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**Dedicated in loving memory of Dr. Harlan Daman
by Carole, Gila and Avi Daman**



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TZEDAKAH'S ROLE IN REMOVING THE EVIL DECREE

One of the most poignant moments of the Yamim Noraim liturgy is the recitation of *Unesaneh Tokef*. Even the most hardened spiritual Jews succumb to the emotional depiction of confronting the reality of Yom Hadin — The Day of Judgement. In describing G-d's judgement of the world, the piyut evokes a solemn confrontation with mortality — *mi yichyeh umi yamus* (who will live and who will die?), conjuring all sorts of memories and images relating to our lives and our loved ones. The structure, substance and musical tone

is nearly fatalistic as we embrace the reality of the moment. The tension that builds up as we recite this piyut is finally released with the declaration “*uteshuva utefilah utzedakah maavirin es roah hagezeirah*” — repentance, prayer and charity remove the evil decree. This refrain, whose source is from the Talmud Yerushalmi (*Taanis* 2:1), provides a roadmap for us to influence the outcome of the pending judgement of Yom Hadin. Despite the seemingly passive nature of our disposition in the context of G-d's providence over the world, indeed there is something we can do to

impact the outcome of this day.

Reflecting upon these three elements, teshuva emerges as an understandable response to judgement as it has the capacity to alter the character and the deeds of the individual being judged. Prayer, as a direct appeal to the Divine, also has an expected impact upon the outcome of our judgment as well. The element of the triad that seems to be distinct from the others is tzedakah. Charity, while extraordinarily noble and certainly a hallmark of our people's legacy of compassion, seems unusually specific

for this very universal context. The piyut seems to avoid presenting a broader mandate for chessed in general, in deference to the very specific act of tzedakah. In what manner does this mitzvah become so central to the Divine judgement of our future?

Rav Soloveitchik, (*Harerei Kedem* Vol. I p. 76) suggests that the Torah's disruption of the Mishkan's construction in Sefer Shemos with the narrative of the *cheit haeigel* — the sin of the golden calf, and its resolving forgiveness, is intended to draw attention to the role of communal contributions, as foundational to the paradigm of forgiveness. Somehow, the experience of the Jewish people sacrificing of their own resources for the larger communal need, provides the foundation for G-d's ultimate forgiveness.

What is the source of charity's powerful influence upon our ultimate judgement as individuals and as a people?

I once learned, that perhaps it is the very nature of tzedakah's impact that shifts the entire calculus of our judgment. Tzedakah establishes a connection of dependency between two people. It entails, at the highest level, one Jew taking responsibility for the fate and well-being of another. Beyond an altruistic gesture, tzedakah is the medium through which we expand the circle of impact, and by extension, relevance of our lives. Tzedakah means that whatever occurs to us as individuals will have a profound effect upon those we support as well. It establishes an existential link between the fate of ourselves and that of others. In this regard, G-d's judgement upon us becomes an evaluation of more than the quantitative and qualitative value

of our own deeds. It entails a broader scope of accounting for the many connections and networks of support that we have developed and if those individuals or institutions as well are deserving of a questionable fate. Tzedakah can reverse or temper the "gezeirah" because it brings into G-d's accounting, the broader merits of those we support.

Beyond an altruistic gesture, tzedakah is the medium through which we expand the circle of impact, and by extension, relevance of our lives.

When we live life for ourselves, we are left with the consequences of our own actions. When we live life for others, then our fate becomes forever linked with the compelling needs of those beyond our own world.

The Yamim Noraim inspire significant devotion to personal reflection and growth. The process of teshuva is one that demands deep introspection, profound honesty, and extraordinary resolve. Perhaps, through the medium of tzedakah, we can ensure that this focus does not remain in the realm of the personal. Rather, it moves us to recognize our capacity to make a difference in the lives of others — to look around the shul, or our community, and recognize the myriad of ways that we can become "essential" to the world of others and to edify our community through respect, unity, and support. Yom Tov is an exciting and vibrant time for many people. For others, the expansion of focus on children and family, serves to painfully accentuate everything that is missing in their lives. For those who are blessed to be praying for continued nachas and success, perhaps one of the most effective methods, is to extend ourselves to those for whom these days are excruciatingly challenging, to embrace them with compassion, love, and support and to show, that our lives matter, because they matter to others.



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Moshe Buksbaum, משה בן נתן מרדכי ע"ה
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by their children and grandchildren



RETURNING TO HASHEM

Over the course of Yom Kippur, beginning with the Vidui of mincha on Erev Yom Kippur through the conclusion of Neilah, we address our sins many times. Each of the forty-four lines of Al Chet and the specifics of Ashamnu identify a detailed mistake that we verbalize and correct as part of our teshuva process. Yet we should be careful that this important, painstaking effort to redress each error should not occlude an arguably more important element: the return to our connection with Hashem

Himself. Let us frame this issue in light of two questions.

First, the Rambam famously presents a panoramic sweep of the particulars and principles of teshuva in ten chapters in the *Book of Madda*. Significantly, he does so in a peculiar manner. As expected, he begins the first chapter with the requirement for teshuva/vidui (the relationship between these specific concepts is a source of much discussion). However, he repeats the description of teshuva in the seventh chapter, this time with

a unique exhortation that a person should strive to do teshuva, plus an added magisterial description:

כמה מעולה מעלת התשובה. אמש היה זה מובדל מה' אלקי ישראל שנאמר עונותיכם היו מבדילים ביניכם לבין אלקיכם. צועק ואינו נענה שנאמר כי תרבו תפלה וגו' ועושה מצות וטורפין אותן בפניו שנאמר מי בקש זאת מידכם רמוס חצרי, מי גם בכס ויסגר דלתים וגו'. והיום הוא מודבק בשכינה שנאמר ואתם הדבקים בה' אלקיכם. צועק ונענה מיד שנאמר והיה טרם יקראו ואני אענה. ועושה מצות ומקבלין אותן בנחת ושמחה שנאמר כי כבר רצה האלקים את מעשיך. ולא עוד אלא

Many thanks to *Avi Mori* Mr. Etzion Brand, Professor Leslie Newman and Mrs. Andrea Polster for their editorial contributions.

שמתאווים להם שנאמר וערבה לה' מנחת
 יהודה וירושלם כימי עולם וכשנים קדמוניות:
*How superior is the degree of repentance!
 But yesterday was this sinner separated
 from the Lord God of Israel, as it is said:
 "But your iniquities have separated
 between you and your God" (Is. 59.2);
 cries, but received no answer, as it is
 said: "Yea, when ye make many prayers,
 I will not hear" (Ibid. 1.15); does obey
 commandments, but they are thrown
 back in his face, as it is said: "Who
 hath required this at your hand, to
 trample My courts?" (Ibid.-12), and,
 "Oh that there were even among you
 that would shut the doors, that ye might
 not kindle fire on Mine altar in vain!"
 (Mal. 1.10). But today he is connected
 with the Shekinah, as it is said: "But
 ye that did cleave unto the Lord your
 God are alive every one of you this day"
 (Deut. 4.4); he cries and receives answer
 momentarily, even as it is said: "And it
 shall come to pass that before they call,
 I will answer" (Is. 65.24); he observes
 commandments, and they are received
 with pleasure and joy, even as it is said:
 "For God hath already accepted thy
 works" (Ecc. 9.7); moreover, his works
 are pleasurably anticipated, as it is said:
 "Then shall the offering of Judah and
 Jerusalem be pleasant unto the Lord,
 as in the days of old, and as in ancient
 years" (Mal. 3.4).*

Why does the Rambam wait until
 the seventh chapter to deliver this
 fundamental message about the nature
 of the mitzvah? Why in this chapter is

teshuva something to which we aspire
 “*yishtadel*” in his language — rather
 than a mitzvah to accomplish?

Let us consider a second difficulty.

The book of Hoshea presents a litany
 of complaints and biting criticisms
 of the Jewish people. It concludes on
 a conciliatory note, encouraging the
 Jewish people to return to Hashem.
 These words begin the Haftara that
 we read on Shabbat Shuva (hence its
 name):

שׁוּבָה יִשְׂרָאֵל עַד ה' אֱלֹהֶיךָ כִּי כָשַׁלְתָּ בְּעֵוֹן.
*Return, O Israel, to the LORD your
 God, for you have fallen because of your
 sin.*

Hoshea 14:2

קָחוּ עִמָּכֶם דְּבָרִים וְשׁוּבוּ אֶל ה' אֱמָרוּ אֲלֵיו כָּל
 תִּשָּׂא עֹן וְנָח טוֹב וְנִשְׁלָמָה פְּרִים שְׁפָתֵינוּ
*Take words with you and return to the
 LORD. Say to Him: "Forgive all guilt
 and accept what is good; Instead of bulls
 we will pay [The offering of] our lips.*

Hoshea 14:3

The immediate question is, why does
 the Navi repeat the call to teshuva in
 back-to-back Pesukim? What is added
 in the second verse? Furthermore,
 why does the Hebrew preposition for
 the word “to” change from *ad* (until)
 to *el* (to)?

We can appreciate a fundamental
 distinction within both the words of
 the Rambam and of Hoshea in light
 of an incredible and iconic moment
 in Jewish history. It was the evening



Rabbi Yekusiel Yehuda Halberstam zt"l,
 the Sanz-Klausenberger Rebbe

of Kol Nidrei 1945 in the Fohrenwald
 DP camp. Rabbi Yekusiel Yehuda
 Halberstam zt"l (1905–1994), the
 Sanz-Klausenberger Rebbe who lost
 his wife and eleven children to the
 Nazi Holocaust, stood before the open
 ark and addressed a gathering of his
 fellow survivors:

*In a wholly unorthodox manner he
 called out the words of Vidui: “ashamnu,
 bagadnu (we have sinned, we have
 rebelled)....” Each word was inflected not
 as a statement but as a question: “Did
 we sin? Did we rebel?”*

*Almost accusatorily, the Rebbe asked,
 “did we really sin? Did we really rebel?
 Did we, Chas veshalom, rebel against
 You and fail to remain faithful? Gazalnu
 — did we steal? From whom did we
 steal in Auschwitz and Muldorf?
 Why is there anybody to steal from?”...
 Dibarnu dofi — we spoke slander? We
 never even had enough strength for idle
 conversation. If by chance we had any
 remaining strength, we saved it so that*



we would be able to answer the questions of our vicious oppressors! He'veinu — we caused perversion? Hirshanu — we caused wickedness? Who? Us? Latznu — we scorned? Who could do such a thing there? Maradnu — we rebelled? Against whom? We rebelled against the Almighty? Didn't we suffer every beating quietly with the knowledge that 'You are righteous in everything that comes upon us'?! We rebelled against our oppressors? Could we have rebelled against them even if we had tried?"

Word by word, the Rebbe dismissed each and every alleged sin of the survivors. "We did not commit evil acts. We did not sin willfully! This Vidui was not written for us," he concluded, closing his machzor. His congregation stood in shock.

After a second pause, the Rebbe raised his voice again. "But we are guilty of sins that are not written in the machzor. We sinned in our faith and trust in our Creator. Did we not doubt Hashem out of despair and hopelessness in the camps? When we recited Shema at night, we hoped that it would be our last haMapil, that the end of our suffering would come. How many times did we pray, 'Master of the Universe, I have no more strength. Take my soul so I will not have to recite Modeh Ani anymore'? And when the sun rose and we were obligated to thank Hashem for 'returning my soul with great mercy,' we were consumed with anger and rage. When we removed the corpses from the barracks, weren't we jealous of those lucky people who had died?

"This is how we have sinned. We have sinned with a lack of faith and trust. We must beat our chests and admit our sins. We must ask the Almighty to restore our faith and trust in Him. Trust in God forever. Trust in Him at all times, nation! Pour your hearts out before Him."¹

This anecdote is incredible on many levels, and for our discussion it reveals a crucial distinction between two areas of our spiritual lives: our actions and our core connection to Hashem. On Yom Kippur we introspect and reflect on these two aspects in our lives. We take an accounting of our actions, specific misdeeds and shortcomings, and we articulate them in our Viduy. We also address a second component — our core connection with Hashem. This is our essential relationship with Him, which transcends specific mitzvot.

What does my personal relationship with Hashem look and feel like? Do I ever address Hashem directly, in the second person, to cultivate our relationship?

In the case of the Klausenberger, these two realms were bifurcated. There were no actions for which the survivors, who had endured horrifying experiences beyond what we today could ever truly fathom, needed to address.² They were not culpable for any specific actions. However, the Rebbe clearly felt the essential relationship with Hashem needed a Yom Kippur focus and renewal. In his message,

the Rebbe distinguished between the relationship to mitzvot and the relationship to Hashem. This is a fundamental concept in Judaism. All of the mitzvot that we observe are emanations from Hashem that descend into our world through many levels of transformation until they take the shape of a physical action. However, our connection to Hashem Himself, as it were, exists in a direct way through our inner self, our neshama. While each mitzvah is a crucial and indispensable link that is essential to cultivating our relationship with Hashem, our performance of all of the mitzvot do not automatically equal a meaningful and mindful relationship with Him.

This distinction between specific actions and a core connection can explain the specific arrangement of the Rambam's *Laws of Teshuva*.

The Rambam begins his *Laws of Teshuva* addressing the requirement to redress our mistakes, our flawed actions. Hence, he discusses the process of *kaparah* (atonement) — in chapter 1 and then defines the steps of the teshuva process in chapter 2. However, in chapter 7, the Rambam speaks no longer of teshuva for specific actions; he instead addresses teshuva in our relationship with Hashem. The Rambam is not referring to the typical requisite steps in mitzvah fulfillment; rather he is concerned about a profound inner search and desire to journey closer to Him. This is why only in chapter 7 does the Rambam extol the transformational nature of teshuva. In this context, the *baal teshuva* feels the close connection and deep relationship with Hashem. This cannot be measured in halachic terms of fulfillment; hence, the Rambam

simply exhorts us to aspire — *yishtadel* — to approach this genuine and profound relationship with our Father in heaven.

Similarly, this distinction between observing mitzvot and nurturing our connection with Hashem can explain the words of Hoshea. In understanding the word *ad* — until — in Tanach and halacha, our sages note that it has two possible connotations: inclusive and exclusive. In our context³ the Gemara quotes Rabbi Yochanan who interprets *shuva Yisrael ad Hashem* as a vehicle to return us to Hashem to the extent of “*ad v’lo ad b’chlal*” — up to but not including. This indicates that the return of *ad*, the first pasuk, is an incomplete return. Only at the second stage when we return “*el Hashem*”

is our return to Hashem complete. The first return is the teshuva for actions, as the pasuk concludes, *ki chashalta ba’avonecha* — for we have stumbled in our sins. The second is our return to Hashem directly, to our essential relationship borne out of an intimate, direct conversation — *k’chu imachem devarim v’shuvu el Hashem*. With our words — our open direct conversation with Hashem — we rebuild our core connection, our relationship.

