

Judaism and the Free Market: A Modern Approach to *Tzedakah*

by Laurie Levy

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Rav Assi said: Tzedakah is equivalent in worth to all the other mitzvot. (BT Bava Batra 6b)

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I. Introduction

The goal of this paper is to show that Jewish sources can be cited to support a free-market economy, and to propose a “modern” approach to one of the most basic values and economic principles in Judaism — the commandment to take care of the needy in our midst:

כִּי יְהִי בְּךָ אֶבְיוֹן מֵאֲחֵיךָ בְּאֶרֶץ אֲשֶׁר יְהוָה אֱלֹהֶיךָ נֹתֵן לְךָ לֹא תִאֲמָץ אֶת לִבְּךָ וְלֹא תִקְפֹּץ אֶת יָדְךָ מֵאֲחֵיךָ הָאֶבְיוֹן.

When there is a needy person among you, one of your kinsmen within one of your gates in the land that the Lord your God is giving you, do not harden your heart and shut your hand to your needy kinsman. (Deut 15:7)

We shall see how the Rabbis attempt to answer the most basic questions about this text: What does it mean to be “needy” and what, exactly, is our obligation to those defined as such? What constitutes “opening one’s hand” to help, and how that help is best conveyed?

Maimonides (12th century, Egypt) builds an innovative framework of *tzedakah*. Based on the Rabbis’ discussions in the Talmud, he asks us to think beyond the immediate consequences of disbursing funds to a beggar. We all want to relieve the suffering of those in our midst, but Maimonides teaches us that there are options as to how we might go about doing so, some of which challenge us to think outside the scope of how we might otherwise define *tzedakah*.

A free-market, capitalistic society may not, on the surface, seem to be supportive of a culture of generosity, and therefore be “anti-Jewish”. However an analysis of Jewish sources show that there is, in fact, textual support for a free-market answer to the question of how we view, contribute and disburse *tzedakah*. Inspired by Maimonides, we discover that the value of *tzedakah* is very much alive and well in the free market, and that it in fact carries the potential to drive individuals to be more creative and motivated to offer help to their needy kinsmen.

II. Judaism and Economics

Jewish law neither promotes a specific economic theory, nor attempts to create a blueprint for building a successful market.¹ Jewish “economics” must therefore be teased out from the framework of moral and ethical laws that direct the religious and communal life of the Jew. This is not to say there does not exist a Jewish economic wisdom, for our Rabbis were adept at giving sage economic advice:

וא"ר יצחק לעולם ישליש אדם את מעותיו שליש בקרקע ושליש בפרקמטיא ושליש תחת ידו

Rav Yitzchak said: A person should always keep his money in three forms: one third in real estate, one third in merchandise and the remainder in his possession. (BT Bava Metzia 42a) Combining liquidity, risk and short-term profitability, the Rabbis’ advice approaches a modern portfolio theory.

Examining Jewish laws in areas such as acquisition of wealth, engaging in business transactions, and competition helps us discern basic Jewish economic principles. Judaism is popularly regarded as supportive of a social democratic society, that is, one in which social policies such as caring for the needy are by and large delegated to government intervention through income redistribution and progressive social programs. Corinne and Robert Sauer have shown in their research through the Jerusalem Institute for Market Studies that American Jews are overwhelmingly liberal. The Sauers analyzed data from presidential elections from 1916 through 2004 and showed that except for during the election of 1920, Jews have heavily supported the Democratic Party candidate and vote for increased government spending on education and welfare. This trend was consistent across indicators such as level of income or education. What is more, when a comparison was made between Jews and non-Jews who were all white, college-educated, urban, and middle aged, 60% of Jews and 39% of non-Jews identified as Democrats.² The report finds similar trends about the political preferences of Israeli Jews. Yet despite this reality, the Sauers maintain that “Judaism is a system of thought that

¹ Lifshitz, *Judaism*, 107.

² Sauer and Sauer, *Judaism, Markets and Capitalism*, 7.

more naturally aligns itself with the basic principles of economic liberalism.³ Jewish economic theory does not explain the widespread distaste amongst Jews for a free-market political agenda.”⁴ This is despite the fact that Jews (and other minorities) have, in recent history, benefited greatly from capitalism and the free market, where in the face of free entry and competition, performance is what matters most. Milton Friedman, a 20th century American Economist and Nobel laureate, has famously stated that “[t]he market is color blind. No one who goes to the market to buy bread knows or cares whether the wheat was grown by a Jew, Catholic, Protestant, Muslim or atheist; by whites or blacks.”⁵

Meir Tamari, former chief economist with the Bank of Israel, is careful to point out in the introduction to his book, *The Challenge of Wealth*, that “Judaism is not an economic system, but a spiritual and moral value structure, within which economic activity takes place and is formed into a pattern of holiness.”⁶ Yet, between the two world wars, Judaism was equated with socialism, and socialist values were read into everything from the prophets to 19th century Chasidic thought. According to the Sauers, Jews are liberal because of the historical impact and legacy of anti-Semitism in Europe.⁷ Friedman has explained that European anti-Semitism led Jews to align politically with the secular left after the French Revolution, the effects of which are still being felt today.⁸ Jewish political attitudes are often easier explained by historical context than by rabbinic thought.

Throughout history, Jews have had to respond to outside pressures, while keeping their value system independent and intact. The study of Jewish economics, then, is the study of

3 The phrase “economic liberalism” is used here in the European sense of being supportive of free markets and private ownership, where the greatest possible number of economic decisions are made by individuals and not by collective institutions or organizations.

4 Sauer and Sauer, *Judaism, Markets and Capitalism*, 2.

5 Sauer and Sauer, quoting Milton Friedman, 12.

6 Tamari, *Challenge*, xiv.

7 Sauer and Sauer, *Judaism, Markets and Capitalism*, 24.

8 Quoted in Sauer and Sauer, *Judaism, Markets and Capitalism*, 25.

sources that show how Jews actually lived and how their societies operated throughout history. Jewish economics had to be harmonious with Jewish teachings and law, for example, dealing honestly in business⁹, protecting the worker and the weak, individual responsibility, systems of taxation, and refraining from all kinds of work on Shabbat. Most of the responsa that have been handed down to us are actual cases that arose out of the broad range of communal activity in the marketplace. The specifics of the marketplace were community driven, with the rabbinic authorities ensuring that everything was in keeping with religious law and morality.¹⁰

There are many contemporary economists who see Judaism as the role model for a capitalistic, or free-market, economic system, including Max Weber, a German economist, sociologist and proponent of the free market, who according to Meir Tamari sees

[The Jew] with his frugality and hard work, his devotion to family and community, and his high level of literacy and education — as a positive force in the emergence of modern capitalism. [Weber] characterizes the Jew as one of the prime creators of modern market economies, which he attributed to the need for political freedom, his ability to transcend national boundaries and Judaism's legitimization of the profit motive in the accumulation of capital.¹¹

Joseph Lifshitz, a philosopher and Fellow at the Shalem Center in Jerusalem, argues that the popular belief that Judaism aligns itself with a more social democratic government is not borne out in the texts.¹² Tamari has written several books and scholarly articles devoted to showing how private property and wealth accumulation are essential components of a Jewish economic system, neither of which figure into a planned economy.

9 According to rabbinic tradition, the first criteria by which one will be judged in the next world is "were you honest in business?" (BT Shabbat 31a)

10 Tamari, *Possessions*, 6 - 7.

11 Ibid., 2.

12 Lifshitz, *Judaism*, 6.

The following sections will provide an introduction to the free market and show how some of the most basic principles of free-market economics are supported in Jewish texts.

III. The Free Market: An Overview

The Merriam-Webster dictionary defines “free market” as “an economic market or system in which prices are based on competition among private businesses and not controlled by a government.” Murray N. Rothbard, in his article “Free Market” in the *Concise Encyclopedia of Economics* explains that a free market supports exchanges between individuals or businesses, where goods and services are voluntarily bought, sold or traded between the two parties. People make their own choices about where and how to transact business and all transactions are based on mutual needs; prices and interest rates, agreed upon by the involved parties, are allowed to fluctuate freely with supply and demand. Ultimately, “[b]oth parties undertake the exchange because each expects to gain from it.” Governments can hinder market exchanges by introducing artificial constraints into the market, such as price controls, or they can facilitate exchanges by enforcing contracts and prohibiting deceptive practices.¹³

Why a Free Market?

Jonathan Sacks, former Chief Rabbi of Great Britain, states that “a free-market economy tends to be created where there is a strong respect for the individual, a positive value attached to work, and a willingness to value and reward creativity and innovation. It tends not to arise in social systems that are highly collectivist, aristocratic or conservative [in the European economic sense].”¹⁴

In reality, the free market is an ideal that can never be fully realized in the presence of taxes, price controls, subsidies and other government imposed regulations. However, many contemporary economists, particularly Friedrich Hayek, a 20th century Australian economist and

¹³ Rothbard, Murray, “Free Market”, in *The Concise Encyclopedia of Economics*.

¹⁴ Sacks, *Judaism’s Religious Vision and the Capitalist Ethic*.

Nobel laureate, argue that the closer we move to a society based on free-market ideals, the more the society, as well as the individual, benefits as a whole. According to Hayek, economic freedom is best realized by the free market, where individuals can apply their knowledge about particular resources, and potential opportunities for using those resources, far more effectively than a central planner can.¹⁵

The free market promotes respect for property rights and contracts, and encourages entrepreneurship, productivity, self-sufficiency and education. It has been regarded as an efficient way to meet society's material needs as well as providing an atmosphere for stimulating higher motivation for giving charity voluntarily.¹⁶ Sacks comments that as globalization has magnified our differences, the "common good" is increasingly difficult to define: "The best that can be done is to deliver the maximum possible freedom to individuals to make their own choices, and the means best suited to this is the unfettered market where we can buy whatever lifestyle suits us..."¹⁷

Problems arise, not because of the market itself, but because the sense of social solidarity can disintegrate due to the increasing segregation between wealthy and poor, causing, according to Sacks, a "waning sense of the responsibilities of success"¹⁸. Wealth has the potential to both strengthen and weaken a community. The Rabbis favored markets because of their potential to generate wealth, lower prices and reduce poverty — as long as the community assumed the accompanying social responsibility. According to Sacks, the free market is still the "best system yet devised for raising living standards, and ensuring the independence and human dignity on which a free society depends".¹⁹ He goes on to describe the market as a tool for alleviating poverty and creating an environment of independence, dignity and creativity:

¹⁵ Henderson, *Concise Encyclopedia*, entry for "Friedrich August Hayek".

¹⁶ Vance, *Defending the Free Market* (review).

¹⁷ Sacks, *Dignity*, 11 - 12.

¹⁸ *Ibid.*, 99.

¹⁹ *Ibid.*, 100.

“Because each of us has something someone lacks, and we each lack something someone has, we gain by interaction. That is what makes trade the most compelling counterforce to war”.²⁰

Meeting Objections to the Free Market

The free market has been criticized for its seemingly problematic limitations when it comes to taking care of the underprivileged in society, which is perhaps why it might seem “anti-Jewish” to some. It is a fact that the market is employed to create wealth, not to distribute it, and there is no doubt that the market can create a wider disparity between rich and poor. Critics of the free market say that this inequality is amoral, exploitative and motivated by selfishness and materialism. They would instead promote government intervention in order to achieve a more equitable society. But others have insisted that these “limitations” actually contribute to the strength of the free market, especially when they are used as a tool to benefit the poor. In forthcoming sections we will examine how benevolence and charity are, in fact, a key component of a free-market economic system.

