

I will first summarize last week's class (even if not a complete one) and then introduce this week's reading. For those who want to skip directly to this week's task, jump to the highlighted words below.

In last week's frontal lecture, we presented two different approaches by medieval scholars, Maimonides and Jacob Ben Asher ("Tur") in encouraging their fellow Jews to be generous and charitable. Maimonides took a more philosophical approach that the importance of the commandment, like all other commandment, contain an educational element for the giver that is in addition to the actual assistance given to the recipient. For Maimonides charity is not only about helping the poor but also about transforming the recipient into a more generous, merciful, kind individual. On the handout we brought a number of sources from his philosophical work the Guide and from his commentary to the Mishnah (on Avot). In the class we taught the source from the commentary which makes clear just how important this element of educating the giver of charity was for Maimonides (know the source)! In light of his approach it is not surprising that we find in his *Mishneh Torah* is an attempt to arouse the Jew's sympathy for his fellow Jew (one should know the source well). The central passage is at the end of law 2: "And to whom will the poor of Israel lift their eyes? To the gentiles who hate them and pursue them?! Their eyes look only towards their brothers". Clearly for Maimonides it is not enough to simply give charity he wants that one should give with the proper feelings, of generosity and kindness.

In stark contrast Jacob b. Asher seems mainly interested in getting the Jew to be generous – to do the act of charity. He knew Maimonides chapter in *Mishneh Torah* and borrowed from it liberally but the above passage whose purpose is to arouse sympathy for the fellow Jew is noticeably absent from his long treatise. This approach of focusing completely upon the bottom line seems to emerge from the Talmud where one can find various tactics being used to convince the Jew to be generous. This approach is nicely captured by a Talmudic statement (found in various Talmudic tractates): "If one gives charity, saying: I give this sela for charity in order that my children may live, or: I give it in order that through it I may merit life in the World-to-Come, he is considered a full-fledged righteous person [i.e. relating to the giving of charity]. In other words, no matter the motivation – it is the act of giving that is paramount, not the motivation behind the act!

For Jacob one can see this (and I will not elaborate here) approach in various arguments that are focused upon convincing the Jew of the utility of giving and I will quote the central passages here:

[7] And man should consider in his heart that just as he always asks the Holy One, blessed be he, to bring him sustenance and as he asks the Holy One, blessed be he, to pay heed to his cries, so too, he [i.e. man] must pay heed to the cries of the poor....

He should also consider in his heart that there is a wheel [of fortune] spinning in the world and at the end all men will get come to this fate [of poverty], and if it doesn't come to him, it will come to his son or grandson.

[8.] A person should not ponder in his heart: "How can I squander my money by giving it to the poor?" He should remember that his money Is not his, but rather, it is a deposit (pikadon) [of God] to do with it according to the will of the depositor, whose will is that he should distribute his money to the poor. This is the best portion that he [i.e. man] can have, as it is written: "your charity goes before you [i.e. before you enter the next world]".

[9.] Moreover, it is a tried and tested fact that the giving charity will not lead to loss. On the contrary, it will increase his wealth and honor, as it is written (2 Chronicles 31): "From the bringing of the offerings (terumah) to the House of the Lord, he shall eat, be sated, and his plentitude shall abound, for the Lord has blessed his nation."

In our final two classes we will be reading from the works of two modern scholars-rabbis. Today's reading will be from Rabbi Dr. Joseph B. Soloveitchik and next week from Rabbi Dr. Jonathan Sacks.

In today's class we shall see how Rabbi Soloveitchik is able to derive meaning and significance through a contradiction within Maimonides writings. I will present here the contradiction and then allow you to read Rav Soloveitchik resolution in his own words. Both laws are found in *Mishneh Torah*, Gifts to the poor, chapter 10 which have been discussing during the last couple of weeks.

In law 4 Maimonides writes: "One who gives charity to a poor person with a bad countenance, and his face staring at the ground פָּנִים רְעוּת וּפָנָיו כְּבוֹשׁוֹת בְּקֶרְקַע even if he gave a thousand

gold pieces he has destroyed his merit and lost it, rather [we must] give with a cheerful expression and gladly, and commiserate with him about his troubles ....”

It would seem that one who acts such, ”with a bad countenance” – has lost any merit at all, as if he had not given charity!

In contrast when he discusses the various levels of charity (Rambam’s ladder) which we studied earlier he writes at law 14 which is the lowest level of charity “One level lower is to give to him sadly”) **שיתן לו בעצב**

From this passage it would seem pretty clear that giving this way **is** considered charity - even if its not being conducted in the most exemplary fashion. So which is it? Like law 4 “he has destroyed his merit....” Or merely a low level of charity....?

Now please read the selection from Rav Soloveitchik the passage is titled **OBJECTIVE ACTION OR INTERPERSONAL INVOLVEMENT**.

### **Summary questions:**

What does Rav Soloveitchik derive from the law of “*dei mahsaro*” of giving “sufficient for his need”?

