

Class 7 The Subjective Nature of Charity:

Between Rema (Moses Isserliss) and Rambam (Maimonides)

Last week's class dealt with the Talmudic evidence, both the basic halakhic sources and the non-halakhic material (known as agaddah) of the principle of *dei mahsaro* which is the obligation to supply all the needs of the poor person, including all of his subjective needs. To take a striking example of the teaching of *dei mahsaro* (which you will find mentioned in today's reading): providing a devoted musician with a well-tuned violin after he was forced to sell his own personal one due to his dire financial situation. Even such subjective needs are defined as charity! The Talmud brings more status oriented and seeming luxury items (such as an horse or "a slave to run before him") that give off the wrong impression of this important law. The real message that emerges from this law of *dei mahsaro* is that charity **is much more than worrying about an individual's basic sustenance**, keeping the body alive – one must consider and more importantly **care for** the entire human personality. Charity is not only about helping someone survive and subsist it is about assisting a person in need and doing one's best to help him or her to be themselves, to be fully human! This may a difficult ideal to implement due to personal budgetary constraints – however it is still a message that we should not forget. To quote Halbertal on Maimonides: "The duty of tsedakha encompasses caring for the needs of the poor in his particular situation, with sensitivity to his past habits and status". Or as he formulates this idea in another passage "it would be morally wrong to pull out a calculator from his pocket before addressing such a need. The individual provider is not a distributive bureaucrat but a subject confronting the pain and need of another subject."

I should also mention that the main theme in last week's reading was the contrast between the clearly formulated principle of *dei mahsaro* found in halakhic texts and the more ambiguous message that emerged from the non-halakhic, aggadic ones. Halbertat treats a number of talmudic stories who do not give a clear-cut lesson with regard to dealing with the formerly rich who are now poor, and in the need of assistance.

In this week's class we will continue reading the Halbertal study pp. 101-109 this time the part which focusses on some later post-Talmudic readings of this law. Halbertal open with an anonymous opinion attributed to the Geonim (see note 9) on page 101 but most of his discussion is about the contrasting opinions of Rabbi Moses Isserless, known as Rema (active in the 16th century) and the earlier Maimonides, known as Rambam.

Much of Halbertal's analysis is related to the difference between charity given by the individual and the social aid offered by the community. Essential to his treatment is the way he understands Maimonides approach in chapter 7 of the laws of charity in contrast to chapter 9 (what he refers to as "two chapters after chapter 7"). Chapter 7 is the chapter that deals with the definition of charity and the obligation that is upon every individual – it is there one finds the law of *dei mahsaro*! In contrast in chapter 9 which is the communal obligation, and communal charitable institutions – *kuppa* and *tamhuy*, there is no mention of *dei mahsaro*, One finds there simply the obligation to give out enough basic sustenance (whether weekly or daily) that will allow the individual to survive. ~~He also quotes from a contemporary philosopher Bernard William and his argument with the classic utilitarian approach of Bentham. This is of less interest to me and I will not ask any questions about it.~~

With this introduction you should be able to understand the reading and then answer the questions.

Summary Questions:

How does the anonymous opinion brought by Halbertal (identified as “Geonim) limit the law of *dei mahsaro*?

How does R. Moses Isserliss (Rema) limit the law of *dei mahsaro*?

What is Rema’s approach to the law of dei mahsaro?

What seems to be the motivating factor behind Rema’s approach to law of *dei mahsaro*?

What is Maimonides opinion on *dei mahsaro* according to Halbertal – upon whom is the obligation?

Does the law of *dei mahsaro* apply to communal charity according to Maimonides?

How does Halbertal demonstrate Maimonides opinion on *dei mahsaro* (i.e. how does he prove that this is the correct understanding in Maimonides)?

How does Halbertal explain Maimonides approach to *dei mahsaro*, from a philosophical perspective?

What is the ethical and moral ideal of charity according to Halbertal’s understanding of *dei mahsaro*?

What is the religious\philosophical problem (according to Halbertal) with arguing that *dei mahsaro* does not apply to the individual?

Why does Halbertal have no problem with saying that the law of *dei mahsaro* does not apply to communal charity?

According to Halbertal what is the differences between the individual’s obligation of charity in contrast to the communal obligation?