IV. Judaism and Free-Market Economic Theory

Adam Smith, an 18th century British philosopher, economist, and advocate of the free market acknowledged that the market operates through a series of transactions that are essentially self-serving: “It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest”.²¹ Smith is famous for his description of the “invisible hand” that guides an individual, who intends only his own gain, to promote an end that was not part of his intention.²²

²⁰ Ibid., 14.

²¹ quoted in Sacks, *Dignity*, 98.

²² Ibid.

While many have been critical of this non-altruistic aspect of free-market economics, Judaism acknowledges that our greatest achievements are often brought about by worldly motives:

וְרָאִיתִי אֲנִי אֶת כָּל עֵמֶל וְאֶת כָּל כְּשָׁרוֹן הַמַּעֲשֵׂה כִּי הִיא קִנְיַת אִישׁ מֵרַעוּהוּ

I saw that all labor and achievement springs from man's envy of his neighbor (Ecc 4:4)
Our Sages teach that "were it not for the evil inclination, no one would buy a house, marry, have children or engage in business" [Gen Rabba 9:7]. In Judaism, purity of intention is only required in one's relationship with God:

...ואם התפלל בלא כוונה חוזר ומתפלל בכוונה...

...If one prays without proper intention, he must repeat his prayers with proper intention.

(Mishneh Torah, *Tefillah and Birkat Kohanim* 4:15)

But between man and his neighbor, it is the outcome and not the motive that is of primary importance:

אמור מעתה, נפלה סלע מידו ומצאה עני ונתפרנס בה הרי הוא מתברך עליה:

Hence [since one is blessed after unintentionally forgetting a sheaf in the field], you must say that if someone dropped a *se'la*, and a poor person found it and was sustained by it, then the one [who lost the coin] will be blessed on its account. (Rashi on Deut 24:19, quoting Sifrei)

When we are interested in the functioning of the market as a tool for raising people out of poverty and securing prosperity for greater numbers, it is better that a person be right from the wrong motives than to do wrong with the best intentions.²³

We will examine sources which support three theological tenets of Judaism that appear to underlie the principles of "Jewish" economics: 1) Human beings are created in God's image; 2) We are God's partner in completing an incompletely created world; 3) Humanity has dominion over all of God's other creations.

²³ Sacks, *Markets and Morals*.

1) *In the Image of God*

וַיִּבְרָא אֱלֹהִים אֶת-הָאָדָם בְּצַלְמוֹ, בְּצֶלֶם אֱלֹהִים בָּרָא אֹתוֹ: זָכָר וּנְקֵבָה, בָּרָא אֹתָם

So God created Man in His image, in the image of God He create it, male and female He created them. (Gen 1:27)

From the concept of being created in God's image, we infer that Man has a divine essence and that Man, like God, is a creator. The Talmud describes how a judge who renders a verdict that is absolutely true does just that:

כל דיין שדן דין אמת לאמיתו אפילו שעה אחת מעלה עליו הכתוב כאילו נעשה שותף להקדוש ברוך הוא במעשה בראשית כתיב הכא ויעמד העם על משה מן הבקר עד הערב וכתוב התם ויהי ערב ויהי בקר יום אחד ...every judge who renders a judgement that is true even [if he sits in judgment only] one hour, [the judge] is considered by scripture to have become a partner with the Holy One, Blessed be He, in the act of creation. For it is stated here, "and the people stood by Moses [who was judging] from the morning until the evening" (Ex 18:13) and it is stated there [about creation], "and there was evening and there was morning, one day (Gen. 1:5) (BT Shabbat 10a)

Human beings who contribute to the sense of order in the world, like God, engage in holy, creative acts.

The next two tenets of Judaism describe how as creators, we are charged to use our creative energy in profound ways:

2) *Completing Creation*

The world is incomplete, and therefore imperfect, so it is Man's duty to partner with God in the effort to perfect it:

פילוסופוס אחד שאל את רבי הושעיה, א"ל אם חביבה היא המילה מפני מה לא נתנה לאדם הראשון? א"ל... כל מה שנברא בששת ימי בראשית צריכין עשייה, כגון... החיטין צריכין להטחן, אפילו אדם צריך

.תיקון

A philosopher asked R Hoshaya, "If circumcision is so precious, why was it not given to Adam?" He replied...“whatever was created in the first six days requires further work, for example...wheat needs grinding and man too needs improvement”. (Gen Rabba 11:6)

3) Dominion Over Creation

וַיְבָרֶךְ אֱתֶם, אֱלֹהִים, וַיֹּאמֶר לָהֶם אֱלֹהִים פְּרוּ וּרְבוּ וּמְלֵאוּ אֶת-הָאָרֶץ, וְכִבְשׁוּהָ; וַרְדּוּ בְדִגַת הַיָּם, וּבְעוֹף הַשָּׁמַיִם,
וּבְכָל-חַיָּה, הֶרְמַשְׁת עַל-הָאָרֶץ

God blessed them, and God said to them: ‘Be fruitful, and be many, and fill the earth, and subdue it, and have dominion over the fish of the sea, and over the fowl of the heavens, and over every living thing that creeps upon the earth.’ (Gen 1:28)

We view the blessing of dominion as another expression of the partnership between God and humankind. It is through our work, then, that God charges humans to channel our worldly efforts into actions that develop and improve the material world; for it is through our work and creative activity that the divine image is expressed; it is how people bring the work of creation to completion.

Rabbi Akiva was once provoked by a wicked general to prove his statement that the creations of mortals are more beautiful than those of God (in the realm of mortals):

ואמרתי לך, שמעשה בני אדם נאים משל הקדוש ברוך הוא. הביא לו רבי עקיבא שבלים וגלסקאות, אמר לו, אלו מעשה הקדוש ברוך הוא, ואלו מעשה ידי אדם. אמר לו, אין אלו נאים יותר מן השבלים ...[Rabbi Akiva said to him]... “I told you that man’s creations are superior to those of the Holy One, Blessed be He”. Then Rabbi Akiva brought him ears of grain and baked loaves, and he said to him, “These are the creations of the Holy One, Blessed be He, whereas those are the creations of man.” And he said to him, “Are these loaves not nicer than the ears of grain?” (Tanhuma Tazria 5, on Lev 12:3)

Our dominion over creation is also expressed through the pleasure that we are obligated to take from it.²⁴

In the world to come we will face judgment for every legitimate pleasure we denied ourselves in this life [JT Kiddushin 4:12].

In more recent times, as people keep a watchful an eye toward the environment, “dominion” has been interpreted in the texts as “stewardship”, a gentler reading of the concept of dominion, as expressed in the following Midrash:

בשעה שברא הקדוש ברוך הוא את אדם הראשון, נטלו והחזירו על כל אילני גן עדן, ואמר לו: ראה מעשי כמה נאים ומשובחין הן, וכל מה שבראתי, בשבילך בראתי, תן דעתך שלא תקלקל ותחריב את עולמי, שאם קלקלת אין מי שיתקן אחריך

At the time that the Holy Blessed One created the first man, He introduced him to every tree in the Garden of Eden, and said to him, ‘See how wonderful and pleasant these trees are. And all of this I have created for you; therefore take great care that you do not damage and destroy My world, for if you do there is no one else to put right what you have destroyed.’ (Kohelet Rabba 7:13)

Stewardship is seen, then, as the responsibility that accompanies dominion, and thus we interpret this to mean that God is the ultimate owner of all our property:

לא יטעום אדם כלום עד שיברך שנאמר (תהילים כד) לה' הארץ ומלואה הנהנה מן העולם הזה בלא ברכה מעל עד שיתירו לו כל המצות

A person should not taste anything until he makes a *b'racha* [on it], as it is said, “To Hashem is the Earth and its fullness...” (Psalms 24:1) [A person] who receives pleasure from this world without a *b'racha* makes inappropriate use of sacred property, until all of the mitzvot [that must be done over this object] will permit it to him. (Tosefta, *B'rachot* 4:1)

ואל יעלה בלבו עצה לומר איך אחסר ממוני ליתנו לעניים כי יש לו לדעת שאין הממון שלו אלא פקדון לעשות בו רצון המפקיד וזה רצונו שיחלק לעניים ממנו

²⁴ Lifshitz, *Judaism*, 11.

One should not think, 'How can I cause myself a loss of money by giving to the poor?' For he should know that the money is not his, as it is deposited with him in order that he should do the will of the One Who placed it with him. And it is His will that it be shared with the poor." (Tur, *Yoreh De'ah* 247:3)

With these three core tenets of Judaism in mind, we can find textual support for many basic principles of the free market. We will henceforth discuss three of them: 1) individual rights, 2) limited government, and 3) spontaneous order.

1) Individual Rights

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed...

-The Declaration of Independence of the United States, 1776

Individual rights are a broad category of rights that form the foundational principle of a free-market society. The following pages examine three types of individual rights: a) the right to control one's life and property, b) the right to exchange labor for wages and c) the right to accumulate wealth. Individual rights include not only the right itself, but also the ability to defend that right. The American founding fathers understood that these rights are intrinsic to our humanity, not something that is bestowed upon us by others, and that the role of the government is to enforce the laws that protect those rights.

a) Property Rights

The right to own property is one of the "unalienable rights" guaranteed by the Declaration of Independence. Once property rights begin to be violated, other human rights tend to erode as well. Jewish attitudes regarding the importance of property rights are evident in the

myriad laws concerning it, which enumerate how human beings, created in God's image, have an obligation to exert their influence in the world.

The Bible emphasizes the unalienable right of property ownership in the story of Naboth's vineyard, in 1 Kings 21. Naboth refuses to cave to pressure from King Ahab to sell his vineyard so the king can plant a vegetable garden there. The text supports that the land is Naboth's ancestral heritage and he has the right to not give or sell it to anyone, even to a king. King Ahab appropriates the vineyard anyway, by slandering Naboth and having him stoned. God's wrath is roused and he sends his prophet Elijah to rebuke the king.

Many Biblical commandments advocate a system that minimizes infringements of private property, whether belonging to the wealthy or poor: honest weights and measures (Lev 19:36, Deut 25:13 - 16), paying the wages of workers in a timely fashion (Lev 19:13), adhering strictly to property delineations (Deut 19:14) and neither favoring the poor or wealthy in judgment (Lev 19:15).

The ownership of private property is akin to having full dominion over it; hence the numerous details in rabbinic texts and Codes that deal with rights of ownership and treatment of property — one's own, but especially someone else's — as well as laws against stealing, fraud, negligence and loss. Here the Mishna discusses a most basic axiom of private property, namely what constitutes ownership:

כל חזקה שאין עמה טענה, אינה חזקה. כיצד, אמר לו, מה אתה עושה בתוך שלי. והוא אמר לו, שלא אמר לי אדם דבר מעולם, אינה חזקה. שמכרת לי, שנתת לי במתנה, אביך מכרה לי, אביך נתנה לי במתנה, הרי זו חזקה. והבא

משום ירשה, אינו צריך טענה. [האמנין] והשתפים והאריסין והאפוטרופין אין להם חזקה

An act of possession without which there is no claim is not valid possession [to establish ownership]. How is this so? If he said to him: "What are you doing on my property? And the other answered: "No one ever said anything to me", this is not valid possession [to establish ownership]. "You sold it to me", "You gave it to me as a gift", "Your father sold it to me", "Your father gave it to me as a gift", this is valid possession [to establish ownership]... (BT Bava Batra 3:3)

Coveting, the act of thinking or desiring in one's heart what one's neighbor has, is even seen as an infringement on private property rights. The tenth commandment states:

לֹא תַחְמֹד בֵּית רֵעֶךָ לֹא תַחְמֹד אִשֶׁת רֵעֶךָ וְעַבְדוֹ וְאִמָּתוֹ וְשׂוֹרוֹ וְחֲמֹרוֹ וְכֹל אֲשֶׁר לְרֵעֶךָ

You shall not covet your neighbor's house...nor his ox, nor his ass, nor any thing that is your neighbor's. (Ex 20:14)

Maimonides broadens the definition of "covet" to include any attempt to pressure a neighbor to part with any of their property, even if he is compensated:

כל החומד עבדו או אמתו או ביתו וכליו של חברו או דבר שאפשר לו שיקנהו ממנו והכביר עליו ברעים והפציר בו עד שלקחו ממנו אף על פי שנתן לו דמים רבים הרי זה עובר [ה] בלא תעשה שנאמר לא תחמוד

Anyone who covets a servant, a maidservant, a house or utensils that belong to a colleague, or any other article that he can purchase from him and pressures him with friends and requests until he agrees to sell it to him, violates a negative commandment, even though he pays much money for it, as Exodus 20:14 states: "You shall not covet." (Mishneh Torah, *Robbery and Lost Property* 1:9)

Dominion over one's private property is also evidenced by one's right to do with it as one sees fit, even to destroy it.