Both of these elements — the actions and the relationship — are essential to our spiritual lives, and much of our Yom Kippur Machzor is devoted to the first. We cannot seriously consider a true relationship with Hashem devoid of a committed life of actions. However, we should be

careful not to ignore or overshadow the second. In fact, Rabbi Joseph B. Soloveitchik zt”l observed that “the most important thing in life is to feel the presence of the Almighty and the gentle pressure of his hand resting upon my frail shoulder.”⁴ The “Chalban” (Rav Chaim Cohen zt”l) provides an analogy to appreciate the importance of the core connection in the form of a young couple in love separated and then reunited.⁵ While separated, the husband sends his beloved various items to maintain their connection, including a pair of gloves and a hat. Upon receiving the items in the mail, the wife holds and caresses them as a physical reminder and connection to her beloved. She stares at them and smells them to detect her husband’s scent. Finally,

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the husband returns home and the couple retreat for an intimate moment to their private room and embrace deeply. Wouldn't it be odd if in the presence of the husband for whom she had waited with baited breath, she reaches for his hat and caresses it? Instead of focusing on the object of her love, she directs her attention to such a small detail; it would be bizarre! Similarly in our spiritual world, mitzvot are the physical manifestations of Hashem's connection with our world as mentioned earlier. They are divine, spiritual elements that have undergone many transmutations. They are akin to the gloves and hat of our beloved — cherished in his absence. However, in contrast to our actual closeness to Hashem they pale. When we recite a bracha on a mitzvah we relate the action to Hashem in the third person — *b'mitzvotav* — while our words and connection with Hashem are direct in the second person — *atah*. Our direct connection with Hashem transcends these individual actions.

On Yom Kippur, we experience immense joy, as the Talmud (*Taanis* 28b) observes, since on Yom Kippur we receive forgiveness for our sins. However, this is not the ultimate joy of Yom Kippur. The profound joy that we should aspire to appreciate on Yom Kippur is the incredible closeness that we merit to experience with Hashem himself. The fact that *mikveh Yisrael Hashem* — that we literally immerse in the presence of Hashem on this day —

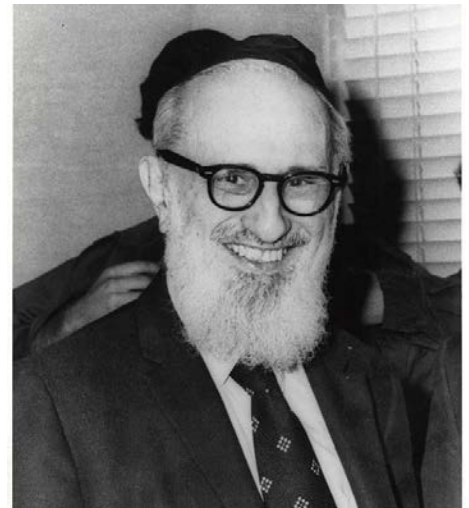
is not marvelous in that it provides atonement,⁶ but that it is a rare experience of Divine closeness. It was because of this sublime joy that Rabbi Soloveitchik felt personally that he was unable to eat for hours after the close of Yom Kippur.⁷ He continued to live simply in the afterglow of the Yom Hakadosh and its Divine closeness.

While we may not achieve this level of spiritual connectedness in our lives, it provides a guidepost. It reminds us to ask ourselves on Yom Kippur not just how many Al Chets we have recited and what steps of the teshuva process we have fulfilled, but what our personal, direct connection with Hashem is. What does my personal relationship with Hashem look and feel like? Do I ever address Hashem directly, in the second person, to cultivate our relationship? Yom Kippur is a time to focus on where Hashem is in our lives, and the chance for this core connection is most opportune as Hashem's presence comes to spend this day with each one of us.

Endnotes

1. *The Klausenberger Rebbe: The War Years*, pp. 185-186. The entire Yom Kippur experience of the Rebbe in Fohrenwald, including his meeting with General Eisenhower the next morning, is documented in *Lieutenant Birnbaum*.

2. It is noteworthy that the Rebbe went to heroic and superhuman lengths to observe mitzvot during the Holocaust; he never ate non-kosher food, even *bishul akum*, during his entire imprisonment including Auschwitz, a death march and forced labor in the Muldorf forest.



It was because of this sublime joy that Rabbi Soloveitchik felt personally that he was unable to eat for hours after the close of Yom Kippur.

3. According to the textual version of the *Bach* and *Masores Hashas* in *Yoma* 86b.

4. "A Tribute to the Rebbetzin of Talne," *Tradition* 17:2, 77.

5. *Talelei Chaim*, *Veyached Ivaveinu*.

6. Rabbi Soloveitchik notes that the language of the Kohen Gadol's Vidui — *BaShem* — with the name of G-d indicates that we receive atonement by being close to Hashem's name — His presence.

7. Related by Rabbi Menachem Genack in the name of Rabbi Soloveitchik's daughter in "*Ish Yom Hakippurim*" from *Memories of a Giant: Eulogies in Memory of Rabbi Dr. Joseph B. Soloveitchik, Zt"l*, p. 163.



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FREE WILL: DOES IT MAKE US MORAL PEOPLE?

In an experiment described in the journal *Science*,¹ psychologists asked participants a series of questions about people who did reprehensible things, such as a man who hired someone to kill his wife and children or a man who cheated on his taxes. Researchers discovered that people's answers depended on whether they believed in free will or determinism.² Absolute determinism is the general view that all events, including human actions, are produced by prior conditions, which make those events and actions inevitable. These predetermined influences can be internal biological and psychological drives, scientific-environmental rules, or metaphysical-divine forces. In contrast, the notion of absolute freedom of the mind

assumes that we are able to make decisions independent of either natural or metaphysical controlling forces.³ If we have free will, according to most respondents, then we are responsible for our actions both good and bad, but if everything is predetermined then we are simply following a script, rendering us free of any responsibility.

The results of this study seem to imply that people believe that the *belief* in free will leads us down a moral path, because we hold ourselves more morally responsible when we believe in free will. But does free will truly lead us to be better people? To act in a more moral fashion?

In Judaism, according to many of our great rabbis, free will, or *bechira chofshit*, is an essential part of Judaism.

The Rambam in *Hilchot Teshuvah* 5:3 describes free will as *ikar gadol hu, v'hu amud Hatorah v'hamitzvah* — It is the essence of all of the Torah and mitzvot.

The Rambam adds:

אל יעבר במחשבתך דבר זה שאומרים טפשי אמות העולם ורב גלמי בני ישראל שהקדוש ברוך הוא גוזר על האדם מתחלת ברייתו להיות צדיק או רשע.

Do not let enter your mind that which is said by the foolish people among the Gentiles and the boorish among the Jews: that God decrees from the start whether a person is to be righteous or wicked.

Laws of Teshuvah 5:2

What is the basis for the concept of free will within Judaism?

There are many sources that form the basis for the belief in free will. A few of them include:

העידתי בכם היום את השמים ואת הארץ:
החיים והמוות נתתי לפניך, הברכה והקללה;
ובחרת בחיים, למען תחיה אתה וזרעך.

Today, I testify with the heavens and the earth as my witness, I place before you life and death, blessing and curse, you should choose life in order for you and your descendants to live.

Devarim 30:19

In the Mishnah in *Avot* 3:15, it is taught:

הכל צפוי, והרשות נתונה.

All is anticipated, and a person has the ability to act in any fashion they want.

And in the Gemara in *Brachot* 33b, it is written:

הכל בידי שמים – חוץ מיראת שמים.

Everything is in the hands of Heaven, except for the fear of Heaven.

But do we always have the choice to be “good or bad”? There are many instances in the Torah where it seems that our choice is taken away from us. If that is the case, then how can we be held responsible for our actions? How can we ever repent and do teshuvah? Let us examine two of these situations that will help us, at least on some level, to answer these questions.

In the stories of Pharaoh and Bilam, God intervenes and limits or removes the ability of these individuals to make and act on their own choices. What happens in these two situations? Why does Hashem seemingly take away their free will? And what, if anything, does this teach us about the limits of free will?

Pharaoh

In Shmot 7:3, Hashem tells Moshe that He will harden Pharaoh’s heart (*va’ani aksheh et lev Paroh*). In this sense, it seems that Hashem is taking away the free will of the Egyptian

ruler. And in each plague, there is mention of Pharaoh’s heart being hardened. In the beginning, Pharaoh hardens his own heart, but by the last five plagues Hashem hardens Pharaoh’s heart.⁴ We clearly see that Hashem intends to take away Pharaoh’s free will from the beginning. Hashem tells us what He wants to achieve (7:3) — that He wants to bring about many great wonders and show those great wonders to others. But isn’t there an alternate way to achieve this goal? Why did it have to involve taking away Pharaoh’s free will?

There are different schools of thought on this. According to many, including the Ramban, the Seforno, Rasag and Rav Yitzchak Aramah, hardening Pharaoh’s heart was actually a preservation of his free will.

According to the Ramban and Seforno,⁵ Pharaoh really did not want Bnei Yisrael to leave Egypt. During the first five plagues he was able to stick to his plan — he hardened his own heart with his determination not to let them go. But then it became a challenge for him. In the words of Ramban:

רך לבו והיה נמלך לשלחם מכבוד המכות לא לעשות רצון בוראו ואז הקשה השם את רוחו ואמץ את לבבו.

His heart had softened and he was prepared to let them leave because of the severity of the plagues, not because he wanted to fulfill the will of his creator. At that point, Hashem hardened his heart and gave him the strength [to reject Moshe’s request].

Hashem needed to give Pharaoh free will. Otherwise, if Pharaoh let the Jews out at this point, it would be as if Hashem coerced him. And so Hashem enabled Pharaoh to have free will by strengthening his heart.

The other school of thought, led by the Rambam, believe that Hashem did constrain Pharaoh’s free will.

Both in *Hilchot Teshuva* and in *Shemoneh Perakim*, the Rambam teaches us that there are times when Hashem takes away our free will. Different choices yield different consequences. According to the Rambam in *Shemoneh Perakim*, chapter 8:

והוא הבוחר במעשיו, מה שיִרצה לעשותו יעשהו, ומה שיִרצה שלא לעשותו לא יעשהו, אלא אם כן יענשהו ה' על חטא שחטא בשיטל רצונו.

A person can choose his actions, to do something or not do it, unless Hashem punishes him and then his free will is nullified.

We certainly have free choice and free will. We can choose to put our hand in the fire. But every choice we make will have a consequence. If we choose to put our hand in the fire, we will most likely get burned. If we choose to violate a Torah law and not listen to Hashem, He may punish us. A possible consequence could be the removal of our free will.

But what are those circumstances that Hashem takes away our free will? If Hashem takes it away, then how can we do teshuvah? Do we ever gain back our free will?

To add to our understanding of the limits of free will, and whether we can ever gain it back, let us examine the story of Bilam.

Bilam

In Bamidbar 22:5, Balak asks Bilam to curse Bnei Yisroel. Twice, Bilam refuses, saying that he must listen to God. God tells Bilam not to go to Balak, but when Bilam presses

Hashem, he is granted permission, as long as he abides by God's words:

וַיָּבֹא אֱלֹקִים אֶל בִּלְעָם לֵילָה וַיֹּאמֶר לוֹ אִם
לְקַרְא לָךְ בָּאוּ הָאֲנָשִׁים קוּם לָךְ אִתָּם וְאָף אֶת
הַדָּבָר אֲשֶׁר אֶדְבֹּר אֵלֶיךָ אֹתוֹ תַעֲשֶׂה.

That night God came to Bilam and said to him, "If these men have come to invite you, you may go with them. But whatever I command you, that you shall do."

Bamidbar 22:20

However, if we look at the pesukim, we see that Bilam is required to do more than follow what Hashem has told him to say. Four times we see an idea that implies that Bilam had his free will removed.

When Bilam speaks with Balak he says — הדבר אשר ישם אלהים בפי אתו אדבר — Everything that Hashem puts in my mouth that is what I will say (22:38). And then when Bilam tries to curse Bnei Yisrael, Hashem literally puts the words in his mouth: וישם ה' דבר — God placed the words in the mouth of Bilam (23:5). These words are repeated twice more. After Bilam initially blesses Bnei Yisrael, Balak becomes angry with him and Bilam responds הלא את אשר ישם ה' — I can only repeat faithfully what God puts in my mouth (23:12). And then when Bilam tries to curse Bnei Yisrael again וישם דבר — And [God] placed the words in his mouth (23:16).

If we believe in free will, how is it that we are told four times that Hashem literally put words in Bilam's mouth and takes Bilam's free will away?

The Or Hachayim (R. Chayyim ben Moshe ibn Attar), says there are many times when Hashem takes away our free will. In this case, he emphasizes that our language has incredible power and is holy. When Bilam tried to use it improperly — לעשות תיקון — נתחכם ה' לשונו תיקון —

לדבר קדושה — Hashem tried to rectify this situation by manipulating Bilam's words.

Bilam did not fully understand how powerful his words were, and so Hashem taught Bilam a lesson by taking away his free will and showing him the right way to use his words.

Similar to Pharaoh, when Bilam attempted to defy Hashem, his will was constrained. There are many similarities between the situations of Pharaoh and Bilam but also many notable differences.

Both of these men were leaders. There are many details described in the Torah of Pharaoh as the king of Egypt, but very little about Bilam other than that he was a powerful sorcerer and had a relationship with Hashem. Both men sought to harm Bnei Yisrael, albeit through different means and for different purposes. Pharaoh wanted Bnei Yisrael to remain his servants in perpetuity because he was worried that they were a great and strong nation — (Shmot 1:9).

Pharaoh caused Bnei Yisrael physical suffering, not only to maintain them as slaves, but to create within them a "slave mentality." Bilam attempted to curse Bnei Yisrael, to harm them through his words. However, he was not motivated by any personal desire. Balak was concerned, similar to Pharaoh, about Bnei Yisrael's strength. Balak describes Bnei Yisrael in Bamidbar (22:3,5) as *rav hu* (numerous) and *atzum hu mimeni* (more numerous than me), and so he asked Bilam to curse them. In both cases, Hashem punished these individuals by taking away their free will. However, Bilam seems to acknowledge that Hashem might do this while Pharaoh has no knowledge of Hashem's plan.

But the end of their stories diverge. Bilam eventually recognizes what the right path is:

וַיֵּרָא בִלְעָם כִּי טוֹב בְּעֵינָי ה' לְבָרֶךְ אֶת יִשְׂרָאֵל
וְלֹא הָלַךְ כְּפָעַם בְּפָעַם לְקִרְאָת נְחָשִׁים וַיָּשָׁת
אֶל הַמִּדְבָּר פָּנָיו.