Radical Responsibility: Celebrating the Thought of Chief Rabbi Sacks

Michael J Harris

Chapter 6

Addressing the Needs of Others: What Is the Stance of Justice?

Moshe Halbertal

In an attempt to define the scope of the needs of the poor, the Talmud introduced a bold conception of subjective needs. This conception was presented as a reading of the verse in Deuteronomy that obligates the provision for the poor: ‘but thou shalt surely open thy hand unto him, and shalt surely lend him sufficient for his need in that which he wanteth’ (15:8).

Our Rabbis taught: ‘Sufficient for his need’ [implies] you are commanded to maintain him, but you are not commanded to make him rich; ‘in that which he wanteth’ [includes] even a horse to ride upon and a slave to run before him. It was related about Hillel the Elder that he bought for a certain poor man who was

of a good family a horse to ride upon and a slave to run before him. On one occasion he could not find a slave to run before him, so he himself ran before him for three miles.¹

Poverty ought not to be solely defined by a certain impersonal objective threshold; a provider of charity (*tsedakah*) must take into account the particular **past habits and status of the poor** and his present sense of deprivation. The ruling is reinforced with a precedent from **Hillel**, who provided an impoverished aristocrat with his former luxurious means of a servant and a horse. The sensibility to individual context, and the realization that a generalized objective measure might blur particular pain and deprivation, is suggestive and promising. And yet such an attitude evokes a whole set of problems which were raised in the talmudic discussion that followed this ruling.² The discussion exhibits a rather complex ambivalence towards this definition of need, an ambivalence which was expressed in a set of intriguing stories.

The first story follows another precedent that is brought in support of addressing subjective needs: 'Our rabbis taught: It once happened that the people of Upper Galilee bought for a poor member of a good family of Sepphoris a pound of meat every day' (BT *Ketubot* 67b). The story challenges such a practice of maintaining expensive dietary habits by raising the suggestion that the impoverished person should adjust to his present means, rather than become a burden on his fellow human beings. This is so especially when the one who has to address these needs is willing to share with him whatever he has, even if this falls short of the poor person's former luxurious menu:

A certain man once applied to Rabbi Nehemiah [for maintenance]. 'What do your meals consist of?' [the rabbi] asked him. 'Of fat meat and old wine', the other replied. 'Will you

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1. BT *Ket.* 67b (Soncino translation); cf. Tosefta, *Pe'ah* 4:10–11. In the Tosefta's version, Hillel only provided funds and there is no mention of Hillel himself running before the impoverished aristocrat. See also *Sifrei devarim*, 116.
 2. For a contemporary philosophical discussion of subjective needs, see T. Scanlon, 'Preference and Urgency', *Journal of Philosophy*, 72/19 (1975), 655–69.

consent [the rabbi asked him] to live with me on lentils?’ [The other consented,] lived with him on lentils and died. ‘Alas,’ [the rabbi] said, ‘for this man whom Nehemiah has killed’. On the contrary, he should [have said] ‘Alas for Nehemiah who killed this man’! – [The fact], however, [is that the man himself was to blame, for] he should not have cultivated his luxurious habits to such an extent.³

Sometimes, as the story demonstrates, providing the poor man with the diet he was accustomed to is not a mere luxury. The feeding of the poor man with **Nehemiah’s** own modest diet caused his death. And yet it was the poor man who was to be blamed for continuing to cultivate an expensive taste, rather than adjusting his consumption to something affordable.

In the next talmudic story, the ambivalence towards the subjective definition of need is reinforced by questioning the obligation of addressing such expensive tastes altogether, given the scarcity of communal resources that are needed for more acute deprivation and needs:

A man once applied to Raba [for maintenance]. ‘What do your meals consist of?’ he asked him. ‘Of fat chicken and old wine,’ the other replied. ‘Did you not consider,’ [the rabbi] asked him, ‘the burden of the community?’ ‘Do I,’ the other replied, ‘eat of theirs? I eat [the food] of the All-Merciful; for we learned: “The eyes of all wait for Thee, and Thou givest them their food in due season” [Psalm 145:15] – since it is not said, “in their season” but “in his season” [*be’ito*], this teaches that the Holy One, blessed be He, provides food for every individual in accordance with his own habits.’ Meanwhile there arrived Raba’s sister, who had not seen him for thirteen years, and brought him a fat chicken and old wine. ‘What a remarkable incident!’ [Raba] exclaimed; [and then] he said to him, ‘I apologize to you, come and eat.’⁴