ואמר רבה זרק כלי מראש הגג ובא אחר ושברו במקל פטור מאי טעמא מנא תבירא תבר

And Raba said: if one threw a utensil off of the top of a roof and someone else came and shattered it [in mid-air] with a stick, he is not liable. What is the reason? He has broken a [n] [already] broken utensil. (BT Bava Kama 26b)

The Mishna states that the owner of an object can explicitly exempt his friend from damages to that object:

האומר...קרע את כסותי, שבראת כדי חיב. על מנת לפטור פטור

One who says..."Tear my clothes," "Break my vessel", he is liable. [But if it was said] "on the condition that you will be exempt", he is exempt. (Bava Kama 8:7)

b) *The Right to Exchange Labor for Wages*

Work, in a free-market society, is defined as individuals (or groups of individuals or corporations) who voluntarily agree to exchange — on their own or through an agent — labor for a monetary salary.²⁵ Robert Sirico, political and economic commentator, and founder of the Acton Institute for the Study of Religion and Liberty, says that in a free market economy, workers have an understanding of the value of their labor, for earning one's keep is a primary source of dignity in one's life. The job that one performs results from their personal efforts and one's paycheck reflects the contribution of their work to the community. A person is likely to recognize herself as a meaningful part of a vast matrix of human cooperation.²⁶

This concept of being in partnership with God informs the Jewish attitude towards an economic system that allows for all to work towards and realize their potential as co-creators with God.

In Judaism, work is akin to a religious act; The Torah implies that the ideal existence for humans is realized through the labor of one's hands, and that we serve God both through our work and through ceasing from that work one day a week.

שֵׁשֶׁת יָמִים תַּעֲבֹד וְעָשִׂיתָ כָּל מְלֶאכֶתְךָ. יוֹם הַשְּׁבִיעִי שַׁבָּת לַיהוָה אֱלֹהֶיךָ

Six days shall you labor and do all your work, but the seventh day is a Sabbath for the Adonai your God (Ex 20:9 - 10)

The following Mishna and the discussion that follows in Kiddushin 82a lay out how one should choose a profession: it should be honest, not harm a person's character and allow time for religious study.

לעולם ילמד אדם את בנו אומנות נקיה וקלה ויתפלל למי שהעושר והנכסים שלו

A person should always teach his son a clean and easy trade and he should pray Whom all wealth and possessions belong.

²⁵ Rothbard, Murray, "Free Market," in *The Concise Encyclopedia of Economics*.

²⁶ Sirico, *Defending*, 73.

It is through our work that we realize our potential to partner with God in the act of creation (see BT Shabbat 10a, above) and what is more, work is seen as a means to escape the humiliation of poverty. Work at anything, the Rabbis say, rather than be dependent on others for sustenance:

...פשוט נבילתא בשוקא ושקיל אגרא ולא תימא כהנא אנא וגברא רבא אנא וסניא בי מלתא

[if you are in need of a livelihood,] flay carcasses in the marketplace and receive payment and do not say: I am a priest and a great man and it is beneath my dignity.

(BT Pesachim 113a)

In the Bible, work is an obligation from the moment Man was placed in the Garden of Eden:

וַיִּקַּח יְהוָה אֱלֹהִים אֶת־הָאָדָם וַיִּנְחֵהוּ בְּגַן־עֵדֶן לְעִבְדָּהּ וּלְשָׁמְרָהּ:

And the LORD God took the man, and put him into the Garden of Eden to work it and to guard it (Gen 2:15).

Work also has intrinsic rewards — a spiritual benefit that transcends this world. At the close of *Ma'ariv* on *Motza'ei Shabbat*, as we are beginning to think about returning to work, we read in Psalm 128:2

יִגִּיעַ כְּפֹיֶךָ, כִּי תֹאכַל; אֲשֶׁרֶיךָ, וְטוֹב לְךָ.

When you eat of the fruit of your labor, happy and fortunate are you.

The Rabbis comment on this verse: 'happy are you' refers to this life; 'fortunate are you', refers to life in the world to come (BT B'rachot 8a).

The Rabbis themselves were laborers. As sages, they were unpaid and had to earn a living like everyone else. Hillel was a poor laborer (BT Yoma 35b), Rav Huna was a water-drawer (BT Ketubot 105a), Rabbi Joshua a charcoal burner (BT B'rachot 28a), Rabbi Jose ben Halafta was a leather-worker (BT Shabbat 49a), and so on.²⁷ Maimonides insisted that earning an independent living by means of a trade was essential even for Torah scholars:

²⁷ Sacks, *Wealth and Poverty*.

כל המשים על לבו שיעסוק בתורה ולא יעשה מלאכה ויתפרנס מן הצדקה הרי זה חלל את השם ובזה את התורה וכבה מאור הדת וגרם רעה לעצמו ונטל חיו מן העולם הבא לפי שאסור ליהנות מדברי תורה בעולם הזה

Anyone who comes to the conclusion that he should involve himself in Torah study without doing work and derive his livelihood from charity, desecrates [God's] name, dishonors the Torah, extinguishes the light of faith, brings evil upon himself, and forfeits the life of the world to come, for it is forbidden to derive benefit from the words of Torah in this world. (Mishneh Torah, *Talmud Torah* 3:10)

God's blessing to Adam to have dominion over creation can be viewed as a partnership between God and man in which man continues God's work of creation in exchange for God's divine blessings.²⁸ Human beings have an obligation to channel their efforts toward work, to create, and through their creation to elevate the material world to a higher level. In return, humanity is blessed to receive enjoyment and pleasure from the world. Just to gaze at beauty in the world, we are to offer a blessing:

ראה בריות טובות ואילנות טובות אומר ברוך שככה לו בעולמו

If one sees beautiful creatures or beautiful trees, he says, "Blessed [are You...] Who has such in His world. (BT B'rachot 58b)

Man completes God's creation by actualizing the hidden potential in the world, taking responsibility for it and delighting in all its goodness.²⁹

Yet for all their insistence on work, the Rabbis were the relentless guardians of Shabbat. Shabbat, the day to cease working, was the ultimate expression of freedom, a day where the community was a coherent whole through prayer and observance and everyone enjoyed the same social status. A day of rest and "re-creation", Shabbat is a time dedicated to those things that sustain a market economy but are endangered by it: family, community, celebration, study and reflection.³⁰ Friedrich Hayek, himself an atheist, affirmed that traditions, morality and piety

²⁸ Tamari, *Possessions*, 29.

²⁹ Lifshitz, *Judaism*, 11.

³⁰ Sacks, *Judaism's Religious Vision*.

towards the past encapsulate the accumulated wisdom of earlier generations that no single generation can do for itself. It is through those traditions, which we pass on to our children, that we create the best environment for economic development and technological innovation.³¹

“More than the Jews kept the Sabbath, the Sabbath kept the Jews”, mused Ahad Ha-Am. Paradoxically, Shabbat, the day of no market activity, is the tradition in Judaism that fosters weekly renewal of energy and creativity in order to fuel the market enterprise for the coming week.

c) Accumulation of Wealth

Sirico observes that over the past two centuries, and particularly in the last fifty years, billions of the world’s population have been raised out of poverty. This figure is even more astonishing given that for the most part this has not been accomplished through governmental programs or charitable endeavors, but rather through business. While charitable endeavors are vital expressions of humanity, the most effective way for people to overcome poverty is through enterprise. The free market, he says, is the best system we have for enabling people to pursue a business endeavor that will afford them opportunity to amass wealth.³²

We examined in the previous section the relationship between Man’s dominion over creation and his property rights. But in Judaism, ownership of property extends to its accumulation as well, and is considered a worthy aim as long as one achieves it through honest means. In fact, economic success is seen as a gift from God, something to be valued and prized.³³

גדול הנהנה מיגיעו יותר מירא שמים

³¹ Sacks, *Market and Morals*.

³² Sirico, *Defending*, 48 - 50.

³³ Tamari, *Possessions*, 30.

Greater is [one who fears Heaven] and benefits from his own labor than one who fears Heaven [and is reliant on others]³⁴ (BT B'rachot 8a)

Rabbenu Bachya (13th century, Spain), writing in *Kad Hakemach*, explains the divine origin of *parnasah* (livelihood):

God, in His abundant mercy gives food to all flesh and allocates *parnasah* to all creatures. All are fed and sustained by His great and unfaltering mercy. Just as divine redemption is miraculous, so is *parnasah*...Man's livelihood requires his active participation [it must be earned]. Apart from the period of the wandering in the desert, or [other instances of] miraculous intervention for limited periods, there is no manna from heaven. This active participation of man in the creation of his own wealth is a sign of man's spiritual greatness. In this respect he is, as it were, an imitator of God.³⁵

The Talmud teaches that among the duties of a father is to impart to his son a craft or a trade by which he can earn a living:

האב חייב בבנו למולו ולפדותו וללמדו תורה ולהשיאו אשה וללמדו אומנות... רבי יהודה אומר כל שאינו מלמד את בנו אומנות מלמדו ליסטות

A father is obligated to circumcise him, to redeem him [if he is the firstborn], to teach him Torah, teach him a trade, and to find a wife for him...R. Yehudah says, "Whoever does not teach his son a craft teaches him banditry." (BT Kiddushin 29a)

As every human being is considered created in the image of God, Judaism has always been a living protest against a hierarchical society that gives some power, dignity and freedom but not others.³⁶ Lifshitz argues that Judaism "respects economic success, seeing it as both a

³⁴ In his note on this passage, Rabbi Adin Steinsaltz comments that this principle is spelled out "because otherwise one might assume that one who fears Heaven and devotes his life entirely to religious pursuits is preferable to one who works for a living and is unable to devote himself entirely to spiritual matters...In this sense [the one who labors] is more worthy than one who only fears Heaven."

³⁵ *Kad Hakemach*, quoted in Tamari, *Possessions*, 31.

³⁶ Sacks, *Dignity*, 92.

blessing and the basis of normative life on earth — so long, that is, as it is obtained honestly and proper respect is shown for the social responsibility that accompanies it.”³⁷

Much the same as the Rabbis saw one’s property as held in stewardship for God (see “*Dominion Over Creation*”, p. 10), so too they viewed one’s other wealth. Economic success was also accepted as a blessing from God — something to be treasured and respected — so if wealth was a reward from Heaven, there was no reason why its acquisition should be restrained. Judaism stands in contrast to the classical Christian view where “man should not keep more than he needs to live modestly, to fulfill his vocation, and meet his responsibilities.”³⁸ The halacha forbids giving away money to the point where one becomes poor.