What does Rav Soloveitchik derive from the use of Maimonides of the verse Then you shall uphold him; as a stranger and a settler shall he live *with you* ... that your brother may live *with you*”?

What does Rav Soloveitchik mean when he writes about *the donor* “the Halakhah must take into account a person's psychological state as well”?

How does Rav Soloveitchik resolve the contradiction within Maimonides Mishneh Torah?

How does Rav Soloveitchik differentiate between the two types of giving, mentioned by Maimonides in laws 4 and 14?

Why is the giving in law 4 so problematic according to Rav Soloveitchik?

# OBJECTIVE ACTION OR INTERPERSONAL INVOLVEMENT

The foregoing discussion leaves us uncertain as to whether the Halakhah concerns itself only with the external action of extending help to another or considers the subjective correlative to be important as well.

Maimonides' consideration of the matter appears, at first blush, to be internally contradictory. At one point in *Hilkhhot Matenot Aniyim*, he writes as follows:

*He who gives tzedakah to a poor man with a hostile countenance and with his face averted to the ground, loses his merit and forfeits it, even if he gives as much as a thousand gold coins. He should rather give with a friendly countenance and joyfully. He should commiserate with the recipient in his distress, as it is said, "If I have not wept for him that was in trouble, and if my soul grieved not for the needy" (Job 30:25). He should also speak to him pleading and comforting words, as it is said, ".And I caused the widow's heart to sing for joy" (Job 29:13). If a poor man asks you for tzedakah and you have nothing to give him, comfort him with words. It is forbidden to rebuke a poor man or to raise one's voice in a shout at him, for his heart is broken and crushed, and Scripture says, "A broken and crushed heart, O God, You will not despise" (Ps. 51:19); and again, "To revive the spirit of the humble, and to revive the heart of the destitute" (Isa. 57:15). Woe unto him who shames the poor! Woe unto him! One should rather be unto the poor as a father, with both compassion and words, as it is said, "I am a father to the needy" (Job 29:16) (Hilkhhot Matenot Aniyim 10:4-5).*

It seems perfectly clear that the internal feeling of connectedness to the recipient is an essential component of tzedakah, and a gift tendered without sympathy and compassion misses the mark. But later in the same chapter, in discussing the eight levels of tzedakah, Maimonides writes: "Below this is he who gives the poor man less than what is proper, but with a friendly countenance. Below this is he who gives tzedakah sadly, be-etzev" ( Hilkhhot Matenot Aniyim 10 :13-14). Although giving grudgingly is the lowest degree of tzedakah, it nevertheless constitutes a fulfillment of the commandment. It is better to give less than the proper amount and do so happily than to give the proper amount grudgingly, but both actions are considered to be tzedakah.

It seems that we have here a substantive halakhic contradiction that cannot be resolved. After all, in the context of tzedakah, there is the special rule of "sufficient for his need," which Maimonides explains as follows:

*You are commanded to give the poor man according to what he lacks. If he has no clothing, he should be clothed. If he has no house furnishings, they should be bought for him ... Even if it had been his practice to ride a horse, with a manservant running in front of him, and he has now become poor and has lost his possessions, one must buy him a horse to ride and a manservant to run before him, as it is said, "Sufficient for his need in that which he lacks" (Deut. 15:8 ). You are thus obligated to fill his deficiency ... (Hilkhhot Matenot Aniyim 7:3).*

We see here that the obligation of tzedakah encompasses psychological as well as physiological needs. A slave running before one's horse is a matter of honor and social prestige - not a vital need such as food, clothing and house furnishings -yet it too must be provided. When all is said and done, the Torah drew no distinction between physical and psychological needs, between a hungry body and a hungry soul - even if the soul's cravings are excessive and unjustified. We are not to judge the poor person or determine what is appropriate and what is unnecessary for him. Halakhah commands us to sustain the entire personality, both physical and spiritual, and not merely to maintain its vital needs. How appropriate is Maimonides' introduction, where he defines the commandment of tzedakah

*It is a positive commandment to give tzedakah to the poor of Israel, according to what is fitting for them ... as it is said, "You shall surely open your hand unto him" (Deut. 15:8), and again, "Then you shall uphold him; as a stranger and a settler shall he live with you ... that your brother may live with you" (Lev. 25:35-36) (Hilkhos Matenot Ani'im 7:1).*

The commandment of tzedakah is essentially the reinforcement and facilitating of a proper way of life based on equal rights and the equal importance of each individual. "With you" (imakh) implies "at the same level, with no distinctions"; you are not to act haughtily toward the poor person. It thus appears that the pleasing countenance constitutes an integral part of the commandment, and this bond with the poor person is so important that Maimonides favored a gracious gift of less than the proper amount over a gift of the proper amount reluctantly given. Accordingly, even when a person does not have available means to provide concrete financial support for a poor person, he is nonetheless obligated to comfort and encourage him and provide spiritual support, for that too is an important aspect of tzedakah.

