

Family Welfare and Community Responsibility *In Loco Parentis*

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A Bridal Dowry for Daughters and for Orphans

Rabbinic Social Welfare Modeled on the Biblical Principle of Familial Redemption by the Nearest Kin

Defining Basic Needs:
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The Orphans of Boys' Town and Familial Solidarity as Model for Tzedakah

Human dignity, especially in its Kantian philosophic iteration, focuses on the individual, not on the society and the relationships in which persons are embedded - marriages, families, or national identities. True to its Stoic origins human dignity is thus formulated as the achievement of autonomy *from* social control and free agency, and often transcendence above natural ties generated by birth that bind us even though we have not chosen them. Of course, pragmatically the individual needs some material basis to achieve that ideal autonomy and respect and many individuals do not have such resources. The “dignity of the needy” is apparently to remove all needs, for need denigrate autonomy and self-sufficiency. Therefore many individuals are - “sadly” - dependent on others to meet their needs, economically and physically, but that is predicament to be addressed by the declaration of universal economic and social rights embodied in humanitarian NGOs or the United Nations, as it would like function if its member states and its international tribunals lived up to their declaration of intentions.¹

And yet we will not begin to treat the question of meeting human needs with the axioms of individual human dignity and autonomy nor with its Biblical analogue in the creation of human beings in God’s image (Genesis 1 and 5) in pre-social state. Rather we begin with the desire for interdependence and the webbing of individuals within relationships familial and communal. We follow the lead of the mishna that opens one of the only two Talmudic discussions of tzedakah in the Babylonian Talmud – both only two or three folios pages. It opens the treatment of tzedakah and meeting basic human with some ancient laws about dowries and matchmakers for orphans. In a sense, it provides a 2000 year-old prototype of J-date, the contemporary website for American Jews in search of a soul-mate. The story of the intricate relationship between neediness and human dignity in Jewish tradition begins not with the ideal of free-standing individuals but with the ideal of what is today an endangered species in the West – the family and local community a locus for mutual caring for one another’s needs. Fatherhood and brotherhood, now described in gender-neutral terms as parenthood and filial solidarity, are the essential social context of not only of tzedakah, but of human dignity defined by relationships of responsibility, not independence from needs and ties that bind. The family has also been the mechanism for supplying needs especially since the human lifecycle entails long periods of dependence, but also the primary context for human meaning along with citizenship in one’s polis and in one’s nationality. It is in fact due to the nature of human relationships and their embeddedness in a collective that one in need has traditionally made a claim on family or society to provide duty-bound care, respect and basic needs (now called rights). It is correlatively that one “earns” dignity – not a right – but as an honorable standing by bearing responsibility for others as father, brother or fellow citizen. In the following chapters we aim to explore this seemingly radical claim and uncover its traditional roots.

¹ An example of this view can be found in the Universal Declaration of Human Rights which includes economic rights guaranteed by a world government. This vision of human dignity and human needs and its religious roots including its Biblical roots will occupy us in Part Four.

As opposed to the self-sufficient individual, the Torah describes humanity from the beginning as a brotherhood of all human beings for we are all imagined as the children of one couple. Yet what seems natural – brotherly responsibility – is never taken for granted as a natural instinct. It is a free choice, an act of moral agency, to say “Yes, I am my brother’s keeper.” For it was Cain – to whom God gave free choice and the power to rule over his drives (Gen. 4:7) – who first called this ethos into question: “Am I my brother’s keeper?” and thus he gave it its name in the first act of its betrayal. In Genesis 4 the term brother/*akh* makes its first Biblical appearance and it is repeated 7 times. Almost all Biblical *tzedakah* legislation (Leviticus and Deuteronomy) is built upon the narratives of familial brotherhood in Genesis and Exodus. The normative axiom is the call to be loyal to one’s brother (*ahikha*), though the breadth of such brotherhood in the laws of *tzedakah* is understood in the narrower sense of Israel’s ethno-religious brotherhood (Deut. 15; Lev. 25).²

The narrative origins of this brotherly responsibility hark back not only to Cain, the universal brother who betrayed his brother, but to the archetypal Jewish brother, Judah, who also betrayed his brother, Joseph, selling him into slavery in Egypt. Yet unlike Cain, Judah did do *teshuvah* and achieved reconciliation with Joseph who then in brotherly fashion provided the food his desperately needy family needed. Before Joseph chose to take responsibility for supporting his brothers who had betrayed him, Judah had to prove his new found responsibility regarding Joseph’s little full brother Benjamin. To get his father Jacob to allow Benjamin to come with the brothers to Egypt to buy supplies from the mysterious Egyptian official who would turn out to be their brother, Joseph, when Joseph was ready to reclaim that identity. Here Judah teaches us the principle of brotherly by taking custody of Benjamin by pledging to be his guarantor, just as Jacob the shepherd had once been the financial guarantor of the well-being of Lavan’s sheep. Judah’s famous line was: *I will be his guarantor / anokhi e-ervenu, from my hand you will seek him* (Gen. 43:9). That root becomes the leitmotif of the rabbinic notion that every Jewish brother, “all Israel are co-guarantor to one another / *arevim ze la zeh*” (TB Shavuot 39a).

In American culture the link between human brotherhood and *tzedakah* is symbolized graphically by recalling the great Irish-Catholic American invention - Boys’ Town, the orphanage founded in the early 20th century in Omaha, Nebraska, by Father Edward J. Flanagan. The religious question, “Am I my brother’s keeper?” inspired Father Flanagan sought to live by the maxim: “There is no such thing as bad boy.” When a family failed to care for its own children – due to death or abandonment, Father Flanagan became these children’s “father” in more than the Catholic priestly-sense, but he also educated these orphans to become each other’s “brothers” in the bearing of material and physical responsibility for caring for each other’s needs. That is why Flanagan adopted another motto: “He Ain’t Heavy, He’s My Brother.” The motto was inspired by a column by the same title published by Roe Fulkerson,¹ in which Fulkerson recounted his encounter with “a spindly and physically weak lad” carrying a baby and “staggering towards a neighboring park. Here was his conversation with that lad:

² Brotherly responsibility or brotherly love as a primary rationale for giving is explored in depth in Book One Chapter 3 of this trilogy.

"'Pretty big load for such a small kid,' I said as I met him.
'Why, mister,' he smiled, 'He ain't heavy; he's my brother.'" ⁱⁱ

The brother on his back is not a “burden,” but a person, and one helps one’s brother as “big brother,” not in fulfillment of a charitable feeling or an abstract societal duty. It is not stand-alone “self-made men” who are the core of human dignity but webbed brothers. When one’s natural brothers and parents are absent, then Boy’s Town provides a “Father” and “brothers.”

So too one of the only two Talmudic sections devoted to tzedakah in the Babylonian Talmud starts its discussion of communal tzedakah with the issue of orphans in need of family.³ Then it legislates society’s obligation to function *in loco parentis* in caring for the needy. Families model a social organism of mutual help, and serve as the standard when legislating society's collective duty to support orphans and “rehabilitate” them which means in this case not by giving them job training but by helping them to marry. The primary need is not financial, rather finances are instrumental for fulfilling the real need. That deep human need is not for individual autonomy but for being webbed in a family that will then embody an ethos of mutual responsibility.

Many who have analyzed this mishna and its subsequent Talmudic discussion of tzedakah from a purely editorial perspective suggest that the tzedakah theme seems to be tagged on an afterthought to the familial question of dowries in a Tractate on Ketubot = marriage contracts. The mishna mentions a tzedakah fund for orphan brides, while legislating about familial obligations to a daughter who is being married off. ⁱⁱⁱ Yet this marital angle on tzedakah is, in my opinion, an integral conceptual key to understanding how tzedakah treats *human* need in the fullest sense. Here human need is a *social* need for companionship.

The subsequent Talmudic discussion of the mishna then frames the obligations of tzedakah by using two familial metaphors of meeting human needs – one from Genesis and one from Deuteronomy. But the axiomatic verse in Genesis to explain the obligation to fulfill needs of others is not the one that underlies human dignity and human rights – the creation in the image of God (Gen. 1:26). Rather it is God’s concern for human loneliness: *It is not good for the human to be alone, I will form for him a helping partner (ezer) opposite him (knegdo)* (Gen. 2:18). Human life is presented here in its fundamental interdependence with a partner and with its felicitous dependence on a God that wishes to satisfy the needs – emotional and physical – of the first human being. Those needs of Adam are idiosyncratic and God must offer many alternatives to meet the needs of Adam’s rather-fickle search for an appropriate partner. God is concerned with Adam’s human growth and harmonious fulfillment. Needs and relationships are intertwined, for if all needs had been satisfied by granting Adam the original image of God, then humans would not need to relate to one another and also probably not to God. Need is the cement of man and woman relations but also

³ The other treatment of tzedakah in the Talmud, TB Baba Batra, begins its discussion of human solidarity based on the joint economic needs of neighbors and fellow citizens for security. This leads the Talmudic discussion to the obligation to share such expenses and from there to the municipal tzedakah taxes, discussed in depth in Book One.

of the covenant with God and human societal duties. Need is not the definitive enemy of dignity but the social glue of meaningful relationships when not abused to subject the needy to service to the provider of resources. That is what is implicit in the Talmudic assumption: "Better to reside together than to reside alone" (TB Ketubot 75a).

After speaking of God as a substitute parental matchmaker, then the Talmudic sugya turns to the seminal verse in Deuteronomy about needs and brotherly responsibility for tzedakah:

When there is among you someone impoverished, one of your brothers,.... you shall not toughen up your heart or tighten your hand from your brother who is impoverished. Rather open your hand and lend (give) him sufficient for one's need in that which one lacks. (Deut. 15: 8)

Thus family relations provide the narrative framework for communal tzedakah legislation in the Talmud.

A Bridal Dowry for Daughters and Orphans

IF ONE GAVE HIS DAUGHTER IN MARRIAGE WITHOUT SPECIFYING ANY CONDITIONS, HE MUST GIVE HER NOT LESS THAN FIFTY ZUZ.^{iv}

SIMILARLY, IF AN ORPHAN IS GIVEN IN MARRIAGE SHE MUST BE GIVEN NOT LESS THAN FIFTY ZUZ.

IF THE PURSE [of community Tzedakah funds] HOLDS SUFFICIENT FUNDS, SHE IS TO BE FITTED OUT IN ACCORDANCE WITH THE HONOR OF HER POSITION [*lfi kevoda*]. (Mishna Ketubot 6:5)

By inserting the standards of tzedakah into the frame of marriage law, the mishna makes explicit several important principles that we will explore in depth:

(1) Familial support precedes communal support in the order of moral and legal obligation. Only secondarily does the community's responsibility begin - *in loco parentis* – where there are no parents or blood brothers to support the needy. Thus the tzedakah system is not a society-wide principle for just redistribution of all the wealth by need, but a remedial response to the lacuna in society created by various misfortunes that make the basic family support system inadequate.^v

(2) Orphans are a primary image or paradigm for those in need of tzedakah.

(3) Tzedakah resources in the communal fund, the *kuppah*, are often inadequate to serve all the legitimate needs, so priorities must be established. This is a form of "triage," a system of just distribution of resources necessary in a world of scarcity and socio-economic inequality. Rabbinic tzedakah was never intended to be a utopian vision of societal economic justice and equality worthy of the prophecies of the Bible.

(4) Besides basic needs, which must be provided with an eye to simple equality, there are the specialized needs of the formerly rich for social honor, such as the destitute orphan from a "good family". These social needs are to be addressed with much greater generosity than those born into poverty – assuming the availability of adequate funds for the more basic needs of all.

Our mishna^{vi} opens by establishing the amount of the basic family support of the father of the bride to his daughter's dowry. Then the mishna^{vii} draws a moral and legal analogy between family obligations for a daughter's marriage and communal obligation to the family-less, the orphans. The family system is a kind of "mutual aid society" functioning in the web of family social security to offer a socio-economic safety net for relatives. The government welfare system serves two remedial functions. Firstly it provides for those exceptional individuals without families or with impoverished families. Secondly it supervises parents or new husbands to make sure they live up to their obligations and do their fair share within the familial system, which is standardized and refereed by law.