המבזבז אל יבזבז יותר מחומש שמא יצטרך לבריות

One who lavishes money [on charity] should not lavish more than one fifth [of it] lest he become dependent on people [for support]. (BT Ketubot 50a)

2) *Limited Government*

When the Founding Fathers laid out the Constitution, its primary function was to protect human freedom. Milton Friedman describes how they “sought to establish a framework within which individuals could pursue their own objectives in their own way, separately or through voluntary cooperation, provided only that they did not interfere with the freedom of others to do likewise.”³⁹ “It is to secure our rights that we resort to government at all”, wrote Thomas Jefferson in 1795. James Madison, the principal architect of the Constitution said: “The powers delegated by the proposed Constitution to the federal government are few and defined.”

Adam Smith stressed limited governments so that people could maximize their potential. In terms of social responsibility, the more that the government assumes, the less concern and empathy streams from the general population. The inclination of a person to provide personal

³⁷ Lifshitz, *Judaism*, 6.

³⁸ *Ibid.*

³⁹ <http://fff.org/explore-freedom/article/fair-free/>

assistance or involvement in alleviating a neighbor's plight is generally diminished by the feeling of already assisting through their contribution of tax dollars. The problem is not the intention of the government, but what Friedrich Hayek terms the "fatal conceit":

...the delusion that... a single entity or agency can accurately comprehend and assess the entire range of information necessary to predictably manipulate a complex social organism such as a modern culture or economy... Because policy makers can never have perfect knowledge about the people their policies affect, for every economic intervention (such as government welfare policy), there will be effects that are neither intended nor guessed by those who designed the policy.⁴⁰

When Moses is distraught after being challenged by the Israelites during the Korach rebellion, he says to God,

לֹא חָמַר אֶחָד מֵהֶם נִשְׂאתִי וְלֹא הִרְעַתִּי אֶת אֶחָד מֵהֶם...

...I have not taken one ass from them, not have I wronged any of them." (Num 16:15)

The Bible views abuses of property rights as a great corruption of power, the concern being that abuses in the power of the government signal a potential decrease in one's freedom to serve God. Indeed, when God had Moses make demands before Pharaoh, it was specifically for religious freedom:

וְאָמַרְתָּ אֵלָיו יְהוָה אֱלֹהֵי הָעִבְרִים שְׁלַחְנִי אֵלֶיךָ לֵאמֹר שְׁלַח אֶת עַמִּי וַיַּעֲבֹדְנִי בְּמִדְבָּר וְהִנֵּה לֹא שָׁמַעְתָּ עָד כֹּה

And say to [Pharaoh]: The Lord, the God of the Hebrews sent me to say to you, 'Let my people go that they may worship Me in the wilderness' (Ex 7:16)

The Bible is overtly skeptical of government in Samuel's prophecy to the elders of Israel, who implore him to "Give us a king to judge us". His retort masterfully sums up the incompatibility of Divine Kingship and human kingship:

This will be the practice of the king who will rule over you: He will take your sons and appoint them as his charioteers and horsemen, and they will serve as out-runners for his

40 Sirico, *Defending*, 125 - 126.

chariots. He will appoint them as his chiefs of thousands and of fifties; or they will have to plow his fields, reap his harvest, and make his weapons and the equipment for his chariots. He will take your daughters as perfumers, cooks, and bakers. He will seize your choice fields, vineyards, and olive groves, and give them to his courtiers. He will take a tenth part of your grain and vintage and give it to his eunuchs and courtiers. He will take your male and female slaves, your choice young men, and your asses, and put them to work for him. He will take a tenth part of your flocks, and you shall become his slaves. The day will come when you cry out because of the king whom you yourselves have chosen; and the Lord will not answer you on that day. (1Sam 8:11 - 18)

In Judaism, a limited government goes hand in hand with respect for property rights and human dignity. A large, powerful government was seen to be ineffective and inefficient, and more likely to exhibit abuses of power. In Samuel's warning, governments incur risk, for power corrupts. The prophet Micah dreamed of a day in which "every man will sit under his own vine and under his own fig tree and none will make him afraid..." (Mic. 4:4, translation by Rabbi Sacks).

The Rabbis were astutely aware of the potential for corruption among individuals serving in the public sector. In particular, they instituted a system of checks and balances among officials collecting and distributing charity or otherwise handling public funds:

כשיכנס התורם לתרום לא יכנס בבגד שאפשר להחבות בו כסף ולא במנעל ולא בסנדל ולא בתפלה ולא בקמיע

שלא יחשדו אותו העם ויאמרו החביא ממעות הלשכה תחתיו כשתרמה

When the person enters [the Temple] to set aside the funds [for the purchase of sacrifices], he should not enter wearing a garment in which he could hide money, nor wearing shoes or sandals, nor wearing tefillin or an amulet, lest the people suspect that he hid coins from the chamber underneath them when he set aside the funds. (Mishneh Torah, *Shekelim* 2:10)

In order to guard against the corruption of the king, the "checks and balances" were none other than the word of God:

During a king's reign, he must write a Torah scroll for himself in addition to the scroll which was left to him by his ancestors. A court of 71 elders should check this scroll by comparing it to the Torah scroll kept in the Temple Courtyard. If his ancestors did not leave him a Torah scroll or that scroll was lost, he must write two Torah scrolls: one, in whose writing, he is obligated as is every individual Israelite, and which he places in his treasury; the second, which should not move from his presence except when he enters a lavatory, the baths, or other places in which it is not fit to read the words of Torah. When he goes to war, this scroll should accompany him. When he returns, it should accompany him. When he sits in judgment, it should be with him. When he dines, it should be opposite him, as Deuteronomy 17:19 states: 'It should accompany him and he should read it all the days of his life.' (Mishneh Torah, *Melachim* 2:1)

According to Rabbi Sacks, "...Judaism has a predisposition to a limited government, since every transfer of power to a central authority involves a sacrifice of liberty, and ideally, the more freedom we have to serve God, the better."⁴¹

3) *Spontaneous Order*

Markets will naturally order themselves through the laws of supply and demand. Unregulated competition maximizes the economic benefit for society by increasing creativity and providing the most goods and services possible at the lowest cost. This is Adam Smith's metaphor of the "invisible hand" of the marketplace: when properly directed, the pursuit of self-interest serves a useful purpose to improving society.

The Rabbis generally favored markets and competition because they generated wealth, lowered prices and reduced poverty. The extent to which people can become passive victims of political circumstances is greatly reduced the more control they have over their lives.⁴² There were times when the Rabbis intervened to keep prices of certain essential commodities low and

⁴¹ Sacks, *Future Tense*, 162.

⁴² Sacks, *Dignity*, 99.

to safeguard the economy, but nowhere was the free market and competition more obvious than in the field of education, of which it was said, “Jealousy among scholars increases wisdom” (BT Bava Batra 21a).

Joseph Lifshitz points out that the Talmud gives very little information about how to set up the political organization of a community or how its leaders are to be elected. Instead, there exists the notion of a *kahal*, a Jewish community whose organization grew more or less spontaneously according to the needs and discretion of its members. This spontaneous order, much like the “invisible hand” is the “unintended consequence of individual human actions that have no ultimate end in mind”.⁴³ Lifshitz suggests that while there is no conscious idea of spontaneous order in Jewish texts, it is reflected in the Bible in how the political organization of the tribes was left to the people, and more basically through the formation of a nation simply through a covenant with God and not through any internal agreement between people.

The Talmud defines the *kahal* as those living in the land of Israel, without specifying criteria other than living within the same borders:

הני הוא דאיקר קהל אבל הנך לא איקר קהל

...they, [the settlers of the land of Israel] are called *Kahal*. Others are not called *Kahal*. (BT Horayot 3a)

The Rabbis discuss the judicial system of the *kahal*, but as Lifshitz points out, there is no discussion of its best political organization.⁴⁴ The principle of *kahal* is evidenced in Maimonides’ clarification of Deuteronomy 16:18 — that the obligation to establish courts exists only within the borders of Israel:

אין אנו חייבין להעמיד בתי דינים בכל פלך ופלך ובכל עיר ועיר אלא בארץ ישראל בלבד אבל בחוצה לארץ אין חייבין להעמיד בית דין בכל פלך ופלך שנאמר תתן לך בכל שעריך אשר ה' אלהיך נותן לך לשבטיך

We are obligated to appoint courts in every region and in every city only in *Eretz Yisrael*. But in the diaspora, we are not obligated to appoint courts in every region. As it is written (Deut

43 Lifshitz, *Judaism*, 103.

44 Lifshitz, *Judaism*, 99.

16:18): "Appoint...in all your gates which God your Lord is giving you for your tribes." (Mishneh Torah, *Sanhedrin* 1:2)

The existence of a spontaneous order of is congruent with the types of questions posed to medieval and contemporary *poskim*. These questions are not about how to order the community, but rather how to regulate one that is already in existence. Even the Halacha develops spontaneously.⁴⁵

V. The Free Market and Generosity

Prefacing the forthcoming discussion about *tzedaka* in a free-market economy, we pause to discuss how the market supports charitable acts. We distinguish between two broad categories. The first are those which redistribute property, for example, gifts of money, time or goods, where the giver receives nothing tangible in return. The second type of charitable acts are the non-gifts, which we will call acts of generosity.⁴⁶ The classic example of generosity is illustrated by the beggar who approaches a fisherman for a fish. Instead, the fisherman gives him a fishing rod and teaches him to fish, so he can eat for a lifetime.

In a free-market economic model, it is the second type of charity that is of greater social value; these are the acts that bring people into the market by making it possible for them to care for themselves and their family. Giving a gift has no bearing on the market, whereas an act of generosity, such as giving someone a job, a loan, or teaching them a trade, has the consequence of adding value to the market.

Adam Smith saw the market as a self-correcting device, driven by self-interest, a natural component of human nature, and based on the economic elements of production and exchange. He believed that the market would naturally grow in capital and production if left to its own devices, with no interference from "artificial" corrections of governments (economic subsidies, for example). In other words, the aggregate of the self-interested actions of

⁴⁵ Ibid., 100.

⁴⁶ Lifshitz, *Judaism*, 63.

individuals, their “invisible cooperation”, would contribute to the public good. However, in Smith’s economic theory, there is no consideration of how charitable acts might play into the market.

Skeptics of Adam Smith postulate that his economic model will eventually collapse if the human propensity for greed is not properly channeled. Some economists posit that a “divine element” should be present in the market; that gift-giving, in addition to buying and selling, must be also be considered as part of a functioning economy.⁴⁷ According to Lifshitz, gift-giving plays a much smaller role in the market than it does in the social sphere.⁴⁸ Gifts are akin to a redistribution of wealth and so are considered to lie beyond the market in the sense that they do not contribute to its overall productivity. Lifshitz further explains that generosity “is by nature an economic act within the sphere of the market. The way it functions is not by giving money but through providing a neighbor with the opportunity to enter the market itself.”⁴⁹

Both self-interest and generosity are elements of the free market, where space is created for people to live and function as independent agents, trusting and helping each other in the process.⁵⁰ As opposed to gift-giving, which operates outside the market, generosity operates inside the market, using and enhancing its resources. The market “is fueled by human creativity in a system that rewards people for serving the wants and needs of others.”⁵¹

Acts of generosity that enhance the market are therefore acts that contribute to the overall functioning of the market; for example, giving a loan to an individual to start a business or training someone for a job or giving them an employment lead. The goal of these generous acts is to increase self-sufficiency and productivity and decrease dependency on charity. Generosity, in other words, creates more individuals who are contributing to the market as opposed to draining it.

