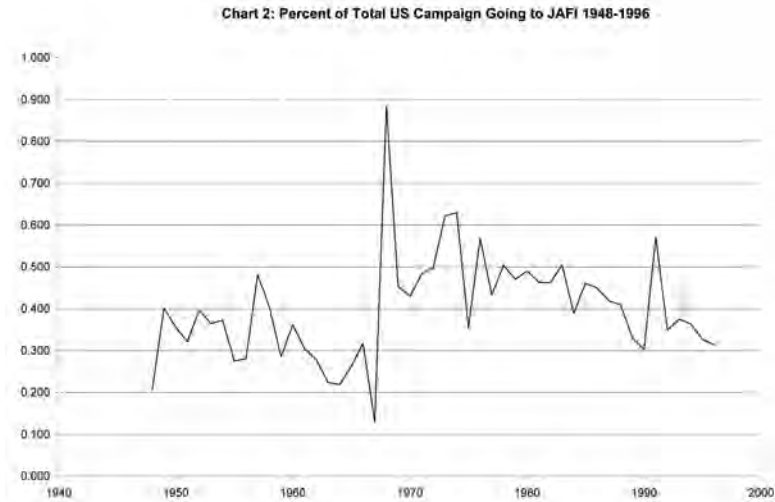
campaigns indicate that the amount of the total campaigns going to the Jewish Agency rose significantly during crises, such as the Six-Day War of June 1967, the Yom Kippur War of October 1973, and the significantly increased needs due to the dramatic immigration of Ethiopian and Soviet Jews of 1991. However, the amounts have declined steadily since then (see Chart 1).



Source: Data supplied by Prof. Sergio DellaPergola and originally obtained from UIA and Jewish Agency

The reality of this is much starker, because the patterns indicated in Chart 1 are based on unadjusted dollars and do not reflect the effect of inflation. The picture is much clearer when we look at the percentage of the total campaign that went to the Jewish Agency (Chart 2).

It is clear here that the Jewish Agency for Israel received less than 5 percent from the United Israel Appeal between 1948 and 1967; that the amount it received rose to almost 9 percent in 1968; and has been on an unsteady decline since 1967.¹¹ What is not so clear is whether there has been any real decline in the amount of money contributed by American Jews to Israel since 1967.¹² It might be suggested that America's Jews have been steadily moving from philanthropy to large, organized campaigns to more selective, guided giving to spe-



Source: Data supplied by Prof. Sergio DellaPergola and originally obtained from UIA and Jewish Agency

cific institutions and other charitable causes in Israel. Indeed, there have been several efforts aimed at generating precisely this type of charitable giving.¹³ However, although there probably has not been a decrease in the overall amount of money contributed by American Jews to Israel, there are indications that there has been a real decrease in the number of American Jews contributing to Israel and, indeed, to any Jewish cause.

As both Jack Wertheimer¹⁴ and Gary Tobin¹⁵ found, Jewish philanthropists are becoming more universalist and are increasingly likely to make their largest gifts to non-Jewish philanthropies. This becomes even more significant when we see that more money is being given by fewer Jews. This was also a major conclusion of a study of the Jewish community of Phoenix, where it was found that there was a significant decline in the percentage of households that contributed to the Jewish Federation as well as an overall decline in donations to it between 1982 and 2002, and a significantly greater number of respondents reported contributing to general rather than Jewish causes. Perhaps even more surprising, it was also found that those younger than 35 are least likely to donate to any charitable cause, with only

56 percent making a donation of any kind, and that younger Jews are more likely to donate to non-Jewish rather than Jewish causes.¹⁶

Jews give much less to religious causes than do other Americans. Jews are less likely to belong to a synagogue than Christians are to belong to a church, and also less likely to contribute to a synagogue than Christians are to a church. Jews are also much less likely to contribute to national religious organizations than are Christians.¹⁷ For example, in the “Social Capital Community Benchmark Survey” of Harvard University’s John F. Kennedy School of Government, 34 percent of the Christians surveyed said that they were not members of a church, whereas 46 percent of the Jews surveyed said that they were not members of a synagogue; 27 percent of the Christians said that they did not contribute anything to any nonreligious charity, and 20 percent said they did not contribute anything to any religious cause, whereas 14 percent of the Jews said that they not contribute anything to any nonreligious charity, and 25 percent said they did not contribute anything to any religious cause.¹⁸

Although Jews differ from Christians in their giving patterns with respect to religious institutions, Jewish philanthropy has been Americanized in the sense that Jews, like other Americans, are selective in the charitable causes that they support. They typically opt for philanthropies with which they have some attachment, either emotional or personal.

As with United Way and other general community fundraising ventures, Jewish giving to umbrella charities such as the United Jewish Communities campaigns has declined. Sometimes it is replaced by targeted-giving ventures. In some ways, direct giving has led to positive philanthropic innovations. By not giving to existing or communal institutions which may be, at best, superfluous, some direct-giving ventures have made Jewish philanthropy more efficient. But direct giving has also probably contributed to the decline in the rate of givers, even when the overall sums contributed do not decline, due to the increased sums given by direct givers. In other words, a greater amount is given by a smaller number of people. Contemporary American Jewish patterns of philanthropy increasingly conform to the pattern of the decreasing ethnicity of America’s Jews.

There have been shifts in the patterns of American Jewish philanthropy, and part of the shift is related to broader patterns in American society. In 2000, Robert Putnam presented a broad array of data indicating that the social “glue” connecting Americans had weakened.¹⁹ His data showed declining rates of voting, union membership, membership in parent-teacher associations, and a host of other voluntary organizations.

Shortly after the al-Qaeda attacks of September 11, 2001, Putnam suggested that the traumatic event might have reversed the pattern he previously portrayed.²⁰ He pointed to the remarkable manifestations of involvement, communalism, and self-sacrifice immediately after the disaster. He was impressed, and he expressed the hope that the effect would be a real and lasting one rather than a short-lived blip. However, evidence indicates that the overall pattern did not change substantially as a result of 9/11. An analysis comparing data from the 2004 and 1985 General Social Survey (GSS) found that Americans say that they have fewer close friends today than they said two decades ago; that the number who say they have no one with whom to discuss important matters has tripled; that there was a decrease by about one-third in the average social network size; and that there was a significant decrease in non-kin ties and fewer neighborhood and voluntary association ties.²¹

As for America's Jews, the data indicate that they are not different and their engagement in their civic activities have also weakened. Their rate of volunteering for communal endeavors has declined, and they now join Jewish organizations at considerably lower rates than they did previously. Moreover, and most revealing with respect to the specific issue of collective identity, the 2000/2001 National Jewish Population Survey found not only that the major Jewish membership organizations in the United States had suffered a nearly 20 percent decline in affiliation over the decade of the 1990s alone, but it also found that younger American Jews are less likely than their elders to strongly agree that “Jews in the United States and Jews around the world share a common destiny.” They are also less likely to strongly agree that “When people are in distress American Jews have a greater responsibility to rescue Jews than non-Jews,” and they are less likely

to strongly agree that “I have a special responsibility to take care of Jews in need around the world.” They also manifest declining rates of ethno-religious homogamy, specifically Jewish in-group marriages; declining rates of Jewish neighborhood concentration—increasingly Jews reside in ethnically and religiously heterogeneous neighborhoods and express less value in living among Jews; declining significance of Jewish friendships—increasing numbers of Jews state that their best friends are not Jewish; declining rates of philanthropic giving to Jewish causes; and declining degrees of emotional attachment to Israel. Indeed, they had less emotional attachment to Israel in 2001 than in 1990, despite the outbreak of the Second Intifada in October 2000, which, for a short while, appeared to intensify emotional attachments to Israel.²² The most recent study available, Cohen and Kelman’s 2007 national study of American Jews, contained a series of questions relating to feelings about Israel. Almost uniformly, the older cohorts feel more strongly positive about Israel than the younger ones. Those younger than age 35 score lowest on measures of attachment to Israel, caring about Israel, engagement with Israel, and support of Israel.²³

In contrast, among the identified and affiliated segment of the population, there is a mirror image of these patterns, with an increase and intensification in almost all of the above areas. The affiliated group increasingly sends its children to day schools. Its college students are enrolling in large numbers in college classes with Jewish subjects being taught by the ever-growing number of professors of Jewish studies at major colleges and universities across the United States. Their activists crowd the annual AIPAC political conferences. This polarity is sharpened by the high interconnectedness and correlation between these various patterns. In general, there is consistency running throughout, that is, those who are high on one are high on most or all, and those who are low on one are low on most or all.

One manifestation of this increasing polarity is that the patterns of decline are taking place at the same time that the number of self-identified Jewish United States senators and members of the House of Representatives has increased; Jewish Studies in college and universities around the United States are booming; and it has become

quite “in” to be Jewish in the United States, achieving a near status symbol.

An increase and intensification of peoplehood identification was most recently expressed in the reaction of the American Jewish community to the Second Lebanon War in the summer of 2006. The organized community mobilized politically and economically, pressuring the American government and sending millions of dollars in aid to the war effort in Israel. One report put it this way,

Dramatic developments, like katyusha rockets falling on northern Israel capture one’s attention and present an opportunity for the provision of goods, services, and funds to help Israeli victims. By mid-August, the American Jewish Committee had received more than \$1.5 million in donations and the American Friends of the Israel Defense Forces had raised more than \$4.5 million. The United Jewish Communities’ Israel Emergency Campaign received \$310.8 million in donations. There was a similar push to support Israel when the Second Intifada started. The United Jewish Communities raised almost \$360 million in donations to support Israel during the intifada, but it was over a longer period of time.²⁴

Indeed, the amounts sent were unprecedented, and the organized American Jewish community expressed its dissatisfaction with the inefficiency of the Israeli government to respond to the needs of the war-torn northern part of the country.

In addition to the amount of money raised, one of the most significant aspects of the UJC Israel Emergency Campaign during the summer of 2006 was that it was supported by the three major American Jewish denominations: Reform, Conservative, and Orthodox. For several decades, there had been an increasing divide between the denominations, especially between the Orthodox on the one hand and Conservative and Reform on the other. It was, as Samuel Freedman described it, a situation of “Jew vs. Jew.”²⁵ When it came to the war this past summer, however, all three movements supported the Israel

Emergency Campaign. As the UJC stated, "The Federation system and the synagogue movements, together, represent the largest Jewish constituent framework on the continent. They are breaking new ground in their determination to broaden the overall base of support for Israel by creating a united front through the Israel Emergency Campaign."²⁶

For much of the summer, most Jews supported Israel, which they saw as the victim of a cruel act of patent aggression threatening its very survival. In part, the atypical unity of America's Jews in support of Israel was a reflection of the fact that most Americans overall supported Israel. Beyond that, the actions which America's Jews undertook at the beginning of the war, cited above, cannot be taken as an indication of a basic change with respect the nature of their Jewish identification, be it in terms of Israel or, more broadly, Jewish peoplehood. We saw a similar pattern in 1967, after the Six-Day War, but its effects were not long-lasting. They were similar to those of Americans after 9/11. It seems reasonable to assume that they intensified the ties of those who were part of the organized community but had little long-lasting impact on those who were not.

Some suggestions along these lines are in the Cohen and Kelman study. They found that 82 percent identify as "pro-Israel" but only 28 percent identify as "Zionists," and the figures are even lower among younger Jews.²⁷ More than 80 percent identifying as "pro-Israel" may sound high, but not unusually so in a country in which most of the population is pro-Israel. As a Gallup poll conducted in February 2007 reported, 63 percent of Americans favor Israel, and 55 percent consider it a "vital friend."²⁸ Likewise, in a poll conducted in October 2007, by the Anti-Defamation League, 65 percent of registered American voters stated that Israel can be counted on as a strong, reliable U.S. ally, and that, "in the dispute between Israel and the Palestinians" three times as many sympathize with Israel than with the Palestinians.²⁹

The figures on pro-Israel and Zionist identification suggest that American Jews may be viewed as "diaspora transnationals" for whom the historic homeland is no longer viewed as "the center" and no longer has the affective power it once had. It is not even the "*alte heim*" which, according to Charles Liebman, it once was. In 1973, he

argued that Israel had importance for American Jews as a *heim*, the Yiddish word for “home,” with all of the nostalgia that surrounds that concept.³⁰ In fact, the meaning of *heim* may be captured more accurately if it is translated “the old home.” Building on Liebman’s notion, I argued at the time that America’s Jews perceived Israel more as a “home,” what Christopher Lasch termed a “haven in a heartless world.”³¹ Israel was thus not subject to all of the same rules that apply to political entities, but rather to what may be termed “family rules.” Just as the family does not always necessarily operate according to the rules of democratic procedure or in accordance with rational or legal-rational rules, being instead the place where “they’ll always take you in,” so did many American (and other) Jews relate to Israel as a non-political entity.³² Israeli leaders, moreover, frequently reinforced this perception of Israel when they spoke, for example, of the obligations that diaspora Jewry has to Israel but not of the obligations which Israel has to diaspora Jewry. Clearly, all that has changed, and since the 1980s, increasing numbers of America’s Jews no longer relate to Israel as the *heim* but as a political entity which is subject to the same, if not more, criticism than any other state. They are pro-Israel for much the same reasons that other Americans are.

Lastly, for now, increasing numbers of America’s Jews reject normative judgments in religion and ethnicity. American Jews increasingly view efforts to promote endogamy, in-marriage, rather than exogamy, intermarriage, as ethnocentric, if not “racist.”³³ In addition, even “moderately affiliated” American Jews no longer accept the notions of Jews as a “chosen people,” or that there are any standards by which one can determine who is a “good Jew.”

In the early 1970s, Charles Liebman argued that Reconstructionism, developed by Mordecai M. Kaplan, was actually the religion of the American Jewish masses, even if they did not realize it. Referring to the Reconstructionist Haggadah, the book read at the Passover Seder, Liebman found that, “Consistently with Kaplan’s ideology, all references to Jews as a chosen people were excised.”³⁴ Whereas, as Arnold Eisen has shown, American Jewish thinkers have reinterpreted the notion in various ways,³⁵ the Jewish masses have abandoned it altogether.

While America's Jews have increasingly abandoned the notion of "chosen people," they are increasingly "choosing Jews." As Sylvia Barack Fishman found in her study of contemporary Reform Judaism in America, the largest of the Jewish denominations, which comprises about 39 percent of affiliated American Jewish households, most Reform Jews reject the notion of obligation. She quotes one not atypical devoted layman as saying, "The word *obligated* is morally repulsive to me. Obligation has no place in Reform Judaism."³⁶

Likewise with respect to the notion of a "good Jew." Whereas Marshall Sklare and Joseph Greenblum used respondents' definitions of a "good Jew" as indicators of Jewish identity,³⁷ increasing numbers of contemporary American Jews refuse to be judgmental and reject the very notion of "good Jews." As Cohen and Eisen found in their study of moderately affiliated American Jews,

Our subjects emphasize *personal meaning as the arbiter of their Jewish involvement*. Their Judaism is personalist, focused on the self and its fulfillment rather than directed outward to the group. It is voluntarist in the extreme: assuming the rightful freedom of each individual to make his or her own Jewish decisions. As a result, Judaism must be strictly nonjudgmental. Each person interacts with Judaism in ways that suit him or her. No one is capable of determining for others what constitutes a good Jew.³⁸

If, as Anthony Smith avers, "historic culture-communities" have a "myth of ethnic election," which entails covenant with the deity or mission on behalf of the deity, and ethnic groups are thus "chosen peoples,"³⁹ it seems clear that increasing numbers of America's Jews are not part of the larger historic-cultural community of Jews.

It should be emphasized that the focus here is on the declining sense among America's Jews of their being part of a broader Jewish people. As a specifically American group, they surely do have characteristics which may justify classifying them as an ethnic group. For example, Paul Burstein amassed data indicating that Jews are much

more economically and educationally successful than other ethnic, racial, or religious groups in the United States.⁴⁰ He analyzes the attempts to explain this Jewish exceptionalism and finds none of the explanations satisfactory. Whatever the explanation, the reality of the phenomenon may provide some justification for labeling American Jews as an American ethnic group, but increasing numbers of them are “at home in America,” and it is the only one which calls to them.

Even within America, however, their ethnicity increasingly appears to be what Herbert Gans termed “symbolic ethnicity,” which “wears thin.”⁴¹ It is not linguistically significant—most American Jews are illiterate in Hebrew, Yiddish, and any other Jewish language—nor does it significantly influence friendships, mate selection, or neighborhood. They increasingly resemble other European ethnic groups in the United States, which, as Alba⁴² and Huntington⁴³ both argue, are to one degree or another melting. And, as indicated, they are increasingly American and increasingly distant from Jews elsewhere.

The Problems with Direct Giving

During recent decades there have been increased calls for direct giving. Rather than give philanthropy to a centralized community chest, a Federation community fundraising campaign, individuals give directly to specific recipient agencies and/or individuals. There are clearly a number of advantages to direct giving, especially in providing the donor with a sense of empowerment and connection with the recipient agency or individual. Donors can cater their donations to causes which need it most and/or most reflect their personal values. By giving directly, the donors feel more attached to the recipient. Many Jews say they do not contribute to the Federation campaign because it is impersonal and alienating.⁴⁴ The more they feel attached to the recipient, the more they will give and the more likely that they will become actively involved on behalf of the recipient agency or individual. In fact, this form of philanthropy has had major impact. To cite but one example, a Toronto couple’s matching-grant effort helped raise \$8 million for cash-strapped Jewish elementary day schools in that city.⁴⁵ Developments such as these were among the rationales be-

hind the “Giving Wisely” effort and they present strong arguments to support the notion of “direct giving as a norm.”⁴⁶

Nevertheless, despite its advantages, I argue, especially in light of the overall patterns of Jewish philanthropic behavior, that the value of centralized communal giving rather than direct giving should be emphasized. My argument is directed particularly to the Orthodox community and is based on halakhic, social, and philosophical reasons.

To begin with, there are halakhic bases to the notions of forcible charity and communal fundraising. Rabbi Meir Hacohen, a prominent student of Rabbi Meir (the Maharam) of Rothenberg (1215–1293) and author of the *Teshuvot Maimoniot*, asserts that where it is customary for everyone to contribute together, or if it is a new community and there is no custom otherwise, the community can force individuals to contribute to various communal functions, including charity.⁴⁷ He also suggests that if a person has a relative who is needy, he is not permitted to give charity to his relative alone. He must give charity to those charged with managing the city’s community chest, and they should distribute the funds appropriately to each needy individual.⁴⁸ It may be argued that because a high percentage of America’s Jews do not contribute to any Jewish Federation campaign, it is not so clear that such campaigns can truly be called central communal fundraising campaigns in the sense that would commit everyone even involuntarily. On the other hand, there are numerous religious requirements that remain in effect even if they are not observed by a majority.

Even if Federation campaigns do not have the halakhic status of communal fundraising campaigns, there are social reasons for not encouraging direct giving. Although some of the promoters of direct giving assert that it should not take place at the expense of, or as a substitute for, communal giving,⁴⁹ there can be no question that it does. In fact, that is the very argument of those who assert that the decline of UJA-Federation funds to Israel does not reflect a decline in connections to Israel; they argue that American Jews continue to contribute to Israel but now do so via direct giving rather than through large central communal campaigns.⁵⁰ However, as the evidence cited above indicates, there has been an overall decline in the percentage of

American Jews who contribute to Jewish causes, whether via central communal campaigns or through direct giving. One of my concerns is that an increased emphasis on direct giving among Orthodox Jews may result in a similar decline in overall giving among them as well. Although some will surely continue to give and perhaps even increase their contributions, others, who will no longer be under community control, may no longer feel compelled to give, either as much or at all.

Much more probable is that an increased emphasis on direct giving will lead to even greater separation between the Orthodox and non-Orthodox segments of the community. During the last quarter of the twentieth century American Orthodox Jewry took a distinctly inward turn. Across the board, there was decreasing cooperation with the Conservative and Reform branches of American Judaism. These tendencies advanced to the point where a journalist who is a keen observer of the American Jewish scene perceived the existence of a *kulturkampf* in American Judaism, with the Orthodox versus the non-Orthodox engaged in a “struggle for the soul of American Judaism.”⁵¹ The communal campaigns have become almost the last arena in which there is intercommunal cooperation, and even there, there has been a declining Orthodox presence, so much so that pleasant surprise was expressed at the fact that there was intercommunal communal cooperation during the emergency campaign of the Second Lebanon War.⁵² My concern is that increased emphasis on direct giving will remove even this last vestige of intercommunal-communal cooperation. This may not be a detriment for the “Haredi” component of American Orthodoxy, which has long opposed all formal intercommunal cooperation, but it should be one for the Modern Orthodox, Centrists, and others who are committed to the oneness of Jewry and the Jewish community.

In his analysis of charity, the sociologist Georg Simmel focused on the relationship between the recipients, who for him were the poor, and the donors, the non-poor.⁵³ In a somewhat different approach, in his analysis of face-to-face charity, Samuel Heilman looks at the relationship between the recipient and the community. He suggests that, “the relationship between the schnorrer and donors can be understood as having certain latent qualities of an exchange relationship. In

return for money, the schnorrers . . . attest to the presence, stability, and importance of the . . . community.”⁵⁴ I suggest also looking at the relationship between the individual donor and the community, and I argue that, much more than face-to-face giving, communal campaigns have the effect not only of legitimizing the community, but also of tying the individual to the community, a principle which is basic according to traditional Jewish social thinkers.

To begin with, although Max Weber viewed rationalized charity as antithetical to religiously motivated charity,⁵⁵ Judaism takes a very different approach. As Rabbi Joseph B. Soloveitchik, the Rav, explained,

The term “*zedaka*” [*sic*] is not properly understood. We generally interpret *zedaka* in the sense of doing a favor for someone. This interpretation is apparently correct, in that we don’t owe the poor person anything. Thus, what we give is in the category of generosity which the poor person has no right to demand from us. But the Rambam has already shown, in the *Guide for the Perplexed*, Part 3, Ch. 53, that this conception is incorrect. If the Torah thus considered the matter of *zedaka*, it would have termed it *hesed*, because it is an act which the other cannot demand from us. If the Torah calls it *zedaka*—a term which is identified with “justice”—this is a clear indication that he is not doing any favor for the poor person. This is an act of justice. Doing justice is an obligation, not benevolence. And indeed the Halakha is thus determined.⁵⁶

Although the recipient has no claim to *tzedakah*, the donor is expected to cultivate emotions which far transcend mere legal obligation. He is expected to internalize kindness and compassion to the point that they become compulsive. As the Rav wrote,

The prayer community, it is self-evident, must at the same time be a charity-community, as well. It is not enough to feel the pain of many, nor is it sufficient to pray for the

many, if this does not lead to charitable action. Hence, *Knesset Israel* is not only a prayerful community but a charitable community, too. We give, we pray for all because we are sensitive to pain; we try to help the many. We Jews have developed a singular sensitivity to pain which is characteristic of the Jew. The terms for it—*rachmanut*—is a Hebrew word, most commonly used as a Yiddish colloquialism derived from the Hebrew *rachem*, *rachaman*.

What is the semantics of *rachaman*, in contrast with that of *merachem*? *Merachem* denotes an activity; it tells us one thing, namely, that a particular person acts with mercy; the word does not reveal to us what motivates those acts. *Rachaman*, in contradistinction with *merachem*, tells us, not only that a person acts with kindness, but that he is himself, by his very nature, kind. The *rachaman* commiserates, as if he had no choice in the matter; he is kind because his kindness is compulsive. *Rachmanut* describes kindness as a trait of personality. *Rachmanut*, then, signifies utter sensitivity to pain, and describes beautifully the specific, unique relationship of a Jew to suffering.⁵⁷

For the Rav, Judaism espouses neither individualism nor collectivism in the traditional modes. The individual is neither “an independent free entity, who gives up basic aspects of his sovereignty in order to live within a communal framework,” nor is he “born into community which, in turn, invests him with certain rights.” Rather, individuals create community by realizing their individual need for others. As the Rav subsequently elaborated, the individual Jew must recognize the other as irreplaceable and must always be cognizant of his moral obligation toward his fellow Jew. Each Jew is responsible for the actions of the others, for better or worse. Each individual Jew has collective responsibility.⁵⁸ Thus, much as the Rav emphasized individuality and aloneness, he also emphasized the need for community.⁵⁹ In his delineation of the parameters of interaction between Orthodox and non-Orthodox rabbis, he emphasized that “unity in Israel is a ba-

sic principle in Judaism,” and that cooperation other than on “eternal problems” is to be encouraged.⁶⁰

For better or worse, Federations are the most encompassing representations of American Jewish communities individually and of the American Jewish community as whole. Particularly at this time, the national body, reorganized as the United Jewish Communities in 1990, is undergoing severe challenges.⁶¹ It would therefore be an especially propitious time for the Orthodox to become much more involved, as professionals, and laity, and, on a larger scale, by contributing to the campaigns. An emphasis on direct giving may widen the gap between the Orthodox and non-Orthodox in American Jewry.

The type of direct giving which has been referred to until now is that which operates completely independently. However, there are, in fact, two very different types of direct giving. The second is that which functions within the Federation context. Indeed, United Jewish Communities today *encourages* personalized, direct giving through Federations. It also fosters venture philanthropy by enabling those philanthropists who want to have a say in where and how their money is used to fund causes to which they are committed and to be active in those causes. Indeed, partnering between direct givers and Federation is now a significant part of Jewish communal philanthropy activity.⁶²

Caution with Mega-Giving

Related, but not identical, to the issue of direct giving is that of the impact of mega-givers. They surely can “work miracles,” do amazing and important feats, as in the case of Henry and Julia Koschitzky, who donated the \$4 million matching grant to the day schools of Toronto, cited above.⁶³ However, the question that needs to be explored is what latent impact such mega-gifts have on institutions. In Yiddish, Hebrew, English, and other languages, there is an expression to the effect that “Money talks.”⁶⁴ This was a widely prevalent phenomenon in the American Jewish community during the 1920s–1950s and was a source of considerable criticism in the community because of the feeling that Jewishly ignorant people were the powerful leaders of the Jewish organizational structure.⁶⁵ They were what the psychologist

Kurt Lewin termed “leaders from the periphery.”⁶⁶ Much of that was overcome in the 1960s and 1970s, and Jewish leadership became more Jewishly knowledgeable. If mega-giving were to become more established, we may find a reversion to the situation in which they have the power to determine the course of the institution or agency to which they give, and their values, views, and objectives may be very different from those of the institution and agency of which they take control.⁶⁷

Finally, we need to explore the impact of mega-givers on the involvement patterns of the community. The evidence presented above indicates that Orthodox giving has not followed the patterns of the non-Orthodox and continues to be prevalent. However, what will happen when mega-givers take over the funding needs? Will the Orthodox community continue to give, or will there develop a sense that the needs are being sufficiently cared for by the mega-givers and the rest of the community can sit back and not be concerned with communal needs, especially because they will have decreasing say in policies and direction? Will the mega-givers reflect the interests of the entire community, or will they use their resources to try and transform the community and its sense of itself to meet their needs and values? We do not yet have sufficient empirical evidence to be able to take any definitive positions on this issue, and we need to approach it with caution. The experience of nineteenth-century European Jewish philanthropy suggests that the mega-givers, working together with Jewish communal professionals, have the power to transform not only the shape of Jewish philanthropy but the collective Jewish identity as well.⁶⁸ Independent direct giving by mega-givers may well transform Jewish philanthropy as we have known it for the past century and may also contribute to the further decline of Jewish communal identity. Their activities represent and contribute to individualization and the primacy of “the sovereign self,”⁶⁹ and would not bode well for the traditional Jewish conception of the relationship between the individual and the community.

NOTES

1. Daniel J. Elazar, *Community and Polity: The Organizational Dynamics of American Jewry* (Philadelphia: Jewish Publication Society, 1976), p. 160.
2. Chaim I. Waxman, *The Stigma of Poverty: A Critique of Poverty Theories and Policies*, 2nd ed. (New York: Pergamon Press, 1983), pp. 83–87.
3. James Leiby, *A History of Social Welfare and Social Work in the United States* (New York: Columbia University Press, 1978), p. 118.
4. Charles S. Liebman, *The Ambivalent American Jew* (Philadelphia: Jewish Publication Society, 1973).
5. Allon Gal, "Diaspora's Liberal Nationalism and the Call of the Homeland: the American Jewish Case," paper presented at the conference "The Call of the Homeland: Diaspora Nationalisms, Past and Present," University College, London, June 19, 2007.
6. Melvin I. Urofsky, *American Zionism: From Herzl to the Holocaust* (Garden City, N.Y.: Anchor Books, 1975), pp. 325–326.
7. Harry L. Lurie, *A Heritage Affirmed: The Jewish Federation Movement in America* (Philadelphia: Jewish Publication Society, 1961), pp. 136–143.
8. Naomi W. Cohen, *American Jews and the Zionist Idea* (New York: Ktav, 1975) pp. 138–139.
9. Jewish Telegraphic Agency, "\$100,000,000 in Five Days," in Marc Lee Raphael, *Understanding Jewish Philanthropy* (New York: Ktav, 1979), p. 89.
10. Steven T. Rosenthal, *Irreconcilable Differences: The Waning of the American Jewish Love Affair with Israel* (Hanover, N.H.: Brandeis University Press/University Press of New England, 2001), pp. xvii–xxi.
11. For more on this, see Sergio DellaPergola, Uzi Rebhun, and Rosa Perla Raichler, "The Six-Day War and Israel-Diaspora Relations: An Analysis of Quantitative Indicators," in Eli Lederhendler (ed.), *The Six-Day War and World Jewry* (Bethesda: University Press of Maryland, 2000), pp. 11–50.
12. It should be noted that the Jewish Agency was not alone in receiving Diaspora funds and working in Israel. For example, the American Joint Distribution Committee is active in Jewish communities around the world, including Israel, where it has a broad variety of programs.
13. Eliezer D. Jaffe, *Giving Wisely: The Israel Guide to Volunteer and Nonprofit Social Services* (Jerusalem: Koren, 1982); also see the Giving Wisely website, www.givingwisely.org.il.
14. Jack Wertheimer, "Current Trends in American Jewish Philanthropy," in David Singer and Ruth R. Seldin (eds.), *American Jewish Year Book*, vol. 97. (New York: American Jewish Committee, 1997), pp. 3–92.
15. Gary A. Tobin, Jeffrey R. Solomon, and Alexander C. Karp, "Mega-Gifts in American Philanthropy: General & Jewish Giving Patterns Between 1995–2000" (San Francisco: Institute for Jewish and Community Research, 2003), p. 38; Gary A. Tobin, "The Transition of Communal Values and Behavior in Jewish Philanthropy" (San Francisco: Institute for Jewish and Community Research, 2001), p. 6.

16. Ukeles Associates, "The 2002 Greater Phoenix Jewish Community Study: Summary" (Jewish Federation of Greater Phoenix, December 2002), p. 15.
17. Gary A. Tobin, "Jewish Philanthropy in American Society," in Dwight F. Burlingame (ed.), *Philanthropy in America: A Comprehensive Historical Encyclopedia* (Santa Barbara, Calif.: ABC-CLIO, 2004), vol. 2, p. 285.
18. Data set obtained from the Association of Religion Data Archives.
19. Robert D. Putnam: *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).
20. Robert Putnam, "A Better Society in a Time of War," *New York Times* (October 19, 2001), p. A19.
21. Miller McPherson, Lynn Smith-Lovin, and Matthew E. Brashears, "Social Isolation in America: Changes in Core Discussion Networks over Two Decades," *American Sociological Review* 71, no. 3 (June 2006), pp. 353–375.
22. The 1990 data already showed that younger American Jews had weaker bonds with Jews elsewhere, including Israel. See Chaim I. Waxman, *Jewish Baby Boomers: A Communal Perspective* (Albany: State University of New York Press, 2001). For the 2000–2001 data viewed denominationally, see Chaim I. Waxman, "Israel as But One Component of American Jewish Identity," paper delivered at the International Conference on Education, Community and Norms, Van Leer Jerusalem Institute, December 29, 2004; idem, "The Enduring Significance of Denomination" [Hebrew], *Gesher: Journal of Jewish Affairs* 50, no. 150 (Winter 2004), pp. 24–31.
23. Steven M. Cohen and Ari Y. Kelman, "Beyond Distancing: Young Adult American Jews and Their Alienation from Israel," Jewish Identity Project of Reboot and Andrea and Charles Bronfman Philanthropies, 2007, pp. 8–11.
24. *Jewish People Policy Planning Institute Annual Assessment 2007: Executive Report No. 4—Societal Aspects* (Jerusalem: Jewish People Policy Planning Institute, 2007), p. 23.
25. Samuel G. Freedman, *Jew vs. Jew: The Struggle for the Soul of American Jewry* (New York: Simon & Schuster, 2000).
26. *Jewish People Policy Planning Institute Annual Assessment 2007*, p. 23.
27. Cohen and Kelman, "Beyond Distancing," p. 27.
28. Gallup News Service, Gallup Poll Briefing, February 21, 2007, pp. 2, 5.
29. Anti-Defamation League, "American Attitudes Towards Israel, the Palestinians, and Prospects for Peace in the Middle East: An Anti-Defamation League Survey," October 2007, pp. 5–6.
30. Liebman, *The Ambivalent American Jew*, p. 106.
31. Christopher Lasch, *Haven in a Heartless World: The Family Besieged* (New York: Basic Books, 1977).
32. Chaim I. Waxman, "Religion and State in Israel: The Perspective of American Jewry," in Eliezer Don-Yehiya (ed.), *State and Diaspora: The State of Israel and Jewish Diaspora—Ideological and Political Perspectives* (Ramat Gan: Bar-Ilan University Press, 1991), pp. 97–107.

33. See, for example, the debate between Joey Kurzman, a senior editor of a Jewish blogspot, "jewcy" (<http://www.jewcy.com/dialogue>) and Jack Wertheimer, the provost of the Jewish Theological Seminary of America, in which Kurzman unabashedly proclaims "The End of the Jewish People, Judaism must prepare itself for a world after peoplehood" and "The Ethnocentric Cult Is Finished, Cries of 'We are one' will go nowhere in today's America."
34. Charles S. Liebman, *Aspects of the Religious Behavior of American Jews* (New York: Ktav, 1974) p. 201.
35. Arnold M. Eisen, *The Chosen People in America: A Study in Jewish Religious Ideology* (Bloomington: Indiana University Press, 1983).
36. Sylvia Barack Fishman, "Growth and Challenges in the Contemporary Reform Movement," paper delivered at the International Conference on Contemporary Reform Judaism: Sociology, Education and Theology, Van Leer Jerusalem Institute, December 24, 2007, p. 32 [emphasis in original].
37. Marshall Sklare and Joseph Greenblum, *Jewish Identity on the Suburban Frontier: A Study of Group Survival in the Open Society*, 2d ed. (Chicago: University of Chicago Press, 1979), pp. 321–332.
38. Steven M. Cohen and Arnold M. Eisen, "The Sovereign Self: Jewish Identity in Post-Modern America," *Jerusalem Letter/Viewpoints*, no. 453 (8 Iyar 5761/May 1, 2001). For a broader and deeper analysis of the "sovereign self," see their book, *The Jew Within: Self, Family, and Community in America* (Bloomington: Indiana University Press, 2000), pp. 13–42.
39. Anthony D. Smith, *Chosen Peoples* (New York: Oxford University Press, 2003), pp. 48–49.
40. "Jewish Educational and Economic Success in the United States: A Search for Explanations," *Sociological Perspectives* 50, no. 2 (Summer 2007), pp. 209–228.
41. Herbert J. Gans, "Symbolic Ethnicity and Symbolic Religiosity: Towards a Comparison of Ethnic and Religious Acculturation," *Ethnic and Racial Studies* 17, no. 4 (October 1994), pp. 577–592.
42. Richard D. Alba, *Ethnic Identity: The Transformation of White America* (New Haven: Yale University Press, 1990).
43. Samuel P. Huntington, *Who Are We? The Challenges to America's National Identity* (New York: Simon & Schuster, 2004), pp. 178–192.
44. Their contentions about the impersonal character of federated charity are reminiscent of the sociologist Max Weber's contentions about charity in Puritan New England, namely, that they were cold and calculating, "a rationalized enterprise [whose] religious significance was eliminated and even transformed into the opposite significance." Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (Berkeley: University of California Press, 1978), p. 589.
45. <http://www.ijn.com/archive/2007%20arch/122107.htm>.
46. <http://www.givingwisely.org.il/Intro2.htm>.
47. *Hilkhot Maimoniot*, Kinyan 29.
48. *Hilkhot Maimoniot*, Kinyan 27.

49. Eliezer Jaffe stresses, "The publication of *Giving Wisely* is not intended to downplay the importance of the UJA-Federation Appeal (now the 'United Jewish Communities') or its European counterpart, Keren Hayesod," and proceeds to enumerate some of the important features of those campaigns. <http://www.givingwisely.org/Intro2.htm>.
50. Jack Wertheimer suggested that the sum given to Israel through hundreds of "friends of" organizations is about the size of the allocations from Federation campaigns to the UJA, and that may not include direct contributions to Israeli yeshivas and political parties. See Wertheimer, "Current Trends in American Jewish Philanthropy," pp. 36–40.
51. Samuel G. Freedman, *Jew vs. Jew: The Struggle for the Soul of American Jewry* (New York: Simon & Schuster, 2000).
52. This was why it was so remarkable that there was cooperation between Orthodox, Conservative, and Reform in the emergency campaign sparked by the Second Lebanon War. See above, n. 24.
53. Georg Simmel, "The Poor," in Chaim I. Waxman (ed.), *Poverty: Power and Politics* (New York: Grosset & Dunlap, 1968), pp. 3–36.
54. Samuel C. Heilman, "The Gift of Alms: Face-to-Face Almsgiving Among Orthodox Jews," *Urban Life and Culture* 3, no. 4 (January 1975), p. 382.
55. See n. 44 above.
56. Rabbi Joseph B. Soloveitchik, *Yemei Zikaron* (Jerusalem: Sifriyat Elinor of the World Zionist Organization, Department of Torah Education and Culture in the Diaspora, 1986), p. 43.
57. Rabbi Joseph B. Soloveitchik, "The Community," *Tradition* 17, no. 2 (Spring 1978), p. 22. The transliterated terms appeared in Hebrew in the original.
58. Rabbi Joseph B. Soloveitchik, *Ha-adam Be'olamo* (Jerusalem: Sifriyat Elinor of the World Zionist Organization, Department of Torah Education and Culture in the Diaspora, 5758 [1998]), pp. 70–73.
59. For a somewhat different approach to the importance of individuality as well as the need to be part of the community, see Rabbi Yehuda Amital, *Vehaaretz Natan Livnei Adam* (Alon Shvut: Tevunot, 5765 [2005]), translated into English by David Strauss as *Jewish Values in a Changing World* (Jersey City, N.J.: Ktav, 2005).
60. Rabbi Joseph B. Soloveitchik, *Community, Covenant and Commitment: Selected Letters and Communications*, ed. Nathaniel Helfgot (Jersey City, N.J.: Ktav and Toras HoRav Foundation, 2005), pp. 143–149.
61. In October 2009, UJC was renamed "The Jewish Federations of North America." For an analysis of United Jewish Communities, see Gerald B. Bubis and Steven Windmueller, *From Predictability to Chaos? How Jewish Leaders Reinvented Their National Communal System* (Jerusalem: Center for Jewish Community Studies, 2005).
62. I thank Yossi Prager for pointing this out in his presentations at the Orthodox Forum, New York City, March 27–28, 2008, and to Jack Ukeles, who made a similar point in his comments on my paper.

63. See n. 45 above.
64. In Yiddish, the expression is “*Der vos hot meah hot di deah*”; in Hebrew, similarly, “*Mi sheyesh lo hameah, yesh lo hadeah*.”
65. Chaim I. Waxman, *America’s Jews in Transition* (Philadelphia: Temple University Press, 1983), pp. 74–79.
66. Kurt Lewin, *Resolving Social Conflicts* (New York: Harper & Row, 1948), pp. 195–196.
67. Such developments are probably not currently the norm, but I can think of at least one case in which the mega-giver has thus “taken over.”
68. Derek J. Penslar, *Shylock’s Children: Economics and Jewish Identity in Modern Europe* (Berkeley: University of California Press, 2001).
69. Steven M. Cohen and Arnold M. Eisen, *The Jew Within: Self, Family, and Community in America* (Bloomington: Indiana University Press, 2000).

4

Public Charity in Medieval Germany: A Preliminary Investigation

Judah Galinsky

The Talmud (Bava Batra 8a) ideally refers to two distinct public charitable funds: the institution of *kuppa* and the *tamhuy*.¹ Monies for the *kuppa* were collected on a weekly basis from all residents of the city, not unlike a tax, and were distributed as well on a weekly basis to the local poor of the community. *Tamhuy* consisted of food donated daily on a voluntary basis by the residents and distributed daily to anyone in need of immediate sustenance, including nonresidents and visitors to the city. Rambam defines the central institution of *kuppa* in his *Mishneh Torah* as follows (*Matanot Aniyim* 9:1):

In every city inhabited by Jews, it is their duty to appoint from their midst well-known and trustworthy persons to act as alms collectors, to go around collecting from the people every Friday. *They should demand from each person what is proper for him to give and what he has been assessed for*, and should distribute the money every Friday, giving each poor man enough sustenance for seven days. This is what is called *kuppa* [alms fund].

Further on in the same chapter, describing the current practice of communal charity, the Rambam writes (chap. 9, law 3):

We have neither seen nor heard of a Jewish community that does not have a *kuppa*. As for the *tamhuy*, there are some localities where it is customary to have it and some where it is not.

From the above one might conclude that in medieval times all major Jewish communities had well-organized communal welfare systems financed through some kind of regular internal tax. The reality, however, seems to have been quite different.² Suffice it to mention the words of Rabbi Isaac of Corbeil, the late-thirteenth-century French author of the *Semak*, who wrote in his treatment of the laws of charity, misvah 248, the following:

I have omitted the law of *tamhuy* and *kuppa* and the laws of the administrators and of the distribution of the funds *because they are not in practice in this kingdom*; the law pertaining to one who possesses 200 zuz is also not in practice amongst us.

Recent scholarship on the subject suggests as well that other major medieval Jewish communities, such as those in Christian Spain, France, and Germany, did not have any sort of public charity until the fourteenth century.³

While I am not convinced that these studies accurately capture the social reality of the Jewish communities in Christian Europe, there is a certain degree of truth to their claim. In this study, I will begin with an examination of the evidence for public charity in the Jewish communities of Germany. However, before doing so there is a need to define the basic term “public charity” which is at the heart of this study. Such a clarification will allow for a more accurate and subtle analysis of the sources than has been done thus far.

MODELS OF PUBLIC CHARITY

When discussing medieval public charity, three basic models come to mind:

1. One that is similar to the Talmudic ideal of *kuppa*: a well-structured and organized system, with monies collected periodically, akin to a communal tax, and managed through a bureaucratic apparatus (*gabbaim*).
2. One that is less organized and less structured than *kuppa* (the collection may be on an annual basis) but including, as well, the elements of a communal bureaucratic apparatus and enforced collection from all members of the community.⁴
3. One that is essentially voluntary but with collection and distribution coordinated by a bureaucratic apparatus appointed by the community.⁵

From the perspective of ideal halakha, only the first model, and possibly the second (with the element of enforced collection), would qualify as true public charity. However, all of these models should be classified as public charity, since all are administrated and managed by a communally appointed individual (*gabbai*) or group of people (*gabbaim*) responsible for coordinating the effort. Real life, as experienced in the Middle Ages, may have dictated to the communal leaders in the various cities and towns a somewhat different agenda than the one formulated by the Talmudic sages.⁶ Although many Jewish communities did not have an actual *kuppa*, they still did have some kind of organized

public charity with an administrator who was responsible for coordinating the gifts and donations from wealthy members of the community with the needs of the poor and various other communal causes.

Side by side with public charity, there of course existed private charity, where the poor or the religious institution would turn directly to the generous person, or to his representative, for assistance. In this context it is worth mentioning the private charity of married women and the legal problems that it generated.⁷ Although not much evidence for personal private charity has survived from medieval times, it is safe to assume that it was quite prevalent, as the unique evidence from the Cairo Geniza demonstrates.⁸ In addition to direct personal giving, there existed, at least in medieval Christian Spain, other noncommunal forms of distributing charity, such as *chaburot misvah*, or confraternities, and the privately run *hekdeshim*, or charitable foundations.⁹ My aim in this article is to begin portraying the various faces of public charity by analyzing a number of central sources relating to charity in the Jewish communities of Germany during the twelfth and thirteenth centuries. Our first source is found in the writings of R. Eliezer b. Nathan (Ra'avan), the famous twelfth-century scholar from Mainz, in his interpretation of the Talmudic law in Megilla (27a–27b) about a guest who pledges charity in the city he was visiting. According to Ra'avan,¹⁰ the Talmud draws a distinction between a city where the institution of a *chever ha-ir* exists and one where it does not.¹¹ In cities where there is a *chever ha-ir*, visiting guests are to give their pledge locally to that institution, and not in their hometown. In the absence of a *chever ha-ir* in the city they are visiting, they may pay their pledge in their hometown, upon return.

Ra'avan did not clearly define the nature of *chever ir*; he merely mentions the term *chever ir*, *chavurot ir*, and refers his readers to the well-known example of the Jewish community of Frankfurt and others like it, which demonstrated the social reality of a city that lacked a *chever*. In the Rhineland and its environs, it would seem that everyone knew of the unique case of Frankfurt. However, his grandson R. Eliezer b. Joel ha-Levi (Ravya), also active in the Rhineland, but at the turn of thirteenth century, does offer us a clearer definition and a description of how cities lacking a *chever ir* functioned with regard to charity. As

he writes (Megilla, siman 592), “they do not have a *gabbai zeddakah* . . . therefore every individual who pledges charity may give to his poor relatives wherever they may live.”

Combining the information about the city of Frankfurt, gleaned from Ra’avan, together with the definition of *chever ha-ir*, as found in Ravya, it emerges quite clearly that indeed there were cities in twelfth-century Germany that lacked even minimum communal involvement, not even a *gabbai*, in the collection and distribution of charity. Evidently, in such places there was no public charity to speak of, and charity giving was left in the hands of the individual. The norm, however, at this time, at least in larger communities of the Rhineland, was not as in the city of Frankfurt, and it appears that some kind of bureaucratic apparatus was in charge of coordinating public charity.

In fact, elsewhere in his book Ra’avan refers quite clearly to the existence of a general charity fund in his community. In explaining the Talmudic residency requirement that obligates one to donate to the *kuppa*, he writes “and since he resided three month [in the city] he is obligated to give to the *kuppa* of charity, what is called *kabla* in the language of the gentiles—*וכיון ששהיה ג' חדשים חייב ליתן לקופה של צדקה*—*והוא קבלא בל*.”¹² Since Ra’avan is able to refer his readers to a similar, even if not identical, contemporary institution, the *kabla*,¹³ there is strong indication that some kind of communal charitable fund, even an obligatory one, was already in existence in early twelfth-century Mainz.

Moreover, from the work of his grandson Ravya one can also conclude that such a fund continued to exist into the beginning of the thirteenth century in communities of the Rhineland. Quoting the Talmudic law (Bava Batra 8b) which states that the community may use *kuppa* funds for the *tamhuy*, and vice-versa, and both funds for whatever needs *bnei ha-ir* saw fit (*le-shanota le-kol mah she-yirzu*), Ravya (Megilla, siman 592) emphasizes that the community may also use public charity monies for any communal need (*dvar reshut*), since it was left to the discretion of the community elders (*le-da'atam nigveit*). He then applies this Talmudic law to the common practice of his day:

And we rely on this [passage] in these times and use for communal purposes (*zorhe zibbur*) money from the communal

fund (*kis shel kahal*) even though it [was collected] essentially for charity and even though nonresidents donated as well for the sake of the community (*le-daat ha-kahal*).

From this passage we may conclude that in Ravya's community in Germany there was an organized communal fund (*kis shel kahal*) consisting of money collected from community members whose primary objective was charity. We have noted as well the existing practice of utilizing this fund for purposes other than charity.¹⁴

In sum, while we have yet to learn how charity was collected in medieval Germany, and have not found evidence for the kind of public charity referred to in the Talmud as *kuppa*, it does appear that in most established communities, there were communal administrators responsible for coordinating the charitable efforts of the community.

Between Public Charity in Germany and the Talmudic *Kuppa*

We will now turn to the two largest collections of sources pertaining to charity, from the late twelfth and first half of the thirteenth century in Germany, namely *Sefer Hasidim* and *Or Zarua*.¹⁵ *Sefer Hasidim* reflects the practice and reality in Regensburg in the eastern part of Germany, and *Or Zarua* does so more specifically for the Rhineland in the west,¹⁶ yet there are many similarities in their depictions of public charity.

A careful reading of the treatment of charity in Germany in both *Sefer Hasidim* and *Or Zarua*¹⁷ reveals, in addition to private charity, the existence of a communal charitable fund to which the poor could turn in time of need, as well as the presence of a communal *gabbai*, active in the administration of charity.¹⁸ We are not informed as to how the communal fund came into being, but one can surmise that had there been some kind of internal tax, enforced giving, we would have heard at least an echo of it in one of these works. Instead, what is attested in both collections is the practice of voluntary giving via the *gabbai*. In contrast, we do find in a number of sources from the second half of the thirteenth century that communities in Germany were beginning to implement the levy of an internal tax for the purpose of charity.¹⁹

Despite the lack of evidence in German rabbinic literature generally for regular enforced giving of charity, akin to a communal tax,

there are a number of passages in *Sefer Hasidim* and *Or Zarua* that indicate that at times there did exist communally enforced giving. In the *Sefer Hasidim* we find three cases where the community utilized the *herem* (excommunication or the ban) in order to pressure all residents to contribute to the communal fund, and in the *Or Zarua* there is one passage that discusses a communal decree relating to charity. I believe that a closer look at the context of each of these four instances reveals that they are the exception rather than the rule. Be that as it may, it is important to examine these four cases for what they could teach us regarding the nature of public charity in Germany.

The first case in *Sefer Hasidim* (no. 914 on p. 226) deals with a communal policy that obligated even the poor (via the *herem*) to contribute to the communal collection (and without any guarantee that the poor would be reimbursed)! The rationale for the policy stemmed from the fear that any exemption might encourage “evil ones” and others to exploit it to their advantage.

It is quite clear that this obligatory giving was not standard policy to finance public charity. The case and the policy are presented in the book as a particular situation “when the *kahal* had the need to give charity, כשצרכין הקהל לתת צדקה.” Although we are not informed about the nature of this need,²⁰ the collection was clearly not designed with the needs of the local poor in mind, but rather addressed certain special needs of the *kahal*.

The second source in *Sefer Hasidim* (no. 1713, p. 411) deals with the case of a certain community where the leaders had pronounced a *herem* in the synagogue in order to enforce a call for charity (מקום אחד (עשו הקהל חרם לעשות צדקה). On that occasion, some of the rich members of the community simply left the synagogue before the proclamation, believing their absence would protect them from the ban and absolve them from the need to contribute.

Here again it would seem that this source relates to a particular situation and not to the standard policy in the community. No doubt, there were times when the community made use of the *herem* to enforce the collection of charity, but it would be difficult to prove from this source that this was standard practice.

The third case in *Sefer Hasidim* (no. 1715, *ibid*) deals with charity given by married women. The author advises the communal *gabbai* not to accept any charity from a woman whose husband does not approve of her giving charity. *Sefer Hasidim* does, however, offer an exception to this rule when the community issues a *herem* for a specific amount of money that is binding for all (אבל אם גזרו חרם בכך וכך הליטרא) and the husband still refuses to contribute. In such a case, if a man refuses to contribute (והבעל עובר על החרם), the *gabbai* may and even ought to collect the money from the wife (תתן היא ותבוא עליה ברכה).

This passage reinforces our understanding of all the cases found in *Sefer Hasidim*. It would seem from this source that normative charity was voluntary, with exceptions in times of dire need or of grave danger to the community, when it was enforced by means of *herem*.

The fourth case brings us to R. Isaac b. Moshe's *Or Zarua* in his section on the laws of charity (siman 10). His starting point is the same Talmudic passage in Megilla mentioned above, regarding a guest who pledges charity in the city in which he is residing temporarily. The Talmud states that if it is a city with a *chever ha-ir*, a *gabbai* (or alternatively a *chaver ha-ir*, a scholar in charge of the charity),²¹ the guest must contribute in the place where he pledged and not in his hometown. *Or Zarua* understands the law as applying only to very specific cases, namely when nonresidents have pledged charity because of some local catastrophe.

In such situations, the leadership would declare a day of fast and charity giving in the hope that the joint acts of repentance (*tshuva*), prayer (*tefila*), and charity (*zeddaka*) would help rescind the evil decree that endangered the community. Once the guests had left the city, however, there was justified fear that they would conveniently forget about their promise to help the city and would not bother to make their donation even in their hometown. In contrast, when the money pledged was the result of a firmly held custom among Jews, such as the *minhag* of commemorating the dead through charity, there was no need to insist that the guest donate in the town he was visiting. One could be well assured that such a pledge would be paid in full upon return to the hometown.

It is quite striking, in my opinion, that the only instance of enforced charity (excluding the French sources) found in *Or Zarua* (“a decree” on charity) emerges from a very specific context, some kind of local catastrophe, “a drought or an attack of wild animals or for fear of *shmad*.” Other than this instance, and a number of sources that emerge out of Northern France, there is no indication, to the best of my knowledge, of charity being enforced on a regular basis by the community during the twelfth and most of the thirteenth centuries.