Now Bilam, seeing that it pleased the Lord to bless Israel, did not, as on previous occasions, go in search of omens, but turned his face toward the wilderness.

Bamidbar 24:1

Bilam saw — on his own — that it was good in Hashem's eyes to bless the Jewish people. It further states (24:3) "*vayisa meshalo*" — he presented his parable, his own parable. The words that came next, the real bracha, came from him and not from God. Hashem no longer needed to intervene, since Bilam now recognized the right path to take; his free will was thus reinstated.

This point is made by the Or Hachayim:

שעד עתה היה מדבר מה שישם ה' בפיו כנגד
רצונו שהדיבור היה יוצא מפיו בעל כרחו ועתה
רצה שישכים הוא על הדברים היוצאים מפיו.
Up until now, Hashem has taken away his free will but now that he recognizes what he should do, the words came out on his own.

Bilam's free will may have been taken away, but he was able to gain it back. Pharaoh never regained his free will because he continued on the immoral path that he had chosen.

In these situations, Pharaoh and Bilam's free will did not make them more moral people, and in fact we can argue that Pharaoh's free will perhaps made him less moral.

Free will, according to the Rambam, is the ability to choose between good and bad:

רשות לכל אדם נתונה: אם רצה להטות עצמו
לדרך טובה ולהיות צדיק - הרשות בידו, ואם

רצה להטות עצמו לדרך רעה ולהיות רשע -
הרשות בידו.

*Every man was endowed with a free will;
if he desires to bend himself toward the
good path and to be just it is within the
power of his hand to reach out for it,
and if he desires to bend himself to a bad
path and to be wicked it is within the
power of his hand to reach out for it.*

Hilchot Teshuva 5:1

אבל נדע בלא ספק, שמעשה האדם ביד
האדם, ואין הקב"ה מושכו ולא גוזר עליו
לעשות כך... ומפני זה נאמר בנבואה, שדנים
את האדם על מעשיו - כפי מעשיו: אם טוב
ואם רע.

*But we do know without a doubt that
man's behavior is in the hand of man, and
that the Holy One, blessed is He neither
draws him nor issues edicts against him to
do as he does ... For this reason, we our
told through our prophets that a person
is judged for his actions: according to his
actions whether good or for bad.*

Hilchot Teshuva 5:5

We learn from this that free will is
our ability to discern good from bad
and our ability to choose to act based
on this understanding.⁶ Free will can
be used for both moral and immoral
purposes. It does not make us moral
people, but it gives us the choice to be
moral.

We can choose how we act —
positively or negatively. In both

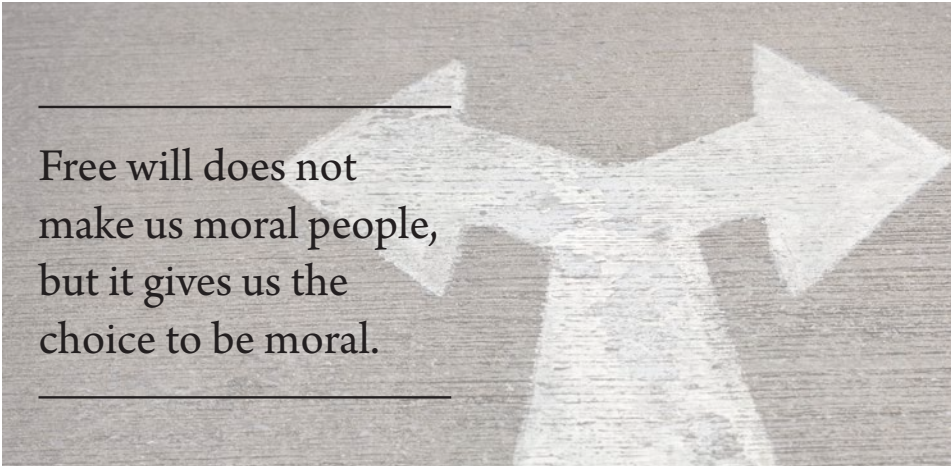
situations, there will be consequences.
When we use our free will the wrong
way and make poor choices, we are
deviating from the moral path. Hashem
may punish us and try to show us that
we have gone in the wrong direction,
even removing our free will in that
moment. But it is not a permanent
constraint — we can always gain
our free will back. We can choose to
rectify the situation. That process of
rectification is teshuvah. The Maharal,
Rabbi Yehuda Loew ben Betzalel, in
Gevurot Hashem (ch. 31) differentiates
between those who are overtaken by
desire, emotion and passion and those
who choose evil willingly. Those who
sin because of the former, if they are
sincere in their teshuva, are forgiven
by Hashem. Through their teshuva,
they are expressing who they really are,
and as such gain back their free will.
They return to themselves. However,
if they choose evil willingly, teshuvah
is impossible. Pharaoh demonstrated
that he intellectually chose the path of
evil and therefore the gift of teshuva
was impossible.⁷ Bilam, however, who
did not choose evil — and in fact never
succeeded in cursing Bnei Yisrael —
could see the right way and follow that
path. So much so that the bracha he
gave to Bnei Yisrael of his own free will
is said every day in davening — *Mah
tovu ohalecha Yaakov* — how great are

the tents of Jacob.⁸ This is a reminder to
us of our ability every day to choose the
right thing, and that it is not our free
will that makes us moral people but our
choices.

Free will is a cycle. When we use our
free will for good, we put ourselves
on a moral path, and following this
moral path leads us to greater free will.
But when we use our free will for the
negative, we may lose the opportunity
to continue to use our free will. So the
choice is ours: how will we use our
free will?

Endnotes

1. Summarized in John Tierney, "Do You Have Free Will? Yes, It's the Only Choice," available at <https://www.nytimes.com/2011/03/22/science/22tier.html>
2. See the resources referenced at <https://en.wikipedia.org/wiki/Determinism>
3. See the resources referenced at <https://www.jewishvirtuallibrary.org/jsource/Judaism/FreeWill.pdf>
4. It is interesting to note that in the pesukim there are three different words used to describe the same action: *vayechazek* — he strengthened, *va'aksheh* — and I will make hard, *vehachbed* — and he made heavy. Hashem said that he will harden (*va'aksheh*), but that verb does not appear when Pharaoh's heart is actually hardened.
5. On chapter 7, verse 3.
6. There are many other definitions and aspects to free will. For a more comprehensive analysis see Wiederblank, Rabbi Netanel, "Illuminating Jewish Thought: Explorations of Free Will, the Afterlife and the Messianic Era." The RIETS Hashkafa Series, The Michael Sharf Publication Trust of Yeshiva University Press, Magid Books, 2018.
7. Wiederblank, p. 240.
8. There is much discussion about what Bilam's actual sin was. From the *peshat* of the pesukim it is not clear. See <http://www.nechama.org.il/pages/924.html>. He was killed later in the battle between Bnei Yisroel and Midyan.



Free will does not
make us moral people,
but it gives us the
choice to be moral.



THE MITZVAH OF LISTENING

The story is told of Franklin Roosevelt, who often endured long receiving lines at the White House. He complained that no one really listened to what he said. One day, during a reception, he decided to experiment. To each person who passed down the line, he murmured, “I murdered my grandmother this morning.” The guests responded with phrases like, “Marvelous!,” “Keep up the good work,” “We are proud of you,” “G-d bless you, sir.” Only at the end of the line, while greeting the ambassador from Bolivia, were his words finally heard. Unflinching, the ambassador leaned over and whispered, “I’m sure she had it coming.”

It may only be an urban legend, but the underlying point is profoundly true. People tend not to listen.

Rosh Hashanah is a tremendously special and powerful day. In what unique way are we supposed to serve Hashem at this auspicious moment? What is the *mitzvas hayom*? What is the unique call of the day?

The shofar. But what about the shofar? To blow it? Only one person sitting in shul blows the shofar, while everyone else simply listens. The bracha highlights listening as the key aspect of the shofar — *l’shmoah kol shofar* — to hear the sound of the shofar.

How surprising! That’s it? This holy and special day doesn’t have a unique and special mitzvah that we need to perform *b’kum va’asei* (actively)? We simply have a passive mitzvah of listening?

This suggestions is very surprising and

perhaps even challenging for some.

Let us try and think more deeply about listening. If that is the call of the day, then maybe there’s more to it than what it seems on the surface.

Perhaps the most famous passuk in the Torah is that of “shema Yisrael.” What do those words mean? Hear O Israel. Is it really sufficient just to hear the words Hashem Elokeinu Hashem echad? That’s it? Just let those words bounce off your eardrums and you have fulfilled the biblical commandment?

The Rashba was asked a very simple, basic question: what *kavana* (intent) should we have when reciting the words shema Yisrael? He writes in a *teshuva* (5:55) that obviously the passuk means more than just physically hearing. Instead, based on

pesukim, the Rashba proves that there are three distinct definitions of the Hebrew root “shin mem ayin” in the Torah:

רק אנחנו חייבים לשמוע ולחקור אחר השמיעה והחקירה, שהחקירה האמתית תחויב ותכריע על ככה. והוא אומר: שמע ישראל. שמלת שמע; כולל ג' ענינים. הנחתה הא', היא שמיעת האזן. און שמעה ותאשרני. והושאלה, לדעת הרב: ונתת לעבדך לב שומע. והושאלה גם לקבלה, והאמונה בו: שמע בני מוסר אבך. אשרי אדם שומע לי. אם שמוע תשמעו אל מצותי. וכאן, ר"ל באומר: שמע ישראל; כולל ג' ענינים שנצטוונו לשמוע וללמוד, כי לולי שנשמע ונלמוד, לא נתבונן אליו. ואחרי השמיעה והלימוד וחקור היטב: אם יש ראייה סותרת, חס ושלום. ואחר שנבא מתוך השמיעה אל החקירה באמת, תביאנו החקירה ותכריחנו הכרח אמת, לקבל ולהאמין כי הוא ית' נמצא, וכן הוא משגיח על פרטי מעשנו.

We have an obligation to listen and investigate what we hear and comprehend because true understanding requires this. This is what is meant by “shema Yisrael.” The word “shema” includes three ideas. The first is hearing with one’s ears ... This term is borrowed to apply to the Master: “You shall give to Your servant a listening heart.” It is also borrowed to refer to accepting and to believing [what was heard.] ... Here, when we say “shema Yisrael” it includes three ideas: that we are commanded to hear and to learn, for if not for hearing and learning, we will not look to Him. After hearing and learning we thoroughly investigate whether there is evidence that contradicts what we found, heaven forbid. After we go from hearing to complete understanding, the investigation will lead us to believe that He exists and He provides providence over all of our actions.

The first is the simple meaning — literally to hear. The second, to understand, and the third is to accept. In truth, in the English language these same three definitions of hearing exist as well.

This explains how we can attribute hearing to Hashem. He has no ears, but He certainly is the *shomea tefila* (He Who hears our prayers), the *meivin umaazain mabit umkashiv lkol tekiyeinu* (He understands, listens and pays attention to the sound of our shofar blasts) — He understands and hopefully accepts both our verbal tefillos as well as the cries of the shofar we bombard Him with on Rosh Hashanah.

And with this understanding, we can appreciate a difficulty in the special Mussaf Shemoneh Esrei of Rosh Hashanah. There are three middle sections to the Shemoneh Esrei on Rosh Hashanah: Malchiyos (kingship), Zichronos (remembrance), and Shofros. Each section quotes ten pesukim that include the key word of that section. What

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is the last passuk of Malchiyos? *Shema Yisrael Hashem Elokeinu Hashem Echad* — where is the mention of *melech*? The key word is missing!

The Gemara, *Rosh Hashanah* 32b, explains that this in fact is a dispute among the tannaim:

אמר רב הונא ת"ש שמע ישראל ה' אלקינו ה' אחד מלכות דברי ר' יוסי ר' יהודה אומר אינה מלכות.

R. Huna said come and listen [to a proof from a beraisa]: The verse "Shema Yisrael" is kingship. These are the words of Rabbi Yosi. Rabbi Yehuda says that it is not kingship.

Rebbi Yosi says that shema Yisrael counts as a passuk of malchiyos while Rabbi Yehuda argues that it's missing the key word.

Rebbi Yehuda is right — the word *melech* is absent — so why does Rabbi Yossi count it?

Perhaps now that we understand that shema means to accept, to be *mekabeil*, there is no greater declaration of Hashem's kingship than *kabala*. The very essence of shema Yisrael is Malchiyos even if the root of the word itself does not appear.

The sense of hearing and the power of listening in our fast-paced, multitasking world is not often appreciated. I once read that good listening is like tuning into a radio station; you can listen to only one station at a time. Trying to listen to my wife while looking over an office report is like trying to receive two radio stations at the same time. I end up with distortion and frustration. Listening requires a choice of where I place my attention.

But is listening really so significant that it should be *the mitzvah* of Rosh Hashanah?

There are two statements of Chazal relating to *shmiah*, hearing, that stand out and must be better understood to give us an appreciation of the role of listening on Rosh Hashanah and beyond.

First, the Gemara in *Bava Kama* 85b says if someone blinds another person he has to make restitution by paying the value of his eye, which is the difference in price in the slave market between a two-eyed and one-eyed slave with all else being equal. However, if a person injures another causing him to become deaf — *nosein demei kulo* — he needs to pay the entire value of what the person would have been worth on the slave market if he was still able to hear. Why the discrepancy?

Second, the medrash in *Shemos Rabba* (27:9) states:

אם יפל אדם מראש הגג כל גופו לוקה והרופא נכנס אצלו ונותן לו רטיה בראשו וכן בידיו וכן ברגליו ובכל אבריו, נמצא פלו רטיות. אני אני קד, אלא רמ"ח אברים באדם הזה והאין אחד מהם, וכל הגוף מלכלך בעברות והאין שומעת וכל הגוף מקבל חיים, שמעו ותחי נפשכם, לך אמר: שמעו דבר ה' בית יעקב. וכן אתה מוצא ביתרו שעל ידי שמיעה זכה לחיים, ששמע ונתגיה, שנאמר: וישמע יתרו את כל אשר עשה אלקים למשה ולישראל עמו וגו'.

If a person falls off a roof and his whole body is injured, the doctor will place a bandage on his head, his hands, his legs and every other organ. His body will be completely wrapped in bandages. I [God] am not like that. A person has 248 organs and the ear is one of them. The whole body is dirty with sins, but if the ear listens, the whole body receives life, "Listen and your soul will live." ... We find the same regarding Yisro, who through his listening merited life because he heard and he converted. As it states, "And Yisro heard all that Hashem did for Moshe and the Jewish people ..."

The medrash contrasts a doctor, who

heals a person after a fall by putting a bandage on each individual injury, with Hashem, who can spiritually heal a person with one bandage — *shemias haozen* — the power of hearing — which is enough to spiritually repair the whole person. The proof is from Yisro, who heard about all that Hashem did for the Jewish people and was inspired to join them.