3. BT *Ket. 67b* (Soncino translation).

4. Ibid.

Raba objected to the demand of the poor man for an expensive meal, describing it as an expression of narcissism, oblivious to the limited resources of the community and its urgent, true needs. The poor man didn't yield to the reproach, providing learned support for his demands and claiming that it was Raba who had been presumptuous, since he had assumed that provisions for the poor are supplied by the community's limited resources, which are susceptible to a zero-sum game in which the more one person receives, the less there is for everyone else. But it is God who provides for each of His creatures, and God is not constrained by limited resources. The end of the story settles the matter by means of the surprise arrival of Raba's sister with a lavish meal. Raba's invitation to the poor man to join the meal seems to reaffirm the idea that the luxurious expectation of the poor will be met with God's provision. And yet, the reader is left with an open question. Should we learn from this story that reckless giving is recommended, since in matters of charity there is no set limit?⁵ Is it the case that in encountering a need, whatever it costs, we should not hide behind the pressure of limited resources, but rather address the need with the full faith that resources will be provided? Or maybe such extravagant giving ought to be practised only when an immediate, miraculous supply is provided, but caution should be the rule in the daily and common experience of shortage?

To make the matter even more ambiguous, the Talmud relates the following story concerning Mar Ukba and his son:

Mar Ukba had a poor man in his neighbourhood to whom he regularly sent four hundred *zuz* [coins] on the eve of every Day of Atonement. On one occasion he sent them through his son, who came back and said to him, 'He does not need [your help].' 'What have you seen?' [his father] asked. 'I saw' [the son replied] 'that they were spraying old wine before him.' 'Is he so delicate?' [the father] said, and, doubling the amount, he sent it back to him.⁶

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5. Raba's story was interpreted as an unambiguous precedent for giving to the poor whatever he subjectively needs in *Sefer maharil* (Minhagim), 'Hilkhot rosh hashanah' 3. See as well R. Shlomoh ben Adret (Rashba), *Responsa*, vol. 3, no. 380.
 6. BT Ket. 67b (Soncino translation).

Ukba manifested sensitivity to subjective need to its limit. Upon hearing from his son that the poor man was actually accustomed to great luxury, he doubled the amount that he had sent to him. His response lacks the reservations expressed in the preceding stories concerning such a standard of giving. And yet, though Ukba serves as a role model, one wonders whether his behaviour ought to be generalized, since it was prompted by his particular reaction and relation to his son. The son was presumably sent with provisions to the poor in order to educate him in the tradition of giving, and rather than fulfilling what he was sent to do, he found an excuse not to perform his mission. The inquisitorial stance of the son towards the poor, questioning the authenticity of their need, might have been motivated by the fact that he wanted to keep that money within the family, since he was a potential beneficiary of that large sum. Ukba's reaction, therefore, perhaps should not serve as a source of recommended general practice. It was directed to the stingy son, who should have given to the poor generously without any inquiry or hesitation, and instead tried to find a way to avoid spending the family's wealth. The son was taught a lesson by being sent with a doubled sum, and Ukba used his son's precise reason for not giving in order to double the initial sum.

As in many such talmudic discussions, the issue is left unsettled.⁷ The Talmud does not provide a fixed point of view on the matter, but rather offers a spectrum of reactions that aims to exhibit the plethora of considerations relevant to assessing such practice.⁸ I think the ambiguity that emerges from this talmudic discussion as a whole is foreshadowed

7. The stories that appear here in the Babylonian Talmud have their parallels in the Jerusalem Talmud, which also reflects an ambiguous attitude to the spoiled poor. See JT *Pe'ah* 8:9, 21b.