In short, an examination of the passages in *Sefer Hasidim* and *Or Zarua* that deal with charity provides numerous sources of voluntary giving, channeled through the office of the communal *gabbai*. In contrast, we found only a limited number of cases that indicate the existence of enforced communal giving. A close reading of these cases shows quite clearly that enforced giving was not the regular practice of the community.²²

TOWARD DEFINING PUBLIC CHARITY IN MEDIEVAL GERMANY

From the various sources that we have presented here, from early twelfth-century Germany until the middle of the thirteenth, it emerges that a true model of the *kuppa* did not exist. Nonetheless one cannot make the claim that there was no public charity at all. The fact is that in most established communities there was a communal apparatus, a *gabbai* (or *gabbaim*) who was responsible for coordinating charitable activities in the community, even if enforced charity was not a common feature in these places. One should also consider that in less-established communities there was no *gabbai*, no public charity at all. The case of Frankfurt mentioned by Ra’avan in the twelfth century may have been a unique case for communities in the Rhineland and its environs, but the social reality of a community without any communal charity apparatus most probably continued to exist throughout the Middle Ages.²³

Considering that even in the established communities there was no ongoing charity tax that obligated all members of the community, the question then must be posed: how did the *gabbaim* ensure that

there were sufficient funds in the communal chest to address the needs of the poor and to finance various other communal expenditures? I would suggest that the primary activity of the communal *gabbai* in Germany was that of fundraiser, to convince the members of the *kehilla* to donate voluntarily to public charity.²⁴ He could appeal to their good nature or to their need for public recognition, utilize peer pressure, and finally, point to the value of performing good deeds,²⁵ especially when rewarded by a public blessing or prayer proclaimed by the chazzan in the synagogue.²⁶ In fact, we know from *Sefer Hasidim* that there were people who would delay giving charity until they had the opportunity to announce their gift in the synagogue.²⁷

The centrality of the synagogue for communal giving found expression not only on Shabbat but on the various holidays and festivals (*regalim*) as well, and even more so during the High Holidays.²⁸ In many German communities, all members customarily pledged charitable donations during the festivals of Passover and Sukkot, *poskim al ha-zeddaka*, in what would seem to be in place of bringing a sacrifice in the Temple.²⁹ On the High Holidays, especially Yom Kippur, there was the additional incentive to give charity for the sake of those who had passed on to the next world.³⁰

In short, charity giving to the communal chest took place all year round, increased substantially during the holidays, and even more so on Yom Kippur. In addition, we must not forget another important source of income for the communal charity chest, namely donations pledged prior to death in order to ensure that one's name be commemorated in the community, at least annually. Evidently, there were always individuals who donated directly to the poor and needy, but it seems that most of the voluntary charity was primarily funneled via the synagogue and through the office of the communal *gabbai*.

When these funding options did not suffice to cover the various expenditures of the community, or in cases of emergency or other special needs, an exceptional communal appeal took place, enforced through a *herem*, which would obligate all members to participate. Public charity in Germany, then, may be defined as an interesting mix of communal and private, compulsory, and voluntary activities. True, a community official was responsible for ensuring the availability of

funds and coordinating the charity effort, but the actual giving was much more akin to what we today term private rather than public giving.

NOTES

This paper evolved from the discussion that took place at the Orthodox Forum, and I would therefore like to thank the participants for their helpful comments and questions. I would also like to thank Elisheva Baumgarten for reading an earlier version of this paper and for her helpful suggestions. My discussions with Yehuda Altshuller, Uzi Fuchs, and Yehuda Seiff on various aspects of this paper have been valuable in formulating my conclusions.

1. See as well Mishnah Peah (8:7) and Tosefta Peah (4:9–10).
2. For an example of a community with a very well organized communal charity fund, see M. R. Cohen, *Poverty and Charity in the Jewish Community of Medieval Egypt* (Princeton, 2005), pp. 198–227. It is worth noting that it seems that even in medieval Fustat (Old Cairo), the city in which Rambam lived, there was no enforced charity tax, or *kuppa*, as described in *Mishneh Torah*. See M. R. Cohen, *The Voice of the Poor in the Middle Ages: An Anthology of Documents from the Cairo Geniza* (Princeton, 2005), pp. 95–96.
3. See Y. T. Assis, “Welfare and Mutual Aid in the Spanish Jewish Communities,” in H. Beinart (ed.), *Moreshet Sepharad* (Jerusalem, 1992) vol. 1, pp. 318–345. On the communities of Germany and France, see D. Assaf, “The Role of the Jewish Community in the Middle Ages in the Ransoming of Jewish Captives: The Communities of Egypt and Ashkenaz during the 11th–13th Centuries” (Hebrew), M.A. thesis, Hebrew University (Jerusalem, 1985), pp. 18–44, esp. 41.

Although I cannot agree with all of Assaf’s conclusions, I have found his work to be most helpful in formulating my own perception of communal charity in Germany. I would like to thank Professor Avraham Grossman for calling my attention to this study.

4. See, for example, the responsum of the French Tosafist Ritzba, active in Northern France at the beginning of the thirteenth century, in *Tshuvot Maimoniyot* of R. Meir ha-Kohen, Sefer Kinyan, siman 27.
5. See, for example, the responsum of Rashba found in *Beit Yosef Tur Yoreh Deah*, siman 250.
6. See above n. 2, the recent study by Mark Cohen regarding public charity in Cairo during the time of the Rambam.
7. See Alyssa M. Gray, “Married Women and ‘Tsedaqah’ in Medieval Jewish Law: Gender and the Discourse of Legal Obligation,” *Jewish Law Association Studies* 17 (2007), pp. 168–212. See as well Elisheva Baumgarten’s chapter on the charity of

medieval women in Ashkenaz in her forthcoming book *Gender and Piety*.

8. See Cohen, *Poverty and Charity*, pp. 139–143, 189–198. See as well, from the perspective of the poor, pp. 39–51. A helpful, even if dated, book for the study of charity in the Middle Ages is Yehuda Bergman's *Ha-Zeddakah be-Yisrael: Toldoteha ve-Mosdoteha* (Jerusalem, 1944). See as well E. Kanarfogel, "Charity," in N. Roth (ed.), *Medieval Jewish Civilization: An Encyclopedia* (New York and London, 2003), pp. 147b–149a.
9. For a summary of the evidence on confraternities in Christian Spain and Southern France, see Assis (above n. 3), "Welfare and Mutual Aid," pp. 323–342. Regarding the *hekdesh* in Christian Spain, see my "Jewish Charitable Bequests and the *Hekdesh* Trust in 13th Century Spain," *Journal of Interdisciplinary History* 35 (2005), pp. 423–440. I will note that not all *hekdeshim* were privately run and many of them were at least partially the responsibility of the community. On the *hekdesh* or *kodesh* in medieval Egypt, see Cohen, *Poverty and Charity*, pp. 200–204.
10. *Ra'avan*, ed. Ehrenreich (New York, 1958), p. 176 col. 4.
11. Rashi and the Tosafists read this phrase as *chaver ha-ir*, a scholar responsible for the charity.
12. *Ra'avan*, ed. Ehrenreich, p. 208 col. 4. It is worth noting that the editor decided to put in parenthesis the phrase *והוא קבלא בל'* because, as he writes, "it makes absolutely no sense." However in the Wolfenbuettel manuscript, the earliest surviving medieval manuscript of the work, copied very close to the time it was written, these words do appear.
13. From a passage found in the thirteenth-century French work, the *Semak* (siman 248), it is clear that the medieval *kabla* was not equal to the Talmudic *kuppa*.
14. It is worth noting that Ravya seems to be echoing the famous ruling of R. Tam on this matter (see Tosafot on Bava Batra 8b). Since, however, he does not mention R. Tam explicitly, it is possible that he came to this conclusion independently.
15. References to *Sefer Hasidim* are to the Wistenetsky ed. (Berlin 1891), and those to *Or Zarua* are to the standard edition (Zhitomir, 1862). The sections on charity in *Sefer Hasidim* are to be found in two parts of the book at pp. 215–229 and pp. 404–412. R. Isaac Or Zarua opens his work with a section devoted to the laws of charity.
16. Although R. Isaac b. Moses of Vienna, the author of *Or Zarua*, traveled widely to study, including Northern France and Regensburg, before settling in Vienna; nevertheless much of his material comes from the Jewish communities of western Germany, the area where two of his main teachers (Ravya and R. Simha of Speyer) were active. See E. E. Urbach, *The Tosafists* (Hebrew) (Jerusalem, 1980), pp. 436–447, and recently Avraham (Rami) Reiner, "From Rabbenu Tam to R. Isaac of Vienna: The Hegemony of the French Talmudic school in the Twelfth Century," in Christoph Cluse (ed.), *The Jews of Europe in the Middle Ages (Tenth to Fifteenth Centuries)* (Brepols, 2004), pp. 273–282.
17. The passages in *Or Zarua* that relate explicitly to Northern France will not be

discussed in this study.

18. There is much evidence in both *Sefer Hasidim* and *Or Zarua* for the existence of a communal charity fund administered by an appointed official, the *gabbai shel zedaka*. For the communal charitable fund, see *Sefer Hasidim*, Wistenetsky ed., simanim 864, 867, and *Or Zarua*, Laws of Charity, simanim 9, 14, 25. With regard to the *gabbai*, responsible for collecting and distributing charity, see *Sefer Hasidim*, Wistenetsky ed., simanim 908–912, 921–922, and *Or Zarua*, simanim 3, 9, 10.
19. See, for example, *Responsa of R. Meir of Rothenburg*, vol. 4 (Prague) (Budapest, 1895), responsum 918. See as well Simha Emanuel, “Responsa of German Sages on the Laws of Charity” (Hebrew), *Ha-Mayan* 41 (1991), pp. 15–21, responsum 5. In addition I have argued in a recently completed a study entitled “The Medieval Monetary-Tithe, *Maaser Kesafim*, in 13th Century Ashkenaz: The Evidence of Rabbinic Literature,” that a close comparison of the halakhic literature of the first half of the thirteenth century with that of the second half reveals a noticeable shift with regard to the practice of monetary tithing within the Jewish community of Ashkenaz. Whereas at the beginning of the century, and probably for many years before then, monetary tithing was a voluntary religious duty and personal religious custom, during the course of the thirteenth century it slowly evolved into a communal obligation. During this time, communal ordinances and communal enforcement played a major role in transforming the practice of the pious into a religious requirement that bound the entire community.
20. An example of such a communal need can be found below in a passage from *Or Zarua* regarding an evil decree that endangered the community.
21. See above n. 11.
22. These particular instances of enforced giving should be contrasted with the sources found above nn. 4 and 19 (from early thirteenth-century France and late thirteenth-century Germany) that seem to indicate a communal policy of enforced giving. In this context it is worth noting a twelfth-century source from R. Shemarya b. Mordechai of Speyer published in E. Kupfer, *Tshuvot ve-Psakim me’et Hakhmei Ashkenaz ve-Zorfat* (Jerusalem, 1973), pp. 184–185. The source indicates the existence of an internal tax for the sake of the sick already in the twelfth century. However, as Ephraim Kupfer has noted (see n. 10) it is far from clear whether the question was sent to R. Shemarya from Germany or from Northern France.
23. See the important comment of R. Meir of Rothenburg (above n. 19).
24. For examples of private charity that funded public institutions and religious functionaries of the community in Ashkenaz, see *Responsa of R. Meir of Rothenburg*, vol. 4 (Prague) responsum 533, and *Responsa of the Rosh*, Yudlov ed. (Jerusalem, 1994), Additional Responsa, siman 66 (p. 497).
25. See, for example, the *Sefer Hasidim* (Bologna ed.), siman 144, regarding the pious practice of *maaser kesafim* (monetary-tithe): “So important is tithing that here

the Holy One, blessed be He, said ‘Try Me,’ unlike in all other instances, where it is forbidden to test Him, for it is written ‘Ye shall not try the Lord your God’ (Deut. 6:16).”

26. See Ravva, Megilla, siman 551; *Or Zarua*, Laws of Shabbat, siman 42, as well as *Sefer Hasidim*, no. 1591–1592 (pp. 390–391). See the study of E. Kanarfogel, “R. Judah he-Hasid and the Rabbinic Scholars of Regensburg: Interactions, Influences, and Implications,” *Jewish Quarterly Review* 96 (2006), pp. 17–37.
27. See *Sefer Hasidim*, no. 917 (p. 227).
28. See for example *Or Zarua*, Laws of Shaliah Zibbur, siman 113, and *Responsa of R. Meir of Rothenburg* (Lemberg, 1860), responsum 112. It is worth noting that in addition to the special public collections carried out on the holidays of Purim and Simchat Torah, the sources mention a special tax given by the groom from his wedding feast.
29. See the recent study by Y. Zimmer “The Custom of *Matnat Yad*” (Hebrew), *Yerushateinu* 3 (5769), pp. 145–155. On the importance of the synagogue as a substitute for the Temple in medieval Ashkenaz, see J. Woolf, “The Synagogue in Ashkenaz—Between Image and Reality” (Hebrew), *Knishtha* 2 (2003), pp. 9–30;
30. On the custom of *hazkarat neshamot* on holidays other than Yom Kippur documented in later sources, see Zimmer’s recent article, “The Custom of *Matnat Yad*” (Hebrew), pp. 147–149.

5

Jewish Philanthropy in Early Modern and Modern Europe: Theory and Practice in Historical Perspective

Jay R. Berkovitz

No subject more than philanthropy has given fuller expression to the ethical and religious ideals of the Torah while also illuminating the full range of social and religious tensions that have plagued Jewish communal life over the course of its history. In this article I examine the broad topic of Jewish poor relief during the transition from the late medieval into the early modern period and from there to the nineteenth century. Several crucial developments transformed the practice of philanthropy during these three centuries.

First, relief efforts in early modern communities were most often undertaken at the initiative of groups or individuals who were not members of the community's governing elite. Although they may well have been eligible for communal leadership positions and may even have held them at various points, they were not acting as such when they performed their philanthropic activities individually or as confraternity heads. Their efforts tended to remain resistant to formal consolidation at the communal level. Second, the notion of entitlement to relief was narrowly redefined so that the "deserving" poor were targeted as the principal beneficiaries, whereas the "undeserving" poor were marginalized. Third, philanthropy moved from a system of charitable giving that aimed to meet basic human needs to an enterprise that was designed to realize public policy goals. As a result, the theory and practice of philanthropy became progressively secular. The idea of giving *pro anima* ("for the sake of the soul"), which was standard among testators in the Middle Ages, receded noticeably in the modern era when it was no longer the main motivation. It was replaced, in part, by a different vision that focused principally on social engineering. In the pages that follow, two types of philanthropy will be examined closely: the aid awarded directly to the economically downtrodden, and broader forms of assistance given to immigrants and refugees.

Each of the foregoing elements of modern Jewish philanthropy mirrored strikingly similar developments within Catholic and Protestant communities. The fact that Catholics, Protestants, and Jews all shared comparable views of charity despite their pronounced doctrinal differences calls attention to the degree of cultural interaction that occurred in this period, and raises important questions about the religious motivations and theological underpinnings of philanthropy.

HALAKHIC FOUNDATIONS IN THE MIDDLE AGES

The medieval practice of *tzedakah* was rooted in two types of charitable institutions enumerated in the Babylonian Talmud, Bava Batra 8a: the *kuppah* (community chest) and the *tamhui* (poor kitchen). *Kuppah* funds were reserved for the local poor and provided them with ongoing support; the *tamhui* served the more immediate needs of

all poor and was unrestricted. A fund for clothing (*kesut*) was added by some Spanish communities, and a burial society is mentioned by Maimonides.¹ Weekly distributions and allocations for special occasions, such as Jewish holidays, became part of the regular staple of services provided by medieval and early modern communities.²

Among the various halakhic aspects of almsgiving that were debated by *rishonim*, several critically important issues stand out in terms of their impact on later discussions. First was the matter of calculating the level of obligation to the poor. In a highly influential responsum, R. Solomon b. Aderet (Rashba) addressed the question of whether the poor ought to be supported by individual alms, as desired by the wealthy, or by public charities that assessed members according to their wealth, as the middle class proposed. He answered that charity ought to be distributed in proportion to the wealth of each householder, and he supported his position by citing the case of Nakdimon ben Gurion (Ketubot 66b–67a), who gave charity but witnessed the dissipation of his money because he did not give it appropriately, that is, he did not give a sufficient amount.³ Rashba opposed the method of distribution of individual alms proposed by the wealthy. “Although this generation is impoverished,” he stated, “. . . we sustain the poor from the *kuppah* and in accordance with personal wealth, and if afterward the poor [want to supplement it by] begging from door to door, let them do so, and everyone gives according to his good judgment and his volition.”⁴ Despite his clear preference for a collective approach to poor relief, Rashba nevertheless stressed the importance of making voluntary gifts beyond what is required by the charity fund and also underlined the importance of *hesed*.

While endorsing the argument that the amount of alms that one is expected to give ought to correspond to personal wealth (*ki ikkar hiyyuv ha-tzedakkah lefi ha-mamon*), R. Moses Isserles (Rema) conceded, on the basis of another responsum of Rashba, that there is no clear consensus on the matter: in certain communities it is customary to contribute a gift voluntarily, whereas in other communities charity is calculated according to the tax assessment. In this second responsum, which was also cited approvingly by R. Joseph Caro in the *Beit Yosef*, Rashba stated that despite differences over the preferred method of

giving, one is legally obligated to contribute in accordance to what one has, “and one who gives according to his blessing, i.e., his ability, is even more deserving of blessing.”⁵

Related to this was a second halakhic debate on the question of compelling individuals to fulfill their *tzedakah* obligations. In Bava Batra 8b it is stated that a lien is placed on property, even on *erev Shabbat*, in order to force compliance. However, it is also asserted, based on Jeremiah 30:20, that charity collectors will be punished for overzealousness. To resolve this inconsistency, the Talmudic discussion concludes that it is necessary to draw a distinction between the wealthy and the nonwealthy: coercion may be used to compel the wealthy to contribute to *tzedakah*, as in the case of Rava, who forced Rav Natan bar Ami to give charity by taking from him 400 *zuzim*. In the opinion of Tosafot,⁶ however, this would contradict the principle that coercion is not authorized in those instances where the Torah explicitly records the reward for the fulfillment of a positive commandment, as per Hullin 110b. Tosafot answered that only verbal coercion was intended, and although *tzedakah* is obligatory, the confiscation of funds is not enforceable in court. In other words, a *tzedakah* obligation can be collected only through moral suasion and social sanction.⁷ Against this view, Maimonides called for the placement of a lien and the seizure of property when necessary. Rashba took a middle position: he generally rejected the idea of coercion in order to secure funds for charity, except in the case of wealthy individuals.⁸ Following Maimonides, the *Tur* and the *Shulḥan Arukh* took the position that the *beit din* has the authority to compel an individual to give *tzedakah* in accordance with what was assessed, either through the placement of a lien on his property (*Tur*) or through the use of force (*Shulḥan Arukh*). Furthermore, in his argument that one who fails to fulfill his charitable obligation is like one who refuses to come before the *beit din*, R. Joseph Colon cited the practice “that prevailed in all communities” to resort to the gentile authorities to force the recalcitrant individual to pay his debt.⁹ Rema was equally adamant about coercion: “But concerning *tzedakah* to which the poor of that city are entitled, individuals are certainly compelled to make their contribution and a lien is placed on their property; [charitable funds] are considered as having claimants, for

these claimants are the *gabba'im* of the city, who serve as agents of the poor.”¹⁰

For the purpose of clarifying these opposing views, it is important to draw attention to the fact that historically and halakhically there has been a distinction between the *mitzvah* of *tzedakah* that is incumbent upon the individual and the *mitzvah* of *tzedakah* that is incumbent upon the community. On the individual level, the *mitzvah* of *tzedakah* is fulfilled through voluntary contribution; it cannot be coerced, as per the view of Tosafot. On the communal level, however, the *mitzvah* of *tzedakah* is rooted in the mutual agreement of the *benei ha'ir* (townspeople) and is therefore subject to coercion, as in any matter of public legislation. As such, the community has the freedom to legislate its own rules in conformity with public goals and the collective agenda, as defined by the community.¹¹

A third halakhic concern was the redirection of funds earmarked for poor relief. Basing himself on the view of Rabbenu Tam, the *Tur* (Y.D. 256) ruled that the townspeople may exchange the *kuppah* and *tamhui*, and vice versa, and may substitute either of these for communal needs (*tzorkhei tzibbur*) if the *tamhui* will not suffice. This was the view of Maimonides and of Rosh, though Rosh stipulated that in order for the *kuppah* and *tamhui* to have priority, they must be permanent (*kavua*), so that when they are diminished, they can be replenished by additional fundraising. But in situations where it was necessary to raise money for the needy, no substitutions would be permitted, even for the needy in another locale. If there is in the city a *haver ir*—a person whose opinion is consulted regarding fundraising and whose judgment is solicited when distribution to the needy is done—then he is permitted to redefine communal needs. R. Mordechai Jaffe (*Levush*, Y.D. 256:4) extended the authority of the *haver ir* to the *gabbai* appointed by the townspeople. Once an individual had transferred the funds to the *gabbai*, he has irrevocably separated himself from those funds and thereby empowered the *gabbai* to do with them as with the *tzedakah* of the townspeople. But if the donor appoints a *gabbai* himself, the townspeople cannot make changes, and if the donor stipulates that the money is for a particular poor person or group of people, the money cannot be changed under any circumstances, even

for Talmud Torah.¹² R. Joel Sirkes went a step beyond the *Levush* by extending the authority of the *haver ir* to the seven *tuvei ha'ir*, but he did not extend it to the *gabba'im* because they had not been appointed to enjoy that prerogative, unless this had been the custom from before, as evidenced by their *takkanot*.¹³ According to the formulation of the *Tur* and *Shulḥan Arukh* (Y.D. 259), the donor may exchange funds that have been set aside for charity for others, as long as they have not been placed in the hands of the *gabbai*. But once the transfer has been made, no changes are possible unless they are intended for another mitzvah, in which case it is not necessary to replace the funds with others. If charitable funds are donated for the upkeep of the synagogue or of the cemetery, members of the town can redirect them to the needs of the *beit midrash* or for children's education, even if the donors protest. However, the converse is prohibited, i.e., to take funds donated for education and redirect them to the synagogue.

With respect to each of the three aforementioned areas, the consensus of Jewish legal opinion eventually granted communities freedom to regulate public behavior in conformity with publicly defined goals. This was particularly true in light of the highly developed corporate nature of early modern communities. As a result, early modern communities enjoyed greater authority to determine suitable levels of giving, to demand individuals' compliance with philanthropic obligations, and to exercise flexibility in deciding for which purposes charitable funds ought to be allocated.¹⁴

THE TRANSITION TO EARLY MODERN EUROPE

The delivery of philanthropic services by Jewish communities in Europe underwent major changes in the early modern period. One of the first innovations, i.e., supplying the itinerant poor with billets (known in Yiddish as *pletten*), concretized Rashba's premise that the level of giving is contingent on the economic capacity of the donor. Householders were instructed to deposit billets (tickets) in a chest, in proportion to their wealth; the poor would draw tickets from the chest in order to secure meals at no cost, offered at the homes of community members. This method, which originated in the fifteenth-century community of Treviso (Italy), was approved by R. Judah Mintz (Padua, d. 1506)

precisely because it enabled the poor to receive hospitality without being shamed. Jewish communities throughout much of Central and Western Europe subsequently adopted the practice, allowing for local variations. In Hamburg, for example, a 1726 *takkanah* required every householder to subscribe to a minimum of two tickets and one additional ticket for each 1,000 marks of property. With a ticket one could receive food for one day.¹⁵

Beginning in the seventeenth century, a large migration of Jews from Poland-Lithuania to Western and Central Europe utterly transformed the demographic, social, and cultural life of communities in Germanic lands, France, England, and Holland. The reasons for the large-scale immigration were many, including the economic decline of Poland, the heightened persecution of the Jews, and the concomitant rise of the West as a center of economic opportunity. Among the new arrivals were large numbers of poor Jews, known as *Betteljuden* or *Schnorrjuden*, many of whom had become homeless. In light of increasing geographic dispersal and communal segregation, begging became an acute problem in European society in the early modern era. The issue of how to relieve the condition of beggars was divisive, especially in light of the growing anti-alien bias that came in response to the increased immigration of foreigners.¹⁶

Early-modern historians have identified the sixteenth century as a critical era of change in the practice of philanthropy generally, but they are divided as to whether this ought to be attributed to the rise of Protestantism and its efforts to undermine the Catholic penitential system. Many stress the commonality in the approach of Catholics and Protestants to charity, as was evident in Holland. There, the trend toward consolidation of poor relief under a municipal agency, the laicization of charitable institutions, and the establishment of rigorous criteria to determine the definition of the “deserving” poor, appears to have been unrelated to religious affiliation.¹⁷ Others emphasize the differences in the attitudes of Catholics and Protestants, particularly in terms of their social vision. Among Catholics, mercy and pious deeds played a crucial role in leading to salvation, whereas Protestants saw poor relief as a means to create an orderly and God-fearing society. Catholics aimed to save souls by giving alms, and for the donor charity

always carried the promise of spiritual reward. Protestants, on the other hand, were not motivated, in theory at least, by the expectation of spiritual recompense, but were driven by a desire to strengthen their communal bonds.¹⁸ Catholics gave charity to members of religious communities who renounced all worldly goods and to pilgrims traveling to holy places, whereas Protestants limited their contributions to the involuntary poor. Most communities held to the belief that charity ought to flow from personal choice rather than legal coercion, though some, such as Martin Luther, insisted that if voluntary charity were inadequate then authorities ought to levy compulsory contributions from prosperous members of the community. But with the exception of England, where parish authorities repeatedly levied special taxes for poor relief, it was moral pressure, not coercion, which produced a “charitable imperative.”¹⁹ It appears that the importance of denominational divergences diminished in the face of overarching social and political forces. The result was the gradual desacralization of charity, the undermining of support for begging, and the aversion to fragmented ecclesiastical relief efforts.

In its decidedly negative attitude toward begging, Jewish communal legislation in the early modern period reflected the growing disapproval of idleness and vagrancy in European society. In the Florence ghetto, which was established in 1571, an elaborate system of charitable contributions was designed to prevent begging in the street. This was unquestionably related to the community’s desire to comply with governmental efforts to control the size and quality of the Jewish population in the ghetto. The state required the community to report all foreign Jews who came and remained without permission for more than three days. Householders were not permitted to receive foreign Jews into their homes without permission from the superintendents of the Nove Conservatori del Dominio, and communal leaders had the authority to expel Jews from the ghetto with the approval of state authorities.²⁰ *Takkanot* issued by the Cracow community in 1595 prohibited the poor, upon pain of imprisonment, from collecting contributions from house to house or to collect alms while sitting in the street. Instead, they had to be satisfied with the weekly distribution by the *shamash* of the community. Severe limitations were placed on

housing the poor in *tzedakah* houses unless special authorization had been obtained. In 1623 the Lithuanian Council limited the stay of beggars to twenty-four hours, and several years later it added the requirement that communities along the Polish border must immediately deport beggars at the Council's expense. The community of Posen enacted a *takkanah* in 1672 that prohibited all begging by outsiders and denied them transportation out of the city. More than a half-century later, the community of Eisenstadt enacted a *takkanah* (in 1736) that denied communal support to beggars who were not *hagunim* (upright).²¹ Individual payment of funds to the poor was flexible, but charitable contributions imposed by the community could be disbursed only by the communal authorities.²²

Should the foregoing examples concerning the treatment of beggars be viewed as isolated phenomena or as part of an historical pattern? According to Elliott Horowitz, the body of historical evidence is illustrative of a broader claim, namely, that the halakhic sources display a fundamental ambivalence toward the poor.²³ In a study of Jewish charity and hospitality in early modern Europe, he cites a responsum issued by R. Judah Mintz as an indication that some members of the Treviso community insisted on requiring the poor themselves to remove the billet from the chest in order to humiliate them and thereby discourage them from returning a second time to their hosts.²⁴ To further substantiate this claim, Horowitz asserted that the general tendency of R. Moses Isserles to rule leniently in matters of *issur ve-heter* when honor is owed to guests, and R. Hayyim ben Bezalel's insistence that such leniencies are unwarranted since most guests are not deserving of honor nor are hosts generally happy about their presence, represent opposite extremes in the way that Halakhah conceives of the mitzvah of hospitality. Taking this one step further, Horowitz concluded from the *Sefer Minhagei Maharil* that communal and halakhic norms differentiated between hospitality, which was intended for the rich and honorable, and *tzedakah*, which was to be limited to the poor.²⁵

Halakhic sources certainly contain no dearth of negative attitudes toward the poor. Comparing the practice of *tzedakah* in Brody, R. Ezekiel Landau found the evasion of charitable obligations

in Prague nothing short of scandalous: "Many rich men turn back the poor despite his possession of a *plet*. The poor man is sent here and there, while the supervisors have no power to enforce their will."²⁶ But this source and virtually all others adduced by Horowitz reflect human failings rather than a negative attitude that is characteristic of the Halakhah itself. Moreover, the historical sources are not nearly as one-sided as Horowitz claims. New provisions to assist the poor were added time and again.²⁷ The Jewish poor were exempted by their communities from state taxation and other communal contributions, with the exception of *Schutzgeld*, i.e., "protection money" (though in some communities this fee was paid by more prosperous members). Some communities, such as Ancona, authorized an unlimited number of poor guests at celebrations, while the Lithuanian Council in 1667 demanded the inclusion of a minimum of two poor persons among every ten guests. Lending societies offering loans at low or no interest were established in numerous communities.²⁸ The care provided to the sick was a regular feature of philanthropy, as was the support given to their families. *Bikkur ḥolim* societies were formed, and many Jewish communities maintained hospitals, which were originally hospices for strangers. Hospice-hospitals came to be known by the term *hekdes*, which had normally been reserved for sacrificial offerings at the Temple. Widows and orphans were given special care. In the case of orphans, communities assumed responsibility for the appointment of a guardian, recorded the value of the estate of the deceased, and oversaw the investment of the minors' funds. Special orphans asylums, modeled after non-Jewish establishments, date from 1648, when the first such institution was founded by the Spanish-Portuguese community in Amsterdam. To assist poor girls, including orphans, communities regularly raised money to dower poor brides, as in the case of the Lithuanian Council in 1623.²⁹

In the seventeenth century, philanthropy was more carefully regulated than at any time before and was subject to increasingly clear and carefully articulated public policy considerations. These developments were related to a continuing transformation in the governance and organization of modern communities, most important of which was the growing influence of the laity in communal affairs. The

emergence of the absolutist state in the seventeenth century permitted lay authorities to exercise influence in all spheres of public and private life. Lay control over public morality proved more significant and, in fact, predated the dissemination of the Enlightenment ideas that were once credited with setting the process of modernization in motion.³⁰ As a rule, lay initiatives in communal affairs corresponded to a growing concern in the early modern era for social order. Anxiety about public disorder, which included social unrest, disease, and economic instability, was an especially powerful motive underlying attempts to alleviate poverty. In late sixteenth-century England, to cite one example, poor relief came to be closely linked to public works projects, such as the repair of bridges, highways, and churches.³¹

The formation of Jewish confraternities in Amsterdam offers substantial evidence of relief efforts launched by the laity. *Dotar*, which was founded in 1615 for fatherless girls, was modeled after a similar confraternity created in Venice two years earlier. Initially, the goal was to marry orphans and poor maidens of the Portuguese and Castilian nation. Dowries were limited to girls and women originally from Spanish and Portuguese families who had settled in France, the southern Netherlands, the Dutch Republic, England, or Germany, and to those who had rejected Catholicism and were attracted to Judaism. Converso immigrants in southern France were a particular target of such efforts. The goal, clearly, was to draw people to Judaism and to redress the gender imbalance among immigrants in Amsterdam. To qualify for a dowry, a prospective bride would need to marry a circumcised Jew, in a Jewish wedding ceremony. *Dotar* was to remain independent of the various *kehillot* of the city, but it placed itself directly under the protection of the *parnassim*. Perhaps not surprisingly, competition among the confraternities was unexceptional. The establishment of *Dotar* evoked protests from the Bet Jacob *Bikur Holim Society*, which feared encroachment on its philanthropic monopoly. In 1616 the two organizations reached an agreement and formed a single society for charitable and educational activities, called “Talmud Tora”.³²

Alongside the confraternities, the Amsterdam *Ma’amad* collected taxes and allocated funds for services it provided to the community. Revenue came from a range of obligatory taxes (the *finta* and *imposta*,

sales tax on kosher meat); voluntary contributions pledged on special Sabbaths, for clothing for poor students, sick care, and the ransoming of captives); pledges made on the *shalosh regalim*; *promessas*, pledged on the occasion of personal celebration or religious honor, and fines were in the category of unrestricted funds and were placed in the general charity chest, the *Sedaca*; and *ma'ot Purim*. Finally, it was stipulated that no individual could make a private solicitation on behalf of another individual.³³

The wide range of charities administered by the *Sedaca* (the general charity fund) involved semi-permanent aid, as in cases of widowhood, and temporary assistance that included rent subsidies and fuel for heating. Smalls loans to the poor were made available at a pawn shop administered by the *Ma'amad* and at another created by *Honen Dalim*, an independent association founded in 1625. To assist the sick, the *Ma'amad* also engaged the services of a physician, while the *Bikkur Holim* handled other aspects of sick care. A brotherhood (*irmandade*) was founded in 1637 to provide monthly provisions to students who would otherwise have needed to leave school in order to earn a livelihood. The work of providing aid for orphans was divided between the *Sedaca* and private independent associations, *Dotar* and *Aby Yetomim*, which gave orphaned boys an opportunity either to learn a trade or to pursue education. The *gemilut ḥasadim* society, which provided proper burial for the poor and assistance for mourners, was controlled by the *Ma'amad*.³⁴

Philanthropic activity under the direction of the *Ma'amad* also extended to German and Polish Jews living in Amsterdam and to Jewish communities and individuals abroad. From approximately 1635, the number of German and Polish Jewish immigrants (known as *Tudescos*) increased dramatically, so that by the end of the century their number exceeded that of Portuguese Jews. Many of the new immigrants were refugees of the Thirty Years War and the Chmielnicki massacres. The rapid growth in the numbers of Ashkenazi poor was evident in an increase in door-to-door begging, to which the *Ma'amad* responded by issuing and reissuing prohibitions against giving alms to *Tudesco* beggars on four separate occasions (1639–1664). Driven by the fear that communal support would only encourage large-scale

immigration, the *Ma'amad* tried a different strategy by establishing a special association, *Abodat Hessed* (1642), which was charged with administering a workhouse in which the poor could learn a trade and earn a modest living. Heads of the community decided that poor immigrants could henceforth earn their living by working, and toward this end the association was set up so that the Ashkenazic poor would learn a trade and eventually be able to support themselves honorably. The association aimed to educate the poor not only for a useful occupation but also for the appropriation of good virtues.³⁵ Funds were collected through membership fees, voluntary contributions, and a loan from the *Sedaca*. *Abodat Hessed* also provided orphans with a place to sleep, medicine for the sick, and clothes for the needy. In 1670 the workhouse was abolished and the association dismantled. This was evidently because the German-Polish community was now large enough that it could be expected to take care of its own.³⁶ It was at this point, according to Yosef Kaplan, that the *Abodat Hessed* society began to provide support and welfare for the local Spanish and Portuguese. By so doing, *Abodat Hessed* abandoned its former goals of education and productivization that had rested on the view that their Ashkenazic coreligionists were culturally deprived and corrupt and therefore needed to be educated in proper behavior through vocational training.³⁷ It should also be noted that the *Kahal Kados de Talmud Tora* lent assistance to communities and individuals abroad. It maintained a special fund for ransoming captives, and it also maintained a special fund (*Terra Santa*) to assist the communities in Jerusalem, Hebron, Safed, and Tiberias. Its efforts were almost always limited, however, to Portuguese and Spanish Jews.³⁸

Tensions between “natives” and immigrants, rich and poor, and Sephardim and Ashkenazim abounded in the seventeenth and eighteenth centuries. Out of concern that the poor would become an economic burden on the community, strict rules limiting the help given to the poor of Spanish-Portuguese descent were enacted in 1622, and financial incentives were extended to immigrants in order to persuade them to move on to lands where they could live openly as Jews. But the attitude toward Ashkenazic immigrants was much stricter. Their numbers began to increase at the beginning of the 1630s. Roughly half

of the 1,000 refugees in the period of the Thirty Years War and during the Swedish invasion in the late 1630s stayed in Amsterdam, while the other half returned to Poland, where they turned to begging.

Following the Chmielnicki massacres, the Amsterdam community raised funds that were sent to assist Jews who suffered persecution in Russia, Poland, and nearby Cracow, and were to be used for the redemption of captives. In 1656–57 significant funding was allocated for survivors in Lithuania and Poland at a time when the Amsterdam community itself was absorbing hundreds of Jewish refugees from the same region.³⁹ Tensions arose once again in 1658, when recriminations against idleness and begging were recorded in the communal register, accompanied by the threat that assistance for East European refugees would be discontinued. The intent was, clearly, to dissuade the poor from remaining in Amsterdam. As before, the Spanish-Portuguese *kehillah* allotted funds for the transport of poor Ashkenazim and Poles out of Holland.⁴⁰ Approximately 400 refugees, mostly Polish, left Amsterdam in 1658–60 and in 1664–65. The situation improved once the Ashkenazic *kehillah* freed itself from the patronage of the *Ma'amad* in 1670, but not enough to counter the pressure that was exerted on an additional 1,000 refugees to leave the city. Some went to Hamburg and Frankfurt, Italy, or London, and a few to Eretz Israel, in addition to those who returned to Poland and Lithuania. In addition to the 500 Polish Jews who resided in Amsterdam in 1671 after having immigrated there between 1648 and 1660, there were also more than 2,000 Ashkenazic Jews of German origin who settled in Amsterdam.⁴¹

Owing to the severe economic plight of Jewish immigrants and conversos who sought a new beginning in southern France, the Jewish communities of Bordeaux, Bayonne, and Avignon displayed uneasiness about supporting the poor. In the case of Bordeaux, this attitude manifested itself in rather severe resistance to the settlement of any additional Jews in the early seventeenth century and even in the expulsion of some who had lived in the community for as long as twenty years. The sad reality was that most of the Jews who had arrived in Bordeaux after the Spanish expulsion were impoverished, and even as late as 1718, roughly forty percent of Sephardic families in the

community had no formal source of income. With one of two families dependent on charity in the eighteenth century, the community leadership felt compelled to expel residents, including both Sephardic and non-Sephardic families. In 1648, ninety-three poor Sephardic families were expelled from Bordeaux, Bayonne, Dax, and Bidache. In 1735, the Bordeaux *kehillah* decided that only the Sephardic poor were eligible to receive charity; in 1744 it undertook to expel Ashkenazic and Italian Jews, and also prohibited the Sephardic poor from trading in used goods. In 1753 a large number of Sephardim were again expelled from Bordeaux, as were poor immigrant conversos. In St. Esprit and Avignon, communal leaders followed a similar policy of expulsion of vagabonds in order to reduce competition in trade while also imposing limits on the number of poor entitled to receive charity.⁴²

In northeastern France, the pressures posed by the immigration of refugees from the east exacerbated the precarious economic circumstances in which Jews were living in the eighteenth century. In order to combat the erosion of religious traditionalism in general and the challenges of poverty in particular, leaders of Jewish communities throughout Alsace convened in the 1760s and 1770s in order to formulate a centralized policy. It was resolved that the decisions taken at these meetings were to be binding upon all communities in the entire province. Of the numerous issues discussed at the regional meetings, poor relief was among the most important. A comprehensive list of the poor throughout the province was drawn up in order to facilitate the distribution of aid, contributors for the *maḥazit ha-shekel* (sent annually to Jerusalem) were solicited, and a proposed tax on dowries was considered.⁴³ One important decision was the creation of a central *beit midrash* for the entire province, while efforts to fund the regional *yeshivot* of Sierentz and Ettendorf also continued unabated. Community leaders of Upper and Lower Alsace believed that it was necessary to establish institutions—beyond the existing *yeshivot* and *batei midrash*—where young men could continue to study without interruption for up to three years. Half the funding was to be provided by fines, two-ninths from the tithe on dowries, and the balance from voluntary contributions. The general *parnassim* were instructed to appoint two men from the upper and lower regions of Alsace to raise

money; the two *yeshivot* were designated as beneficiaries of a tax of one-half of one percent on every inheritance, and on the occasion of every marriage, at least *ma'aser* (ten percent) from each the dowry was to be paid to the Ettendorf *yeshivah* if the groom was a native of Upper Alsace, or to the Sierentz *yeshivah* if he was from Lower Alsace. Those honored as *sandak* were required to make a contribution to the central *beit midrash*, assuming that they had at least 600 *zhevrim*. To ensure that these obligations were carried out, *mohalim* were instructed to provide the *gabba'im* with lists of persons who performed these functions.⁴⁴ It is important to note that what would otherwise have been considered charitable contributions were viewed as sources for the funding of communal institutions.

Not infrequently in the eighteenth century, wealthy individuals established charitable foundations to support education, to assist the indigent, and to aid poor brides. In 1761, for example, Moïse Belin, a wealthy army purveyor, contributed 25,000 livres to fund the higher education of twenty-four poor children from Metz, with three places reserved for children who had studied in the academies of Alsace (in Ettendorf and Mutzig). Similarly, David Terquem, a wealthy Metz businessman, donated 12,000 livres to the local community in order to support two students with the annual interest.⁴⁵ A much more ambitious effort was the establishment in 1786 of a foundation to support "Talmud Torah, Hakhnassat Kallah, and Tzedakah" in Alsace. The document announcing this undertaking sheds light on the details and larger goals of charitable giving in the late eighteenth century. Created with an endowment of 175,000 livres by the wealthy army purveyor Herz Cerf Berr, the foundation established a *beit midrash* in Bischheim with three full-time Talmud scholars, it established a fund to dower and marry young women from families lacking sufficient means, and it provided assistance to needy individuals.⁴⁶

The Cerf Berr foundation represents, in my view, an intermediate form of charitable giving that diverged from the medieval model but did not go quite as far as the nineteenth-century paradigm of charity, as we shall see below. The foundation was to remain under the complete control of the benefactor, his three sons-in-law and three sons, and its explicit purpose was to support members of the

extended Cerf Berr family. Only individuals who were related to Cerf Berr or his wives were considered eligible for an appointment as *beit midrash* scholars, for the award of a dowry, or for charitable assistance. Nonrelatives could be selected on condition that there were no eligible family members available; in the case of *hakhnassat kallah*, preference was given to orphans, daughters of scholars, and residents of Alsace.⁴⁷ It is important to take note of precisely how the foundation defined entitlement to charitable assistance. Clear preference was given to the “deserving” poor. Accordingly, in order to qualify for a dowry award, a young woman needed to be a *bat tovim*—that is, from a reputable family—and she herself must have an unblemished reputation and a record of good conduct. Charitable assistance, including gifts of clothing, was to be disbursed only to *aniyim hagunim*, that is, the “decent” poor.

Although the foundation was set up primarily to assist members of the Cerf Berr family, it nonetheless functioned as a public institution. Its records were deposited on file with the royal notary and any procedural dispute or disagreement about eligibility was to be brought before the provincial rabbi or the *parnassim*. The founding document also stipulated that if, in the future, the number of family members in France diminished to less than five, the administration of the foundation would pass to the *parnassim u-manhigei ha-medinah* and to one of the regional chief rabbis of Alsace. Ultimately, the *rav ha-medinah*, along with the *parnassim u-manhigim*, was expected to oversee the practices and procedures of the foundation. We may assume, then, that the established criteria for selecting beneficiaries who were either relatives or of “decent” families were acceptable in some measure to the communal leadership.

It is clear that the ultimate aim of Cerf Berr was the advancement of the material and spiritual condition of members of his family and, secondarily, of his community. His proposal was a concrete effort to tackle a problem that demanded resolution in some form, and having recently reached the age of sixty, he is likely to have considered the establishment of the foundation the last major undertaking of his life. Should this be viewed, then, as a nonredemptive goal? While the idea of *to'elet ha-nishamah* is not mentioned either directly or indirectly

in the document, Cerf Berr's efforts to support his relatives, like the demand that a certain *Yehi Ratzon* prayer be recited on his behalf at the *beit midrash* each day, might well be viewed as proof that he wished to achieve a measure of immortality. Nevertheless, this aspiration could be realized in this world, not in the next, by acquiring a "passport to heaven," as Jacques Le Goff labeled the hope of medieval testators.⁴⁸ Here, the emphasis was on posterity and expressed itself in the proviso that the first issue of a marriage of an orphan must be given the name Dov Ber or Gelche, the parents of the benefactor.⁴⁹ In any case, the foundation did not endure for long. The immense fortune left to Cerf Berr's heirs was ultimately destroyed by the Revolution and by the moratorium ordered by Napoleon on the repayment of debts owed to Jews.⁵⁰

THE ERA OF EMANCIPATION

It was in the period when Jews engaged in the struggle for civic equality that the theory and practice of philanthropy underwent their most thorough transformation. The rise of the modern nation-state brought an end to the corporate, semi-autonomous Jewish community; Jews were recognized as private citizens of their country of residence, and the Jewish community came to be organized, increasingly, as a voluntaristic association. In contrast to the medieval *kehillah*, the modern community frequently lost the right to tax its members for the support of social welfare and other needs. Accordingly, it was necessary to employ modes of fundraising for the support of charitable and civic projects at a time when the corporate-legal structure of the medieval Jewish world had been dismantled. As shown above, even before the collapse of communal autonomy, philanthropy had emerged as an instrument of social control, informed by what Marcel Mauss termed "reciprocal exchange" and the attendant enhancement of social status. Priority was given to the "deserving poor" and to self-help.⁵¹

Modern philanthropy was fully enmeshed with *régénération*, the term used in France to signify the goal of socioeconomic transformation. "Regeneration" was an essential requirement of emancipation and was one of the tasks assigned to the new consistory system by the Napoleonic regime. Napoleon's grand vision of a revamped Jewish

communal organization rested on the principles of thoroughgoing centralization and control. In his estimation, the modernization of the Jews required aggressive government intervention in internal Jewish affairs, and the structure of Jewish communal organization was designed anew in order to redefine the relationship of Jews to French society. Jewish communities of the empire were organized in consistories that closely resembled the model already in place for the Protestant population. Initially, seven departmental consistories were formed in France, and at the administrative helm sat the Central Consistory in Paris. Dominated by the lay leaders, the consistories applied pressure to comply with the goals of *régénération*. For example, in 1829 the Paris Consistory decided to withhold charity from poor parents who neither sent their children to the consistorial primary school nor had them learn a trade. This threat was repeated in 1832, 1834, and 1841. The Strasbourg Consistory had similar concerns in 1858.⁵²

In sharp contrast to the medieval *kehillah*, the consistory worked to promote the modernization of Jewish life in accordance with prevailing notions of civic morality, industrialization, and civility. The realization of this goal depended upon the assertion of consistorial authority in virtually every area of public life and over the entire French-Jewish population. Because this objective was not easily accomplished in the provinces, emphasis on a centralized approach came to be regarded as strategically essential. Their programs echoed governmental efforts to impose centralization on the general populace. To the extent that unity was successfully realized, the achievement represented a significant departure from the mentality of the pre-emancipation era when local and regional forces were paramount.⁵³

The most immediate and pressing problem facing the Jewish community concerned begging.⁵⁴ From the beginning, the Central Consistory proscribed care for itinerant beggars, especially those from abroad. In 1822 the Upper Rhine Consistory limited the number entitled to support to 100, while it denied assistance to foreign beggars. The poor were to receive meals through the billet system. Similar measures were adopted the following year by the Consistory of the Lower Rhine. The poor who came to visit their more affluent relatives were permitted to do so twice a year only, on condition that

they possessed a certificate of good conduct. The persistence of the problem prompted the Jewish community of Strasbourg to establish in 1839 a Society to Eradicate Begging. No aid was permitted either to young people capable of working or to illegal immigrant beggars. New regulations in 1847 limited the aid awarded to beggars living in the Lower Rhine to two francs per trimester; one franc to beggars from other departments; and fifty centimes to those either without fixed domicile or to foreigners with papers. As in other localities, beggars needed to show a certificate of indigence and good conduct in order to qualify for assistance. In other words, as in the early modern period, entitlement depended on worthiness.⁵⁵

Alongside these efforts to regulate and eradicate begging, proponents of regeneration proposed a more ambitious approach. They demanded that beggars and peddlers undergo vocational training in order to be integrated into the French economy, and that they make compromises with Jewish religious practice when necessary. Owing to the difficulties encountered by Jewish laborers who were expected by their employers to work on the Sabbath and holidays, religious reform was viewed by many among the urban elite as a necessary component in the economic regeneration and integration of their coreligionists. Committees to eliminate begging were established mainly in the northeast, especially in the areas of Strasbourg and Colmar.

Empowered to collect and disburse funds, the consistories assumed control over communal institutions, including synagogues, cemeteries, schools, vocational societies, and charitable organizations. The battle against private prayer meetings was unrelenting, lasting for a half-century. Mutual aid societies, which preserved the structure of the traditional confraternities (*hevrot*) and staunchly resisted submission to the consistorial monopoly, endeavored to maintain private *minyanim* as emblematic of their independence. The consistories waged a constant battle against private *minyanim*, but did not succeed completely. The persistence of these confraternities, and the refusal to respect the consistorial monopoly in other areas, such as *shehitah*, reflects a deep-seated dissatisfaction with consistorial authority.⁵⁶ For their part, the consistories went to considerable lengths to control the solicitation of funds in local communities, and they underscored the duty to support

communal and regional institutions (such as the *école de travail* of Strasbourg). Consistory-appointed delegates to the local community presided over the election of rabbis, cantors, and other community functionaries, and also bore responsibility for tax collection and for issuing annual reports, thus enabling the consistory to control the local budgets. Communities, for their part, demanded the freedom to make budgetary and fund-raising decisions without consistorial interference.⁵⁷

In most Western and Central European communities there emerged an impressive array of voluntary associations, some of which were taken over from the medieval *kehillah*. The full range of services available to the unfortunate, including provision of food, clothing, and medical care to the needy and the sick, the dowering of poor brides, relief for orphans and widows, and burial of the dead, was financed by some combination of community and private funds. One nineteenth-century innovation was the emergence of women's charitable societies and of societies that supported the training of Jewish apprentices and farmers.⁵⁸ It is worth noting that although it was not unusual for women's associations to be called by the name *Hakhnassat Kallah*, these bore virtually no resemblance to the pre-emancipation confraternities of the same name. In the case of the Paris association that was founded in 1843, efforts focused exclusively on placing young girls in apprenticeships.⁵⁹

By fulfilling the objectives and needs of religious piety, study, and philanthropy, confraternities represented an alternative framework to the consistory. Many proponents of *régénération* questioned the consistory's ability to lead the educational and vocational transformation, and thus most efforts in these areas resulted from private, not consistorial, initiatives.⁶⁰ Nevertheless, even when initiatives were undertaken independently, the consistories eventually provided the necessary organizational framework and support. The encouragement of vocational training eventually came under the aegis of the local consistories. In some communities, such as Bordeaux and Metz, efforts were made to introduce industrial arts instruction and apprenticeship into the new Jewish primary school system. The most significant efforts to promote Jewish vocational training were initiated by societies founded for the purpose of encouraging children of the

poor to undertake apprenticeships. These *sociétés de patronage* were created by wealthy individuals in 1820s, and by mid-century there were similar *sociétés* in all major Jewish communities. In 1825 a local group in Strasbourg established an *école de travail* where apprentices could board and receive training in shops, and in 1842 a similar institution opened in Mulhouse.⁶¹

It is especially important to emphasize the impact of the larger context of French philanthropic activity on the drafting of programs for the Jewish poor. Inspired by the efforts of the *Frères des écoles chrétiennes*, a dozen *écoles des arts et métiers* opened in French cities in the early nineteenth century. As a leading sponsor of apprenticeships, the Christian teaching order offered manual arts training to children of the poor. These programs became a model for Jewish trade schools, much as Jewish *sociétés de patronage* were patterned after Catholic and Protestant associations. It should also be pointed out that Christian and Jewish leaders shared the view that vocational education and moral and social reform went hand in hand. The Jewish communal leadership viewed *régénération* not only in terms of occupational restructuring but more broadly as moral reform. Vocational training was designed to inculcate a positive attitude toward labor, self-discipline, virtue, respect for others, and patriotic loyalty. This was part of the promotion and representation of a positive self-image of the Jewish underclass to members of the larger society.⁶²

Another element of their shared vision was the social conservatism that informed their philanthropic efforts. Those who devoted themselves to the work of *patronage* did not envision a society based on social and economic equality. Toward the goal of attaining economic stability, their hope was that young apprentices would accept their place in the social order and acknowledge their debt to those who assisted them. Of even greater significance was the distrust displayed by the elite in the ability of impoverished families to raise their own children because of the poor examples they set for them. Accordingly, *patronage* activists made special efforts to counteract what was viewed as the “corrupting” ethos of poverty by exposing children to wider cultural opportunities that included art, music, literature, and nature. The similarity of the goals pursued by Jewish and Christian advocates

of philanthropy also found expression in certain shared activities, such as the enrollment of Jewish children in evening design courses sponsored by the Paris municipality, and in the participation of Jewish benefactors in funding the society for the apprenticeship of orphans and abandoned children.⁶³ So central was the goal of elevating the Jewish poor through vocational training that the lay consistorial leadership was willing to overlook violations of ritual observance as well as the overstepping of traditional boundaries relating to social interaction with gentiles.

For the Jewish elite, the transformation of the poor represented a powerful counterclaim to the commonly held assertion that Jews were unable or unwilling to engage in manual labor, and it offered solid evidence of Jewish contributions to the public welfare. Much of the discourse of Jewish emancipation in nineteenth-century France revolved around the eagerness of communal leaders to publicize successes in these areas and also to take cognizance of the support, recognition, and praise that their efforts gained among government officials, clerics, and intellectuals. It is certainly a mark of the modern era that these philanthropic efforts, which originated in the goals of self-care and self-reform, came to be measured, ultimately, by the extent to which they were integrated within the larger social and political narrative of *l'utilité publique*.

* * * * *

It is generally assumed that the modern emphasis on social control and social engineering, which were both accompanied by considerable ambivalence toward the poor, reflects a weakening of the role of religion in public life.⁶⁴ However, the claim that philanthropy was motivated by purely social concerns of a largely secular nature has been challenged by a number of recent historical studies that stress the continued importance of religion in shaping modern society. In a recent article focusing on the international activities of Sir Moses Montefiore, British historian Abigail Green rejected the purely functional approach to philanthropy. In her view, philanthropic efforts that boost one's own standing in the world or that advance a political objective (such as the

emancipation of the Jews) ultimately fall short of the mark because they are not inspired by the requisite sentiments of compassion and generosity. The functionalist approach to philanthropy, argues Green, is therefore incompatible with what she considers “traditional forms of Jewish charity.” Montefiore’s public mission is offered as a counter-example of an intricate amalgam of particularism and universalism, which “tended to be motivated at some level by religious concerns.”⁶⁵ While I certainly do not disagree with this last formulation, I think that Green’s insistence that Jewish philanthropy remain unsullied by self-interest rests on a false dichotomy between the religious and secular realms and also on the assumption that an act of charity cannot be at once personally beneficial and altruistic.⁶⁶ It hardly needs to be argued that the arena of the mundane is well within the purview of Jewish religious activity, and therefore, to further the goal of social control is not necessarily to diminish or abandon the religiously meaningful act. Nor can the resultant social and religious tensions be ignored. Jewish philanthropy in the early modern and modern periods emerged as a strategy that no longer limited itself to improving the lot of the needy but also served to advance the goals of the Jewish community at large.