What is the ear's special power that makes it so valuable and powerful? Several years ago, I attended a production at the NYU Skirball Theater called "Not By Bread Alone," performed by the Israeli theater group Nalagaat, the world's only blind-deaf professional acting ensemble. The actors communicate through touch, vibrations from a loud drumbeat, and occasional assistants. While the actors perform an earthy, tactile task — kneading and baking bread, with the aroma wafting up from the ovens at the back of the stage — they share their thoughts on subjects such as who they would most want to give their bread to (a kind soul, a hungry child) and what life is all about. Performer Itzik Hanuna's searing depiction of being trapped with his own thoughts, not knowing if someone had entered his house, showcased the suffering and loneliness of someone who cannot hear.

At the crux of what Chazal are teaching us is that the *chush hashemiah*, the sense of hearing, is at the core of connecting to others and opening ourselves up to outside influences. Perhaps that is why a deaf-mute is halachically not considered to have the *da'as* necessary for certain halachic functions. [Parenthetically that also may be why there is so much more recent halachic discussions about whether the status of the *cheresh* has changed with sign language and other innovations

allowing the deaf to communicate.]

Simultaneously, part of the connection that hearing creates with the outside world demands that we take responsibility to let in only positive influences. The *Sefer Chareidim* enumerates nine mitzvos that depend on the ear, one of them, to take our fingers and stick them inside of our ears, as the Gemara, *Kesuvos* 5b, says:

אלא מה טעם משופות כיתדות שאם ישמע
אדם דבר שאינו הגון יניח אצבעותיו באזניו
תנא דבי רבי ישמעאל מפני מה אופן כולה
קשה והאליה רכה שאם ישמע אדם דבר
שאינו הגון יכוף אליה לתוכה.

Rather, what is the reason that [our fingers] are shaped like pegs? So that if someone hears something that is not appropriate, he should stick his fingers in his ears. The school of R. Yishmael taught: Why is the ear hard and the lobes are soft? So that if someone hears something that is not appropriate, he can fold the lobe into it.

Our fingers are shaped as they are and our earlobes are soft so as not to hear lashon hara or inappropriate speech.

Our connections through listening take on several forms. To listen to others. To listen to criticism. To listen to G-d.

The great psychologist Viktor Frankl was once awakened at 3 a.m. by a female patient who was about to take her own life. He stayed on the phone with her for two hours and finally convinced her to come in the morning to his office to talk further. When Frankl met her in the morning, he asked her, "Could you please tell me, what was it that I said? What argument did I suggest that was persuasive enough to convince you to come here today?" She responded that it was nothing he said, but the fact that he was willing to listen to her in the

middle of the night, for so long, that made her realize there is value to living life on this Earth. The connection that listening, active listening, provides, is very real.

We read in the krias Hatorah of Rosh Hashanah the story of Yishmael being sent out of the house of Avraham with Hagar, and that Yishmael became ill and eventually healed. The medrash (*Bereishis Rabbah*, Vayera 53:8) records that the malachim said to Hashem, "Let him die. In the future his children will inflict so much damage on the Jewish people, end it now!" Hashem responded: No! A person is judged *ba'asher hu sham*, where he is right now, not based on what the future will bring. Right now, he deserves to live.

Is that rule really accurate? What about the *ben sorer u'moreh*, the wayward son, who is killed (*Devarim* 21), to which Rashi (*Devarim* 21:18) explains that it is better he should die now innocent than in the future when he is full of sin. What happened to "*ba'asher hu sham*"? Right now, he doesn't deserve it?

Rav Chaim Yaakov Goldvicht zt"l, *Asufas Ma'arachos* to Ki Seitzei, explained the distinction lies in two words: the *ben sorer u'moreh* is described as "*eino shomea*" he doesn't listen, he is not willing to listen. If a person won't listen, can't connect to others, then his future is bleak. He has lost his chance to be judged on a "*ba'asher hu sham*" basis.

Rosh Hashanah is not only a time to focus on our relationship with Hashem, but on *bein adam lachaveiro* as well. Hashem acts with us as He sees us act. If we want our tefillos to be heard, in all senses of the word, if we want the piercing sounds of our mitzvas shofar to be heard, we need to

show Hashem how we listen. We need to commit ourselves anew to listening.

When that shofar sounds on Rosh Hashanah, it is not a passive mitzvah, but a mitzvah to listen actively, to pay attention, to accept on ourselves:

1) to listen to Hashem, to strengthen our commitment to mitzvos in areas that may have been weak. In a general sense to realize, become comfortable with and accept the yoke, the responsibility, but also the opportunity for mitzvos. To focus on at least one area where our listening to His Torah may be lacking.

2) to be willing to listen to criticism. One of the 48 traits necessary to acquire Torah is *ohev es hatochachos*, to love mussar, to love rebuke, to love criticism. It is hard to find fault in ourselves. It is very painful and many defense mechanisms are initiated when those raw nerves are struck. Try to be open to it, maybe someone else has a point, take criticism seriously. In the end we all gain.

3) to really listen to others. To give a spouse, a child, a friend, a coworker, the attention he or she deserves when needed. To put aside everything else and pay attention to people as we would want from them when we are speaking. We spend much of the time that others are talking to us thinking about what we are going to say, instead of listening to what is being said. We need to commit ourselves to serious listening every day at least for a few minutes, without any distractions.

Shema koleinu Hashem Elokeinu — Hashem please hear our tefillos, our wishes, our desires for the coming year. See how we are committed to listening to Your mitzvos and in that merit hear all of our tefillos, with mercy, so we all merit a *kesiva vachasima tova*.



MAKING A DIFFERENCE: PRIORITIES IN TZEDAKAH

Even the most devoted practitioners of *chesed* (acts of kindness) and charity are human and are restricted by the limitations of reality. Resources are finite; time, money, and emotional energy all require careful allocation. Since resources that are bestowed in one place cannot be bestowed elsewhere, the halakhah has formulated principles of prioritization to guide the maximal fulfillment of the crucial mitzvah of tzedakah. In general, the discussion is complicated by the fact that the expression of charity and *chesed* will generally allow for some measure of personal discretion. Discretion, by definition, would seem to be incompatible with regulation. It is noteworthy that

one method of charitable donation and disbursement in contemporary times is the “rabbinic discretionary fund.” Rabbinic discretion is a special kind — one that, by its very nature, suggests a judgment informed by values that are rooted in legislated principles found in the Talmud and codes. The existence of the rabbinic discretionary fund is indicative of the unique place tzedakah occupies within this reality.

On the one hand, tzedakah is a concrete religious obligation, codified in the “*Yoreh De’ah*” section of *Shulchan Arukh* along with much of what makes up the curriculum of rabbinic training. Nonetheless, the subjective factors applicable in evaluating charitable priorities are

manifold, often obscure, and at times willfully misrepresented. While every area of Jewish law involves variables that affect the application of halakhah, tzedakah would appear to be complicated to the point of defying any regulation. To calculate urgency of need, priority, proportionality, honesty of supplicants and countless other factors, and emerge with clear direction, is a daunting task. Nonetheless, when all is said and done, individual judgment will steer the course. A frequent theme in rabbinic responsa is that after carefully analyzing the pertinent halakhic aspects, it is up to the donor, administrator, or rabbi to assess the application.¹

The Vilna Gaon is quoted as having

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homiletically understood the verse, “*lo tikpotz et yadkha mei-achikha ha-eyyon*,” “you shall not...close your hand against your destitute brother” (Deut. 15:7), as an instruction about the evaluative responsibility contained within the tzedakah imperative.² When the hand is closed in a fist, all the fingers appear to be the same size. However, when the hand is open, it becomes clear that the fingers are all of different length. Similarly, the appearance of objectivity in tzedakah standards is deceptive. In real life, appropriate giving will always require a judgment call based on the subjective elements. This discussion, accordingly, will make no attempt to finalize rules, but rather to present some of the halakhic reasoning that has been established throughout the centuries.

Concentration or Diversification?

One general question at the outset can be simply expressed as the issue of quantity versus quality. What is the preferred approach toward the distribution of a limited sum: a focused, single gift of considerable impact, or smaller allotments, making possible a broader “sharing of the wealth?”

Maimonides, commenting on the mishnaic phrase, “*vihakol le-fi rov ha-ma’aseh*,”³ “everything is judged by the “rov” of action,” asserts that:

שהמעלות לא יושגו לפי שיעור גודל המעשה, אלא לפי רוב מספר המעשה. וזה, שהמעלות אמנם יושגו בכפול מעשי הטוב פעמים רבות, ובזה יושג הקנין, לא בשיעור האדם מעשה אחד גדול ממעשי הטוב, שבזה לבדו לא יושג קנין. משל זה, שהאדם אם יתן למי שראוי אלף דינר, בפעם אחת ולאיש אחד, לא תושג לו מעלת הנדיבות בזה המעשה האחד הגדול, כמו שתושג למי שיתנדב אלף פעמים באלף

דינר, ויתן כל דינר מהם על צד הנדיבות, לפי שזה יכפל על ידו מעשה הנדיבות אלף פעמים, ויושג קנין חזק, וזה פעם אחת בלבד התעוררה הנפש התעוררות גדולה למעשה טוב, ואחר כן פסקה מזה. וכן בתורה אין שכר מי שפדה אסיר במאה דינר, או נתן צדקה לעני במאה דינר שהיו די מחסורו, כמו מי שפדה עשרה אסירים, או השלים חסרון עשרה עניים, ואפילו בעשרה דינרים. ולזה תקיש. וזה הוא ענין אומרו: לפי רוב המעשה אבל לא על פי המעשה.

The higher levels will not be attained by an individual through the magnitude of an action but rather through a multitude of actions; for example, when an individual gives a thousand gold coins to a needy person, and to another person gives nothing, he will not acquire the quality of generosity through this one action as much as one who donates a thousand gold coins in a thousand instances, and gave every coin in the spirit of generosity, because the latter repeated the act of generosity a thousand times and achieved a strong acquisition, while the former aroused his soul to do good once and then ceased; and thus the phrase, all according to the multitude (rov) of the action and not magnitude (godel) of the action.

Others, such as the Maharal of Prague and R. Yaakov Emden, adopted a different perspective, emphasizing quality over quantity;⁴ Maimonides’ position, however, appears to have exerted a greater influence on the halakhic literature.

The reason for, and focus of, Maimonides’ view remains to be determined. On the one hand, Maimonides’ language suggests an emphasis on the spiritual elevation that comes from performing a mitzvah act. The benefits to the soul of the doer justify the dilution of the concentration of the act itself; the act impacts positively with each repetition. Similarly, some

commentaries⁵ highlight the growth resulting from continuously resisting uncharitable impulses.⁶

Alternatively, there are those who base a preference for multiple donations over large single gifts because of the enhancement accrued by the recipients. In other words, diversification is ideal because the world is better off when more people are helped, and the world is worse off when the minority benefits disproportionately at the expense of others.

Even if this is not a correct reading of Maimonides, it is explicitly the position of the *Bayit Chadash* (Bach). In the laws of giving to the poor on Purim, the *Bach* states that it is clear to him that one who could give a large gift to one needy person or smaller gifts to a hundred should opt for the latter route, thus “sustaining one hundred lives.”⁷ This notion is alluded to in the Talmud where it recorded that one who offers all his priestly gifts to one *kohen* “starves the world.”⁸

The difference between the two interpretations of Maimonides’ position is significant and directly relevant to an administered fund. If the preference for quantity is derived from the benefit to the soul, then such a factor is relevant only to the donor himself, and not to one administering the funds of others. If, however, the advantage is a reflection of wider benefit being more halakhically desirable, this concern is directly relevant to an administered fund as well.⁹

It is also conceivable, as is often the case, that the ideal path is somewhere in the middle. If diversifying the donations can be done without diluting the effect to the point of insignificance, then such an approach

is preferred. If, alternatively, only concentration will yield an effect of demonstrable impact, then that is the path to take.¹⁰

In any event, the principle that one should not direct all his resources toward one recipient is codified in the *Shulchan Arukh*.¹¹ Nonetheless, as the *Maharsham* observes, it is likely that the *Shulchan Arukh* disapproves only of a consistent policy of exclusivity. An occasional concentration of efforts on one needy case is not covered by this admonition.¹²

Dei Machsoro

After determining the method of distribution, it is necessary to determine what is demanded of the donor or disburser in relation to a given recipient. The Torah, in mandating the support of the needy, indicates a goal of supplying “*dei machsoro*,” “his required need” (Deut. 15:8). The Talmud understands this expansively, including even the provision of “a servant to run in front of him” if this is the accustomed standard of the recipient.¹³ R. Shmuel Vosner emphasizes, however, that the Talmud limits the obligation at the same time as it expands it: the same passage rules that *dei machsoro* does not extend to enrichment.¹⁴

Some question how such a policy can be reconciled with the Talmudic mandate that one not give away more than 20% of one’s income, lest he himself join the ranks of the impoverished.¹⁵ Surely a standard of *dei machsoro* would impose a much higher burden on the donor.¹⁶ The basis for the resolution of these seemingly conflicting requirements is found in the rulings of the Rama. As the Rama understands it, *dei machsoro*

is not an obligation on the individual, who is, indeed, absolved after having donated 20%, but rather on society as a collective.¹⁷ While the Rama’s opinion is not the only one on the matter,¹⁸ it is nonetheless compelling. Further, as R. Vosner observes, “reality” has ruled in accordance with the Rama: it is practically unrealistic to assume that any individual, in a modern economic context, can alone undertake the support of someone else to the point of “*dei machsoro*.”¹⁹

Thus, according to the Rama, it is specifically a public fund, such as the rabbinic discretionary fund, that has the responsibility of fulfilling *dei machsoro*. Nonetheless, those funds are likewise not infinite, and prioritization will continue to take a strong role in the allocation process. Practically, then, *dei machsoro* is rarely attainable; the concept, however, remains instructive in defining some core elements within tzedakah, as will be discussed below.

A much more limited obligation of fulfilling *dei machsoro* concerns the roving supplicant, who is himself “diversifying” and can be assumed to be drawing support from multiple sources. According to the *Shulchan Arukh*, such an individual is entitled only to a “small gift.”²⁰ The *Taz* relates that there are a number of disputed points regarding this ruling, particularly as to whether the reference is to individual or public funds. He concludes by noting that consensus seems to settle on a small gift comparable to the value of one meal.

In addition to the positive commandment to provide for the needs of the poor, there are two Torah prohibitions that would seem to apply to anyone approached for

funds. In the context of the mandate of tzedakah, the Torah warns, “... you shall not harden your heart or close your hand against your destitute brother” (Deut. 15:7). Thus, it bears determining whether every refusal to give charity violates the two Biblical commandments of “you shall not harden your heart” and “you shall not close your hand.”