8. The last story in our talmudic discussion represents a refusal to help the spoiled poor:

R. Hanina had a poor man to whom he regularly sent four *zuz* on the eve of every sabbath. One day he sent that sum through his wife, who came back and told him [that the man was in] no need of it. 'What' [R. Hanina asked her] 'did you see?' [She replied:] 'I heard that he was asked, "On what will you dine; on the silver [coloured] cloths or on the gold [coloured] ones?"' 'It is in view of such cases' [R. Hanina] remarked, 'that R. Eleazar said: Come let us be grateful to the rogues, for were it not for them, we would have been sinning every day,

in its starting point – the original source that legislated the sensibility to subjective needs. In the source that initiated the discussion, as we saw above, the ruling was reinforced by a short narrative in which Hillel provided money for the impoverished aristocrat to buy a horse and a servant to run before him; once, when Hillel could not find a servant, he himself ran before the poor man, functioning as his servant. Although we might think that the function of this story is simply to emphasize or illustrate the ruling, another interpretation is possible. Perhaps Hillel was trying to achieve two goals. The first, and obvious one, was to provide the poor man with his subjective need for a servant. The second goal, a more subtle and subversive one, was to teach the aristocrat that such a need was artificial and wrong. If Hillel the Great did not mind shedding his status symbols and appearing as a servant by running before the man, how much more so was the impoverished aristocrat expected not to be preoccupied with retaining his lost status. The outer signs of class status that were ostensibly being provided by Hillel himself were at the same time subverted through the act of provision. The subtle critique of the provision of subjective needs as a way of affirming and maintaining class structure is therefore woven into the first step of this ruling.

I became aware of this aspect of Hillel's action and the critical role that the narrative plays in juxtaposition to the ruling when I heard the following story about one of the outstanding talmudic scholars of our generation in Jerusalem: a couple came to seek the scholar's advice about a contested matter. The wife claimed that her husband devoted himself to Torah studies but neglected his domestic duties. The rabbi ruled that the husband was acting properly and that he should be relieved

for it is said in Scripture [Deut. 15:9], "And he [the poor person] cry unto to the Lord against thee [for failing to assist him], and it be sin unto thee." (BT Ket. 67b–68a [Soncino translation])

The mediaeval interpreters were troubled by the difference between Mar Ukba's practice and that of R. Hanina. Two possible distinctions were suggested. The first was that the poor in R. Hanina's case were not the poor who were previously accustomed to a lavish life and became impoverished, but rather their luxurious habits were developed while they were poor. The second distinction was that the poor in R. Hanina's case pretended to be poor, yet their lifestyle testified that they had plenty of resources of their own. See Tosafot BT Ket. 68a s.v. *betalei kesef* and Menahem Me'iri, *Beit habehirah*, on Ket. 68a, s.v. *af al pi*, and below, n. 10.

from such duties in order to devote himself to the study of Torah. On the Friday after the ruling was issued, the husband came back from the study hall to his home right before the sabbath, and to his surprise the great scholar was at his home helping to take the garbage out. He wondered what the great scholar was doing in his house, and the rabbi answered him in the following way: 'I knew you are very busy studying Torah. I myself had some free time, so I decided to come and help at your home.' In running before the impoverished aristocrat, Hillel was practising the same line of teaching. He provided the poor man with his needs, while helping him in a deeper way, through personal example, to free himself from being dependent on status symbols as a source of honour and dignity.

Following the talmudic ruling, the principle of addressing subjective needs was embraced by later generations of halakhists, though they also struggled with some of the concerns that emerge from the adoption of such a standard. One interesting opinion claimed that the ruling of the Talmud relates exclusively to a person whose impoverishment is not yet known to the public. If his condition has become known, there is no obligation to provide him with such goods as a horse and a slave, and he is treated like any other poor person.⁹ This opinion interprets the rule as limited to the protection of the impoverished person from the shame resulting from a loss of status. Thus, only the outward signs of status, such as a servant and a horse, must be addressed by providers of *tsedakah*, in order to allow the poor to hide their condition.¹⁰ Such a

9. This opinion is quoted in the name of the *ge'onim* in R. Betzalel Ashkenazi, *Shitah mekubetset* on BT Ket. 67b.

10. Me'iri's formulation in relation to the story of Ukba is similarly sensitive to the concerns of shame: 'Even though we see a poor man who maintains himself at a high standard, this should not be a reason to avoid giving to him. On the contrary, we should extend our giving, since it is possible that such a poor person is concerned with his pedigree and status, and he is not living in such a lavish manner for the sake of pleasure, but by way of social elevation in order to hide his poverty from human beings' (*Beit habehirah* on BT Ket. 67b, s.v. *af al pi*). The parallel to the story of Ukba in the Jerusalem Talmud seems to provide a different reasoning: 'Aba bar Ba gave his son Shmuel money to distribute to the poor. He went and found one poor person eating meat and drinking wine. He came back and told his father. His father said to him: "Give him more since his pain is great"' (JT Pe'ah 8: 9, 21b). The

restrictive reading of the rule might also be supported by the fact that public knowledge of someone's dire economic condition may harm his prospect of recovery. This reading was not accepted by mainstream halakhah, which rightly interpreted the scope of the rule of addressing subjective needs as extending beyond the mere **concern with shame and loss of status**. As we saw in the stories above, it relates to habits and special needs. Providing a devoted musician with a well-tuned violin might be an expression of such sensitivity to unique loss and deprivation, which is ignored by generalized and impersonal definitions of the poverty line.