In this last regard Jews shared concepts and values with their non-Jewish neighbors. There is little doubt that the religious imagination of ordinary Jews was occasionally colored by the religious images of the dominant Catholic and Protestant faiths. The Jews of Italy, for example, living in a pervasively Catholic environment, were hardly impervious to the religious influences around them. Is it possible that under these circumstances they were more likely to espouse the salvational conception of charity than the more neutral, this-worldly conception that was dominant among Protestants?⁶⁷ Although the thorny questions of cultural influence and interaction cannot be addressed at this juncture, they offer fertile ground for future inquiry.

NOTES

1. See Salo W. Baron, *The Jewish Community: Its History and Structure to the American Revolution* (Philadelphia: Jewish Publication Society, 1942), vol. 2, pp. 320–321. Concerning the burial society, see Maimonides, *Hilkhot Matenot Aniyim* 9:12.

2. For example, in 1558 the Avignon community specified the amount of money per family for pre-festival distribution, cited in Baron *Jewish Community*, vol. 2, pp. 320–321.
3. B.T. Ketubot 66b–67a. An alternative interpretation is that the money dissipated because he made the gift in order to attain self-glorification.
4. Solomon ben Aderet, *Resp. Rashba*, (Jerusalem: Makhon Yerushalayim, 1996), pt. 3, nos. 380 and 414. See discussion in Baron, *Jewish Community*, vol. 2, p. 321, and Jonathan Cohen, “Communal Welfare Organizations According to Rashba,” *Hebrew Union College Annual* 72 (2001): 85–100.
5. Solomon ben Aderet, *Resp. Rashba*, New Responsa, no. 126. See *Shulḥan Arukh*, Yoreh De’ah 250:5, and Joseph Caro, *Beit Yosef*, ad. loc.
6. B.T. Bava Batra 8b and Ketubot 49b, s.v. *akafiya*.
7. See Isadore Twersky, “Some Aspects of the Jewish Attitude Toward the Welfare State,” *Tradition* 5 (1963): 156.
8. Maimonides, *Matenot Aniyyim* 7:10. Cf. Aryeh Leib HaCohen Heller, *Ketzot ha-Hoshen* (Jerusalem: Me’orei Or, 1999), Yoreh De’ah 290, sec. 3. Cf. Bava Kama 36b: The poor are viewed as owners of the funds deposited in the charity fund, and the *gabba'im* are viewed as their agents. Accordingly, once the funds are placed in the hands of the *gabba'i*, no changes can be made. For the view of Rashba, see *Resp. Rashba*, pt. 5, no. 56.
9. *Tur* and *Shulhan Arukh* Y.D. 248:1: הצדקה מן המתפרנס עני ליתן צדקה אפי' כל אדם חייב ליתן צדקה אפי' עני שאינו רוצה ליתן או נותן פחות משראי לו ליתן היו ב"ד כופין אותו עד שיתן מה שאמדהו ליתן ויורדין לנכסיו ולוקחין ממנו מה שראוי וממשכנין עליו אפי' בערבי . . . הרי דבר פשוט הוא שכבר נהגו: *Resp. Maharik* 17:5. Also see Joseph Colon, *Resp. Maharik* 17:5: “כל אדם חייב ליתן צדקה אפי' עני המתפרנס מן הצדקה” . . . כי על פי התורה נקבע מנהג זה דמאחר דהיחיד מסרב לפרוע הטלתו כאשר ישיתו עליו ראשי הקהל החשובים הלא הוא כמסרב לדון . . . וכן כתב נמי הרשב"א כשהיחיד מסרב וממרא את פיהם בדליכא חבר עיר וכ"ש כשישנו Cf. *Tur* Y.D. 256:5. ונתמנה עמהם.”
10. Moses Isserles, *Resp. Rema* (Jerusalem, 1970), Asher Ziv ed., no. 31, and cf. no. 47.
11. The exception to the rule concerning the noncompulsion of individuals to give *tzedakah* is within the family framework. Evidence from the records of the Metz *beit din* in the 1780s indicates that the court supported the claim that relatives could be coerced to give *tzedakah* in order to furnish a dowry for a needy family member when the father was not able to assemble the funds himself. See Records of the Metz Beit Din, YIVO Archives, Group 128, Rabbinical and Historical Manuscripts, vol. 1, pt. 2, p. 13b [Adar 12, 5536]; vol. 1, p. 54a [Tammuz 17, 5537]; vol. 2, p. 53a [Elul 5, 5541]; vol. 2, p. 68a [Nissan 26, 5541]; vol. 2, p. 93a [Nissan 26, 5542]; vol. 2, pp. 101b–102a [Heshvan 13, 5545]. On the matter of communal goals as defined by the lay leadership, see Ya'ir Hayyim Bacharach, *Resp. Havvot Yair*, nos. 81 and 57, and the discussion in Jay R. Berkovitz, *Rites and Passages: The Beginnings of Modern Jewish Culture in France, 1650–1860* (Philadelphia: University of Pennsylvania Press, 2004), p. 58.
12. Rosh, Bava Batra, chap. 1, no. 29; Levush, Y.D. 256:4: “והוא הדין לגבאי הממונה מבני”

העיר שיכול לעשות הצדקה לפי ראות עיניו. וכן יחיד שהתנדב צדקה ונתנה לגבאי העיר, ודאי סילק עצמו מאותן המעוֹת ונתן הכח ליד הגבאי לעשות בה כמי שעוֹשִׂין בצדקת בני העיר, אבל אם היחיד מינה גבאי לעצמו אין בני העיר יכולין לשנותה דלא על דעתן התנדב, וכן אם פירש הנותן ואמר שיתנו לעניי העיר או לעני פלוני, אין לשנותה אפילו לתלמוד תורה.

- 13.. *Bayit Hadash*, 256:4. In 256:1, Sirkes cited the view of Rosh that according to Rabbenu Tam the townspeople can change *kuppah* and *tamhui* for anything they want, even for communal needs (as recorded in *Tur* 256). Prisha (256:9) adds: אפילו לדבר הרשות. This is the prerogative of the *tzibbur*, but not of the *gabai*. BaH explains that in his view this is because an individual, even if he is a *gabai*, could have financial problems and could use funds for his own needs—borrow it, or pay off debt. He cites *Nimukei Yosef*, Bava Batra 6a, that according to J.T. Shekalim 2:5 and Tosefta Megillah 2:9, the prerogative is not limited to *benei ha'ir* but even *parnassim* can do as they wish.
14. It cannot be denied that later authorities are divided on the question of coercion. For examples of the position that endorses coercion, which I take as the more representative view, see Ya'ir Hayyim Bacharach, *Resp. Havvot Ya'ir* (Frankfurt, 1699), no. 157, and Ezekiel Landau, *Resp. Noda B'Yehudah* (Prague, 1776), Y.D. 158. For two views that opposed coercion, see Joel Sirkes, *Resp. Bayit Hadash (Yeshanot)*, no. 37 and Moses Sofer, *Resp. Hatam Sofer* (Pressburg, 1855), no. 157.
15. *Resp. Mahari Mintz*, no. 7, cited in Baron, *Jewish Community*, vol. 2, p. 322. In Alsace young couples were free from the obligation of purchasing *pletten* during the first year of marriage. See Isidore Loeb, "Les Juifs à Strasbourg depuis 1349 jusqu'à la Révolution," *Annuaire de la société des études juives* 2 (1883): 185, art. 11.
16. See Moses Shulvass, *From East to West* (Detroit: Wayne State University Press, 1971), and S. Posener, "The Social Life of the Jewish Communities in France in the 18th Century," *Jewish Social Studies* 7 (1945): 221–223.
17. Charles H. Parker, "Poor Relief and Community in the Early Dutch Republic," in *With Us Always: A History of Private Charity and Public Welfare*, ed. Donald T. Critchlow and Charles H. Parker (Lanham, Md.: Rowman & Littlefield, 1998), pp. 13–33.
18. See Kathryn Norberg, "Religious Charity and Cultural Norms in Counter-Reformation France," in *With Us Always: A History of Private Charity and Public Welfare*, ed. Donald T. Critchlow and Charles H. Parker (Lanham, Md.: Rowman & Littlefield, 1998), pp. 35–54.
19. Brian Pullan, "Charity and Poor Relief: The Early Modern Period," *Encyclopedia of European Social History* (New York: Charles Scribner's Sons, 2001), vol. 3, pp. 447–452.
20. Stefanie Siegmund, *The Medici State and the Ghetto of Florence: The Construction of an Early Modern Jewish Community* (Stanford, Calif.: Stanford University Press, 2006), pp. 387 ff.
21. See Elliott Horowitz, " 'Let the Poor Be Members of Your Household': Charity, Poor and Social Control in European Jewish Communities Between the Middle

Ages and the Beginning of the Modern Era,” in *Religion and Economy: Connections and Interactions*, ed. Menahem Ben-Sasson (Jerusalem: Mercas Zalman Shazar, 1995), p. 231. Horowitz suggests that the term *hagun* related solely to the conduct of life; a person who was not deemed *hagun* was shunted to margins of Ashkenazic society in terms of his eligibility to receive *tzedakah* (p. 226).

22. Baron, *Jewish Community*, vol. 2, pp. 321–325.
23. Horowitz, “‘Let the Poor Be Members of Your Household,’” p. 210.
24. Judah Mintz, *Resp. Mahari Mintz* (Venice, 1552), no. 7.
25. See *Sefer Minhagei Maharil*, no. 60, excerpted in Horowitz, “‘Let the Poor Be Members of Your Household,’” p. 216: Horowitz argues further that the negative view of the poor was already found in *Sefer Hasidim* (pp. 217–218).
26. *Derushei ha-Zelah* 9ab, 26d, cited in Baron, *Jewish Community*, vol. 3, p. 209, n. 35.
27. See Baron, *Jewish Community*, vol. 2, pp. 325–333.
28. The Venetian *banchi del ghetto* was set up exclusively for needy Christians. See Baron, *Jewish Community*, vol. 2, p. 327.
29. The Lithuanian Council supported twelve poor brides annually at 30 florins. See Baron, *Jewish Community*, vol. 2, pp. 323–324. On the appointment of guardians by the *beit din* of Metz to manage the estates of orphans, see Jay R. Berkovitz, “Civil Law and Justice in the Rabbinic Tribunals of 18th Century Metz,” *Iggud: Selected Essays in Jewish Studies* (2008): 87–99.
30. See Marc Raeff, “The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach,” *American Historical Review* 80 (1975): 1221–1243.
31. See Brian Pullan, “Charity and Poor Relief: The Early Modern Period,” *Encyclopedia of European Social History* (New York: Charles Scribner’s Sons, 2001), vol. 3, pp. 447–452. In Metz, lay leaders had clearly gained the upper hand over the rabbinate, whose political power and communal authority had already begun to diminish by the late seventeenth century. The *kahal* set conspicuous limits on the judicial independence of the communal rabbi, empowering itself to issue legislation to correct a moral problem or to prevent a religious infraction—areas formerly under the exclusive authority of the rabbis. Also see Berkovitz, *Rites and Passages*, chap. 2. Concerning the struggle in seventeenth-century Poland-Lithuania, leaders of the Council of the Four Lands enacted *takkanot* and issued the *herem* without the express approval of halakhic authorities, a tendency that was strongly contested by the foremost rabbinic figure of the day, R. Joel Sirkes. See Sirkes, *Resp. Bayit Hadash* (Additional), (Korzec, 1785), no. 43, and for a dissenting view, see Bacharach, *Resp. Havvot Yair*, no. 81.
32. Daniel Swetchinski, *Reluctant Cosmopolitans: The Portuguese Jews of Seventeenth-Century Amsterdam* (Oxford: Littman Library of Jewish Civilization, 2000), pp. 178–181, 186–187.
33. *Ibid.*, pp. 196–203.
34. *Ibid.*, p. 201.

35. Yosef Kaplan, "The Attitude of the Spanish and Portuguese Jews to the Ashkenazi Jews in Seventeenth Century Amsterdam" [Hebrew], in *Transition and Change in Modern Jewish History* (Jerusalem: Mercas Zalman Shazar, 1988), pp. 389–412.
36. Swetchinski, *Reluctant Cosmopolitans*, pp. 202–203.
37. Kaplan, "Attitude of the Spanish and Portuguese Jews," pp. 410–412.
38. Swetchinski, *Reluctant Cosmopolitans*, p. 203.
39. One refugee, R. Moshe Rivkes, described the reception in the introduction to *Be'er ha-Golah*, his commentary on the *Shulhan Arukh*: "Upon our arrival there was an outpouring of mercy from Sephardic sages and affluent individuals, and they aided us in *tzedakah* and *hesed* and distributed much money to each individual for lodging, food, and clothing. Each person was given a good deal of money, and so too the other boats that arrived afterward." Cited in Kaplan, "Attitude of the Spanish and Portuguese Jews," p. 407.
40. Kaplan, "Attitude of the Spanish and Portuguese Jews," pp. 407–410.
41. Yosef Kaplan, "Jewish Refugees from Germany and Poland-Lithuania in Amsterdam during the Thirty Years War" [Hebrew], in *Culture and Society in Medieval Jewry: Studies Dedicated to the Memory of Haim Hillel Ben-Sasson*, ed. Menahem Ben-Sasson, Robert Bonfil, and Joseph Hacker (Jerusalem: Mercas Zalman Shazar, 1989), pp. 587–619.
42. Zosa Szajkowski, "Sephardim, Ashkenazim and Avignonese Jews," in *Jews in the French Revolutions of 1789, 1830 and 1848* (New York: Ktav, 1970), pp. 254–257. Avignonese leaders enacted *takkanot* in 1760 that gave them the right to expel vagabonds. On the attitude toward foreign Jews in Bordeaux, and on sick care in the community, see *Le Registre des délibérations de la Nation Juive Portugaise de Bordeaux (1711–1787)*, ed. Simon Schwarzfuchs (Paris: Centre National de la Recherche Scientifique, 1981), pars. 173, 182, 382–383, and 417.
43. See Loeb, "Les Juifs de Strasbourg," pp. 178–179 and 193–198. For a fuller account, see Berkovitz, *Rites and Passages*, chap. 3.
44. Loeb, "Les Juifs de Strasbourg," pp. 178–179 and 193–198. See Berkovitz, *Rites and Passages*, p. 57 and p. 258, n. 108. See "Protocol of the Medinah" (28 May 1777), arts. 3, 12, 14, 15, 23, 27–29, 34.
45. See Arthur Hertzberg, *The French Enlightenment and the Jews* (New York: Columbia University Press, 1968), pp. 168–169. The Metz *kehillah* supported 20 *yeshivah* students for instruction by the *av beit din*. In article 22 of the rabbinic contract issued to R. Aryeh Loeb Gunzberg, author of the *Sha'agat Aryeh*, the community obligated itself to support five additional students. See Simon Schwarzfuchs, "The Rabbinic Contract of the Sha'agat Aryeh in Metz," *Moriah* 15 (1986): 81–90. Also see Samuel Kerner, "Acte de fondation d'un college hébraïque a Metz, 1751," *Archives juives* 7 (1970–71): 45–50; idem, "La Vie quotidienne de la communauté juive de Metz au dix-huitième siècle" (thèse de doctorat de 3^{ème} cycle, Université de Paris, 1977–79), pp. 170–172, 174–175; and Raphael Blum, "Le fondateur du grand Beth Hamidrash de Bouxwiller," *Univers israélite* 35 (1879): 85–88, 112–114. On the institution of the *hekdesch* in Metz, see S. Kerner,

Vie quotidienne de la communauté juive de Metz, pp. 112–123, 149–168. For a full description of charity in an Alsatian village, see Samuel Kerner, *La Communauté juive d'Odratzheim* (Paris, 1983).

46. The document establishing the Cerf Berr foundation was published by Simon Schwarzfuchs, "Three Documents from the Lives of the Jewish Communities in Alsace-Lorraine" [Hebrew], *Michael* 4 (1976): 12–25.
47. For nonrelatives, priority was to be given to the daughter of a *talmid hakham* without means, but in such circumstances an orphan of a *talmid hakham* was to be given priority. Among nonrelatives, the daughter of one of the scholars of the *beit midrash* was preferred.
48. Jacques Le Goff, *Medieval Civilization* (Oxford: Blackwell, 1988), p. 187. In the **records of the Metz *beit din***, there are 15 cases of charitable bequests that were intended for the redemption of the soul. Testators left instructions either to distribute alms on the *yahrzeit* or to pay individuals to learn in their memory. For examples, see Records of the Metz Beit Din, vol. 2, pp. 16b, 41b, and 141a.
49. It was stipulated in Article 17 that if a young woman who had been dowered by the Foundation died within the first year of marriage and did not give birth to a child, then her husband would be obligated to repay the dowry to the Administrative Commission after deducting the expenses of marriage. If she died in the second year without leaving a child, her husband was required to repay half the dowry. See Schwarzfuchs, "Three Documents from Alsace Lorraine," p. 21.
50. See Zosa Szajkowski, *Poverty and Social Welfare Among French Jews* (New York, 1954).
51. Mauss's major work, *The Gift*, was published in 1954 (in French). For a current edition in English, see Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies* (New York: Routledge, 2002).
- 52.. Phyllis Cohen Albert, *The Modernization of French Jewry: Consistory and Community in the Nineteenth Century* (Hanover: University of New England Press, 1977), pp. 50–61, 124–128.
53. Jay R. Berkovitz, *Shaping of Jewish Identity in Nineteenth-century France* (Detroit: Wayne State University Press, 1989), pp. 148–149.
54. Ibid., pp. 76, 86–90. Cf. the view of R. Joseph Lévy, rabbi of Saar-Union, who protested the unsympathetic treatment of beggars and drew upon traditional sources to justify the claims of wandering beggars. See *Lien d'Israel* (1858).
55. Paula Hyman, *The Emancipation of the Jews of Alsace: Acculturation and Tradition in the Nineteenth Century* (New Haven: Yale University Press, 1991), pp. 45–49.
56. Albert, *Modernization of French Jewry*, pp. 197–204, 223–229, 232–233.
57. In the aftermath of the 1848 revolution the consistorial monopoly became weaker. On efforts of the Strasbourg consistory to appoint its own delegates to sit on the board of the *société d'encouragement au travail en faveur d'israélites indigents*, see "Extrait des Registres des deliberations du Consistoire israélite du Bas-Rhin," in *Archives israélites de France* 4 (1843): 50–52; Albert, *Modernization of French Jewry*, pp. 182–187; and Hyman, *Emancipation of the Jews of Alsace*, pp. 77–78.

58. Michael A. Meyer, "Jewish Communities in Transition," in *German-Jewish History in Modern Times*, ed. Michael A. Meyer and Michael Brenner (New York: Columbia University Press, 1989), vol. 2, pp. 105–111.
59. *Archives israélites de France* 6 (1845): 384; 7 (1846): 372–373. See Christine Adams, "In the Public Interest: Charitable Association, the State, and the Status of *utilité publique* in Nineteenth-Century France," *Law and History Review* 25 (Summer 2007): 283–321.
60. See Hyman, *Emancipation of the Jews of Alsace*, pp. 75–77. On criticism of the consistory, see Berkovitz, *Shaping of Jewish Identity*, p. 101.
61. Berkovitz, *Shaping of Jewish Identity*, pp. 104–110.
62. Lee Shai Weissbach, "The Jewish Elite and the Children of the Poor: Jewish Apprenticeships Programs in Nineteenth-Century France," *Association for Jewish Studies Review* 12 (1987): 123–142.
63. *Ibid.*
64. The relationship between social control, on the one hand, and ambivalence toward charity and the poor, on the other, has been studied in depth by scholars of early modern Europe. See, for example, Brian Pullan, "Catholics and Poor in Early Modern Europe," *Transactions of the Royal Historical Society*, 5th series, 26 (1976): 15–34; *idem*, "Support and Redeem: Charity and Poor Relief in Italian Cities from the Fourteenth to the Seventeenth Century," *Continuity and Change* 3 (1988): 177–208.
65. Abigail Green, "Rethinking Sir Moses Montefiore: Religion, Nationhood, and International Philanthropy in the Nineteenth Century," *American Historical Review* 110 (2005): 631–658. Also see David H. Kaiser, "Testamentary Charity in Early Modern Russia: Trends and Motivations," *Journal of Modern History* 76 (March 2004): 1–28.
66. See the efforts of Tosafot to explain that a person who declares "I will give this coin to charity so that my son will live" is rightfully considered a *tzaddik gamur* (Pesahim 8a–b) because the charitable act is not diminished by having been motivated by some form of self-interest.
67. This is an intriguing question that relates to the broader issue of language and culture. In the words of Edward Sapir, "Language is a guide to 'social reality' . . . The fact of the matter is that the 'real world' is to a large extent unconsciously built upon the language habits of the group." It is generally assumed that shared language implies, if not engenders, shared ideas. As one recent formulation has it: "Discourse is language used relative to social, political and cultural formations. It is language reflecting social order but also language shaping social order, and shaping individuals' interaction with society." Also see Edward Sapir, "The Status of Linguistics as a Science," *Language* 5 (1929): 207–214. I acknowledge with thanks Lewis Glinert for directing me to these references.

Part 2

Orthodoxy and Federations

6

Bound with Unseverable Bonds: The Orthodox Jew and the Jewish Community

Barry Shrage

To what extent is the Orthodox community involved in broader Jewish communal philanthropy? Given the significant needs within the Orthodox community, should it be more so? How has the relationship between the Orthodox community and Federations changed, and is the change for the better or worse?

[יז] וה' אָמַר הַמִּכְסָּה אֲנִי מֵאַבְרָהָם אֲשֶׁר אֲנִי עֹשֶׂה: [יח] וְאַבְרָהָם הָיָה לְגוֹי גָּדוֹל וְעַצוֹם וְנִבְרָכוּ-בּו כָּל גּוֹיֵי הָאָרֶץ: [יט] כִּי יִדְעֻתִּיו לְמַעַן אֲשֶׁר יִצְוֶה אֶת-בְּנָיו וְאֶת-בֵּיתוֹ אַחֲרָיו וְשִׁמְרוּ דֶּרֶךְ ה' לַעֲשׂוֹת צְדָקָה וּמִשְׁפָּט לְמַעַן הָבִיא ה' עַל-אַבְרָהָם אֶת אֲשֶׁר-דִּבֶּר עָלָיו: (ספר בראשית, פרק יח)

17 And the LORD said: Shall I hide from Abraham that which I am doing;

18 seeing that Abraham shall surely become a great and mighty nation, and all the nations of the earth shall be blessed in him?

19 For I have known him, to the end that he may command his children and his household after him, that they may keep the way of the LORD, to do righteousness and justice; to the end that the LORD may bring upon Abraham that which He hath spoken of him.

—Bereshit 18:17–19

A Jew who has lost his faith in Knesset Yisroel even though he may personally sanctify and purify himself by being strict in his observance of the precepts and by assuming prohibitions upon himself—such a Jew is incorrigible and totally unfit to join in the Day of Atonement which encompasses the whole of Knesset Yisroel. . . . Only the Jew who believes in Knesset Yisroel may partake of the sanctity of the day and the acquittal granted to him as part of the community of Israel. The Jew who believes in Knesset Yisroel is the Jew who lives as part of it, wherever it is, and is willing to give his life for it, feel its pain, rejoice with it, fight in its wars, groan at its defeats and celebrate its victories. The Jew who believes in Knesset Yisroel is a Jew who binds himself with unseverable bonds, not only to the people of Israel of his own generation but the community of Israel throughout the ages.

—Rabbi Joseph B. Soloveitchik,
Man of Faith in the Modern World, Abraham R. Besdin, KTAV, Page 73.

Who are we? Why are we here? What does God expect of us? . . . As Orthodox Jews? As Jews? As human beings? As children of Abraham and Sarah?

I have spent most of my life working for the Jewish people and hoping that my work in some small way advances God's work in the world, His dream of redemption, the law He has given, the ancient culture and civilization He inspires, and the importance of cultivating a Jewish voice in (as Rabbi Jonathan Sacks puts it) the "conversation

among civilizations.” I have chosen to work at two Federations—in Cleveland and in Boston. It has been an honor always and a joy for the most part.

I went to Yeshiva Rav Moshe Soloveitchik as a child, and while I left the Orthodox community and an Orthodox life for many years, the experience continued to fill my life with a yearning for meaning and purpose that I pursued but failed to find in the great social, cultural, and political drama of the sixties.

I returned to the Orthodox community as an adult. I view my work in the Jewish community as an outgrowth of my Orthodoxy, and my Orthodoxy as an expression of my commitment to the Jewish people. My teachers were Rabbis Irving Greenberg and Avi Weiss, and Benjamin Samuels. I sought guidance from Rabbi Isadore Twersky as I pursued my career in Boston. I developed my personal philosophy reading the works of the Rav and of Rabbis Jonathan Sacks and Abraham Joshua Heschel. I am neither a halachic authority nor a scholar. So these are the personal reflections of a person who lives happily as part of the Orthodox community but who also works with and loves the broader community of Jews and the larger world in which we all live.

In all the years I have lived in both worlds it has never occurred to me that there was a conflict between my life as an Orthodox Jew and my work at the Boston Federation, which we call CJP—the Combined Jewish Philanthropies. In fact I lived in the belief and with the prayer that my work might in some small way serve as a fulfillment of the values I carried as an Orthodox Jew. It was in this context that I was proud to serve as a steward of a community and a Federation that would inscribe the words *Tzedaka, Bracha, Rachamim, Chaim and Shalom* over its gate, and “The world stands on three things: On *Torah*, on the service of God, and on acts of loving-kindness” on its outer wall. It was a pleasure to be part of a community that chose to make a commitment to creating communities of *Torah, Tzedek and Chesed* part of its strategic plan and part of its communal consciousness. We have worked hard to build a community where Jews of all kinds, Reform, Reconstructionist, Conservative, and Orthodox, could work together in pursuit of our common goals and dreams. The Orthodox commu-

nity in Boston has contributed greatly to this effort and largely shares the greater vision that drives our community.

And yet this session raises critical if unspoken questions. What is the responsibility of Orthodox Jews to fellow Orthodox Jews, to fellow Jews, to humankind? How should we fulfill that responsibility? Alone? In consultation with others? As part of a broader Jewish community?

On the surface the questions are straightforward:

To what extent is the Orthodox community involved in broader Jewish communal philanthropy? Given the significant needs within the Orthodox community, should it be more so? How has the relationship between the Orthodox community and the Federations changed, and is the change for the better or worse?

But the answer to this question depends on how we define the “Orthodox community” to which we are presumed to owe a higher (or even an exclusive) commitment. And it also depends on how we assess the noneconomic costs of separating ourselves from the larger community of Jews and the even larger world of God’s creation.

Do I have a higher responsibility to preserve Orthodox solidarity or Jewish solidarity? Is there truly a community of Orthodox Jews to which I belong and to which I must give first loyalty, or are there many competing Orthodox Jewries as different from one another as Orthodoxy is from Reform Judaism? Who decides which Orthodoxy we should be loyal to? Which rabbis will teach our children? Which Roshei Yeshiva will teach the rabbis who will teach the teachers of our children?

These are the questions that should be consuming us right now. The non-Orthodox world is struggling to define itself. Birthright Israel is bringing tens of thousands closer to Torah and to Ahavat Yisroel. Jewish learning and practice are growing at the grassroots of the Jewish community as new generations seek meaning and purpose and community. In all of these pursuits the Orthodox community has much to give. Not in money so much as in learning and spirit. But what is our learning? What is our Torah? What is our spirit? The non-Orthodox community is struggling to define itself, but who are we?

Let me be clear. I’m not judging the Orthodox community as a Federation executive or as a Jew. All Jews are entitled to the love and

support of the Jewish community and the Federation, and of course I feel bound to their fate personally as a Jew who is committed to the ideal of Ahavat Yisroel. Haredi or Reform or unaffiliated, all should exist comfortably within the Federation system. But the question here is different. Do I, as an Orthodox Jew, have an automatic responsibility to place the needs of (all?) Orthodox Jews and Orthodox organizations above the needs of the larger Jewish community?

The truth is that I don't know how many Orthodox Jews give money to our Federation. Many Jews of many kinds fail to see the value of our Federation—Orthodox, Conservative, Reform, Reconstructionist, and unaffiliated. But we're also raising much more money than ever before . . . much of which we're using to fuel our communal vision of Jewish renaissance and greatly enhanced Jewish education. Among our most generous donors are many Orthodox Jews as well as Reform, Conservative, Reconstructionist, and unaffiliated Jews of every stripe. More importantly (much more importantly), Orthodox Jews in Boston are deeply involved in the *work* of the Federation. Side by side with teachers and rabbis of every denomination, Orthodox teachers and rabbis are among our most popular and compelling teachers, bringing words of Torah into almost every synagogue, temple, and JCC in pursuit of our communal vision of adult Jewish learning and a Jewishly literate Jewish community. And of course Orthodox Jews (and all other Jews!) might be justified in giving support to Federations that they believe serve the needs of the Jewish community and the Jewish people, and engaging to influence and change Federations that fail to meet those needs and that fail to project a compelling vision for the Jewish future. And I agree with all those who have pointed out that Orthodox Jews are poorer than other American Jews and face disproportionate demands around the cost of day school education, though I believe that every Orthodox Jew should give something to meet the needs of the broader Jewish community and the world beyond as part of what God demands of us. So for me none of this is about the amount of money Orthodox Jews give to the Federation but about our responsibility to the world beyond our own synagogue or own community.

But I do care (very much) “whether and to what extent the Orthodox community” is “involved in broader Jewish communal philanthropy” and whether it should be more or less, “given the significant needs within the Orthodox community.” And here I have a larger question: Is our greater loyalty, as Orthodox Jews, to the Orthodox community or to the Jewish community? And if to the Orthodox community, to what part of the Orthodox community? Or perhaps even more broadly, do we have a greater responsibility to preserve Jewish solidarity or Orthodox solidarity?

The real issue, the issue that should absorb us, has little to do with a statistical analysis of Orthodox giving to Federations or to non-Orthodox charities. The real issue, acknowledged by most experts and observers of the Orthodox world, is an intensifying process through which many parts of the Orthodox community, Haredi and even non-Haredi, are increasingly turning away from other Jews and from a world they view as increasingly dangerous and corrupt.

Rav Lichtenstein puts the danger clearly in the paper he prepared for this conference:

From an alternate perspective, the potential weight of the “outward-looking” option needs, unfortunately, to be emphasized for a very different reason. The ethical charge of *nevi'im* and the example of wellsprings of our very existence notwithstanding, many in the Torah world persist in remaining oblivious to *hesed's* universal aspect. I have lamented this tendency in a previous Forum essay, but the point needs to be hammered home repeatedly: “The tendency,” I wrote then and I reiterate now, “prevalent in much of the contemporary Torah world, in Israel as in much of the Diaspora, of almost total obliviousness to non-Jewish suffering is shamefully deplorable.” And we ask ourselves, in disbelief: Are the midrashim, imbibed from childhood, recounting Avraham Avinu’s *gemilut hasadim*—including the well-worn homily that his hospitality was superior to Lot’s, inasmuch as he thought that his noontime guests were dusty nomads, while his nephew knew they were

angelic—of no practical moment? Was the test of Rivka's sensitivity futile, as it involved no Jews? Are we to regard Mosheh Rabbenu's bold defense of a group of Midianite lasses merely a chivalrous gesture by an aspiring shepherd? And is the divine rebuke to Yonah solely a phase of our Yom Kippur ritual, to be heard on *yom zomah rabbah*, only to remain unheeded on the morrow?

Or as the Rav himself said many years ago:

There are religiously committed Jews who are indifferent to the concerns of the larger non-Jewish society. They are content to reside in isolated communities with unconcern, if not actual disdain, for the Gentile world and for the problems which afflict humanity. This introversion can be explained as a reaction to the centuries-old derision and persecution which have been the Jewish historical experience and to which they were subjected with particular ferocity in modern times. Nowadays, there are particular aspects of moral perversion afflicting the general society which are repellant to Jewish sensibilities. Nevertheless, this insularity cannot be vindicated as authentic Judaism even if it can be understood and justified in particular historical periods and situations.¹

Rabbi Isadore and Dr. Atara Twersky gave a gift to CJP every year, even before I came to town (when CJP was much less inclined toward their [and my] goals). Rabbi and Dr. Twersky were invariably kind to me, sympathetic to my work and sensitive to the pressures faced by an Orthodox Federation director. Rabbi Twersky advised me to support day school education of every kind regardless of denomination. There is of course no doubt that he wished all Jews to follow an Orthodox path, but since that was clearly impossible, the intensification of Jewish education for all Jews was clearly his goal, a goal he articulated and worked for, in Boston and nationally, through the Council of Jewish Federations, the Mandel-sponsored Commission on Jewish

Continuity, and his work at the Mandel Center in Jerusalem. I visited Rabbi and Dr. Twersky after the massacre at the Cave of Machpela and again after the assassination of Prime Minister Rabin, and I have rarely seen anyone more in pain than they were for the murder of the prime minister, for the Arabs who died, and for the massive *Chilul Hashem* that had occurred as well as the terrible debasement of Judaism that these acts represented.

So at the very heart of the Orthodoxy I believe in is an axiomatic commitment to the well-being of all Jews and a faith in their ultimate redemption, as well as to the well-being and redemption of all humankind. As part of this commitment, I have worked throughout my career at the Federation for day school education in every denomination and setting, and for the intensification of Jewish education of all kinds for all Jews. Moreover, in Boston, we have built a consensus that a commitment to Jewish particularity and intensified Jewish education need not separate the Jewish community from the general struggle for a better world and the betterment of humankind. I do this not because I believe kindness to non-Orthodox Jews will yield some benefit for the Orthodox community or reduce anti-Semitism, but because I believe that concern for all Jews and for the well-being of humankind is what defines me as an Orthodox Jew. I am bound by the letter and the spirit of the Torah to these positions no less than I am to observance of Kashrut or Shabbat. I believe in this as a Jew, as a Federation professional, and as part of my Orthodox faith.

So, while I do feel that I have a greater responsibility (as an Orthodox Jew, *not* as a Federation professional) to provide (personal, *not* communal) financial support for Orthodox Judaism, I also believe that I have a great responsibility to use all the energy and talent I can muster personally and professionally to bring about a renaissance of Jewish life in America.

But I do not feel the same personal responsibility to all forms of Orthodox Judaism. In fact, I believe that the relatively blind support that many Orthodox Jews give to all Orthodox institutions above all non-Orthodox institutions is deeply misplaced and even dangerous. The idea that “the more Orthodox the better” is a bad idea, and yet many of us apply that test relatively blindly as we choose yeshivot in

Israel for our children or institutions to support. After all, “the more Orthodox the better” is difficult to define and painfully forces us to ask the most fundamental question: How would God define the commitment He demands of us as Orthodox Jews? Do Orthodox institutions that separate us from our brothers and sisters, or treat non-Jews as less than fully human, deserve our support more than Federations or other organizations that promote Ahavas Yisroel and respect for God’s creation along with a deep commitment to Jewish learning.

This is not a simple question, for while the halachah that guides the lives of all Orthodox Jews provides (relatively!) straightforward answers to questions of Shabbat observance, Kashrut, or appropriate prayer, it provides less clear or even hotly disputed advice on questions such as our responsibility to work for a living and respect the secular laws of the countries in which we live, the appropriateness and value of “secular” learning, the appropriateness of women or converts(!) serving as presidents of Orthodox synagogues, the future status of Judea and Samaria, the religious significance of advising young Orthodox Israelis (and American Jews considering service in the Israeli army) to disobey orders to dismantle settlements in Judea or Samaria, or to justify the murder of an Israeli prime minister as some did before and after the assassination of Prime Minister Rabin.

Recently the National Council of Young Israel declared that neither women nor converts could serve as president in Young Israel synagogues. This reflects a growing isolationism and aversion to conversion of any kind within the Orthodox community that was also revealed several months ago in Israel’s “conversion controversy.”

In a recent lecture Rabbi Avraham Sherman, a judge on the High Rabbinical Court in Israel, defended the invalidation of the conversion of tens of thousands of Jews by pointing out, according to a report in the *Jerusalem Post*, that:

there were two opposing views in Jewish thought to converting non-Jews to Judaism. One approach sees conversion as a very positive act that should be encouraged because it brings people closer to the true monotheistic faith. Sherman said the Talmud expresses a contradictory

opinion that views converts as a plague because they introduce foreign influences into the Jewish people. Sherman said that in the past 100 years with the rise of intermarriage and assimilation the second opinion had taken precedence among all the great rabbinical sages. "In the modern era the great rabbis see converts as a potential danger to the spiritual purity of the Jewish people," he said.

What this frank statement reveals is that there are indeed two legitimate perspectives within the tradition on conversion, and that historically the "open" position has taken precedence. Most of us believe that it is forbidden to embarrass the convert in any way, or even to mention his/her origin. The Rambam reminds us that the convert is to be considered as a child of Abraham himself!² So we do have a choice, and in matters such as this we are individually challenged to determine the difference between right and wrong and what God requires of us. Differentiating right and wrong also requires us to differentiate among organizations deserving our support, because in distinguishing among institutions we decide what kind of Orthodox community we want to create and the nature of the Orthodox world our children will inherit.

In 1862 Abraham Lincoln wrote: "In great contests, each party claims to act in accordance with the will of God. Both may be, and one must be wrong. God cannot be for and against the same thing at the same time."³

God cannot believe that decisions about Judea and Samaria should be made by generals and not rabbis (as some Orthodox authorities have suggested) and *also* believe that the decisions should be made by rabbis alone with a level of authority that allows them to threaten the prime minister's life and endanger the discipline of the IDF and therefore the security of the Jewish State.

God cannot wish us to love and honor the convert and at the same time publicly recall his conversion and bar him from a place of honor in the synagogue. So, which side is God on with regard to some of the larger issues of our Jewish lives? Obviously I do not have the answers, nor can I pretend to know the mind of God, and yet I believe

that the question matters very much and that I am required as an Orthodox Jew to choose and to treat the answers to these questions as religious questions . . . no less than questions about Kashrut or Shabbat. If the question about the relative priority of Orthodox causes is to have any religious meaning, the answer must be determinative of which Orthodox organizations are actually deserving of greater personal support than non-Orthodox organizations.

There are Orthodox Jews with whom I can pray, eat, and celebrate Shabbat, but about whom I must say, "If they are Orthodox I am not, and if I am Orthodox they are not!" Our worldviews are so different that while we belong to the same community of fate, we cannot possibly belong to the same community of faith.

I would not provide any funds to any Orthodoxy that isolates us from our fellow Jews, or inspires religious hatred or even the kind of religious murder that cost us the life of Yitzchak Rabin or that rejects our responsibility for the well-being of humankind. In the twenty-first century, we choose our religious leadership and the kind of religious community we choose to create. The Orthodox community, though bound to a halachic life, still has powerfully important choices among competing religious/halachic views that have radically different implications for our people and our world.

Finally the question of religious commitment, religious leadership, and even religious violence is also connected to the Orthodox community's relationship with or separation from non-Orthodox Jews, non-Orthodox charities and Federations. After September 11, 2001, Rabbi Doniel Hartman suggested three religious failings that can overcome the beauty at the heart of the religious idea and turn it poisonous and dangerous.

The first is the belief that we can know and control the process and the timing of the ultimate redemption, for who could resist any crime that might bring the ultimate redemption to all humankind.

The second is the idolatry of certainty that erases the boundary between man and God. The idea that we can know God's truth well enough to kill another in His name is spiritual intoxication, and it is very dangerous.

The third is moral isolationism—the idea that we have nothing to learn or gain from discussions with those outside of our own faith tradition. If we are only talking to ourselves, our ideas turn inward and become increasingly narrow until we create societies in which the most murderous ideas can become communal norms.

It is this last challenge, avoiding moral isolationism, that most clearly calls us to dialogue with non-Orthodox institutions and individuals and possible involvement in the Federation. Involvement in the Federation allows us to consider alternative perspectives and to better understand the honest spiritual struggles of non-Orthodox Jews as they seek an authentic Jewish identity at a time of change and choice. It is hard to imagine someone deeply engaged in the larger Jewish community acting in a disdainful way toward fellow Jews outside the Orthodox community. Fanaticism and religious murder grow best in the darkness and in isolation. Federations are far from perfect, but they provide some protection from moral isolationism.

I would only add that Federations can also do enormous good. The combination of vast resources, powerful leadership, significant partnerships, and access to ideas and thinkers gives them enormous capacity (and a great responsibility) to do the right thing. It behooves us to participate in this great adventure and to work for, and have faith in, the redemption of Knesset Yisroel as American Jewry redefines itself and enters the twenty-first century. And we can make a difference. If we approach our fellow Jews with humility, we can have enormous influence. They need us, and we need them. The Orthodox community is in the king's palace, the house of Torah, but we are admonished not to believe that we can escape in the king's palace more than all the other Jews. For if we hold our peace at this time, "relief and deliverance will arise to the Jews from another place, but you and your father's house will perish; and who knows whether" we did not come to royal estate for such a time as this?

We have a responsibility to all Jews, and we simply cannot ignore, denigrate, or disparage their struggle and the beauty of their souls. Nehamah Leibowitz put it this way in her commentary on the following verses in Beshallah:

“What shall I do with this people? A little more and they will stone me.”

And the Lord said to Moses:

“Pass on before the people and take with you some of the elders of Israel and take in your hand the rod with which you struck the Nile and go. And strike the rock and water shall come out of it that the people may drink.”

—Shemot 7:4–5

Nehamah Leibowitz asks: “What purpose is served by this phrase, ‘Pass on before the people’?”

She brings several different commentaries that carry an important message to those who lead the Jewish people in every generation and to those of us in the Orthodox community who despair of the Jewish people and who use fear of contamination as an excuse to hide behind yeshiva walls rather than risk their faith in dialogue with their brothers and sisters and in service to humankind.

A Midrash regards “Pass on before the people” as a rebuke to Moses.

The Midrash says:

“What shall I do with these people? A little more and they will stone me.” Moses thus addressed the Holy One blessed be He: “Lord of the universe! Whatever I do I shall be killed. You tell me not to order them about, but to carry them in your lap as a nurse carries a suckling child (Num. 11:12), while they seek to stone me?” The Holy One blessed be He answered Moses: “Is that the way you talk? Pass on before the people and we shall see who will stone you!” He began to pass before them. All the Israelites stood up as he passed by and behaved with the greatest respect and rev-

erence. The Holy One blessed be He said to Moses: "How often have I told you not to order them about, but to lead them like a shepherd his flock: remember it was for their sake that I brought you out of Egypt and on account of them you will find favor, grace, life and honor before Me."⁴

NOTES

This essay is dedicated to the memory of my parents, Nathan Shrage, Nechemiah ben Eliezer, and Sara Shrage, Sarah bat Aharon. Their love of Judaism and dedication to tolerance and justice inform this essay and my life.

1. *On Repentance: The Thoughts and Oral discourses of Rabbi Joseph B. Soloveitchik*, Pinchas H. Peli, Paulist Press, Page 125.
2. *A Maimonides Reader*, "Letter to Obadiah the Proselyte," Isadore Twersky, Behrman, Page 475.
3. *Lincoln's Greatest Speech: The Second Inaugural*, "Appendix III-Abraham Lincoln: Meditation on the Divine Will," Ronald C. White Jr., See teachingamericanhistory.org/library/index.asp?document=1090.
4. *Studies in Shemot*, "Midrash Tanhumah Beshallah," Nechamah Liebowitz, World Zionist Association, Page 279.

7

Orthodox Involvement in Jewish Communal Philanthropy

Marvin Schick

I have been asked to discuss Orthodox involvement in Jewish communal philanthropy, specifically including but not limited to Federations. This is not a new question, but it is a question that has relatively new dimensions in view of changes in Orthodox life and changes in the Federation world, particularly in the sphere of the New York Federation, whose service area encompasses a substantial proportion of Orthodox Jews in the United States.¹

As I shall try to develop and justify, in my view, except in specific and limited circumstances, there is no halachic, moral, or other obligation to participate in Federation, either through voluntary activity or voluntary contributions. Tzedakah is at once a mandatory activity and a discretionary activity, the former because we are required to give charity and the latter because we generally, but not always, may

choose what causes or institutions we wish to support. Even within the confines of discretion, which is to say that we have the option of contributing to Federation, it may be asked whether contributing to Federation fulfills an individual's tzedakah requirement. This is, of course, an issue entirely separate from whether such contributions are regarded as charity under the Internal Revenue Code. In the case of the New York Federation, it needs to be asked whether, in view of its past hostile attitude toward yeshiva and day school education, manifested in its extraordinary decision to terminate the basic grants it had been making to these institutions, it is appropriate for Orthodox Jews to participate in its work and to contribute. There has been improvement of late in the Federation's attitude in programming, but there is still a way to go.

It is of note that the question that I am responding to concerns Orthodox Jews and not the 90 percent of U.S. Jews who are not Orthodox. I cannot recall any symposium among the non-Orthodox inquiring as to the nature of their tzedakah obligations.² Part, but not all, of the explanation is that, after all, it is the Orthodox Forum that is considering Jewish philanthropic issues, and understandably its focus is on the segment of American Jewry that it is part of.

Yet, when we consider the inordinate attention directed to nearly all aspects of Orthodox behavior, both from within the larger confines of American Jewry and also from sources entirely outside of Jewish life, the appropriate conclusion is that Orthodox Jews are regarded as an exotic species worthy of exacting scrutiny. Thus, we are constantly subjected to nearly microscopic examination, a process that is advanced because we Orthodox are also blessed by a high degree of self-examination. I do not share the view of too many naive religious Jews that the attention we receive is a form of flattery.

Although the data are limited, the clear impression is that in Israel and this country, and by a comfortable margin, the Orthodox outstrip in voluntary communal work and in voluntary charitable giving the record of other Jews.³ It could not be otherwise, because the Orthodox regard tzedakah as a mitzvah and not merely an act that is appropriate or desirable. In the United States, an enormous number of Jews who are still regarded as Jews by our demographers have walked entirely

or nearly entirely away from Jewish commitment or identity. They do not support our causes, nor should we think that in the aggregate, the deficit of these Jews in Judaic engagement, including charitable giving, is compensated for by voluntary and charitable activity outside of Jewish life. Like most Americans, most of these Jews contribute little, either of their time or financial resources.

Although Orthodox voluntary activity is greater than such activity among other Jews, Orthodox volunteerism is seriously in decline. This is evident in the primary zones of communal life, notably synagogues and day schools, a development that reflects the decline of volunteerism in American society, a fascinating sociological phenomenon that has escalated in recent decades and whose consequences are felt in all kinds of organizational and institutional activity. Among the Orthodox, there are parochial factors that diminish volunteerism, specifically the high fertility rate and therefore the extraordinarily large family size that creates the obligation or necessity to spend more time at home, and also the increased commitment, primarily among male adults, to informal Torah study. A corollary development is the increased role of women in voluntary Orthodox activity, reflecting here too the trend in the general society. This compensates, to an extent, for the reduced role in communal activity of adult Orthodox men. Overall, the trend is for checkbook Judaism to serve as a substitute for voluntary activity.

Irrespective of where they contribute or whether they should include Federation and community-wide campaigns in their charitable allocations, there are strong indications that the Orthodox do not contribute as much as they should, a point made by Rabbi Moshe Feinstein in a responsum and often in speeches at the annual convention of Agudath Israel. The high cost of day school tuition, which strictly speaking is neither tzedakah⁴ nor regarded by IRS as tax deductible, takes a large toll on how Orthodox parents view their obligation to contribute to charitable causes. Whether or not this is appropriate, tuition is in many homes a disincentive to give tzedakah.

But this should not serve to get the Orthodox off the hook, because a potent factor in the failure to give *ma'asser* is the powerful instinct toward hedonism, the often irresistible impulse toward self-indulgence. For all of their complaints about tuition and the high cost of religious

Jewish living, Orthodox self-indulgence has grown enormously, even out of control, in the recent period. We can blame the larger society for this, and it certainly is true that conspicuous consumption which is a prominent feature of American life does not stop at the entrance door of the typical Orthodox home. It enters that home and controls critical expenditure decisions made by the Orthodox, the upshot being that too often tzedakah loses out. It is remarkable that in the current period of unprecedented and greatly expanded Orthodox affluence, yeshivas and day schools and our institutional life generally do not reflect this changed circumstance.⁵

Without poaching too much on territory to be examined by other contributors to this symposium, charitable giving among the Orthodox is beclouded by a lack of clarity regarding critical halachic parameters, specifically how to calculate ma'aser or tithing requirements under financial arrangements in which assets are largely located in investment accounts, some of which cannot be touched until retirement, or in other investment modes that even if they appreciate in value do not provide the investor with ready income. There is unfortunately a paucity of halachic guidance regarding this and related tzedakah issues arising from increasingly complex new financial arrangements.⁶

ORTHODOX CHESED ACTIVITY

However we may assess the adequacy of Orthodox giving or voluntary activity, in the aggregate the record of the Orthodox in chesed activity is impressive, dwarfing by a wide margin what occurs elsewhere in Jewish life, and specifically dwarfing in the main centers of Orthodox life, including the New York area, what Federation accomplishes. Nearly every nook and cranny of individual and communal need has an Orthodox response in the form of organized voluntary activity purposefully created to meet that need. The Orthodox do not have anything to apologize for in this regard. The implication inherent in the questions posed for this conference and expressed more blatantly in other contexts, inadvertently or not, distorts a record that is one of the glories of contemporary Orthodox life.

Inordinately, Orthodox chesed activity is the product of the initiative and creativity of the yeshiva world and chassidic sectors of Orthodoxy, a point that I am making so that the basic philanthropic profile presented here be accurate rather than as criticism of the Modern Orthodox.

Incorporated in this array of activity are an extraordinary number of projects that assist the poor, provide in-hospital services, help the elderly, frail, and homebound, provide ambulance services, arrange treatment for parents who are infertile, assist families that are in mourning, and do a great deal more. A reckoning of all of these voluntary activities that included no more than a sentence or two describing each project would occupy much of the space allocated for this paper.

These activities do not include the incessant and some say bothersome campaigns to raise funds for families in distress, usually because of a tragedy, nor do they include the large-scale fundraising campaign each year before Rosh Hashanah and Pesach for kollel and other needy families in Israel. Tens of millions of dollars are raised each year by these campaigns, and just about all of what is contributed comes from Orthodox donors.

Admittedly, it is not possible to estimate the amounts raised and spent on all Orthodox-sponsored chesed projects because there is no central coordinating agency among the Orthodox for these projects. With exceptions, few of the Orthodox projects are characterized by a desire to promote transparency, a circumstance that arises far less from a determination to avoid disclosure than from the ad hoc nature of much of Orthodox chesed activity and greater focus on helping those in need than on certain of the niceties of organizational life.

This is in contrast to the Federation approach. A useful illustration are the bikur cholims. They generally are neighborhood-based organizations that provide, on a voluntary basis, vital services for sick and needy persons. With its great instinct for bureaucracy, invariably accompanied by public relations hoopla, the New York Federation years ago established a bikur cholim coordinating council. This gratuitous agency provided no meaningful services and

accomplished very little. Its apparent disappearance has been scarcely mourned.

At the least, the total outlay for all of Orthodox-sponsored chesed activities is in the hundreds of millions of dollars each year, but not all of the contributors are Orthodox and certain projects receive a good measure of governmental funding. Nor is it possible to know how many persons are assisted each year by Orthodox chesed programs because here, too, there are agencies that either do not keep records or are loath to publicize who is being served. The number is obviously very high, probably far greater than the number assisted annually by Federation, at least in the New York area. The New York Federation places a relatively small ad each week in the *New York Jewish Week* and, I believe, other Anglo-Jewish newspapers. These are brilliantly executed exercises that invariably make extravagant claims about what is being accomplished and who is being helped as a consequence of Federation assistance. The degree of distortion is often astonishing, as when a grant of perhaps a couple of thousands of dollars to an institution or agency with an annual multimillion-dollar budget serves as the springboard for the claim that all who are being helped by the institution or agency are the direct beneficiaries of Federation.

The distinctive feature of Orthodox chesed is that it is direct, relying only minimally, if at all, on intermediate bureaucratic intervention. It is also, in most instances, a voluntary activity, and so there are dozens of Orthodox initiatives that do not have any paid staff. The Orthodox record is more impressive still when we consider that this is the smallest segment of American Jewry and, even with recent economic gains, the least affluent.

Any reckoning of Orthodox charitable activity must include the religious sphere, primarily synagogues, day schools, and yeshivot, although there are other vital religious activities including outreach programs and mikvaot. The cumulative budget of Orthodox institutions is enormous, with the day school and yeshiva portion alone (exclusive of preschool and kollel) amounting to more than \$1.5 billion annually just on the operating side. Capital expenditures are additional and also substantial because enrollment growth, inevitably

fed by the high Orthodox fertility rate, results in the constant need for additional space and seats. Although tuition and mandatory fees cover the lion's share of the typical day school/yeshiva budget, in the aggregate at least one-third has to be raised through contributions.⁷ Even if tuition is not regarded as tzedakah, as with synagogue dues, tuition payments help to sustain the infrastructure of Orthodox communal life.

In turn, tuition has a direct bearing on the question of Orthodox involvement in Federation or other essentially secular organizations and activities. In a handful of communities, including but not limited to Baltimore, Cleveland, and Boston, individual philanthropists, working at times with Federation, have made major gifts that assist local day schools and, to an extent, alleviate tuition pressure on parents. Generally, Federation support of day schools is no more than minimal, and what the New York Federation does to assist our most vital communal institutions is less than minimal.⁸

Federation minimalism is no barrier to its claiming bountiful support. In one of the ads that I have referred to, published in the November 9, 2007 issue of the *Jewish Week*, we are told that "this week" Federation "made it possible for 227 day schools and yeshivot to offer Jewish education to children throughout the metropolitan area." I guess that the Federation public relations experts believe that if the organization is going to distort the record, it may as well do it big time.