It is possible that these prohibitions are binding even without an overt request on the part of the poor person; perhaps knowledge that there are needy people nearby is enough to create a responsibility. This appears to be the position of Maimonides in *Sefer Ha-Mitzvot*,²¹ although his phrasing in *Mishneh Torah* has left open some room for question.²² The Rashba, however, seems to restrict the obligation to one who has been approached directly.²³ Some contemporary authorities assume this latter view to be normative.²⁴

The possibility of violating two Torah prohibitions certainly is a factor when making the decision to bestow charity. However, many authorities limit the scope of these prohibitions. For example, R. Meir Auerbach suggests that the prohibitions only apply in a situation where the entire responsibility of *dei machsoro* is binding; when, however, the petitioner will, in any event, turn to other sources, they do not apply.²⁵ Furthermore, others suggest that the prohibitions only refer to reluctance resulting from a “hardening of the heart;” when the issue is limited funds, or questions as to the qualifications of the recipients, they may not apply.²⁶ Along these lines, R. Leib Baron suggests the following distinction: the positive obligation of tzedakah is addressed both to the

material needs of the recipient and the spiritual needs of the donor.

The prohibitions, however, are only directed at the donor, instructing that he not allow his sense of compassion to be eroded. Accordingly, when he is justified in not giving, the prohibitions do not apply.²⁷

Prioritization between Individuals

Perhaps the most famous principle of prioritization is that of “*aniyei irkha kodmim*,”²⁸ — the poor of your city take precedence — indicating preference to those in closest proximity. The Meiri maintains that this is the overriding priority, and all other factors are evaluated only within this context.²⁹

A comment found in the later Biblical commentary *Panim Yafot* has made a greater halakhic impact than might be expected for a homiletic commentary, largely due to the author of that work having been R. Pinchas Halevi Horowitz, author of the *Sefer Hafla’ah* and one of the primary mentors of the *Chatam Sofer*. The *Panim Yafot* identifies two significant textual clues towards prioritization in the verse “*Ki yihyeh bekha evyon ...*,” “If there shall be a destitute person among you ...” (Deut. 15:7) The words “*bekha*” and “*evyon*” are of particular relevance. “*Evyon*” is a stronger term for a poor person than “*ani*,” suggesting true indigence. Etymologically, the word is related to the word “*ta’ev*,” indicating “need.” This becomes a guiding principle in prioritization: *kol ha-ta’ev, ta’ev kodem* — the neediest comes first. This is the dominant rule, according to the *Panim Yafot*, overriding even the priority of *aniyei irkha*. All preferences of proximity presume comparable need; if there is

a disparity in this area, priority goes to those in greatest need.³⁰

However, even this rule is not absolute; the word “*evyon*” is preceded by the word “*bekha*.” When family is concerned, their needs come first, even if others outside the familial group are more urgently lacking. This may be another area in which there is a distinction between private charity and an administered fund. R. Moshe Feinstein suggests that a distributor of funds bears a greater responsibility toward objectivity and thus must be more mindful of disparities in need. An individual donor, however, retains the right to bestow his largesse as he feels comfortable, and may be less attentive to this criterion.³¹

Thus, two distinct factors compete for priority in charitable giving: severity of need and closeness in relationship.³² The analysis of the *Panim Yafot* was adopted by his famous student, the *Chatam Sofer*, who ruled accordingly that all priorities of proximity are only operative in cases of comparable need, although he dispensed with this standard when the recipient was the father of the donor.³³

The parameters of the *Chatam Sofer*’s definition of family have sparked some analysis among later authorities.³⁴ However, from the perspective of discretion, such delineation would be secondary to the emerging principle, a balancing of the often competing elements of urgency and proximity.

The next prioritized category in the distribution of charity is *aniyei Eretz Yisrael*, the poor of the Land of Israel.³⁵ The *Chatam Sofer* posits that within this category, the poor of Jerusalem take precedence over those of other cities since the sanctity of the city outlasts the destruction of the Temple (*kidshah le-atid lavo*) and Jerusalem is,

in any event, the home of the Divine presence.³⁶

A number of elements may play a role in the prioritization of the poor of Israel. For one thing, supporting this population is a direct fulfillment of the imperative to settle the Land of Israel.³⁷ Another perspective, however, sees this priority as an expansion of the *aniyei irkha* principle.³⁸ This notion itself allows for two possibilities. On the one hand, it may be argued that the stake the entire Jewish nation has in the welfare of the Land incorporates the Land of Israel into the orbit of *irkha*; alternatively, the fact that the whole world benefits spiritually from development in the Holy Land accomplishes the same status.³⁹

Authorities debated the status of individuals who are rooted in and have a close connection to a Diaspora community but are currently residing in the Land of Israel. According to R. Chaim Sanzer, no preference is shown to this group, which is now a part of the larger population of the needy of the Land of Israel.⁴⁰ The Muncaczer Rebbe cites R. Chaim Volozhiner, who does recognize a preference in this case.⁴¹ He then attempts to reconcile the two approaches, suggesting that the operative element is the question of whether this group is receiving any assistance already. Ultimately, he concludes that there is priority given, upholding the principle as established above: Those with the closest connection to the donor come first.⁴²

Prioritization between Causes

In addition to a system of prioritization among recipients, there are preferences indicated between

different causes, once the urgent needs of the poor without food have been seen to. The *Shulchan Arukh* maintains that one who has funds to spare could do no better with them than to assist in the marrying off of poor young women.⁴³ Another priority in charitable giving is Torah education. The structure of the local school system is, to some extent, derived from a system put into place by R. Yehoshua ben Gamla, who created a centralized system for children to be educated outside of the home.⁴⁴ In the opinion of some authorities, as a result of this enactment, supporting local schools is not only tzedakah but part of the basic obligation of Torah study; others understand that it is still tzedakah that is fulfilled, but of an even more mandatory nature.⁴⁵ Halakhic authorities quote from earlier sources that in a community in which not all parents are able to afford tuition for their children, the obligation falls on the community members as a whole in accordance with their capacity to contribute.⁴⁶

The needs of the larger world population, outside of the Jewish community, also merit a place on the list of causes supported by Jews. While the Talmud mandates assisting the poor of the world “together with the poor of Israel,”⁴⁷ authorities have ruled, following the Ran, that this language is not meant to exclude situations in which no Jews are involved.⁴⁸

The opportunity to guide, direct, and optimize the charitable sensitivities of public and private funds is a profound one. It is hoped that further study of the underlying principles will hone the discretion to the point where it is most reflective of the Divine command.

Endnotes

1. See, for example, R. Moshe Feinstein, *Responsa Iggerot Mosheh*, Yoreh De'ah II, 115. See also R. Shmuel Vosner, *Responsa Shevet Ha-Levi* I, 199; *Responsa Givat Pinchas*, 64; R. David Shperber, *Responsa Afarkasta De-Anya* I, 183; and R. Chaim Kanievsky, *Derekh Emunah*, *Hilkhos Matnat Aniyyim* 10:49.

2. See *Responsa Teshuvot Ve-Hanhagot* I, 567.

3. *Avot* 3:15.

4. Maharal, *Netivot Olam*, *Netiv Ha-Tzedakah*, ch. 4 and R. Ya'akov Emden, *Lechem Shamayim* on *Avot* 3:15.

5. See R. Yitzchak Sorotzkin's *Gevurat Yitzchak* and R. Ovadiah Yosef's *Anaf Etz Avot* to *Avot*; compare, as well, *Mitzvat Ha-Tzedakah* of the Lubavitcher Rebbe, #26. Note also R. David Cohen, *Birkat Ya'avetz* I, p. 48. See also R. Aharon Yehudah Grossman, *Responsa Ve-Darashta Ve-Chakarta* I, Yoreh De'ah 35, in reference to the question of granting one large loan or many smaller ones.

6. The general question of the impact of quantity or quality in the halakhic realm is one analyzed at length in Talmudic commentary; see, for example, R. Yosef Engel's *Lekach Tov*, #15, and in particular, the comments of the Ran, *Yoma* 4b in pages of the Rif, s.v. *ve-garsinan*, where it is suggested that slaughtering an animal on Shabbat is less objectionable than eating non-kosher food because the latter option involves repeated transgressions with each bite, even though the former is, by itself, more severe. [Note also R. Engel's observation on Maimonides' comments in his *Gilyonei Ha-Shas* to *Bava Batra*, 9b.]

7. Bach, *Orach Chaim* 695. See also Magen Avraham, *Orach Chaim* 695:12.

8. *Eiruvim* 63a.

9. See R. Natan Gestetner, *Responsa Le-Horot Natan* II, 102; R. Shammai Kehat Gross, *Responsa Shevet Ha-Kehati* II, 220; and R. Yitzchak Zilberstein, *Chashukei Chemed*, *Ketuvot*, pp. 459-460. See also *Pardes Yosef He-Chadash*, *Parshat Re'eh*, #174.

10. See R. Elyakim Devorkes, *Be-Shvilei Ha-Parshah*, p. 71-2; See also *Responsa Minchat Yitzchak* VI, 102, and *Responsa Shevet HaKehati* II, 220.

11. Yoreh De'ah 257:9.

12. Note that the *Chatam Sofer*, *Responsa, Yoreh De'ah* 229 exempts from this exhortation one who is supporting a parent.

13. *Ketuvot* 67b.

14. *Responsa Shevet Ha-Levi* VI, 130.

15. *Ketuvot* 50a.

16. See, for example, R. Yehudah Gershuni, in the journal *Barkai*, vol. 11, p. 77-81.

17. Yoreh De'ah 250:1.

18. The *Shakh* observes that the Rama follows the *Beit Yosef*, against the *Tur*. See also Bach and *Biur Ha-Gra*.

19. *Responsa Shevet Ha-Levi* X, 13. See also R. Chaim Elazar Schapiro, *Responsa Minchat Elazar* VI, 46. Note also *Responsa Va-Ya'an David* (Yoreh De'ah, 146), who notes a difficulty in the statement of the Rama.

20. Yoreh De'ah 251:3.

21. Prohibition #232.

22. *Hilkhos Matnat Aniyyim* 7:1. See *Responsa Shevet Ha-Levi* I, 199; R. Yisrael Meir Lau, *Responsa Yacheil Yisrael* III, 15, and *Reshimat Shi'urim She-Ne'emru Al Yedei Maran Rav Yosef Dov Soloveichik*, *Shevu'ot*, p. 175.

23. *Shevu'ot* 25a, citing earlier opinions.

24. See, for example, R. Yaakov Yeshaya Bloi, *Tzedakah U-Mishpat*, ch. 1, n. 3; R. Chaim Kanievsky, *Derekh Emunah*, *Hilkhos Matnat Aniyyim*, ch. 7. #7; R. Shimon Malkah, *Mishpetei Shimon: Halva'ah Le-Or Ha-Halakhah*, pp. 12-16; and *Responsa Mishneh Sakhir*, cited in *Responsa Shraga Ha-Meir* VIII, 90:5:2.

25. *Imrei Binah*, *Orach Cha'im*, 13:3. See *Tzedakah U-Mishpat*, *ibid.*, who considers this position in combination with other factors in assuming that the prohibitions are not violated when failing to respond to a letter appealing for funds.

26. See *Responsa Avnei Yosseph* IV, 101:2; *Smag*, prohibition #289; *Einayim La-Mishpat*, *Bava Batra* 9a; and *Nikdash Be-Tzedakah*, p. 231-232.

27. *Misamchei Lev*, 17.

28. Yoreh De'ah 251:3.

29. Meiri, *Ketuvot* 85b. The works of the Meiri were unavailable for centuries; during that time, this position was associated with the *Responsa Shemesh Tzedakah*, cited by the

Pitchei Teshuvah. See footnotes to the Meiri.

30. It is noteworthy that some authorities factor into the equation the level of embarrassment involved, thus according priority to a potential recipient less needy but at risk of greater embarrassment due to his reluctance to ask for help, while others reject this consideration; see R. Avraham Avidan, *Ahavat Tzedakah*, ch. 9, 51, and fn. 163.

31. *Responsa Iggerot Mosheh*, *Yoreh De'ah* I, 144.

32. See also the discussion in *Responsa Avnei Yoshpeh* IV, 100.

33. *Responsa Chatam Sofer*, *Yoreh De'ah*, 234; *chiddushim* to *Nedarim* 80b.

34. See *Responsa Shevet Ha-Levi* V, 135:4.

35. *Yoreh De'ah* 251:3

36. *Responsa*, *Yoreh De'ah*, 234. See also *Torah Temimah*, Deut. 15, #22, who independently suggests the Jerusalem distinction. *Responsa Shevet Ha-Levi* V, 135:5 questions the

preference for Jerusalem, noting that the factors presented would only apply to the old city of Jerusalem. R. Chaim Kanievesky, *Derekh Emunah* I, *Hilkhot Matnot Aniyyim*, #239, assumes the issue is dependent on the sanctity of Jerusalem in contemporary times.

37. See *Pe'at Ha-Shulchan*, *Hilkhot Eretz Yisrael* 2:22.

38. See R. Avraham Yitzchak Kook, *Responsa Da'at Kohen*, 133.

39. An extensive analysis of the priority given to the poor of the Land of Israel can be found in R. Shmuel Gershon Marel, *Zikhron Ya'akov*, 5.

40. *Responsa Divrei Chaim* II, *Choshen Mishpat*, 68.

41. *Responsa Minchat Elazar* IV, 8.

42. The dispute between R. Chaim Sanzer and R. Chaim Volozhiner may also be related to the above question regarding the reasoning for the priority of *aniyei Eretz Yisrael*; if it

stems from an expansion of "*irkha*," that notion would be doubly relevant if the recipients share a geographical history. See R. Moshe Nachum Yerushalimski, *Responsa Be'er Moshe* I, 2, who discusses this question at length.

43. The question of how exactly to relate to this priority when it conflicts with serving the needs of the severely destitute is addressed by R. Ya'akov Meir Stern in the journal *Mi-Beit Levi* 16, pp. 101-108.

44. *Bava Batra* 21a.

45. See *Responsa Teshuvot Ve-Hanhagot* III, 283, and *Responsa Shraga Ha-Meir* IV, 64.

46. See *Darkhei Moshe*, *Choshen Mishpat* 163, citing Rabbenu Yerucham, and *Rama*, *Choshen Mishpat* 163:3, and *Biur Ha-Gra*, 80.

47. *Gittin* 61a.

48. *Shakh*, *Yoreh De'ah* 251:2, and *Biur Ha-Gra*. See also *Responsa Avnei Yoshpeh* I, 193, and *Emet Le-Ya'akov*, *Yoreh De'ah* 251, fn. 137.