The rabbinic family system is an extension of the principle of brotherly redemption in Leviticus 25 where the principal economic responsibility falls first on the closest kin-redeemer. This relative, termed the "blood redeemer," must provide their kin with justice (vengeance for murder) as well as economic support. This is a matter of duty, the closest blood relative being the one most highly obligated. However, over the course of the Biblical era, the criminal justice system based on the blood avenger and collective responsibility was first regulated within the cities of refuge and then gradually replaced^{viii} by the courts and the judicial principle of individual responsibility (Deut. 24:16).

One might imagine that in issues of social welfare, a similar process of individualization and state monopoly on economic justice might develop. Then all the excess income would be sopped up by taxes and redistributed to individuals according to their needs. Thus a web of families or tribes would be transformed into a citizen-state of economic individuals^{ix} who get much of their support directly from the state that taxes, protects and supports individuals without expecting parents and brothers to intervene to guarantee either legal justice or social welfare. This would approach the ideal of the Western social democratic welfare state that promises free education, health benefits, pensions and many financial supports to every citizen and provides negative income tax to the working poor as well as public welfare to the destitute. Thus dependence on family, neighbor, neighborhood and church is often attenuated along with the values of brotherly responsibility and honor and care for parents.

However, unlike the ancient family-based judicial system which was replaced by the courts and the state, the economic welfare system in the Biblical and Rabbinic era remained familial and collectivist.

When your brother [a generic term inclusive of blood relatives beyond the nuclear family] sinks [financially] and sells his family inheritance, then the nearest redeemer (goel) to him should come and redeem his brother's sale. (Leviticus 25:25)

The Rabbinic tzedakah system, as well as many sectors of the mixed capitalist-welfare states that exist in the West, resist the comparison between the state's monopoly over its criminal justice and its welfare system, though the modern state has taken over more and more of these responsibilities. This formal political covenant between the individual and state has not yet replaced the implicit biological covenant of family membership and communitarian ethics. Many still believe in and strive to behave according to **family morality, religious and ethnic local community norms and**

feelings of mutual obligation. Thus, they still provide emotional and financial support in massive amounts for the “normal” citizen, as well as extending their helping hand beyond their immediate family. Families – especially women, whether altruistically or as part of their gendered roles and socialization – extend a helping hand to the weaker members of the family in infancy, old age, illness and during hard economic conditions.

In short, the family support system offers the bulk of support for the poor, while a welfare society only adds something to “top it off” when the family support falters or fails altogether.^x While elsewhere in the Mishna Peah the Rabbis describe in detail a welfare system based on centralized city-based taxation and distribution system for the poor,^{xi} that governmental system never becomes more than a supplement, a **second tier**, built on top of the more fundamental and lasting social structure that grants human beings economic and emotional security in meeting needs – the **family system**.⁴

Now let us follow the order of our mishna to explore first the familial welfare support system, especially for marriageable daughters, and then to see how the community took over that role for orphans or destitute families.

Our mishna legislates a 50 zuz dowry, the precise function of which – whether for the wedding, the gown, the clothing allowance for the first year or the set-up costs for the new home – remains ambiguous. This raises many unanswered questions about familial obligations: To what extent should parents have to support their children especially if they are no longer minors? Is there a legal or moral responsibility to set them up for marriage – pay for the wedding or give them a dowry for clothing and bedding – even though they are leaving the parental household? If parent or husband has more than minimum resources must they give more than 50 zuz in accordance with the social status or needs of the child?^{xii} Why should the law deal with such a case at all, shouldn't this be a matter of personal choice for the parents? If the father explicitly stipulates not to give his daughter a clothing allowance for her marriage, is he morally or legally culpable?

In the Rabbinic world parents had clear obligations to help marry off their children which then also shaped the communal standards of support for helping the orphan

⁴ Morton Meyerson, a computer specialist in Texas who made more money for his nuclear family than he and they could reasonably spend in a lifetime, discovered very late in life (1996) the power of Jewish texts to illuminate ethical decisions. Then he set himself to studying tzedakah and created a study group of philanthropists seeking to inform their donations with Jewish principles in innovative ways inspired by but not legally bound by halakha. Having learned that one's first financial commitment is to oneself and then to relatives in concentric circles who are farther out, he examined himself and his nuclear family and made sure they were well-protected and endowed. Then he did research and identified 84 relatives – all middle class – and sent them all an equal amount in stocks in his company without any differentiation by relative need, though there was a greater allotment for families with children. He told them to use the funds in any way they saw fit. Yet he urged them to consider as an option to give a tithe of his gift to a charitable cause of their choosing. If they give money to their children, for college, for example, then let them know that their scholarship was given by an anonymous donor and that when they can, the children should consider sharing their wealth with others. Under no circumstance – less than dire straits – must the recipients ever ask for more money from him. Incidentally, only fifty per cent of the beneficiaries, all distant relatives, responded at all with a “thank you.” (based on a private communication with Morton Meyerson, February 2010).

establish a family. The mishna stipulates a default 50 zuz allotment for one's daughter's marriage – if no other sum was defined. This gift to one's daughter was not necessarily voluntary.^{xiii} Rather, the Rabbis see it as part of the parental responsibility to one's children – to marry off both the son and the daughter (TB Kiddushin 29a). They cite the prophet Jeremiah's instruction to the Jews exiled to Babylonia to settle down: *Take wives and give birth to sons and daughters, then take wives for your sons and give your daughters to husbands* (Jeremiah 29:6). However, since it was socially and legally acceptable for only males to initiate a marriage offer, the parents of daughters could only fulfill this obligation to marry off their daughters indirectly, by making them attractive to potential suitors. This was achieved “by dressing them and covering them [with fine garments] and giving them things, so they [the male suitors] will 'jump' at the opportunity to marry them.”^{xiv}

Thus, the Rabbis established a required *nedunya*, a sum to be given to one's daughter for her to take with her when she marries so as to attract suitors. "How much? Both Rava and Abaye said: Up to a tenth [of the parents' property]" (TB Ketubot 52b).⁵ Given this, why then does our mishna stipulate such a low sum for the father to give his daughter? Maimonides explains that the 50 zuz only refers to the garments of the bride which were meant to be a minimal gift from her parents - assuming the parents are relatively poor. For even the poorest husband is obligated to give at least 50 zuz for his wife's annual wardrobe allowance^{xv} – which also covers household goods – or more, in accordance with his wealth.

In light of the familial responsibility for the daughter's dowry, the Shulkhan Arukh legislates that the tzedakah officials must grant at least 50 zuz to the destitute orphan bride, but when the community fund is strapped financially, they need not allocate a *nedunya*, that is, *parnasa*.^{xvi} This refers to a supplementary amount, added by the Rabbis in light of the relatively limited aid legislated by this mishna for one's daughter. It is also an attempt to counterbalance the inequality regarding daughters' inheritance rights (stemming from the Biblical exclusion of women from inheriting their fathers in most situations). Those who could provide financially for their daughter's financial future, were required to do so by offering a relatively high sum as the *nedunya* or *parnasa*, the daughter's trousseau.

“The Rabbis commanded that one should give some of one's property to one's daughter so she can marry and that is called *parnasa* (maintenance).

One who marries off his daughter without specifying the gift should give no less than the sum stipulated for the wife of the poor in Israel. Under what circumstances? When the father is poor. However if he is rich, then he should give according to his wealth.... If the father died leaving a daughter, then [the court] estimates how much he would have wanted to give her as *parnasa* [even more than 10%] ... and if the court does not know what to estimate, then give her one tenth of his property as *parnasa*.” (Maimonides, Laws of Marriage 20:1,3).

⁵ The Rabbis also required that the husband stipulate that the money he gives to his wife for the *ketubah* will eventually be inherited by his sons after her death. Why? Rabbi Shimon bar Yochai explains: “So that one will jump to write a *nedunya* dowry for his daughter as great as the inheritance for his son.” The Talmud asks quizzically: Are the Rabbis trying to circumvent the Torah which only provided for male inheritance? Maybe, but they had a Biblical precedent for the obligation to help one's daughter marry in Jeremiah's instruction that parents take responsible to marry off both daughters and sons (TB Ketubot 52b).

Marrying off an orphan as part of tzedakah is so important that even on Shabbat the community may engage in raising or assessing the distribution of tzedakah. This at least was the view of the more people-friendly school of Hillel:

“Beit Shammai says: They do not engage in (*poskim*) tzedakah⁶ on Shabbat in the synagogue, **even to marry off a male orphan and a female orphan**; and they do not reconcile a man and his wife; and they do not pray for the sick on Shabbat. But the House of Hillel permits these.” (Tosefta Shabbat 16:22)^{xvii}

The Divine sanctity of Shabbat is to be compromised not only if confronted with life-threatening situations on Shabbat, but also to enable the community and the parents to make financial arrangements for life-enhancing activities like matchmaking.⁷

Rabbinic Social Welfare Modeled on the Biblical Principle of Familial Redemption by the Nearest Kin

Our mishna seems to assume that families take care of their own. The Rabbis indeed held that family and then friends ought to be the first resort in case of need, long before one applies for aid from the official tzedakah chest. The responsibility of family, friends and neighbors for each other's financial welfare is discussed in an unusual case in the mishna (Nedarim 9: 4) that becomes a test case for this principle of proximate responsibility. In the case of someone who – perhaps in anger – vows not to let his property benefit a friend or neighbor, the Rabbis seek to void the vow by showing that the vow was fatally flawed and hence invalid for it was sworn without full forethought.

⁶ *Poskim tzedakah* means allocating tzedakah pledges or determining distribution of foods or funds appropriate to the poor. Marrying off the orphans on Shabbat may involve legal arrangements with financial implications, even though normal business negotiations would not be permitted on Shabbat.

⁷ Maimonides sees these “pro-life” priorities as essential to a proper understanding of God's whole legal system:

“Shabbat is also deferred when there is any threat to life ...even a suspicion that one's life is in danger ...We do not say: Let's wait until after Shabbat [to see what is happening]... Rather we do whatever is necessary on Shabbat... For someone with a dangerous condition the rule is that Shabbat is like any day of *hol* = the day.

For example, a woman giving birth is considered a suspected life-threatening condition, so we violate Shabbat to call a midwife, to cut the umbilical cord ... In fact if she screams out during transition that she needs a candle lit, then even if she is blind, we light the candle because we assume that it will help her maintain her sanity even if she cannot see the candle.

When doing these things for the ill whose life may be threatened, we do *not* do them via non-Jews or children or slaves or women, lest in their eyes they think Shabbat is a light matter to violate. Rather the greatest and wisest leaders of Israel should violate Shabbat without hesitation to help them as it says: *My laws are to be done by a human being to live by them* (Leviticus 18:5) - NOT to die by them!

So you learn that the laws of the Torah are not for vengeance in the world but to promote *rachmanut* / mercy, *hesed* / kindness and *shalom* / peace in the world.

It is the sectarians [= Karaites, 9th Century] who say that these acts to save life are forbidden as a desecration of Shabbat. About their way of life it says, *I have given them bad laws, rules that they cannot live by.* (Ezekiel 20:25).” (Maimonides, Laws of Shabbat 2:1-2, 11)

“RABBI MEIR SUGGESTS THE OPENING GAMBIT TO ‘OPEN’ THE VOW IS BASED ON ITS [INADVERTENT] CONTRAVENTION OF THE TORAH AND THE RABBIS SHOULD BEGIN [THE PROCESS OF INVALIDITING A VOW RETROACTIBLY AS FOLLOWS]:

WHAT IF YOU HAD KNOWN THAT YOUR VOW [NOT TO ALLOW YOUR PROPERTY TO BENEFIT A FELLOW JEW] WOULD HAVE CONSTITUTED A VIOLATION OF THE COMMANDMENTS: ‘NOT TO TAKE VENGEANCE,’ ‘NOT TO HOLD A GRUDGE,’ ‘NOT TO HATE YOUR BROTHER IN YOUR HEART,’ ‘LOVE YOUR FELLOW AS YOURSELF’ (LEVITICUS 19:17-18), AND ‘YOU SHALL LET YOUR [DESTITUTE] BROTHER LIVE WITH YOU’ (LEVITICUS 25:36) SUCH THAT IF S/HE WERE POOR YOU WOULD NOT BE ABLE TO SUPPORT HIM/HER [DUE TO THE VOW]?