This brief accounting of Orthodox communal outlays does not include nonprofit camps, many of which provide huge discounts for needy families. Nor does it include Orthodox-sponsored schools and programs for special children. It is telling, with respect to the issue facing the Orthodox Forum, that in the New York metropolitan area, all or nearly all Jewish educational services for special children are under Orthodox auspices. Mention needs to be made of the vast and rapidly growing Chabad network, which provides a smorgasbord of religious and human services.

In view of the broad range of religious and socio-psychological services provided by Orthodox institutions and programs, it surely can be asked on what basis there is any obligation to participate in

Federation and any other community-wide activities that purport to achieve what the Orthodox are clearly doing more broadly, more efficiently, and more economically.

One answer is the desirability of Jewish unity expressed through activities encompassing all sectors of American Jewry. Because unity or coordination or even interaction is not attainable in the religious domain, as there are insurmountable theological and ideological barriers, we should strive to achieve cooperation in those spheres where such barriers are not formidable or do not exist, and Federation may be the right place for this.

This argument is attractive and cannot be easily dismissed with the rejoinder that cooperation with the non-Orthodox never yields benefits. If this were true, in what ways are we one people? Would we claim that there is no justification for cooperation regarding Israel or in combating anti-Semitism?

Yet, all that this argument can lead to is an opening of the door to discretionary involvement, with each of us who is Orthodox deciding whether working with Federation or other essentially secular Jewish activities is something that we want to do. I doubt that more than a few of us would go through that door, if only because the Orthodox, who are blessed with an instinct for voluntary communal activity, are, in a sense, maxed out by intra-Orthodox responsibilities. There isn't time or other resources to commit to Federation or other outside groups. It is of note that as a by-product of the decline of volunteerism and the burdens on Orthodox parents that I touched on earlier, Orthodox shuls and schools are often scarcely able to recruit competent persons who are willing to serve actively as officers or board members.⁹

Orthodox communal activity generally focuses directly on what is to be achieved, whether the goal is to provide a religious education or to fulfill a religious obligation to help the needy. On the other hand, Federation and secular organizations tend to focus far more on the imperatives of organization. There is an endless array of meetings, conferences, and other sterile activities. Federations are high-cost operations, with expenses for staff, facility, public relations, and fundraising. There are additional outlays for traveling and conferencing.

The annual campaign for Federations has been stagnant in most communities, certainly not keeping pace with increased costs and needs. One reason for this is the growth of private Jewish philanthropies, as the superrich who are Jewishly involved increasingly want to do their own thing. Another contributor to the financial stringencies in the Federation world is the abandonment by many Jews of any sense of Jewish identity and commitment. A number of studies have shown that to an astonishing extent, affluent Jews who make charitable gifts favor non-Jewish activity.¹⁰

The inevitable consequence of stagnant fundraising is that a higher proportion of the typical Federation budget goes to keep the Federation in business.

Additionally, Federations do not do much to assist what is inherently important to the Orthodox. They do not generally support day schools in a meaningful way, in large measure because overwhelmingly the non-Orthodox remain opposed, at times stridently, to day school education. Far more than we may want to acknowledge, Federation activists believe that parochial school education is bad for America and bad for Jews. They believe that the American Jewish ideal is loyalty to public education, and that support for day school education violates that ideal.

By what bizarre moral compass are we obligated to assist those who are hostile to our most fundamental communal needs? There is a coldness toward our religiosity. We are being tolerated, with some measure of accommodation to certain religious principles. Kosher food is now par for the course at many Federation functions, and in most instances, activities that desecrate the Sabbath are shunned, although this is changing in the direction away from halacha. This is an improvement over what once was, yet I doubt that this accommodation provides a sufficient justification for involvement in Federation. These accommodations cannot wash away the bad taste arising from the growing encouragement of intermarriage, support for gay marriage, or the acceptance of practices that are entirely antithetical to our religious teachings. This reality is not an incidental aspect of contemporary Jewry. It is a major story and not something that can be explained away.

It is not only in the realm of attitudes that the secular Jewish world, including Federations, is antithetical to the teachings and values that we Orthodox should cherish. At the programmatic level as well, there is expanding blatant violation of religious norms and sensibilities through the promotion and support of activities that endorse practices that are incompatible with the halachic way. This is a dynamic process; what we see today is likely to be relatively benign when compared with what will arrive tomorrow. The secularist argument that a deliberate effort must be made to reach out to alienated Jews—most of them younger—who are not interested in our conventional activities is now a mantra in the Federation world. It is said that organized Jewish life must be adjusted to the reality of intermarriage and advanced assimilation. Our programming must be in sync with whatever grabs the attention of younger Jews, and if this includes behaviors that are repulsive to our traditions, so be it.

Even if we assume that this argument has merit for secular Jews, it cannot serve as the basis for religious Jews being involved in activities that are blatantly incompatible with halacha. In my view, active engagement in the Federation world inevitably means at least tacit acceptance of that which should not be acceptable.

The argument is made that if Orthodox Jews were active in Federation, they would have significant influence on allocations and policies. Interestingly, this tack was taken more frequently a generation ago than it is now, I suspect because the past decades have provided little evidence that it is valid. A handful of Orthodox have had key Federation positions in New York, and while their exertions reaped the transient fruit of their being given prominent positions, their advancement has not been translated into meaningful changes in what Federation does. To the contrary, especially in day school education, the results have been dismal.

One reason why Orthodox involvement cannot bring about significant payoffs in funding and other decisions is that each Federation has a culture and a history, and neither can be readily altered. There are expectations arising from each Federation being a participant in a vast continental network of agencies, and there are expectations arising from the linkages that each Federation has with

the constituent agencies that serve its catchment area. Although in a broad sense each Federation is the master of its universe, the priorities established for the overall network result in demands on each local Federation. At the same time, constituent agencies expect to continue to be fed by the mother agency.

Added to this consideration is the critical development that, as leaders of American Jewish philanthropy acknowledge, Federation is largely yesterday's story as mega-rich Jewish donors who are also Jewishly involved have pulled away from Federation and established their own private foundations that reflect the donors' commitments. As a consequence, Federation's role in Jewish communal life has been diminished, a process that is dynamic and irreversible. In short, Federation is or is becoming an anachronism. Because no one has figured out how to put dying Jewish organizations out of their misery, the Federation world continues to play-act as if we are still in the post-World War II period when Federations were in their heyday.

By contrast, the voluntary chesed network that is sponsored by the Orthodox is imbued with great vitality. The focus is on helping people, and this is life-giving.

ARE THE ORTHODOX TOO PAROCHIAL?

There is one fly in the ointment of Orthodox chesed and voluntary communal activity. It is the parochial inward-looking attitude toward determining who should be served. Not entirely, but to a large extent, there is a concentration on assisting their fellow Orthodox, to the exclusion of those who do not share their religious commitments. I wonder whether this tendency is halachichally permitted or morally appropriate and, more narrowly, whether it is prudent to deliberately exclude the non-Orthodox.

Is this tendency present in day school education, which is now our primary communal activity? There is no requirement for the Orthodox to support schools and activities that are outside of their religious ambit, no more than there is an obligation to provide support for non-Orthodox synagogues. To the extent that non-Orthodox institutions depart from halachic standards, it may be inappropriate for the Orthodox to be of assistance. Orthodox Jews who are involved

in programs or activities that encompass all or nearly all of the day school world, as I am, are, as a practical matter, engaged in providing support to schools affiliated with all of the denominations, and there is no possibility that assistance could be limited to one sector, to the exclusion of the rest.¹¹

What about the willingness of Orthodox institutions to reach out to accommodate the non-Orthodox? Most of our shuls are not sufficiently friendly places, neither to the Orthodox who might drop in occasionally or to the non-Orthodox who might want to participate in an Orthodox service. The commitment to beginners' services and other outreach activities that are associated with tefila appears to have waned. Except for Chabad, I believe that Orthodox shuls are becoming relatively homogeneous places.

As for day school education, since it is the most effective vehicle for ensuring a life of religious commitment, there is a heightened obligation to include students from non-Orthodox homes whose parents want their children to have an Orthodox education. From the formative years of day school education in the 1940s and 1950s until perhaps the 1980s, Orthodox schools—including many in the yeshiva world—were open to at least some non-Orthodox students. With the limited and decreasing exception of Modern Orthodox schools, this is no longer the case, in many instances in the New York metropolitan area because of a shortage of seats and, more generally, because of the fear of both school officials and parents that children from less religious homes may be a bad influence on children from Orthodox homes.¹²

Whatever the reasons for exclusionary day school admission policies—and I recognize that there is a serious issue as to whom to admit—the result is that many children in marginally religious homes, as well as their families, are being deprived of the opportunity to grow in Judaism through a religious day school education.

There is no justification for the receding of Orthodox involvement in schools with a kiruv orientation, particularly those that serve immigrant families. There once was much excitement about these schools, and they were regarded as a primary Orthodox communal obligation. This is no longer the case. Enrollment in

kiruv and immigrant schools has declined substantially.¹³ Some have closed, while others are limping along, attempting to get by on puny budgets that provide but a quarter or less of the annual per-student expenditure in many Modern Orthodox schools. Chabad is once more the exception, as their admission policies at schools that do not primarily serve Chabad families are extremely liberal.

In the chesed domain, exclusionary attitudes and policies should be inherently suspect. How can assistance be denied to persons, poor or otherwise needy, because they are not sufficiently observant? In fairness, there are major zones of Orthodox chesed activity that are not exclusionary. Furthermore, as occurs in all forms of social interactions it is often unavoidable that physical proximity and religious affinity result in what appears to be exclusivity, even when there is no set policy. It is far less likely that the non-Orthodox will seek assistance from an Orthodox agency or, to put the matter differently, that the Orthodox will be aware of which non-Orthodox require assistance. At times, what seems to be deliberate rejection is no more than the outcome of living separately and other social divisions. Hatzalah does not turn down calls from the non-Orthodox, nor do bikur cholims ignore the non-Orthodox in their hospital visits and other activity.

The sick, frail, and elderly among the non-Orthodox tend to be served by Orthodox-sponsored programs. The non-Orthodox poor are not as fortunate.¹⁴ The Tomche Shabbos organizations are, as their name suggests, available only to assist the poor who are observant. So it is with other activities. Is this justified?

One possible justification is the higher incidence of financial need among the Orthodox resulting from their large family size, the great number in kollel, and parents who are in chinuch, as well as working-class religious Jews whose earnings are not sufficient to meet basic needs, including tuition. It is a challenge for the Orthodox to meet the needs of their own. If the non-Orthodox were served as well, the inevitable result would be a reduction in what is available to religious Jews. Regrettable as it may be, the Orthodox need to establish boundaries and limits, and it is reasonable to include the Orthodox and not other Jews who may have other support systems to rely on.

This may serve as a justification for not proactively reaching out to the non-Orthodox. Is it acceptable, however, to turn away those who ask for assistance? Halacha requires that in the giving of charity, we may not turn aside non-Jews. The commentators disagree whether this applies only to situations where Jew and non-Jew ask for assistance at the same time or even when the non-Jew is alone. In any case, the explanation for including non-Jews is referred to as *darkhei shalom*, the preservation of amiable relations or, alternatively, the prevention of animosity. It should be elementary, therefore, that if any Jew seeks assistance, as family, all Jews have a much stronger claim than non-Jews, it is not permissible to reject that person on religious grounds. The *darkhei shalom* rationale is particularly relevant in this situation, for the rejection of someone who is not observant enlarges the prospect that this person will be further alienated from Judaism. Especially in our *tzedakah* activities, Orthodox Jews must be caring and not show what will be interpreted as a cruel side.

I have believed for years that as an instrumentality of *kiruv* we ought to involve in a helping way the non-Orthodox in our impressive *chesed* activity, whether to help deliver food packages to the poor or be involved in Hatzalah's emergency services or to go along on *bikur cholim* hospital visits or any of many other *chesed* projects. This involvement would show a face of Orthodoxy that unfortunately is not sufficiently known to those who are outside of our community. They should be shown how *chesed* is integral to Torah living.

Kiruv efforts predominantly emphasize learning, courses, and activities that involve *tefila* or the study of religious texts. Learning is crucial in the journey to greater religious commitment. However, because textual study requires much concentration and basic knowledge, there are those who are interested in Judaism who are turned off, either never beginning the journey or abandoning it along the way. Why should we not avail ourselves of the spiritual and emotional elements inherent in *chesed* activities, utilizing them as outreach techniques? We Orthodox have what to sell. Why do we limit our market?

From this perspective, the question that should be asked is not whether Orthodox participation in Federation and community-

wide projects is appropriate but how best to engage Jews outside of Orthodoxy in our *chesed* activity.

INTERCOMMUNAL ACTIVITY

As I reflect on what I have written, I fear that my words will be read as totally negative, closing the door on relations between the Orthodox and the rest of American Jewry. This is not my intention, nor is it the way that I have conducted my communal activities over a great number of years. The questions facing this conference concern our philanthropy, and this is a limited area where the Orthodox shine, and where, in my view, there is no requirement to be engaged in the broader arena of Jewish philanthropy, although some may choose to do so. There are other vital zones of activity and possible collaboration between Jews who are not Orthodox and those who are. There may be good reasons for the Orthodox to be involved in these other areas, because their involvement can bring about benefits that may not occur without their participation. This is true of Israel advocacy and other paths to support the Jewish state, combating anti-Semitism and anti-Jewish bias, efforts on behalf of Jews throughout the Diaspora, and American public policy issues.

In Israel advocacy and other activities on behalf of the Jewish state, it is clear that Orthodox Jews are not on the sidelines. Whether at Salute to Israel parades or rallies on behalf of Israel or contributions to Israeli causes, the Orthodox are involved to a degree far greater than their number and also far greater than their financial wealth.

I have excluded theological engagement and cooperation of the kind proscribed by halachic authorities. Thankfully, the issue of trans-denominational rabbinical and congregational agencies is no longer on our agenda. To the extent that American public policy matters entail halachic issues—gay rights is one example—the legitimacy of our cooperation and even interaction may be called into question. We ought not to dismiss the implications of policies that are antithetical to our religious teachings.

In the 1960s, even as I actively opposed the Orthodox Union's membership in the Synagogue Council, I actively represented it at the National Jewish Community Relations Advisory Council, now known

as the Jewish Council for Public Affairs. Regrettably, as the process of defining Judaism downward continues and even accelerates, it becomes difficult at times to maintain our involvement in such agencies. The reality is that for the great majority of American Jews, modernity and hyper-liberal positions are surrogate religions, the outcome being that the gap between what is identified as American Jewry's position and halacha continues to expand. Interaction between the religious and secular sectors is tenuous. We are increasingly left with such Jewishly neutral issues as civil rights and environmentalism. As vital as these issues are, and as important as it is to promote and protect civil rights and the environment, these are not inherently Jewish issues.

Of course, Israel, anti-Semitism, and helping Jews around the world are inherently Jewish issues. In these areas, the Orthodox have been involved far beyond their proportion in American Jewish life. Their impact has been even greater. These areas and not philanthropy are the communal spheres of activity where we should emphasize our involvement.

As for the Federations and secular activity, it is time for the Orthodox to get over the residual inferiority complex that impels some to mistakenly believe that it is a mitzvah to be involved. There is no such halachic or moral obligation. We Orthodox Jews have more than paid our dues. While there is more to do and abundant room for improvement, this will not come about by currying favor with those who sanctify bureaucracy or who support activities and attitudes that are antithetical to our obligation to be a sanctified people.

NOTES

1. In view of oral comments at the Orthodox Forum, I wish to underscore that this is a thought piece based on more than a half-century of intensive activity in Jewish communal life. It is not a research paper.
2. This is remarkable. After all, much of what may be termed non-Orthodox hashkafa or religious thought is directed at values and behaviors that focus on the needs of poor people and others who require assistance. The neglect of tzedakah issues is therefore puzzling.
3. See Jack Ukeles contribution to this book as well as research cited by Jonathan Rosenblum in the Jerusalem Post (December 15, 2005, <http://www.jewishmediaresources.com/907/think-again-communal-obligations>).

4. Rabbi Feinstein apparently felt that tuition payments for daughters can be credited toward the ma'asser requirement, and this may be true, as well, of tuition for sons past a certain age.
5. This note was added in July 2008 during a period of economic downturn whose scope and consequences are yet unknown, although present indications are that it is severe and will adversely affect all economic sectors. Inevitably, this will have an impact on Orthodox life and on the institutions and causes that depend to one extent or another on charitable contributions.
6. The need for greater clarity is highlighted by the economic downturn touched on in the previous note. Many of us are experiencing a net loss in 5768 in the value of our assets. Are we free of any obligation to give tzedakah this year?
7. Modern Orthodox schools have a different financial profile than those in the yeshiva world and chassidic sectors in that tuition accounts for a significantly higher proportion of the budget. Yet, because tuition is generally much higher in Modern Orthodox institutions and scholarship assistance is limited, parents at these schools have a substantial burden in meeting their tuition obligations. As indicated, this affects their tzedakah decisions.
8. Ten years ago, I conducted a study of the financing of Jewish day schools, which focused on schools outside of the New York Federation service area. The data that were collected included information on Federation support of day schools around the country. In view of the static nature of Federations' annual campaigns and the escalating cost of day school education in the intervening years, it is certain that the percentage of the day school budget covered by Federation subvention has declined (Marvin Schick and Jeremy Dauber, "The Financing of Jewish Day Schools," The AVI CHAI Foundation, 1997). It is also true that during the past decade there has been a remarkable expansion of private Jewish philanthropy and, as noted in the text, this has resulted in significant philanthropic support of day schools in a handful of important Jewish communities.
9. For this reason, and also because it is the preferred way of doing things in the more modern sectors of Orthodoxy, the tenure of shul and school presidents is usually limited to two or three years, a policy that in my judgment results in a severe leadership deficit.
10. Gary A. Tobin, "Jewish Philanthropy in American Society: The Americanization of Jewish Philanthropy" (San Francisco: Institute for Jewish and Community Research, 1996).
11. Perhaps more than in any other aspect of our communal life, including chesed activities, day school education is the area where there is the greatest degree of interaction between the non-Orthodox and Orthodox. However, this interaction does not exist at the school level but rather primarily through activities promoted by boards of Jewish education and other coordinating agencies, as well as by the plethora of conferences and educational projects funded by private Jewish foundations. There is an abundance of training programs in the day school field,

and nearly all bring together educators from across the spectrum of American Jewish life.

12. It appears to me that Orthodox day schools outside of the New York area are generally more willing to accept non-Orthodox enrollees. I believe this is because many of these schools have empty seats and tight budgets and can use the additional students and the tuition income they bring.
13. In fact, enrollment in these schools has never been anything to brag about. In the 1998–99 school year, there were 5,136 enrollees in the outreach and immigrant schools, and the number declined five years later to 4,823. (See the two day school censuses that I conducted in the 1998–99 and 2003–04 on behalf of the AVI CHAI Foundation, www.avi-chai.org.) I am conducting another census for the 2008–09 school year and expect that there will be a further drop in enrollment in these schools.
14. Although there are non-Orthodox synagogues that have active chesed programs, and there are, of course, throughout the country hundreds of Jewish agencies that provide various social services, I believe that in the aggregate non-Orthodox Jews and notably those without any religious affiliation are underserved. These Jews are largely faces in the vast American crowd and have limited or no connection with Jewish social service agencies.

8

Orthodoxy and Jewish Federations: Reflections from “Out-of-Town”

Michael S. Berger

INTRODUCTION

I have been asked to address the question of the evolving relationship between Jewish Federations and the Orthodox community, and whether this change has been for the better or for worse (presumably from the perspective of Orthodoxy). Despite its rather straightforward and uncomplicated formulation, the question belies a thorny set of subquestions that warrant our attention and careful exploration before reaching any sweeping conclusions one way or the other. Given the policy implications inherent in the question, we would do well to begin our treatment with a series of caveats.

First, relationships do not change in a vacuum. As with any two interconnected social entities being examined, their evolving relationship is a function of each member's independently changing character as well as of changes in the broader cultural context. This will require us to take a close look at Federations over the last sixty years, at post-World War II American Orthodoxy, and at larger trends in philanthropy, religious affiliation, and sources of Jewish identity. Each has experienced significant changes in the last two or three generations, and might well continue to undergo further evolution. Deliberating our question on such shifting sands, I think we can all agree that it is prudent to assume a humble posture and qualify all our conclusions as tentative.

Second, my research, based on books and personal interviews with Federation as well as Orthodox lay and professional leaders in various communities,¹ underscores that the question must ultimately be posed within a local frame. Though there is a national dimension to both Federation and Orthodoxy, most Federations are local in almost every sense of the word: they are made up of and led by local individuals, they support local institutions and organizations with their respective histories and loyalties, and they address local realities. Moreover, Orthodoxy is part of that local reality, and the contours of that segment of the community are also a function of individual people, resources, and demographic trends. What I want to avoid—and which I believe the question, as phrased, invites to a certain extent—is the temptation to view Federation and the Orthodox community as reified, even abstract, entities, a tendency perhaps inspired by viewing the scene in big cities (though even there, there are local differences) and assuming that the same conditions obtain throughout America. Thus, I maintain that the story of Federation's relationship with Orthodoxy in America is best written community by community, and though some trends will inevitably emerge, we should see them as having limited generalizability and predictive force.

One final caveat: I have decided to avoid, in the main, the purer ideological questions here and remain instead on the firmer, or at least less contentious, terrain of practical concerns. I take it as a given that there is a *b'rit goral* of all Jewry, as Rabbi Soloveitchik eloquently de-

scribes in *Kol Dodi Dofek*, and that Orthodoxy, especially, is charged with helping to inspire the *b'rit ye`ud* of *Klal Yisrael* and elevate the collective as much as possible. However, I agree with Marvin Schick that the reality of these covenants does not *require* the Orthodox to participate in Federation; Orthodox Jews can express their active concern for the wider community's loftier goals through other means without committing materially or in other ways to their local Federation. I therefore want to offer a practico-sociological analysis of our subject, based on data from individual cities and regions, for the most part outside the major centers of Orthodox population: New York/New Jersey, Boston, Los Angeles, Chicago, and South Florida.

This paper is divided into three sections: in the first, we will examine Federations and their own changes; in the second, we will take up changes in American Orthodoxy; and in the third section, we will discuss the evolving relationship between Federation and Orthodoxy, citing specific examples where possible. In each section, we will refer to general trends in American culture and religion which serve as the backdrop for our entire discussion.

Jewish Federations

History

Over the last half-century, the Jewish Federation movement in America has been the subject of several studies,² and itself regularly sponsors studies of American Jewry (e.g., the National Jewish Population Surveys), often in cooperation with other Jewish organizations. Most Federations emerged from the combination of preexisting Jewish welfare societies, as needs, both local and overseas, required the coordination of fundraising and budgeting.³ Such combining was meant to cut fundraising costs, save volunteer time, and spare donors the steady stream of solicitations from each agency and cause. Moreover, given the size and staff of the new organizations, research could be sponsored to direct the allocation process to be more effective. In almost all cities, combined campaigns initially raised more funds than the total previous fundraising by individual agencies.

Though each community was autonomous, with its own by-laws and governing constitution, by 1960 the basic structure of Federations was in place almost everywhere in the United States: members elected boards of directors, made up of major contributors who represented the interests of the entire community, and representatives of local affiliated agencies. Committees did the majority of the preparatory work, and the boards, which often met monthly, dealt with the business at hand. Professional staff joined lay leadership in coordinating a growing number of volunteers to take care of the community's needs.

In 1932, alongside the growth of the Federation system, the same concept of combining resources brought the Council of Jewish Federations (CJF) into existence. Its aim was to deal with growing international needs in Europe and Palestine, and locally to promote the better functioning of existing Federations and foster the growth of new ones. CJF was the trustee of international spending to make it more effective, much as the local Federation was the trustee of pooled local funds to spend them wisely in the community. The next few decades saw the establishment of parallel national Jewish organizations that brought together Jewish community centers, Jewish education organizations, vocational services, and community relations agencies.

The priorities of Federations also underwent major changes, from Americanization programs, orphanages, and settlement houses for immigrants before the Depression, to eldercare, vocational training, and recreational, educational, and cultural services for the native-born beginning in the 1950s. By and large, as with earlier nineteenth-century Jewish welfare agencies both in America and Europe, in different periods the core of the Federations' financial support came from more established and successful Jews in order to help their struggling brethren.⁴ Understanding that some Jewish needs could best be met by government, the CJF and local Federations began to develop political and advocacy arms that coordinated with other groups to present a united front to local legislatures, Congress, or the White House.

As more Jews successfully entered middle-class America, the problem of maintaining the Jewish identity of future generations was put on the Federations' agenda. Ways of supporting synagogue Jew-

ish education (primarily through bureaus) were important advances in the 1920s, 1930s, and 1940s. But beginning in the 1960s, as these methods were seen to be less and less effective, and assimilation and intermarriage rates climbed, Federations began to increase their involvement in planning the communities' Jewish education. In many cases, support for day schools increased substantially over the 1960s and 1970s, as the institution spread among a wider segment of Jewry (i.e., community day schools and Solomon Schechter schools).⁵ It should be noted that in the majority of the documented cases, it was the support of prominent non-Orthodox Jewish leaders in the debate about day schools that carried the day in favor of funding, even when the orientation of a school and the majority of its population were Orthodox-affiliated.⁶

In the wake of the 1990 Jewish Population Survey, which revealed an alarming rate of intermarriage, "Jewish continuity" became the buzzword throughout the world of Federations, with committees formed and staff positions created to enhance the Jewish identity of local Jews, particularly teens and young adults. Missions to Israel and Federation subsidies ("vouchers") for trips to Israel grew. Many Federations sponsored, whether directly or through their affiliate agencies, adult Jewish education classes (very often the Florence Melton Adult Mini-School);⁷ in one case, a JCC in the southern United States required all its employees (even non-Jews!) to attend a Jewish education course every year. While sometimes perceived to be in competition with synagogues, Federations felt the responsibility of the Jewish community's future to be on their shoulders, and could not ignore this problem. In most cases, especially in small- to mid-size Jewish communities, initial conflicts over turf gave way to serious cooperation when it was understood that the common enemy had to be fought.

By and large, Federations have also proved nimble enough to respond to larger Jewish crises, whether in the Middle East (e.g., emergency campaigns during wars or sustained periods of terrorism), the former Soviet Union, or to aid in the resettlement of waves of Jewish immigrants (e.g., Soviet and Ethiopian to Israel or the United States). In the aggregate, it is fair to say that for most of the twentieth century,

American Jewry benefited immensely from the coordinated philanthropy of Federations. Even the Orthodox poor, who may have initially turned to Orthodox organizations for aid, frequently found the Federation-supported system to be a safety net or back-up for crucial services not offered in their own subcommunity, whether aid to the elderly, vocational training, or emotional counseling through Jewish Family and Children's Services (JF&CS).

RECENT DEVELOPMENTS

Over twenty years ago, Jonathan Woocher argued that the Federation system was part of a larger network of voluntary, philanthropic organizations and activities that constituted the civil religion of American Jews.⁸ It served important functions to unite the ideologically disparate segments of American Jewry, anchoring its identity in the communal polity itself.⁹ In its earliest days around World War I, the successful Federations of local Jewish charities in New York City and Boston were lauded as providing "an unexpected bonus . . . a sense of identity and a basis for community."¹⁰ Historically, the slogans of Federation campaigns echoed this sentiment: "A United Israel for Charity," "We are One," and others, though recently the trend is away from ethnic allegiance in an effort to reach the younger, less Jewishly identified, generation (e.g., "Live Generously").¹¹

Indeed, in my interviews of past and current Federation professionals, it was clear that the organizations had and have only one "ideology": inclusiveness. Their goal is to include as many self-identifying Jews in their work as possible, with no tests of religious observance, belief, identity, or even affiliation. One interviewee quipped, "Federation is the largest and best-funded synagogue in America." Precisely because it made no demands on one's practice or belief, Federation work attracted many Jews alienated or simply uninterested in Jewish religious life; the "community" and its philanthropic work became their primary source of affiliation and identification. In important respects, this was different from the Christian environment, where affiliation was almost exclusively through religion and to be found in churches and church groups. As Robert Wuthnow has pointed out,¹²

in mid-century America, where *dwelling* or *belonging* was the core of one's religious identity, Jews had an option to *belong* to Federation or a host of its affiliated pan-Jewish agencies (e.g., JCC, JF&CS) and not to synagogues. In an increasingly welcoming America, the ability to retain some form of ethnic distinctiveness while blending in completely was a goal of many Jews 1945–1980, and Federation involvement was the opportune strategy that seemingly achieved both goals.

Understandably, this ideology of maximum inclusiveness encountered resistance from quarters that espoused a particular religious ideology. While these often included Orthodox groups or leaders, in some regions or cities the Reform Movement was no less ideological; its insistence on supporting and promoting social justice and other nonparticularistic humanitarian causes has led to focusing on universalistic charities and participating only minimally in Federation and its work. In some cities, it was Conservative Jewry, with its strong ethnic ties and overwhelmingly Eastern European ancestry, which constituted the majority of Federation's lay leaders and philanthropists through most of the twentieth century. (The fact that Reform and Conservative Jews were, typically, socially and economically separated in many cities may have also contributed to these different proportions.)

Overall, in small- and mid-size Jewish communities, I found that local participation in Federation through the 1980s, and in some cases even to the present day, depended most on the attitudes and public and private statements of the rabbinic leadership of the synagogues. Rabbis of each denomination, Orthodox and Reform included, might advocate strongly on behalf of Federation's annual campaign, or encourage (and model) participation in its volunteer work, while others might present other causes as more central or urgent. The influence of clergy, particularly in pulpits that regularly saw rabbis' tenure last three or four decades (a phenomenon not uncommon up to the 1990s), cannot be understated—another local factor that prevents us from making sweeping generalizations about the relationship of Federation and Orthodoxy.

The demographic size of a Jewish community is also a critical factor in understanding Federation's relations with the local Orthodox

community. Where resources, both human and material, are minimal, individuals and groups tend to realize the need to cooperate and coordinate. Moreover, people who would otherwise have little to do with one another socially or religiously meet and work together in smaller communities, forming the human relationships that make mutual respect and compromise more likely and possible.¹³ Related to this is the geographic spread of Jewish communities; those where urban sprawl has Jews living sparsely across a wide area and in only rare contact with one another (sometimes aggravated by infrastructure that makes the commute to central locales inconvenient) are less likely to foster the relationships that make “inclusiveness” more than a mere slogan. Communities where Jews of varied affiliations live in proximity to one another and are less segregated are more likely to foster warmer and more respectful relations. Because the Orthodox are frequently the most committed to observance, the small-community Federations’ ideology of inclusiveness leads to the creation of the conditions for the Orthodox to participate, whether it is having kosher food at events or being closed on the Sabbath and holidays.¹⁴ In smaller communities, these policies are, in many cases, extended to Federation agencies, such as homes for the aged and other Federation-supported facilities.¹⁵ While some non-Orthodox certainly perceive this as disproportionate “control” by the Orthodox, in fact it stems from the Federation’s ideology of inclusiveness to employ standards that maximize participation of all Jews. In my interviews, it was not uncommon to learn that the Reform or Conservative rabbis of these smaller communities defended these policies to their congregants, to Federation lay leaders, and even in the local Jewish press, though again, it all depended on local personalities.

Federations have also been affected by broader philanthropic trends in America. Throughout the United States, charities are discovering that donors are less willing than they used to be to merely write the check and trust the organization and its professionals to spend the dollars wisely or efficiently. Increasingly, philanthropists want to direct where their money goes, and they want to have an impact. Furthermore, the climate of accountability has taken over charitable-giving, and while there are signs that the pendulum is swinging in the other direction,¹⁶ most contemporary and younger philanthropists want to

be sure their money is being well spent. Finally, the huge increase in small, private foundations, often funded by successful entrepreneurs, means more and more charitable money is being directed by individuals who see their wealth as a tool to accomplish their personal philanthropic ends—what analysts call “expressive philanthropy,” and not necessarily those of the community.

While Federations have always been donor-driven in principle, these relatively new attitudes—a less communitarian and more personal and individualistic ethos—have forced Federations to be much more “donor-friendly” and improve their “customer service.” Many allow individuals to earmark donations (as opposed to insisting on giving to the annual campaign), and some have moved to an “outcomes-based” system of allocation. Increasingly, donors are taken to see the impact of their philanthropy (the personal or emotional connection), and staff are expected to be regularly attentive to individual donors and their desires. The traditional communal planning and budgeting aspect of Federations will become increasingly difficult to manage if the younger philanthropists, with their personal stakes in their own giving, are to be brought in.¹⁷ In spite of all these efforts, Federations, in both large and small cities, are seeing their annual campaigns remain flat or even decline relative to the size of the community, as the children of last generation’s major Jewish donors do not share their parents’ ethnic sensibilities and philanthropic attitudes.¹⁸

The same is true of lay voluntarism as well; with more young adults and parents in the workplace, and families and careers demanding more and more of one’s time, individuals are very discriminating about where they will invest their volunteer time, if at all. As Jews have been accepted into virtually every aspect of American society, the options for lay involvement and philanthropic support in the wider community far exceed those of previous generations of Jews. Moreover, these younger families often live far away from Federation offices that were built when the Jewish community was demographically more concentrated. Federations must thus make lay volunteers feel appreciated, their time valued, and their contributions significant.¹⁹

Federations are also being pressed into new responsibilities. While younger to middle-aged donors may be passionate about their

own projects, Federations are being asked by their major (usually older) donors to act more proactively, and even paternalistically, to prevent individual agencies, which have proliferated in recent years (particularly day schools), from slipping into crises due to mismanagement. “Donor fatigue” is an expression frequently heard in Federation circles outside larger population centers, as philanthropists discover that their giving to the communal pot was insufficient to meet local needs—the situation Federations were created to prevent in the first place. Federations have thus begun to see themselves not merely as fundraisers and community planners, but as value-added partners who ensure the institutional strength of sponsored agencies. In many communities, Federations are offering strategic assistance in the form of facilitation of board development or the hiring of outside consultants, while others offer agency-wide support (usually through local Jewish talent) in marketing, branding, or fundraising strategies. In one mid-size city, a recent financial crisis in a beneficiary agency led Federation to institute a process whereby *every* agency is given a certain kind of annual financial audit to make sure signs of trouble are caught early and the boards of those agencies are notified before the trouble reaches crisis proportions. Though it might seem paternalistic, this oversight is part of the increasing accountability major donors are demanding for their annual gifts; they do not want to be in a position of giving to the community, and then subsequently being asked to bail out institutions that were poorly managed.

Federations are therefore a “sandwiched Jewish organization,” caught between being responsive to donor demands, on the one hand, and needing to exercise oversight and, at times, “tough love” on the community and individual organizations to keep local needs in check so that they do not exceed the community’s shrinking capacity to support them. Seen this way, most Federations are in an unenviable position indeed.

In sum, while still guided by an ideology of inclusiveness, out of necessity many local Federations have become much more attentive to both donors and volunteers than they have ever been. In principle, this may be a genuine opportunity for the Orthodox, who in general are more committed and dedicated to Jewish causes, to assume greater

leadership positions within the Federation world. We will return to this later.

ORTHODOXY IN AMERICA

Scores of scholars and social scientists—historians, sociologists, biographers, anthropologists, demographers, and others²⁰—have addressed the changes in American Orthodoxy over the last fifty years, and I will not rehash their narratives or arguments in depth now. For our purposes, a broad overview of the major trends in American Orthodoxy will suffice.

From Adaptation and Acculturation to Assertive Distinctiveness

During the first two postwar decades, the majority of America's Orthodox Jews sought to adapt and integrate into the American way of life. An economic boom allowed many to prosper, and organized labor's accomplishments made Sabbath observance much easier for many as America moved to the five-day workweek. The younger generation exploited the educational channels newly opened by both the GI Bill and the postwar decline in overt anti-Semitism and its quotas, though the phenomenon of exclusion persisted in the more elite universities until the 1970s.²¹ The stepping stone of higher education, fed demographically by the baby boom, produced an entire class of Orthodox professionals and scholars in a vast array of fields, from medicine and law to academia and accounting and even politics. The creation of organizations such as the National Jewish Commission on Law and Public Affairs (COLPA), the Association of Orthodox Jewish Scientists (AOJS), and others in the 1960s attests to the swelled ranks of Orthodox professionals. We should point out that these professionals and educated adults did not all derive from "modern" Orthodox homes but from a wide range of observant homes, including many that sent their sons to the more traditional Eastern European yeshivot. The option of not working or being supported to learn full-time was simply unavailable then to the vast majority of Orthodox men.

American Orthodoxy, of course, was never monolithic, but the pre- and postwar immigration of both Lithuanian ("yeshivish") and Chassidic Jews, or perhaps more accurately a more determined fer-

vently Orthodox leadership, introduced a more assertive Orthodoxy onto the American Jewish scene.²² These leaders were unwilling to accept either the inevitability of Americanization or the projection of the demise of classical Eastern European Orthodoxy on American shores. Beginning in the 1930s but intensifying in the decades following World War II, Agudath Israel's leaders took stances reminiscent of German Orthodoxy's *austrit*, distancing themselves from pan-Jewish organizations that granted legitimacy to non-Orthodox movements, and seeking to set up barriers to the more corrosive effects of assimilation and acculturation.

In the larger population centers, the real divide that was emerging was in the type of education being promoted for children. The more traditionalist group, encouraged by its leaders and educators, insisted on separate-sex education (as soon as financially possible, and no later than middle school),²³ a traditional Judaism curriculum centered on Talmud and *Chumash* for boys, and usually a neutral or hostile stance to Zionism and the State of Israel—positions and postures that emanated from the Eastern European (Lithuanian) world destroyed in the Holocaust. In contrast, the “day school” emerged on the model of a more acculturated American Orthodoxy committed to the basics of observance—daily *tefillah* (whether at home or in the synagogue), Shabbat, and *kashrut*—but with the aim of preparing children to integrate into American society, ideally by getting into good colleges and graduate schools and thus achieving the security of an American middle-class or upper-middle-class life.²⁴ Most of these schools also adopted a pro-Zionist position, emphasizing Hebrew language, *Tanakh*, and in some cases even Jewish history in their curricula. To be sure, when Orthodox ranks were relatively small and attrition high, the Orthodox Jewish school movement initially sought to be as inclusive as possible; through the mid-1970s, both these groups were still seen under one broad tent—American Orthodoxy. That Torah Umesorah—the National Society for Hebrew Day Schools, formed in 1944—was the umbrella organization for both groups of schools through the 1980s typifies the contemporary mood. Rabbi Shraga Feivel Mendelowitz, Torah Umesorah's director, was supported by both Rabbi Aharon Kotler of the famed Lakewood Yeshiva and Rabbi

Joseph B. Soloveitchik of Yeshiva University.²⁵ However, the fault lines between the two groups widened in the final decades of the twentieth century, with Torah Umesorah following the yeshiva world and its leaders in adopting more isolationist standards. Thus, in the 1990s, Torah Umesorah, which admittedly had for some time been ambivalent, if not internally divided, over the question of coeducation,²⁶ decided to extend membership only to separate-sex schools in the larger metropolitan areas (older, coeducational schools that were already members were grandfathered in). This, in turn, led to several efforts to start organizations that would cater to the more integrationist Orthodox day schools,²⁷ though there were always both day schools and professionals that fell “in between” the growing polarization.

In hindsight, the institutional divide was predictable. From the 1940s on, the more separatist community poured its limited resources into the growth and maintenance of yeshivas, which became the anchor of local and regional communities and a primary source of the next generation’s Jewish identity. Some, such as Chaim Berlin and Torah Voda’as in Brooklyn, began as high schools and added a *mesivta* (post-high school yeshiva) as support grew, while others, such as Lakewood and Ner Israel, opened their *mesivtas* first, and either built down or remained post-high school institutions. The classical Lithuanian-style *rosh yeshivah* was the community’s leader, and was accorded increasing social stature beyond that of the local synagogue rabbi, who ministered to the flock of the more modern or integrationist Orthodox that affirmed the compatibility and consistency of Jewish and American values.²⁸ (I am using the terms “integrationist” vs. “separatist” since the aim of this paper is to address the question of Orthodoxy’s relationship with Federation, and these terms are helpful in providing a framework for understanding that relationship.) Distinctiveness and separation, not accommodation and integration, were the call of the hour according to these leaders, and many sociocultural strategies were employed to achieve that end, from not following the days off of the American calendar (Sundays and American holidays)²⁹ to having most secular subjects taught by non-Jewish teachers rather than nonobservant Jewish teachers.

To be sure, the Torah leaders' planned program to (re-)establish on American shores an Orthodox community imbued with the values of European Orthodoxy was aided by a changing cultural climate. The increasing dominance of multiculturalism within America (particularly among its educated elites), coupled with the material success of America's burgeoning middle class, took the wind out of Americanization's sails, and with it, the insistence of more modern day schools to integrate into the wider culture. Starting in the 1960s, and accelerating through the next two decades, the ability of groups to assert their independent character and not necessarily translate it, at least explicitly, in terms of American values, became more acceptable. The success of Black Power, feminism, and later the gay rights movement, made the pragmatic claims of integrationist Jews less compelling and even repellent—why should any group sacrifice its distinctiveness to “blend in”? No less significant was the tectonic shift in American popular culture: mere consumerism was giving way to a relativist morality, permissive sexuality and vulgarization of public media and entertainment that made it hard to insist on the compatibility of American culture and society with Orthodox values and halakhah. Moreover, universities and college campuses were in the vanguard of these liberalizing trends, which meant that a college education with its dormitory life—a central component of the integrationist Orthodox approach to succeeding in America—was now seen to heighten the risks to students' Orthodox commitments.³⁰

Both Orthodox groups, however, understood that the major arena of identity formation was the educational institution. As the two camps were polarizing, school personnel became a serious issue for the integrationist schools. While the separatist schools hired only like-minded teachers who were role models of the schools' mission, most integrationist schools did the exact opposite, drawing many of their Judaic teachers from the ranks of the separatist Orthodox. Reasons for this hiring practice ranged from financial (these teachers were willing to accept the lower salaries offered) to practical (more such teachers were available, were willing to teach lower grades, move out to that locale, or were better teachers), and even ideological (some school heads wanted Judaic teachers more “authentic” in appearance and behavior).

Regardless, these teachers modeled, and often instilled, a stricter, less accommodationist version of Orthodox distinctiveness into their students.³¹ The same is true, if not more so, of many post-high school yeshiva and seminary programs in Israel which an increasing number of eighteen- and nineteen-year-old day school graduates attended during the 1980s and 1990s before beginning college: a separatist Orthodox faculty teaching students from integrationist Orthodox homes in an immersion setting that draws them toward the separatist end of the Orthodox spectrum.³² In this way, thousands of younger Orthodox Jews and families have embraced the yeshiva life, enabled by the financial success of parents or grandparents; what had been the lifestyle of an elite few in prewar Eastern Europe became (or was presented as) an established norm for the Orthodox masses in late twentieth- and early twenty-first-century America. With early marriage and high birth rates, this segment of Orthodoxy, including both Haredi and Chassidic populations, is demographically growing faster than any other. The last two to three decades thus marked the significant rise of a separatist Orthodoxy in America, both parallel to and in many cases from within the ranks of integrationist Orthodox communities.

While I have tried to describe general trends and common patterns, we must always remain aware of the local character of each community, particularly those outside the main population centers, where some of these developments have occurred only in the last decade or two (often with the advent of a local yeshiva-style kollel). Of course, this process did not occur at the same time or pace in every locale; while there are common patterns, the growth and subdivision of a local Orthodox community outside the main population centers depended on many factors (as will be discussed in the next section). Furthermore, there are some recent signs that these various Orthodox groups are undergoing some amalgamation; minimally, the broad groupings of integrationist and separatist should not be seen as entailing hard-and-fast distinctions but rather constitute poles on a spectrum of Orthodox lifestyles, behaviors, and beliefs from which individuals or groups increasingly feel free to pick and choose. The presence of “blended” or “multicongregational” Orthodox Jews—those who “belong” to more than one Orthodox group, both real and virtual—has increased and

consequently somewhat lessened, at least on a popular level, the strident separatism that was common in these circles over the last generation. It is not uncommon, even in the major urban centers of Orthodoxy, to find someone who prays in a Chassidic shtiebel, has a *chevruta* within a yeshivish *beis medrash*, and reads books or Internet offerings from more modern Orthodox authors. I believe this has important implications for our subject, as will be discussed in the final section.

The Economics of Orthodox Communities

In thinking about Orthodox charitable giving, it is important to identify the economics of the community. While there are many similarities to all Orthodox giving, not only in type but in social function,³³ we must acknowledge that these two Orthodox communities tend to have very different economic bases, which significantly impacts their charitable giving.

While both groups have some variation, integrationist Orthodox Jews, generally speaking, tend to be economically self-sufficient, building on the societal norm of college and, in many cases, graduate school, followed by the launch of career. For many though certainly not all, marriage and the start of a family are planned or anticipated only afterwards, once income is secure, though the price of housing and the cost of day school tuition have necessitated many to seek help from family or other sources even after they have begun their careers. The birthrate of this community is estimated at 3.3 children,³⁴ and the standard of living tends to be typical middle to upper middle class. Integrationist Orthodoxy produces a significant number of professionals (physicians, lawyers, accountants) and businesspeople who earn upper-middle-class wages, enabling the level of charitable giving to be relatively high. Nevertheless, only a very small number reach the capacity of major gifts that build or endow institutions.

The economics of the separatist Orthodox community are significantly different. On the one hand, to become a functioning enclave requires infrastructure and a set of human and material resources, all of which take time and money to build or accumulate. On the other hand, because separatists eschew the typical college education and assume a countercultural posture, professional and upper-middle-

class opportunities are open to only a select few (usually those who come from more integrationist backgrounds). Many choose jobs that enable them to remain within the Orthodox community (e.g., education, kashrut supervision, local small businesses) or go into governmental or public school jobs that offer significant benefits even if not a large salary. Given the high cost of Orthodox living—(usually) expensive housing, kosher food, synagogue dues, and school tuitions—few families are economically self-sufficient. On this score, the incredible generosity of the separatist community, especially its few super-rich members, must be noted. These philanthropic individuals and families, whether publicly or quietly, support many Torah institutions and organizations—schools/*yeshivot*, camps, kollels, synagogues, and *shtiebels*—thus maintaining the communal enterprise and subsidizing the participation of thousands who cannot afford it themselves. To be clear, I am not referring to supporting expensive personal lifestyles, as most families in this community live below, and in some cases far below, the American average in terms of per capita consumption, and choose to do so. Nevertheless, realistically no community in America accepts the nobility of poverty any longer, and while there are no accurate statistics, many of these families, especially the larger ones, receive aid from family, Jewish and public social welfare agencies, and private charities to meet basic standard-of-living needs.

To be sure, the economic pressures on the separatist Orthodox community—lack of available family wealth and the need to build and sustain separatist institutions and social enclaves—have precipitated the recent emergence of multiple social and economic phenomena. One is the trend for either the husband or wife to go back to school after having started a family for training in more “lucrative” vocations and professions compatible, to varying degrees, with a separatist Orthodox lifestyle—computers, sales, social work, physical/occupational/speech therapy, various healthcare-related technologies and occupations,³⁵ and the like. Moreover, the economy and society enabled by the digital age—from online degrees to day trading—allow people both to achieve certification or vocational training and to get jobs without a more classical liberal arts college education.³⁶ This has reduced some of the pressure on members of this community to seek out long-

term support, though these jobs generally are usually sufficient only to provide basic family needs—housing, utilities, food and clothing, some tuition—and, of course, basic charity, often to like-minded institutions and organizations, including their poorer comrades. In sum, with the growth of this segment of Orthodoxy in America over the last thirty years, a much larger percentage than in the past has entered the workforce, though generally at a later stage (usually after marriage and several children), and usually in fields more likely to require vocational or targeted training than a broad college education. Obviously, during the time before gainful employment, these families require substantial support, often from their parents and grandparents³⁷ (incidentally, not all of whom are Orthodox). Thus, a by-product of this trend is that the aging Orthodox population—in many cases, but by no means exclusively, of the more integrationist type—that would normally be at a phase in their lives with more free time and more disposable income to give to charitable institutions (like Federation), are working longer and giving a larger percentage of their *tzedakah* to their own families' needs.

Another trend is the effort to obtain extramural funding. In a growing number of communities outside the major metropolitan areas, funding for many Orthodox institutions is secured through relationships with the non-Orthodox—a change from the separatist and insular model of community *kollels* first formed in America in the 1950s and 1960s and supported by a relative few Orthodox donors.³⁸ This population is indeed quite diverse. With the exception of Chabad, many out-of-town Orthodox synagogues maintain a significant, though declining, number of affiliated members whose personal practice is not Orthodox, but who grew up in Orthodox synagogues and retain strong (often personal) ties to Orthodoxy—a phenomenon all but absent in the major urban centers of Orthodoxy. Personal relationships with either rabbis or observant individuals can bring in regular funding and in some cases major gifts, especially as this group is aging and seeking to impart some of its wealth to Jewish causes.

Another group from whom funding is found is Conservative, Reform and unaffiliated Jewish men and women who, seeking some connection to their tradition, begin to study or develop relationships

with (usually separatist) Orthodox teachers.³⁹ In a growing number of out-of-town communities, this is accomplished through outreach kollels and other organizations, generally staffed by charismatic separatist Orthodox men and women whose aim is to bring Torah and observance to the non-Orthodox.⁴⁰ While there is the obvious goal of attracting Jews of all backgrounds to greater observance, in many cases the personal connections nurture a form of “vicarious religion” through these kollel members and their work, with the additional result of bringing non-Orthodox support to the Orthodox community and its institutions through dinners, sponsorships, and other fundraising activities.⁴¹ Indeed, with more and more of the Orthodox religious functionaries—teachers, rabbis, kollel members, and kashrut supervisors—coming from the ranks of the separatist Orthodox, this type of Judaism has come to stand for Orthodoxy for many non-Orthodox Jews outside the larger population centers that might have multiple Orthodox communities. In a word, separatist Jews represent to these non-Orthodox Jews a more “authentic” or even “old-time religion” form of Judaism.

Finally, because the nature of local Federation is, as I described, to be inclusive, the separatist Orthodox residents of a community do have legitimate claims to communal funds even if they contribute relatively little—indeed, from its inception, Federation’s very *raison d’être* has been to take care of all Jews. In smaller Jewish communities, there is a palpable sense that all segments of Jewry rise and fall together, leaving many non-Orthodox feeling responsible for the Orthodox institutions and their continued viability. To be sure, there are many voices in the Federations that find Orthodox separatism distasteful, and the lack of reciprocity—these institutions tend to take much more from the annual campaigns than their members contribute—unethical. Furthermore, the multiplication of Orthodox schools and synagogues in small- to mid-size Jewish communities, often precipitated by the efforts of separatist Orthodox to create their own institutions, is often incomprehensible to the non-Orthodox. Dedicated Federation leaders and donors fret over the long-term and genuine impact of this growth on the (shrinking) annual campaign. In one city, Federation kept its allocation to day schools flat even as the number of schools and to-

tal students grew steadily over the last ten years. Nevertheless, because the separatist Orthodox in these communities at times include family members of community-minded Jews (who have become *ba'alei teshuvah*), or rabbis and individuals with whom Federation-type non-Orthodox Jews study regularly or maintain strong personal ties, there is a significant amount of sympathy for supporting these institutions.⁴²

At the same time, one finds more Orthodox rabbinic leaders (in response?) advocating more public participation in the wider Jewish community and especially in Federation, from appearance at community events⁴³ to helping out through important symbolic measures of voluntarism, such as participating in coordinated call-a-thons for the annual campaign, dedicating one month of tzedakah collection at a school to the annual campaign, or getting 100 percent participation of a school or synagogue board in the annual campaign even if only \$18 or \$50. Leaving aside the question of motivation—genuine support for the community, gratitude for past support, or a perceived need to “play in the sandbox” in order to get a piece of the pie—for a community of relatively limited financial means, these activities carry major symbolic significance for the wider Jewish community, and especially Federation leaders. On occasion, substantial financial commitments are strategically, or more “visibly,” made by Orthodox leaders, such as to the community capital campaign or emergency campaign for Israel. In some smaller communities, one frequently finds the Orthodox rabbi sitting on the board of Federation or one of its committees, and actively involved in fundraising for the communal institution. Of course, many separatist Orthodox leaders feel that distance must still be kept from some communal activities, particularly those that involve what are taken to be violations of halakhah, implicit recognition or validation of non-Orthodox rabbis, or interfaith dialogue, though even here some room for maneuver may be found depending on the “symbolic valence” of the event.

Interestingly, we find some integrationist Orthodox groups recently adopting (or defaulting to) some of the tactics of their separatist confreres. In spite of their general openness to the wider culture and inclusive view of Jewish peoplehood, the integrationist Orthodox, of-

ten those in their own enclaves in larger metropolitan centers, at times participate *less* in Federation life than their more separatist colleagues in smaller communities.⁴⁴ Precisely because they are no longer concentrated in family businesses but in the professions and the wider world of finance, this integrationist population's upper-middle-class lifestyle, growing families (three to five children), and support of its own institutions leave little remaining time or funds for Federation. (The phenomenon of many more women being in the workforce and unavailable for volunteer work is a reality across all segments of Jewry.) As noted, in smaller communities, where the various subcommunities are much more interdependent, mutually acquainted, and even cooperative, one finds more participation in Federation by all Orthodox groups.

In sum, what we find across the United States is Orthodox growth of two increasingly distinct complexions—one more integrationist, observing halakhic norms yet similar in mores and aspirations to the wider American culture, and the other more separatist, seeking to set up what sociologists label an “enclave” that is countercultural and distinctive. In many cities, the two communities exist side-by-side and in varying degrees of tension, with the older, more established Orthodox community tending to be integrationist, and the newer community, often made up of relocated Jews, tending toward the separatist,⁴⁵ though there are many exceptions. In the last twenty years, the economics of the separatist Orthodox community has led to the adoption of various strategies that enable it to secure extramural funding for the building and maintenance of the very institutions that preserve its distinctiveness. These include less isolationist rhetoric, more interpersonal connections with non-Orthodox Jews, and greater, though selective, participation in communal organizations and events.⁴⁶ To borrow a term from another sociologist, emerging separatist Orthodox communities throughout North America are often “in the world but not of it,”⁴⁷ resisting the retreat into isolation yet avoiding too much engagement with secular society lest they become indistinguishable from it.