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FOUR THOUGHTS ABOUT TZEDAKA

I. Associating Coins with Tzedakah

Our family was once shopping at a large supermarket. Upon checking out, the store gave us a gift: an inflatable rubber ball with the logo of Strauss — one of Israel's well-known ice cream companies — emblazoned on the ball. Our 3-year-old son blew up the ball and started playing with it on our way to the car until it fell. "Ima," he said, "Please pick up the ball that says 'Eat ice cream.'" My husband and I were amazed. There was nothing written on the ball

and this 3-year-old didn't even know how to read. Even though the only print on the ball was the ice cream company's logo, it was enough for him to understand the message. After all, he had been exposed to this message countless times over his first three years of life and knew exactly what it meant. I noted to myself that he didn't say, "Please pick up the ball that says 'Ice cream,'" but rather "Eat ice cream," in the command form. I thought, the people in the marketing department definitely deserve a bonus.

This incident left me a little

pessimistic about education. I assumed that I was the one educating my child, not the advertising industry. What other subconscious messages was he receiving?

A short while later, we were at the playground with a friend. Her children were playing with her purse, and then her 3-year-old daughter dropped a coin on the ground. "Ima," she said, "I dropped the tzedakah!"

She did not say she dropped the money or the coin, or the shekel. This piece of metal did not speak to her — like most people — in materialistic

terms. We would immediately think “what could be bought with such a coin, and where can we find more?” But she was educated from her infant years that this coin is, first and foremost, used for charity. This coin came into the world in order that we could give it to others. That is its purpose. The money that we have is not really ours; we are just a conduit to get it to the right place. What a “girsā d’yankuta” — childhood lesson!

I smiled to myself. If it’s possible to ingrain in us commercial messages from infancy, it is also possible to ingrain from infancy that money is first and foremost used for tzedakah.

II. Tzedakah to Counter Idolatry

Years later, I received a gift from my father-in-law, a book by Rav Shlomo Wolbe called *HaMitzvot HaShekulot*. Rav Wolbe was a great educator, a student of the Mir Yeshiva, who brought the methods of the Mussar Movement to a budding Eretz Yisrael. He has raised generations of students with the concepts of self-thought and contemplation. In contrast to his more famous books, such as *Alei Shor*, *HaMitzvot HaShekulot* is almost unknown. I started reading it and couldn’t put it down.

Rav Wolbe writes about the seven mitzvot that our rabbis teach that are “equal to the whole Torah.” They are: denying idolatry, tzitzit, Shabbat,

Torah learning, circumcision, charity and Eretz Yisrael. He then explains them one by one, but in a specific order. In his opinion, there is a ladder we must climb, from the first stage, to the second, and so on. One of Rav Wolbe’s grandchildren once said that every day before he began to read Shema, Rav Wolbe would close his eyes and concentrate, thinking about the seven steps.




The first mitzvah on this ladder is denying idolatry. We cannot begin our spiritual quest if we are enslaved to foreign concepts or if other values are sacred in our eyes. We must first know that the Torah is primary and only then can we move forward. Rav Wolbe writes that according to the Midrash, Avraham Avinu wrote a 400-chapter book detailing all the aspects of the



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idolatry in his generation. Today, there are far fewer physical statues and idols, but even in our generation we can write a book about the various ways we are enslaved.

Then comes the second, yet somewhat surprising, rung on the ladder — tzedakah. Kindness fills the void that is left when we rid ourselves of the yetzer (evil inclination). Giving tzedakah is how we put into practice the first rung of the ladder. After all, much of our “idolatry” is about money — lust for money or using money to buy material items (clothing, cars, a home). The person who climbs to the second rung of the ladder and gives tzedakah says: I am no longer enslaved to wealth, to money or to materialism. I freed myself.

This is how Rav Wolbe describes it:

הכפירה בעבודה זרה למיניה היא יסוד התורה. כפירה זו חייבת להתבטא במעשה: בצדקה. ביכולת להיפרד מהכסף. בכל נתינת צדקה מודה האדם כי הכל לא שייך לו אלא לה', ואם אינו נותן צדקה – הוא הופך את כספו לעבודה זרה. צדקה היא צעד ענק קדימה בהתרחקות מההשתעבדות לעולם.

Denial of idolatry of all kinds is a foundation of the Torah. This denial must be expressed in deed: in charity. In an ability to separate oneself from money. In all charitable giving, man admits that nothing belongs to him but to God, and if he does not give charity, he turns his money into idolatry. Charity is a huge step forward away from enslavement to the world.

III. Innovative Charity

So how do we climb to this second rung of the ladder? How do we give charity properly? I recently heard about “innovative charity.” This is the type of donation that isn’t simply debited automatically from our account on a monthly basis (although that too is very praiseworthy!); This is a well-planned act that gets to the heart of what tzedakah is about. Perhaps this is the intent of the Torah in describing the mitzvah of tzedakah:

כִּי לֹא יִחְדַּל אֲבִיּוֹן מִקֶּרֶב הָאָרֶץ עַל כֵּן אֲנֹכִי מְצַוְךָ לֵאמֹר פֶּתַח תִּפְתָּח אֶת יָדְךָ לְאֶחִיךָ לְעִנְיֶיךָ וּלְאֶבְיֹנְךָ בְּאֶרֶץךָ.

For there will never cease to be needy ones in your land, which is why I

command you: open your hand (patoach tiftach) to the poor and needy kinsman in your land.

Devarim 15:11

Why not just say open your hand? Why does it say *p.t.ch.* two times — *patoach tiftach*? Many commentators explain that there are two aspects of charity — the money itself and the atmosphere created by the act of giving. The *Kli Yakar*, for example, writes “*hanetinah b’yad v’hapiyus b’feh*” — the giving is with our hand and the reassurance is with our mouth. That is, we do not only consider the act of giving, but also the way in which it is given. The goal is not just to give the money to the poor person, but to think about how to restore him, how to give him exactly what he needs, how to avoid shaming him, and how to help him in a customized way that is most effective and sensitive to his needs.

Here are just two examples: In one neighborhood, it was customary for all residents of the neighborhood to buy groceries on credit and pay the bill once a month. One Jew told the



grocer that when the poor came to pay, the grocer should only charge for half of the bill, and he would pay the remainder himself. And so the poor took groceries like everyone else, paid like everyone else once a month and felt no shame. This is a type of *matan b'seter* (secret giving) that involves sophistication and attention.

The second story I covered myself in the Israeli media. Yom Tov Maaya, age 60, works as a janitor. He had a dream: to write a sefer Torah scroll, but he knew that this was an expensive task. For seven consecutive years (!), he finished his regular job and then went out to collect plastic bottles. For every bottle returned to the store he earned back 25 agurot (¼ of a shekel). He collected bottle after bottle, shekel after shekel, and managed to accumulate the necessary amount to purchase a sefer Torah. He then announced that the sefer Torah would be donated to the institution that he deemed most appropriate. An Israeli radio station hosted him on a special program in which he told his story. Out of 1,326 applications, his final choice was a synagogue in the city of Beer Sheva that was established in memory of a police officer who perished in a fire. Yom Tov Maaya

managed to convey a simple but important message: every agurah is important. Every small donation counts. Everything adds up in the end. A janitor can also write a Torah scroll. This too is a very innovative way to teach us about the value of giving.

IV. Being on The Receiving End

But why talk about ourselves only as donors? I do not want to offend the readers, but in a certain sense — as Rabbi Nachman of Breslov explains — we are all beggars as well. Yes, this is true even if we give a lot of tzedakah and have a high net worth. We are all beggars of attention, of relationships, of love. “No man is an island,” wrote English poet John Donne. We need others, not for their money, but for their smile, their presence and their warm embrace. And in the age of social media, sometimes we just need their “likes.” Positively embracing others on social networks can really be “social charity” for some people.

Rabbi Nachman of Breslov dealt extensively in his writings with the lessons we can learn from beggars. He begins his famous story “The Story of Seven Beggars” with the

following phrase: “I’ll tell you how happy they were.” The beggars’ joy in the story is simple, innocent and wholesome. They are not dependent on the outside world, are not chasing educational credentials or livelihood, they are not trying to impress anyone. While none of us want to be beggars, preferring always to be giving rather than taking, Rabbi Nachman reveals how each beggar has very high spiritual potential that has been hidden from us.

In these days of repentance and self-improvement, it is very empowering to know that we are imperfect, that we have the ability to let go and reveal the flaws and deficiencies that are within us. In a world that emphasizes individualism and personal accomplishments, Rabbi Nachman of Breslov provides us with great comfort that lies in our ability to admit that we also sometimes need help.

May we all merit to see a coin and associate it directly with charity, destroy idolatry by giving our money to others, find innovative ways to give charity sensitively and effectively, and admit that we are — sometimes — beggars.

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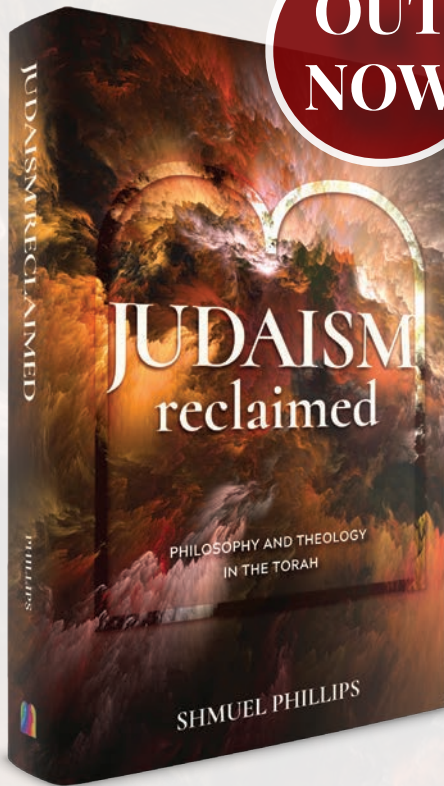
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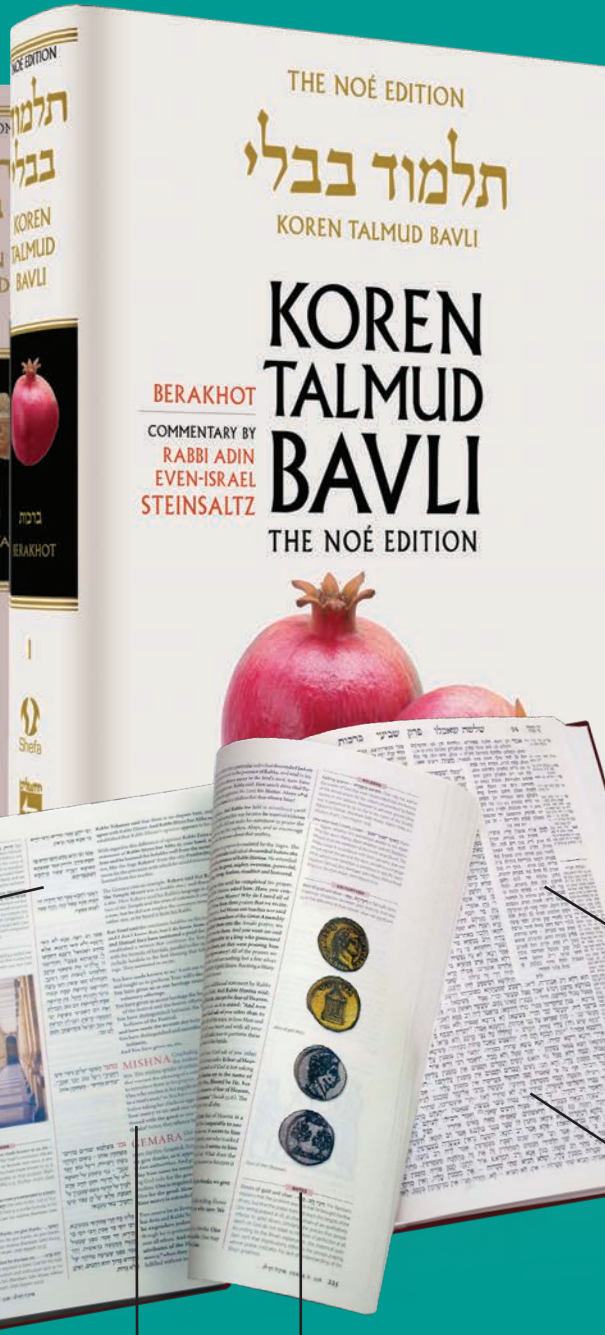
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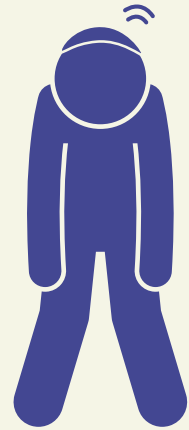
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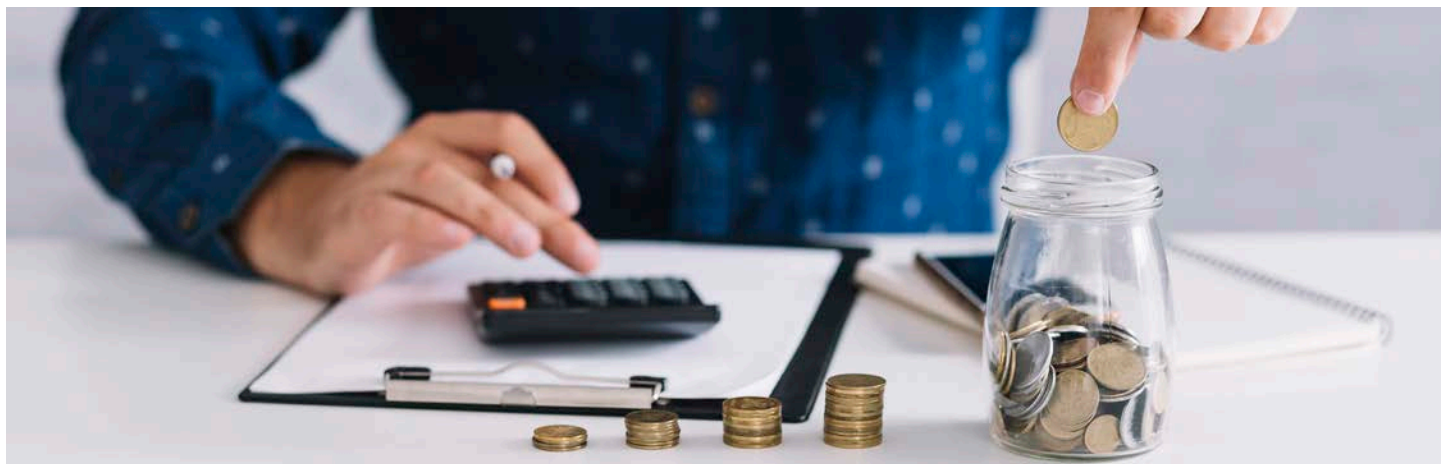
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MANAGING MAASER KESAFIM

Maaser Ani or Tzedakah

The only mitzvah that the Torah records all three of the *avos* (forefathers) performing, aside from prayer, is the mitzvah of *maaser*, tithing. The *pasuk* states in connection with Avraham, “and he gave him *maaser* from all” (Breishis 14, 20). Similarly, we are told, “And Yitzchak sowed in that land and he found in that year one hundred-fold” (Breishis 16, 12). Rashi explains that Yitzchak only measured his harvest for the purpose of separating *maaser*. Finally, the Torah tells us that Yaakov promised Hashem, “and everything that You give me, I will surely set aside *maaser* to You” (Breishis 28, 22). According to the *Pirkei d'Rebbi Eliezer* (Ch. 33) and the *Medrash Rabba* (Breishis 70, 7) cited by the *Daas Zekeinim M'Baalei Ha'Tosfos*, Yaakov not only separated *maaser* from his agricultural produce and harvest, but

from all his earnings and proceeds as well, a practice that is known as *maaser kesafim*. In fact, Yaakov even tithed his own children by dedicating Levi and his descendants to the constant service of Hashem and the Jewish people in the Beis Hamikdash.¹

Nonetheless, the normative practice to tithe earnings is not predicated on the precedent of the *avos*, but is rooted in the *Sifrei* cited by *Tosfos* (*Taanis* 9a), which derives from the *pasuk* “you shall tithe **all** the seed crop” (Devarim 14, 22). This is interpreted to mean that the concept of tithing applies not only to crops and agricultural produce but to **all** forms of profit and financial earnings. The fact that tithing earnings is mentioned in the context of tithing produce leads the *Tosfos Chadashim* (*Pe'ah* 1:1), the *Mordechai* (BK 192), and later the *Taz* (YD 331, 32) to suggest that tithing earnings is an obligation just like tithing produce.² According to their

position, *maaser kesafim* is the annual and broader financial equivalent of *maaser ani*, the pauper's tithe, which is the requirement to set aside one tenth of the produce grown every third and sixth year of the *shemittah* cycle to be distributed to the poor.