THEN IF THE VOW-TAKER ADMITS: IF I HAD KNOWN THAT S/HE WAS POOR, I WOULD NOT HAVE TAKEN THIS VOW, THEN [THE VOW IS ANNULLED OR INVALIDATED AND THE SUPPORT OF THE NEIGHBOR] IS PERMITTED.” (MISHNA NEDARIM 9:4)

In Babylonia, many generations later:

"Rav Huna son of Rav Ketina inquired of the Rabbis: Let us say the vow-taker had replied [to Rabbi Meir's comment about one's Torah-based obligation to help one's neighbor when in need] that should my friend become poor, the obligation to support him/her would not have fallen on me any more than on the whole world [so that my contribution to tzedakah would have helped support him, but my whole vow would not have been invalidated]. Then the Rabbis replied [with an apparent aphorism]: **‘All who fall, do not fall into the hands of the tzedakah officials first.’**” (TB Nedarim 65b)

The Rabbis' aphorism cannot – in its legal context – be understood as a descriptive statement saying merely that, generally, people ask their friends and neighbors for help before going to the tzedakah officials. For that would not contradict the vow. It may mean that neighbors are obligated to help the friend stay financially afloat so as not to reach the lowly economic status when s/her is eligible for tzedakah from the *kuppah*. It was certainly understood that blood relatives had a legal as well as a moral obligation to their needy brothers. Rabbenu Nissim says: ‘One *should* ask relatives for help and if they refuse they have violated ‘*you shall let your [destitute] brother live with you*’ (Leviticus 25:36). Rabbenu Asher says that the tzedakah officials should not offer aid until they have checked that the relatives are capable of aiding the needy, for their obligation precedes the obligation of communal tzedakah.

About the Talmudic principle: "All who fall [economically] do not fall upon the *gabbaim* [for support] at first," Eliezer of Metz (Germany, 13th C.) says "I say all who fall into poverty and need support do not fall upon the *gabbaim* first to support them but their relatives are obligated to support them and upon the relatives the mitzvah falls *to let your brother live with you* (Lev. 25:35) – until the court checks to see if the relatives cannot afford to help. After they have investigated and discovered the relatives cannot support the needy, then the responsibility falls on the *gabbai*." ^{xviii}

Using this Talmudic source, Rabbi S. R. Hirsch (Germany, 19th C.) comments on the Biblical phrase “*to each according to their needs*” (Deut. 15:7):

“The task which the duty of Jewish tzedakah imposes is so serious and so great that **only the combination of these three factors, the community, the societies and private individuals working together can come near to accomplishing it.** For the Rabbis say: ‘All who fall do not fall into the hands of the tzedakah officials first’ (TB Nedarim 65b), that is, everybody who becomes needy is not at once to have to apply publicly to the administrator of public funds, rather **the friends and relations have first to see what they can do, and only where that does not suffice does the community make up the deficiency.** For the need of those who have become impoverished and are **ashamed** to apply for public alms and the requirements which arise everywhere for special cases remain the finest objects of delicate private benevolence. But equally so these purposes which can only be served efficiently by the care of the community, such as e.g. schools and care for the instruction of the children of the poor. This has always, from time immemorial been considered so much a communal task which lay on Jewish communities--only to the provision for the instruction - of the children of the poor.”^{xix}

That familial nexus is the first level of social welfare in the Jewish society of the Rabbinic world, just as it was earlier in Leviticus 25, in the Talmud, in the Middle Ages and much later in massive Jewish immigrations of the 19th and 20th C. to Western Europe, to North and South America, and then to Israel. Consider, for example, the traditional ethos of familial responsibility manifest in the way Jewish families supported one another for the most part during the great immigration period of the mid-19th to the end of 20th C. Lori Lefkowitz, who has written about the Book of Ruth as model of migrant responsibility, tells of her own a family story as a typical demonstration of the familial responsibility of the immigrant generation that came from Eastern Europe to the USA in the 20th C:

“My parents came to the United States in 1948 without any resources at all, neither money, nor education. When I was a little girl - a mere decade later - we had a small family restaurant and a modest home. I already knew that our relatives, as well as HIAS, had rescued my parents and made it possible for them to make their way in a new life by giving them basic jobs and other small but lifesaving support.

So, in my own childhood, I understood that even though we didn't have much, we sent a good percentage of our earnings to family in Israel so that they could afford to buy apartments. When we went to Israel ourselves, we brought appliances and other (for us) expensive gifts. Some family was still left in what was the Soviet Union. My cousins and I would accompany our parents to the factory of still other relatives from which we brought home crates of red lipsticks. We went out and bought scarves in bulk and other small luxury items and we buried what were valued treasures in the USSR - used to bribe officials - amid our own used clothing, in deep pockets, washcloths, etc. and mailed them to Russia. We would spend whole Sundays in this activity. Years later, when we were successful enough to bring these relatives to America or Israel, we learned just how lifesaving these packages had proven to be. And in these ways, I learned foundational lessons about how Jewish people use money.”^{xx}

In many Western lands, especially in the American colonial period, this same ethic was enshrined in the welfare law. For example, in 1840-50s, as relief rolls grew, many local North American governments required grandchildren and siblings to provide welfare aid themselves, out of their own pocket. Until today, minors still have a legal

financial claim on their parents for support that the state can enforce. Compare the Israeli law of 1959 and the Biblical law:

"If your brother sinks and is sold to a resident alien ...then even after s/he is sold, s/he is redeemable [that is the sale is irrevocable, and the buyer must agree to sell the slave back]. One of his brothers will redeem him/her or his uncle or his cousin will redeem him/her or someone from his flesh [and blood] family will redeem him/her or s/he will get the means him/herself and be redeemed." (Leviticus 25:47-49)

Similarly, "The Revision of the Family Law – Alimony /Food Support 1959," signed by Prime Minister David Ben Gurion and President Yitzchak Ben Tzvi, states:

A person is responsible for the support (*mezonot*) of his spouse [as long as the marriage is valid] and his minor children and the minor children of his/her spouse. A person is also responsible for the support (*mezonot*) of all blood relatives in the following order of priority: (1) parents and parents of one's spouse; (2) adult children and adult children of one's spouse; (3) grandchildren; (4) parents of his/her parents or of one's spouse's parents; (5) brothers/siblings and siblings of one's spouse.

One is not responsible to provide food support to another more distant family member unless:

(1) One has enough to support oneself and one's spouse and minor children of him/herself or his/her spouse. (2) That relative has not been able to support him/herself after making efforts to do so from work, property or other sources. (3) That relative cannot receive support from a closer blood relative. The amount of support depends on the need of the recipient and the ability of the giver. However the court may exempt the person from this obligation where this appears just and fair on account of the shameful behavior of the claimant towards the relative responsible to support him/her.

According to Israeli law, extended families must support their own needy relatives – before the communal responsibility “kicks in.” In a bizarre case^{xxi} brought to court in May 2010, a destitute and ill father of 57 sued his three adult children for a monthly allowance of \$1250 under this law. The children counter-argued that this so-called father abandoned them and their mother as children and never supported, educated or loved them. However, in an ideal family based on reciprocal love and support, the Rabbinic and Israeli norm would hold that children do owe their destitute parents support.^{xxii}

Tzedakah in theory and practice is a "mixed economy"^{xxiii} in which families bear the brunt of the support and society steps in as a backup when the family fails. That is also the reason that one's obligations to tzedakah begin at home with preferential treatment for one's relatives, not with the stranger. Maimonides epitomizes this view:

"A poor man who is one's relative comes before all others (*'am she-hu qerovo qodem lekhol adam*), the poor of one's household come before the other poor of his town, and the poor of his town come before the poor of another town, as it is said, *`to the poor and needy kinsman, in your land'* (Deuteronomy 15:11)." (Mishne Torah, Gifts to the Poor 7:13)

If everyone takes of their own first, then the burden on communal tzedakah fundraising will not be so great. A concrete familial obligation is thought to be

stronger and more natural than the extended metaphor of brotherly responsibility expanded imaginatively to society as a whole.

However, contemporary British and North American law in the last century often eliminated or minimized parental responsibility for the financial support of their adult children or even for destitute minor grandchildren. Nor do siblings currently bear financial responsibility for each other's economic welfare, though British and American law and practice did make that demand on relatives until the 19th century. To what extent familial responsibility should be enforceable in a modern post-industrial society is a matter of debate, due the strengthening of the modern individualistic ethos and the breakdown of the traditional family.

Mary Ann Glendon in her book, *Rights Talk*, argues that support for family of whatever sort involves social and cultural needs as well as economic needs for survival because it is in this manner that society develops its **social capital**. It is not only material capital but moral capital involved in teaching the virtues and practice of caring. Thus, tzedakah, by supporting the development of family as a realm of mutual care where the meaning of life is taught by example, also invests in the resources for its own self-regeneration. That is parallel to what the Rabbi Akiba said when arguing that studying Torah is greater than merely performing worthy actions in so far as studying Torah leads one - through education - to perform mitzvot (TB Kiddushin 40a). So too support for families generates value-education. Glendon finds that ideal explicit in the post 1945 Western European constitutions^{xxiv} that treat the individual as within the context of a family embedded in a social weave, not just as an aggregation of self-determining, autonomous, rational and hence often isolated individuals. This Continental European perspective was later made explicit in the 1966 UN International Treaty Relative to Civil and Political Rights:

“The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.” (*Rights Talk*, 73-74)^{xxv}

Thus, Glendon warns against the effects of the overemphasis on the isolated individual and rights language, especially in America, just as did Alexis de Tocqueville, almost 200 years ago:

“For in a community in which the ties of family, of caste, of class, and craft fraternities no longer exist, people are far too much disposed to think exclusively of their own interests, to become self-seekers practicing a narrow individualism and caring nothing for the public good.”^{xxvi}

It is families that socialize the young and add to the social capital of giving and caring. Thus welfare policies must support families^{xxvii} – not insist that single welfare-mothers go to work whether or not there is available nurturing child care. To make it possible for families to care for their own in case of illness, President Bill Clinton's Medical Leave Act (1993) permits workers to absent themselves from work without losing seniority, health benefits or job security, in order to care for a sick parent, child, or their own illness and to claim up to 12 weeks of unpaid leave.

"Family responsibility statutes require 'every poor, old, blind, lame, and impotent or other poor person not able to work' to be maintained by parents, grandparents, or children, so far as they are able (and, often, reducing their entitlement to social

assistance on the assumption, true or false, that they are). Such rules date from the Elizabethan Poor Law of 1601 and have figured in American poor laws from colonial times forward. Although formally suspended in Britain in 1948, and in much of continental Europe over the next two or three decades, elsewhere (including in about half the American states) such rules remain officially in force, however rarely implemented. In many places and under many guises, such rules are presently making a remarkable comeback, ironically enough under the banner of "personal responsibility. For example, to receive child support the mother with dependent children must help identify delinquent fathers who will be sued for child support."^{xxviii}

In Australia the right-wing Minister for Social Security, F.M. Chaney (1983), promoted a return to **family values** in terms taking personal responsibility for each other's welfare:

“My personal preference would be to see a higher level of **personal independence and family interdependence** ... with young people living at home and receiving support from their families, with husbands and wives recognizing their obligations of mutual support, with families committing themselves to the care of their aged members and parents accepting their primary responsibility for the care of their own children.”^{xxix}

However, the slogan of family responsibility is sometimes used as an excuse to deny state welfare support and thus throw the burden of welfare on poor families who cannot afford to take care of their children or elderly at home. Often the family caretaker must give up their own job, thus becoming even more dependent. In the name of “self-reliance” such policies often mean increased dependency on one’s own family whether or not they can afford it. As those tied more closely to the private sphere, it is often women’s interests which are sacrificed, whether willingly or not, on the altar of family responsibility.