THE EVOLVING RELATIONSHIP OF ORTHODOX COMMUNITIES AND LOCAL FEDERATIONS

As I noted earlier, the relationship between the Orthodox community and Federation outside of the larger metropolitan areas depends overwhelmingly on local realities.

Size and geography of the Jewish community: How large is the local Jewish community generally, and the Orthodox subcommunity in particular? If there are multiple distinct subcommunities, are they spread out, living in separate parts of town, or are they more integrated one with another, even within the same neighborhood? Do they share institutions (e.g., in smaller Jewish communities, a community day school that serves many Orthodox families is very often found in the JCC or Federation building)? Obviously, the more integrated the populations, the more likely the (potentially positive) interactions between the Federation and the Orthodox.

Leadership: Are the Orthodox rabbis and community leaders cooperative or in conflict with other professional and lay Jewish leaders, both at other synagogues and at Federation? Are there “elder statesmen” in the community who would encourage cooperation and support, or is each interested in advancing his own separate agenda? Did the Orthodox leadership originate locally, or were its sensibilities nurtured elsewhere (e.g., Orthodox who relocate from New York, where Orthodox interaction with Federation is minimal, do not immediately see the value of involvement in Federation)? Furthermore, as individuals were they inclined toward insularity or community-mindedness? I realize that all these are not black-and-white alternatives, and involve a variety of positions along a spectrum. But these endpoints of the spectrum are important to highlight as we evaluate our subject.

Jewish identity: How religiously committed or Jewishly knowledgeable are Federation lay and professional leaders? How sympathetic are they to Orthodoxy or to traditional observance and practice? (The phenomenon of “traditional synagogues” that use Orthodox liturgy but have both separate and mixed seating is still found in some smaller communities throughout the United States.) Though few cities have a Federation president who is personally Orthodox and observant, considerably more have had leaders who deemed themselves

Orthodox-affiliated—another phenomenon that is more common in smaller communities where children of Eastern European immigrants identified with Orthodox synagogues even if their practice was not Orthodox. Though this was not a Federation issue *per se*, I learned that in one community several decades ago, the question of opening the JCC on Shabbat was settled because the Orthodox rabbi's *nonobservant* congregants, many of whom were involved in Federation, supported his view to keep it closed. In many locales, Federation presidents are drawn equally from Reform or Conservative Jewish ranks, though in a few cities the Federation leadership is primarily Conservative and thus has more appreciation for Orthodox issues, such as kashrut or Shabbat observance.

Philanthropic resources: Are the local philanthropic individuals or families Orthodox, either in practice or in sensibility? For example, in two small towns, the major donors in the 1930s–1950s were a consortium of individuals in the scrap metal business, all of whom were Orthodox—and their businesses being closed on Shabbat brought over other Orthodox family members and strangers who heard about the *shomer-shabbat* opportunity! The local Federation's big “machers” thus turned out to be very sensitive to Orthodoxy. Are the philanthropists community-minded and practical or ideological and uncompromising? Are they close with any Orthodox people, whether family members, friends, rabbis, or teachers (here the outreach kollels have had a profound impact on our question, as their target audience, or those most interested, are often Federation-type supporters and donors)? Are they involved in Federation, or acting independently?

Demographics: Is the Jewish community growing, declining, or remaining steady? Do the settlement patterns of Jews preserve, reduce, or promote interdenominational contact and cooperation? In one locale, the Orthodox, Conservative, and Reform communities remained in close proximity in two main parts of the city, and never really expanded beyond those general areas; not surprisingly, in that city there is strong cooperation between the Federation and the Orthodox community. In smaller Southern communities, where the Jewish community as a whole is a small minority of a city (e.g., Memphis, Tennessee, and Augusta, Georgia), there is strong interest in blending in or lying

low within the larger Christian society, and so the community works hard to act as one and be a united front. Few of these locales have developed strong separatist Orthodox communities.

Economic climate: How has the local economy, from jobs to housing, fared over the last two generations? Was there an increased democratization of wealth across a wider population, or has it remained in the hands of a few (who then usually feel they ought to control the process of community planning)?

"Flashpoint" issues: Particularly in a small community, some issues are so contested between the Orthodox and others that how they are handled and settled can set the tone for years to come. Questions such as opening a local day school, closing community institutions on Shabbat, or having kosher food at Federation agencies can easily divide a community. Their resolution—in particular, by non-Orthodox leaders—often sets the tone of Federation-Orthodox relations for years thereafter, whether remaining as open wounds for the losing side or as examples of cooperation and compromise for all.

These are the sorts of questions I discovered were necessary to answer in order to get a clear picture of the local story of the relationship between Federation and the Orthodox community. National trends were hard to identify: some communities were contracting, while others were booming; synagogues of all types could decline or take off depending on the rabbi or other demographic, economic or political factors (e.g., the departure of major donors); the Jewish affiliations of philanthropic families could switch between generations, or even within the same generation; the quality, temperament, and duration of staff and volunteers at Federation were utterly unpredictable; and the turnover of lay leadership was a real and often destabilizing variable in the developments in any community (incidentally, some much smaller communities were able to retain staff for long periods of time, creating a sense of constancy and precedent). Nevertheless, there are several trends in American Jewish life generally and in Federations and Orthodoxy specifically that cannot be ignored, and which will have an impact on this evolving relationship. I will mention them briefly, though each deserves separate and longer treatment.

The first is the *individualization of American religious life*. For almost two generations, the trend in American culture has been toward increasing individualization and less communitarian thinking. The mid-twentieth-century communitarian ethos and desire to “belong” have given way to religion as a personal matter, subject to personal tastes and feelings (as opposed to dogmatic beliefs) and susceptible to frequent change in the course of one’s life.⁴⁸ The implication for Judaism has been significant, with studies showing a decline in the “peoplehood” or ethnic feature of Jewish identity among most Jews,⁴⁹ not to mention the weakening of the “Jewish civil religion” described by Woocher just a generation ago. Moreover, traditional American Jewish priorities—concern for Jews throughout the world and support of Israel—are declining as well, while they retain highest value among the Orthodox (particularly the integrationist Orthodox). These changes will have profound impact on Federations and their relations with the Orthodox (of both sorts), a segment of the Jewish population that is both growing and the most successful at retention⁵⁰—though also the financially neediest. If Federations are to retain these “peoplehood” priorities, they will likely seek alliances or other forms of cooperation with the Orthodox who serve as the core of the committed.

At the same time, it is worth noting that many sociologists and historians of religion characterize the current American religious climate as “post-denominational,” with Americans less interested in doctrinal differences and more concerned with the therapeutic, emotional, or spiritual nourishment available from a particular religious community, pastor, or religious service. Closely connected with this is what is termed “cafeteria-style religion,” the view that one’s religious choices are from a basket of options that do not demand theological, intellectual, or even cultural coherence. In this climate, the opportunity for the Orthodox to contribute to the Jewish identity of the non-Orthodox has never been greater, particularly for “uneducated but connected” Jews. Involvement in one’s local Federation affords the Orthodox access to reach out to this population, if only to counter non-Orthodox stereotypes of Orthodox Jews.

The second trend is in *organized Jewish life in America*. A recent JCPA interview with Jack Wertheimer, “The Fragmentation of Ameri-

can Jewry and Its Leadership,” highlights the disappearance of a truly powerful national Jewish organization in terms of setting domestic Jewish policies.⁵¹ The locus of organized activity has shifted from the national to the local level, where most of the energy is concentrated. This means that the complexion of the local Jewish community will have greater impact on the future of its equally local Federation.

Third, we have the much vaunted “slide to the right” of Orthodoxy. While I have described the emergence of two relatively distinct camps—one integrationist, the other separatist—among the Orthodox, recent studies indicate that these will emerge as endpoints, or clusters, on a spectrum, with many individuals—in particular, in places outside the main centers of Jewry—situating themselves along different points on the line. How these communities evolve will be a function of many local variables, as has been noted, making the future hard to predict as strong economic pressures will likely continue to produce further changes. But if current trends are any indicator, we see that in smaller communities where the Orthodox are, in a very real way, not self-sufficient, productive alliances with Federation will be a necessary feature of a community in search of additional funding.

Furthermore, there are trends *in philanthropy* that few feel comfortable predicting. As we noted, philanthropy, like religion, has become individualized, with donors seeking to satisfy their own sense of mission and affirm their own values.⁵² With a shrinking donor and volunteer base, Federations will likely be more attentive to any source of funds or volunteer manpower and seek to make its allocation process as inclusive as possible. My own experience and what I have seen in other smaller communities is that Federations can simply not afford to ignore the potential of Orthodox involvement, and I think they will “put out the welcome mat” to ensure Orthodox participation, without radically altering their policies so as to alienate the non-Orthodox, the community in which the overwhelming percentage of Federation donors are currently found.

Finally, we must be aware of the changing *nature of wealth* in the Orthodox community. It remains to be seen how the current economy in America will have an impact on the nature and extent of wealth among the Orthodox, whether integrationist or separatist. Leaving

aside the lucky stock picker, how significant sums of money will be made—and retained, grown, and transmitted—will determine many aspects of philanthropy. Increasingly, charitable giving—particularly of the sort that builds and maintains institutions—involves long-term investment, and if the nature of wealth in the Orthodox community will be based on the yearly bonus, market fluctuations, or other unreliable sources, then Orthodox philanthropy will be erratic and necessarily opportunistic. Certainly, the demographics of the separatist community bear close watching, as the wealth of an older generation is being split among more and more children and grandchildren, and is not necessarily self-sustaining, in spite of comparatively modest living.

CONCLUSION

Demographically, Orthodox Jews exhibit dual and contradictory settlement patterns: many stay in or move to established and concentrated centers, such as New York/New Jersey, Los Angeles, Chicago, and South Florida, while others seek newer communities that have more affordable homes and cheaper costs of living. In these latter locales, better Jewish infrastructure—schools, kosher restaurants, an eruv, etc.—is often required to serve Orthodox needs. It is precisely in these smaller communities that the local Federation has historically had a significant role, and where Federations remain eager to retain their relevance. Though Federation's ideology of inclusiveness is technically at odds with Orthodoxy's ideology, we are living in a more pragmatic, much less ideological age, and there may now be more that binds the two than separates them. At the same time, it is the Orthodox—particularly the separatist Orthodox—who are in greatest need of communal funds to support their demographic and institutional growth, and so cannot afford the luxury of total disengagement that their ideology would *prima facie* require.⁵³

The relationships and connections between the Orthodox and non-Orthodox in these locations are a growing reality and constitute an opportunity, both pragmatic and idealistic, for Orthodox Jewry to have a positive impact on, and even help shape, the wider Jewish community. We may cautiously conclude that greater Orthodox cooperation with, and support of, local Federations appears likely to grow over

the next few decades in most locales outside the traditional population centers.

NOTES

1. Aside from confidential interviews, I consulted *Philadelphia Jewish Life, 1940–2000*, ed. Murray Friedman (Philadelphia: Temple University Press, 2003); Judah Rubinstein with Jane A. Avner, *Merging Traditions: Jewish Life in Cleveland*, rev. ed. (Kent: Kent State University Press, 2004); Jonathan D. Sarna and Nancy H. Klein, *The Jews of Cincinnati* (Cincinnati: Center for the Study of the American Jewish Experience, 1989); Eric L. Goldstein, *To Life: A History of Jews in Atlanta* (Atlanta: Jewish Federation of Greater Atlanta, 2006).
2. Harry L. Lurie, *A Heritage Affirmed: The Jewish Federation Movement in America* (Philadelphia: Jewish Publication Society, 1961); Philip Bernstein, *To Dwell in Unity: The Jewish Federation Movement in America Since 1960* (Philadelphia: Jewish Publication Society, 1983).
3. Boston was the first to create its Federation in 1895. Cincinnati followed seven months later, and indeed was the first to combine all agency programs together under one administration (Sarna, *supra*, n. 1, p. 95).
4. Derek J. Penslar offers a detailed account of Jewish support in Germany for East European Jewish immigrants and its impact on the Jewish identity of an increasingly assimilated Jewry in “The Origins of Modern Jewish Philanthropy,” in *Philanthropy in the World’s Traditions*, ed. Warren F. Ilchman, Stanley N. Katz, and Edward L. Queen II (Bloomington: Indiana University Press, 1998), pp. 197–214.
5. See Bernstein (*supra*, n. 2), pp. 107–125, for the steady increases in local allocations to Jewish education in the 1960s and 70s.
6. See *Philadelphia, Jewish Life* (*Supra*, n. 1) pp. 159–175, esp. 170–174, about the Akiba School, which received Federation support in 1957.
7. At present, seven local Federations actually run the Florence Melton Adult Mini-School (FMAMS) in their area, and three others sponsor it through the Jewish Community Center or bureau of Jewish education. This constitutes 10 percent of the Melton Mini-Schools in North America (e-mail correspondence from Betsy Dolgin Katz, director North American FMAMS, February 7, 2008).
8. Jonathan S. Woocher, *Sacred Survival: The Civil Religion of American Jews* (Bloomington: Indiana University Press, 1986).
9. Penslar (*supra*, n. 4, p. 210) made similar observations about assimilated German Jewry in the late nineteenth century, though the larger climate of German social services and relief being limited either to Christians or native Germans required Jews to provide for their own brethren. See also Milton Goldin, *Why They Give: American Jews and Their Philanthropies* (New York: Macmillan, 1976). Of course, the reciprocal relationship—that heightened Jewish identity leads to greater giving to Jewish causes—is also true. See Mordechai Rimor and Gary A. Tobin, “The Relationship Between Jewish Identity and Philanthropy,” in *Contemporary Jewish*

- Philanthropy in America* (hereinafter *CJPA*), ed. Barry A. Kosmin and Paul Ritterband (Savage, Md.: Rowman & Littlefield, 1991), pp. 33–56.
10. Woocher (*supra*, note 8), p. 31.
 11. See, e.g., Steven M. Cohen and Jack Wertheimer, "What Happened to the Jewish People" *Commentary* (June 2006): 33–37.
 12. *After Heaven: Spirituality in America Since the 1950s* (Berkeley and Los Angeles: University of California Press, 1998), pp. 1–19.
 13. Though of course there are no guarantees that smaller Jewish communities will be more successful in their Federation work; see Arthur S. Goldberg, "Generous Fathers, Ungenerous Children: A Small City Perspective," in *CJPA* (*supra*, n. 9), pp. 161–172, for a particularly depressing case of alienation and "undergiving."
 14. In all my research, I did not come across any Federation offices that did not offer a reasonable level of kosher food or were open on Shabbat or Yom Tov (I am not referring to Jewish Community Center facilities, which may be in the same building; see next note).
 15. One exception is the question of JCC's being open on Shabbat. This is a thorny matter that is very affected by local governance structures, donors' personalities, funding conditions, and the number of non-Jews using the sports or fitness facilities, and is beyond the scope of this paper.
 16. Rachel Emma Silverman and Sally Beatty, "Doing Due Diligence on Your Donations," *Wall Street Journal* (Eastern Edition), December 20, 2007, D1.
 17. See Bethamie Horowitz's conclusions in "Havurah Jews and Where They Give," in *CJPA* (*supra*, n. 9), pp. 187–204.
 18. See Egon Mayer, "Intergenerational Philanthropic Slippage: The Case of Children of Major Jewish Philanthropic Families in New York City," in *CJPA*, pp. 145–159, and Arthur S. Goldberg, "Generous Fathers, Ungenerous Children," pp. 161–72.
 19. Goldberg's study (previous note) includes several quotations from underappreciated donors and volunteers.
 20. Some highlights of this robust and growing literature, devoted primarily to American Orthodoxy are: Charles S. Liebman, "Orthodoxy in American Jewish Life," *American Jewish Yearbook* 1965, repr. in *The Jewish Community in America*, ed. Marshall Sklare (New York: Behrman House, 1974), pp. 131–174; Haym Soloveitchik, "Rupture and Reconstruction: the Transformation of Contemporary Orthodoxy," *Tradition* 38, no. 4 (1994): 64–130; see also the exchange between Isaac Chavel and H. Soloveitchik in *Torah U-madda Journal* 7 (1997): 122–149; Jeffrey S. Gurock, *American Jewish Orthodoxy in Historical Perspective* (Hoboken, N.J.: Ktav, 1996). Chaim Waxman takes a sociologist's perspective in his many articles, and Samuel C. Heilman has penned several books from a cultural anthropologist's perspective, including *Cosmopolitans and Parochials: Modern Orthodox Jews in America* (Chicago: University of Chicago Press, 1989), *Defenders of the Faith: Inside Ultra-Orthodox Jewry* (New York: Schocken Books, 1992), although this focuses on Israeli ultra-Orthodoxy, and *Sliding to the Right: the Contest for the Future of American Jewish Orthodoxy* (Berkeley: University of Cali-

fornia Press, 2006). More recently, Etan Diamond offered a detailed portrait of Toronto's suburban Orthodox in *And I Will Dwell in Their Midst: Orthodox Jews in Suburbia* (Chapel Hill: University of North Carolina Press, 2000). William B. Helmreich launched the literature about Orthodox educational institutions with *The World of the Yeshiva: An Intimate Portrait of Orthodox Jewry* (New York: Free Press, 1982); later, Jeffrey S. Gurock wrote detailed histories of Yeshiva University, *The Men and Women of Yeshiva: Higher Education, Orthodoxy, and American Judaism* (New York: Columbia University Press, 1988) and the Ramaz School (see below, n. 24), as did Saul Bernstein about the Orthodox Union (Aronson, 1997). Historical biographies of individual rabbis have also emerged, including Aaron Rothkoff-Rakefet's *The Silver Era in American Jewish Orthodoxy: Rabbi Eliezer Silver and His Generation* (New York: Yeshiva University Press, 1981); Moshe D. Sherman offers a convenient collection in his *Orthodox Judaism in America: a Biographical Dictionary and Sourcebook* (Westport, Conn.: Greenwood Press, 1996). The Orthodox rabbinate itself was addressed by Louis Bernstein in his unpublished dissertation "The Emergence of the English-speaking Orthodox Rabbinate" (UMI, 1977). Of course, many scholars treat Orthodoxy within their broader discussions and analyses of American Jewry and its denominations; Jack Wertheimer and Jonathan Sarna are of note.

21. Jerome Karabel, *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale and Princeton* (Boston: Houghton Mifflin, 2005).
22. Michael Silber presents the various strategies used by ultra-Orthodoxy in nineteenth-century Central Europe, particularly against the Neo-Orthodox, in "The Emergence of Ultra-Orthodoxy: The Invention of a Tradition," in *The Uses of Tradition: Jewish Continuity Since Emancipation*, ed. Jack Wertheimer (New York: Jewish Theological Seminary, 1992), pp. 23–84. The parallels with the American scene a century later are striking.
23. See, e.g., *Iggerot Moshe, Yoreh De'ah* II:102, III:79, 80.
24. These values are highlighted in *Ramaz: School, Community, Scholarship and Orthodoxy*, ed. Jeffrey S. Gurock (Hoboken, N.J.: Ktav, 1989). See also Seth Farber, *An American Orthodox Dreamer: Rabbi Joseph B. Soloveitchik and Boston's Maimonides School* (Hanover, N.H.: University Press of New England, 2004).
25. Joseph Kaminetzky and Murray I. Friedman, *Hebrew Day School Education: An Overview* (New York: Torah Umesorah, 1970); Doniel Zvi Kramer, *The Day Schools and Torah Umesorah: The Seeding of Traditional Judaism in America* (New York: Yeshiva University Press, 1984). The fact that the former work, which is a compilation of essays, includes such authors as Rabbi Norman Lamm and Rabbi Moses D. Tendler of Yeshiva University and Dr. Marvin Fox of Brandeis University together with Rabbis Yitzchak Hutner, Yaakov Kaminetzky, and Mordecai Gifter of the yeshiva world, is testament to the umbrella aspect of Torah Umesorah.
26. Kramer (*supra*, n. 25), pp. 69 and 97.
27. I am referring to ECA, the Educators Council of America (1970s–1990s) and

- AMODS, the Association of Modern Orthodox Day Schools (1990s–2007). This story is connected, of course, to the decline of Talmud Torahs and other Orthodox supplementary schools and the professional organizations associated with them.
28. See Soloveitchik (*supra*, n. 20), pp. 94 f.; Chaim Waxman, “Toward a Sociology of Pesak,” *Tradition* 25 (1991): 12–25.
 29. In 1981, I heard R. Aharon Lichtenstein offer a *hesped* (eulogy) in Yeshivat Har Etzion for his revered teacher and *rosh yeshivah*, R. Yitzchak Hutner of Yeshivat Chaim Berlin. In his remarks, R. Lichtenstein mentioned that R. Hutner was approached by students to have Sundays off. He responded that he was prepared to offer any other day off, but not Sunday.
 30. In 2004, a pamphlet written by Gil Perl and Yaakov Weinstein, graduate students at Harvard and MIT respectively, entitled *A Parent’s Guide to Orthodox Assimilation on University Campuses*, warned Orthodox families of the toxic social and intellectual effects of college life on Orthodox mores and practice. For an interesting review of the pamphlet, see Alan Mittleman, “Fretful Orthodoxy,” *First Things*, October 2003.
 31. See Isaac Chavel (*supra*, n. 20), pp. 126–127, on the beginnings of this phenomenon in the 1950s.
 32. This is one of the central sociological (as opposed to psychological) arguments made by Shalom Z. Berger et al. in *Flipping Out? Myth or Fact: The Impact of the “Year in Israel”* (Brooklyn, N.Y.: Yashar Books, 2007).
 33. Samuel C. Heilman, “*Tzedakah*: Orthodox Jews and Charitable Giving,” in *CJPA*, pp. 133–144.
 34. Jack Wertheimer, “Jews and the Jewish Birthrate,” *Commentary* (October 2005): 41.
 35. The steady growth of healthcare as a percentage of the GDP has created a burgeoning array of adjunct and ancillary fields, from insurance filing in medical practices, to providing wigs for cancer patients. Many of these require only technical training or brief courses for certification.
 36. See the exchange between R. Aharon Lichtenstein and William Kolbrener on the intellectual compatibility of the contemporary liberal arts education with Orthodoxy in the Spring 5764/2004 issue of *Jewish Action*.
 37. Thus, one finds contemporary halakhic views making the case for people of limited means to use designated *ma’aser* (tithe) funds to support their children in kollel. See Moshe Shternbuch, *Teshuvot ve-Hanhagot* (1991), vol. 1, p. 376, and the Chofetz Chaim’s *Ahavat Chesed* 19:1. Both are cited in Moshe Goldberger, *Priorities in Tzedakah* (Brooklyn, N.Y.: Judaica Press, 2007), p. 71.
 38. See Adam S. Ferziger’s important study, “The Emergence of the Community Kollel: A New Model for Addressing Assimilation,” in *The Rappaport Center for Assimilation Research and Strengthening Jewish Vitality* (Bar-Ilan University, 2006), pp. 34 ff.
 39. Included in this category, obviously, are Chabad emissaries, though generally

speaking the fundraising goes to support Chabad's outreach activities. I am referring here to encouraging non-Orthodox individuals to support Orthodox institutions from which the donors or their families will almost certainly not derive direct benefit.

40. See Ferziger (*supra* n. 38), pp. 44–47. To be sure, there are several “outreach” community kollels of the integrationist type (e.g., in Boca Raton and Dallas), but they have not multiplied, and their track record remains to be established. I am leaving aside the entire discussion of Religious Zionist (*Torah Mitzion*) kollels, as they involve families and single men who come to a community for a short time, and usually are involved in “in-reach,” i.e., the strengthening of a Modern Orthodox identity. See Ferziger, pp. 47–56.
41. The notion of “vicarious religion” was recently introduced by Grace Davie in her efforts to understand Christianity in Europe and England. See her “Vicarious Religion: A Methodological Challenge,” in *Everyday Religion: Observing Modern Religious Lives*, ed. Nancy Amerman (Oxford: Oxford University Press, 2007), pp. 22–32; Davie develops the notion further in *The Sociology of Religion* (Los Angeles: SAGE, 2007), esp. pt. II, in the context of the disjunction between “believing” and “belonging” so common among contemporary Europeans. In “Vicarious Religion,” p. 32, Davie suggests this takes place in the United States in, among other cases, Conservative Jewish congregations where the rabbi is expected to hold to a higher religious standard than the congregants. I believe one finds a similar phenomenon among these non-Orthodox Jews who associate, and even study, with outreach kollel members, but do not want to alter their lifestyles in any appreciable way.
42. Indeed, on occasion one hears the alarmist view expressed that if the “Torah-true” institutions close, then Torah and observance will decline in the city. What they are expressing is that these institutions serve the “core” of Jewish living and learning that supplies teachers and inspiration to the community. Jack Wertheimer, “All Quiet on the Religious Front? Jewish Unity, Denominationalism, and Postdenominationalism in the United States” (American Jewish Committee, 2005) questions the authenticity of these Orthodox/non-Orthodox relationships, as the separatist Orthodox do not display any serious community-mindedness in decisions that affect their own community, such as opening up new schools.
43. In Atlanta, many of the separatist Orthodox leaders, particularly of the community kollel, attend the community-wide Yom Ha’atzma’ut event, even though they do not personally commemorate it or celebrate it, and would not attend a similar event under Orthodox auspices. Given their audience and the personal connections they want to maintain with them, this participation is a desideratum.
44. Ferziger notes: “What . . . seems to have transpired . . . is that in its efforts to address the weakly affiliated, the Right Wing Orthodox themselves have internalized the cultural norms that they previously pejoratively viewed as reflections of the compromising ways of Modern Orthodoxy. . . . [T]he Right Wing outreach

kollel [has diluted] some of the active antipathy of this camp toward integration with other Jews and the cultural norms that they possess" (*supra* n. 38, pp. 45–46). This parallels the phenomenon of Israeli Haredim adopting certain aspects of Israeli culture and society, such as the use of Hebrew, more open discussion of the Holocaust, and the willingness to avail themselves of experts in all fields from medicine to technology. See Kimmy Caplan, *Internal Popular Discourse in Israeli Haredi Society* (Jerusalem: Zalman Shazar Center, 2007).

45. The case of Dallas is instructive, where a separatist Orthodox community (a synagogue and three schools) split off from an integrationist Orthodoxy with its existing institutions. Much of the support for the new community initially came from outside Dallas with a view to establish "true" Torah Judaism there; both communities now have viable support from existing and new families.
46. This balance is reminiscent of the position of some ultra-Orthodox parties regarding participation in the Israeli government. See Aviezer Ravitsky, *Messianism, Zionism and Jewish Religious Radicalism*, trans. Michael Swirsky and Jonathan Chipman (Chicago: University of Chicago Press, 1996), pp. 162–180.
47. Christian Smith develops this notion in his description of American evangelicals who resist retreat yet seek to avoid engagement with secular society that renders them indistinguishable from it. This is opposed to Christian fundamentalists, who have a greater desire to withdraw from the world. See his *American Evangelicalism: Embattled and Thriving* (Chicago: University of Chicago Press, 1998) and *Christian America? What Evangelicals Really Want* (Berkeley: University of California Press, 2002).
48. See most recently Neela Banerjee, "A Fluid Religious Life Is Seen in U.S., with Switches Common," *New York Times*, February 26, 2008, A1. Sue Fishkoff reports on the data on Jews included in the Pew survey on religion in America in "How Jews Fit into U.S. Religious Landscape," *JTA*, February 26, 2008. But see Lynn Davidman, "The New Voluntarism and the Case of the Unsynagogued Jews," *Everyday Religion* (*supra*, n. 38), pp. 51–67, showing how the ascriptive dimension of Jewish identity is not as absent among assimilated Jewry as descriptions of American religion and anecdotal evidence would incline us to think.
49. See Cohen and Wertheimer, "What Happened to the Jewish People" (*supra*, n. 11).
50. See Wertheimer, "Jews and the Jewish Birthrate" (*supra*, n. 31).
51. *Jerusalem Center for Public Affairs*, no. 29 (February 2008), interview by Manfred Gerstenfeld. http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DRIT=4&DBID=1&LNGID=1&TMID=111&FID=253&PID=0&IID=2025&TTL=The_Fragmentation_of_American_Jewry_and_Its_Leadership.
52. See, e.g., Peter Frumkin, *Strategic Giving: The Art and Science of Philanthropy* (Chicago: University of Chicago Press, 2006) on "expressive philanthropy," or giving as a means for perpetuating or implementing one's private values in the public sphere.
53. It is noteworthy that in the smaller Jewish communities that are undergoing these

“growth pangs,” particularly among the Orthodox, the non-Orthodox look on in wonderment at how a small community of relatively meager means self-divides in a way that imperils both integrationist and separatist Orthodox communities. At times, this constitutes a *hillul Hashem* as the divisions understood internally are seen as petty or insignificant to outsiders.

Part 3

Halachic Perspectives

9

Jewish Philanthropy— Whither?

Aharon Lichtenstein

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

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

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

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

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

חייבין אנו במצות צדקה יתר מכל מצוות עשה;²

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

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

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

גדולה צדקה שמקרבת את הגאולה (בבא בתרא י.)

as endowed with the power to avert divine wrath—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

פרנסת עצמו קודמת לכל אדם ואינו חייב לתת צדקה עד שיהיה לו פרנסתו.³²

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The altruistic motif inheres in the awareness, previously noted, that we are ethically charged to assist in sustaining and improving the quality of life for the inhabitants of this planet as an expression of *hesed* and to aid in “enlarging the bounds of human empire,” as our contribution to *yishuvo shel olam*, one of the two central aims which the Rambam designated as exclusively worthy of persistent pursuit: אין⁴¹ ראוי לאדם שיעסוק כל ימיו אלא בדברי חכמה וביישובו של עולם. I am mindful of the fact that some contend that, having been designated as a ממלכת⁴¹ קדוש, “a priestly kingdom and sacred nation,” we, like the *kohanim*, deserve to receive while exempt from giving. However, there are surely more appropriate areas—spiritual, ethical, and religious—to manifest our clerical status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTES

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

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

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

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

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

10

Our Poor and Their Poor: Philosophical Reflections

Baruch Brody

Supermarkets in Houston have red barrels at their exits. You can purchase prepacked bags of food staples to place in these barrels, and the bags are sent to local food banks. It has been my practice for many years to buy one such bag when I do the big weekly shopping. Sometime ago, I was shopping with a friend, who objected to my doing so. “It’s going to non-Jews, and that’s not our problem.” His remark did not grow out of any miserliness; he is an easy touch for any charity. They reflected, instead, his belief that Jews should confine their charity to helping fellow Jews and that the Houston food banks serve few, if any, Jews. My quick response was just a rhetorical observation that “hunger doesn’t hurt less when you’re not Jewish.” That ended the conversation. But should it have? That’s the question this paper is going to address

While our discussion was about Jews and non-Jews, the question it raised was much broader than that. I like to think of the broader question as the “us-them” question. People see themselves as belonging

to several identity-creating groups (“us”). They can differentiate those groups from others to which they belong but which do not define their identity, and still others to which they do not belong at all (“thems”). Which group is seen as the relevant us-group may vary from one context to another. It is widely believed that there are in different contexts morally legitimate differences between how an individual should behave toward fellow members of the relevant “us” (hereafter the “us’s”) as opposed to the “thems.” But is charitable support to help people meet basic needs an area of legitimate differences? May we or must we support poor us’s to the exclusion of poor them’s? Alternatively, may we or must we prioritize supporting poor us’s to supporting poor them’s, supporting poor them’s only with leftover funds? Jews can ask these questions about supporting poor non-Jews, but members of any identity-creating group can ask themselves these questions about supporting those who are not members of their identity-creating group.

This question is of lesser importance for people who hold one of two views: (1) *The withering away of charity*. Charity to meet the basic needs of the poor should be replaced by tax-supported programs that meet the basic needs of all poor members of the state. Basic justice requires that those needs be met, and the requirements of basic justice should be met by state programs funded by compulsory taxes rather than by private programs supported by voluntary giving. Unfortunately, the demands of justice have not yet been met in our society and in many others; that is why there are red barrels and food banks. Our efforts should focus on advocating for the needed social programs, and the questions of how charity should be distributed, while necessary, should not distract us from our main obligation. (2) *Cosmopolitanism*. Identity-creating groups are a relic of the past which should disappear and should be banished from our moral thinking. To be sure, we all belong to many groups, and belonging to them adds value to our life. I was, for many years, a Trollopian, committed to reading a significant portion of Trollope’s novels each year, and that activity was a valuable portion of my life in those years. But, as the Stoics advocated, the only identity-creating group we should belong to is that of the human race, and perhaps even that group should be replaced by the group

of sentient creatures (as many animal-rights theorists suggest), by the group of all living things (as advocated by Schweitzer), or by the group of all natural objects (as advocated by deep ecologists). On that way of thinking, there is no room for our question to arise. For the purposes of this paper, I will assume that neither of these views is correct, so our question retains considerable significance; but I will have something more to say about both views below.

My plan for the paper is as follows: I will in the first section present a framework I have developed for thinking about moral issues. In the next section, I will examine ways in which us-them considerations may be incorporated into the framework. In the final section, I will use the analysis to reformulate our questions. My goal in this paper is not to settle the general dispute between my friend and me, although I do argue that I was correct in that case. Instead, my goal is to present a proper framework for thinking about those types of disputes.

In this paper, I present neither a halakhic analysis of these issues nor an analysis that draws upon a larger class of traditional Jewish sources.¹ This is a philosophical paper. But I believe that the philosophical framework presented here would be relevant to developing Jewish analyses of that kind, whether or not one thinks that general moral thinking plays a role in such Jewish analyses. This is because the framework I present here provides a set of categories that would be helpful in developing such Jewish analyses. At the end of the paper, I will say a little more about how my philosophical framework could identify the direction for such Jewish analyses.

A FRAMEWORK FOR MORAL THOUGHT

It is very important to distinguish between a moral framework and a particular moral theory. A moral framework, as I use the term, is an account of ways of plausibly thinking about moral issues, an account of the plausible moral appeals. Different moral theories are different specifications of the moral framework. For example, a moral framework may contain as one of its moral appeals the appeal to individual rights. Different moral theories will offer different accounts of who has what rights in what circumstances (with the possibility that some theory might deny that anyone has any rights in any circumstances).

The moral framework I have been developing over the last twenty years²—it remains a work in progress—is a *pluralistic* moral framework. By saying this, I am not referring to a descriptive pluralism, one which simply notes that many people have many different moral views. It is, rather, a normative pluralism, a view that there are different legitimate moral appeals, different legitimate ways of thinking about moral issues, and that a comprehensive moral analysis must consider all of those appeals before drawing any moral conclusions. Naturally, different moral theories will understand these appeals differently, and will therefore be led to different moral analyses and different moral conclusions.

This moral framework is also a *casuistic (case-specific) judgment-based* moral framework. I mean by this the following: Suppose you have adopted a specific moral theory and are now trying to apply it to a particular case. When you apply your theory to the particular case, the different moral appeals may each, taken alone, support different conclusions. There is no algorithm to decide which of the appeals has priority in a given case. This is a matter for judgment, and not for mechanical reasoning. Moreover, slight differences between the facts in two cases may lead to different judgments, and that is why such judgments are always case specific. As a result, even adherents of the same moral theory may be led to different moral conclusions because they make different judgments about priority.

As a result of these factors, the framework I have developed offers a straightforward account of why we face so much *deep intra- and inter-moral ambiguity*. Some moral ambiguities can be resolved by a closer examination of the facts and/or by closer attention to the relevant moral appeals. Others cannot, and these are the deep moral ambiguities. They may be due either to uncertainties about how to understand the relevant moral appeals or to uncertainties about what judgment of priority should be made. The latter type of uncertainty plays an extremely important role in explaining both deep intrapersonal moral ambiguity and deep interpersonal moral ambiguity among people sharing the same moral theory.³

My framework incorporates six types of moral appeals: appeals to consequences, appeals to rights, appeals to virtues, appeals to

deontological constraints, appeals to special obligations, and appeals to justice. These are, of course, the appeals recognized by Mill, Locke, Aristotle, Kant, Ross, and Plato. Each of these great thinkers recognized the importance of one of these appeals. My pluralistic moral framework accepts the importance of all six. I have no transcendental argument to prove that all plausible moral arguments can be incorporated into this framework, but I would say only that these appeals consider the motives leading to the action (appeal to the virtues), the action itself (appeal to deontological constraints), its consequences (appeal to consequences), its impact upon the distribution of benefits/burdens (appeal to justice), and the general/specific obligations of the actor (appeals to rights and to special obligations).

We need to have a clear understanding of all six before we ask which, if any, of them might accept the moral significance of us-them considerations. I want to be clear that there are certainly ways in which you can graft us-them considerations onto all of them, but I hope to explicate these six appeals in a way that in the next section will make more clear when they would be foreign grafts.

The Appeals

Consequences: It is commonly said, as the name suggests, that the fundamental feature of appeals to consequences is that they judge moral rectitude by the results of actions. This is true as far as it goes, but it leaves out one crucial element. The appeal presupposes that there are certain states of affairs which are inherently good, and it is the production of these states of affair which gives particular actions moral rectitude. Consequentialists differ about which are these states of affairs, some being hedonists, some being desire-satisfaction theorists, and some having an objective list of one or more inherently good things (e.g., the possession of truth). But any appeal to consequences must presuppose some theory of the inherently good. In appeals to consequences, the right is dependent upon the good.

Rights: The appeal to rights invokes very different considerations. People have rights (at least rights of the type I am talking about) in case other people have obligations *to them*. Those who have lent

money have a right to the return of their money just because those who have borrowed the money have an obligation to return it to them. A much more complicated case is people having a right to the food they need. People would have this right just in case others have an obligation to give them the food. (What makes the case complicated is that it is hard to figure out who are the others.) Four crucial points to note: (1) It might be thought that some moral systems emphasize rights, while others emphasize obligations, and great significance has been attributed to this distinction. On my account, so long as we are talking about these types of obligations and corresponding rights, this is a distinction without a difference. It may make a difference if we are talking about other types of obligations which we will discuss below under appeal. (2) That to which you have a right and which others owe to you is something that you control, not something with which you are stuck. I am a will theorist of rights, not an interest theorist of rights. Consequently, as part of that control, you can release them from the obligation, from which point on you have no right to that thing. As I argued many years ago,⁴ active voluntary euthanasia is not wrong because you deprive the persons killed of the life to which they have a right. They have waived that right. If, as I believe, active euthanasia is wrong, its wrongness is based on a different moral appeal. (3) A much more complex question is whether you can involuntarily lose rights. Believers in capital punishment might seem to be committed to the view that the guilty parties have lost their right to life. Perhaps not; it may be that the beneficial consequences in maintaining social order might outweigh their existent right to life.⁵ This is because (4) there is nothing in the appeal to rights which requires that rights have priority over all other moral appeals.

Virtues: The appeal to virtues invokes still further considerations. Virtuous people are motivated by certain feelings to behave in certain ways, and we appeal to the virtuousness of an action as a moral reason to do an action when virtuous people would do that action in those circumstances. The apparent circularity is avoided when the feelings and the ways of behaving are spelled out for specific virtues. Compassionate people alleviate the suffering of others because suffering

by others troubles them. An action which alleviates the suffering of others is a compassionate action, one that it is appropriate to do, regardless of the motivation of those who do the act, but performing such actions does not make one a compassionate person unless one is in general motivated by those feelings. (Kant was very wrong on this point, although a Kantian person might be displaying other virtues by performing those actions out of a sense of duty.) The important thing to note for our purposes is that individual virtues are defined by the relevant feelings (e.g., being troubled), the relevant object of the feeling (e.g., the suffering of others), and the relevant actions (e.g., alleviating the suffering).

Deontological constraints: The fourth of the appeals is the appeal to deontological (rule-based) constraints. Certain actions by their very nature are wrong, and morality constrains us from doing them. This gives rise to the negative prohibitions and positive requirements found in many moral theories, depending upon whether it is an action or an inaction that is inherently wrong. Invoking this appeal, for example, explains the view that voluntary active euthanasia is wrong. The person being euthanized, by giving consent, eliminates the violation of his or her right not to be killed, but that still leaves a deontological constraint of not killing. Since it is not an obligation *to* that other person, just an obligation that applies to your treatment of the other person, he or she cannot eliminate it by releasing you from the obligation.⁶

Some moral theories recognize at least some absolute deontological constraints, so that the action is wrong no matter what. Others recognize that many, perhaps not all, constraints can be overridden in certain cases by other factors present in the circumstances in question. On this account, contra Kant, you can recognize a deontological constraint on lying, while allowing that some lies (e.g., to preserve family harmony) are morally permitted.

For our purposes, the most important thing to note is that there does not seem to be one general basis for these constraints. Different theories introduce them on the basis of different considerations, and sometimes on the basis of brute intuition. This explains the very wide variety of deontological constraints found in different moral

theories, many of which are not found in most moral theories (e.g., the constraint of not destroying the genetic integrity of individuals and/or species found in certain “green” moral systems).

Special obligations: The fifth moral appeal is the appeal to special obligations. People stand in a wide variety of morally significant special relations to each other, and these give rise to a wide variety of special obligations and special permissions. Some include familial obligations, obligations of friendship, and obligations of gratitude. These types of relations should give cosmopolitans pause, for it seems implausible that special permissions for, and obligations to, these relations do not exist. Even Peter Singer, Princeton’s well-known utilitarian ethicist, who has insisted that morality, by its very definition, requires impartiality, admitted to expending considerable resources to place his mother in an excellent nursing home rather than donating those resources to Oxfam to alleviate world hunger. It is unclear whether he meant to be admitting to a moral wrong.

There can be much doubt over what are these morally significant moral relations. Of special relevance to our discussion is the question of whether belonging to the same religion is one such morally significant relation. I am inclined to think that these questions of the moral significance of relations are related to the question of which relations are constitutive of our self-identity, which is why I think of these relations as identity-creating relations, but perhaps there is a more objective basis. Of further relevance to our discussion is the question of whether these special obligations are obligations *to* people that can be waived by them (like the obligations correlative with rights) or whether they are obligations related to other people which cannot be waived by them (like deontological constraints). Are you obliged to care for your elderly parents who need the care, even when they insist that they don’t want the help because they don’t want to be a burden? Or are you obliged to honor your teachers, even when they modestly decline the honor?

Justice: The final moral appeal, to justice, introduces a number of additional considerations. Its fundamental theme is that the rightness

of acts of distributing benefits and burdens is a function of the fairness of the resulting distribution.⁷ As there are different contexts of justice (e.g., general distributive justice, justice in the allocation of specific scarce resources, compensatory justice, retributive justice, justice in transactions), this appeal will need to invoke different notions of fairness in the different contexts. In any case, it is possible to identify factors which are relevant to fairness in at least some contexts. These include need, prior positive and negative actions, and potential for benefiting. A crucial question about justice is whether the consent of the person-being-treated-unfairly to being treated unfairly can make that permissible (just as one can waive rights), or whether distributing benefits and burdens unfairly remains wrong regardless of the consent of the parties (just as deontological constraints remain in effect), in part because the unfairness of the resulting distribution is to be treated as an objective wrong-making feature of distributive acts. In order to allow for consensual mutually advantageous exploitative injustices, the latter account seems required.⁸

This then is my moral framework. It is a pluralistic, casuistic, judgment-based framework which incorporates the six moral appeals outlined above. It is my claim that this is a general moral framework because all plausible moral theories involve some or all of these appeals. I have also developed my own moral theory for some contexts, but that will play no role in this paper. The next section asks which of these appeals allow in a natural way for the introduction into a particular theory of us-them considerations. That will lead us to a reconsideration of the food barrel controversy in the final section.

THE MORAL APPEALS AND US-THEM CONSIDERATIONS

Can the appeal to consequences incorporate us-them considerations? Initially, it might seem clear that it cannot. To see why, imagine that one's specific moral theory incorporates the appeal to consequences by (1) adopting a hedonistic or preference-satisfaction theory of the good, (2) viewing actions as right providing that no alternative could produce better consequences, and (3) determining what action has better consequences by adding the consequences to all those affected (in short, a simple act-utilitarian appeal). Since those affected can

be them as well as us's (they also experience pleasure/pain and the satisfaction/frustration of their preferences), and since we are adding the good produced, it would seem that there is no room for these us-them considerations. That is why, of course, act utilitarians since Bentham have extended a consideration of consequences to equally affected animals. Similar arguments could be used if one had more complex theories of the good or if one averaged rather than added consequences.

But matters are not that simple. It is formally possible to get quite amazing results from appeals to consequences, suitably structured. One can, for example, claim that it is only pain as suffered by us's that is a bad state of affairs. While technically possible, this seems quite implausible. There is a reason why Cartesian physiologists insisted that their animal subjects were not suffering any pain (being mere machines) rather than admitting that the animals were suffering pain but claiming that their suffering is not a bad state of affairs. But there is a more plausible way of incorporating us-them considerations into an appeal to consequences. This involves discounting in the aggregating process the value of the bad states of affairs when they occur to them, so that aggregation is not the same as addition. The suffering of them is, of course, a bad thing, but when we aggregate all the good things and bad things, it counts for less. Perhaps, although this does seem to be contrived and suggests discrimination rather than moral discernment. This is why animal rights theorists talk about speciesism. In short, one's moral theory can involve an appeal to consequences which incorporates us-them considerations, but one should hesitate before adopting such a theory.

Incorporating us-them considerations into the appeal to rights and their corresponding obligations is a very different matter. Here, the issue seems to be a matter of the source of the right and the corresponding obligation. The borrower has an obligation to repay the loan, and the lender has a right to that money, because the borrower promised to pay the loan back. Whether the lender is an us or a them seems irrelevant; respecting the right is part of the honesty and trust that make human relations possible (as in Hume) or is required as part of respecting humans as ends (as in Kant). Similar remarks can be

made about the right of legitimate property holders and the obligations of others not to take their property.

But not all rights are the same. This brings us, of course, to the familiar issue of negative and positive rights, for the rights mentioned until now are all negative rights. What about positive rights, such as the right to aid, material and otherwise, in times of need. Libertarians, insistent upon the independence of individuals, deny that there are such rights. Contra Kant, they would agree that they too would have no right to aid in time of need, and could only appeal to people's sense of good will. But for those who think that there are such rights and the corresponding obligations, there is a need to identify their source. If the source is in the dignity and respect due to all human beings (perhaps because they are all created in the divine image), there seems to be little room for us-them considerations. But there may be more particularized accounts, even the account that says that only us's are created in the divine image, and these accounts may leave room for differentiating us's from them. So one's moral theory of rights may plausibly allow for the relevance of us-them considerations, but only for some rights and only if those rights have certain types of sources.

I believe that the appeal to at least some of the virtues leaves little room for us-them considerations. In the case of compassion, for example, it seems natural to say that compassionate people are troubled by suffering and should be led by that emotion to try to alleviate suffering. Some might object, saying that in their theory it is only the suffering of us's that is troubling; the suffering of them should be alleviated, if at all, only as part of our moral training. Think of Kant on animal suffering. But this seems no more plausible than did the analogous view about good consequences discussed above, and it is not surprising that Kant's view has been rejected by so many.

Virtues, however, are not all the same. Consider the virtues of loyalty and of gratitude. They seem relevant to our behavior toward some but not others. They seem structured around us-them considerations. Here is a hypothesis: virtues that are consequence-based allow less room for us-them considerations, while virtues that are relation-based allow for more.

It is extremely difficult to say anything general about deontological constraints. Different moral systems contain very different constraints, and the bases of the deontological constraints found in different moral systems are very diverse. Many different moral bases have been offered for the validity of these different constraints, ranging all the way from epistemological bases (e.g., it is intuitively clear that such behavior is wrong or we have it as a divine revelation that such behavior is wrong) to ontological bases (e.g., such behavior violates the natural order or is incompatible with the natural function of the relevant activity) to psychological bases (e.g., such behavior is psychologically offensive—the “yuck” factor—or cannot co-exist with normal human feelings). With such a diversity of bases for such a diversity of constraints, we cannot say much about the general plausibility of incorporating us-them considerations into such constraints.

It is very easy to see that us-them considerations are always relevant in our appeals to special obligations. In connection with any particular special obligation, we, together with those to whom we have those obligations, form an us, and everyone else is a them. It is important to note that people who are part of the them in some contexts may be part of the us in other contexts. Families form an us whose members have special obligations to each other which are different from the obligations the family members owe to anyone else, even their friends. This is true even though in other contexts it is our friends who form an us to whom we have special obligations. Note, parenthetically, that saying this is perfectly compatible with saying that it is best when those obligatory actions are performed out of love rather than out of a sense of obligation, and that their being performed out of a sense of obligation is a sign of pathology. While both families and friends concern relatively small groups being an us, I see no reason in principle why larger groups (e.g., communities, fellow citizens, coreligionists) cannot form an us whose members have special obligations to each other and only to each other. Naturally, cosmopolitans have to deny all of this, but, as noted above, it is unclear what they are then to say about families and circles of friends. In the meantime, it suffices to note that any theory which incorporates special obligations necessarily incorporates us-them considerations.

We turn finally to considerations of justice, of fairness in the distribution of benefits and burdens. In many of the contexts of justice (e.g., compensatory justice, retributive justice, transactional justice), it is clear that us-them considerations are irrelevant to the determinants of justice. To take the simplest case, the person who wrongly injures me must compensate me or else he has unfairly imposed a burden on me (think of the language of making me whole). All that is relevant is that I have been wrongfully injured and that the compensation makes up for that wrong. To claim that us-them considerations are relevant is to make one of two implausible claims: there is no wrongful injuring of them or there is nothing unfair about them bearing the burdens of being injured. But is this true for the contexts of distributive justice, especially general distributive justice? Here, a lot depends upon the basis of one's claims that certain general distributions are unfair. Most of the familiar bases (utilitarian, Rawlsian, left libertarian, etc.) seem to allow no room for us-them considerations. But moral practice seems to involve special attention to the needs of members of one's society, even if some attention is paid to the needs of the others. Either the familiar bases are wrong or ordinary moral practice is wrong. So there may be a basis for us-them considerations in the context of general distributive justice, even though it is not well understood. Alternatively, there is none, but ordinary moral practice is justified by other moral appeals (e.g., the appeal to special obligations).

In short, some moral appeals seem to leave room for us-them considerations, while others do not. Appeals to special obligations, to relation-based virtues, to deontological constraints, to positive rights, and to general distributive justice may involve us-them considerations, while appeals to consequences, to negative rights, to consequence-based virtues, and to many particular justices do not. Of course, this does not mean that particular moral theories must incorporate us-them considerations. It just means that they have several opportunities for doing so. With this in mind, let us return to the food barrel controversy to see: (1) why both my friend's claims and mine have some plausibility, depending upon how they are interpreted, (2) why both are incomplete analyses of the issue, and (3) how the question under dispute needs to be fully analyzed.

FOOD BARRELS AND OTHER ACTS OF CHARITY

What type of moral appeal is invoked by the claim that “hunger doesn’t hurt any less when you’re not Jewish”? Reflecting back on that remark in that context, I think that it is best to see it as an appeal to compassion. Buying the food bag is an attempt to relieve the suffering of hunger, which is equally potent whoever is hungry. Compassionate people do that sort of thing, and the action is morally meritorious as a compassionate act. Note that all of this is perfectly compatible with the action being done by rote; as Aristotle noted, moral training often involves developing the habit of doing virtuous actions. The proper emotion is not required in each case. It is also plausibly construed as an appeal to consequences. On any plausible theory of the good, hunger and its attending suffering are bad, and that is so irrespective of who is hungry. So relieving hunger by buying the food bag is the right thing to do. In light of the discussion in the preceding section, these two appeals do not plausibly admit us-them considerations. Thus, so as long as my moral theory admits (as it does) the virtue of compassion and the legitimacy of appealing to consequences, I had good moral reasons for buying the food bag. My moral theory also contains a constraint of not neglecting suffering, so that adds to the case. And given that my friend’s moral theory admits these appeals as well, he was wrong in denying the moral value of buying it.

My own moral theory actually contains two additional moral reasons that might be offered for buying the food bags: a left-libertarian theory of distributive justice and a human-dignity-based theory of positive rights. Neither of these, as noted above, admits of us-them considerations. But I would not want to buttress my claim by appealing to such considerations. In part this is due to the dialectical point that many others, perhaps including my friend, do not recognize these considerations as part of their moral theory. There is, however, a larger substantive point. I am sensitive to the claim, raised by the withering-away-of-charity view, that demands of justice and of rights should not be met in our society through acts of private charity, although I believe, *contra* that view, that there may still be a place for private charity in some societies even when the organized society does everything it is required to do.⁹

So was my friend just wrong? More generally, are those who give charity only to meet the needs of their us's just wrong? If we understand these particularistic claims as denying any moral merit to helping them, then the claims seem to me to be just wrong. But there may be a different way of construing what my friend said, one that makes his remark a more serious one. This construal interprets the remark as follows: (1) there are other moral appeals that assign special moral value only to aiding our poor; (2) these additional moral appeals have priority. This way of thinking cannot be dismissed so easily. So let us look at it more carefully.

Claim (1) seems easy to defend. The appeal to special obligations to us's will do the job, so long as one's theory recognizes that one of the special obligations is the obligation to relieve the suffering of us's. Including such a special obligation in one's moral theory seems very plausible, since it certainly exists in the paradigmatic cases of families and circles of friends. This claim can also be supported by an appeal to relation-based virtues, so long as one's theory recognizes such virtues as loyalty and solidarity and thinks that such virtues are displayed by acts of relieving suffering. And it can be supported, if one's theory admits such a constraint, by a constraint to not neglect the suffering of us's. Certain conceptions of the foundations of general distributive justice and of positive rights might also be invoked, but I once more leave them out because it might well be the case that private charity is not the appropriate way to deal with the demands of justice and rights.

The much harder issue is claim (2). In my framework, claims of priority are judgment-based claims, and there is no algorithm for deciding whether they are correct. Moreover, as a casuistic approach, it insists that we need to be careful about extrapolating judgments from one type of case to another. So we need to judge claim (2) as it applies to our type of case, and not as a general claim.