47 Ibid., 64

48 Ibid., 65.

49 Ibid.

50 Ibid.

51 Vance, *Defending the Free Market* (review).

While both have their place in the social sphere, the market should theoretically regulate itself to favor acts of generosity over gifts. When the market is seen as a primary tool for helping the poor, then people are awakened to the idea that helping the needy is a personal responsibility, and not one that rests solely with the government; people have a responsibility to those in need in their community, whatever they might envision that responsibility to entail and however far they envision their community to extend.

Once an individual realizes that the same economic system that has afforded her the material possessions that make her life comfortable, is the same system that has eluded her neighbor, then the question may be simply put: How can I bring my neighbor into the system? The answer cannot be to perpetually offer gifts, for that puts a permanent drain on the market and burdens everyone else in the system. The solution begins with recognizing that all stand to benefit when we ensure that as many as possible in our community are making their individual contribution to its economic stability. The easier we make it for individuals to enter the market, via loans or business opportunities or a host of other creative solutions, the easier it is to replace dependence and low self-esteem with creativity, dignity and self-respect.

There is not a static pie of wealth in the world. If this were the case, then the most “moral” response to poverty would be to re-slice the pie. But everyone would have to participate in the endeavor for it to work, and we know from watching socialist societies crumble, in 20th century Asia and Eastern Europe, for example, that this is not practical. People function better and at much higher productivity levels if their hard work is acknowledged and rewarded. When there is no connection between one’s work and one’s standard of living, then greed easily infiltrates the mind and the only way to get ahead is through abuses of power, exploitation or other illegal means. In a free-market society, the “greedy” person has a different option. He or she can apply their skills, creativity and insight to their work and thus be rewarded for their effort, while at the same time providing a needed service to society.

New wealth is created every time someone puts something of themselves into the market place. Globalization and rapid advances in technology allow for easier access to the

market. As new goods and services are produced, the pie will continually grow and greater numbers of people are able to find themselves on the road to economic well-being than any distributive policy could ever accomplish.⁵² Thus the most moral response to poverty is one which exercises as many ways as possible, and continually innovates new ways, to perform acts of generosity in the free market.

VI. *Tzedakah*

The Bible states twice that the obligation to care for the poor is incumbent on every individual – in Leviticus and again in Deuteronomy.

וְכִי יָמוּךְ אַחִיךָ וַיִּמָּטֵה יָדוֹ עִמָּךְ וְהִחַזְקֵתָּ בּוֹ גֵר וְתוֹשֵׁב וְחִי עִמָּךְ

If your brother near you becomes poor and cannot support himself, you shall maintain him, he shall live with you, even when he is a resident alien. (Lev 25:35)

כִּי יִהְיֶה בְּךָ אֶבְיּוֹן מֵאַחַד אַחֶיךָ בְּאַחַד שְׁעָרֶיךָ בְּאַרְצֶךָ אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן לְךָ לֹא תִאֲמָץ אֶת לִבְבְּךָ וְלֹא תִקְפֹּץ אֶת יָדְךָ מֵאַחֶיךָ הָאֶבְיּוֹן: כִּי פִתַּח תִּפְתַּח אֶת יָדְךָ לוֹ וְהֶעֱבַט תַּעֲבִיטֵנּוּ דֵי מַחְסָרוֹ אֲשֶׁר יַחְסֵר לוֹ... נָתַן תִּתֵּן לוֹ: וְלֹא יִרַע לִבְבְּךָ בְּתִתֵּךְ לוֹ כִּי בְגַלְלֵהוּ הַדְּבָר הַזֶּה; בִּרְכֵהוּ יְהוָה אֱלֹהֶיךָ בְּכֹל מַעֲשֶׂיךָ וּבְכֹל מַשְׁלַח יָדְךָ

If one of your brothers is in need in any community of yours within your country which the Lord your God is giving you, you must not harden your heart nor close your hand against your needy brother. Rather, you shall surely open your hand to him, and you shall grant/lend him sufficient for his need in that which he lacks... You shall surely give him, and let your heart not feel bad when you give him, for because of this matter, Adonai, your God will bless you in all your deeds and in your every undertaking. (Deut 15:7-8, 10)

We are also reminded to viscerally feel the plight of our needy brethren, for we have all been there:

כִּי תִבְצַר כְּרַמְךָ, לֹא תַעֲזֹלֵל אַחֶרֶיךָ: לִגְר לְיִתוּם וְלֵאלֵמָנָה, יְהִיָּה. וְזָכַרְתָּ, כִּי-עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם; עַל-כֵּן אֲנֹכִי מִצְוָה, לַעֲשׂוֹת, אֶת-הַדְּבָר, הַזֶּה

52 Sirico, *Defending*, 182.

When you gather the grapes of your vineyard, do not pick it over again; that shall go to the stranger, the fatherless, and the widow. Always remember that you were a slave in the land of Egypt; therefore do I enjoin you to observe this commandment. [Deut 24: 21-22]

The Rabbis had to understand the phrases “sufficient for his need” and “that which he lacks” (Deut 15:8, above) before determining what constitutes giving a needy person assistance. Two definitions of poverty arise as a result: the minimum subsistence level for food, housing and basic necessities (“sufficient for his need”) and relative poverty (“that which he lacks”). For our rabbinic sages, one’s poverty was as much a psychological state as a physical one: a person’s perceived condition relative to his accustomed lifestyle is as valid a measure as comparing him to what everyone else has:

די מחסורו אתה מצווה עליו לפרנסו ואי אתה מצווה עליו לעשרו אשר יחסר לו אפילו סוס לרכוב עליו ועבד לרוץ לפניו אמרו עליו על הלל הזקן שלקח לעני בן טובים אחד סוס לרכוב עליו ועבד לרוץ לפניו פעם אחת לא מצא עבד לרוץ לפניו ורץ לפניו שלשה מילין

“Sufficient for his need” means you are commanded to support him, but you are not commanded to make him rich. “That which he lacks” means even a horse to ride on and a slave to run before him. They told of Hillel the elder that he took for a certain poor man of good family a horse to ride on and a slave to run before him. On one occasion [Hillel] could not find a slave to run before [the poor man], so he himself ran before him for three miles. (Ketubot 67b)

Rashi also explains the duality of purpose of helping a needy person. In his comments on the Leviticus verse, he paraphrases a midrash in Torat Kohanim (Behar, 5:1 (25:71))

והחזקת בו: אל תניחה שירד ויפול ויהיה קשה להקימו, אלא חזקהו משעת מוטת היד. למה זה דומה, למשאוי שעל החמור, עודהו על החמור אחד תופס בו ומעמידו, נפל לארץ, חמשה אין מעמידין אותו

you shall support him: Do not allow him to fall down and collapse altogether, in which case it would be difficult to pick him up again [from his dire poverty]. Rather, “support him” while his hand is still faltering [for then it is easier to help him out of his trouble]. To what can this be compared? To a load on a donkey — while it is still on the donkey, one person can grasp

it and hold it in place. Once it falls to the ground, however, [even] five people cannot pick it up.

Rashi speaks to the psychology of the person wanting to help. Our knee-jerk response is to rush to the rescue of one who has completely fallen. But even a community of individuals cannot do for that fallen person what one sensitive individual can accomplish if she has anticipated the other's need before he has fallen. Rashi has us consider that the prevention of poverty should be a greater priority than the relief from poverty.

Maimonides codified these ideas to encompass the range of options for giving charity — from the most meager offering to the noblest. But before examining Maimonides' Mishneh Torah, we look first at how the word *tzedakah*, meaning both charity and righteousness, originated and how its use in the texts conveys meaning.

The Origins of "Tzedakah"

In Deuteronomy 15:7-8, "You must not close your hand" is a negative commandment, forbidding the withholding of assistance from one who needs it, while "you shall open your hand to him" is a positive commandment that requires an act of charity, a gift or a loan, perhaps even before it has been requested. It is the difference between alleviating suffering (once the load has fallen off the donkey) and preventing suffering (righting the load while it is still on the donkey). The two words in Hebrew that capture this subtlety are *tzedek* and *tzedakah*. *Tzedek* refers to justice, which is usually achieved through legislation, while *tzedakah* refers to personal acts of righteousness; however, the terms are often blurred or conflated and assumed to refer to acts of charity, when in fact they did not take on that connotation until later.

The word *mishpat*/justice is often used in conjunction with *tzedek* and *tzedakah*. In Genesis 18:19 God explains why He chose Abraham:

כִּי יָדַעְתִּי, לְמַעַן אֲשֶׁר יִצְוֶה אֶת-בְּנָיו וְאֶת-בֵּיתוֹ אַחֲרָיו, וְשָׁמְרוּ דֶרֶךְ יְהוָה, לַעֲשׂוֹת צְדָקָה וּמִשְׁפָּט - לְמַעַן, הִבִּיא יְהוָה
עַל-אַבְרָהָם, אֶת אֲשֶׁר-דִּבֶּר, עָלָיו

For I have known him, because he instructs his children and his household after him that they will keep the way of God by doing *tzedakah*/righteousness and *mishpat*/justice, so that the LORD may bring about for Abraham what He has promised him.

Throughout Tanach, *tzedakah*, *zedek* and *mishpat* are often used together to refer to the God-like qualities of righteousness and justice, qualities we are to emulate to ensure a moral society. It is through these qualities that we are to reform a faltering political or judicial system:

שְׁפֹטִים וְשֹׁטְרִים, תִּתֶּן-לָהֶם בְּכָל-שְׁעָרֶיךָ, אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן לָהֶם, לְשִׁבְטֵיךָ; וְשֹׁפְטוּ אֶת-הָעָם, מִשְׁפָּט-צְדָקָה. לֹא-תִטֶּה מִשְׁפָּט, לֹא תִפְיֹר פְּנִים; וְלֹא-תִקַּח שֹׁחַד--כִּי הַשֹּׁחַד יַעֲוֶר עֵינֵי חֲכָמִים, וְיִסְלַף דְּבַר צְדִיקִים. צְדִיק צְדָקָה, תִּרְדֹּף--לְמַעַן תִּתְחַיֶּה וְיִרְשֶׁת אֶת-הָאָרֶץ, אֲשֶׁר-יְהוָה אֱלֹהֶיךָ נָתַן לָהֶם.

You shall appoint magistrates and officials for your tribes...and they shall judge the people with judgment of righteousness. You shall not judge unfairly...justice, justice shall you pursue, that you may thrive and occupy the land that the LORD your God is giving you.

(Deut 16:18 -20)

Isaiah reassures the exiled Israel:

וְאֲשִׁיבָה שְׁפֹטֵיךָ כְּבְרָאשְׁנָה, וְיַעֲצִיךָ כְּבִתְחִלָּה; אַחֲרֵי-כֵן, יִקְרָא לָהֶם עִיר הַצְּדִיק--קִרְיָה, נְאֻמָּה. צִיּוֹן, בְּמִשְׁפָּט תִּפְדָּה; וְשִׁבְיָהּ, בַּצְּדָקָה. וְשֹׁבְרֵי פְשָׁעִים וְחַטָּאִים, יִחַדְדוּ; וְעֲזָבֵי יְהוָה, יִכְלוּ.