Goodin^{xxx} argues that the familial support laws were abandoned as the state moved to no fault welfare, thus removing the welfare bureaucracy’s inquisition into the character, private life and hidden income of the applicant, as well as the search for relatives to support the needy in place of the government. Hence, it became more respectful and less invasive. Today in the West it is considered undignified to seek support from one’s own adult children, but dignified to receive social security. In this line of thinking, perhaps familial responsibility for care for the elderly ought to be better served if transferred to the state, because it is more respectable for all involved. That, however, presupposes that the state care facilities provide physical aid *with honor* despite the workers' low salaries and low status, their undeveloped sense of professionalism and budget-conscious administrators.^{xxxi}

Susan Moller Okin, the feminist political theorist, demands more and goes far beyond the rewriting of welfare procedures to make it financially a little easier for women and men to nurture their children. Society must recognize childrearing as work, honorable work, essential work not only to free up men to work full time but to bring up citizens capable emotionally and committed morally to justice and to empathy. She protests the obtuseness of most contemporary theories of social justice that do not appreciate the need to reform and support a family arrangement guided by the principles of justice in order to teach children justice and empathy.

“While its forms are varied, the family in which a child is raised is clearly a crucial place for early moral development and for the formation of our basic

attitudes to others. It is, potentially, a place where we can learn to be just - ... a sense of justice that grows from sharing the experiences of others and becoming aware of the points of view of others who are different in some respects from ourselves ... It is essential that children ... spend their early and most formative years: in an environment in which they are loved and nurtured, and in which principles of justice are abided by and respected.^{xxxii}

Families, then, provide a unique venue for social education needed by the young, yet they also carry undesirable social “baggage” such as patriarchal prejudice such that children learn inequality and injustice from normal families.

While not fully egalitarian, this Talmudic institution of support for orphans is sensitive to the special disadvantages of female orphans relative to male orphans and it gives the appropriate affirmative action preference to women not necessarily to prolong female dependence and paternalism but to recognize that equal treatment is *not* equal given their social disadvantages even in the 21st C. in the West as Susan Okin has enumerated them (lower salaries, lower job opportunities, lower security, continued burden of most child care, continued job discrimination against women balancing childcare and employment). Just as the halakha gives legal preference to the female orphan in marriage grants and in welfare payments, similarly Okin argues that in divorce settlements the woman is much more vulnerable, so she needs bigger share of the community property.^{xxxiii}

In short, our sugya offers a minimal but suggestive gesture in society’s attempt to rehabilitate the dysfunctional family by mandating aid to orphans who wish to marry applying to officials of communal tzedakah. Whatever the imperfections of delivery of basic needs through families they have almost irreplaceable advantages as well. Therefore society ought to encourage families of whatever kind and provide for the delivery through them of economic, legal and social advantages for the good of society and for good of its collective children as well to help those without functioning family to construct new families.

The “Great Family of God” Metaphor

The debate between further centralizing state provision of welfare or revitalizing familial and communitarian support systems is an important issue that will concern us throughout this book, especially when we discuss the modern welfare state and the dignity of the needy. At this point let us mention two Christian concepts that might clarify the Rabbinic and the contemporary neo-Conservative concern for a mixed solution – neither a state-dominated welfare system, nor a wholly familial tzedakah system.

The mixed welfare economy is reminiscent of the principle called "**subsidiarity**" in the thought of Thomas Aquinas:

“According to Thomas Aquinas the **principle of subsidiarity** in society requires that human needs in a society be met not by one central state but by many intermediary associations from family to guild to church. Any society has many forms of association, companionship, and community - families, schools, clubs, guilds, corporations - much of which makes its own distinctive contribution to the larger society. The **principle of subsidiarity** guards against excessive centralization of power and responsibility by assigning responsibility to the lowest competent social agency within the social order. Many individuals and groups have their own regional responsibilities for the poor - for example, the confraternities that focus on widows and orphans.”^{xxxiv}

Within its multiple levels of social organization a differentiated society may offer care for those nearest them rather than all needs being met directly through the central government. This is not restricted to a family as in the rabbinic system but might be mediated by a guild or today by a labor union or a company insurance plan or by a faith-based charity. Besides its potential for greater efficiency than a government bureaucracy, this particular system of aid reinforces the value mutuality in aid as well as emotional support as necessary for one's social needs as well as one's material ones.

The Christian subsidiary system is however not fully adequate as analogue to the tzedakah system that mixes familial and societal forms of aid. For Aquinas sees this aid only as a form of voluntary charity, not one of mandatory justice as in tzedakah. Can family be reconceived as a justice-based system in which families and society have an obligation - enforceable by law - to care for their needy? Aquinas and Adam Smith after him did not recognize such an enforceable duty except in the extreme case of what they called the “right of necessity,” which we will explain below.

Two hundred years ago, such a family-inspired vision did develop, which saw the state or society as a “great family” whose care for those who suffer misfortune is rooted in justice, not mere charity. This idea – though not actualized institutionally in early modern England – was proposed in the moral philosophy of 18th C. Rev. Thomas Reid, a Scottish professor and friend of David Hume, both proponents of the Scottish School of Common Sense. Reid's idea of the great family of God may help us understand the implicit argument of our mishna that moves so seamlessly from a father's duty to his daughter to a society's duty to its orphans as matter of tzedakah, enforceable justice.

Reid begins his argument with a well-known natural law going back at least to Aquinas and acknowledged by Adam Smith as well – the right to another’s property in case of dire necessity. Thomas Aquinas identifies the **right of necessity** in natural law in cases when one is starving to death, desperate for medicine or shelter, or in life-and-death situations. When a need is "so urgent and blatant. . . that the immediate needs must be met out of whatever is available," then normal rules governing property are suspended. Then "a person may legitimately supply his own needs out of another's property... [I]n such a case there is strictly speaking no theft or robbery."^{xxxv} But that applies only when no other alternative such as asking for charity has worked.

So too Adam Smith holds that “charity gives every man a title to so much out of another’s plenty as will keep him from extreme want where he has no means to subsist otherwise.”^{xxxvi xxxvii} But, Adam Smith acknowledges a beggar’s *right* to charity *only* “in a metaphorical sense” (LJ 9). It is an imperfect right that ought not to be legislated, says Adam Smith, unless the beggar is in the most dire necessity facing starvation. Thus, this medieval “right” to the most immediate “emergency”-sustenance transcends all property laws – but it is not the basis of enforceable economic distribution to the needy on a regular basis – a welfare system.

By contrast, Thomas Reid who inherited Adam Smith’s chair in moral philosophy transforms this limited view of the right of necessity in light of the metaphor of the “great family of God”. First, Thomas Reid summarizes the old medieval law that the natural right of property should be constrained by the "right of an innocent man to the necessities of life," to what is needed for "present and certain necessity." Second, he explains this suspension of private property rights by use of an analogy to the family’s notion of common property:

“In a family, **justice** requires that the children who are unable to labour, and those who, by sickness, are disabled, should have their necessities supplied out of the common stock, so, in **the great family of God**, of which all mankind are the children, **justice, I think, as well as charity**, requires, that the necessities of those who, by the providence of God, are disabled from supplying themselves, should be supplied from what might otherwise be stored for future wants.”^{xxxviii xxxix}

What is truly radical^{xl} in this view is twofold: this “right” is understood as a matter of justice, not charity; and the exigencies that trigger the right of necessity are no longer limited to exceptional and dire extremes. It applies to all basic necessities and everyday needs such as those of cripples who are permanently – not exceptionally – in need. Reid seeks to extend emergency situations into a regular principle that gives a claim of justice to the maintenance of the needy, at least at subsistence levels. He may only be speaking of the Poor Laws, but he has transformed them in theory from charity to justice. These notions begin to take root in the early 19th C. debates about the Poor Laws and social justice, which we will revisit later in our book, though not under the rubric of society as family as originally proposed by Reid.

Thus, following Reid and our mishna, the state system of welfare – necessary for the subsistence of the disadvantaged who lack a well-functioning family (or guild, or steady unionized employment) – may be understood as an extended family rather than as a collection of individual citizens drawing their individual rights from state taxation.

Another of Reid's notions, that of God's great family, is also paralleled by rabbinic thought. This idea is fleshed out by the rabbinic model of one's parental duty to educate one's children and hence one's community's needy. The court in Rabbinic society is not only the advocate for the orphans, but it takes on God's role as "father of orphans," as it says: *A father to the fatherless, a defender of widows, is God in his holy dwelling* (Psalm 68:5). The court sees itself as "father of orphans" protecting not only the orphan's property but also their well-being more generally.^{xli} The "father of orphans" is an ancient Near Eastern image that describes the human monarch's duty to serve *in loco parentis* when actual family members are missing or incapable of bearing the burden of economic support.⁸ In the laws of tzedakah, society takes over God's role as well as that of the absent or incapacitated family members in order to help rehabilitate the poor.

Education: The Parental Responsibility to Nurture and the Court's Responsibility to be the "Father of Orphans"

"I used to never worry about my illiteracy and the fact that I was not able to send my children to school, as long as we had something to eat. But now ... I realize that my children are in trouble for life because they cannot get any decent job if they don't know how to read and write." (Swaziland, 1997)

"We people who labor for others - should we earn to feed ourselves or buy chalkboards?" (Pakistan, 1993)

Rabbi Meir of Rothenberg (13th C.) permits the use of a poor tithing to purchase books for study or to be lent to others. From this Rav Eliezer Waldenberg (20th C.) derives the principle that tzedakah must cover spiritual needs as much as physical ones. Therefore he permits the use of tzedakah funds for purchasing books as long as "the books will be lent for study to those who need them, and anyone who needs these books is considered poor, insofar as this person lacks them. This is like distributing **spiritual food**, and is no less desirable than distributing physical food to those who need it ... I have seen an opinion that ... one may certainly use this money to buy books for the children of the poor, **for providing spiritual food to the poor is also considered to be tzedakah.**"^{xliii}

⁸ King Kilamuwa (8th C. BCE, Phoenicia) declares his desire to rescue his subjects from poverty just as families do, for is a replacement for their parents and brothers:

"And **I was a father to one, a mother to another, and a brother to yet another.**

I adopted the *muskabam* [the sedentary population]. Their soul/attitude to me was like that of an orphan toward its mother;

He who had never seen the face of sheep, I made him the owner of a flock.

And he who had never seen the face of an ox, I made him the owner of cattle and an owner of silver and an owner of gold. And the person who had never seen a shirt from his youth, in my days was covered with linen." (ANET = Ancient Near Eastern Texts, 654)

In line with the sentiment in the first part of this inscription, in the Bible both the human king and the Divine are called "*the father of orphans and the judge of widows.*" Similarly, the psalmist says: *My father and mother abandoned me, but YHWHI adopted me* (Ps. 27:10). Collectively Israel can say, according to Second Isaiah, *Abraham has abandoned us, Jacob does not recognize us; Only you, O YHWH, are our Father* (Isa. 63:16). (Yochanan Muffs, *The Personhood of God*, 80).

In rabbinic thought, parental obligations are defined broadly as preparation of the child for full independence as an adult. This includes job training and, according to one source, civic education for full participation as a citizen:

“Our Rabbis taught: The father is bound in respect to his son to (1) circumcise him, (2) redeem him, (3) teach him Torah, (4) take a wife for him, and (5) teach him a craft. And some say, to teach him to swim too.
Rabbi Judah says: Whoever doesn’t teach his son a craft teaches him to rob.”
(Babylonian Talmud, Kiddushin 29a) (Tosefta Kiddushin 1:11).
“Rabbi Yehuda Hanasi teaches one’s child statecraft [to settle a new city].” (Mekhilta on Exodus 13:8)

Just as in our mishna in Ketubot, where an orphan whose father cannot provide a dowry may turn to the community to take responsibility for marrying off the orphan, so too in the Talmudic discussion of the father’s obligation to have his son circumcised, the community’s court must take over responsibility for the circumcision where the father fails to do so (TB Kiddushin 29a). Just as parents (more specifically fathers) are commanded to educate their children (traditionally sons only) in Torah and teach them skills for their future livelihood (TB Kiddushin 29a), so too the community is obligated to educate orphans.^{xliii xliv} There is a repeating motif here – an egalitarian concern for making up for the failings of biological families by providing alternative nurturing and education offered by public institutions.