We need a typology of cases in which priority issues arise to help in this discussion. I would suggest at least the following distinctions relevant to our discussion:

Recurring cases versus a one-time case: There are types of cases that regularly recur, while there are other types that do not or cannot.

Giving charity to aid a poor person in need is a recurring case, while a living donor's donation of a kidney to someone in renal failure is not. This is obviously a relevant distinction. In a recurring case, you can give priority to us's in many cases while giving priority to them in some cases. The cases need not be very different. The change in priority may just reflect a judgment that you should be attending to both types of moral considerations, and the choice of when to pay attention to which consideration may be arbitrary. Note that the more priority you assign to us's, the fewer the cases in which you should attend to considerations involving them. By contrast, in the one-time case, priority is complete priority.

Cases in which a very substantial portion of the relevant available resources is exhausted versus cases in which this is not so. The kidney donation case illustrates the extreme of the former type of case. Once having donated the kidney, you have no further kidneys to donate. By contrast, buying one food bag leaves over most of the funds available for helping the poor. You can buy one to help them and still buy another (or donate the equivalent funds) to helping us's. Once more, all that this requires is the judgment that we should be attending to both types of moral considerations, and your judgment of the extent of priority will determine how much of the resources should be devoted to us's and how much to them.

Cases in which great sacrifice is required versus cases in which the sacrifice required is modest. Undergoing surgery, even laparoscopic surgery, to donate a kidney is an example of the former, since it involves considerable perioperative distress and real concerns about the future (hypertension, avoiding many medications, constantly remaining well hydrated, etc.), while buying a food bag is a clear example of the latter. Like many others, I think of buying a food bag as just a nice way to spend one's leftover change after finishing shopping. This is also a relevant difference. Great sacrifices should be confined to responding to moral considerations which have high priority, but even moral considerations which are of lesser significance should be attended to when what is at stake is a matter of modest significance. Further

distinctions might be mentioned (e.g., the responsibility of the needy them for their own need and the extent to which other them are also helping), but I do not see them as relevant to the analysis of our case.

So claim (2) as applied to the red food barrel case is in serious trouble. The red food barrel case is a recurring case in which purchasing a food bag is a very modest sacrifice which hardly exhausts one's charitable resources (the food banks are smart for many reasons in limiting the bags to \$4–\$5 worth of food). There is plenty left over for helping us's even if one makes this modest sacrifice, and there will be many other cases in which one can give preference to us's. So my friend's claim of priority is implausible in this case, unless he intends to give absolute priority to the claims of us's. But his doing so means, in light of my arguments above, that he could not incorporate into his moral theory such moral considerations as the virtue of compassion, or that he could incorporate them without their having much force. That would be a very high price to pay.

It is important to remember that this will not be true in all cases. As a good casuistic framework, my framework suggests that the analysis will be very different in other cases. In one-time cases, cases of considerable sacrifice, or cases which exhaust a considerable portion of the available resources, the us-specific moral considerations may be the only ones to which we should respond. It depends on the extent of the sacrifice and the percentage of the available resources exhausted in the specific case. It also depends upon just how much priority your particular moral theory assigns to us-related moral considerations.

CONCLUSION

In this paper, I have presented a framework for thinking about moral issues. The framework involves six types of moral considerations. Some of them allow for us-them distinctions and for giving preference to us-related moral concerns, while others do not. I have also developed an account for when preference should be given to us-related moral concerns by showing how the relevant facts about particular cases together with the details of one's moral theory determine what preferences are appropriate. In light of this analysis, my friend was wrong in the red barrel case unless us-related considerations are

given absolute priority, a prioritization which would entail major implausibilities. But that was an easy case. Much harder cases remain to be analyzed in light of the approach outlined in this paper.

I promised at the beginning of the paper that I would suggest how a halakhic analysis of the issue might proceed employing my framework. I think that the steps would be clear, as would the difficulty of carrying it out:

1. Consider, as a general question, which of these types of moral appeals are recognized in the halakhah in at least some contexts.
2. For those that are (I hypothesize that all of them are), define the versions of them that relate to the question of helping the poor.
3. Analyze when us-them considerations are relevant and when they are not.
4. Develop an account of the factors determining priority among these considerations.
5. Apply all of this to particular cases.

It seems reasonable to suggest that various attempts to carry out this program would lead to different analysts reaching different conclusions about a particular case. Remember that my framework predicts and explains the existence of deep interpersonal (and even intrapersonal) moral ambiguity. But this should not be surprising to anyone who has ever studied any halakhah.

NOTES

1. I do not mean to be drawing a distinction between a legal analysis and a moral analysis. I only mean to distinguish an analysis that draws upon one set of texts as opposed to an analysis which draws upon a larger set of texts.
2. The framework was first presented in Baruch Brody, *Life and Death Decision Making* (New York: Oxford University Press, 1987). The latest version is presented in the introduction to Baruch Brody, *Taking Issue* (Washington: Georgetown University Press, 2003). It remains a work in progress because I have long held the view that consistency over time is the mark of a small mind (a view attributed to Bertrand Russell by philosophical folklore).
3. In the case of deep interpersonal ambiguity, each adherent may suppose that his conclusions are the only ones acceptable to adherents of that theory, although

outside observers may see that there really are several legitimate alternatives available to adherents of the theory. However, more modest adherents, while supporting their own conclusions, may recognize the legitimacy of alternative conclusions, saying such things as “those who reach an alternative conclusion have good reasons for their view.”

4. Baruch Brody, “Voluntary Euthanasia and the Law,” in M. Kohl (ed.), *Beneficent Euthanasia* (Buffalo: Prometheus Books, 1975), pp. 218–232
5. This is the preferable theory if you are willing to allow for capital punishment in special cases where the law does not normally allow for the death penalty or where normal procedural safeguards cannot be provided.
6. Is it an obligation to anyone? It need not be. Why can’t there be freestanding obligations? But depending upon your view of the ontology of morality, it might be an obligation to society or to your deity.
7. I find this formulation more illuminating than the formulation that talks of justice as giving each his due.
8. The philosophical importance of this point was stressed by Alan Wertheimer in his book *Exploitation* (Princeton: Princeton University Press, 1999). It was, of course, well known to legal theorists working in a framework in which there is a requirement not to charge unfair prices.
9. My reason for thinking this is based on my version of left-libertarianism developed in “Redistribution without Egalitarianism,” *Social Philosophy and Policy* 1 (1983): 71–87. In that version, the redistributive obligations imposed on a given society by justice are proportional to the resources of the society. This may result in basic needs of the poor not being fully met. It leaves an important place for acts of private charity intended to meet basic needs of the poor. None of this is applicable to affluent societies like ours in which the need for private charity reflects a societal failure.

11

The Giving of Charity in Jewish Law: For What Purpose and Toward What Goal?

Michael J. Broyde

Know that the latter-day authorities have written that one may pay for a wedding ceremony with *ma'aser* funds if one would otherwise not be able to perform this mitzvah; they have written similarly with regard to being an honored participant (*sandek*) at a circumcision and paying for the expenses of the ceremony with *ma'aser* funds, or with regard to using such funds to write sacred texts and lend them to others—one may even study from them himself, provided that one writes that the books have been paid for by *ma'aser* funds in order that they not be considered

property of the estate after one dies. Others have serious doubts about all this; see *Pitchei Teshuvah* (citing Chatham Sofer, *Yoreh Deah* 249), who wrote that according to Maharil and Rama, *ma'aser* funds are exclusively for the benefit of the poor, and not to be used toward any other mitzvah purpose. However, it seems that if by being the honoree of the circumcision, one benefits the baby's father, who is unable to support himself and lacks the ability to pay the expenses of the circumcision, and likewise with paying for the expenses of the wedding ceremony if the couple lacks the ability to support themselves, and similarly with regard to purchasing sacred texts and lending them to others who lack the ability to purchase books themselves—one ought not to be at all strict on these matters, for this is itself like charity. With regard to purchasing *aliyot* to the Torah with *ma'aser* funds—if the monies are then distributed to the poor, here too all would agree that one not be at all strict. But to pay the expenses of educating one's son from *ma'aser* funds is forbidden according to all, for it is a personal obligation to teach one's sons or pay for their education, and one may not pay one's debts with *ma'aser* funds; however, it is permissible to pay for the education of the children of the poor [with such funds]—indeed, this is a great mitzvah.

—Rabbi Israel Meir HaKohen Kagan
Ahavat Chesed 2:19(2)

INTRODUCTION

There is no doubt that there is a biblical obligation to give charity.¹ Beyond that, however, basic halachic issues are in dispute. This paper will show that there is disagreement over such fundamental questions as who may receive charity, how much money each person must give as charity, and other essential questions about the nature of the mitzvah of *tzedakah*. Indeed, this paper concludes that the very parameters of charity have changed during the last century in America as a matter of practice, since the government of the United States provides for the

basic social welfare—food, shelter, and secular education—for all of its citizens.

Even more generally, halachic issues relating to giving charity are a balance between an abstract halachic ideal and a concrete social and economic reality. Like many other areas of Jewish law, there are aspects of *hilchot tzedakah* that are designed to teach us a religious or ethical value, rather than be implemented routinely. An example of this with regard to the laws of charity is the concept of *dey machsoro*—that a poor person ought to be supported at a level that reflects his loss of dignity, and not based on some objective formulation. Based on this concept, millionaires who become impoverished should be supported to the extent of their pre-impoverishment level.² Of course, in the real world such cannot by routine be done, and halacha notes that no individual is generally called upon to support another in such a fashion.³ Indeed, the consensus of halachic authorities is that it is unwise to distribute one charitable gift to a single person *dey machsoro*, but instead one should give smaller amounts to many people.⁴ Indeed, as one notable modern restatement of charity law states: “One should not give all of one’s charity to a single person.”⁵

This tension between the ideals of charity, which is to give as much as one can to as many in need, with the reality of life, which is that money is quite limited in supply and none of us really has enough of it, is a central theme of Jewish law’s approach to charity. This paper will explore that balance in light of the social, economic, political, and religious reality of modern American Orthodox life.

This short paper is divided into six (even shorter) parts. The first section explores the basic purpose of charity in Jewish law and notes a grand dispute among Rishonim about whether the fundamental purpose of *tzedakah* is to support the poor or to support communal institutions (or both). The second section explores the fundamental dispute between Rambam and others about whether charity’s purpose is to support Torah study rather than poor people. The third section explores how *poskim* have responded to the impact on *hilchot tzedakah* from the rise of government-funded social services and the concomitant higher taxes. The fourth section examines the use of charity funds for unusual situations and the halachic parameters of such uses. The

fifth section touches on how much charity each person needs to give. The sixth section seeks to answer the specific questions posed by the organizers of the Orthodox Forum, and the Conclusion argues that the basic construct of charity law within halacha has changed in modern times in light of the expanded role of the welfare state.

TWO VISIONS OF *HILCHOT TZEDAKAH*: FOR THE POOR OR FOR THE JEWISH COMMUNITY

Even a cursory examination of *hilchot tzedakah* in the *Mishneh Torah* gives one the distinct sense that Rambam limited the mitzvah of *tzedakah* to donations given in order to support the poor.⁶ Indeed Rambam makes not a single mention of any way to fulfill the mitzvah of *tzedakah* other than by giving gifts or loans to the poor.⁷ This approach to charity is the view of the *Tur* as well,⁸ and is based on the fact that nowhere in the Babylonian Talmud is the mitzvah of *tzedakah* ever applied to aid other than for the poor.

Maharik⁹ (Shores 128) formulates the counterview and maintains that charity ought to be used—first and foremost—for the building of communal resources, such as a synagogue or study hall. Maharik writes

טוב יותר ליתן צדקה לבית הכנסת

it is better to give money to a synagogue [than to the ordinary poor]¹⁰

The *Beit Yosef*¹¹ summarizes the view of the Maharik as follows:

ובשורש קכ"ה (ענף ג, ד) כתב שמתוך מה שכתב התשב"ץ (תשב"ץ קטן סי' תקלו) בשם הר"ש שמואל מתוך הירושלמי דזרעים (פאה פ"ה ה"ח) יש להוכיח דמצות בית הכנסת עדיפא ממצות צדקה דגרסינן שם אחזי לרב תרעא דבי כנישתא וכו' וכי לית תמן בר נש למילף אורייתא או חולים המוטלים באשפה וקרא עליו (הושע ח יד) וישכח ישראל [את] עושהו ויבן היכלות מכאן אומר הר"ש שמואל שטוב ליתן צדקה לנערים ללמוד תורה או לחולים עניים מליתן לבית הכנסת עכ"ל

מדקאמר בירושלמי חולים המוטלים באשפה וכן הר' שמואל אומר
חולים עניים ולא קאמר עניים סתם משמע דאם לא היו חולים כי אם
עניים דטוב יותר ליתן לבית הכנסת:

[The Maharik] wrote (Shores 128, vol. 3, pt. 4) that from the writings of R. Simeon b. Tzemach Duran (*Tashbetz Katan* 536), which cites the view of Rabbi Samuel of Bonburg based on Y. Peah (8:8), one can demonstrate that building a synagogue is more important than giving [ordinary] charity, for the Talmud states that Rav saw [alt. offered rebuke to] others building a fancy entrance to the synagogue . . . [and stated]: Were there no individuals studying Torah or sick people sustaining themselves from the refuse pile? To this he applied the verse "Israel forgot its maker and built sanctuaries" (Hosea 8:14)—from here R. Samuel derived that it is preferable to give charity to young men to study Torah or to the ill and impoverished than to give to the synagogue. From the Yerushalmi saying "sick individuals sustaining themselves from the refuse pile," and likewise R. Samuel stating "ill and impoverished" and not simply "the poor," this implies that were such individuals not ill but simply poor, it would be preferable to give [the charity funds] to a synagogue.¹²

According to Tashbetz, whom the Maharik cites approvingly, building a synagogue takes priority over the ordinary needs of the poor, and it is only the urgent needs of the poor who are sick or otherwise in danger of dying which take priority over synagogue building.

Rabbi Karo cites this view in the *Shulchan Aruch*.¹³ Others insist that this license to spend charity on other than poor people includes the building of other communal institutions such as hospitals. Indeed, the contemporary *posek* R. Yaakov Yeshaya Blau posits that from charity funds,

It is obligatory for members of a city to purchase all communal needs: to build a synagogue, purchase a Torah

scroll and other books that people can study from, hire a rabbi and halachic authority, and a cantor; so too, one can pay tuition for those children whose parents cannot pay tuition and to build a mikvah.¹⁴

Of course, as the *Aruch ha-Shulchan* notes,¹⁵ there is a difference between lavish construction of an extra shul—the one we do not worship in, as the joke goes—and the genuine needs of the community. But it is clear that many contemporary *poskim* rule that communal needs may be paid from charity funds.

Certainly there are still dissenting voices to this approach. Gra¹⁶ rejects the view of the Maharik, as do others.¹⁷ Indeed, the view of Tosafot appears to agree with Rambam and his adherents that charity to the poor is more important than synagogue construction.¹⁸ However, as the *Aruch ha-Shulchan* notes,¹⁹ there is an explicit passage in the Jerusalem Talmud that sides with the Maharik.²⁰ Undoubtedly, the resolution of this matter relates to the more general subject of the status of the Talmud Yerushalmi within normative halacha.²¹ Suffice it to note that as a general matter, an explicit Yerushalmi is accepted as normative halacha when the Bavli is silent. By the time of the *Sedei Chemed*,²² one typically finds conversations about whether it is more important to build a hospital or a synagogue, or a synagogue in Israel or the Diaspora.²³ Charity to the poor is secondary.

Of course, one could limit this—as the *Aruch ha-Shulchan* proposes—and insist on the supremacy of giving charity to the poor when their actual lives are at stake; but when charity merely is of benefit to the poor, then the building of a synagogue assumes priority.²⁴

Thus we have three models of the duty to give charity among contemporary *poskim*:

- Charity is exclusively for the benefit of poor individuals.
- Charity's highest priority is the building of communal institutions.
- Charity's highest priority is saving the lives of those in danger. Its next-highest priority is the building of communal institutions. The third-highest virtue is benefiting the poor.

This dispute is a central one. If the purpose of charity and its exclusive beneficiaries are the poor, then much of the purpose of this paper disappears and the halachic framework is very simple. However, if charity funds may be used for the sake of general communal projects (even when poor people need charity or only when the lives of the poor are not in actual danger), then there is a much greater variety of projects that are eligible for charity.²⁵

SHOULD CHARITY FUNDS BE ALLOCATED TO THOSE WHO COULD WORK BUT STUDY TORAH?

The second important issue is the use of charity funds to support Torah study. Three views are found.

The first view is that of Maimonides, who—consistent with his insistence, as indicated above, that charity only be used to benefit poor people—insists that a Torah scholar may not choose to study Torah and accept charity rather than earn an income. Rambam's harsh words indicate that he is all too familiar with the practice. He states:

י כל המשים על לבו שיעסוק בתורה ולא יעשה מלאכה ויתפרנס מן הצדקה הרי זה חלל את השם ובזה את התורה וכבה מאור הדת וגרם רעה לעצמו ונטל חייו מן העולם הבא, לפי שאסור ליהנות מדברי תורה בעולם הזה, אמרו חכמים כל הנהנה מדברי תורה נטל חייו מן העולם, ועוד צו וואמרו אל תעשם עטרה להתגדל בהן ולא קרדום לחפור בהן, ועוד צו וואמרו אהוב את המלאכה ושנא את הרבנות וכל תורה שאין עמה מלאכה סופה בטילה וגוררת עון, וסוף אדם זה שיהא מלסטם את הבריות.

יא מעלה גדולה היא למי שהוא מתפרנס ממעשה ידיו, ומדת חסידים הראשונים היא, ובזה זוכה לכל כבוד וטובה שבעולם הזה ולעולם הבא שנאמר יגיע כפיך כי תאכל אשריך וטוב לך אשריך בעולם הזה וטוב לך לעולם הבא שכולו טוב.

10. Anyone who decides to occupy himself with Torah and not work but obtain his livelihood from charity desecrates God's name, denigrates the Torah, extinguishes the light of the faith, brings evil upon himself, and excludes himself from life in the world to come, for it is forbidden to benefit from Torah matters in this world. The Sages stated:

Anyone who benefits from Torah matters excludes himself from life in the world to come. They also commanded and stated: Do not make them a crown to magnify oneself, nor an ax to chop with. They further commanded and stated: Love work and hate the rabbinate. And any Torah that is not accompanied by work will be nullified in the end and lead to sin, and ultimately such a person will come to steal from others.

11. It is a great virtue for one to earn one's livelihood from one's own handiwork, and a positive quality of the early pious ones. By doing so, one merits all the glory and goodness in this world and the world to come, as Scripture states, "When you eat the labor of your hands, happy shall you be, and it shall be well with you." "Happy shall you be"—in this world, "and it shall be well with you"—in the world to come, which is completely good.²⁶

In this model, any Torah scholar who accepts charity when he can work has forfeited any merit. This is true even if he really is poor because he learns all day. Rambam maintains that such a Torah scholar should get a job and not accept charity rather than continue to learn while accepting charity.

Even Rabbi Karo could not accept the words of Rambam, and in his commentary, *Kesef Mishneh*, he takes pains to refute them even as he acknowledges that they are grounded in numerous Talmudic sources. So too, Rabbi Shimon ben Tzemach Duran²⁷ states:

ואחר שנתפרש כל זה יש לנו לחוש לדברי הרמב"ם ז"ל במ"ש בזה הענין ... כי מהנראה שהוא הפריז על מדותיו והטעה כל הגאונים והרבנים ז"ל אשר היו לפניו ובזמנו ומתוך שבא לכלל כעס בא לכלל טעות עד שקראם משוגעים. אויל הנביא משוגע איש הרוח. ואם הוא ז"ל עזרו המזל להיות קרוב למלכות ונכבד בדורו מפני רפואתו וחכמתו ולא נצרך ליטול פרס מהקהלות מה יעשו הרבנים והחכמים אשר לא באו לידי מדה זו הימותו ברעב או יתבזו מכבודם או יפרקו עול התורה מעל צוארם אין זאת כונת התורה והמצות והתלמוד.

After we have explained all of the above, we must consider the view of Maimonides on this matter. . . . it seems that he overstepped his bounds and cast all the scholars and rabbis of his time and those who preceded him as being in error. And because he spoke in anger he came to err and to call them mad. "The prophet is a fool, the man of the spirit is mad" [Hosea 9:7]. Just because it was his [Maimonides'] good luck to be close to royalty and honored in his generation, and owing to his medical and scientific knowledge he was not required to accept fees from the communities he served, what are the rabbis and sages who have not reached this level to do? Shall they die of starvation or demean their honor or remove the yoke of Torah from their necks? That is not the intent of the Torah, the commandments, or the Talmud.

This view, which the Rosh²⁸ endorses as well, albeit with much less enthusiasm, reflects a reality. It is well-nigh impossible to fully engage in serious Torah scholarship while working. If the Rambam could do it, it was because he was exceptional.²⁹ Of course, the ideal is that Torah scholars should earn a living if they can by working. As Rosh notes,

וזקן זהו שקנה חכמה, והיינו ת"ח שתורתו אומנותו, והיינו שקובע עתים לתורה ואינו מבטל למודו אלא בשביל מזונותיו, כי אי אפשר לו ללמוד בלא מזונות; כי אם אין קמח אין תורה, וכל תורה שאין עמה מלאכה סופה בטלה וגוררת עון. הילכך, כל אדם שעושה תורתו קבע ומלאכתו עראי, כגון שיש לו עתים קבועים ללמודו ואינו מבטלם כלל, ושאר היום כשהוא פנוי, שאינו צריך לחזור על מזונותיו, הוא חוזר על הספר ולומד, ואינו מטייל בשוקים וברחובות אלא כדי להשתכר פרנסתו ופרנסת אנשי ביתו, ולא לאצור ולהרבות ממון, לזה אני קורא ת"ח . . .

An elder is one who has acquired wisdom, namely a Torah scholar whose craft is Torah, meaning that he sets regular periods for Torah and cancels none of his studies, except for his work. For it is impossible for him to learn without work, for "if there is no flour, there is no Torah," and "any

Torah that is not accompanied by work ultimately will be nullified and lead to sin.” Thus, any person who makes his Torah study steadfast and his work impermanent, e.g., he has regularly set times for his studies and never cancels them, and the rest of the day, when he is free and not required to seek after his work, he returns to his books and studies, and he never strolls in the markets and roadways except to earn his livelihood and that of his household, nor does he hoard or accumulate much money—such a person do I call a scholar . . .

Of course, as Rosh goes on to say, if one has no other choice, then one may take charity. This is the view Rama³⁰ arrives at as well, albeit with a great deal of hesitation, as does the *Aruch ha-Shulchan*.³¹ Rabbi Epstein states:

מא וז”ל רבינו הרמ”א שנהגו בכל מקומות ישראל שהרב של העיר יש לו הכנסה וסיפוק מאנשי העיר כדי שלא יצטרך לעסוק במלאכה בפני הבריות ויתבזה התורה בפני ההמון ודווקא חכם הצריך לזה אבל עשיר אסור ויש מקילין עוד לומר דמותר לחכם ולתלמידיו לקבל הספקות מן הנותנים כדי להחזיק ידי לומדי תורה שע”י זה יכולין לעסוק בתורה בריוח ומ”מ מי שאפשר לו להתפרנס היטב ממעשה ידיו ולעסוק בתורה מדת חסידות הוא ומתת אלקים היא אך אין זה מדת כל אדם שא”ל לכל אדם לעסוק בתורה ולהחכים בה ולהתפרנס בעצמו וכל זה דשרי היינו שנוטל פרס מן הציבור או הספקה קבועה אבל אין לו לקבל דורונות מן הבריות והא דאמרינן [כתובות ק”ה ב] כל המביא דורון לחכם כאלו מקריב ביכורים היינו בדורונות קטנים שכן דרך בני אדם להביא דורון קטן לאדם חשוב אפילו הוא ע”ה ושרי לת”ח לטעום מהוראתו מעט כדי לברר הוראתו אבל ליקח מתנה דבר חשוב ממה שהתיר אסור ודאשתמש בתגא חלף וי”א דזהו המשתמש בשמות ומותר לצורבא מדרבנן לאודועי נפשיה באתרא דלא ידעי ליה אם צריך הוא לכך עכ”ל [ובמגילה כ”ח ב איתא דזהו המשתמש במי ששונה הלכות]:

מב וגדולי אחרונים כתבו ביותר מזה וז”ל וראינו כל חכמי ישראל נוהגין ליטול שכרן מהציבור אומר אני מי שהוא בעל הישיבה ומרביץ תורה בברים וא”א לו לילך מביתו רק לדבר מצוה עון הוא בידו אם לא

יקבל מאחרים אפילו יודע מלאכה וחכמה שיוכל לייגע בהן ולהרויח כדי לפרנס בני ביתו בוז יבוזו לו באהבת התורה אכן אם יש לו ממון מכבר המספיק לו לחיות עצמו ולהלוותם בריבית וכדומה לזה שאין לו ביטול תורה כלל אז לא יהנה משל ציבור אלא יגיע כפו יאכל ומה שמקבל מן הציבור יוציא להוצאות ת"ת . . .

41. Our master the Rama wrote, "The custom in all Jewish communities was for the rabbi of the city to receive income and sustenance from the city's inhabitants so that he need not occupy himself publicly with work and the Torah be thereby denigrated in the eyes of the populace. This is true specifically with regard to a needy scholar, but a wealthy person is forbidden to do so. Some are more lenient and allow a scholar and his students to accept contributions from donors in order to strengthen the hands of those who study Torah, for by doing so they are able to involve themselves in Torah with ease. Nonetheless, one who is able to sufficiently support himself through his own handiwork and study Torah, this is the nature of the pious and a gift from God—but it is not the nature of all people, for it is impossible for every person to involve oneself in Torah and become wise while at the same time supporting oneself. All of the above which is permissible is limited to instances when a person receives his fare from the community or a set allocation, but one may not accept gifts from people. When the Talmud states that anyone who gives a gift to a sage is considered as if he has offered first fruits, this is with regard to small gifts, for the general practice is to bring small gifts to important people, even if they be unlettered. It is permissible for a Torah scholar to taste a small amount from items he ruled upon in order to clarify his rulings, but to accept a significant gift from that which he permitted is forbidden. One who makes use of the crown [of Torah] goes to ruin, and some say this is considered to be one who makes use of the divine names. It is permissible for a Torah scholar to make his presence

known in a place where he is unknown if necessary.” [The Talmud in Megillah 28b considers this as one who makes use of a teacher of the law.]

42. Moreover, one of the great latter-day authorities has written: “We have seen that the practice of all Jewish scholars is to accept support from the community. I say that one who is a master of the academy and disseminates Torah to the public and cannot leave his own home except for the purpose of a mitzvah, it is a sin for such a person not to accept funding from others, even if he knows a particular trade or discipline that he can toil in and make money in order to support his household, for the love of Torah will surely be denigrated. However, if one already has sufficient resources to support oneself and earn interest on the funds, in a manner which does not involve neglecting Torah study at all, then one should not benefit from public funds but rather consume the labors of his own hands, and whatever he does receive from the public he should spend on the expenses of teaching Torah.

This view reflects an unfortunate reality which the *Aruch ha-Shulchan* sadly acknowledges. Charity needs to be collected to pay for Torah study so that men and women can sit and learn (and perhaps teach); otherwise they will work, and we will have a community with fewer Torah scholars.

A third view presents such charity as the ideal. In this view, it is more important to spend one’s charity funds to support Torah scholars than to support poor people. As Rabbi Blau, author of the multi-volume *Pitchei Choshen*, states clearly in his classic work *Tzedakah u-Mishpat*:

צדקה להחזקת תורה גדולה מצדקה לעניים . . .

Charity to strengthen Torah study is superior to charity for the poor.³²

The basic explanation for this view is logical. If building a synagogue is a greater form of charity than supporting the poor, the building of a

study hall—whose holiness is greater than a synagogue's³³—is an even greater form of charity. Supporting people to use the study hall must then be an even greater mitzvah.

A similar view, clothed in a different garment, is found in the *Mishnah Berurah*, Biur Halacha 156:1, where he posits that the Yis-sachar/Zevulun partnership is a practical model that Torah scholars should use. In this model, people who work pay to support people who learn, and people who learn transfer divine reward to those who support them.³⁴ Similar views are repeatedly taken by Rav Moshe Feinstein.³⁵ Rabbi Feinstein posits that this arrangement is not really even charity—but rather, payment for vicarious Torah services rendered by one party while the other one works.³⁶ Indeed, Rabbi Feinstein posits that paying someone to study Torah or to learn for someone who works is a completely ideal manifestation of how Torah is supposed to function.³⁷

Thus, we have now encountered our second fundamental dispute about charity. Are charity funds to be spent to support Torah study or not? Three views are again presented:

- Rambam maintains that charity funds may never support Torah study.
- Rama maintains that if the times require, then such funds should be spent to support Torah study. But it is better that they not be.
- Rabbi Feinstein maintains that it is the ideal to spend such funds to support Torah study.

Let me summarize up to this point: Rambam's formulation of the mitzvah of *tzedakah* is structured and clear: Charity is exclusively for the poor. It may not be spent for communal needs or to support Torah study. Others disagree and rule that charity may be spent for communal needs other than support of the poor, and to support Torah study.

THE MODERN SOCIAL WELFARE SYSTEM, TAXES, AND GOVERNMENTAL CHARITY

The classical halacha is clear: A Jew should never take charity from a non-Jew.³⁸ If one must take charity from an agent of a non-Jewish government—for by declining to accept, one will ruffle the authori-

ties—one should take charity and secretly redistribute it to Gentiles.³⁹ If one will get into trouble by doing that, then one may grudgingly accept the charity.⁴⁰ While the exact reason for this halacha is in some dispute, the consensus remains that the taking of charity is a sign of moral failure, and it is a desecration of God's name for Jews to be seen in such light.⁴¹ Of course, this concern is waived when lives are at stake or when the ill will generated by turning down a gift exceeds the ill will engendered by accepting it.

Notwithstanding this clear halacha, vast segments of the community have embraced a rationale that modern times are different. Governmental welfare, the argument goes, is not charity. As Rabbi Blau puts it:

ובזמננו בישראלים הדרים בין האומות, ולפי חוקי המדינה רשאים עניים לקבל תמיכה מן השלטון (עזרה סוציאלית וכדומה), נראה שמותר לישראל לקבל, עפ"י הטעמים שהוזכרו לעיל, ועוד כיון שגם ישראלים דרים שם וגם הם משלמים מסים, ותמיכה זו מכספי המסים היא, אין זה בכלל קבלת צדקה מעכו"ם.⁴²

In our times, Jews who live among the nations, and according to the secular laws the poor are entitled to accept government support (social welfare and the like), it seems that it is permissible for a Jew to accept, according to the reasons mentioned above. In addition, because Jews also live in the state and they too pay taxes, and since this support comes from tax revenues, it is not considered taking charity from Gentiles.

The claim is that we too, as members of society in good standing, are entitled to participate in the social welfare system as per the rules of the game. The basic rationale of desecration of God's name through wholesale Jewish poverty is dismissed, as governmental welfare is an entitlement.⁴³ Of course, one could argue with this rationale and insist that comfortable participation of Jews in the social welfare safety net is still a desecration of God's name even in a just democracy,⁴⁴ but as far as I can tell, this view has yet to be put forward by a halachic authority in the last half-century. Indeed, the social normalcy by which

large segments of Orthodox Jewry freely take welfare from the secular government in some communities is astounding.⁴⁵

The same observation can be made with regard to income tax. Rabbi Feinstein's observation⁴⁶ that money one pays as taxation on income does not count as income from which charity should be given is the only feasible conclusion, given the construct of our community. The alternative view—considered by Rabbi Eliezer Waldenberg⁴⁷—is that money one pays in taxes counts as a form of charity. This view has considerable support,⁴⁸ but in a high-tax nation, this approach would reduce the obligations of charity to zero and thus becomes untenable as a matter of normative halachic practice. One finds a deep consensus that charity must be calculated after taxes whenever the tax rate is higher than 20 percent.⁴⁹

Not surprisingly, the voices within halacha who are accepting of widespread Jewish poverty and dependence on welfare also recognize that because very little charity is needed to fend off starvation in the United States, since in our society the government provides nearly all the social services needed to function on a basic level, charity should be directed elsewhere. What then should one do with one's charity? One should invest in a form of charity that is better than alleviation of the plight of the poor (whose lives are not in danger)—that is, one should give to institutions that increase Torah study and pay Torah scholars to learn. One is hard-pressed to find a contemporary work in English dealing with charity that does not make this point in one way or another.⁵⁰ Since the modern state has done away with Jewish autonomy, it has essentially relieved the Jewish community of its concomitant burden of providing the necessities of life to the poor (food, clothing, medical care, and shelter)—the single greatest use of charity funds centuries ago. Charity dollars are now able to be directed to other purposes.

UNUSUAL BALANCES IN *HILCHOT TZEDAKAH*

The preceding sections have discussed balancing aid to the poor with the needs of the community. This section emphasizes one important limitation in that balance: the obligation to give the highest priority to situations that actually save Jewish lives. The *Shulchan Aruch*⁵¹ is clear

that in situations where the spending of charity money saves lives, that action has the highest priority, and one may actually divert money from general charity matters to prevent the loss of life. This is the clear lesson of the rabbinic understanding of the duty to redeem captives. The very high priority the Talmud and codes give to this mitzvah reflects that this situation entails not only charity but also a fulfillment of the obligation “not to stand idly by while one’s neighbor’s blood is shed.”⁵² In cases where life is in danger, little else takes higher priority.

Even this application of charity has limitations, in that a community need not sell its assets to raise money to save lives.⁵³ The suggestion of the Drisha⁵⁴ that the support of Torah scholars takes priority over saving lives is nearly universally rejected under the rationale that “nothing ought to stand in the way of saving lives.”⁵⁵ In that case, why does a community not have to sell its own assets in such a situation? Shach⁵⁶ and Taz⁵⁷ both seem to intimate that giving up assets that one cannot otherwise replace, and which are no longer charity funds but communal assets, is simply not covered by the rules of charity.⁵⁸ Once a poor person or a communal institution actually has the money, it is no longer charitable funds and may not be diverted.⁵⁹ The same is true when the donor has expressly limited his donation to a particular cause. In such a case, the beneficiaries of that cause take possession at the time of the pledge and cannot be deprived of their ownership except by dint of the “consent of the community.”⁶⁰

HOW MUCH CHARITY SHOULD A PERSON GIVE?

The halacha seems clear that the exact amount of charity that a person must give is not fixed and established. At a minimum, one must give at least one-third of a shekel each year (less than \$10), and one who gives less than that amount has not fulfilled his mitzvah.⁶¹ In a close-to-ideal world—one in which there are many individuals who have enormous amounts of wealth and the inclination to give such wealth away—the halacha is clear that a person may give away large sums of money to meet the needs of the poor.⁶² The *Shulchan Aruch* goes on to state the general formulation for how much a person should actually give in the real world:

אם אין ידו משגת כל כך [כפי צורך העניים], יתן עד חומש נכסיו, מצוה מן המובחר; ואחד מעשרה, מדה בינונית; פחות מכאן, עין רעה.

If one cannot afford to give to all the poor as much as they need, one can give up to 20 percent of one's possessions and that is the ideal mitzvah; 10 percent is the average way to fulfill this mitzvah; less than that is considered miserly.⁶³

However, this construct is tempered by the comments of the Rama,⁶⁴ who writes:

פרנסת עצמו קודמת לכל אדם, ואינו חייב לתת צדקה עד שיהיה לו פרנסתו ואח"כ יקדים פרנסת אביו ואמו, אם הם עניים, והם קודמים לפרנסת בניו. ואחר כך בניו, והם קודמים לאחיו, והם קודמים לשאר קרובים, והקרובים קודמים לשכניו, ושכניו לאנשי עירו, ואנשי עירו לעיר אחרת. והוא הדין אם היו שבויים וצריך לפדותן.

Providing for one's own livelihood takes priority over all others, and one is not obligated to give charity until one's own livelihood is secured. After that, one should give priority to the livelihood of one's parents (if they are poor); they take priority over the livelihood of one's children. After that, one's children; they take priority over one's siblings, who take priority over other relatives. Relatives take priority over one's neighbors, who take priority over the residents of one's own city, who in turn take priority over residents of another city. The same priorities apply to the redemption of captives.

As one reads Rama's words, one could well imagine that a reasonable person might never, in fact, give charity to anyone outside his near family.

The *Aruch ha-Shulchan*⁶⁵ notes our problem and asserts:

ולכן נלע"ד ברור דזה שכתב הגאון דפרנסתו קודמת היינו באיש שאינו מרויח רק לחם צר ומים לחץ ולכן מביא ראייה מהצרפית שבשם היה תלוי חיי נפש ממש שהיה רעב בעולם כמבואר במלכים שם ואם נותר

לו לחם ומים אביו ואמו קודמין ואח"כ בניו וכו' אבל האיש שמרויח פרנסתו כבעל בית חשוב שאוכל כראוי לחם ובשר ותבשילין ולובש ומכסה א"ע כראוי וודאי דחייב בצדקה מעשר או חומש מפרנסתו וחלק גדול מהצדקה יתן לקרוביו ועניי עירו ומעט מהוייב ליתן גם לרחוקים ועניי עיר אחרת דאל"כ עיר של עניים יגיעו ברעב ח"ו אלא וודאי כמ"ש ותדע לך שכן הוא דאל"כ איזה גבול תתן לפרנסתו שהיא קודמת וכל אחד יאמר אני נצרך לפרנסתי כל מה שאני מרויח שהרי אין גבול להוצאה כידוע אלא וודאי כמ"ש דלא קאי רק על מי שיש לו רק לחם מצומצם להחיות נפשו ונפש אשתו ובניו ובנותיו הקטנים:

Thus it seems clear to me that what Rav Saadia Gaon wrote, that one's own livelihood takes priority, is limited to an individual who earns only sparing bread and scant water. That is why he elicited proof from the Zarephathite widow, for in that case lives were indeed hanging in the balance, as there was a famine throughout the land, as described in I Kings (17:8–24). In such a case, if one has any bread or water left, one's parents take priority, then one's children, etc. However, it is obvious that a person who earns a prosperous living, like an important household-er—who eats bread, meat, and other cooked items as befits him; and clothes and cloaks himself appropriately—is obligated to disburse 10 or 20 percent of his income in charity. A greater portion of the charity should be given to one's relatives and the residents of one's own city, but a small portion must be given to nonrelatives and the poor of other cities, for otherwise the inhabitants of an impoverished city would die of starvation, God forbid. Rather, it is certainly as I have outlined. This formulation must be correct, otherwise there would be no limit on one saying that one's own livelihood takes priority, and everyone would claim that they need all of their income for their livelihood—for there is no limit to expenses, as we know. Rather, it must be as I have presented, that this rule applies only to one who has but a small amount of food to sustain his own life and the lives of his wife and young sons and daughters.

This is exactly the problem in the world of giving. As the *Aruch ha-Shulchan* notes, no one ever really feels that he or she has enough income to give away, and everyone senses that there are still more things that he or she really, really, really needs. Measuring when a person has “enough,” so that he ought to give away more is extremely difficult. As Rabbi Blau notes—and this is from a man who has spent his life clarifying many narrow details of halacha in his numerous halachic volumes⁶⁶—“The measure of suitable livelihood is unclear to me.”⁶⁷

Indeed, in my own experiences as a shul rabbi, I frequently encounter individuals who have annual incomes in excess of \$500,000, yet they explain to me—sincerely and honestly—that they live pay-check to paycheck. I even understand. Consider a hypothetical professor at an institution where average salaries for tenured full professors are about \$200,000 who is married to a government accountant, where average salaries are about \$90,000. Their effective tax rate is about 35 percent on a gross income of \$290,000. They have five children, and tuition for the children is nearly \$60,000. Altogether, \$160,000 is spent on taxes⁶⁸ and tuition.⁶⁹ The husband has chosen to volunteer his time as an unpaid rabbi in his local synagogue as well as to serve in the capacity of *dayan* in the local rabbinical court, from which he also receives no pay (and which might be a form of charity).⁷⁰ From the remaining \$130,000, they have to support their family, providing food, clothes, and shelter. How much charity should they give?

Anyone can always purchase a larger house and a newer car—thereby increasing their debt load and decreasing their available cash—and claim that they “need” to spend that money. Yet all of us ought to struggle not to do that. I would advise the hypothetical couple to give away \$38,000 in charity under the assumption that this is a good number—it is about 20 percent of their net income, after taxes. This approach—which is that normal middle-class people should strive to give away 20 percent of their income—is the view that the *Shulchan Aruch* endorses,⁷¹ and it is only an average person who should give away 10 percent of his income.⁷² In this regard, given our reality in America, we should strive not to be average. Yet when I share these figures with other members of the Modern Orthodox community, it is clear that the vast majority are simply not prepared to pay income

tax, day school tuition, and 20 percent of income as charity. In the case I presented, these three items comprise two-thirds of the family's income, leaving but \$92,000 for all of life's other expenses.

This level of giving seems beyond that of most people. Some respond by citing Rama's view that supporting oneself is more important than charity. Some respond that day school tuition really is charity.⁷³ And some cheat on their taxes.⁷⁴ Others apply for day school tuition breaks because they cannot afford to pay full tuition and still live the comfortable (and charitable) lifestyles they wish. Others simply choose to have fewer children, as more children cannot be handled without resort to charity—this might even constitute permissible grounds for birth control.⁷⁵ Indeed, as a matter of normative practice, one is hard-pressed to determine what items actually count as income, what counts as charity, and what the minimum amount of charity should be. Most rabbis I speak to tell me that they give very little money to charity, as entering the rabbinate is the ultimate donation of their time.⁷⁶

Indeed, if one takes as a given that a person should give no charity unless he is paying 100 percent of his children's tuition,⁷⁷ one is hard-pressed to see anyone who is married with a couple of children of day school age having any money to give away unless the combined household income exceeds \$150,000 or perhaps even \$200,000.⁷⁸

The sad but complex reality of the obligation to give charity is made clear by examining a small number of real-world cases. Let us consider five cases:

1. Husband and wife both work as public school teachers or administrators. Their combined income is \$180,000. They have four children between the ages of seven and sixteen, and the full tuition bill for these four children is \$51,000. Their combined federal and state tax obligation is \$40,000, leaving them with just \$89,000 for the rest of their expenses. It is clear that such a family cannot afford to give any charity in fact, and is probably in need of a scholarship of some sort to pay for yeshiva tuition.
2. Husband is a second-year associate in a Wall Street law firm earning \$185,000. Wife stays at home taking care of two children under age three. Besides taxes of \$40,000, husband is repaying

college and law school debt at the rate of \$12,000 per year, leaving an after-tax and -debt annual income of about \$133,000. It seems to me that such a family ought to be giving away at least 10 percent of their income, and ideally 20 percent, to charity.

3. Husband and wife are both physicians, each earning \$250,000. They have five children between the ages of six and nineteen, with a total tuition bill of \$75,000. Their tax obligation is about \$170,000, and after tuition and taxes their remaining net income is \$255,000. Much as I tell such individuals that at a minimum they ought to be giving more than \$35,000 a year to charity, I find that they rarely listen to such advice. It would be proper for them to be giving away close to \$60,000 per year.
4. Husband and wife are divorced. Wife has sole custody of three children, ages nine to fourteen, and earns \$200,000 as a pediatrician. Tuition for the children is \$35,000 and federal and state taxes amount to about \$50,000, leaving a net income of \$115,000. In addition, she receives child-support payments of \$14,000 annually. It would seem proper for her to donate at least \$11,000 per year, and maybe \$22,000 a year, to charity.
5. Husband and wife are sixty-five and still working. Their combined income is \$275,000 and they have no children in day school. After paying taxes of \$80,000, they should be donating between \$20,000 and \$40,000 per year to charity.

Other than the final case, one sees that the burdens of paying day school tuition frequently make the kind of substantive giving that we imagine as possible in the (upper) middle class actually quite impossible. The combination of larger families and high day school tuitions makes \$200,000 the minimum income a person (family) needs to have before charitable giving is possible.

THE QUESTIONS POSED BY THE ORTHODOX FORUM EDITORS

The editors of the Orthodox Forum posed two questions with four permutations. They asked

[Please provide] a halachic analysis of Jewish charity law, taking into account 1) that the Shulchan Aruch was framed on the assumption that Jewish communal institutions would be funded not through charity but through communal taxes (see Choshen Mishpat, Hilchot Shutafut) and 2) that American Jews pay taxes to the general government that cover social services to a degree and religious institutions not at all. The analysis could include

- a. How much luxury can be justified before people give at least the 20 percent mentioned in the Shulchan Aruch as the ideal?
- b. How should we balance local needs with those in Israel (or for Israel, such as political advocacy); the needs of families with the needs of Jewish institutions; the needs of Jews and non-Jews (especially non-Jews in life-threatening situations)? Does the increasing vibrancy of the Israeli economy change the equation? Should diaspora Jews use their philanthropy in Israel to influence cultural change (e.g. job training within the Charedi community)?
- c. Does globalization and instant communication affect the concentric circles that require us to fund first in our local community, then in Israel and then elsewhere? How should these concentric circles be applied practically?
- d. Hilchot tzedakah leaves room for much individual discretion. Are there causes to which every Jew must give?

The totality of these questions really forces the most basic question of the general application of Jewish charity law to modern times. I think six points can be made, each of which derives from the preceding sections of this paper.

First, the general structure of the entire Jewish community in America is unique. Identification and support of Jewish causes is vol-

untary. No Jewish community has the power to tax, and no community has a functioning *beit din* that can compel the giving of charity. Because of this, if we wish to have communal institutions, they must be funded by voluntary contributions. Hence, it is the normative practice within the Orthodox community to reject the view of Rambam that limits charity to poor people, and instead we accept the view of Maharik that all public needs are charities. Thus, we fund our Jewish institutions with charity funds.

Second, we can function this way, in fact, because the secular government of the United States is a just and honest government which seeks to help all of its citizens. It provides the social and economic necessities for the poor on a consistent basis. This allows the Orthodox community to allocate its funds less to the poor and more to institutions. This halachic posture would be untenable if the poor were starving to death in America.

Third, our society is a relatively opulent one, with a great deal of pressure placed on individuals to be materialistic. There is a great hesitancy within our Modern Orthodox community to live at a standard of living that is markedly lower than that of secular Jews, lest our children associate religious life with poverty and privation, as they did—with dire consequences—seventy-five years ago. To put this another way, a thousand years ago, society sensed that “God loves the poor,”⁷⁹ and Jewish and Christian communities ennobled poverty, allowing the poor to look down on the wealthy. Our American society—and certainly our American Jewish society—has not accepted this message, and it does not think that we can raise Modern Orthodox Jews to accept a standard of living significantly lower than that of our neighbors. People thus give charity and spend on themselves and their families consistent with the religiously proper goal of raising happy, content, religiously committed children.

Fourth, since halacha accepts that the needs of the community in a general sense are to be considered charity, and since we lack any firm communal hierarchy for determining and prioritizing communal need, there are no firm halachic guidelines establishing which communal institutions ought to be funded once the public charities that feed and clothe the utterly destitute are funded. We cannot say with any cer-

tainty whether investing in a cure for cancer is a higher or lower priority than funding a rabbinical court. None of us can say with certainty whether job training for the Charedi community or Torah education for the Reform community is more important. Each donor decides. Yet it is better that they donate to one cause or the other, rather than spend the same money on themselves.

Fifth, the concentric circles of charity found in *Shulchan Aruch*, Yoreh Deah 251:3 (self, family, city residents, residents of Israel, strangers) is of no basic importance in this conversation, as it is clear that the above listing and halacha are limited to funding the desperately poor and is of no relevance to the question of whether a person should give money to Yeshiva University, the Ponovezh Yeshiva, the ACLU, or the Republican Party, none of which feeds the poor.

Sixth, charity has become such a source of competition for resources exactly for the reasons noted in the above five paragraphs. Since there are no firm halachic guidelines, each person uses his own judgment; once the needs of the poor who are profoundly hungry or others whose lives are at stake are taken care of, there are few guidelines left in halacha that compel giving of a specific type. This discretion encourages donations and leads (one hopes) to a more creative and dynamic charitable community.

One final point is important to note. Halacha places many demands on our money. For example, one needs to spend money on *arba minim*, *talit*, *tefillin*, *oneg Shabbat*, and a multitude of other halachic necessities, each of which often includes a concept of *hiddur*, i.e., added merit in spending more to buy especially beautiful articles. Whether donating to a shul's building fund or *sefarim* fund is *tzedakah* or not, it is clearly a mitzvah—for example, at the very least such a donation is a public virtue by enabling or facilitating fulfillment of public prayer and Torah study. Similarly, donations to build hospitals and other community infrastructure fulfill the obligation to love one's neighbor and may represent a very powerful and effective form of *gemilut chasadim*. Individuals will always face choices about how best to allocate their finite financial resources among these various priorities, and it is entirely valid and necessary to ask which ones have greater priority relative to others. Should I buy a fancier *etrog*, or be content with a lower

level of *hiddur* and contribute the difference to charity? That is a valid question, even though the purchase of *arba minim* is obviously not a fulfillment of charity. Therefore, one could recast much of our discussion not as whether financial expenditures to meet communal needs technically constitute charity, but instead as a broader assessment of how the obligations of charity are to be weighed against the fulfillment of other important positive commandments.⁸⁰ In other words, even though Rambam rules that *tzedakah* is synonymous with supporting poor people, he nevertheless might agree conceptually that building a synagogue is an important positive obligation which might⁸¹ take priority over charity.⁸²

CONCLUSION

Charity is a totally different religious construct in America than it was three centuries ago in Europe. Our national and state governments have relieved the Jewish community of the basic burden of caring for the ill and the desperately poor, and have made the redemption of captives a rarity in America. This has allowed for a blossoming of giving to various communal needs designed to further the Jewish community by building social, religious, and Torah institutions that serve our community. I hope we can rise to the challenge of building wisely.

POSTSCRIPT

The Maharik, in the course of proving that one may collect charity money for the building of a synagogue, quotes the Jerusalem Talmud, which rebukes community members for spending charity money on building a fancy entrance to the synagogue when there were poor people in need. This lesson cannot be forgotten. Whether or not spending *tzedakah* funds for public needs is considered charity (and the consensus holds that it is), it is incumbent upon us as a community to make sure that charity spending is really used for the genuine public good and does not merely become a way that wealthy insular communities raise money to spend for the benefit of . . . wealthy insular communities.⁸³ The Orthodox community needs to lead the way to make sure that the license to raise charity funds for matters of communal need (as the Maharik shows is permitted by Jewish law) is genuinely used by

our community to responsibly build a community of substance that shows the truth of Rambam's observation that charity is a central measure of what it means to be a Jew.⁸⁴

NOTES

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1. See Deut. 15:7–11, Lev. 25:35–38 (in addition to numerous exhortations to look after the poor, the widow, and the orphan, and many injunctions against oppressing the poor); *Shulchan Aruch*, Yoreh Deah 247:1.
2. Another example of this is the concept that found objects even after *yeush* should be held in escrow unused until Elijah arrives. On an ethical level, halacha is mandating that this object is not owned by the finder; but on a practical level, once it is clear that the original owner can never reclaim the object, the finder functions as if it is his. See Michael J. Broyde and Michael Hecht, "The Return of Lost Property According to Jewish and Common Law: A Comparison," *Journal of Law and Religion* 12 (1996): 225–254.
3. *Shulchan Aruch*, Yoreh Deah 250:1 and Rama ad loc.
4. Taz, Yoreh Deah 250:1 and Shach, Yoreh Deah 250:1; but see Bach, Yoreh Deah 250.
5. Yaakov Yishayahu Blau, *Sefer Tzedakah u-Mishpat* 3:5 (Jerusalem: Beit Meir Press, 5740 [1979/80]).
6. Hil. Matnot Aniyim 7:1; *Sefer ha-Mitzvot*, Aseh 195. In Matnot Aniyim 7:1 Rambam writes: "It is a positive commandment to give charity to the Jewish poor, as befits each poor person, if the giver can afford to do so." A reader questioned whether my narrow classification of the Rambam is correct given four different halachot included in Hil. Matnot Aniyim:
 - If one instructs [the gabbaim], "Give these 200 dinars to the synagogue," or "Give this Torah scroll to the synagogue," they should give it to the synagogue the person normally attends. (7:15)
 - If someone donates a candelabra or candle to the synagogue, one is not permitted to exchange it for something else. . . . We ought not to accept donations from non-Jews for the upkeep of the Temple . . . but we may accept such donations for a synagogue. . . (8:6, 8)
 - If residents of a city collected money for the purpose of building a synagogue and are then presented with a [different] mitzvah to fulfill, they may spend the money on that instead. (8:11)
 - Residents of a city are permitted to reallocate money between the general charity fund and the soup kitchen, or to divert such funds to any

other communal need of their choice, even if that was not stipulated when the funds were collected. (9:7)

In fact, this is not a serious question. Chapter 7 of *Matnot Aniyim* deals with the mitzvah of *tzedakah*. Chapter 8 fundamentally addresses laws of vows and their impact on donor intent, given that charitable donations are treated as having the status of a vow (*neder*), while chapter 9 explains the governance of charity funds and when they can be diverted from their stated purpose. (Even then, as noted by Radvaz 9:7, some maintain that charity funds may only be diverted for charitable needs.) However, just because charity funds may be diverted to noncharitable needs does not make those needs charity. (Chapter 10, it can be noted, lays out overarching ethical principles of charity, somewhat unusual for Maimonides' Code.)

Finally, it is worth observing that, broadly speaking, Rambam puts his laws of charity in *Hil. Matnot Aniyim*, while *Tur* and *Shulchan Aruch* place them after the laws of Talmud Torah.