In analysing the mediaeval and later halakhic discussions of this principle, one particular controversy – between Maimonides and Rabbi Moses Isserles – emerges as immensely significant to contemporary debates on distributive justice and moral theory. The great sixteenth-century Ashkenazi scholar of Krakow, Rabbi Moses Isserles, upon reaching this ruling in his critical annotations to the *Shulhan arukh*, made the following important remark:

It seems that this ruling [concerning subjective need] pertains to the communal officer responsible for the allocation of *tsedakah* [*gabai tsedakah*] or to the public. But an individual is not obligated to provide the poor with what he [subjectively] lacks. He should rather inform the public of the poor's deprivation, and if there are no other people with him, the individual must provide for him if he can afford it.¹¹

Rabbi Moses Isserles seems to add a reasonable reservation. Addressing such particular and sometimes expensive needs ought to be the domain of the public fund that has the resources for allocating such sums, as well as the means of inquiring into the unique conditions of the supplicant. The individual giver, encountering the poor, has to address

practice of doubling the supply to the poor was justified in this source as an attempt to comfort the poor person because of his miserable condition. It reflects a recognition that sometimes people who live in poverty might spend a lot on a particular purchase in order to provide immediate short-term relief from their mental stress.

11. Gloss on *Shulhan arukh*, 'Yoreh de'ah' 250: 1.

only basic common needs of destitution and deprivation without being burdened with such costs.

Rabbi Isserles' view has its roots in sensitivity to the potentially overwhelming claim of a particular pain that ought not to be laid at the door of the individual donor. It is a striking position, since it stands against the simple reading of the talmudic text, a problem that was noted by some commentators who questioned Rabbi Isserles' position. The precedents and stories mentioned in the Talmud concerning such a practice pertain to individual givers such as Hillel, Ukba, and others. These individual scholars did not seem to address the poor as official representatives of the public communal fund; they acted as individuals.¹² Rabbi Isserles' reservation forced him to reread the Talmud as relating to a situation in which these individual providers had no opportunity to appeal to the public for support; only under such unique conditions were they required to address them alone.¹³ Such a problematic reading of the authoritative text is proof of the pressing problem that was posed by the principle.

Maimonides presents a radically different position concerning the relation of the individual giver and the public funds in addressing subjective needs. In order fully to appreciate Maimonides' line of thinking, it is worthwhile to clarify the general way in which he organized the laws of *tsedakah* in his *Mishneh torah* code. The Torah obligates each individual to provide for the poor, yet there are no laws in the biblical material that aim at establishing institutional communal structures for care of the poor. The talmudic literature treated the nature of individual obligation in detail, and also developed a body of rules that established a full-fledged welfare community. It legislated norms of taxation, and defined the rules pertaining to the conduct and role of those officials responsible for collecting and distributing public funds. *Tsedakah* was, therefore, understood by the Talmud as a two-track obligation: an

12. See the criticism of R. Yoel Sirkis, *Bayit ḥadash*, 'Yoreh de'ah' 250:2, and the opinion of Eliyahu b. Shlomoh, the Vilna Gaon, *Hagahot hagra* on *Shulḥan arukh*, 'Yoreh de'ah' 250:3.

13. See the defence of R. Moses Isserles' position in R. Shabetai ben Me'ir Hakohen, *Sifteï kohen*, 'Yoreh de'ah' 250:1.

individual obligation of each towards his or her fellow human being, and a communally-shared burden of caring for the vulnerable and the poor. The Talmud was well aware of cases in which these obligations might overlap, and addressed the question of the relationship between individual duty and collective responsibility.¹⁴

Maimonides deals separately with the individual dimension and the collective one. He begins his treatment of *tsedakah* with the individual obligation, and, after two chapters, shifts to the collective responsibility:

In every city where Jews live, they are obligated to appoint faithful men of renown as trustees of a charitable fund. They should circulate among the people from Friday to Friday and take from each person what is appropriate for him to give and the assessment made upon him. They then allocate the money from Friday to Friday, giving each poor person sufficient food for seven days. This is called the *kupah*.