The first report about an all-inclusive, Jewish public school education (1st CE) explains the rationale as follows:

“Initially one who had a father, his father taught him Torah (Deuteronomy 6: 7) and if he had no father, no one taught him Torah...So they instituted that teachers of children would be stationed in Jerusalem as its says: *From Zion will Torah issue* (Isaiah 2:3). Still one who had a father took him up to Jerusalem to learn and one who did not have a father – did not go up and learn. So they instituted that teachers of children would be stationed in every region.....

They used to gather students from age 16 or 17 to study, but when their teacher got angry at them - they would rebel and leave. Until Yehoshua ben Gamla instituted that teachers of children would be stationed in every district and every city and the pupils gathered in at age 6 or 7.” (TB Baba Batra 21a)⁹

The success of public education depends on intellectual, social, financial and emotional developments. Someone must have the knowledge to teach a child. Initially the father is regarded as an adequate teacher, though public education provides uneducated fathers with a professional substitute. Further, a father must make sure the child goes to school, which is his social function. Finally, though not explicit in this

⁹ In Hellenist cities the polis was concerned about funding and controlling the quality of its schools because study in the gymnasium was the gateway to a Hellenic identity, to citizenship and to military service. However as with most public functions the city did not fund schools by taxation but it solicited aristocratic philanthropy called *euergia* and entitled the benefactor the *gymnasiarch*. Only much later did Roman emperors and aristocrats contribute to educational institutions. Augustus provided tax exemptions to teachers who would come to Rome. Vespasian endowed chairs in Greek and Latin rhetoric in his role as *euergetes*. Trajan supported schools including scholarships for select poor children. (H. I. Marrou, *A History of Education in Antiquity*, 400-407)

text, someone must pay for the education, so “bussing” your child to Jerusalem makes its cost prohibitive. Therefore Rabbinic tzedakah includes support for the education of the poor, as well as orphans, while the self-supporting must pay their own way for their children’s education.

In the Jewish Middle Ages the community took responsibility for educating the orphans.

“For orphans without fathers, the *gabbaei tzedakah* (officials of community chest) must supervise so they do not drop out of school before age 13. The community is obligated to help them with the cost of tutors, if they are poor, for they serve as **'fathers of the orphans.'** (Takanot of Nikolsburg in Moravia, 1651)^{xlv}

The Rabbinic inclusion of the children of the poor¹⁰ was unique as they were otherwise never considered recipients of public education before the modern era. Rabbinic concern for educating all children was justified not only out an egalitarian concern, and not only to socialize the children of the poor to become decent citizens, but also as part of society’s hope that scholars might come from amongst them. The Rabbis were not committed to stratification by birth but to social mobility of Torah study. Therefore they had an added rationale for opening the possibilities of Jewish education to all – there are many “children of the poor, from whom Torah should emerge.”

"The first principle is awe of Adonai to strengthen the pillar of Torah, making it great and powerful. Consider that *the poor will not cease from the land* (Deut. 15: 11) and **there are many ‘children of the poor, from whom Torah should emerge’** (TB Nedarim 81a) who want to learn but cannot find [teachers], for their parents are so destitute and poor that they cannot find enough funds to hire a teacher to benefit their children. [Lacking funds for teachers and supervision] these children [of the poor] flee from school, seek to remove the yoke of Torah and of civility (*derekh erez*). Weaned from the milk of Torah, they become impoverished, and **if there are no kids [children], there will be no goats [adults].**

Therefore it is agreed among the assembled and decreed that every community under our ruler the Duke ... each and everyone shall contribute to the treasury box designated for the support [of the education of the poor] every afternoon before Shabbat whatever [amount] their heart moves them..." (Pinkas of the Community of Lemberg, 1698)^{xlixlvi}

Families are not private institutions but social units that make possible the functioning of political and religious institutions on which society is built. The parent plays a central role in educating for full citizenship as well as in ensuring economic independence for the next generation. Hence, God commands that the parents be obeyed for they are

¹⁰ In medieval Germany, for example, the teachers of children were paid by the community and poor students were hosted for meals in the homes of the generous. When books for students were lacking, one might pay a scribe and lend the books to the poor students as did a woman who received a gift of money from her husband and requested that it be spent on a scribe to copy a textbook to be lent to students (Yehuda Bergman, *Hatzedakah B'Yisrael*, 55; See Sefer Hasidim #673 and 669).

Similar to hiring communal teachers, the communities often hired doctors to treat the poor such as a doctor in Frankfort who would charge only a basic sum for most patients who were citizens of the local Jewish community and treat for free the indigent – as well as municipal employees (1394 cited in Yehuda Bergman, *Hatzedakah B'Yisrael*, 57).

God's representatives. The larger political import of parental education is evidenced in the words of Rabbi Yehuda HaNasi, editor of the Mishna, head of the Sanhedrin and *the* political leader of his generation, who adds to the list of parental obligations the requirement "to teach one's child statecraft" [to settle a new city – *yishuv hamedina*] (Mekhilta on Exodus 13:8). When in the case of circumcision or Torah education the parents are unable to fulfill a function themselves, they are obligated to appoint a professional *mohel* for circumcision, or a teacher for Torah, or, in the middle ages, a master crafts person for poor apprentices in need of job training. When parents are deceased or too poor and cannot fulfill these roles at all, then society must do so for its own sake, as well as for the sake of its citizens' economic and religious development.

In considering the role of families and family-surrogates in educating the young to economic self-sufficiency, we must regard vocational training in a very broad sense. Contemporary cultural historians speak of "cultural capital" that some communities have, which determines their great success in rising from poverty to self-sufficiency and then to prosperity. For example, Jews, and now Chinese and Koreans, have been more successful than many immigrant groups in making it in America even if they lacked economic capital. They had human capital based on character traits and cultural values that fit the capitalist entrepreneurial system as well as the educational key to advancement in scientific societies. My brother-in-law, the cultural historian Jerry Muller^{xlviii} argues that Jewish success in rising from poverty in the 20th C. was due to their **cultural capital**: Jews valued secular education in the same way they valued religious education; they delayed gratification to accumulate wealth and they invested in their children's success through education rather than insisting the children work to support the family; they valued innovation and they used familial networks to build economic networks. Thus in this view the poor in general need to be educated not only in skills but they need to reform their moral character and their culture which must be adapted if they are to succeed economically. That is part of the family's cultural mission, which involves Torah study, religious practice and vocational training.

The family system should be understood as the most powerful tzedakah-delivery organization to which the communal financial *kuppah* is only a supplement. It may be neither desirable nor financially feasible to replace all the services of the family with state services like day care, old age homes, foster care, institutionalized care for the mentally and physically disabled and so on. Imagine the extended family and neighborhood as the "natural helpers" who may be more efficient and worthy to the task than full-time professionals. Thus the model of rehabilitation of the orphans by setting them up for marriage in their own household might be understood more broadly as a paradigm. It models the idea of rehabilitation programs within the community rather than in secluded, specialized institutions.^{xlix}

When families are unable to perform these functions, there is a powerful rationale to intervene to help orphans and support weakened families before they collapse. Otherwise their children may become, in effect, wards of the community. Such communal intervention into family life as form of tzedakah may be explained in many ways. In terms of human rights society is guaranteeing the right of every human being to grow and fulfill their human purpose including marriage. In terms of socialization, society is transforming its offspring into good citizens for its own sake and for theirs. Providing social and cultural capital is good for both society and the individual. For example, the well-known New York City journalist of the 1960s, Paul Cowan, had assimilated parents who never gave him a Bar Mitzvah or any

Jewish education, and even changed their name from Cohen to Cowan. When, as an adult, he discovered Judaism to be meaningful for him he wrote an autobiographical book called *Orphan in History* describing his deprivation of identity. For him the lack of rich Jewish cultural resources deprived him of essential building blocks of his identity.

Communal subvention of families can also be understood on many more ways: in terms of mercy, as care for orphans is also a matter of helping those who are helpless and abandoned; or in terms of solidarity, as a sense of brotherhood for fellow citizens in our community; or in terms of the long-term good of society, as an investment of society in its social capital. According to this cost-benefit societal perspective, children are the potential producers who must grow to support the elderly with their own tzedakah. Or in modern terms, their earnings will pay the Social Security taxes necessarily to pay the benefits of today's retirees. As cultural reproducers too they will continue the service of God and the communal identity – if educated to do so. In this sense, the whole society should view children's education not merely as helping the needy, the other, but as investing in the future and serving the public good.¹ Here then we return to the essence of Rabbi Yehuda HaNasi's notion that parental obligations include the requirement “to teach one’s child statecraft” [to settle a new city – *yishuv hamedina*].

Defining Basic Needs: The Orphan and the Right to Resources for Marriage^{li}

In the previous section we presented a notion of tzedakah that urges the nurturing of orphans and children in general in order to serve the needs of society. However that is definitely *not* the central rationale prevalent in the Torah, in our mishna and in our Talmudic sugya about tzedakah. To characterize this rabbinic view of tzedakah we must define more precisely the **type of beneficiary**, the **purpose of the aid** and the **kinds of needs** that can legitimately be met. As we shall see no political rationale for tzedakah is proposed by the Rabbis¹¹ unlike the Romans who distributed funds to the poor to prevent them from rioting and upsetting the public order and to win their political support. Note that in Rome the emperor’s tradition was to provide equally to all - free bread and circuses to his citizens (and only citizens) regardless of their actual need. The emperor intentionally wooed his citizens for political reasons. But Rabbinic tzedakah differs from this and is designated exclusively **for the benefit of the individual** without regard to political^{liii} or to macro-economic consequences or to religious missionary goals.

One of the key verses upon which the notion of tzedakah is based is, *You must open your hand and lend to one what is sufficient for whatever one lacks (needs)* (Deuteronomy 15:8). The verse does not define a criterion for distinguishing legitimate needs or true needs^{liiii} from superfluous or inappropriate ones. In Deuteronomy 15 the Torah defines the needs which are to be met very broadly and

¹¹ Exceptionally the modern Israeli Rabbi Haim David Halevi hypothesizes that tzedakah also had a social-political function: “One may be obligated to pay one’s share of tzedakah in order to sweeten the bitterness of the life of poverty but also to stabilize the regime and to prevent the class from resisting and revolting.” (*Aseh Lkha Rav* III #56, 290)

ambiguously - *whatever* the needy need.^{liv} The Biblical usage of "one who lacks" (*mahsor*) apparently refers to material needs, especially for food,^{lv} but the Rabbis expand greatly the category of need and define its extent with specificity.^{lvi}

In the Greco-Roman¹² world their culture marked a fundamental difference between two levels of needs indicated quite consistently by the use of two Greek terms. Susan Holman summarizes the differences as follows:

“*Ptochos* (Hebrew *evyon*) traditionally designated the destitute beggar who is outside or at the fringes of society, the 'street person,' the extreme poor.

Penes (Hebrew, *ani*), on the other hand, is used to indicate the individual whose economic resources were minimal but who functioned within society, the 'working poor' (often debtors).

The *penes* differ from the *ptochoi* in that their social ties within the community remain intact: they retain their dwellings, families, and responsibilities, including their debts.¹³ The Syriac for *penes* is *miskeno*" [like the Rabbinic Aramaic also].^{lvii}

According to the historian Richard Finn, three kinds of poverty were distinguished linguistically in the Greco-Roman Empire:

- (1) *paupertas*, relatively straitened circumstances;
- (2) *egestas*, material deprivation;
- (3) *mendicitas*, absolute destitution forcing one to beg.^{lviii}

Publicizing one's neediness is the lowest level of poor – *mendicitas*. But those with too much self-respect to beg are also in need, as the Muslim tradition explains:

“At-Tabari takes the view that the word 'poor' [in the Koran] refers to the person who is in need, but is also modest enough *not* to beg (Tafsir at-Tabri), while the term 'needy' [in the Koran] is the person who is in need but humbles himself in begging. He argues that the word 'need' has this connotation, as in the verse regarding the Jews – 'Abasement and destitution were stamped upon them' (Koran 2:61).” (Yusuf al-Qardawi, *Zakat*, 343)

Thus the Greek¹⁴ and Roman terms and their Arabic parallels speak about material poverty and the sting of economic insecurity at various levels, as well as about

¹² “The Latin Vulgate use essentially, just two terms: *humilis* and *pauper*. *Humilis* originally was a designation for 'what belongs to the earth (*humus*).’ Yet it is used in Latin translations as an attitude or disposition applied to the human spirit. *Pauper*, referring to one who produces little; *indigens*, one who lacks or is in need of something; *mendicus*, one having physical handicaps or infirmities that reduce him or her to begging.... *Miser*, one who is unfortunate and needy ...