On the other hand, one cannot say that if one gives grudgingly he has failed entirely to fulfill the commandment. Such a premise would ring false, for when all is said and done, there are times when a poor person would be willing to waive his dignity and forgive any slight as long as he can get what he needs to feed his family. A mother trying to save her only son from death would sacrifice her dignity and willingly suffer insult and embarrassment in order to scrape together the money needed to obtain medical treatment for the child. Accordingly, a ruling that a person who gives grudgingly is better off not giving would betray a misunderstanding of the goal of tzedakah.

In addition, the Halakhah must take into account a person's psychological state as well. Some people are naturally hard-hearted, lacking in empathy and in sensitivity to another's suffering. When they encounter poverty and deprivation, they do not participate in the victims' misery. Although they recognize their obligations and their consciences require them to give, they cannot do so joyfully because they are stingy by nature. Do such people, when they contribute, fail to fulfill the commandment of tzedakah? On the contrary, their reward for giving should at times be even greater than that of the kind and generous person who gives happily and derives pleasure from giving. The kindly person by his nature gives happily, while the stingy person, who must overcome his inclination and avarice, gives unhappily; but whose merit is greater? I know people who deny themselves their most vital needs and generously give tzedakah, but when they give their hand shakes with worry and pain. In truth, I have always respected such people, holding them in higher regard than philanthropists whose generosity is engrained in their nature and who spend lavishly on themselves as well as on others. Not everyone is able to recreate his personality and implant within his soul sympathy with and understanding for the suffering of others. At times, self-transformation is beyond their capabilities. They can accomplish only one thing: self-coercion. A normative awareness impels a person to external action - taking a dollar from his pocket and contributing it to tzedakah. But this awareness cannot temper a frozen, hardened heart and soften it with feelings of sympathy.

What is the solution to this vexing problem?

First, the obligation to give is constant. The "how" of the giving --whether with generosity or with sadness - does not cancel the underlying obligation; financial aid must be made available to the poor person.

Second, even though the physical assistance does not depend on the psychological correlative, the latter is nonetheless very important and constitutes one of the fundamental elements of tzedakah. This is why Maimonides ruled that it is better to give less than appropriate in a gracious manner, than to grudgingly give the proper amount. ( Still, one must not disregard the obligation to give on the grounds that one cannot give happily.)

Third, it is forbidden to embarrass the poor person or tarnish his dignity. That is an absolute prohibition. It is necessary to distinguish between a joyless, downcast psychological state and a posture that actually demeans and belittles the poor person. One who gives unhappily does not intend to insult or embarrass the poor person; he fails to fulfill the commandment in its entirety and loses out on the aspect of "sufficient for his need," but his action at least fulfills the element of "open your hand" (Deut. 15:8 ). But one who

aggrieves the poor person and brings shame on him not only fails to fulfill the commandment, he actually violates a serious prohibition.

The wording of Maimonides in Hilkhoh Matenot Aniyim is **extremely precise**. In 10:4, he writes: "He who gives tzedakah to a poor man with a hostile countenance and with his face averted to the ground, loses his merit and forfeits it." In other words, anger and annoyance that cause embarrassment and grief entail the transgression of a serious commandment; it follows that the reward for fulfilling the commandment of "open your hand" is erased by the donor's transgression of the prohibition against demeaning the poor person. But in 10:14, Maimonides carefully formulates the lowest degree of tzedakah as "giving tzedakah sadly." The formulation is precise, for it is not an antithetical parallel to "with a friendly countenance" used in the preceding halakhah. Had Maimonides wanted to say that the lowest degree of tzedakah is providing funds even in a way that insults and impairs the poor person's dignity, he would have used the antithetical parallel and formulated the lowest level as "giving with a hostile countenance." But he did not do so, instead altering the wording and using the term **"sadly"** to differentiate between this lowest degree of tzedakah and the very different situation referred to in 10:4. One who gives "sadly" fails to fulfill the commandment willingly, generously and graciously; but he does not disparage and torment the poor person in the manner suggested by "with a hostile countenance."

It follows that one who gives sadly fulfills the commandment of "open your hand" but not the obligation of "sufficient for his need." He has impaired his performance of the commandment of tzedakah, but he has not transgressed any prohibition. The manner in which he gives does not manifest sympathy with the poor person, but the donor's merit is not annulled - the very fact of his giving attests to it. But when he gives "with a hostile countenance," his merit is annulled despite the aid he has provided, for he has insulted and embarrassed the poor person. He fulfilled the commandment of tzedakah and should have been rewarded for it, but the transgression he committed by embarrassing the recipient cancels his merit. Maimonides accordingly continues this idea in the halakhah that follows: "It is forbidden to yell at a poor man or to raise one's voice in a shout at him, seeing that his heart is broken and crushed ... Woe unto him who shames the poor! Woe unto him!" Maimonides is dealing with one who embarrasses the poor and causes him pain.