I will restore your judges as at the first, and your counselors as in the beginning. After that you will be called City of Righteousness, Faithful City. Zion shall be redeemed through justice/*mishpat*; and those who return in righteousness/*tzedakah*. But transgressors and sinners shall together be crushed, and those who forsake God shall be consumed. (Isaiah

1:26-28)

The familiar meaning of *tzedakah* today, the funds contributed to a needy person or cause, is in use by the time of the Mishna, 200 CE:

ארבע מדות בנותני צדקה:

הרוצה שיתן ולא יתנו אחרים, עינו רעה בשל אחרים. יתנו אחרים והוא לא יתן, עינו רעה בשלו. יתן ויתנו אחרים, חסיד. לא יתן ולא יתנו אחרים, רשע.

There are four types of contributors to charity/*tzedakah*. One who wants to give but does not want others to give — is begrudging of others. One who wants that others should give but does not want to give — begrudges himself. One who wants that he as well as others should give, is a *chassid*. One who want neither himself nor others to give, is wicked. (Avot 5:13)

Throughout the Gemara (500 CE) *tzedakah* is equated with almsgiving:

רבא אכפיה לרב נתן בר אממי, ושקיל מיניה ארבע מאה זוזי לצדקה

Rava compelled R. Nathan b. Ammi to contribute four hundred zuz for charity (BT Bava Batra 8b)

אפילו עני המתפרנס מן הצדקה יעשה צדקה.

Even a poor person who is supported through *tzedakah* must give *tzedakah* (BT Gittin 7b)

In Midrashic literature we find among others, the following reference to *tzedakah*:

מה תמרה זו אין בה פסולת אלא תמרים לאכילה לולבין להילול חריות לסיכוך סיבים לחבלים סנסנים
לכברה שפעת קורות לקרות בהן את הבית כך הם ישראל אין בהם פסולת אלא מהם בעלי מקרא מהם בעלי
משנה מהם בעלי אגדה מהם בעלי מצות מהם בעלי צדקות וכל הענין

As no part of the date palm is useless — the dates for food, the branches (lulav) for praise, the fronds for covering (a *sukkah*), the fibers for ropes, the leaves for sieves, the planed trunks as rafters for the roof of a home — so too no part of Israel is useless. Some have mastery of the Bible, some have mastery over the Mishna, some have mastery over Midrash, some are doers of good deeds, some are givers of *tzedakah*, as so forth.

(Numbers Rabba 3:1, 8th - 9th century)

Maimonides codified the concept of *tzedakah* in the Mishneh Torah (*Mattenot Aniyyim*, Laws of Gifts to the Poor). In it, he quotes Isaiah (see above) and narrows the meaning of *tzedakah* to the commandment to give gifts to the poor:

חייבין אנו להיזהר במצות צדקה, יתר מכל מצוות עשה--שהצדקה סימן לצדיקי זרע אברהם אבינו, שנאמר "כי ידעתיו, למען אשר יצווה . . ." (בראשית יח, ט). ואין כיסא ישראל מתכונן ודת האמת עומדת אלא בצדקה,

שנאמר "בצדקה, תיכונני" (ישעיהו נד, יד); ואין ישראל נגאלין אלא בזכות הצדקה, שנאמר "ציון, במשפט תיפדה; ושביה, בצדקה" (ישעיהו א, כז)

We are obligated to be more careful with regard to the mitzvah of *tzedakah* to a greater extent than all [other] positive commandments, because *tzedakah* is a sign of a righteous person/*tzaddik*, a descendant of Abraham, our patriarch, as [Genesis 18:19] states: "I have known him, because he instructs his children... [to do] righteousness/*tzedakah*." The throne of Israel will not be established, nor will the religion of truth stand except through *tzedakah* as [Isaiah 54:14] states: "You shall be established through *tzedakah*." And Israel will be redeemed solely through *tzedakah*, as [Isaiah 1:27] states: "Zion will be redeemed through justice/*mishpat* and those who turn to her in righteousness/*tzedakah*." (Mishneh Torah, *Gifts to the Poor* 10:1)

Maimonides further explains the connection between the biblical use of the term and his definition:

The term *tzedakah* is derived from *tzedek*, "righteousness"; it denotes the act of giving everyone his due, and of showing kindness to every being according as he deserves. In Scripture, however, the expression *tzedakah* is not used in the first sense, and does not apply to the payment of what we owe to others. When we therefore give the hired laborer his wages, or pay a debt, we do not perform an act of *tzedakah*. But we do perform an act of *tzedakah* when we fulfill those duties towards our fellow men which our moral conscience imposes upon us; e.g., when we heal the wound of the sufferer. (Guide for the Perplexed 3:53)

As Maimonides explains, the Biblical use of "*tzedakah*" connotes an act of kindness or justice (*tzedek*) towards others, i.e., giving to another what she rightfully deserves (including wages or repayment of a loan), which is an attribute of a righteous person. But here Maimonides expands the term to include acts of charity or compassion — something he also feels that we are morally compelled to do for another who stands to benefit from our action. According to Maimonides, "justice" and "charity" are indistinguishable, not just because they are

from the same root, but because they are both moral obligations. In English the words “justice” and “charity” are distinct. Our modern sensibility tells us that while paying wages is obligatory, giving a gift is not. Keeping the two ideas separate is essential in a free-market economy. Justice is primarily about growing the market and increasing prosperity. Charity is primarily about growing compassion. Nilton Bonder emphasizes the importance of keeping the two concepts distinct in our modern world:

When pushed into the same space they are contradictory. One works through closed eyes — the blind eye of justice. The other works through open eyes — the eyes of compassion, which favor our fellow human beings. You can’t have your eyes open and closed at the same time.⁵³

As we will see shortly, Maimonides begins to make this distinction in the Mishneh Torah.

The connection between *tzedek* and *tzedakah* is also underscored in Judaism in the concept of stewardship. Since we are trustees of our property for God, it cannot be only for our own use, but must be shared with those in need. In Maimonides’ codification, the act of giving charity is less an act of benevolence than it is an act of justice, an enforceable legal obligation. The similarity of the words underscores their intimate connection. Acts of *tzedakah*, according to Maimonides, are a means to correct a social imbalance. It is a redistribution of property, an obligation that stems from amassing wealth, in order that “there will be no needy among you”.

Maimonides’ Levels of Giving

In the Mishneh Torah (Gifts to the Poor/*Mattenot Aniyyim* 10:7) Maimonides teaches that there are different gradations of charity/*tzedakah*: at the bottom level there are those that give grudgingly, then above that are those who give less than what is proper, to those will wait until they are asked to give, and moving up until the 7th level where neither the giver or the receiver knows the identity of the other. The 8th and highest level constitutes those acts that help procure

⁵³ Bonder, *Kabbalah*, 124.

a person a loan or a business partnership, for this is what strengthens an individual and guards against his becoming dependent on others:

שמנה מעלות יש בצדקה זו למעלה מזו מעלה גדולה שאין למעלה ממנה זה המחזיק ביד ישראל שמך ונותן לו מתנה או הלואה או עושה עמו שותפות או ממציא לו מלאכה כדי לחזק את ידו עד שלא יצטרך לבריות לשאול ועל זה נאמר והחזקת בו גר ותושב וחי עמך כלומר החזק בו עד שלא יפול ויצטרך:

There are eight levels in charity, each level surpassing the next. The highest level beyond which there is none is a person who strengthens the hand of a member of Israel who has fallen into poverty [by] granting him a gift or a loan, entering into partnership with him, or finding him work in order to strengthen his hand, so that he will not have to beg from other people. Concerning this [Leviticus 25:35] states: "You shall support him, the stranger, the resident alien, and he shall live with/alongside you." This means strengthen him before he falls and becomes needy. (Mishneh Torah, *Gifts to the Poor* 10:7 - 14)

Unlike the Rabbis of the Talmud who were primarily concerned with alleviating the immediate needs of the poor, Maimonides articulated a system of assistance that also considered the dignity of the one being helped, through employment and loans. Noam Zion, of the Hartman Institute in Jerusalem, labels Maimonides' eighth level "rehabilitative *tzedakah*" (in contrast to his other levels which provide "palliative care" and "maintenance subsidies").⁵⁴ In Maimonides' ladder of *tzedakah*, giving someone a job or a loan sits at the topmost rung.

For Maimonides, political autonomy ("the throne of Israel" [Gifts to the Poor, 10:1 above]), religious autonomy, economic autonomy and human dignity ("so he will not have to beg" [Lev 25:35]) are all dependent on the righteousness of the society. When he equates *tzedakah* with justice (Guide 3:53, see above), Maimonides underscores that what people deserve above all is to come through times of economic hardship with their dignity intact. Better than giving "entitlements" — whether in monetary form or gleanings of crops — we are guided to teach someone a trade or give her employment or a loan to enable her to escape the cycle of dependency that can result from outright gifts.

⁵⁴ Zion, *Social Needs*, 356.

In Maimonides' highest level, granting someone a business partnership has its origin in the Talmud:

(א"ר) אבא א"ר שמעון בן לקיש גדול המלוה יותר מן העושה צדקה ומטיל בכיס יותר מכולן

Rabbi Shimon ben Lakish said: Greater is the lender than one who does *tzedakah*. Yet *meitil ba'kis* — [putting money in a pouch to establish a partnership] is greatest of all. (BT Shabbat 63a).

Rashi elucidates:

גדול המלוה לפי שאין העני בוש בדבר

Greater is the lender because the poor person is not embarrassed.

ומטיל לכיס - מעות ומלאי להשתכר בהן למחצית שכר

meitil ba'kis - [providing] money or merchandise for doing business in order to split the profits

This concept of partnership will be explored further.

The Torah is full of instances of how you should “open your hand” to help the needy: leaving for the poor, orphans, widow and the stranger the corners of fields (*pe'ah*), gleanings (*leket*) and forgotten crops (*skikhechah*). So seriously did the sages of at the Talmud take the injunction that they taught:

חייבין אנו להזהר במצות צדקה יותר מכל מצות עשה שהצדקה סימן לצדיק זרע אברהם אבינו

We are obligated to be careful regarding the mitzvah of *tzedakah* to a greater extent than all [other] positive commandments, because *tzedakah* is an identifying mark for a righteous person, a descendant of our forefather Abraham. (Mishneh Torah, *Gifts to the Poor* 10:1)

Maimonides reminds us that the failure to give *tzedakah* to one in need transgresses a negative commandment — which makes him liable for punishment by the rabbinic courts:

מצות עשה ליתן צדקה לעניים כפי מה שראוי לעני אם היתה יד הנותן משגת שנאמר פתוח תפתח את ירך לו ונאמר והחזקת בו גר ותושב וחי עמך ונאמר וחי אחיך עמך... וכל הרואה עני מבקש והעלים עיניו ממנו ולא נתן לו צדקה עבר בלא תעשה שנאמר לא תאמץ את לבבך ולא תקפוץ את ירך מאחריך האביון

It is a positive commandment to give charity to the poor among the Jewish people, according to what is appropriate for the poor person if this is within the financial capacity of the donor, as [Deut 15:8] states: "You shall open your hand to him." [Lev 25:35] states: "You shall support him, a stranger and a resident and they shall live with you...Anyone who sees a poor person asking and turns his eyes away from him and does not give him charity transgresses a negative commandment as [Deut 15:7] states: "Do not harden your heart or close your hand against your brother, the poor person." (Mishneh Torah, *Gifts to the Poor*, 7:1 - 2)

Administration of Tzedakah

From the earliest rabbinic times, Jews were obligated to tithe their wealth annually as well as give contributions weekly through the *kuppa*, or community chest, and even daily through the *tamchui*, which distributed food to whoever applied. There were specific funds for clothing, for raising dowries for poor brides and for providing burial expenses to the needy, as well as seasonal collections for specific holiday needs, such as *ma'ot chittin* for the purpose of purchasing matzot for Passover. The collectors and administrators of the funds had to adhere to strict rules and priorities for its oversight and disbursement. The Rema, in the Shulchan Aruch concluded that every community was required to establish and maintain charitable institutions to provide for the needs of the poor (*Choshen Mishpat* 163:1). The specific mechanics of this are not of particular relevance here, but it suffices to appreciate the amount of space given in the rabbinic literature that relates to *tzedakah*, for "it is a halacha from Sinai that one is obligated to give a fifth to the poor." (JT Pe'ah 1:1)

The following is condensed from the Shulchan Aruch, *Yoreh De'ah* 249:⁵⁵

The rate of charitable giving is in accordance with all the needs of the poor if his means are equal to it. If not, then the mitzvah is to give one-fifth of his possessions, the most precious of them. [Tithes of] one-tenth are the mark of a mediocre [spirit]. Less than that is [the act

55 Tamari, *Challenge*, 158.

of one who possesses] an evil eye. The fifth of one's income referred to here has to be deducted from the equity in the first year and then from the income in each following year...