During the Carolingian period society was organized along a continuum of power and poverty. The poorest class, the *pauperiores* is described by [great historian of medieval poverty Michel] Mollat not as those who are indigent or without property, but as a group of persons who are vulnerable and dependent on those who are more powerful than they. The widow and the orphan are obvious examples of this. Mollat adds that ‘the only word clearly equated with the pauper at this time was the term humble.’” (Bonnie Pattison, *Poverty in the Theology of John Calvin*, 42-43)

¹³ “*Penes* could also be a derogatory term for anyone forced to engage in manual labor for survival. *Penes* was often used in Christian texts as a generic term for all 'poor' and might either imply the voluntary poverty of the monastery or even - with deliberate irony - the insatiable greed of the rich, *penetes* because they feel lack.” (Susan Holman, *The Hungry are Dying*, 5-6)

varying degrees of social marginalization – greater for the vagabond and less so for the working poor – and socio-economic dependence (*humilis*).

In our Talmudic sugya the Rabbinic interpretations of the Biblical phrase "*what is sufficient for whatever one lacks (needs)*" (Deuteronomy 15:8)¹⁴ juxtapose three different understandings of human need. First, a need for maintenance;¹⁵ second, a need for marriage including all the basics to set up a household; and third, a need for social honor commensurate with the high position from which the orphan or wealthy plutocrat have fallen.¹⁶

The need for a marital partner and the pain of lost social honor both have strongly subjective aspects, emotional and social ones. Both are based in a view of humans as social beings;¹⁷ both transcend physiological needs and point towards a characterization of what makes human life valuable, not just sustainable.

¹⁴ Aristophanes in his play *Ploutos* (Wealth) describes Chremylos, a seeker of wealth, waylaid by Penia, poverty, personified as a woman, who argues her positive attributes. Chremylos refute her:

"Why, what good could you provide except a crowd of blisters on coming from the bath, of starveling urchins, and old crones? The number of lice and mosquitoes and fleas I don't even mention to you, it is so multitudinous, and they buzz around the head and worry one, raising one up from his bed and telling him, 'You will starve, but get up!' And, in addition to these things you give him rags to wear for a cloak; and instead of a couch, a rush mattress alive with bugs - a thing that awakens the sleeper. And you give him a rotten mat to keep instead of a carpet; and instead of a pillow, a stone of goodly size for the head; and to feed not on loaves but on mallow-shoots, and instead of a barleycake dry radish-tops; and instead of a bench, the head of a broken jar; and instead of a kneading-trough the side of a cask, and even that cask-side broken. Now tell me, do I show you to be the cause of many blessings to all men?" [Penia responds to Chremylos by objecting that what he describes is not *penia* but *ptocheia*, "beggary," to which Chremylos replies:] "Penia, Ptocheia, what's the difference?" Anyway, we call them sisters, *ptocheia* and *penia*." (*Ploutus* of Aristophanes, 535-547)

¹⁵ While the Bible speaks of enough for whatever one needs and the Talmud expands that to social and emotional needs, Augustine apparently reads "sufficient" as a limitation against greed or overreaching of one's station in life or luxury beyond basic for the lower class.

"I have admonished the rich; now hear, you poor. You rich, lay out your money; ye poor, refrain from plundering. You rich, distribute your means; you poor, bridle your desires.... [Y]ou have not a house in common with the rich, but you have the heaven in common, the light in common. **Seek only for a sufficiency, seek for what is enough, and do not wish for more.**" (Augustine, *Sermons on the New Testament* cited in Samuel Fleischacker, *A Short History of Distributive Justice*, 17)

Sufficiency emphasizes not one's right to more but one's duty to self-control in making requests. A class division is reinforced as a reciprocal obligation for each to know their place in this world where they do not share the same house, the same economic and social standing. The rich may keep their wealth but not plunder from others, while the poor restrict their requests to a minimum of self-sufficiency.

¹⁶ Origen and Basil both define: *ptochos* as the formerly rich, who fell into disaster, while *penes* is one who maintains a stable state of social inferiority and material inadequacy. Origen remarks: "a *ptochos* is he who has fallen from wealth [into need], whereas *penes* is one who earns his living by labor." Basil adds: "*penes* is one in need from the first and acceptable to the Lord." (Susan Holman, *The Hungry are Dying: Beggars and Bishops in Roman Capadocia* (2001), 5-6, see Gildas Hamel, *Poverty and Charity in Roman Palestine*, esp. 164-77)

¹⁷ In contemporary Western humans rights law and even more so in Rabbinic society, marriage is a basic human need as well as a building block of society. Based on this principle, gay couples in Israel have recently demanded and received the legal right to adopt as well as the right to receive the mortgage and tax benefits that help couples afford to marry, set up a household, and raise children.

Even when the neediness that tzedakah requires is not financial at all, it is still called tzedakah for it serves human needs, such as the need for relationship. In the 14th C. the Spanish author of Sefer HaHinukh, The Book of Education, instructs the father-educator to teach his son that tzedakah encompasses the needs of the wealth whose “lack” is emotional not financial:

“Now my son, do not think that the mitzvah of *tzedakah* applies only to the poor people who have no bread or clothes, for it applies to the rich too. For example, a rich man may be in a place where he is not known, and finds himself in a position where he has to borrow money. There are also situations when a rich man, even in his own town, will need help because of illness or in cases where only you can help him and no one else. **This too is, without doubt, in the category of tzedakah because the Torah wants us to act in a loving and considerate way towards other people as far as our means make it possible.** In general, he who benefits another with gifts of money, food, other needs, and **even with kind and consoling words** – these acts are fulfillments of the mitzvah of tzedakah and his reward is great.” (*Sefer Hahinukh, Mitzvah 479*)

From the Talmud we have derived a catalog of needs, such as maintenance, marriage, and honor, which are examples of physiological, spiritual-existential, and emotional-social needs, respectively. But it is perhaps a typical bureaucracy's fault to identify isolatable needs – and by doing so miss the totality of human life as expressed in the ethics of Aristotle. For Aristotle, *the* human need is *eudaemonia*, usually translated inadequately as happiness, as in Thomas Jefferson's inalienable "right to life, liberty and the pursuit of happiness." *Eudaemonia* is a dynamic state of well-being which has a balance of aspects – physical and intellectual. For Aristotle this state has an essential social dimension entailing human dignity. Thomas Aquinas formulated this notion which can be applied to a characterization of poverty as well:

“Thomas Aquinas followed Aristotle in holding that every human being, knowingly or not, wisely or not, seeks a state of well-being, happiness, or flourishing (*beatitudo, eudaimonia*). To seek to flourish is to seek the human good. The most basic moral implication of seeking good and avoiding evil is to will the good for ourselves and every other human being.”^{lx}

“For Aquinas poverty in a broad sense is thus found when people are deprived of anything necessary for human flourishing, including, in their order of importance, goods of the soul, goods of the body, and external goods.”^{lxi}

“This ethic is concerned not only with minimal physical survival but also with the goods that allow for human flourishing in a comprehensive sense. Thomas regarded ‘necessity’ as including not only the bare minimum of goods required to sustain life but also the other goods that make possible **a good life within one's social context.** Concern for the poor must not issue in acts that humiliate the poor. Thomas recognized the suffering not only of the destitute but also of the **‘shamefaced poor,’** members of the nobility who had come on hard times. He held that what is necessary for one person's decent life might not suffice for another's and, conversely, that what is rightly regarded as a ‘necessity’ for one person might be ‘superfluity’ for another - that is, beyond what a person and his or her dependents need to maintain their social status.”^{lxii}

In this chapter we will consider the "need" of Deuteronomy 15:8 in terms of the revolutionary Talmudic specification of the need for a life of fulfillment within marriage as a human right. Tzedakah provides the financial and logistical aid necessary to make that "flourishing" of well-being associated with lifelong companionship accessible to all – however destitute and from whatever social origin.

The Divine Matchmaker and the Rehabilitation of the Nuclear Family

"The Prophet says: He who has the means and ability must get married because this helps to lower the gaze and guard modesty. Consequently, the Shari`a [Muslim law] is expected to help those who want to be married but do not have the necessary financial means.

Scholars argue that marriage expenses are included in the level of sufficiency for those who have no spouses and need to get married.' Some scholars go as far as assuming that, **for a man who is not satisfied with one wife, the cost of marrying a second wife is also part of his level of sufficiency.**^{lxiii}

Our Talmudic sugya opens with a mishna which states that the community owes a female orphan the means to begin her married life, i.e. a "decent" dowry of at least 50 zuz. The editor of the sugya then collects and cites two relevant sources, from the same period as the Mishna, detailing the tzedakah fund's obligation to the male orphan, who was expected in that era to provide a basic household to his chosen bride. Without those material resources, it is unlikely that she and her family would agree to her marrying an orphan with no family backing. Both sources – unlike the mishna – use a central Biblical verse about tzedakah to organize their list of provisions of the orphan bridegroom's new household.

The Torah teaches that someone – which the Rabbis took to mean the tzedakah fund – must provide funds "*Sufficient for one's need*" (Deut. 15:8). This general Biblical instruction is applied by the Rabbis to a particular need – marrying off a male orphan, and the broad and ambiguous term "*Sufficient*" is translated into an enumerated list of provisions:

Our Rabbis taught: If an orphan applied for assistance to marry, a house must be rented for him, a bed must be prepared for him and [he must also be supplied with] all [household] objects [required for] his use, and then he is given a wife in marriage,^{lxiv} for it is said in the Torah: *Sufficient for one's need in that which one [lo] lacks* (Deut. 15: 8). (TB Ketubot 67a)

The second source repeats the same list but ties each item to a particular linguistic expression in the verse. Thus Oral Torah or standard rabbinic practice is given authority and greater memorability by attaching it to Written Torah.

Sufficient for one's need refers to the house; in that which one lacks refers to a bed and a table; one[lo] refers to a wife. [How is the need for a bride learned from the oblique reference to "one" in Deuteronomy 15:8? Because it echoes the same word – "one" ("lo") mentioned in God's

attempt to supply Adam's need for companionship], **for so it says in the Torah, I will make for that one [lo] a help to complement him.** (Gen. 2:18). (TB Ketubot 67a)

The use of Biblical verses not only adds aesthetic and authoritative reinforcement to the list of household goods, but also provides a moral and theological basis to the welfare work of the tzedakah fund. It implicitly answers three questions: *What* human needs are to be met? Marriage. *Why* is society concerned with the human need to marry? We mirror God's model of finding Adam a helpmate. *How* is marriage connected to the benefits tzedakah can offer? Material needs are often a prerequisite of emotional ones. We will explore these in the coming sections.

Let us start with the question: *Why* is society concerned with the human need to marry? "Marriage is the foundation of a successful society," in the words of American welfare legislation entitled the Personal Responsibility and Work Opportunity Reconciliation Act (US Congress, 1996). The language of success is utilitarian: married families contribute to the welfare of society.^{lxv} The Rabbis too speak of the mitzvah to get married as part of God's plan for the welfare of the world.