The *Taz* notes that his father-in-law, the *Bach*, disagrees and writes that the notion of tithing earnings is merely a praiseworthy custom but not a formal obligation. This is also the position of the Maharam MiRutenberg cited by the *Pischei Teshuvah* (331, 2) and the prevailing opinion of the vast majority of contemporary poskim.³ The Chida (*Birkei Yosef* YD 259:3) explains that according to these authorities, the entire institution of *maaser kesafim* is not part of the regular system of tithing, but rather represents the recommended amount of tzedakah, charity, that each person should give on a yearly basis. This

view is supported by the fact that *maaser kesafim* is presented by the *Shulchan Aruch* (YD 249:1) in the context of the general obligation to give tzedakah, where the *Shulchan Aruch* writes, “under ordinary circumstances, a fifth of one’s property is most laudable, to give one-tenth is the average disposition, but to give less than one-tenth is stingy.”

Tithe So That You Will Become Wealthy

There might be several important issues that hinge on whether *maaser kesafim* is considered to be one of the tithes, akin to *maaser ani*, or whether it is considered regular charity and tzedakah. For example, we are generally told not to perform mitzvos with the explicit intention of gauging Hashem’s response and measure of reward, as the pasuk states, “you shall not test Hashem, your God” (Devarim 6, 16). There is one notable exception: The verse assures us with regards to tithing, “and test Me now therewith, says Hashem, to see if I will not etc. pour down for you blessing” (Malachi 3, 10). Hashem’s unequivocal pledge to reward all those who tithe properly with prosperity is recorded by the Gemara (*Taanis* 8b) with the formulation, “Tithe [*aser*] shall you tithe [*te’aser*]” (*Devarim* 14, 22), take a tithe [*asser*] so that you will become wealthy [*tisasher*].” The Rema (YD 247:4) asserts that it is likewise permitted to test Hashem when taking *maaser kesafim*, because *maaser kesafim* is also a form of tithing. However, the *Pischei Teshuvah* (YD 247:2) cites Rav Yaakov Emden and the *Shelah Hakadosh* who disagree and argue that it is prohibited to test Hashem when separating *maaser*

kesafim, since *maaser kesafim* is part of the ordinary mitzvah of tzedakah that does not enjoy the same guarantee as tithing.⁴

Using Maaser for Mitzvos?

In light of the Rema’s view that *maaser kesafim* is a form of tithing similar to *maaser ani*, the pauper’s tithe, we can justify the Rema’s (YD 249:1) insistence that *maaser kesafim* also be distributed specifically to the poor and not allocated toward other mitzvos. However, the *Shach* (249:3) maintains that *maaser kesafim* may be used for other mitzvos, perhaps because he argues and believes that *maaser kesafim* is similar to conventional tzedakah, which is not necessarily reserved exclusively for the poor.⁵ Nonetheless, *maaser* funds should not be used whenever we will derive any kind of personal benefit. Therefore, while *maaser* funds can be used to purchase *aliyos* in shul or to make benevolent institutional contributions, they should not be used to purchase items for private use such as *seforim*, *teffilin*, *mezuzos*, *daled minim*, *matzos*, etc. or to pay shul membership dues where we receive tangible items or privileges in return.⁶ Similarly, when using *maaser* funds for a dinner to benefit a charitable organization, we should deduct the real value of the meal.

Moreover, the *Be’er Hagolah* (249:5) claims that *maaser* funds can never be used for obligatory mitzvos, only for optional or voluntary mitzvos. For this reason, Rav Moshe Feinstein (*Iggros Moshe*, YD 1:143) asserts that since parents are obligated to support their children until they become self-sufficient or married, they may not use *maaser* funds to do so. Additionally, Rav Moshe Feinstein

(*Iggros Moshe* YD 2:113) argues that *maaser* funds should not be used for tuition, since it is incumbent on every parent to teach their children Torah and halacha, and to generally provide them with a comprehensive Jewish education that will enable them to become independent, proficient, and practicing religious Jews.⁷ In contemporary times, where it is customary and expected for young men and women to study in a yeshiva or seminary, even post high-school or *mesivta*, it is debatable whether or not *maaser* funds can be used for this purpose.⁸

Parents who are assisting their independent or married children with basic expenses may undoubtedly use *maaser* funds for this purpose.⁹ However, if possible, it is generally not ideal to consign all of our tzedakah funds toward one recipient, even if the sole beneficiary is our own child.¹⁰ In fact the pasuk states, “Happy are those etc. who perform charity, *bechol eis*, at all times” (*Tehillim* 106, 3), and the Gemara (*Kesubos* 50a) asks, “is it possible to perform charity at all times? Are we always in the presence of paupers?” To which the Gemara resolves, “this is referring to one who sustains his own children.” The Gemara emphasizes that supporting our own children is a continuous mitzvah of tzedakah. Nonetheless, the pasuk states, “he should not come, *bechol eis*, at all times, into the holies” (*Vayikra* 16, 2), from which the Chafetz Chaim homiletically derived that one who only engages in tzedakah that is “*bechol eis*,” “at all times,” because he utilizes all of his charitable funds to assist his own children, is prevented from entering into the holy sanctum of Hashem.¹¹

Exclusions and Earmarks

The Rema (YD 251:3) states unequivocally that the notion of giving charity beyond the rudimentary mitzvah of tzedakah — one-third of a shekel per year — is only applicable to those who can afford their own basic living expenses. However, the mitzvah to separate *maaser* from produce applies to everyone equally, regardless of their personal financial predicament. Therefore, whether or not someone who is accepting financial assistance from the community in order to pay for their ordinary expenses should be separating *maaser kesafim* might depend on how *maaser kesafim* is viewed, as tzedakah or as a form of tithing.¹² Practically, Rav Moshe Feinstein (*Iggros Moshe* YD 2:113), Rav Moshe Sternbuch (*Teshuvos Ve'hanhagos* 1:560:3-4) in the name of the Brisker Rav, and Rav Elyashiv (cited in *Be'orach Tzedakah* pg. 45) have ruled that since *maaser kesafim* is treated as a *minhag*, it should only be practiced by those who can afford to do so. Therefore, it is permissible to use *maaser* funds for our own necessities, including tuition, when the only other available option is community sponsored financial assistance.¹³

Independent adult children who are being supported by their parents might be exempt from separating *maaser* for an additional reason. While monetary gifts are generally subject to *maaser kesafim*, any gift that is only given conditionally and earmarked for basic support and expenses would be exempt from *maaser*.¹⁴ Therefore, children should generally not be separating *maaser* from funds that their parents have provided for them, when it is for the express purpose of covering their ordinary living

expenses.¹⁵ Moreover, if a child who is currently receiving parental support obtains a temporary or part-time job where they earn their own salary, or gets married and receives wedding gifts, it is still doubtful whether or not they would be obligated to separate *maaser*, since by giving *maaser* now, they would be causing their parents to provide them with more money in the future to defray their basic costs of living.¹⁶

Deductions and Distributions

All forms of profit are subject to the *minhag* of *maaser*, including monetary gifts or an inheritance.¹⁷ However, a loan is not considered a form of profit and would not be subject to *maaser*.¹⁸ Any losses or business expenses, including income tax, should be deducted from the gross profits before calculating *maaser*.¹⁹ The losses of one business venture may be deducted from the proceeds of a different business venture, as long as they occur within the same accounting period.²⁰ It is recommended that one day a year, perhaps Rosh Hashanah, or if more convenient, December 31, be designated as the formal conclusion of the annual accounting period for the purposes of calculating *maaser*.²¹ Additionally, capital gains from the sale of any asset should be adjusted for inflation according to the Consumer Price Index (CPI).²²

When calculating *maaser*, only realized gains or distributions need to be included. Any profit that is the result of an asset increasing in value is only subject to *maaser* once the asset is sold and the proceeds are received. We are not required to sell an asset that has risen in value in order to separate *maaser* from the profits.²³ If an investment is sold and immediately rolled over into another investment,

such as in a real estate 1031 exchange, the profits might not be subject to *maaser*, since the proceeds were never distributed. On the other hand, any profits that were extracted and distributed from a business that rose in value, even if they were obtained through the refinancing of a loan, might arguably be considered realized gains that would be subject to the *minhag* of *maaser*.

Tzedakah and the Yomim Noraim

According to the Gemara (*Rosh Hashanah* 16b) tzedakah is one of the few mitzvos that can fundamentally improve our judgement for the coming year, as reflected in the familiar refrain, “repentance, prayer, and tzedakah remove the severity of the decree.” Moreover, only through giving tzedakah between Rosh Hashanah and Yom Kippur can we truly behold and bask in the presence of Hashem throughout the year. The culmination of the Yomim Noraim is punctuated by the mitzvah to dwell in the sukkah, which represents the personal chamber of Hashem.²⁴ The *Divrei Chaim* notes that the key to entering into the sukkah and ultimately encountering the presence of Hashem is the mitzvah of tzedakah, as suggested by the dimensions of the sukkah itself. Minimally, the sukkah must have two full walls that are seven *tefachim* (handbreadths) wide and ten *tefachim* tall, a third wall that is one *tefach* wide and ten *tefachim* tall, and a roof that is seven *tefachim* wide by seven *tefachim* long, for a total of 199 square *tefachim*, the same numerical value as the word “tzedakah.” In the merit of the mitzvah of tzedakah and the *minhag* of *maaser*, may we all be blessed with a year of prosperity and to continuously reside in the shade of Hashem.

Endnotes

1. This implies that one-tenth of all assets and possessions should be tithed, which leads Rav Moshe Feinstein (*Iggros Moshe* EH 4:26) to claim that we are also obliged to designate one-tenth of our time as well to charitable projects and helping others.

2. Within this position that *maaser kesafim* is a formal obligation and part of the system of tithes, there is a significant dispute among the authorities as to whether it is a biblical or perhaps only a rabbinic obligation. For example, see *Teshuvos Chasam Sofer* (YD 2:232), *Teshuvos Noda B'yehudah* (YD 73), and *Aruch Hashulchan* (YD 249:5).

3. Therefore, the Chafetz Chaim (*Ahavas Chesed* 18:2) recommends that when giving *maaser kesafim* for the first time, we should stipulate and have in mind that we are only doing so voluntarily, and without any intention to accept a vow to do so in the future. Similarly, if we mistakenly thought that *maaser kesafim* was a formal obligation and later discovered that it is only a *minhag*, we would not have to abrogate or renounce our vow, since the oath was taken under false pretenses, see *Shulchan Aruch* (YD 214:1). Additionally, since *maaser kesafim* is generally treated as a *minhag* and not a formal obligation, the parameters and limits of the *minhag* might not have rigidly defined or universal rules. Rather, at least to a certain degree, each person's *minhag* might be shaped by their own mindset and specific assumptions when they initially undertook to separate *maaser*.

4. The *Aruch Hashulchan* (6) and the Chafetz Chaim (*Ahavas Chesed* 18, 1) rule in accordance with the *Rema*.

5. The *Chasam Sofer* (YD 331) cited by *Pischei Teshuvah* (249:2) adds that if we only began the practice of separating *maaser kesafim* with the assumption that it could be used for mitzvah purposes, then it would be permitted even according to the *Rema*.

6. *Taz* (YD 249:1), *Chochmas Adam* (144:11), *Nachlas Shiva* (8:2), *Aruch Hashulchan* (249:10), and Rav Yaakov Kamentsky, *Emes Le'Yaakov* (YD Note 134).

7. However, see Rav Yitzchak Blazer, *Pri Yitzchak* (2:27) and *Orchos Rabbeinu* (1:198) who disagree.

8. See Rav Moshe Sternbuch, *Teshuvos Ve'hanhagos* (Vol. 1 560:4), Rav Yaakov Yeshaya Bloi, *Tzedakah U'mishpat* (6:14), and

Rav Yaakov Kamentsky, *Emes Le'Yaakov* (YD Note 134).

9. *Shulchan Aruch* (YD 251:3).

10. *Shulchan Aruch* (YD 257:9).

11. Cited in *Kol HaTorah* Vol. 39 pg. 89.

12. See *Dovev Meisharim* (3:84), as well as, Rav Moshe Feinstein (*Iggros Moshe* YD 2:112), Rav Yitzchok Weiss (*Minchas Yitzchak* 6:110), Rav Moshe Sternbuch, (*Teshuvos Ve'hanhagos* 1:560:2), and *Orchos Rabbeinu* (3:138).

13. Rav Shlomo Zalman Aurbach (cited in *Kol HaTorah* Vol. 39 pg. 89) adds that *maaser* funds can certainly be used for any portion of the regular tuition bill which is directed towards helping subsidize those who can't afford to pay tuition.

14. Rav Yechezkel Feinhandler, *Be'orach Tzedakah* (pg. 135).

15. Rav Moshe Feinstein, (*Iggros Moshe* YD 2:112), Rav Shlomo Zalman Aurbach (cited in *Kol Hatorah* vol. 39 pg. 94), and Rav Elyashiv (cited in *Be'orach Tzedakah* pg. 136).