These laws apply even to the poorest members of society:

אפי' עני המתפרנס מן הצדקה יעשה צדקה

Even a poor person who receives his support from *tzedakah* should contribute *tzedakah* (BT Gittin 7a)

There is great pride and dignity in being able to take care of others, especially when one has been the recipient of the same.

VII. Investing in People

Maimonides' levels of giving serve as a bridge between the narratives of the Talmud, in which the treatment of *tzedakah* is almost exclusively palliative⁵⁶ (for example, the *kuppa* and *tamchui* described above) and our modern sensibility towards helping the poor by working to correct the root of the problem.⁵⁷ It is not clear if Maimonides was concerned with economics and productivity in his 8th level, as much as with the most dignified way to assist a person in need. In either case, his careful analysis of *tzedakah* can inspire us to look more closely at what we hope to accomplish when we feel called to help a needy person or organization.

Maimonides himself saw that his 8th level of giving was in a class by itself, outside the boundary of how *tzedakah* might be popularly defined:

מצות עשה להלוות לעניי ישראל שנאמר אם כסף תלוה את עמי את העני עמך, יכול רשות תלמוד לומר העבט תעביטנו וגו' ומצוה זו גדולה מן הצדקה אל העני השואל שזה כבר נצרך לשאול וזה עדיין לא הגיע למדה זו

It is a positive mitzvah to make loans to the poor of Israel as it says: "If you lend money to My people and to the poor with you." (Exodus 22:24). But could this law be merely a voluntary permission to make a loan? [No,] for its says: "You shall certainly loan to him".

(Deuteronomy 15:8) This mitzvah is greater than *tzedakah* in which the poor has had to ask

⁵⁶ Zion, *Social Needs*, 360.

⁵⁷ *Ibid.*, 355.

for support. For the [beneficiary of *tzedakah*] has already had to descend to the level of having to ask/beg, while the one who received a loan has not had to descend to that level. (Mishneh Torah, *Malveh v'Loveh*, Laws of Lenders and Borrowers 1:1)

John D. Rockefeller appears to have been channeling Maimonides when he said:

The best philanthropy, the help that does the most good and the least harm, the help that nourishes civilization at its very root, that most widely disseminates health, righteousness, and happiness, is not what is usually called charity. It is, in my judgment, the investment of effort or time or money, carefully considered with relation to the power of employing people at a remunerative wage, to expand and develop the resources at hand, and to give opportunity for progress and healthful labor where it did not exist before. No mere money-giving is comparable to this in its lasting and beneficial results.⁵⁸

Common to both thinkers, eight centuries apart, is that giving someone a loan or a job is not really charity, for the donor eventually receives something back in return.

Free loan associations have existed since Medieval times. Usually a private sector endeavor, *G'mach* societies (GeMaCH, an acronym for *GeMilut CHasadim*, “acts of loving kindness”) still exist in many Jewish communities today, providing loans, in the form of money or specific items, for a variety of everyday needs. *G'mach* societies are founded on the Biblical commandment:

אם כסף תלווה את עמי את העני עמך לא תהיה לו כנֶשֶׁה לא תשימוּן עליו נֶשֶׁה

When you loan to My people, the poor with you, do not charge them interest. (Exodus 22:24)

But in Biblical times, these loans were nullified if not paid back by the *shmita* (sabbatical year), essentially turning them into gifts. Hillel the Elder, an early Tannaitic sage, instituted the *prozbul*, a legal fiction that turned the loans over to public administration in order to ensure that money would continue to be lent to the poor as the *shmita* grew close. Over a millennium later,

⁵⁸ Quoted in Zion, *Social Needs*, 358.

Maimonides recognized that these interest free loans should be placed outside the realm of *tzedakah*.

Noam Zion postulates that Maimonides' primary concern, above any prudent business decision, was the dignity of the individual being helped, and that extending loans and jobs to the poor was, for Maimonides, the most dignified way to couch *tzedakah*.

צו חכמים שיהיו בני ביתו של אדם עניים ויתומים במקום העבדים מוטב לו להשתמש באלו ויהנו בני אברהם יצחק ויעקב

The Rabbis commanded that one's household servants be hired [from] among the poor and the orphans rather than slaves. Better be served by them and let the benefit of one's possessions go to the children of Abraham, Isaac and Jacob. (Mishneh Torah, *Gifts to the Poor* 10:17).

Maimonides statement is reflective of the Mishna, as Pirkei Avot 1:5 states:

יהי ביתך פתוח לרוחה, ויהיו עניים בני ביתך

Let your home be wide open, and let the poor be members of your household.

The Talmud teaches that *tzedakah* should be given with care in order to preserve the recipient's dignity. For this reason, performing acts of *tzedakah* in secret are preferred (BT Bava Batra 9b), but even if a person has no money to give a beggar, we can still honor him by offering words of comfort:

שאל העני ממך ואין בידך כלום ליתן לו פייסהו בדברים

If a poor person asks you for charity and you have nothing to give him, you should offer him words of consolation. (Mishneh Torah, *Gifts to the Poor*, 10:5)

Based on the above discussion, we conclude that making an investment in human beings to become dignified, independent and productive members of society is a form of *tzedakah*, the highest form according to Maimonides, but it is still a form of charity. But can we take Maimonides a step further and find a modern way to conceptualize helping the needy that can be considered good business practice in today's market economy?

VIII. Beyond *Tzedakah*

Business partnerships have the potential to satisfy all the requirements for making *tzedakah* a free-market enterprise in modern terms. In BT Shabbat 63a, quoted above, a partnership is formed by *l'hatil ba'kis*, “to put into a pouch”. An ancient gesture of partnership acquisition (*kinyan*) was for each party to put a sum into one pouch and lift it up together (Ketubot 10:4).⁵⁹ Far from an anonymous gift, it requires active participation across class lines between two people each investing what they can towards the success of a common end. “The loan or partnership restores productivity by investing the idle superfluous capital of the giver in the hands of the idle and impoverished recipient and generates a new human endeavor in place of the typical passivity and despair of the unemployed.”⁶⁰

The idea of investing in someone as a means to help the donor is not new to Judaism. The Talmud teaches that one must form partnerships with a Torah scholar — not to help the scholar, but to help the investor, for it gives him an opportunity to associate closely with scholars:

ואתם הדבקים בה' אלהיכם חיים כולכם היום וכי אפשר לדבוקי בשכינה והכתיב כי ה' אלהיך אש אוכלת
אלא כל המשיא בתו לתלמיד חכם והעושה פרקמטיא לתלמידי חכמים והמהנה תלמידי חכמים מנכסיו מעלה עליו
הכתוב כאילו מדבק בשכינה

“And you who cleave to the Lord your God are alive all of you this day” (Deut 4:4); now is it possible to 'cleave' to the divine presence concerning which it is written in Scripture, “For the Lord your God is a consuming fire” (Deut 4:24)? Rather [the meaning is this:] whoever marries his daughter to a scholar, or engages in business on behalf of scholars, or benefits scholars from his possessions is regarded by Scripture as if he had cleaved to the divine presence. (BT Ketubot 111b)

⁵⁹ Zion, *Social Needs*, 365.

⁶⁰ Ibid.

Whether investing in people by means of loans, job opportunities or business partnerships, the endeavor will no doubt require oversight on the part of the investor. Patience and time is required to manage someone who may be new to the marketplace or have a previous history of failure. However, unique to the idea of a partnership is the the non-altruistic economic incentive for the investor to make money for both sides. Many mega-donors and capitalist business world successes like Bill Gates have based their foundations on “investment-oriented and profit-oriented philanthropic partnerships.”⁶¹ Where partnerships also stand distinct from granting loans and giving jobs is that the recipient is not beholden to the investor in any way — the profit is mutual. Even if the partnership were motivated by altruism, there is no reason why the relationship cannot strictly be a business one, putting this endeavor one step higher than loans and jobs on Maimonides’ ladder of respecting the human dignity of the recipient.

The modern tendency is to think of *tzedakah* as necessarily involving some level of selflessness or self-sacrifice. Indeed, the whole late 20th century notion of *tikkun olam*, repairing the world — socially, economically and politically — is based on the combined notions of ethical responsibility and broad scale problem solving.⁶² Perhaps this is the reason that the IRS does not recognize a profit sharing endeavor as a charitable donation.

There are many successful organizations that have focused their efforts on profit sharing and partnerships in order to assist needy individuals. One such enterprise is Heifer International, based in Little Rock, Arkansas. Heifer provides mainly livestock animals such as cows, goats and sheep, but also other “producers” such as bees and chickens, to families in need around the world, in addition to providing training and other resources for new would-be farmers. In exchange, the recipients must agree to “pass on the gift”, the core principle of the organization, as described on its website:

⁶¹ Zion, *Social Needs*, 366.

⁶² *Ibid.*, 357.

For each livestock gift, families agree to pass on the [first born] offspring of that animal to another person in need. In some places, 22 generations of Heifer animals can be traced. On average, Passing on the Gift lasts for at least nine generations, no matter the project.

The evolution from gratitude to generosity is a powerful transformation. Social growth comes through training in our cornerstones for just and sustainable development. Values such as gender equality, full participation, sharing and caring, improving the environment, accountability and training and education, are the backbone of our work.⁶³

Since 1944, when 17 heifers were shipped to Puerto Rico, Heifer International has distributed livestock to over 20.7 million families in more than 125 countries. These animals keep on producing (milk, eggs, honey, etc), generate income and eventually reproduce. The act of sharing the offspring of their animals has the powerful effect of turning receivers into givers; the recipients of the animals become partners in the ongoing effort to end hunger and poverty. This “offering” of the first-born is not unlike the biblical offering of פֶּטֶר־רֶחֶם / “opening of the womb,” where in gratitude for the fertility of one’s livestock, the first born is given back as an offering to God:

אֶרְבֵּי־בָכוֹר אֲשֶׁר־יִבְנֶה לַיהוָה בְּבִרְמָה לֹא־יִקְדֹּשׁ אִישׁ אֶת־אִמּוֹ אֶת־אִמּוֹ שׂוֹר אִם־שֶׂה לַיהוָה הוּא

A firstborn animal, which shall be sacrificed as a first-born offering to God, may not be sanctified by an individual. Whether it is an ox, sheep, or goat, it is for God. (Lev 27:26)

Another such “free market” organization is PovertyCure, an international network of close to 300 partner organizations in 144 countries who are working together to “rethink poverty, encourage discussion and debate, promote effective compassion, and advance entrepreneurial solutions to poverty rooted in the dignity and creative capacity of the human person.”⁶⁴ The organization disseminates information and support through lectures, training and publications, all geared towards encouraging entrepreneurial solutions to poverty.