"WAS NOT THE WORLD MADE TO BE POPULATED, AS IT SAYS, *GOD DID NOT CREATE IT A WASTE, BUT FORMED IT FOR HABITATION* (ISAIAH 45:18)." (Mishna Gittin 4:5)

Reproduction is civilization's calling and the Rabbis are obligated to make that possible both by finding legal solutions to abnormal situations where a person – such as one who is half-slave and half-free – may not marry (Mishna Gittin 4:5) and by providing material aid to an orphan to build a household and presumably have children. This fits the spirit of Genesis 1 where God creates human beings in gendered pairs – *male and female God created them. God blessed them and God said to them: be fruitful and multiply and fill the earth and dominate it and rule* (Gen. 1: 27-28).

However the verses cited in our sugya do *not* explicate the obligation of the tzedakah fund to help someone get married in terms of a civilizational mission or the utilities of societal survival. *Sufficient for one's need* (Deut. 15:8) refers only to the individual's need – not society's needs. It cited not Genesis 1 but Genesis 2 when invoking God's model. This verse from the creation of woman in the Garden of Eden speaks of Adam's personal emotional growth and happiness, not about continuity of the family and of the human race through creating a new generation of families. In fact, Genesis 2 never mentions procreation as marriage's purposes, especially since death has not been introduced into the Garden yet. Couplehood in Genesis 2 – not yet requiring formal institutionalization of marriage – is about overcoming loneliness and becoming one flesh and one being. The Biblical ethos of Genesis 2 which is invoked in TB Ketubot 67a e's is not about achieving individual autonomy and self-sufficiency as the basis for human self-respect, but about building relationships and becoming intertwined with one another. The goal is not merely survival or even freedom and independence but love and interdependence.

While in other places like Mishna Yevamot and Gittin the rabbis emphasize that marriage and procreation are about family and building up society itself, the rabbinic explication of marriage in TB Ketubot using the verse from Genesis 2 focuses on

fulfilling the basic human *telos* of love¹⁸ – overcoming loneliness. That is the message of the verse chosen to describe God as Adam’s matchmaker in “*It is not good for the human to be alone*” (Genesis 2:18). God is acting *in loco parentis*, just as we saw above that the English Protestant Thomas Reid spoke of God’s great family. For Adam is in some sense a parentless orphan whom God adopts or else God is seen as the parent of all human beings. The creator and the progenitor of the family - the parent, God, and indirectly the community – are obligated to care for its members as well as to prepare them to build their own families for their fulfillment of needs.

It was God who first modeled how humans should help one another marry. God’s act as the Biblical matchmaker may be regarded as the first example of *Tikkun Olam*. The term *tikkun* often means construction or preparation as well as repair. In the Rabbinic nuptial blessings, the *Sheva Brachot*, God is described as performing or constructing a *tikkun*, an act of fixing, instituting, or building an eternal building – *hitkin mimenu binyan adei ad*. Making the woman out of the man by an activity described as “building” (*vayiven et hatzela*) (Gen. 2: 22) inaugurates God’s career as the first repairperson – fixing an incomplete and nonfunctional world.^{lxvi} God builds the woman as the eternal complement to man’s need and pairing human beings off to enables them to overcome loneliness.

The importance of helping human beings – not just Jews - achieve companionship is illustrated by this humorous tale:

"Rabbi Judah ben Simon commenced his exposition with, *God enables single individuals to dwell in a house [as married couples]*(Psalm 68: 7).

A [Roman] matron asked Rabbi Yossi ben Halafta: 'In how many days did the Holy One, blessed be He, create His world?' 'In six days,' he answered. 'Then what has God been doing since then?' 'God sits and makes matches,' he answered, 'assigning this man to that woman, and this woman to that man.' 'Is that difficult?' she gibed, 'I too can do the same.'

She went and matched [her slaves], giving this man to that woman, this woman to that man and so on. Sometime after, those who were thus united went and beat one another, this woman saying, 'I do not want this man,' while this man protested, 'I do not want that woman.'

Straightway she summoned Rabbi Yossi ben Halafta and admitted to him: 'There is no god like your God: it is true, your Torah is indeed beautiful and praiseworthy, and you spoke the truth!'" (Midrash Rabbah - Genesis LXVIII. 4)

¹⁸ The mitzvah to support the marriage of an orphan is presented as a response to their need for companionship as with Adam and Eve, not for reproduction. Hegel calls this the **ethical aspect of marriage**, as opposed to biological or sexual needs or pragmatic (contractual):

“The ethical aspect of marriage consists in the consciousness of this union as a substantial end, and hence in love, trust, and the sharing of the whole of individual existence.” (Hegel, *Philosophy of Right* #163)

"In self-consciousness the union of the natural sexes, which was merely inward (and whose existence was for this very reason merely external, is transformed into a spiritual union, into self-conscious love." (#161)

However Hegel insists that this love must not remain merely romantic and subjective, for that bond is too ephemeral and unstable. Therefore it ought to lead to reproduction.

The lesson of this tale is that a human matchmaker using purely utilitarian criteria cannot compete with God not because God is so omnipotent but because the willfulness and unpredictability of human affection is such a challenge to building relationships. Nevertheless human beings, tzedakah fund directors – hopefully, wiser and more sensitive ones than the slave-owning Roman matron – are obligated to try their hand at God’s “job.”

Though love is often praised for transcending material considerations, in fact, love translated into marriage has always involved financial considerations, especially for a couple that wishes to create an independent family unit. Even before God began the arduous trial-and-error process of finding an appropriate match for Adam, God began by planting a Garden in Eden to furnish the young couple with ideal conditions for life together as “loving companions in the Garden of Eden” (the description expressed in one of the seven rabbinic wedding blessings). Similarly, the Rabbinic interpretation of Deuteronomy 15:8 generates a list of minimal requirements for the material goods¹⁹ necessary for marital fulfillment: a house, a bed and a table.

What aspect of human life might each of these objects represent?

- a. The *house*²⁰ may stand for a couple’s need for a separate dwelling – not living with relatives. Maybe that is the assumption in *Therefore a man will leave his father and mother*²¹ and cling to his wife (Genesis 2:24). Individuation from parents is essential. In this case we are speaking of an orphan who may never have had his own household. Maybe this shows that human dignity encompasses a territorial drive for privacy and autonomy achievable only between one’s own four walls.²² Within an extended family, a young couple

¹⁹ The English statutes of charitable gifts of 1601 included in its preamble: “some for marriage of poor maids,” but nothing for their social honor beyond the basic needs. A charitable trust was *not* to provide **wedding rings**, which is a mere “public token of friendship between them [the spouses] and cannot be construed as an advancement of the woman”; nor one to supply a **wedding dinner** which is a mere “transitory thing; not valuable for relief, but for ornamentation.” (Francis Moore cited in Gareth Jones, *History of the Law of Charity 1532-1827*, 30). This restriction on luxury items may reflect Puritan attitudes, while prior to the Reformation such expenses may well have been considered charity.

²⁰ **Habitat for Humanity** is an international, ecumenical Christian Ministry, a non-governmental, non-profit organization devoted to building quality, low-cost housing. The houses are built using volunteer labor. They are sold at no profit, and no interest charged on the mortgage. By 2003 Habitat had built 50,000 houses in the U.S. and over 100,000 overseas.

Homeowner families are chosen according to their need (for permanent housing without resources to do so); their ability to repay the no-profit, no-interest mortgage (hence they have regular job and good credit rating); and their willingness to work in partnership with Habitat (some 500 hours called “sweat equity”).

²¹ In the Lior Levy case in 2010 the Israeli Supreme Court recognized the human right of young people with disabilities to move out of their family homes to a residential home – not an institution segregated from the community - with governmental support, “so that they can interact with non-disabled persons.” Thus “home” is defined both as independence from parents, hence privacy and independence, and yet as an opportunity for companionship and integration within the community of disabled and nondisabled adults. (Arlene Kantor, “There is No Place Like Home: The Right to Live in the Community for People with Disabilities under International Law and Domestic Laws of US and Israel,” July 2011).

²² “The four walls of one’s private property offer the only reliable hiding place from the common public world, not only from everything that goes on in it but also from its very publicity, from being seen and

might often have to share their room and even their bed within their parents' dwelling. But an orphan has no family dwelling, so the community must provide a private space of his own.

- b. The *table* may stand for eating together which is a form of social intimacy that a husband owes his wife even above providing food itself.^{lxvii}
- c. The *bed* is the place of sexual intimacy, *onah*.

All of these tzedakah needs are defined minimal and filled in a standardized fashion regardless of individual preferences of the needy, the history of the orphan, or his or her previous social standing. Aid is rendered in kind rather than in funds.²³

The last of the “object” to be supplied to the male orphan is the bride. Ideally most Rabbis treat her not as a mere object, but condition marriage on her consent whatever the social pressure on her. (“A woman may not be sanctified unless voluntarily her own will”).^{lxviii} If her father uses a Biblical holdover of Jewish law^{lxix} to marry off his daughter while she is still a minor before she can make her own free decisions, the Rabbis established that he be flogged.^{lxx} It is a higher mitzvah for a woman to see her bridegroom herself and conclude the nuptial sanctification face-to-face, rather than use a go-between for an arranged marriage. It is understood that if the man and woman do not meet to make sure they are attractive to one another, then in place of love, hate is likely to poison their relationship.^{lxxi} The Torah commanded one to love one's neighbor and for the Rabbis that applies especially in marriage (TB Kiddushin 41a). This emphasis on the search for marital partners on love and on personal accommodation fits the spirit of the Biblical tale of Genesis 2 cited in the Talmud Ketubot 67a. Even when God is the matchmaker, not anyone will do. God proposed several potential partners whom Adam rejected after evaluating their suitability on a series of “blind dates.” Finally God created a woman out of man, and when Adam truly “met his match,” he began to speak in verse creating the first poem in the Bible. When he found her he broke out in song about his woman partner, his other half (Genesis 2: 23). Note the poetic repetitions typical of a song that Everett Fox translates faithfully:

“This-time, she-is-it! (*zot*)
Bone from my bones,
Flesh from my flesh!
She (*zot*) shall be called Woman / *isha*
For from Man / *ish* she was taken (*zot*)!” (Gen. 2:23)

As we saw, to make the man an attractive husband for a woman, the Rabbis required the parent – and, if he is an orphan, required the tzedakah fund – to provide the household basics. But the physical attractiveness of the woman is also highly prized

being heard. A life spent entirely in public, in the presence of others, becomes, as we would say, shallow. While it retains its visibility, it loses the quality of rising into sight from some darker ground which must remain hidden if it is not to lose its depth in a very real, non-subjective sense. The only efficient way to guarantee the darkness of what needs to be hidden against the light of publicity is private property, a privately owned place to hide in.” (Hannah Arendt, *The Human Condition*, 71)

²³ The basic living standards including: “a bed, table, chair and lamp,” are already described as the basic accommodations provided by the wealthy woman of Shunem for Elisha the prophet (II Kings 4:10).

by most men, such that the Rabbi Hiyya²⁴ once said: “A woman is given [or created by God] solely for beauty” (TB Ketubot Chapter 5). In Proverbs, however, the beauty of a wife is denigrated – “*Feminine graces are deceptive and beauty is ephemeral*” (Proverbs 31: 30). But whether or not one agrees that external beauty should be a criterion for marriage, the Rabbis acknowledge that for some men it is a felt need. Therefore, to provide for the girl’s marriageability and to maintain that fresh attraction – lest he divorce her in favor of a more beautiful spouse, the Rabbis must meet the man’s felt needs for beauty.

It is for this reason that a newly-wed wife may wash her face even on Yom Kippur to keep up her appearances, so she will not disgust her husband.^{lxxii} So as well a husband must provide his wife with money to buy jewelry as well as cosmetics “so that she will not be disgusting in his eyes.”^{lxxiii} When the Rabbis imagined Eve’s wedding in the Garden of Eden, they cast God not only as the matchmaker but as the wedding party planner, Eve’s personal hairdresser and jeweler in her beauty parlor, as well as her caterer – all to make sure the match found favor in the bride and groom’s eyes.