7. This paper does not discuss the theoretical matter of how the community ought to act were it to have the power to coerce payments for communal matters. (See R. Moshe Feinstein, *Igrot Moshe*, Choshen Mishpat 1:41, who defends the early compromise of a half per-capita and half wealth-based tax. Cf. *Beit Yosef*, Orach Chaim 53, in the name of R. Hai Gaon, and Aaron Levine, *Free Enterprise and Jewish Law* (Ktav and Yeshiva University Press, 1980), p. 152; as well as Rama, Choshen Mishpat 163:3, and Chatam Sofer, Choshen Mishpat 159 (who presents a sophisticated and complex formula).
8. But see the end of n. 6 above.
9. Rabbi Joseph ben Samuel Kolon [Cologne] (ca. 1420–1480), Italian authority and author of numerous responsa.
10. Maharik 128.
11. *Beit Yosef*, Yoreh Deah 249:[16].
12. It is worth noting that our text of Y. Peah 8:8, as well as the parallel passage in Y. Shekalim 5:4, does not include the words “or sick people sustaining themselves from the refuse pile.”
13. Yoreh Deah 249:6. It is commonly claimed that the formulation *ישמי שאומר* is a normative one. This is one example, among a considerable amount of evidence, to the contrary.
14. *Tzedakah u-Mishpat* 3:28.
15. Yoreh Deah 249:18–20.
16. Yoreh Deah 249:20.
17. See *Yikrei Lev*, Yoreh Deah 5, who appears to reject Maharik.
18. Tosafot, Bava Batra 9a, s.v. *she-ne'emar*.
19. *Aruch ha-Shulchan*, Yoreh Deah 249:18–19.
20. Y. Peah 8:8.
21. This topic is worthy of a dissertation, but a footnote must suffice for now. The touchstone document of halacha is without a doubt the Talmud; more particu-

larly, the Babylonian Talmud. Rif (Eruvin 27a), Rambam (in his introduction to the *Mishneh Torah*), and Rosh (Sanhedrin 4:5) note that the basic doctrine of Jewish law is the supremacy of the Babylonian Talmud. What, then, is the status of the Jerusalem Talmud? There are, I suspect, two distinctly different schools of thought. One view in the Rishonim and Acharonim posits that the Jerusalem Talmud is a central document of halacha, and one should seek to interpret the Bavli in light of the Yerushalmi. As Rabbi Joseph Karo writes (*Kesef Mishneh*, Gerushin 13:18), “Any way that we can interpret the Bavli to prevent it from arguing with the Yerushalmi is better, even if the explanation is a bit forced (קצת דחוק).” To recast this in a slightly stronger way, it is well-nigh impossible to determine the halacha, in this view, without a firm grasp on the Yerushalmi.

Anyone who regularly studies the Rashba or the Ritva, who has seen Rambam’s *Hilchot ha-Yerushalmi* (ed. S. Lieberman), or who has learned Rabbeinu Chananel recognizes that these Rishonim were masters of the Yerushalmi as well as the Bavli. Such is not the case for Rashi and his disciples, who make almost no use of the Yerushalmi and did not seem to think themselves any the worse for it. (Contrary to this is Louis Ginzberg’s astounding assertion that Rashi’s “classic work would have gained much” had he employed the Yerushalmi more frequently [p. xlix of his Commentary to Y.Berachot]). Indeed, a common methodological insight of the mainstream Ashkenazic commentators is that they make well-nigh no use for the Yerushalmi (except, perhaps, Ra’aviyah). Mordechai, Mahara, Yereim, Semak, et al. nearly never cite the Yerushalmi. (For an example of the approach of Tosafot, see B.Berachot 11b, s.v. *she-kevar niftar*, where Tosafot states in response to a difficulty presented by a Yerushalmi: “And Ri answers that we do not accept this Yerushalmi, since our Talmud does not quote it.” According to Ri, sources not cited in “our Talmud” [the Bavli] are not binding.)

The same divergence continues for centuries, with some halachic authorities seeking detailed, close study of the Yerushalmi, and others essentially ignoring it. For example, the *Aruch ha-Shulchan* regularly cites the Yerushalmi, and frequently his quotes reflect that he is himself a regular student of the Yerushalmi and his insights are both novel and fluent. This is not the case for the *Mishnah Berurah*, who never quotes the Yerushalmi except when it is quoted by others. (The same is true for *Igrot Moshe* and *Dibrot Moshe*. Rav Moshe Feinstein’s fluency with the Bavli is amazing, and his insights beyond compare. But in my study of both *Dibrot Moshe* and *Igrot Moshe*, I am unaware of a single novel citation to the Yerushalmi by Rav Moshe.)

The same difference proves to be quite important, I suspect, in many halachic constructs, where a less than ideal explanation of the Bavli harmonizes it with the Yerushalmi and the ideal explanation of the Bavli is completely inconsistent with the Yerushalmi. What to do in that situation remains a vast dispute among *poskim*. (Consider, for example, four examples that I happen to be writing about currently—tefillin on Chol ha-Moed, *aliyot* in a city where all the men are Kohanim, whether the daughter of a gentile man and a Jewish woman may marry

a Kohen, and our issue of using charity funds to build shuls. In all four cases the Bavli is silent, while the Yerushalmi directly addresses the matter. On the topic of tefillin on Chol ha-Moed, Y.Moed Katan 3:4 is clear that tefillin should be worn; in Y.Gittin 5:9 it is clear that even in a city where all the men are Kohanim, women do not get called to the Torah; Y.Yevamot 4:15 is clear that a Kohen may not marry such a woman; and in Y.Peah 8:8 it is clear that a synagogue is a valid recipient of charity. Although it is obvious that each of these matters generates some controversy among decisors, the consensus [a clear majority of the *poskim*] follows the view that is endorsed by the Jerusalem Talmud. Much more could be written on this matter.)

Rambam, a good claim could be made, did not fall clearly into either of these camps, and his exact methodology for resolving Talmudic disputes remains cloaked in mystery. However, it is clear that he was quite familiar with the Yerushalmi and sometimes accepted its rulings even when they stood in opposition to apparent rulings of the Bavli. My own intuition is that Rambam used logical tools to resolve disputes and was not even fully wedded to the notion of the complete superiority of the Bavli over the Yerushalmi in all cases. (My eldest son, Joshua Broyde, recently suggested that Rambam had a tendency to accept Talmudic views that are supported by logic over views supported by scriptural verses. As an initial proof of this proposition, Joshua cites four examples from Tractate Sanhedrin: 8b, *R. Yose omer*; 10a, *Rava amar malkot bimkom mitah*; 30a–b, *R. Natan ve-R. Yehoshua ben Korchah*; and 16b, *R. Shimon hayah doresh ta'ama de-kra*.) That Rambam does not follow normal rules of decision is widely noted. See *Sedei Chemed*, Kelalei ha-Poskim, vol. 9, siman 5. See also numerous such references in the *Tosafot Yom Tov*; Rashba, Ketubot 48a, s.v. *amar Rav*; idem, Nedarim 46a, s.v. *mistavra*; Ritva, Moed Katan 8b, s.v. *ika beinaihu*; *Yam Shel Shlomo*, Yevamot 8:18; *Penei Yehoshua*, Gittin 84b, s.v. *ve-nir'eh le-Ri*; Chatam Sofer, Avodah Zarah 34a, s.v. *ve-ana kevedah* (perhaps).

The writings of Rabbi Soloveitchik, which contain truly dozens of insightful comments on the Bavli yet not a single real *chiddush* on the Yerushalmi, also reflect a certain insight into the Brisker approach to the Rambam. Indeed, the Rav seemed almost comfortably indifferent to the Yerushalmi's role in the *Mishneh Torah*. Consider the comments in *Shiurim le-Zecher Avi Mori* 1:118–120, addressing the wearing of tefillin on Chol ha-Moed, which contains an insightful observation on the nature of tefillin on Chol ha-Moed, yet completely ignores the relevant Yerushalmi that is clear and contrary to his thesis. Indeed, that the followers of the Brisker approach methodologically insist on harmonizing Rambam with the Bavli, even when there is considerable evidence that Rambam draws from a broader range of sources, is more than a bit disquieting. In light of Y.Moed Katan 3:4 and the ambiguity within the Rambam regarding the wearing of tefillin on Chol ha-Moed, this author is inclined to think that Rambam rules that one must wear tefillin on Chol ha-Moed, and that the entire approach in *Shiurim le-Zecher Avi Mori* 1:118–120 is thus difficult.

It is also worth noting that the issue of wearing tefillin on Chol ha-Moed is further complicated by the view of the Zohar (*Zohar Chadash*, Shir Hashirim 8a–b) that such is unequivocally forbidden (*vadai bar ketula ihu*). It is likely that the *Beit Yosef* (who quotes extensively from the Zohar here) is of the view that the Zohar, attributed to Rabbi Shimon bar Yochai, is to be considered a Tannaitic source and take precedence over the Talmud Yerushalmi.

22. Kelalim 2:44.
23. Chatam Sofer, Orach Chaim 203; Maharsham 4:147.
24. *Aruch ha-Shulchan*, Yoreh Deah 149:20.
25. For an example of this, see Rabbi Moshe Weinberger, *Jewish Outreach* (Ktav/New York Association of Jewish Outreach Professionals, 1990), chap. 9, “Is a Contribution to a Kiruv Organization Tzedaka?”
26. Hil. Talmud Torah 3:10–11.
27. Tashbetz 1:147.
28. Responsa of Rosh 15:10.
29. When I first started learning in the *yadin-yadin* kollel at Yeshiva University, one of the members told me that in the 1960s, when YU approached the Rav about starting an evening kollel, the Rav asked why one was needed. They told the Rav, “To learn more,” and the Rav replied, “Oh, of course. Think how much more the Rambam could have accomplished if only he could have learned in kollel!”
30. Yoreh Deah 246:6.
31. Ibid. 246:38–42.
32. *Tzedakah u-Mishpat* 3:26. He adds that such is not true when the poor might actually perish.
33. *Shulchan Aruch*, Orach Chaim 90:18.
34. Rambam would respond by noting that the standard halacha posits that Torah study, like prayer, does not allow the appointment of an agent to fulfill one’s obligation.
35. *Igrot Moshe*, Yoreh Deah 4:36–37, Orach Chaim 3:11, and many other places.
36. Ibid., Yoreh Deah 4:37(4).
37. Ibid., Yoreh Deah 4:36–37 are two extremely long, exhaustive *teshuvot* noting many different details of such arrangements. It is worth noting that the detailed halachic analysis of the Yissachar/Zevulun partnership outside of the mode of charity is a relatively unique halachic category, which is first found in *Tur*, Yoreh Deah 246, but was not generally discussed as a “real” halachic category until *Igrot Moshe* analyzed it as such with great vigor. It is also worth noting that *Igrot Moshe* insists that the name of the working partner is spelled ישכר and not יששכר, reflecting his view that there is a genuine partnership in such cases, where a wage-earner is to be considered as if he learns and a learner is to be considered as if he works.
38. *Shulchan Aruch*, Yoreh Deah 254:1.
39. Ibid. 254:2.
40. Rama ad loc.

41. The other rationale is even more complex:
יש הרבה פוסקים—ובפרט בעלי הלכה וקבלה—שסוברים שאסור לב“י לגמול חסד לא“י בחנם, ומכיוון שנתינת הצדקה מצוה היא לגוי, ועדיף שיבא הא“י לשמים בלי שום זכות, לכן אסור לקבל צדקה מא“י. כמעט כל הנושאי כלים על הש“ע אינם מקבלים שהוא הטעם; ראה ט“ז, ש”ך, וערה“ש ס’ רנד.
42. *Tzedakah u-Mishpat*, chap. 1, end of n. 68. Rabbi Blau adds:
מה שכתבו הפוסקים שדבר שבחובה אינו עולה לחשבון צדקה, א“כ כ“ש לגבי עכו“ם משלמי המסים שאינו עולה לזכות.
43. According to the New Jersey State Data Center Report, “Money Income (1989 and 1999) and Poverty (1999): New Jersey, Counties and Municipalities” (2003), out of 702 places in the state of New Jersey ranked by per-capita income, Lakewood Township is no. 663 and unincorporated, Lakewood (census-designated place) is no. 699. Similar data from New York list New Square at 1049 and Kiryas Joel at 1051 out of 1051 places ranked by per-capita income. According to National Insurance Institute of Israel data, Jerusalem and Bnei Brak regularly switch places as the poorest and second-poorest cities in Israel.
44. As welfare still comes with the social stigma of failure and poverty. This might be different for other governmental awards, such as GI educational benefits.
45. See, e.g., Fernanda Santos, “Reverberations of a Baby Boom,” *New York Times* (August 27, 2006): A1; Joe Sexton, “When Work Is Not Enough: Religion and Welfare Shape Economics for the Hasidim,” *New York Times* (April 21, 1997): B1; Konrad Yakabuski, “The Hasidim’s Unorthodox Dilemma: Why a Proud, Self-Sufficient Community Suddenly Seeks Help From the Outside World,” *Globe and Mail* (February 5, 1998): A2. Putting aside the terrible violations of *dina demalchuta* described in some of these articles and the undeniable *chillul hashem* involved in the airing of the community’s laundry in the North American press, the welfare statistics described in these articles are shocking only to outsiders of our community.
46. *Igrot Moshe*, Yoreh Deah 1:143.
47. *Tzitz Eliezer* 9:1:5.
48. See Taz, Yoreh Deah 249:1. For a defense of the *Tzitz Eliezer*’s position as proper normative halacha, see Yitzchak Yaakov Weiss, *Minchat Yitzchak* 5:34(9).
49. I am not aware of anyone who disagrees.
50. For example, see Moshe Goldberger, *Priorities in Tzedaka* (Judaica Press, 2007), pp. 66–74.
51. Yoreh Deah 252:1.
52. Lev. 19:16; funding to save lives fulfills several other commandments as well—see Hil. Matnot Aniyim 8:10; *Shulchan Aruch*, Yoreh Deah 252:2.
53. *Shulchan Aruch*, Yoreh Deah 252:1.
54. Commenting on *Tur*, Yoreh Deah 252.
55. Taz, Yoreh Deah 252:2; *Tzedakah u-Mishpat* 3:27, note 83; *Shevut Yaakov* 2:84.
56. Yoreh Deah 252:1.
57. Ibid.

58. Why such conduct is not obligatory under the rule of *lo taamod al dam reiecha* is beyond the scope of this paper.
59. Taz, Yoreh Deah 256:4; Shach, Yoreh Deah 252:2. But see Bach, Yoreh Deah 252.
60. Rama, Yoreh Deah 252:1.
61. Bava Batra 9a, citing Neh. 10:33 (cf. Y.Shekalam 2:3 [46a]); Hil. Matnot Aniymim 7:5; *Shulchan Aruch*, Yoreh Deah 249:2.
62. See the formulation in *Shulchan Aruch*, Yoreh Deah 249:1, which makes it clear that the 20 percent limitation does not apply in such a case. See also Rabbi Ezra Batzri, *Dinei Mamonot*, vol. 4, p. 218 (chap. 3:1 of *tzedakah*). Rabbi Blau notes (*Tzedakah u-Mishpat* chap. 1, n. 8) that there are some Acharonim who disagree with this formulation and think that the rabbis capped charity at 20 percent. This approach is fraught with some difficulty, as he indicates. See *Igrot Moshe*, Yoreh Deah 1:143 (final paragraph).
63. *Shulchan Aruch*, Yoreh Deah 249:1. On whether 10 percent is a Torah obligation, a rabbinic obligation, or merely a recorded proper practice, see Maharshag, Yoreh Deah 36; Maharit 1:127; Ahavat Chesed 19:4; and Minchat Yitzchak 5:34.
64. Yoreh Deah 251:3.
65. Ibid. 251:5.
66. On such complex topics as all of Choshen Mishpat, Ribit, Eruvin, etc.
67. *Tzedakah u-Mishpat*, chap. 1, n. 15. For one example of how to compute one's income and *tzedakah* obligations, see Rabbi Dovid Bendory, "Computing Maaser—How Much *Tzedakah* (Charity) Do I Owe?" (online at <http://rabbi.bendory.com/docs/maaser.php>). It is far from obvious to this writer that the detailed calculations found there can be explained with reference to normative halacha, even as the general principles presented seem to be correct.
68. See the discussion above, text accompanying nn. 46–48.
69. How much of the money one pays as day school, high school, and *yeshiva gedolah* tuition is to be considered charity remains a vast dispute among the *poskim*. Rav Moshe Feinstein maintains that no tuition—either for boys or girls—counts as charity, as one is obligated to teach one's children (*Igrot Moshe*, Yoreh Deah 2:113). Others maintain that girls' tuition is charity, as in their view women have no obligation to study. Rabbi Yitzchok Peterburger (Blazer) in *Pri Yitzchak* 2:27 permits all tuition expenses to be paid out of *tzedakah* funds. Rabbi Moshe Heinemann maintains that tuition may be paid from charity funds above 10 percent of one's income (*ma'aser sheni*); see the article on *Ma'aser Kesafim* in Baltimore's Eruv List. Yet others distinguish between day school, high school, and *yeshiva gedolah*; see *Yechaveh Daat* 3:76.
70. The question of whether donating time is a form of charity is a complex one. See Maharil Diskin 1:24, who concludes that it is. To me, it is obvious that when a person donates his time to a charity, and without this time donation the charity would have had to hire a worker to engage in this task, that is certainly charity, as—in all of Torah—work is considered as cash, such that one could even use it as consideration to marry; see Rama, Even ha-Ezer 28:15.

71. Yoreh Deah 249:1.
72. Ibid.
73. See *Tzitz Eliezer* 9:1:5 and many others.
74. Which is, of course, a categorical violation of Jewish law.
75. See Even ha-Ezer 1:8. See also Yossi Prager, "The Tuition Squeeze," *Jewish Action* (Fall 2005): 15–18, reporting, "The old joke about day school tuition being the best form of birth control in the Modern Orthodox community is, sadly, true." Prager notes, however, that "there is anecdotal evidence that high day school tuitions encourage *aliyah*."
76. For more on the obligation of rabbis to give charity, see *Seridei Esh* 1:138 (new edition).
77. This is exactly what the Rama means when he says that one's own livelihood takes precedence—one should be covering one's own expenses before beginning charitable giving. Admittedly, the issue of parents paying more than one-fifth of their income for day school tuition is complex, as it seems that one ought not to spend more than 20 percent of income on any one mitzvah. Perhaps in the ideal world schools would cap tuition at 20 percent of family income after taxes, but until our community comes up with a workable solution to make up for the inevitable shortfalls in tuition, it is hard to imagine what else parents—and schools—can do.
78. Consider, for example, a question posed to me repeatedly in the last decade. A couple with a number of children who had already fulfilled the mitzvah of procreation asked if it was permissible to have another child, knowing that given their economic situation they would have to accept charity to make ends meet with the new baby. I told them that this was permissible, as procreation is a *mitzvah rabbah*. I regularly tell this as well to couples who inquire about having another child even if they will then need day school tuition assistance. (However, when the aforementioned father asked for charity to purchase a set of *arba minim*, I told him to borrow someone else's *luav* and *etrog*.)
79. See Bava Batra 10a. (See also James 2:5; and Luke 6:20–21, from which James's question actually derives.)
80. Constructing a framework for evaluating such claims of competing commandments is far from simple and obvious (and certainly strays beyond the ambit of this paper). By what criteria ought one decide whether to spend money on a nicer goblet for *kiddush* or give charity and make do with a simpler cup? Indeed, to my knowledge there have been few attempts at addressing a systematic construct for these issues.
81. These funding priorities may not be fixed, but depend instead on a highly complex calculus of the social realities and the consequences of forgoing the alternative option. I suspect that Rambam would maintain, for instance, that building a mikvah is a higher priority than charity, even though it is certainly not a fulfillment of the obligation to give charity.

82. The content of this paragraph was developed through email correspondence with Steven Weiner, who was the first to raise many of these observations, and I thank him for his input.
83. Consider, for example, Shabbat *kiddush* for a shul of one hundred middle-class families. Although I have no doubt that donations to the *kiddush* fund constitute charity as a matter of halacha, if each family sponsors one *kiddush* every other year, it resembles an eating and drinking club for the middle class, which is hardly a charity (and is a far cry from the pious origins of Shabbat *kiddush*, which was to provide food for those in the community who could not afford Shabbat lunch).
84. Hil. Matnot Aniyim 10:1.

12

Think Local, Act Global: Tzedaka in a Global Society

Ozer Glickman

INTRODUCTION

One of the allures of the *Beit haMidrash* is its ability to mute the cacophony of voices in the academic street and allow one to focus on the timeless disputes of Abaye and Rava. In its hallowed precincts, one avoids the excesses of contemporary intellectual fashion. Denizens of the Talmudic study hall are not immune, however, to the broad economic, political, and cultural forces that shape secular society. Our Orthodoxy may cushion their effects, but we and those who seek our guidance are ourselves often buffeted by the strong winds that swirl haphazardly through civilized society.

Globalization is one of those forces. There are few places in the world, if any, that have not felt its effects. One has only to navigate

the Neturei Karta website to feel its irresistible pull. The philosopher Francis Fukuyama suggests that globalization is in fact born of the same spirit that energizes religion. It was religion, he writes, that first taught human beings to look beyond their narrow spheres of family, tribe, and people to perceive universal humanity. The Jewish experience is otherwise. Rather than Fukuyama's top-down promotion of universalism, the Torah enforces a notion of our particularity, a unique position in the world that defines us as a people.

As society confronts the good and bad effects of globalization on the quality of human life, religious thinkers write frequently on its moral dimensions. Foremost among them has been the Chief Rabbi of Great Britain, Sir Jonathan Sacks. Rabbi Sacks avers that the religious perspective cannot contribute to the discussion of globalization at the level of detail, because the world's religions arose long before the rise of modernity. His learned discussions of globalization are general applications of Biblical values, relying heavily on the Prophetic tradition as a source for universal morality. As a world religious leader, the Chief Rabbi often enters into theological conversations with counterparts in other faith communities. Perhaps it is our natural hesitancy toward theological discourse with the Gentile world that underlies the Chief Rabbi's interest in keeping matters at the very general level. I am not a world religious leader, and my audience is a narrowly defined one. With deep respect, then, I have adopted Rabbi Sacks's comments as my point of departure for an analysis of some halachic considerations related to globalization in the practice of philanthropy.

Halacha is the most characteristic and developed expression of Jewish thought. Although one cannot acquire a complete picture of the rabbinic mind without knowledge of *midrash aggada*, its rhetorical style, particularly its use of hyperbole, can make it an unreliable source of rabbinic theology. Jewish tradition has always expressed itself most rigorously through *halacha*. The rabbis of the Talmud are never more themselves than when they are operating in the realm of *halacha*. The intent of this paper is to explore the utility of Jewish law in presenting normative models for public policy in an area where *halacha* is not directly applicable.

RAMBAM ON PRIORITY AND PRECEDENCE IN *TZEDAKA*

Rambam offers the clearest exposition of the laws of *tzedaka* in the seventh chapter of Laws Pertaining to Gifts to the Poor.¹ We focus herein on a single *halacha*:

XIII. A poor person who is a relative takes precedence over any other person; the poor of one's household take precedence over the poor of one's city; and the poor of one's city take precedence over the poor of any other city, as it has been said "to your brother, to your poor, and to your impoverished in your land."

The *halacha* appears to endorse the inverse of the spirit identified by Fukuyama as characteristic of the religious impulse. In the distribution of charity, the Jew is instructed to give preference to the narrowest of social contexts applicable. Apologists and critics may attribute this to the insular parochialism of a persecuted people. Intellectual rigor demands that we not so facily dismiss the law without deeper analysis.

The verse cited by Rambam is Deuteronomy 15:11: "For the needy shall never cease from your land; therefore I command you saying you shall surely open your hand unto your brother, your poor, and your needy in your land."

The context in Deuteronomy is worth noting, since it specifically relates to something more than the general requirement to support the poor. The smaller *parasha* in which the verse appears consists of five verses whose principal purpose is to teach the obligation to lend funds to the poor even when the imminent arrival of the *Shmittah* year may require forgiveness of the debt. Although the verse cited by Rambam may be read as a stand-alone requirement to give charity outright,² within its Scriptural context it refers specifically to interest-free funding. We will return to this observation below.

Rambam's reading of the verse interprets its last four words as three individual categories: unto your brother; unto your poor; unto your needy in your land.³ The order of the phrases in the verse indicates precedence. Placing "your brother" before "your poor" teaches

that a relative's need takes precedence over other members of one's household. By including "your needy in your land," the Torah teaches that the impoverished in one's land also are entitled to preference in the distribution of charity.

As Ramban notes, the *ta'amim* suggest two groups. The first two words are linked together as a pair through the placement of a *darga* and a *t'vir*, making the phrase "your poor brother" a phrase appropriate for an obligation directed only to Israelites. Lest the word "brother" be interpreted in the strictest sense as denoting one's sibling, the Torah adds the phrase "and unto the needy in your land" to encompass *Klal Yisrael*.

Precedence based on relationship and proximity is found in the *Sifrei*, as Radbaz notes in his commentary to the *Mishneh Torah* on this *halacha*. The derivation is similar but not identical to that of the Rambam. Most notable is the fact that it is based on a verse other than the one cited by the Rambam. In verse 7 at the beginning of the same *parasha* in *R'eh*, the Torah commands: "If there be among you a needy man, within one of your gates, in your land which the Lord your God gives you, you shall not harden your heart, nor close your hand from your needy brother."

Sifrei R'eh 116

A needy man: one who is wanting takes precedence. *Your brother*: this is your brother from your father; when it says "from one of your brothers" it teaches that your brother from your father takes precedence over your brother from your mother; *in one of your gates*: the inhabitants of your city take precedence over the inhabitants of another city; *in your land*: the inhabitants of the land take precedence over inhabitants from outside the land . . .

Rambam's choice of source and proof-text is often problematic. This is not the place for a detailed exploration of this oft-discussed topic.⁴ For the purposes of our discussion, let it suffice to note that Rambam imports a halachic exegesis in the *Sifrei* on one verse in order

to apply it to a similar verse. This is not the norm in *midrash halacha*, where each word in the Torah is assigned a unique function.

In his *Sefer haMitzvot*, Rambam enumerates three distinct *mitzvot* from this small *parasha*, one positive and two negative. Positive Precept 195 is the obligation to give charity and provide support to the weak. Rambam notes that it appears in several places. The first one he cites is in our *parasha* (verse 8). Negative Precept 231 prohibits Israelites from withholding loans in order to avoid their release during the Sabbatical Year (verse 9). Negative Precept 232 prohibits denying the poor of Israel charity when one has been made aware of the need (verse 7). You will note that Rambam lists the *mitzvot* in a different order than that of the verses. This, too, requires explanation.

In *Moreh Nevuchim*, part III, chapter 42,⁵ Rambam explains the Torah's preference for providing charity to one's needy relatives before any other beneficiary. Rather than a concession to human nature, it is the exercise of a moral virtue. In Rambam's view, the Torah "safeguards and fortifies this moral quality—I refer to taking care of relatives and protecting them . . . [T]he text of the Torah when speaking of alms: Unto thy brother, to thy poor, and so on." The reference is, of course, to the same verse Rambam cites in *Mishneh Torah* as noted above.⁶

The halachic character of *tzedaka*, as presented by Rambam, is coherent and consistent. The verses that Rambam cites in *Sefer haMitzvot* as sources for the positive precept to give *tzedaka* (Deut. 15:8; Lev. 25) all emphasize the relationship between the donor and the beneficiary. The obligation is defined by the characteristics of each party to the relationship. The beneficiary is entitled to *tzedaka* according to his or her need; the donor is only obligated to give what he or she can afford. The bipolarity of this relationship, the need to receive balanced by the ability to donate, defines the obligation.⁷ Finally, the order of preference is not a concession to the human spirit but a concretization of the moral principle that underlies the *mitzva* itself.

In light of this analysis, we can perhaps resolve certain difficulties in Rambam's presentation noted above. First, the shift of the proof-text for precedence in the giving of *tzedaka* from the *Sifrei's* choice of verse 7 to Rambam's choice of verse 11. Verse 7 deals with the negative precept

prohibiting denying charity when one is aware that there is need. It is the flip side of the positive requirement to give charity. Rambam exports the *drasha* from the negative precept to the positive one, given the identity of moral purpose and similarity in language. As he writes in Positive Precept 195: “The intention in all these expressions (*l’shonot*) is identical: that we assist our poor and strengthen them sufficiently.”

Furthermore, the negative and the positive precepts are, in fact, parallel to one another in conceptual structure as well:

Positive Precept 195

that He commanded us to
perform *tzedaka*
to strengthen the weak and
bring them relief.

Negative Precept 232

that He prohibited us from
withholding *tzedaka*
And relief from the needy
among our brethren.⁸

RATIONALE VS. RATIONALITY IN JEWISH LAW

The term *tzedaka* does not appear in any of the verses Rambam cites as sources for the three precepts he enumerates in our *parasha* in *R’eh*. Its usage as an appellation for charity appears to be rabbinic. Associating the requirements to ameliorate the economic position of the indigent with the word *tzedaka* makes sense, but it is not the simple usage of the word.

For Rambam, *tzedaka* is *derech HaShem*, the Golden Mean that a human being is obliged to pursue: “. . . for this is what our father Abraham taught his children, as it is said: ‘for I have known him, that he will command his sons and his household after him, and they will keep the way of God, doing *tzedaka* and *mishpat*.’”⁹

Prior to Har Sinai, Israel lived a life of moral aspiration. This is the *derech HaShem* that *Avraham Avinu* taught his descendants. It proved to be an impossible standard. From the receipt of the Torah, the Jewish people have lived under a system of Divine Law in which aspiration has become obligation.

In an oft-quoted passage in his *Commentary to the Mishnah*,¹⁰ Rambam takes note of the change that took place at Sinai:

Pay close attention to the great principle brought forward in this *mishnah* and this is what the sages have said [that the sciatic nerve] was prohibited from Sinai. This is its meaning: you need to know that everything that is either prohibited to us or that we do today, we only do because of HaShem's command through Moshe, and not because HaShem so commanded any prophets who preceded him. For example, we do not eat flesh from a living animal, not because HaShem prohibited it to the children of Noach, but rather because Moshe forbade us to eat flesh from a living animal through what was commanded at Sinai, that flesh of a living animal should remain forbidden. Similarly, we do not practice circumcision because Avraham circumcised himself and the men of his household but rather because HaShem commanded us through Moshe to be circumcised as Avraham, may he rest in peace, was circumcised.

The removal of the sciatic nerve from the thigh of kosher meat is first mentioned as the consequence of the wrestling match between *Yaakov Avinu* and an angel. It occasions Rambam's observation that all *mitzvot* linked to events before Sinai are observed today only by virtue of their inclusion in the Torah given Israel through Moshe. Notable among them is *Brit Avraham Avinu*, which since Sinai should more properly be called *Brit Moshe Rabbenu*.

Rambam has embraced a form of legal positivism, the approach to jurisprudence which declares that the essence of law is that it has been posited. Positivism asserts that law must be distinct from moral aspiration. Deciding to obey the law is not the same as following one's conscience. These two human responses to duty and obligation, obeying laws and exercising one's conscience in a just society, may result in the same action. The fact that they may have the same outcome does not make them the same thing.

The confusion between the right thing and the legal thing can be seen in the modern American dictionary definition of a *mitzva*.¹¹ The

first meaning: a commandment of Jewish law; the second: a worthy deed. This ambivalence in popular usage is, even though we know better, endemic to law itself.

The most well known description of the events of Sinai is the midrashic description in Tractate *Shabbat*:

“And they stood below the mountain.” R. Avdimi bar Hama bar Hasa said: This teaches that the Holy One Blessed be He overturned the mountain over their heads like a tub, saying to them: If you accept the Torah, all well and good; and if not, there will be your grave.¹²

A curious take on the Giving of the Law: the people of Israel had to be threatened with death in order to accept the Torah. This *midrash* introduces a negative note into the account, depicting God, as it were, as a bully writ large. The *midrash* is coherent, however, with Rambam’s analysis in *Chullin*. Every incident in the life of the *Avot* that occasions the observance of a *mitzva* is superseded by *Mattan Torah*. The rationale for *mitzva* becomes command, not content or custom.

The contemporary philosopher of law Ronald Dworkin is no friend of legal positivism.¹³ In his critique, however, he provides the classic articulation of principles that flow directly from the notion that law is primarily command.¹⁴ A valid law is established by tests related not to its content but to its pedigree. This should be familiar even to casual students of the Talmud: we ask, *m’na hani milei? man tana d’hai matnita?* The pedigree of a law is necessary in order to understand how to apply it. By examining sources in which the author’s view is more explicit, like a *baraitta*, we see the full dimensions of the authority’s approach, often in a more complete statement. In a positivist system, the source of the law is its most important feature. It establishes not only its claim to authority but also the claim of a potential application to legal validity.

A second tenet described by Dworkin also helps explain features of the halachic system: “the set of these valid legal rules is exhaustive of the law.” There is no source of law other than command. If it is not found in the rules commanded by the system, it is not law. This leads

us to a third tenet: “To say that someone has a ‘legal obligation’ is to say that his case falls under a valid legal rule.”

For Jews, the law supersedes the demands of morality. This statement will no doubt catch the eye of many readers and bears clarification. In Rambam’s construction, the morality of *tzedaka* in the days of *Avraham Avinu* has been transformed to the *halacha* of *tzedaka* following *Mattan Torah*. This does not negate the role of *halacha* as an instrument of moral perfection. It is simply that law lives in the details, precisely where Rambam saw the positivist nature of the *mitzvot*. This is also precisely where Chief Rabbi Sacks did not see a role for Biblical morality. Our analysis is an attempt to show a way through this complexity.

What are we to do, however, when an area of public policy critical to the Jewish community does not fall under a valid legal rule? Many philanthropic programs do not strictly qualify as *tzedaka*. Can *halacha* provide guidance in the pursuit of policy, or must we rely on homiletical interpretations of Biblical and Prophetic morality in order to craft a Jewish response?

Stated in other terms, does a system in which the rationale for observance is the fact of its command preclude the incorporation of rationality in the law? If not, can the rationality of the law provide a basis for policy in areas in which the law does not strictly apply?

THE IMMANENT RATIONALITY OF THE LAW

Rambam argues in a very general sense that Torah law is purposive and therefore rational: “The Law as a whole aims at two things: the welfare of the soul and the welfare of the body.”¹⁵ The Torah may delineate reasons for only a few *mitzvot*; God’s perfection demands that the entirety of His Law must perforce be rational. The claim of rationality is general and, in the main, offers guidance at only the most general levels to which Chief Rabbi Sacks refers above. In fact, Rambam notes that there may be no apparent reason for the details of a *mitzva* even as its general reason may be identifiable. This is the category of rationality that we general describe under the broad term *ta’amei ha-mitzvot*.

It is not the rationality to which I refer as a potential model for policy. This model of rationality hardly differs from the homiletical

applications of Biblical and Prophetic morality. Like the latter, it is broad and general. The rationality which I intend has been described by Ernest J. Weinrib as immanent rationality.¹⁶ It is a postulate of the legal philosophy known as formalism, often viewed as the logical consequence of legal positivism. Again, our analysis is not intended to describe what law ought to be but to describe empirically the theoretical underpinnings of Jewish law as it is conceived by the masters of the *halacha*.

Formalism conceives judicial decision-making as a deductive process in which judges infer the correct answer implicit in legal materials received by them. The treatment of these materials is rational and constrained by accepted norms of analysis. Judicial decision-making is a conceptual practice that works from “institutionally defined materials of a given collective tradition.”¹⁷

Law therefore can be seen as “proffering the possibility of an ‘immanent moral rationality.’” If law is not identical with morality, it is not politics either. “The content of law is elaborated from within.” Its internal rationality has a moral dimension in that it claims to be normative.

At first glance, this argument may appear circular. We argue that law exhibits an immanent rationality because it is not politics. We then assert that the moral dimension of this immanent rationality allows for the creation of policy norms. This confusion is due to the imprecision of language. When we argue that law is not equivalent to politics, we assert that it is rational and driven by analysis of legal materials. Those materials display a moral dimension which, we argue, should be used to drive policy for a fundamental reason. Norms driven by law concretize deeply held moral structures built into the fabric of the legal tradition. Weinrib later applied the notion of an immanent moral rationality to tort law.¹⁸ To simplify this analysis, let us introduce the notion through a well-known case in American tort law analyzed by Ronald Dworkin.¹⁹ In *Escola v. Coca-Cola Bottling Company of Fresno*, the plaintiff was a waitress in a restaurant who was injured when a glass bottle exploded in her hand. In finding for the plaintiff, Judge Roger J. Traynor, considered one of the greatest judges in the history of the

American judiciary,²⁰ introduced the theory that manufacturers should be responsible for protection from defective products even when there is no evidence of negligence. Implicit in the decision was the notion of loss-spreading as a justification in tort law. Weinrib argues that the juridical relationship between plaintiff and defendant embedded in tort law is inconsistent with the notion of loss-spreading. Juridical relationships “bear the stamp of an immanently unifying form.”²¹ This account of law “provides an internal standpoint of intelligibility” and ensures coherence. It is not that Weinrib is opposed to loss-spreading on political or economic grounds. His objection is rather to the incorporation of an external standard into the law. This is often the case when Orthodox scholars read the legal opinions written by non-Orthodox rabbinic bodies. It is not that we object to the ethical and political sensitivities of the authors, but rather that we adjudge them to be extralegal and outside the bounds of halachic analysis.²²

THE JURIDICAL RELATIONSHIP IN *HILCHOT TZEDAKA*

Tzedaka is built on the bipolar relationship between donor and beneficiary. The presence of an obligation is dependent on the need of the beneficiary and the resources of the donor. Indeed, one argument offered for the absence of *birkat ha-mitzva* is this partnership between the donor and the beneficiary. Since the performance of the *mitzva* is dependent upon the willingness of the beneficiary to accept a donation, the *mitzva* may be said to depend on the cooperation of both parties in its fulfillment.²³

The Talmud learns from the dual-infinitive form of the verb in Deuteronomy 15:11 (“you shall surely open your hand”) that one is obligated to give *tzedaka* to the poor of another town.²⁴ Had the verse only used a single verb, one would have assumed only the poor of one’s own town. The use of the double form implies that one should open one’s hand whenever one encounters a needy person. The Maharsha explains the thesis that the normative case is the poor of one’s own town by noting that verse 7 includes the phrase “in one of your gates.” Whether we interpret the Talmudic exegesis as the response to an explicit reference to local poor or as a generalized observation that

local poor may be assumed to be the only candidates for *tzedaka*, the result is the same. The base case for *tzedaka* is the support of the local poor.

This is the force of the *Sifrei* that we analyzed above. The *drasha* envisions charitable responsibilities in widening social and geographic circles while respecting the local nature of the primary obligation through the notion of precedence. *Tzedaka* is essentially a relationship between two human beings, one needy and the other able to provide.

RECOMMENDATIONS HALACHIC AND OTHERWISE

Many Jews may be surprised to discover that they may not be fulfilling the *mitzva* of *tzedaka* even if they write regular checks to nonprofit institutions. *Tzedaka* is the extension of support to a poor Jew.²⁵ The Jew's obligation to provide *tzedaka* is determined by the level of need of the poor in his sphere of movement constrained by his ability to pay. Supporting charitable organizations around the world while one's own community is home to needy Jews leaves one with an unfulfilled obligation.

Given the juridical relationship between the donor and the beneficiary, there does not seem to be any reason to suspend the requirement of precedence by proximity. The power of this relationship is such that R. Yitzchak Abalia ruled in the eleventh century that Jews visiting a city qualify as local poor for the rules of precedence, an opinion rejected by the *Tur*.²⁶ In our own day, despite modern air travel and inexpensive international telecommunication, we still organize our social lives around family and community. Even as we act globally, the *mitzva* of *tzedaka* calls upon to think locally, seeking personal opportunities to support our local poor.²⁷

Religious communities must find a way to organize opportunities for their members to provide *tzedaka* to the local needy. In our affluent Orthodox communities, the needy are often invisible out of choice by both parties to the *tzedaka* relationship. A person suffering economic hardship may be embarrassed by his or her situation and hesitant to come forward, just as those who can help may themselves be embarrassed by a neighbor's discomfort. Community initiatives like Project Ezra in Teaneck, New Jersey, founded by the visionary Rabbi

Yossie Stern, are the embodiment of the highest form of *tzedaka*. Its model needs to be adopted around the world.

The religious community must find a way to reform the *m'shulach* process that encourages families to avoid answering the doorbell on Sunday afternoons. The model is an old one put in place before the world became a smaller place. Many Jews do not relate to the traditional model of an agent who shares in the funds he collects, precisely because it places an intermediary between the needy and the donor whose motive appears to be profit. While many communities have attempted to regulate this activity, there is still a considerable measure of *chillul ha-Shem* both in the way *m'shulachim* operate and the manner in which many Jews treat them.

Some readers may be surprised that we have not discussed at all the responsibility of the Jew toward non-Jewish society. We have been satisfied with the general observation that *tzedaka* flows from the immediate obligation of Jews toward their brothers both in the filial sense and in the national one. The issue of Jewish responsibility toward the world requires careful analysis but that is not the topic we have chosen.

Similarly, we should observe that many of the policy issues associated with globalization in the broader society are not directly applicable to Jews as Jews. There is typically not a Jewish community in third-world emerging economies. The Jews who do live there are usually agents of globalization rather than its victims. As such, the issue has little relevance for the allocation of *tzedaka* to poorer countries. The morality of the promotion of global capitalism by Jews, however, is an important topic not within our mandate.

In the policy realm, Jewish philanthropic organizations worried about attracting new generations to replenish their leadership ranks and add to their endowments in the decades ahead might consider the juridical relationship that underlies the *mitzva* of *tzedaka*. For many Jews, particularly younger ones for whom Jewish dislocation and poverty are matters of history and not experience, Jewish philanthropy has lost its sense of *mitzva*. Federations appear like corporations with their own executives and lavish headquarters. It may be that Jewish philanthropies need to operate centralized infrastructures in order to

be economically efficient. Writing a check to a conglomerate, however, does not evoke the same sense of fulfilling a *mitzva* that working in a soup kitchen or handing cash to an indigent street person does.

Let us close as we began with thoughts from the pen of Chief Rabbi Sacks. “[C]ivilizations survive,” he writes, “not by strength but by the care they show for the poor; not by power but by their concern for the powerless.”²⁸ This contemporary sage’s words evoke those of the giant who preceded him:

We are obligated to carefully observe the *mitzva* of *tzedaka* more than any other positive commandment, for *tzedaka* is emblematic of the righteous descendants of *Avraham Avinu*. . . . The throne of Israel is firmly established and the true religion survives only by virtue of the *mitzva* of *tzedaka*, and so will Israel only be redeemed through the merit of *tzedaka*.²⁹

NOTES

1. For the centrality of Rambam’s formulation, see *Beit Yosef* on the *Tur Yoreh Deah* 251.
2. *Sefer haChinuch* also locates the general *mitzva* of *tzedaka* in this verse (479). Note the *Chinuch*’s explicit reference to lending as a form of *tzedaka*. The next verse is a related but separate precept, i.e., not to avoid lending to the poor because of the impending *Shmittah* year.
3. Compare *Targum Yonatan*.
4. For example, see Yaakov Levinger, *Maimonides’ Techniques of Codification* [Hebrew] (Jerusalem: Magnes Press, 1950), chap. 4.
5. *The Guide of the Perplexed*, trans. Shlomo Pines, (Chicago: University of Chicago Press, 1963), p. 569.
6. In this context, one can unapologetically note that the laws of *tzedaka* apply only within the Jewish family, i.e., from Israelite to Israelite. The Torah is the constitution of a nation living together in sovereignty in its own land. As such, its principal focus is on the moral, spiritual, and legal imperatives internal to Jewish society. We will discuss below how the rabbis have crafted policy in order to actuate the principles implicit within Jewish law.
7. *Mishneh Torah*, Laws of Gifts to the Poor VII, 1.
8. See Avraham Feintuch, *Sefer Pikudei Yesharim* (Jerusalem: Maalot Press, 1992).
9. *Mishneh Torah*, Foundational Principles of Torah, I, 14.

10. *Chullin* 7:6.
11. *American Heritage Dictionary*.
12. Fol. 88a.
13. See, for example, "The Model of Rules I" in *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978), pp. 17–28. Dworkin argues with the weak-form version of legal positivism promoted by H. L. A. Hart in his canonical *The Concept of Law*. Both Dworkin and Hart propose models of law based on the law as it is and not as it ought to be. The characterization of the positivist nature of Jewish law is intended here as an empirical observation of its salient characteristics, i.e., Jewish law as it is conceptualized in its authoritative sources. The thrust of this analysis is phenomenological and not theoretical.
14. *Ibid.*
15. *Guide of the Perplexed* III, 27.
16. "Legal Formalism: On the Immanent Rationality of Law," *Yale Law Journal* (May 1988). As with legal positivism, formalism is most effectively described by one of its vocal critics. Roberto Unger, doyen of the critical legal studies movement, offers a definition of formalism which Weinrib adopts before launching its defense.
17. *The Critical Legal Studies Movement* (Cambridge, Harvard University Press: 1986), pp. 8–11.
18. *The Idea of Private Law* (Cambridge: Harvard University Press, 1995).
19. *Taking Rights Seriously*, pp. 278–90.
20. *California Law Review* 71 (July 1983): 1053.
21. Weinrib, "Legal Formalism," 974.
22. For another view, see Hanina Ben-Menahem's "Is There Always One Uniquely Correct Answer to a Legal Question in the Talmud?" *Jewish Law Annual* 6 (1987): 169–173. I have addressed Professor Ben-Menahem's arguments on other occasions, including in conversation with him when he presented an updated version as the Annual Ivan Meyer Lecture in Jewish Law at the Center for Jewish Law and Contemporary Civilization at the Benjamin N. Cardozo School of Law. I hope to publish a rejoinder in a future article.
23. *Teshuvot ha-Rashba* I:18.
24. *Bava Metzia* 31b.
25. The only nonprofit institutions that can ever take precedence over the poor are Torah institutions, and then only when the poor have their basic needs. Nothing takes precedence over a poor Jew without the necessities of food, shelter, and clothing. In this, too, the poor of one's city take precedence over the poor of any other place, including Eretz Yisrael (*Likutei Shu T Hatam Sofer* 29, cited in R. Yaakov Yeshaya Blau's *Tzedeka u'Mishpat*).
26. *Tur Yoreh Deah* 251.
27. In the hands of his commentators, Rambam's Eight Degrees of *Tzedaka* in Chapter 10 of the Laws Pertaining to Gifts to the Poor are a model of abstracting immanent

rationality from legal texts. Rather than an ethical codicil, these *halachot* represent principles embedded within a broad range of *sugyot* throughout the Talmud and *midrashei halacha*.

28. *The Dignity of Difference: How to Avoid the Clash of Civilizations* (London, Continuum Press: 2003), p. 195
29. Laws Pertaining to Distribution of Gifts to the Poor 10:1.

13

Ethics in Philanthropy: Should Synagogues and Mosdot Chinuch Accept Tainted Funds?

Kenneth Brander

The purpose of this paper is to evaluate, through the prism of halakhah, whether it is permissible for a synagogue or educational institution to accept funds that may have been secured by the donor in improper ways.¹ How does halakhah deal with the ethical challenge of accepting gifts that emanate from individuals involved in illegal or dubious practices? Is tainted money inappropriate to accept, or can a donation cleanse such funds? Do the motivations of the donor matter? Is there a difference if the gift is accepted with the source being anonymous, or is that irrelevant? When evaluating the acceptance of such a gift, does the holy work of the charitable institution outweigh

the intuitive inclination to return the donation? What are we to think of someone who earns money from tainted sources and then donates it to *tzedakah*? Does the “good” of the mitzvah outweigh the “bad” of the tainted source?

Nancy Wiener and Edward Elkin, in “Should a Synagogue Accept Tainted Gifts?” state the following:

Fundraising and charitable organizations today reluctantly admit that some donors may have less than ideal reputations. Nonetheless, *we were unable to find a single charitable or non profit organization* that had specific written guidelines regarding the donor. Fundraisers received no training, nor specific instructions regarding the restrictions or standards that they should apply to potential donors. . . . The larger non profit organizations that we contacted echoed these thoughts. (p. 321)

Let us evaluate sources in the Talmud and Rabbinic literature that may shed light on this issue.

HALAKHIC CONCERNS WITH ACCEPTING SUCH FUNDS

The Prohibition of *Etnan Zonah*

The Talmud states that objects received due to inappropriate activity are prohibited to be used in service to God in the *Beit haMikdash*. “And what is a harlot’s wage? If one says to a harlot: ‘Take this lamb for your wage,’ even if there are one hundred lambs, all of them are forbidden for the altar” (*Temurah* 29a).

This prohibition is concretized by the Rambam:

What is meant by a present given to a harlot [should not be employed in the service of the Temple]? When one tells a harlot, “This entity is given to you as your wages.” This applies to a gentile harlot, a maidservant, a Jewish woman who is forbidden to the man as an *ervah* [incestuous and adulterous sexual relations for which one is liable for *karet*] or by a negative commandment. If, however, a

woman is unmarried, the present given to her may be used [as a sacrifice] even if the man is a priest. Similarly, if a person's wife is a *niddah*, a present given to her may be used [as a sacrifice] even though she is an *ervah*. (*Mishneh Torah, Issure Mizbeakh* 4:8)

Based on comments in the Talmud (*ibid.*) the Rambam further states that the prohibition is limited to the specific object used to pay the prostitute, and if that object has been traded or changed in any way the prohibition is removed.

Only the actual physical substance of [the article given] is forbidden as “the present [of a harlot]” . . . Therefore, [these prohibitions] apply only to articles that are [in essence] fit to be sacrificed on the altar, e.g., a kosher animal, turtle doves, small doves, wine, oil, and fine flour. If he gave her money and she bought a sacrifice with it, it is acceptable. If he gave her grain and she has it made into fine flour; [he gave her] olives and she had oil made from them; [he gave her] grapes, and she had wine made from them, they are acceptable, because their form has changed. (*Mishneh Torah, Issure Mizbeakh* 4:14–15)

Since the synagogue receives its holiness from the Temple and is considered a *mikdash me'at*, R. Moshe Isserles makes the following comment:

It is forbidden to use the relations fee of a prostitute . . . for a *mitzvah* matter [any article in the synagogue], such as the building of a synagogue or the writing of a Torah Scroll. It is only forbidden to use the relations fee itself for a *mitzvah* matter, but if the prostitute was given money as her relations fee, it is permitted to purchase the requirements for a *mitzvah* matter with that money.” (*Shulchan Arukh, Rema, Orach Chayyim* 153:21)

It appears from these sources that the specific object received from inappropriate activity cannot be used in our holy institutions. However, should that object or money be used to purchase other objects needed in the institution, it might be permissible.

Mitzvah ha'baah min ha'Aveirah

The Mishna in *Sukkah* 3:1 states the following, “A stolen *lulav* is invalid.” Rabbi Obadiah ben Abraham (Bertinoro) explains the reason it is forbidden to use the stolen *lulav*. He states that this is due not only to the specific verse regarding the four species, that they must be your own (Leviticus 23:40), but because of the ban of performing a good deed through a sinful act, *Mitzvah ha'baah min ha'Aveirah*. This highlights the prohibition of using money or any physical object that has been acquired wrongfully in service to God. Thus, the *lulav* remains forbidden even after the owner of the stolen *lulav* has *ye'ush* (despair), giving up hope of finding the *lulav*. While this allows the title on the *lulav* to be acquired by the robber, removing the concern of the *lulav* not being “yours”, it does not obviate the issue of the *lulav* being wrongfully acquired, forbidding a mitzvah to be fulfilled with this tainted object.

Pleasure from a Stolen Object, and Tainted Funds

Maimonides states the following:

It is forbidden to buy from a robber property obtained by robbery, and it is also forbidden to assist him in making alterations to enable him to acquire title to it. For if one does this or anything similar to it, he encourages transgressors and himself transgresses the commandment “Thou shalt not put a stumbling block in front of the blind” (Leviticus 19:14). It is forbidden to derive any benefit from property obtained by robbery even after hope of recovery has been abandoned . . . (*Mishneh Torah, Gezeilah v'Avedah* 5:1–2)

This idea is further developed in the *Sefer ha-Chinnukh*:

Mitzvah 429: That we should not attach anything from an idolatrously worshipped object to our possessions or [bring it] into our domain in order to benefit from it; about this it is stated “And you shall not bring an abomination into your house” (Deuteronomy 7:26). . . Included also in this prohibition is the rule that a man should not attach to the possessions which God has graciously given him in righteousness, other possessions acquired by robbery, forced purchase, interest charges, or by any ugly, repugnant business—for all this is included under things that serve in idolatry, which the evil inclination of a man’s heart covets, and he thus brings them into his house. (pp. 307–309)

By equating idolatrous practices to acts of thievery and inappropriate securing of funds, additional rabbinic literature become relevant to our discussion.

The Rambam writes:

A Jew who is worshipping false deities . . . we do not accept from any sacrifices from him at all. Even a burnt offering which is accepted from a gentile, is not accepted from this apostate. (*Ma’aseh ha-Karbanot* 3:4)

This is also adopted by the Rema, R. Moshe Isserles:

A Jew worships false deities who donates wax or a lamp to the synagogue, it is forbidden to kindle it [for use in the synagogue]. (*Shulchan Arukh, Orach Chayyim* 154:11)

As mentioned by the *Sefer ha-Chinnukh*, the prohibition of accepting material from one who worships false deities should also apply to one who is involved with tainted funds. This opinion of the Rema is not agreed to by all, and R. Shabbetai b. Meir Ha-Kohen, in his commentary on *Yoreh De’ah* (*Sha-Kh* 254:2), quotes R. Moses b. Joseph Trani, the

MaBit, permitting a synagogue to receive gifts from a Jew practicing idol worship. However the *Chaye Adam*, incorporating the ideas found in the context of *etnan zonah*, seems to amend the permissibility by stating:

A Jew who worships false deities . . . who donates a lamp or wax for the synagogue, it is forbidden to kindle, for it is comparable to offering a sacrifice [in the Temple]. However, if the Jew donated funds to write a Torah [or funds for any other object in the synagogue which is then purchased from the money of such a gift], it is permitted. (*Chaye Adam* 17:52).

In summary we have seen from the above sources that there is a distinction made between the actual object and the person. While halakhah rejects stolen objects, it seems that it would be permitted to donate an object not directly associated with inappropriate activity. Halakhah is looking for a means to allow the individual to participate without embracing the object that has been obtained through improper activities.

Wrongful Flattery

Despite the tension seen in the preceding sources, Jewish law is also concerned about recognizing a person who has been involved in illegal/dubious activities. In the fifteenth century, the anonymous author of the *Orchot Tzaddikim*, one of the most important works of Jewish ethical literature, wrote about the abuses of flattery and indicates the occasions in which flattering is forbidden.