63 <http://www.heifer.org>

64 <http://www.povertycure.org/network/>

When we put the person at the center of our economic thinking, we transform the way we look at wealth and poverty. Instead of asking what causes poverty, we begin to ask, what causes wealth? What are the conditions for human flourishing from which prosperity can grow? And how can we create and protect the space for people to live out their freedom and responsibilities?⁶⁵

PovertyCure believes that, rather than receiving aid, the poor need to be encouraged and taught how to use their God-given talents to provide for themselves. The organization produced a six-part documentary series aimed at educating people about the potential negative impact that giving aid, as opposed to encouraging free-market enterprise, can have on a community. In one segment, John, a Rwandan entrepreneur and egg farmer, was forced to sell his hens and close his business after a church in Atlanta decided to send eggs to John's village as a response to the Rwandan genocide. Eventually the church stopped supplying the villagers with eggs and there was no business in place to meet the demand. A similar story is related about the closing of a Kenyan factory that manufactured clothing from the finest local cotton, due to the influx of free second hand clothing donations. The point is that aid from well-meaning individuals or organization can sometimes undermine the potential for increasing prosperity.⁶⁶

Another organization that stresses partnerships and fostering entrepreneurial skills is Peace Through Commerce. A "start-up non-profit", founded in 2006, PTC has developed a curriculum called The Matrix of Peace, "a roadmap to building peaceful and prosperous communities" through the power of entrepreneurship. The foundational elements of the Matrix are Marketplace, Consciousness, and Laws and Structures. The Matrix curriculum teaches that these three cornerstones intersect in a deeper understanding of prosperity and justice, and in bringing a higher level of consciousness to the marketplace in an effort to create a "Living Peace" between communities otherwise in conflict.⁶⁷

⁶⁵ <http://www.povertycure.org/principles/vision-and-goals/>

⁶⁶ https://www.youtube.com/watch?v=li_k_AUqo8I

⁶⁷ <http://www.peacethroughcommerce.org/SearchResults.asp?Cat=239>

Currently, Peace Through Commerce is working to jointly train women in Israel and the West Bank to become civic leaders and entrepreneurs, and to network and partner with each other to showcase and sell each other's products. They in turn help train other women to do the same. A sister organization, AWE, Accelerating Women Entrepreneurs, was created to offer women hands-on experience, interactive dialogue and conferences to promote the goals of Peace Through Commerce: economic freedom, voluntary exchange and individual initiative and enterprise.⁶⁸ Nobel Peace Laureate Dr. Muhammad Yunus, recognized for pioneering microcredit and micro financing for the poor in developing countries, expressed the core tenet that PTC says it works to promote: "Lasting peace cannot be achieved unless large population groups find ways in which to break out of poverty...peace is inextricably linked to poverty. Poverty is a threat to peace."⁶⁹

IX. Summary and Conclusions

Judaism, while perhaps not intuitively "free-market", can be shown to support most of the ideals of a market based economic model. This model, in turn, can be an extremely valuable tool for confronting poverty, one of today's most challenging and complex problems. Indeed, as Jews, texts from the Bible to the writings of contemporary philosophers enjoin us to consider the plight of the needy, for it is our plight as well. In doing so, we must be attuned to new and better ways of thinking regarding the most efficient and effective means for alleviating the suffering of the poor.

Our rabbinic sages were attentive to the plight of the poor, conscious of one's duty to help his needy brother while at the same time being mindful of the potential assault that accepting assistance can have on a person's dignity. But the Talmudic tradition is practically silent about providing employment for the poor; they would provide for one's immediate needs

⁶⁸ <http://www.peacethroughcommerce.org/SearchResults.asp?Cat=78>

⁶⁹ Bles, Philomena, *Abstract: White Paper on the Matrix of Peace*, available from Peace Through Commerce, 2015.

but no fishing rod with which to reel in future meals.⁷⁰ Maimonides, six centuries later, articulated a policy of encouraging employment, outlining a hierarchical program of gifts, loans and business opportunities. His principles of *tzedakah* serve as a bridge between rabbinic tradition and our modern sensibilities, opening the door to new new understandings of the word and new business practices, which at the same time address the dignity of those who bear the shame of being dependent on the help of others.

The timelessness of Maimonides' levels of *tzedakah* is evidenced by how we can continue to understand new layers of meaning for today. Beyond an awareness of maintaining the dignity of the poor — in whatever way we choose to give *tzedakah* — we are enjoined to expand our horizons and explore new ways to bring into the marketplace those who have been excluded. Someone who is “needy” will most likely have assets that we can use, even if it is unskilled labor.

According to Friedrich Hayek, in a free-market society, each individual is free to choose whom she associates with and what the parameters of that association are. When it comes to charity, we can best care for those people about whom we know concrete facts and to whom either choice or special conditions have attracted us. We can best respect the dignity of a person when we recognize that each has his or her own individual values, which may not be the same values as other members of society, politicians or special interest groups. All should be free to form associations with those whose talents, goals and values complement their own.⁷¹

The following prayer is recited after food or drink that does not require *Birkat HaMazon*:

בָּרוּךְ אַתָּה ה' אֱלֹהֵינוּ מֶלֶךְ הָעוֹלָם, בּוֹרֵא נִפְשׁוֹת רַבּוֹת וְחֶסְרוֹן עַל כָּל מָה שֶׁבָּרָאתָ לְהַחַיּוֹת בָּהֶם נֶפֶשׁ כָּל חַי, בָּרוּךְ
חַי הָעוֹלָמִים

*Baruch atah ado-nai elo-hai-nu melech haolam borei nefashot rabot v'chesronan al kol
ma she'barata l'hachayot bahem nefesh kol chai baruch chei ha'olamim.*

⁷⁰ Zion, *Social Needs*, 354.

⁷¹ Foy, *Charity*.

Blessed are You, Adonai , King of the universe, Creator of many living souls and their needs/ lacks/ deficiencies, for all the things You have created with which to sustain the soul of every living being. Blessed is He who is the Life of the worlds.

Jonathan Sacks teaches that this prayer gives us insight into engaging with others in our midst. “[*Bore nefashot rabot vechesronam*] is a strange phrase”, he states, because “normally we thank God for what we have, not for what we lack: for our gifts, not for our deficiencies.”⁷² Rabbi Sacks uses this prayer to highlight we need the experience and contributions of each other because none of us has everything we need and what we lack can be made up by the unique contributions of others. “As long as we are each better at some things than others, we both gain by exchange”.⁷³ As the prayer illustrates, differences can be a source of blessing, from which everyone benefits. If each of us lacks nothing we would never need anyone else. It is this “dignity of difference” that is embodied in the concept of market exchange.⁷⁴ Our differences mean that each of us has something unique to contribute to the world, and according to the Talmud, it is our offering and tribute to God: A human artisan makes one mold and all the coins are identical. He created one man in His image, yet all men are different. (BT Sanhedrin 37a)

In the process of embracing our differences, of finding innovative ways to include the excluded in the marketplace, we at one time strengthen the market, the poor and ourselves, all the while realizing the profoundness of our Torah when it commands us to “open your hand to [your needy brother].”

⁷² Sacks, *Dignity*, 100.

⁷³ *Ibid.*, 101.

⁷⁴ *Ibid.*, 100.

X. Bibliography

Bonder, Nilton, *The Kabbalah of Money: Jewish Insights on Giving, Owning, and Receiving*. Boston: Shambhala, 2001.

Foy, Andrew and Brenton Stransky, "Charity and Sacrifice in a Free Society", *American Thinker*, http://www.americanthinker.com/articles/2009/10/charity_and_sacrifice_in_a_fre.html

Frisch, Ephraim, *An Historical Survey of Jewish Philanthropy*. New York: Macmillan, 1924.

Golinkin, David, "Are Jews Required to Give a Maaser [Tithe] of their Income to Tzedakah?", *Responsa in a Moment*, Volume 4, Issue 4, March 2010, <http://www.schechter.edu/responsa.aspx?ID=49>.

Hartman, David, Tzvi Marx and Noam Zion, *The Dynamics of Tzedakah, Part I: From Dependence to Dignity*. Jerusalem: Shalom Hartman Institute, 1981.

Henderson, David R., ed., *The Concise Encyclopedia of Economics*. <http://www.econlib.org/library/CEE.html>.

Jacob, Walter, ed. with Moshe Zemer, *Poverty and Tzedakah in Jewish Law: Essays and Responsa*. Pittsburgh: Rodeph Shalom Press, 2006.

Kahaner, Larry, *Values, Prosperity and the Talmud: Business Lessons from the Ancient Rabbis*. Hoboken: John Wiley & Sons, 2003.

Levine, Aaron, *Free Enterprise and Jewish Law: Aspect of Jewish Business Ethics*. New York: KTAV Publishing House, 1980.

Levine, Aaron, ed., *Oxford Handbook of Judaism and Economics*. New York: Oxford University Press, 2010.

Lifshitz, Joseph Isaac, *Judaism Law & the Free Market: An Analysis*. Grand Rapids: Acton Institute, 2012.

Lifshitz, Joseph, "Foundations of a Jewish Economic Theory", *Azure Journal*, Autumn 2004, <http://azure.org.il/article.php?id=212>.

Neusner, Jacob, *Tzedakah: Can Jewish Philanthropy Buy Jewish Survival?* New York: URJ Press, 1997.

Rothbard, Murray, "Free Market", in *The Concise Encyclopedia of Economics*. <http://www.econlib.org/library/Enc/FreeMarket.html>

Sacks, Jonathan, *The Dignity of Difference: How to Avoid the Clash of Civilizations*. London: Continuum, 2002.

Sacks, Jonathan, *Future Tense, Jews, Judaism and Israel in the Twenty-first Century*. New York: Schocken Books, 2009.

Sacks, Jonathan, "Judaism's Religious Vision and the Capitalist Ethic", *Religion & Liberty*, Vol 11, Number 6, <http://www.acton.org/pub/religion-liberty/volume-11-number-6/judaisms-religious-vision-and-capitalist-ethic>.

Sacks, Jonathan, "Markets and Morals", *First Things*, <http://www.firstthings.com/article/2000/08/markets-and-morals#print>.

Sacks, Jonathan, "Wealth and Poverty: A Jewish Analysis", http://socialaffairsunit.org.uk/digipub/index2.php?option=content&do_pdf=1&id=16

Sauer, Corinne and Robert M. Sauer, *Judaism, Markets and Capitalism*. Grand Rapids: Action Institute, 2006.

Siegel, Seymour, "A Jewish View of Economic Justice", in *Contemporary Jewish Ethics and Morality*, edited by Elliot N. Dorff & Louis E. Newman. Oxford: Oxford University Press, 1999.

Sirico, Robert, *Defending the Free Market: The Moral Case for a Free Economy*. Washington, DC: Regency Publishing, 2012.

Tamari, Meir, *The Challenge of Wealth: A Jewish Perspective on Earning and Spending Money*. New Jersey: Jason Aronson, 1995.

Tamari, Meir, *With All Your Possessions: Jewish Ethics and Economic Life*. New York: The Free Press, 1987.

Vance, Laurence M., review of *Defending the Free Market: The Moral Case for a Free Economy*, by Robert Sirico. <http://fff.org/explore-freedom/article/book-review-the-moral-case-for-a-free-economy/>.

Zion, Noam Sachs, *To Each According to One's Social Needs: The Dignity of the Needy*. Cleveland: Zion Holiday Publications, 2013.