Similarly, we appoint trustees who take bread, different types of food, fruit, or money from every courtyard from those who make a spontaneous donation, and divide what was collected among the poor in the evening, giving each poor person sustenance for that day. This is called the *tamḥui*.

We have never seen nor heard of a Jewish community that does not have a *kupah* for charity. A *tamḥui*, by contrast, exists in some communities, but not in others. The common practice at present is that the trustees of the *kupah* circulate [among the

14. The question of such overlap emerges when the poor approach people individually for charity and the collective fund provides for them as well. See Tosefta *Pe'ah* 4: 8; ב"ר בב 9a. It is no surprise that the wealthy members of the community would like to stress the individual obligation, and the middle class would prefer an organized progressive taxation for the purpose of welfare that would ease their own individual obligation. Such a communal clash is reported in Rashba, *Responsa* (vol. 3, 280). Rashba ruled that progressive taxation of the rich for the sake of welfare ought to be the rule, rather than leaving the matter of charity to individual initiative and good will. See also the interesting opinion of R. Moshe Feinstein, *Iggerot mosheh*, 'Yoreh de'ah' 1:149.

community and collect] every day and divide [the proceeds] every Friday.¹⁵

In these sections, Maimonides describes the communal responsibility and its basic institutional structure. The previous two chapters, however, are directed to the individual and his obligations, and they start with the following formulations:

It is a positive commandment to give charity to the poor among the Jewish people, according to what is appropriate for the poor person if this is within the financial capacity of the donor, as [Deuteronomy 15:5] states: 'You shall certainly open your hand to him.' [Leviticus 25:5] states: 'You shall support him, a stranger and a resident and they shall live with you', and [Leviticus 25:36] states: 'And your brother shall live with you.'

Anyone who sees a poor person asking and turns his eyes away from him and does not give him charity transgresses a negative commandment, as [Deuteronomy 15:7] states: 'Do not harden your heart or close your hand against your brother, the poor person.'

You are commanded to give a poor person according to what he lacks. If he lacks clothes, we should clothe him. If he lacks household utensils, we should purchase them for him. If he is unmarried, we should help him marry. And for an unmarried woman, we should find a husband for her. Even if the personal habit of this poor person was to ride on a horse and to have a servant run before him and then he became impoverished and lost his wealth, we should buy a horse for him to ride and a servant to run before him. [This is implied by Deuteronomy 15:8 which] speaks [of providing him with] 'sufficient for his need in that which he wanteth.' You are commanded to fill his lack, but you are not obligated to enrich him.¹⁶

15. Maimonides, *Mishneh torah*, 'Hilkhot matenot aniyim' 9:1–3 (trans. Eliyahu Touger).

16. Ibid. 7:1–3.

In contrast to the later ruling of Rabbi Moses Isserles, it is clear that Maimonides makes the individual giver responsible for the subjective needs of the other. Maimonides postulates this definition of need before mentioning the communal fund and structure, and according to his opinion, the duty of *tsedakah* upon each individual encompasses caring for the needs of the poor in his particular situation, with sensitivity to his past habits and status. On the other hand, in the following chapter, which Maimonides devotes to communal structures of welfare, there is no mention of such an obligation to attend to subjective needs. The communal fund provides basic needs that each poor person deserves such as food, clothing, and shelter. The officials of the fund act as impersonal and general providers, focusing solely on an objective definition of needs. Maimonides therefore presents the opposite opinion to that espoused later by Rabbi Isserles. The subjective needs of the poor fall within the domain of the individual giver; they do not fall within the remit of communal obligation.