The first category consists of a flatterer who recognizes his fellow man as wicked and deceitful . . . and who nevertheless comes and flatters him—not [only] flattering and praising him, but smoothing over his tongue for him, saying: “You committed no wrong in what you did.” In this there are several transgressions and many punishments. . . . The second category consists of he who flatters the

evildoer before others, whether or not in his presence, even though he does not justify his evil deeds, but simply says that he is a good man. . . . The sixth category consists of one who is in a position to protest but does not do so, and who does not take to heart the deeds of the sinners. This is akin to flattery, for the sinners think: Since they do not protest and they do not rebuke us, all our deeds must be good. . . . Therefore, one who is a *parnas* [community leader], or a judge, or a disburser of charity must not be a flatterer. For if the *parnas* flatters someone instead of reproving him to do good and turn away from evil, the entire community will be spoiled, for each one will say: "The *parnas* [community leader] flattered that man," and they will not accept his reproof. (pp. 408–410, 419, 429)

This concern mentioned in the fifteenth century is also articulated in modern times by Rabbi Walter Wurzburger:

Religious leaders and institutions can hardly avoid sharing a measure of responsibility and blame for the total disdain for moral standards which is so rampant in contemporary society. We may wax eloquent in extolling moral virtues, but a variety of ethnic and financial pressures have combined to bring about a state of affairs, where ethical considerations are shoved into the background. When it comes to the promotion of Israel, religious institutions, or other philanthropic causes, the promoters are frequently interested only in the "bottom line" and are totally indifferent to matters of character or ethical propriety . . . Have we forgotten the biblical precept that "he who praises the *Botze'a* (exploiter) commits blasphemy against God"? Religious leaders must face up to the fact that moral values cannot be inculcated by precept. It is only by providing inspiring models in a day-to-day behavior that ethical teachings can be effectively communicated. The "body language" conveyed by a congregation has

far greater impact than the formal abstract teaching it disseminates. (*Sh'ma*)

Cleansing Tainted Money

Yet at the same time that all these challenges are brought to the fore, the issue that needs exploration is whether there is any way to cleanse money. If the donation appears to be a sincere act of personal redemption may/should one accept it? Does it make a difference what recognition the donor wants in return, such as whether the gift will be anonymous, or if there is an expectation that the building/program will be named after the donor? Does it make a difference if the donor will be promoting the gift for public relations purposes to show rehabilitation or if the donor has no interest in any public acknowledgement? Is there a way to allow the donor to reenter the community without compromising the integrity of the institution?

The Talmud tells us the following law: "If someone stole, but does not know from whom he stole [and he now wishes to repent], he should use [the stolen money] for public needs" (*Beizah* 29a).

The *Shulchan Arukh* elaborates on this idea in the following statement:

Shepherds, charity collectors, and tax collectors [who have stolen], their repentance is very difficult, for they have stolen from the public and do not know to whom [specifically] to return the funds. Therefore [they should donate the stolen funds] to public works projects. (*Shulchan Arukh, Choshen Mishpat* 366:2)

In a responsum, Rabbi Mordechai Yaakov Breisch (*Chelkat Yaakov, Choshen Mishpat*, no. 16) suggests that an individual who was holding money for a friend who died in the Holocaust and was unable to locate any of the deceased's heirs should complete his custodial responsibility by donating the funds to a communal charity.

Rabbi Moshe Feinstein concurs with this approach in a lengthy responsum in his *Iggerot Moshe (Choshen Mishpat* I:88). He states that if one cannot find the person robbed, and wishes to repent, the stolen

monies can be used for community projects, including the building of a *mikveh* or any other institution that serves the entire community. However, Rabbi Feinstein makes it clear that if an individual is returning stolen money through a community charity, no public recognition can be received for such a “gift.” The funds never belonged to the donor and therefore cannot be used to redeem personal pledges and must be donated in an anonymous fashion, as a form of cleansing for previous misconduct.

It seems appropriate to conclude that while such donations may be accepted, they should be received with the understanding by the donor that fanfare and public accolades will not be part of the acceptance of the gift. Such protocols honor all the ideas that we have seen heretofore. It reflects upon the nature of the business practices surrounding the gift, requiring one to be assured that the funds were not stolen (*mitzvah ha’ba’ah min ha’aveirah*). It allows for repentance and contrition from inappropriate activities and empowers the donor, while spiritually protecting the integrity of the charitable institution and its position in the community.

OTHER FORMS OF TAINTED GIFTS

The ethical concerns about funding sources find a voice in several other donor situations. Below are a few examples.

Stealing from the Government

Rabbi Feinstein writes in a very direct fashion that it is forbidden for any Torah institution to steal from the government.

We are surely warned from God, who commanded us in His holy Torah, to be warned from taking more funds than the rules and regulations of the government stipulate; even if officers of the government are willing to contrive ways to [help the institution] receive additional funds inconsistent with the rules and regulations that have been established by the governmental funding sources, [such activity is strictly forbidden]. Furthermore, it is also forbidden to deal falsely regarding the number

of students and other acts [of trickery to increase government funding]. Not only is this a prohibition of stealing, there are other additional prohibitions, including lying, *genevat da'at*, the desecration of the name of God, as well as an embarrassment to Torah and its students. There is no permission in this world to permit such activities. For just as God forbids the stealing of funds to bring a [burnt] sacrifice, so does God hate the support of Torah and its students through stealing. (*Iggerot Moshe, Choshen Mishpat* vol. 2:29)

Sadly, all too often these protocols of Rabbi Feinstein are trampled upon, causing great embarrassment to our community.

Familial Issues:

Receiving Funds without the Express Approval of the Donor

Rabbi Yosef Caro writes (*Yoreh De'ah* 248:4) that the community charity collector may not accept large gifts from a woman. This is based on the fact that if a woman does not have access to her own funds and is supported by the monies earned by her husband, she has no right to donate funds without his express permission. While a small donation is not a concern to the husband, a large donation without his permission would be considered a form of stealing, with the result that such funds would be considered tainted.

Rabbi Ezekiel Landau makes the following comments in his responsum:

A woman knows that her husband has great wealth, and is stingy in regard to donating charity and does not give according to his ability; and she supervises the entire home, including the finances, and disburses charity according to their wealth. However, she knows that her husband is strict [would be upset] regarding giving so much money. Is it permitted to accept such a donation? . . . It is forbidden to take such funds, *chas v'shalom*, for it

is considered stealing [to accept such funds]. Even though the Jewish court may force him to give charity consistent with his wealth [for the welfare of the community]. . . but without his knowledge [such a donation] is stealing. (*Noda bi-Yehudah*, vol. 2, *Yoreh De'ah* 158)

This matter is also discussed by Rabbi Moshe Shternbukh:

Case: A woman, whose husband is very rich, invites one seeking charity to come to her home when her husband is not present so that he can receive a substantial donation.

The issue here is that it seems that the husband does not agree to give [such donations] and there is a concern of stealing—for she is giving [the gift] without his permission. . . . Even though she claims that the money is hers—for she can use as much money as she wishes [of her husband's] for her needs. (Her husband puts no limit on her personal spending.) Just that her husband is not willing to give to charity—and she is willing to skimp on her physical pleasures and give charity in the merit of her soul. The husband does not view this as a benefit to his wife and therefore will not agree [to charitable gifts]. However this is really her money—she can spend it on whatever she wishes—except for charity and she claims that she is giving from her money and that it is permissible for the donee to accept the gift, for it is like giving a “piece of her dough.” [In this situation] it is better not to take from the woman without the permission of the husband . . . (*Teshuvot ve'Hanhagot* 573)

Rabbi Jehiel Michal Epstein does not accept the above approach. In his *Arukh ha-Shulchan* he writes the following:

It seems to me that since it is permitted [for the Jewish court] to force a [person] to give charity [based on his/

her ability], and now in our times it is known that there is no power to force (for we no longer have an active Jewish court system). Therefore, if the husband is rich, but is a miser and the wife wishes to give charity without his knowledge—it would seem that [while] she individually cannot judge in this matter [to decide how much charity her husband should be donating]; if the rabbi of the community tells her that based on his [financial] worth if we had authoritative hands we would force him to give the following sum of money to charity—she is permitted to give such an amount [without his knowledge]. For why should we diminish [the amount of charity the community receives] because we do not have the power to force this man? (*Yoreh De'ah* 248:13)

Permissibility to Use Interest for Nonprofit Institutions

Until now we have focused on necessary donor scruples in order for an organization to accept funds.² The sources below will focus on the organization itself. There seems to be some halakhic leniency available to nonprofit institutions to grow their resources which are not available to private Jews observing Jewish law.

Despite the biblical prohibition on loaning funds to fellow Jews with interest, there seems to be a tradition in the Middle Ages in which charity organizations (i.e., synagogues and schools) lent part of their corpus with interest to Jews as a means of raising funds. The logic is predicated on the fact that the Biblical prohibition is “but to your brother, do not pay interest” (Deuteronomy 23:20–21), and in this case the lender is not a specific individual but a corporation. This is why the Talmud explains (*Bava Metzia* 57b) that the concerns of interest do not apply to the funds of the Temple, for it is not in the category of “your brother.” Therefore, the practice was to allow even Biblical forms of prohibitive interest to be charged, such as lending money with a predetermined interest rate on the loan. Rabbinic interest was thought to be permitted based on the above logic as well as on the rabbinic dispensation found in the Talmud (*Bava Metzia* 70a). This source gives the custodians of an orphan’s estate permission to enter business

partnerships with other Jews where the partner would guarantee the loan principal (never a loss to the orphans), and if profit was made on the venture a percentage of the profit was returned to the lender, the orphans.

R. Meir b. Baruch of Rothenburg is very concerned about this practice and makes the following comments:

Regarding the question that you the leader and my acquaintance Rabbi Baruch haKohen have asked me on the lending of money with *ribit ktzutzah* [biblical interest], I say that this is an attempt to perform a positive act (*mitzvah*) through a sin (*aveirah*). The intention is to do a *mitzvah* [growing the corpus of the nonprofit], and it causes many sinful acts for the lender, borrower, loan guarantors, and loan witnesses. . . . For the money of charity for use to support the poor is called that “of your friends” and that of “your brothers,” and therefore it is in the category [of the Biblical violation found in the verse]. However I do know that as our sins have grown, [Jews think such activity is permitted] and throughout the kingdom there has been the license to loan money with biblical interest; and the *gabaim* [custodians of community charity] are sinning . . . and I do not have the power to stop them. (*Teshuvot MaHaRaM m’ Rothenburg*, vol. 4:73)³

The Rosh, R. Asher b. Jehiel, a student of R. Meir b. Baruch of Rothenburg comes to the same conclusion.

The general rule [for synagogues and other nonprofits] in loaning funds is the following: nonprofits in our day may not lend money and receive biblical interest; however rabbinic interest is permitted. [For our nonprofits] are no different than the funds of orphans that the rabbis permitted to be loaned [with rabbinic interest]; therefore

all forms of rabbinic interest are permitted. (*Sheilot u'Teshuvot haRosh*, klal 13:17)

R Solomon Aderet, the RaSHBa, permits the practice of loaning with interest even of a biblical nature. He suggests (*Sheilot u'Teshuvot haRaSHBa* vol. 1:669 and *Sheilot u'Teshuvot haRaSHBa*, found in the collection of responsa attributed to Nachmanides, no. 222) that since the charitable organization is not considered an individual (“your brother”), the biblical restrictions are not applicable and therefore loans with interest can be made by the charity. However, in his conclusion he urges that while such practices are permissible, charitable organizations should not engage in them.

Rabbi Joseph Caro and R. Moshe Isserles codify the following law on this issue:

All forms of rabbinic interest are permitted with the funds of orphans, the funds of the poor, the funds of a school, or the funds of a synagogue; *Hagah* [comments of R. Isserles] and we are lenient [like R. Caro] in this matter even though there are some that suggest [that rabbinic interest] can only happen in the context of a *beit din*. . . . There are places which permit the custodian of orphan funds to engage in loan practices [to grow the corpus for the orphans] with biblical forms of interest. This is a mistaken custom and must not be followed. (*Shulchan Arukh, Yoreh De'ah* 160:18)

In a society in which wealth and status often define the stature of a person, it is important that we do not allow our charitable institutions to reify these values. The norms and mores of our ethical code must be honored even if doing so diminishes our wealth, and therefore the good we may accomplish. As Rabbi Wurzbberger states: “Religious institutions must be extremely careful lest by their excessive pragmatism—in the belief that the end justifies any means—they create the impression

that moral propriety is totally irrelevant to one's standing in a "holy community" (*Sh'ma*).

Let us remember that after 120 years the first question we are asked by the heavenly tribunal is: "Did you conduct your business transactions faithfully?" (*Shabbat* 31a). Let us pray that in the effort to empower our institutions we do not compromise their integrity or our own immortality.

NOTES

1. This article is dedicated in loving memory to my in-laws Izak and Miriam Tambor, who truly celebrated the ideals of ethics and *derech erez* in all their business and personal practices. Anyone who knew them always begin by describing their scrupulous adherence to ethics. וכתר שם טוב עולה על גביהן They have been true role models for their children and grandchildren.
2. I am indebted to Rabbi Dr. Ephraim Kanarfogel, who shared his insights on this issue with me. They are also discussed in his book *Jewish Education and Society in the High Middle Ages*.
3. Interestingly, the teacher of R. Meir b. Baruch of Rothenburg, the Or Zaru'a, comments (vol. 1, Laws of Charity: 30) that he initially permitted charities to lend money with interest and then subsequently forbade it.

WORKS CITED

- Aderet, Solomon. *Sheilot u'Teshuvot haRaSHBa* (Bnei Brak, 1958).
- . *Sheilot u'Teshuvot haRaSHBa haMyuchasot l'Ramban* (Bnei Brak, 1958).
- Asher b. Jehiel. *Sheilot u'Teshuvot haRosh*. (New York: Grossman, 1954).
- Breisch, Mordechai Yaakov. *Chelkat Yaakov* (Tel Aviv: Bene ha-Mehaber, 1992).
- Danzig, Abraham. *Chaye Adam* (Jerusalem: Levine-Epstein, 1969).
- Epstein, Jehiel Michal. *Arukh ha-Shulchan* (Tel Aviv: Yotse Sifre Kodesh, 1975).
- Feinstein, Moshe. *Iggerot Moshe Choshen Mishpat*, vol. 1 (Brooklyn, N.Y.: Moriah Offset Co., 1963).
- . *Iggerot Moshe Choshen Mishpat*, vol. 2 (Brooklyn, N.Y.: Moriah Offset Co., 1985).

- Joseph ha-Levi, Aaron (ascribed author). *Sefer ha-Chinnukh*, trans. and ed. Charles Wengrow, *Sefer haHinnuch—The Book of [Mitzvah] Education* (Jerusalem: Feldheim, 1991).
- Kanarfogel, Ephraim. *Jewish Education and Society in the High Middle Ages* (Detroit: Wayne State University Press, 1992).
- Landau, Ezekiel. *Noda bi-Yehudah* (New York: Friedman Press, 1957).
- Maimonides. *Mishneh Torah, Hilkhoh Gezeleh v'Avedah*, trans. Hyman Klein, *The Code of Maimonides, Book 11: Book of Torts* [Yale Judaica Series] (New Haven: Yale University, 1954).
- . *Mishneh Torah, Hilkhoh Issure Mizbeakh*, trans. E. Touger, *Mishneh Torah: Hilchot Avodah* (New York: Moznaim, 1998).
- . *Mishneh Torah, Hilkhoh Ma'aseh ha-Karbanot*, trans. E. Touger, *Mishneh Torah: Hilchot Avodah*, trans. E. Touger (New York: Moznaim, 1998).
- Meir b. Baruch of Rothenburg. *Teshuvot MaHaRaM m'Rothenburg* (Tel Aviv, 1969).
- Orchot Tzaddikim*. Trans. and ed. Gavriel Zaloshinsky and Shraga Silverstein as *The Ways of The Tzaddikim* (Jerusalem: Feldheim, 1995).
- Shternbukh, Moshe. *Teshuvot v'Hanhagot* (Jerusalem: Shternbukh, 1992).
- Wiener, Nancy, and Edward Elkin. "Should a Synagogue Accept Tainted Gifts?" *Reform Jewish Ethics and the Halakhah: An Experiment in Decision Making*, ed. Eugene B. Borowitz (West Orange, N.J.: Behrman House, 1994), pp. 305–337.
- Wurzburger, Walter. ". . . For the Sin Which We Have Committed," *Sh'ma: A Journal of Jewish Responsibility* 16/318 (October 3, 1995): 139–140.

Part 4

Contemporary Philanthropy

14

New Thinking for a Changing Philanthropic Climate

Mark Charendoff and Yossi Prager

Both the scale and shape of Jewish philanthropy have changed in recent years, suggesting the need for a reassessment of Jewish philanthropic public policy.¹ We are living in a time of unparalleled wealth held in Jewish (including Orthodox) hands and a willingness to spend at least part of that wealth for the betterment of humankind. This dramatic increase in philanthropic giving has been accompanied by shifts in charitable focus and the nature of the relationship between philanthropists and the organizations they support.

How much have things changed? Ten years ago there were approximately 2,500 Jewish family foundations in the United States. Today there are over 9,000, with a far greater number of donor-advised funds established by Jews at local Jewish Federations or at charitable

arms of financial institutions. Jewish foundations alone account for billions of dollars in annual charitable distributions, far outstripping the annual campaigns of local Federations. The pace of Jewish giving is likely to increase, because the American Jewish community is about to see a transfer of wealth of staggering proportions. According to some estimates, in the United States alone the present generation of Jews will leave to the next one between \$3 trillion and \$10 trillion, which will translate into charitable giving by Jews amounting to somewhere between \$485 billion and \$4 trillion in combined lifetime giving and charitable bequests.² There are no specific data available on philanthropic giving within the Orthodox community—perhaps this gathering of the Orthodox Forum will begin to fill the gaps—but the increased affluence is evident in the homes and lifestyles within our community, while the increased charitable giving can be seen in the hundreds of new yeshivot, kollelim, and other nonprofit institutions that have been founded in the past decade. What follows is a discussion of Jewish philanthropy generally, incorporating our thoughts about Orthodox philanthropy in particular.

For the most part, our experience and the information to which we have access involves donors giving substantial amounts each year, from the minimum of \$25,000 per year needed for membership in the Jewish Funders Network to the so-called mega-donors who give many millions annually. Only a small subset of Jewish donors are included in this pool, and yet, based on data relating to American philanthropy generally, they likely account for a majority of the dollars contributed by Jews. According to a report by the Bank of America and the Center on Philanthropy at Indiana University, those who earn \$200,000 or more a year and have a net worth of at least \$1 million represent less than 4 percent of American households but account for more than 60 percent of giving.³ More and more wealth is being concentrated in fewer and fewer hands. Twenty-one Americans each gave at least \$100 million to charities in 2006. The top sixty donors gave a median \$60 million each, compared with the \$33 million median given the previous year. America's 71,000 grant-making foundations disbursed \$41 billion, a 12 percent increase over 2005, and an inflation-adjusted 228 percent increase over what was disbursed in 1996.

Based on the membership of the Jewish Funders Network, we are also seeing a trend toward younger donors. Previously, philanthropy often waited until after the donors had conquered the business world and began to turn their sights to loftier matters. Today's foundations are being created by people who are younger, at the peak of their earnings and at the height of their business careers. They bring a different level of energy and a different philanthropic approach along with their financial resources. The new philanthropic approach is sometimes referred to as "venture philanthropy" and is characterized by (a) an interest in reviewing relevant research and performing other due diligence before making a grant, (b) a willingness to act quickly and nimbly, either alone or in partnership with others who share their social objectives, (c) a desire to be personally involved in the development and implementation of the programs they choose to fund, (d) a commitment to evaluation, and (e) a dispassionate, results-oriented approach to making funding decisions.⁴

Jewish philanthropy is also being heavily influenced by other changes in American Jewry. Outside of Orthodoxy, as Jews have become more assimilated into American society, they have become more "American" in their giving. This translates into a greater percentage of their giving contributed to universal causes, such as universities, museums, and hospitals, and a smaller percentage to particularistic Jewish causes, such as Federations, Jewish schools, and Israel. Various researchers have tried to estimate the ratio between universal and particularistic giving among Jews. In 1998, Professor Jack Wertheimer studied the 232 foundations in America that self-identified as giving at least \$200,000 to Jewish causes and found that even these foundations gave nearly two-thirds of their funding, \$487 million, to nonsectarian causes.⁵ A 2003 report by Drs. Gary Tobin, Jeffrey Solomon, and Alexander Carp examined the 865 philanthropic gifts of \$10 million or more made by American donors between 1995 and 2000.⁶ While nearly 25 percent (188 gifts totaling \$5.3 billion) of the mega-grants were made by Jews, fewer than 10 percent of the gifts by Jewish philanthropists were directed to Jewish or Israeli organizations.

It seems unlikely that such a dramatic shift in priorities can be found within the Orthodox community, although as Orthodox Jews

become more and more involved in the broader culture, university life, and the business world, there will probably be increased competition for their philanthropic dollars beyond the Jewish world.

Aside from the increased wealth, the concentration of giving in fewer hands, the shift to venture philanthropy, and the shrinking share of the Jewish philanthropic pie received by Jewish institutions, there has been an additional change in the nature of Jewish philanthropy that has had a dramatic impact: the shift in the philanthropic culture from communitarianism to individualism. Philanthropy used to be an organized communal affair, where one gave to a central address that determined the extent of the needs and allocated the money as equitably as possible. For the larger Jewish community, the central address was the Federation; within the Orthodox community, it was a small group of rabbis and *gvirim* (high-end donors).

While that still happens to some degree, the lion's share of Jewish philanthropic dollars no longer flows through a central address. As was noted above, the money allocated by independent funders dwarfs the giving of the entire Federation system.⁷ But it is not just the raw dollars that are different. The concept of *ba'al hame'ah hu ba'al hade'ah* (loosely, "the rich man sets the agenda") has been realized to a great degree, as funders give for specific purposes and limited periods of time, at their own discretion. While in the Federation system all but a small percentage of the annual giving is traditionally preallocated based on formula, history, and communal agreements, the philanthropists' freedom today gives them extraordinary influence. Their freedom and influence are growing due to the continued growth of the Jewish nonprofit sector—with new organizations being founded and few closing. The result is far greater competition for the philanthropic dollars of the richest American Jews, including among the Orthodox.⁸

Among many in the nonprofit Jewish community, the response to the new Jewish philanthropic culture has been muted, at least in public. Since few can afford to bite the hands of those who may someday feed them, nonprofit leaders publicly extol the munificence of their philanthropists. In their privacy of the homes and at their Shabbat tables, their words reflect far greater resentment. One purpose

of this paper is to open a more objective exploration of the benefits and costs of the new philanthropic environment.

Beginning with the positive, foundations and independent funders bring to the community speed, creativity, risk-taking, and accountability. Nonprofit organizations characterized by bureaucracy and consensus decision-making often frustrate creative entrepreneurship and mute the voices of innovative young people. The high value placed on avoiding controversy can itself strangle creative thinking and open debate. By contrast, the decision-making group at a philanthropy is likely to be far smaller, and with the financial resources available, creative ideas can be harvested from all segments of the community and tested quickly.

Working nimbly and creatively increases the risk as well as the potential reward. For this reason, philanthropic achievement is possible only because foundations and philanthropists can afford to fail. As the organized community becomes ever more risk-averse, foundations can provide the risk capital that creative not-for-profits and nonprofit entrepreneurs so desperately need.

Another characteristic of both American and Jewish philanthropy today is a results orientation. In the past, charitable decisions were often made based on the perceived value of the activities of the nonprofits seeking funding. In today's venture philanthropy climate, philanthropists often enter the market with articulated aims and goals, and they measure success based on whether these goals are met. This shifts the grantor/grantee discussion from the activities undertaken to the results achieved and can challenge organizations to think more boldly and experiment with new approaches. If conducted wisely, an outcomes orientation should have salutary consequences for the ultimate beneficiaries of nonprofit work.

CONCERNS RAISED BY THE NEW PHILANTHROPIC CLIMATE

Of course, while financial resources can purchase a great deal, including the best expert consultants, we have known since the days of King Solomon that money does not guarantee wisdom. In some cases, even wise business people fail to perceive the differences between the business world, where mistakes will ultimately be verifiably checked by the market, and the nonprofit world, which has no such corrective.⁹ The consequence of a monumental error in philanthropic giving is usually a new chorus of plaudits attesting to the genius of the philanthropist. This can lead to hundreds of millions of dollars of waste, inefficiency, and appeals to vanity. In a world driven by philanthropists rather than communal leaders, all ideas can get further—both the spectacular and the awful. Equally troubling, even successes sometimes last only as long as the interest of the donor (call it “hit-and-run” funding). While philanthropists are able to impose a results orientation on the nonprofits they support, there is no parallel evaluation of the philanthropists.

Another concern arising from the change in philanthropic culture is that today’s donor is more likely to be an outsider. In the past, the wealthy board member understood the needs of the recipient organization, believed in its mission, trusted its staff. While these donors enjoyed great influence in the direction of the organization, they did so in partnership with the organization’s professional and other lay leaders. Today’s funder may wield greater influence, but at times with a more shallow understanding of the organization’s structure, operations, or mission.

Another troubling trend stems from the venture philanthropy approach that, in its positive manifestation, constructively prods nonprofits to show measurable achievements in serving their beneficiaries. The flip side is that donors today are less likely to give to the general operating support of organizations in favor of project-related funding that will provide the measurable results they seek. In the worst case, these project grants can actually generate a net loss to organizations that pursue them with great energy and without adequate repayment of overhead or staff support. Even where funders

are prepared to properly cover overhead costs, the temptation of project-specific funding can distract organizations from their core mission and services.

In short, philanthropy practiced from within a nonprofit, attuned to the needs of its ultimate beneficiaries and encouraging new approaches, can be a great benefit. At times, the donors' experience within the existing nonprofits may cause them to believe in the need to found new organizations, potentially even in competition with existing ones. However, when philanthropists function from outside the system—especially given the lack of any mechanism for holding funders to account—philanthropic decision-making may be no better (and at times can be worse) than the risk-averse, consensus approach that is common in nonprofit organizations. In the worst case, philanthropists violate the first rule of the philanthropic credo (adapted from the medical credo): “At the very least, do no harm.”

For better and worse, it appears that the current philanthropic environment, which characterizes broader American philanthropy as well as Jewish philanthropy, is unlikely to change in the short term. This raises a critical question: How can we encourage philanthropists to become more engaged in the community's organizations, better understand its needs and make wiser philanthropic decisions?

There are an array of options that can be considered and advocated for by our communal leadership, ranging from personal practice to public policy. On the personal-practice side, there should be a commitment to philanthropic *chavrutot* (peers)—funders discussing their successes and failures. The consequences of our philanthropic decisions are too weighty to allow them to be made without our thinking being challenged by a peer, without presumptions being contested. Tens of millions of dollars of waste could be avoided if donors allowed themselves to be questioned by a trusted friend with the temerity to call the emperor naked when he in fact is wearing no clothes.

Second, donors need a higher level of engagement with the not-for-profits they support, with a direct correlation between the changes the philanthropists seek to generate and their level of knowledge of and engagement with the nonprofits. Achieving this will require a

change in the attitudes and behaviors of both donors and nonprofits. Busy donors rarely recognize the need for deeper engagement in order to practice effective philanthropy, while nonprofit leaders often undervalue the long-term benefit of involving donors in a meaningful way. Samuel J. Silberman *z"l*, a Jewish philanthropist and former New York Federation president, used to say, "In foundation work, when people say that they want your advice, it means that they want your money. If you are willing to give them money, then sometimes they will listen to your advice." This quip, perhaps a bit too cynical, captures the perception of most donors that nonprofit leaders chase the money rather than nurture involvement.

Engaging philanthropists more deeply will also require an end to certain practices that characterize a minority of Jewish nonprofits: nepotism, avoidance of financial transparency through exploitation of the IRS exemption on filing public tax returns for certain religious organizations, and a lack of professionalism in management. Converting an outsider to an insider requires an environment in which a philanthropist is willing to stake his or her own reputation on that of the nonprofit organization.

On the public policy side, the Jewish community in general, and the Orthodox community in particular, needs a renewed commitment to learning and teaching the ethics of philanthropic giving—what we can expect of and demand from a donor; what a donor's responsibilities are to the community and the recipient organization; what kind of accountability philanthropists can expect from the recipient agencies. Relatedly, the non-Jewish and non-Orthodox Jewish worlds are investing in teaching adolescents the hows and whys of philanthropic giving. We dare not be behind on this trend.

While today's philanthropic world presents a greater degree of risk to the Jewish community, so too does it present the potential of great reward. The wealth in our community allows us to expand our visions in ways inconceivable a generation ago. It is possible now to talk about philanthropic projects with budgets of over \$100 million annually. We have the license to dream ever bigger to meet the needs of our community. The resources are there—and today's philanthropists are hungry for inspiring ideas offered by professionals or partners they

can trust. But success will require new thinking both by philanthropists and by nonprofits. As the management consultant Peter Drucker put it, "The greatest danger in times of turbulence is not the turbulence; it is to act with yesterday's logic."

NOTES

1. The authors take their inability to predict the Great Recession that hit a few months after this paper was written as evidence that they are neither fools nor children, whom the Talmud views as the masters of prophecy since the destruction of the Temple (see Bava Batra 12b). While this article consequently does not address the challenges of the day emerging from the economic crisis, and has a rosy tone not appropriate for the current environment, its fundamental point and recommendations remain important. Some recommendations, such as the need for nonprofits to avoid nepotism and increase transparency, are especially critical in the current period.
2. Steven Windmueller, "The Second American Jewish Revolution," in *Journal of Jewish Communal Service* 82, no. 3 (2007), p. 253.
3. Bank of America Study of High Net-Worth Philanthropy: Initial Report (www.glfreemanllc.com/BAC_Study.pdf), p. 3.
4. For a discussion of some of the trends in venture philanthropy, see Thomas J. Billitteri, "Venturing a Bet on Giving," *Chronicle of Philanthropy* (June 1, 2000), and *Venture Philanthropy 2002* (Community Wealth Ventures Inc.), available at www.vppartners.org.
5. This study has not been published.
6. Gary A. Tobin, Jeffrey R. Solomon, and Alexander Carp, *Mega-Gifts in American Philanthropy* (Institute for Jewish and Community Research, 2003).
7. Debra Nussbaum Cohen, "Jewish Giving's New Era: Established Groups Facing a Growing Competition for Funds," in *Chronicle of Philanthropy* (2004).
8. Overall, the number of nonprofits in the United States has doubled in the past five years to more than 1 million.
9. Christopher Capers, Michael Collins, and Shahna Gooneratne, "Assessing Venture Philanthropy," prepared for Harvard Business School Professor James Austin, *Entrepreneurship in the Social Sector*.

Part 5

The Role of Rabbi As Fundraiser

15

The Role of the Rabbi in the Fiscal Health of His Congregation

Haskel Lookstein

INTRODUCTION

My assignment is to discuss the role of the rabbi, educator, and Jewish communal professional in the fiscal health of their institutions, particularly fundraising. I imagine I was given this assignment, in part, because, since my father, Rabbi Joseph H. Lookstein, of blessed memory, passed away in 1979, I have raised most of the funds for the annual synagogue appeal of Congregation Kehilath Jeshurun (hereafter KJ), which amounted to approximately \$1.45 million last year, and most of the building funds for the Upper School of Ramaz (\$10.5 million) and the Ramaz Middle School (\$35 million). I am currently at the \$36.5 million level toward a major construction project to enhance the future well being of both KJ and Ramaz.

The figures presented above notwithstanding, I confess that I hate fundraising. I tremble every spring as we prepare to launch the Annual Synagogue Appeal, and I am uncomfortably nervous as I prepare to meet a prospective donor for our building fund. My personal apprehensions aside, however, I always remember my father's repeated warning and urging: "Hack," he used to say, "remember, you should never put money *before* everything, but you must always put money *behind* everything." I have tried to heed that advice and warning.

I shall organize this presentation as follows:

1. The theoretical basis for the rabbi serving as a leader in charitable fundraising and disbursements.
2. Different models of rabbinic functioning and their relation to fundraising.
3. My father's model: Why and how it works.
4. A practical plan for an annual synagogue appeal.
5. Conclusion

THE THEORETICAL BASIS

The role of any Jew is to be involved in, and committed to, *tzedaka* (righteousness) and *mishpat* (justice). While *tzedaka* is translated literally as righteousness, the *Torah she'b'al peh* (oral law, i.e., the Talmud) understood it as charity, or acts of kindness.

The source for this role is found in Genesis, when God speaks glowingly about the first Jew, "For I love him [Abraham] because he will command his children and his household after him that they should safeguard the way of the Lord by performing acts of *tzedaka* and *mishpat*."¹ The Talmud comments on the word *tzedaka* as follows: "The three signal attributes which characterize the Jewish people are: merciful, modest, and the performance of acts of kindness, as it is written, 'For I love him because he will command his children and his household after him that they should safeguard the way of the Lord by performing acts of *tzedaka* [meaning kindness or charity] and *mishpat*.'"²

A further Talmudic clarification of the term *tzedaka* as acts of kindness can be found in the following passage: "A certain *meturgeman*

[teacher] began his lesson as follows: Our brothers are *gom'lai chasadim* [dispensers of kindness] descended from *gom'lai chasadim* who uphold the covenant of our forefather Abraham, as it is said: 'For I love him . . . to perform acts of *tzedaka* and *mishpat*.'"³

If every Jew must be involved in, and committed to, *tzedaka*, the rabbi must be a paradigm of kindness and charity. He must be an exemplar of generosity to those in need (a *ba'al tzedaka*), and he must energize his community to be *ba'alei tzedaka*. My revered teacher Rabbi Joseph B. Soloveitchik of blessed memory, gave dramatic emphasis in his *Halakhic Man* to this rabbinic role in the following vignette: "My uncle Rabbi Meir Berlin told me that once Rabbi Hayyim of Brisk [the Rav's grandfather] was asked what the function of a rabbi is. Rabbi Hayyim replied: 'To redress the grievances of those who are abandoned and alone, to protect the dignity of the poor, and to save the oppressed from the hands of his oppressor.'"⁴

Rabbi Hayyim was known far and wide for his brilliance and for blazing new trails in understanding the entire corpus of the Oral Law. Nevertheless, he saw his primary role as a *ba'al tzedaka* and *chesed* (kindness), which he modeled personally and toward which he galvanized his community. He fulfilled, literally, the dictum of the Mishna: "And may the poor be members of your household,"⁵ so much so that it is told that when his grandson (the Rav) was a little child, he tried to avoid visiting Rabbi Hayyim's house because of the presence there of the lame, the sick, and the disfigured.⁶

There is a well-known story which illustrates how Rabbi Hayyim galvanized his community to practice *tzedaka*. A few days before Yom Kippur, Rabbi Hayyim was informed that a young Jewish Bundist had been taken into custody by the czarist police and sentenced to death. He was told, however, that the authorities could be bribed and that five thousand rubbles would ensure his freedom. The leaders of the community were opposed to raising funds for this atheistic Jew. Rabbi Hayyim, on Yom Kippur eve, after *mincha*, assembled the congregation and told them that the leaders of the community had to produce the ransom and bring it to him. If not, he would not allow Kol Nidre prayers to begin and the shul would be closed for all of Yom Kippur. Reluctantly, the leaders produced the funds. and together

with Rabbi Hayyim, they brought the ransom to the mayor of the city and the Bundist was freed. That year, neither Rabbi Hayyim nor the community leaders ate the prefast meal. The arrangements were not completed until a half-hour before sunset.⁷

A final demonstration of how strongly Rabbi Hayyim felt about the primary role of a rabbi can be found in his insistence that, upon his death, no flowery descriptions of him were to be inscribed on his tombstone, as was the fashion in Europe. He asked that only the following words be used: “Ha-Rav Hayyim ben Ha-Rav Yosef Dov Ha-Levi, *ish chesed* [a man of kindness].”⁸

Those who were close to the Rav testify to his personal generosity. My father, who was my model as a *ba'al tzedaka*, was exceptionally generous himself, and he galvanized KJ to be the leading synagogue in New York City for UJA and Israel Bonds. My great-grandfather, Rabbi Moses Zevulun Margolies, the RAMAZ, was a founder of the American Jewish Joint Distribution Committee, an organization on whose board my father served for close to forty years with great leadership and distinction.

I have tried to follow this pattern of personal generosity and leadership in my own rabbinate. I learned how to give through my service on the National Rabbinic Cabinet of UJA. I recall in 1984 attending an emergency meeting in Washington, D.C., to help fund Operation Moses, the dramatic airlift of thousands of Ethiopian Jews to Israel. The then chairman of the cabinet, a Reform rabbi, Haskell Bernat, announced that it would cost \$6,000 to bring a Jew from Ethiopia and settle him or her in Israel. I recall thinking to myself: Why should someone else pay for these Jews; shouldn't my wife and I have the privilege of redeeming at least one Jew? I immediately raised my hand and made the pledge. The next Shabbat we held an appeal in KJ and I announced our pledge first. The results were electrifying and inspiring. People began pledging \$6,000 and multiples of \$6,000—one Jew, three Jews, ten Jews. We raised a huge sum for this extraordinary operation. I learned right there two important lessons: First, to respond to my communal obligations—the Jewish tax is what we call it, and second, to lead, to announce Audrey's and my pledge first and then

to say to the congregation—as an IDF officer says to his platoon—“*acharai*” (follow me)!

All of this is in fulfillment of the model set for us by the first Jew, as God described him, “For he will command his children and his household after him . . . to perform acts of *tzedaka* and *mishpat*.”⁹

MODELS OF RABBINIC FUNCTIONING AND THEIR RELATION TO FUNDRAISING

On the theoretical level, as we have outlined it above, it is hard to conceive of a rabbi who does not model *tzedaka* personally and devote himself to raising funds for *tzedaka* professionally.

This means, first and foremost, taking the initiative to raise funds for the *tzedaka* needs in his community. Examples abound. It could be to help an individual who experiences sudden financial losses and who needs help for the short term or for an extended time period. There are families in crisis who require financial help. There are emergency needs in Israel, such as assistance for citizens in Sderot, financial aid for the Gush Katif evacuees, or Israeli merchants on Ben Yehuda Street who, in 2002, were in danger of losing their tourist businesses because of the absence of tourists in the face of frequent suicide bombings.¹⁰ These are but a few examples of causes to which a religious community should respond. Who else but the rabbi should lead the fundraising efforts for such causes? How can he let his community stand idly by while other Jews—local or far away—are suffering?

Fundraising for one’s own synagogue or school is an entirely different matter. Of course donating to a shul or a yeshiva is *tzedaka*, but it is not *tzedaka* in the personal sense. It is institution building and sustaining. To what extent ought a rabbi to be involved in raising funds for the institutions he serves, and should he also be a decision-maker on how those institutions spend their money? In other words, should the rabbi be a “partner” in his shul or school?

In many, perhaps most, congregations, the rabbi is divorced from fiscal matters. He is not expected to be the fundraiser and he has little—or no—say in how the funds are spent. A good argument could be made that the latter is a logical consequence of the former. Indeed,

if the rabbi does not raise the funds, why should he decide how they are spent? He is not invested in the fiscal life of the congregation.

This issue—the rabbi’s involvement in the fiscal aspects of congregational life—is largely dependent on how the rabbi views his role in the community: how he sees himself and how he sets his goals. In this connection, it is helpful to listen in to a recent online conversation recorded by the Rabbinical Council of America in December 2007. The conversation was stimulated by a *London Jewish Chronicle* article on rabbis who have chosen to leave the pulpit rabbinate in England. As part of the conversation, Rabbi Michael Broyde, founding rabbi of the Young Israel of Toco Hills in Atlanta, Georgia, categorized three different models of the rabbinate and, correspondingly, three different types of shuls:

Many rabbis are embodiments of chesed and relationships. They build communities and Torah true Jews one Jew at a time by being present for their congregants. While many of them are Torah scholars, this is not their mission or their forte. When they think about their legacy, it is a shul, a community, and a collection of loving religious Jews—rather than a set of sefarim or a set of grand ideas.

Many other rabbis are embodiments of Torah learning and scholarship, and they see their shul as a vehicle for Torah learning and scholarship, for both themselves and their community. Community grows intellectually as the rabbi grows intellectually, and the community takes pride in the fact that their rabbi is a well known Torah scholar. The rabbi’s legacy is one of scholarship, rather than people.

Yet other rabbis build communities around doing things that are religiously positive besides Torah learning. Some of these rabbis build shuls around Israel activism, and some around social activism and some around charity and good deeds. Here, too, the shul becomes a vehicle for much good that the community and its rabbi takes pride

in. But the rabbi does not invest in the *chesed* of individual members.¹¹

Rabbi Broyde (let us remember that this was an Internet conversation and not a precisely articulated analysis) has identified here three rabbinic models:

1. The pastoral rabbi who builds a community through personal commitment to the members.
2. The scholarly rabbi who produces scholarship himself and strives to build a scholarly community.
3. The activist rabbi who builds a community through social activism (e.g., Soviet Jewry, philanthropic causes, creating a school).

These models need not be mutually exclusive. There might be elements of all three in one rabbi, but it would seem that Rabbi Broyde is talking here about emphasis and concentration of efforts.

I would suggest a fourth model that would not exclude the other three but would inform and affect the nature of any or all of the other three. It is the model I learned from my father of blessed memory. In this model, the rabbi sees himself as the head of a congregation. He is intimately involved in the day-to-day operations of the shul. He does not see himself as one of a number of employees but rather as the shul's CEO and, in a certain sense, its CFO, who raises the voluntary funds—or supervises the fundraising—and who is intimately involved in supervising how the funds are spent. The lay board has oversight but it understands—and appreciates—that the rabbi is running the shul. He not only sits at every board meeting; he plans the agenda. He is the key member of the nominating committee who makes sure that the lay leaders are people who put the shul first, have no personal agendas, can work with and respect others, and will help him to serve effectively in running the operation today and planning for the future.

This was my father's model in the rabbinate. It included items one and three above and, in the case of Ramaz, item two as well, but

there was no question who was in charge. There was nothing that went on in KJ that he did not either do himself or supervise others doing. No task was too menial for him, including inspecting the women's lavatories above the ladies' balcony before Rosh Hashana and Yom Kippur. And woe to the superintendent who did not have them spic and span for that inspection. He was involved in everything: High Holy Days honors, budget, nominations, board meetings, and, of course, fundraising. I believe this was the model of the late Rabbi Herbert S. Goldstein, who created the Institutional Synagogue in Harlem in the 1920s and moved it to West 76th Street when Harlem began losing its Jewish population. He was the CEO and CFO of that institution. I believe this was also, in part, the model of the Rav at Maimonides. I do not imagine that he ran the school day-to-day, but he founded it, set its philosophy, picked the educational leaders, and no doubt supervised the curriculum. And he raised funds for the school. It would never have gotten off the ground without his efforts, and it probably would not have survived without his continued active involvement. Everyone knew that Maimonides was *his* school. In the Rav's vision of his role, this model number four was, of course, integrally connected to his main model, which was, as he put it, being a *melamed* (teacher), scholar, and enhancing the Jewish intellectual growth of his students, the entire community and, of course, the Maimonides family.

MY FATHER'S MODEL: HOW AND WHY IT WORKS

I shall now describe my father's model as I absorbed it, and try to show how and why it is a workable model for a modern rabbi and congregation.

The model rests on how a rabbi views himself and his future in relation to his congregation and, equally important, how the congregation views him.

There is a traditional Jewish expression known as *kisseh harabbanut*, literally the rabbinic chair or, somewhat more pretentiously, the rabbinic throne. Biographers would write about European rabbis and say that they "sat on the rabbinic seat" in Warsaw or Lemberg or some other city. My father used to tell his students in his famous practical rabbinics course at Yeshiva University's Rabbi Isaac Elchanan

Theological Seminary (which he taught for over forty years) that a rabbi should not “sit on the *kisseh ha-rabbanut*”; one doesn’t *sit* in the rabbinate; one *serves* in the rabbinate. He described the ideal rabbi as an *eved l’avdai Ha-shem* (a servant to the servants of the Lord). He frequently cited the rabbinic aphorism “*k’m’dumin atem shes’rara ani notain lachem; avdut ani notain lachem* (You think I am bestowing authority upon you? I am bestowing servitude upon you).”¹²

He used to emphasize this relationship of rabbi to congregation as “servitude,” not in the sense of the congregation as boss or master, but in the sense of the rabbi’s effort and devotion. In this connection he would frequently cite the judgment of Reish Lakish in the Talmud,¹³ “How do we know that the words of the Torah can survive only through one who kills himself for them? It is written: ‘This is the Torah, when a man dies in the tent.’”¹⁴ Reish Lakish was deriving a midrashic principle from a verse dealing with the ritual consequences of a death inside a house, by stressing the herculean effort required for productive study of the Torah. My father applied this to the extraordinary commitment required of a rabbi to lead a congregation and to develop a thriving shul—a “tent of Torah.”

Contrast this view with the complaint of a former assistant rabbi in St. Johns Wood Synagogue: “The biggest personal challenge was that I didn’t get enough time to spend with my family. Being community-centered becomes a priority 24/7. . . . A problem I found was that I wasn’t expected to treat it just as a job but as a total lifestyle commitment . . . this can be hard.”¹⁵

True: it is hard, and it is a common complaint in the rabbinic community. But that hard challenge is precisely what *avdut* (servitude) is. This is what “killing oneself for Torah” is all about. It requires nothing less than “a total lifestyle commitment” to a community. And when one has such commitment, such a sense of *avdut*, a good community will respond accordingly. My father and I have been blessed with just that kind of community.

A congregation must feel that relationship. They must know that they can and should call upon their rabbi for every need. They must sense that *nafsho keshura b’nafsho* (his soul is bound up in theirs),¹⁶ and that he is there for them not just for now, but for the extended

future. His future is bound up in theirs, in the future of the shul. It is like a marriage, essentially a lifetime commitment, totally without reservations.

My father was deeply involved in many institutions and organizations. He founded and headed Ramaz; he was president and then chancellor of Bar-Ilan University; he was president of several important organizations; but KJ knew that his home and family were on East 85th Street. There never was any question about his primary loyalty. The result was his ability to lead the congregation in every way.

There was something similar in the Rav's loyalty to the Boston community and Maimonides. For almost forty years he taught several *shiurim* a week at Yeshiva University, along with philosophy lectures and, for a time, a weekly *shiur* at the Moriah Congregation on New York's Upper West Side. His greatest scholarly productivity was in New York, but his home was in Boston and in Maimonides. He never left and, therefore, Boston and Maimonides were loyal to him.

"I was about to go into a board meeting," a rabbi recalled, "when a senior board member turned to me and said: 'You might be the rabbi, but remember I'm paying your wages. Make sure you agree with everything I say.'"¹⁷

Such arrogance, disgraceful as it may be, is not uncommon in synagogue life. But it could never be expressed in a congregation where the rabbi has demonstrated his total commitment to the community. And if it did surface, the board member's tenure would be quickly ended by the more rational and *menschlich* lay leaders who understand what a "marriage" is.

My longtime friend and colleague Noam Shudofsky of blessed memory, whose relationship to Ramaz was also one of total commitment, used to *kibbitz* me by saying that KJ members responded to my annual appeal and to building fund solicitations because "you marry them, you officiate at their children's *brit milahs* and *simchat bats*, you marry off their children and you bury their relatives; so they respond accordingly." It was a pithy way of saying it, but the fundamental observation was that I am committed totally to the needs of the members of the congregation; I am part of their family; and they are part of mine. Therefore, they take my appeals to heart.

Once a rabbi perceives himself as an *eved l'avdai Ha-shem* (a servant to the servants of the Lord) and is perceived that way by the congregation, he can and should accept the responsibility of fundraising and fiscal management. Just as in one's marriage one is obligated to provide the necessary funds and manage or partner in their disbursement, so in a congregation or school it is both natural and preferable for the rabbi—or head of school—to fundraise and do fiscal management. It is preferable because the rabbi has a long-term commitment, while officers come and go relatively quickly. Moreover, one president may be a very good fundraiser and another may be an excellent fiscal manager, but a third or fourth may be ineffective in one or both areas. A fully committed rabbi is “forever” and must take on these responsibilities so that the congregation will continue to flourish.

A PRACTICAL PLAN FOR AN ANNUAL SYNAGOGUE APPEAL

Thus far, I have discussed rabbinic fundraising in theory—why it is right in principle and why and how it can work. I would like to close with a description of how I conduct our annual synagogue appeal, a voluntary donor campaign which raises about \$1.5 million, representing more than forty percent of the congregation's annual budget.

The major effort of the appeal is in the form of two evening meetings in my home, the first in mid-May and the second in early June. They account for about two-thirds of the total. The first is designated for major donors, \$2,500 and above, and the second for pledges between \$500 and \$2,500.

Three weeks in advance of each meeting, the invited donors receive a personal letter from me inviting them to join the president of the congregation for a reception in our (my wife's and my) home. I describe the purpose of the meeting, which is both philanthropic and social. I include with each letter a response card and self-addressed envelope. I invite about 150 potential donors to the first meeting and slightly more to the second. Usually, about fifty to seventy people come to each of the meetings.

Many recipients of the letter respond that they are—or are not—coming; many send back the card indicating their pledge or gift. A number do not respond at all. I try to call all the nonresponders to encourage them to come (there is a very good group feeling at the meeting which encourages greater generosity), and, if not, I discuss a pledge with them. I also call all those who respond that they cannot attend and I ask them for a pledge. The conversation gives me a chance to discuss with them why this appeal is so necessary for a thriving congregation and what the range of the donations is. Approximately 650 out of our 1,050 member families donate annually to this appeal, which means that the average gift is above \$2,000, an amount that is slightly higher than our dues.

My phone conversations, however, of which there are about 250 (appeal related) during May and June, and another 150 before the High Holy Days and fifty or so in late November and December, are about much more than donations to the appeal. They give me a much-appreciated opportunity to connect personally with a quarter of our members, to inquire about their families, their children, their general happiness or, God forbid, unhappiness, and anything else that comes up in such a personal communication. A few years ago, I opened a conversation with a very generous donor by asking: “How are you?” His answer, “I’m in great shape for the shape I’m in,” led me to a serious discussion with him about his worsening physical trials. It also provided me with a marvelous insight into how one can and should view life’s challenges. This served as the theme for my Rosh Hashana message a few months later in the synagogue bulletin.

Strange as it may seem, a direct fundraising appeal by the rabbi is not an assault or an affront but rather an opportunity for a rabbi to engage a congregant in a very personal way. Especially in a large congregation, such opportunities are few. Unless a family brings a problem to the rabbi or, God forbid, suffers a loss or, happily, has a *simcha*, the personal contact may be a “Good Shabbos” or a quick word after services. A face-to-face or phone fundraising talk presents an opportunity for genuine, personal connection. For the rabbi, it might also be a useful reminder that he has not been in touch with

a member as much as he should, and he might then provide himself with a reminder to call or visit on a more regular basis.

Then there are the profound lessons that are a by-product of rabbinic fundraising. I will conclude with two which have positively affected my life.

An elderly man in the bakery business who was a regular, generous contributor to the annual synagogue appeal, responded to my phone query “How are you?” with a “Don’t ask!” When I inquired what was wrong, he told me that his best customer had just gone bankrupt unexpectedly and had left him with a large, unpaid bill. I commiserated with him for a while and then he asked: “So, rabbi, why did you call?” I gulped and said, cautiously, “Well, I guess this isn’t the most appropriate time, but this is the season for my annual appeal meeting.” “Rabbi,” he said, “what does one thing have to do with the other; my father, of blessed memory, always said: ‘When you give, you don’t give your own.’ I’ll give you \$2,000, as always.”¹⁸

The second lesson: At the end of every fundraising phone conversation or meeting in my office, I always say “Thank you.” I say it even when the answer is no, because, first of all, the person gave me his time, and second, I remember my father’s advice to me when I began my fundraising efforts and was rejected by a potential donor; “Hack,” he said, “did you say ‘Thank you’? Remember, you need friends even more than you need donations.”

In the vast majority of conversations the response is very generous. In a number of cases, when I say “Thank you,” the donor responds: “No, Rabbi, I thank you for giving me the opportunity to be part of this great mitzvah.” This lesson, which originated with one donor in the congregation, has now spread to others over the years and a culture has developed among wonderful Jews that it is a privilege to help the shul thrive, to help build a new school structure, or to help relieve the plight of the residents of Sderot or the evacuees from Gush Katif, among other charitable causes. It is a very important lesson for the Jewish growth of the members of our community. Perhaps, more important, it is a lesson which has inspired me in my own life, and it constitutes one more reason for my gratitude to my father for setting

a model for me as a *rav chesed*, giving personally and fundraising professionally.

NOTES

1. Genesis 18:19.
2. Babylonian Talmud, Yevamot 79a.
3. Babylonian Talmud, Ketubot 8b.
4. Joseph B. Soloveitchik, *Halachic Man*, trans. Laurence Kaplan (Philadelphia: Jewish Publication Society, 1983), p. 91.
5. Mishnah, Avot 1:5.
6. Apocryphal story known in the Soloveitchik family.
7. Aaron Soloveichik, *Sefer Mateh Aharon* (Jerusalem: Targum Hotza'ah La'or, 1997), pp. 16–17.
8. Apocryphal story known in the Soloveitchik family.
9. Genesis 18:19.
10. At KJ we ran our own *midrachov* (“shopping street”) in May 2002, at the height of the terrorist attacks, for a group of merchants from Rehov Ben Yehuda whom we brought to New York at our expense and set up a Sunday sale at KJ which attracted over 10,000 customers. The merchants were overwhelmed with sales in one day surpassing their sales for the previous year.
11. Ibid. Michael Broyde Zmbro...@emory.edu >Tuesday, January 8, 2008 (available only to RCA members).
12. Babylonian Talmud, Horayot 10a.
13. Babylonian Talmud, Berakhot 43b.
14. Numbers 19:14.
15. Kornblau, op. cit., Dec. 20, remarks by Stephen Sacks.
16. Genesis 44:30. Judah’s poignant statement about the love between the patriarch Jacob and his son Joseph.
17. Quoted by Rabbi Marcus Freed in the RCA online conversation, Kornblau, op.cit.
18. Conversation with Louis Orwasher, around 1990.

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