16. Rav Herschel Schachter in the name of Rav Yaakov Moshe Lessin. See also Rav Yechezkel Feinhandler, *Be'orach Tzedakah* (pg. 45) in the name of Rav Shmuel Vosner. However, Rav Yaakov Emden, *Sheilas Yaavetz* (1:6) notes that a couple that is financially independent should be separating *maaser* from wedding gifts they receive. *Be'orach Tzedakah* (pg. 352) quotes Rav Vosner that since *maaser* is only a *minhag*, children are not required to separate *maaser* on bar or bas mitzvah gifts. However, *Be'orach Tzedakah* (pg. 46, 138, 370) cites Rav Avigdor Nevenzhai, Rav Chaim Pinchas Scheinberg, and Rav Nissim Karelitz who argue that children should be trained to separate *maaser* on bar or bas mitzvah gifts. Alternatively, Rav Yaakov Kamenetsky, *Emes Le'Yaakov* (YD Note 132) suggests that all wedding or bar or bas mitzvah gifts should be exempt from *maaser* since there is a general expectation that those gifts will be reciprocated, therefore it should be considered as a loan (see *Bava Basra* 145b) which is not subject to *maaser*.

17. *Pischei Teshuvah* (YD 249:1) and Rav Chaim Kanievsky, *Derech Emunah (Matnos Aniyim* 7:7).

18. Rav Yaakov Yeshaya Bloi, *Tzedakah U'mishpat* (5:5).

19. *Pischei Teshuvah* and *Taz* (YD 249:1). *Tzedakah U'mishpat* (5:35) considers childcare for a working woman as a business

expense that may be deducted from her salary before calculating *maaser*. The *Shiurei Kenesses Hagedolah* (YD 249) and Rav Yosef Karo (*Avkas Rochel* 3) maintain that even personal or household expenses may be deducted before calculating *maaser*. Therefore, *maaser* would only apply to the expendable income that we earn above and beyond any business or household expenses. This position is challenged by the Chida (*Birkei Yosef* 249:5) and the *Aruch Hashulchan* (249:7). See the *Kitzur Shulchan Aruch* (34:4), *Tzitz Eliezer* (10:6), and *Tzedakah U'mishpat* (5:8) who note that the majority of *poskim* have ruled in accordance with the latter opinion.

20. *Pischei Teshuvah* (YD 249:1). In the same business venture, losses may be deducted even if they occurred in a different accounting period than the profits. Therefore, Rav Shimon Taub, *The Laws of Tzedakah and Maaser* (pg. 143-144) quotes from Rav Shlomo Miller, that one who went to school to earn a degree with the intention of using it to earn a livelihood would be permitted to deduct the tuition and other costs incurred in the pursuit of obtaining that degree, and would only become obligated to separate *maaser* when his earnings have surpassed the sum of those costs, see also *Kol Hatorah* (vol. 39 pg. 89) in the name of Rav Shlomo Zalman Aurbach.

21. *Chavos Yair* (224), *Aruch Hashulchan* (249:1) and *Iggros Moshe* (YD 1:143).

22. Rav Moshe Feinstein, *Iggros Moshe* (YD 2:114), Rav Shlomo Zalman Aurbach, cited in *Kol Hatorah* (vol. 39 pg. 87), and Rav Moshe Sternbuch, *Teshuvos Ve'hanhagos* (Vol. 1 560:5). With regards to the sale of a private home, presumably any expenses related directly to maintaining the house, such as the cost of capital improvements, real estate taxes, home insurance, mortgage interest, electric and gas bills etc. should be deducted from the proceeds of the sale prior to calculating any *maaser* obligation. It seems that under most circumstances, after deducting overhead expenses and adjusting for inflation, we would rarely profit from the sale of a private home in a way that would trigger the *minhag* of *maaser*. Moreover, Rav Elyashiv (cited by *Be'orach Tzedakah* pg. 129) is of the opinion that we would not be required to separate *maaser* from the sale of any personal residence which is not considered to be an investment.

23. Rav Moshe Sternbuch, *Teshuvos Ve'hanhagos* (Vol. 1 560:7).

24. Zohar (*Emor* 103b).



THE PLEDGE: COMMITMENT, CONVEYANCE, CONSECRATION

Even the breath of the mouth has a place and position, and G-d does with it as He does.

Even a person's word, even a person's voice is not for nothing; all have a place and position.

Zohar, Mishpatim 100b

On Rosh HaShanah shall be inscribed, and on Yom Kippur shall be sealed — how many shall pass, and how many shall be created. The classic *piyut* of *UNetaneh Tokef* begins with death and birth, and continues to describe destinies desirable and devastating, until the Machzor offers the reader a life preserver, “And repentance, and

prayer, and *tzedakah* remove the evil of the decree.”¹

In traditional *machzorim*, the three means of overcoming a harsh decree are crowned with three words:

ממון	קול	צום
וצדקה	ותפלה	ותשובה

In English:

Fasting	Voice	Money
Repentance	Prayer	Tzedakah

The three superscript words identify means for practicing each of the exculpatory tactics.² However, assigning our voice to prayer alone does it a disservice. In truth, the

human voice is an instrumental actor in all three:

- **Repentance:** The *viduy* admission of sin is an essential step in repentance, both for the individual³ and the community.⁴ The rabbis stipulated that this admission is *viduy devarim* — verbal admission.⁵
- **Prayer:** We tend to follow Chanah's model of silent prayer for our *amidah*, but rabbinic literature praises vocal prayer for its aesthetic beauty,⁶ and its ability to help us focus our thoughts⁷ and express our emotions.⁸

- **Tzedakah:** We may fulfill the tzedakah imperative simply by providing assistance to a needy person, but a pledge to give tzedakah holds the powers of commitment, conveyance, and even consecration.

Looking closer at the three powers of a pledge, we will see that each one makes a halachic impact.

Commitment

On a basic level, a tzedakah pledge is a promise; the speaker commits to contribute to a particular cause, and is bound to fulfill his or her word. Therefore, the *Shulchan Aruch* warns:

צריך לזהר מלידור ואם פוסקים צדקה וצריך לפסוק עמהם יאמר בלא נדר

One must be careful not to vow. And if [the community] commits to a campaign for tzedakah and one must commit with them, one should say, "Without a vow."

Shulchan Aruch, Yoreh Deah 257:4

Rabbi Shabtai haKohen added that we should say "without a vow" even if the text of a pledge or *mi shebeirach* does not include formal language associated with vows; the default assumption is that this is a vow, until stated otherwise.⁹

Conveyance

If a pledge were only a vow, we could repeal it via *hatarat nedarim*. However, a pledge of tzedakah may be different, because it may remove the pledged funds from the donor immediately, even before they have been transferred physically. The concept of speech as conveyance is illustrated in the following story.

The son of the sage Yosi ben Yoezer found a gem inside a fish. His wife advised him to bring it to the gizbar (an agent of the

*Beit haMikdash), with an eye toward selling it to the Beit haMikdash — but she warned him not to mention a value personally, because "saying it is for [the Beit haMikdash] is the equivalent of handing it over to a regular person."*¹⁰

In other words — a mere hint of a pledge would be sufficient to convey the item to the Beit haMikdash.

Rabbi Menachem Meiri¹¹ explained the mechanism that creates this transfer. A landowner automatically acquires items located on that land as soon as the items' owner states a wish to transfer them to the landowner. Since Hashem owns the world, any declaration donating property to the Beit haMikdash already transfers the property to Hashem, via Hashem's ownership of the land on which it is located. And while the language of the Talmud and the Meiri's logic would seem to apply only when dedicating materials to the Beit haMikdash, classic halachic authorities have applied it to tzedakah pledges as well.¹²

Within the view that a pledge indeed transfers the funds, normal *hatarat nedarim* is ineffective. As explained in detail by Rabbi Pinchas Zvichi,¹³ a normal vow may be repealed based on the would-be donor's regret. However, repealing a pledge that transfers the money would require demonstrating that the pledge's conveyance was actually made in error.

Consecration

The fact that a pledge creates a binding commitment testifies to the legal power of our speech. The fact that a pledge may pluck property from a donor's hands and place it in the hands of the needy or a fund testifies to the legal power of the Divine grasp.

But a third dimension, *hakdashah* (consecration), testifies to the presence of something beyond simple legalism: sanctity.¹⁴ Pledging tzedakah imbues our wealth with holiness.

As we have said, halachic authorities equate pledges of tzedakah with consecration, in that both remove funds from the donor's control immediately. There is another ramification, too, regarding the rabbinic campaign to eliminate vows.

Tanach¹⁵ and the Talmud¹⁶ weigh in against taking vows, even when we actually follow through and fulfill the commitment. Therefore, Rambam¹⁷ ruled that one who has taken a vow should proactively seek to repeal it. However, Rambam wrote that we should not repeal vows of *hakdashah*, because fulfilling them is a mitzvah. Maharam Mintz wrote that the same applies for vows pledging tzedakah, equating them with *hakdashah*; these should stand, and should be fulfilled.¹⁸

The Shabbat Problem

Equation of tzedakah and *hakdashah* leads to a halachic problem. The Sages prohibited *hakdashah* on Shabbat and Yom Tov, lest we come to record the transfer in writing.¹⁹ How, then, may we pledge tzedakah in connection with an *aliyah* to the Torah on Shabbat or Yom Tov?²⁰

Some contend that the decree against *hakdashah* was not created for this sort of pledge, either because it provides tzedakah needed that day, or because we are obligated to give tzedakah in general.²¹ Other authorities permit these pledges because despite their **role** of consecration, their **structure** is significantly different from that of *hakdashah*:

- The donor does not verbalize a pledge; the *gabbai* is the speaker;²²
- The donor does not dedicate a particular object, but only incurs a debt;²³
- A tzedakah donation becomes the property of all Jews, including the donor.²⁴

Consecrating Our Soul and Our World

We see that our tzedakah pledge uses speech to articulate a binding commitment, conveys funds from donor to recipient, and creates sanctity with the power of consecration, if not the formal language and structure of consecration. But there is more to the consecration achieved in a pledge; our speech draws all aspects of our soul into this mitzvah, and creates holiness even in the heavens above.

Speech draws on all aspects of our soul. Rabbi Chaim of Volozhin wrote:

וגם בכל תיבה יש שלשה בחינות מעשה דבור
מחשבה נר"ן והם אותיות ונקודות וטעמים
שבה ... ולכן העובד האמיתי בכוונה רצויה
יכוון לשפוך ולדבק יחד בתפלתו כל השלשה
בחינות נפש רוח נשמה ...

Each word has three aspects: speech, thought and deed; nefesh, ruach and neshamah, which are the letters, vowels and t'amim of the word ... Therefore a true servant, with the desired focus, should focus on pouring out and joining together in his prayer all three aspects, nefesh, ruach, and neshamah, etc.

Nefesh haChaim 2:16

Speaking for a particular purpose pours our soul into that purpose. With a pledge of tzedakah, then, we invest our entire souls into this sacred mitzvah.

And in the case of a tzedakah pledge, the spiritual power of our speech spreads holiness heavenward. A Tosefta states:

אמר ליתן ונתן נותנין לו שכר אמירה ושכר מעשה. אמר ליתן ולא הספיק בידו ליתן נותנין לו שכר אמירה כשכר מעשה. לא אמר ליתן אבל אמר לאחרים תנו נותנין לו שכר על כך ...
If one pledges to give and gives, he is rewarded for the speech and the deed. If one pledges to give, but does not succeed in giving, he is rewarded for the speech, like the reward for the deed. If one does not pledge to give, but one tells others to give, he is rewarded for this, etc.

Tosefta Peah 4:17, Lieberman ed.

The Chafetz Chaim commented on this, "A Jew's speech, pledging to give tzedakah, perform *chesed* or engage in any similar mitzvah, creates sanctity in the heavens, and one is rewarded for this."²⁵

As we navigate the Yamim Noraim, correcting our errors and establishing a pure path forward, may we harness our voices for the *viduy* of repentance, may we channel their music to beautify and focus our prayer, and may we apply their authority toward tzedakah, pledging commitments, conveying assistance, and imbuing ourselves and the heavens above with holiness.

Endnotes

1. This formula is found in Yerushalmi Taanit 2:1 and Bereishit Rabbah 44:12 (Vilna edition), based on Divrei haYamim II 7:14.
2. They also emphasize the equal weight we assign to each of the strategies, as these three words share the same *gematria* value (136). (*Hagahot haMinhagim* 136 to the 15th-century *Sefer haMinhagim* of Rabbi Yitzchak Tyrnau.)
3. Vayikra 5:5 and Bamidbar 5:7.
4. Vayikra 16:21, 26:40.

5. Rambam, *Mishneh Torah*, *Hilchot Teshuvah* 1:1.
6. *Aruch haShulchan*, *Orach Chaim* 101:8.
7. *Mishneh Berurah* 101:11.
8. *Zohar*, *Bereishit* pg. 132a.
9. *Shach*, *Yoreh Deah* 203:4.
10. Talmud, *Bava Batra* 133b.
11. Commentary to *Kiddushin* 28b, citing Talmud Yerushalmi *Kiddushin* 1:6.
12. Rif to *Bava Kama*, 18b *b'dapei haRif*, *Ran Nedarim* 29b-30a. The position of the *Shulchan Aruch* is unclear; see *Shu"t Ateret Paz* I 2: *Yoreh Deah* 10:5-6.
13. *Shu"t Ateret Paz* I 2: *Yoreh Deah* 10:5.
14. This link to *hakdashah* (consecration of property) is not necessarily meant to be taken entirely literally — for example, we would not permit a tzedakah fund to charge interest for loans it extends, even though the Beit haMikdash may do so. See Mordechai *Bava Metzia* 286-287 and *Beit Yosef*, *Choshen Mishpat* 227.
15. See *Devarim* 23:23 and *Kohelet* 5:4.
16. See *Chullin* 2a and *Nedarim* 22a.
17. *Mishneh Torah*, *Hilchot Nedarim* 13:25.
18. *Shu"t Maharam Mintz* 73. *Tosafot Chullin* 2b *aval* notes that vows made for Divine assistance in a time of need have a special, positive pedigree, as Yaakov made such a vow. They stand apart from other vows.
19. Talmud, *Beitzah* 36b-37a.
20. Regarding reciting a *mi shebeirach* in the merit of prayers, instead of the merit of tzedakah, see Rabbi Yosef Dov Soloveitchik's disapproval, recorded in *Nefesh haRav* pg. 143.
21. See *Or Zarua* II *Hilchot Shabbat* 50.
22. *Ibid*.
23. Meiri and *Ran* to *Shabbat* 150a.
24. *Magen Avraham* 306:11.
25. *Ahavat Chesed* 2:16, in a footnote.