It seems that Maimonides' position has its source in a particular attitude towards the fundamental moral posture of the individual that addresses a fundamental philosophical concern with far-reaching implications. The question of the proper stance of the individual as a moral agent was raised in contemporary moral philosophy by Bernard Williams. Williams challenged the utilitarian maxim that moral and distributive decisions should be guided by the attempt to maximize overall utility. If, for example, an individual has resources that he plans to spend, utilitarians such as Bentham claim that he ought to spend them in a way that reflects a commitment to bringing the maximum happiness to the maximum number of people. Such a demand is based on a firm conception of equality that grants equal weight to each individual preference, a weight that has to be impartially assessed before acting. In following this utilitarian principle of impartiality, a person cannot spend money to buy his child a computer if he can instead use the money to buy clothing for ten poor children. He also ought not to invest in particular personal projects, such as cultivating literacy, when contributing to environmental change with that same investment would have resulted in greater overall utility. This basic principle of utilitarianism grants more weight to overall utility maximization than to agent-relative considerations in the moral

calculus. Williams criticized such a norm, arguing that it undermines the integrity of the individual, since it prohibits him from pursuing the personal projects and aspirations which define his identity as a human being. Adopting such an impartial stance is wrong because it restricts our capacity to form the partial attachments and goals which are basic to the formation of genuine personal integrity.¹⁷

The debate between Maimonides and Rabbi Isserles concerning the way to address subjective needs triggers a more basic question concerning the impartial stance that does not relate to the problem of allowing space for individual partial projects and goals. Maimonides' ruling that it is the individual provider who must address the subjective needs of the poor implies a rejection of the idea that a moral agent has to adopt the impersonal and impartial moral point of view. When confronting the needs of an impoverished individual, which might be expensive, one should not act like an impersonal distributor who calculates the best overall use of the limited resources at his disposal in relation to global needs. Such an individual provider might spend a great sum of money in order to alleviate the chronic pain of someone who has appealed to him by helping him to buy expensive medicine, while realizing that the same amount of money given to Oxfam might maximize better the overall utility of his giving. This attitude rests on the conviction that a moral subject acting as an individual should address the subject whom he encounters, and that it would be morally wrong to pull out a calculator from his pocket before addressing such a need. The individual provider is not a distributive bureaucrat, but a subject confronting the pain and need of another subject.

The issue at stake is not the clash between the impersonal obligation and the capacity to form partial preferences and particular goals as raised by Williams. In providing for the subjective need of the other, the giver is not inclining towards his personal partial preferences or towards causes that are particularly dear to his heart. He is, rather, resisting the impersonal posture while embracing and responding to the actual relationship formed between him and the poor person whom he has

17. J.J.C. Smart and B. Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973), 108–17.

encountered. In this situation, it would be morally wrong for him to view himself as if he were an impersonal universal provider.

The impersonal stance involves two different perspectives. The first, which is self-directed, demands that the moral agent assume an impartial and impersonal position, while transcending his own preferences and goals; the second is other-directed, expecting an impersonal attitude towards the claims of others. Williams challenged the first self-directed impartial stance; our discussion poses a challenge to the other-directed impersonal stance. The impersonal stance of justice is not always appropriate. The denial of the exclusivity of the impersonal stance is not only a challenge to the impartial general way of proper allocation of resources; it is also the denial of seeing the individual pain one confronts as a mere instance of a general obligation towards addressing the pain of others. The particular encounter itself, and the ensuing relationship that it creates, generate their own moral force.

On the other hand, following Maimonides' position, officials who are responsible for allocating communal resources must adopt the larger impersonal perspective. In providing for needs, they have to take into account the limited resources, the needs of the rest of the poor, and the hierarchy among such needs.¹⁸ An individual, when acting as an official qua public figure, has an impartial obligation that stems from his particular institutional role and commitment. He would be betraying such a trust if he were to adopt the relational subjective stance when encountering the needs of others. It is for this reason that, while Maimonides obligates the individual giver to provide for subjective needs, no such expectation is raised in his dealing with the public fund.

It is a shortcoming of utilitarianism and some other moral theories that they call upon every individual to adopt an institutional posture by tying him to the impersonal general perspective. Maimonides' understanding, in opposition to Rabbi Isserles' ruling, seems to be sensitive to the interpersonal quality of such an encounter, and to the radical

18. The adoption of the impersonal stance by the communal fund does not necessarily assume taking into account global needs of all the poor in the world. It could be that, given certain associational obligations, it will rightfully restrict itself to the needs of its own community.

difference that is required when taking a personal, as opposed to an institutional, stance. The proper moral stance of justice in addressing the needs of others is therefore layered and contextual. In different roles, different postures will be adopted and different distributive policies and decisions will be called for.