“It is taught in the name of Rabbi Simeon ben Yohai: God Himself adorned Eve like a bride and brought her to Adam. In this connection, Rabbi Hama bar Hanina said: What do you suppose—that He brought Eve to Adam [as one might bring something found] under a carob tree or a sycamore tree? The fact is that only after He had decked her out with twenty-four kinds²⁵ of finery [the one’s mentioned in Isaiah 3:18-24] did He bring her to Adam. Thus: “*You were in Eden the garden of God; every precious stone was your covering*” (Ezekiel 28:13).” (Genesis Rabbah 18:1)

²⁴ Rabbi Hiya taught: “A woman is only for beauty, or only for the sake of the children she will bear. Further Rabbi Hiya taught: A woman is only good for the finery she wears. And Rabbi Hiya also stated: Whosoever wishes his woman to look nice should dress her in linen garments. Whosoever wishes his daughters to have a clear complexion should feed her young chickens and give her milk to drink before she is about to attain her maturity.” (TB Ketubot Chapter 5)

²⁵ The 24 kinds of jewelry mentioned in God’s decoration of Eve is most likely a culturally subversive reading of the decoration of woman by Zeus to punish man. According to Hesiod, woman was created under the direction of father Zeus as retaliation against Prometheus. That trickster demigod had stolen heavenly fire for earthlings. The outwitted Zeus commissioned members of his pantheon to make “an evil thing in which men will all delight while they embrace their own destruction.” Like a potter, crafts expert Hephaistos shaped a lump of clay into the shape of a luscious maiden; like a goldsmith, he made her a crown. Athena decked out his creation with clothes, jewelry, and flowers. Aphrodite bestowed charm and seductive powers, while Hermes implanted “a bitch’s mind and a thief’s temper.” The “beautiful evil” (*kalon kakon*) was named Pandora because a variety of Olympian gods and goddesses had given her traits. This “booby trap” equipped with “lying and tricky talk” was delivered to Epimetheus (“afterthinker”), the incautious brother of Prometheus (“forethinker”). Before Epimetheus accepted the gift, men lived like gods in a paradisiacal Golden Age “free from evils, harsh labor and consuming diseases.” But when Pandora maliciously opened the lid of a huge jar, all kinds of miseries flew out and infected mortals throughout the earth. Hesiod ends his story thus: “This was the origin of damnable womankind, a plague with which men must live.” Further on in *Works and Days*, the poet warns of sweet-talking and hop-wiggling women who steal from those that find them fascinating. Hesiod’s final judgment is this: “**Any man who trusts a woman, trusts a deceiver.**” He believed that the multitude of Pandora’s daughters inherit their mother’s loveliness and cunningness. Their charm and breeding potentially compel men to associate with them, but their bad character makes domestic life miserable.

"Rabbi Simeon ben Menasya expounded the verse, *And with the rib which the Lord God had taken from the man, He plaited the hair (banah) of the woman and brought her unto the man* (Genesis 2:22). The word *banah* suggests that the Holy One plaited Eve's hair and brought her [thus adorned] to Adam, for in cities far beyond the sea a woman's plaited hair is called *binyata*." (Berakhot 61a)²⁶

"Rabbi Judah son of Rabbi Simon said: Michael and Gabriel were Adam's escorts [best men] who brought in Eve." (Genesis Rabbah 18:3)

"*She was brought to Adam* - by thousands of ministering angels singing and performing before them as young maidens, and the Holy One invited them both to dine on delicacies of the Garden of Eden." (Midrash Otiot Rabbi Eliezer)

Thus, just as household goods are necessary to make an orphan financially attractive, so a beauty treatment may be part of the tzedakah necessary for an orphan bride's matchmaking – especially since poverty takes its toll on the physical appearance of the poor. That is the message of a rabbinic morality tale, which depicts the exceptional piety of Rabbi Yishmael. The tale opens thus: "Once a man took an oath not to have any benefit from his niece."²⁷ In context, the story assumes that uncles often marry their nieces but unusually, in this case, the uncle swore he would *never* marry this niece – apparently because she was so ugly. Attractiveness is an essential aspect of marriage and when one is disgusted by a spouse that is grounds for divorce by the husband (according to both Hillel and Rabbi Akiva). In light of this diagnosis of the situation, Rabbi Yishmael finds a way around the uncle's oath for the niece's sake and perhaps for the uncle's as well: "However Rabbi Ishmael took her into his home, and provided her a beauty treatment."

Thereafter, the uncle who had taken the oath saw her newly radiant beauty and desired to marry her. But first he needed to go to a rabbi to annul the impetuous oath by showing he never fully understood what he had sworn:

"SO RABBI ISHMAEL ASKED HIM: MY SON, IS THIS THE ONE WHOM YOU SWORE [NOT TO MARRY]?"

NO, HE RESPONDED [FOR SHE WAS UNRECOGNIZABLE AS THE SAME WOMAN], SO RABBI ISHMAEL [ANNULLED THE OATH AND] PERMITTED HER TO BE MARRIED [TO HER UNCLE DESPITE THE OATH].

THEN RABBI ISHMAEL CRIED AND LAMENTED: **THE DAUGHTERS OF ISRAEL ARE BEAUTIFUL BUT POVERTY HAS MADE THEM REPUGNANT!**

WHEN RABBI ISHMAEL DIED, THE DAUGHTERS OF ISRAEL LAMENTED AND SAID: CRY FOR RABBI ISHMAEL." (MISHNA NEDARIM 9:10)

²⁶ Roman matrons "began by dressing their hair. Women [of Imperial Rome, 2nd C. CE] had long since given up on the simplicity of the Republican coiffure in which a straight, even parting divided the hair in front and simple chignon gathered it together at the back. They were no longer content with braids...During the Flavian period high-piled methods of hairdressing ...as high towers." (Jerome Carcopine, *Daily Life in Ancient Rome*, 167). Thus the midrashic portrayal of God as a matchmaker is made even more scandalous when God emerges as the hairdresser which is not only a menial task and an immodest one but a role restricted in Roman society to house slaves.

²⁷ A niece is usually a prime candidate for marriage in ancient Babylonia (TB Yevamot 62b and Sanhedrin 76b) and even today among Iranian Jewry.

This ancient tale of rabbinic cosmetic surgery in service of attracting a husband, whose own personal virtues are not morally attractive, raises many controversial issues. Still, as is often the case in the Talmud, the more extreme the case the more clarity it sheds on the principle it comes to test.

Matchmaking is an important form of care-giving which falls under the rubric of tzedakah and shows how emotional needs integrated with material ones need to be met. Today many singles are desperate for a partner even though their economic situation may be adequate. They too need a form of tzedakah. By analogy to the mishna, contemporary tzedakah foundations sometimes provide dating services as well as cosmetic advice. In Cleveland one donor created the first **Jewish internet dating service** – even before J-date – to which he credits thousands of married couples. In Israel the Atzum tzedakah fund for victims of Muslim terror have sponsored plastic surgery for those whose faces have been scarred. Might that principle be extended to cosmetic surgery for physically- disadvantaged young women whose beauty is not appreciated by the contemporary standards of their male age-mates? Should a school have a friend-finding service not only for new students but for the odd student who is left out? If a less financially endowed student is at a social disadvantage, should that be addressed by school financial aid? For example, one high school teacher provided funds out of her own pocket to help poor students pay for a rented gown and a limousine for the senior prom. In accord with the old German folk adage “clothes make the man” (and the woman), an American charity called “Dress for Success” provides attractive and professional attire to disadvantaged women so that they can make a more favorable impression on their potential employers. So too, many Orthodox communities lend or rent at a low cost beautiful wedding gowns and all the accoutrements of a wedding. In this way the community makes sure that the couple and their families feel joy and honor that reinforces the new and fragile marital ties.

A Package Deal

When listing the provisions of a house, table, bed, utensils and a spouse, which the orphan needs to marry, the Talmud establishes an important principle of tzedakah often overlooked, especially in contemporary welfare bureaucracies that focus on itemized needs. Social welfare benefits are usually provided piecemeal and often neglect essentials necessary to utilize the aid. For example, US Medicare provides destitute dialysis patients with an \$80,000 a time treatment in the hospital but no fees for a vehicle to get them there. American government job training is provided at no cost, but often it does not include the bus fare or child care costs which the unemployed cannot afford themselves but are necessary in order for them to participate regularly in vocational training. By contrast, in our Talmudic source we find step by step instructions to supply all the various layers of provisions needed to bring the orphan to marriage, all doled out under the overall responsibility of the tzedakah *kuppah*. Human needs do not amount to an itemized wish list, where some can be fulfilled while others overlooked. To help another, one must identify and solve a chain of interconnected problems facing the needy. No single factor in isolation, not

solely a job or house or marriage counseling, is sufficient to achieve the goal of the orphans who wish to be married. David Shipler in *The Working Poor* explains why holistic remedies are vital for rehabilitating the poor:

“For practically every family, then, the ingredients of poverty are part financial and part psychological, part personal and part societal, part past and part present. Every problem magnifies the impact of the others, and all are so tightly interlocked that one reversal can produce a chain reaction with results far distant from the original cause. A run-down apartment can exacerbate a child's asthma, which leads to a call for an ambulance, which generates a medical bill that cannot be paid, which ruins a credit record, which hikes the interest rate on an auto loan, which forces the purchase of an unreliable used car, which jeopardizes a mother's punctuality at work, which limits her promotions and earning capacity, which confines her to poor housing.. If she or any other impoverished working parent added up all of her individual problems, the whole would be equal to more than the sum of its parts.

If problems are interlocking, then so must solutions be. A job alone is not enough. Medical insurance alone is not enough. Good housing alone is not enough. Reliable transportation, careful family budgeting, effective parenting, effective schooling are not enough when each is achieved in isolation from the rest. There is no single variable that can be altered to help working people move away from the edge of poverty.”^{lxxiv}

So too the Talmud instructs the welfare agencies that all of the material items listed are necessary **prerequisites** for the last item – for the orphan to find and win the heart of a suitable partner. Love cannot survive on air. Marriage must have its feet on the ground planted in the basic material conditions for building a life together. Therefore we must add a source of income – employment – to the orphan’s list of basics. Ecclesiastes advises that “*one should see life (hayim) with a woman whom you love*” (Ecclesiastes 9:9) and the Rabbis translated that advice into a legal obligation of the parent to teach his child a vocation:

“Rabbi Hizkiyah says: If the woman mentioned in this verse is an actual woman [not a metaphor for Torah], then a father who is obligated to marry off a son to a woman, must also teach him a professional livelihood [represented by the word life in the verse].” (TB Kiddushin 30b)

The Maharsha, Rabbi Samuel Eidels (1555 – 1631) comments on this Talmud, directive by Rabbi Hizkiyah that it derives from a careful reading of the verse. The term, *hayim*, life, refers to the quality of married life, for without a livelihood, life with one’s spouse is not a worthy of the honorific term, life. Therefore the Talmud’s advice to a couple is not to marry until the breadwinner has learned a vocation and acquired a dwelling. This view is shared by Maimonides:

“The way of wise people is to fix on a profitable profession/craft first, then buy a house, and then get married... But stupid people marry first, then if they find the resources, they acquire a house and in the end they go looking for a profession or else they support themselves in tzedakah.” (Laws of Character Traits 5:21)

However, since even a wise and patient young couple who wish get married may not have been able to accumulate the necessary capital resources for home, they will almost always need help – whether from their family or the community. Not only the

orphan but the children of the poor will be prevented from marrying happily or at all without a tzedakah fund for this purpose. Later in Jewish history providing a dowry was often institutionalized. For example, the Lithuanian Council (1623 – 1761)^{lxxv} which was responsible for taxing the Jews for the Polish government, also used this tax money for tzedakah projects like supporting young brides from destitute families. After the father was examined to determine his economic situation, then the girl was required to work from age 12-15 as a domestic in the home of wealthy families who were required to hire her. Her pay was deposited in the dowry fund of council. Such girls were not allowed to wear silk clothes or gold ornaments. They were permitted to purchase Shabbat garments and ear rings only with the administrator's approval. At age 15 they received their dowry and married.

Thus, love is not expected to conquer all, as in a romantic movie. It must be built atop a solid material foundation. The Jewish humanist psychologist Abraham Maslow pioneered the psychology of human growth potential that defines healthy self-actualizing personhood in terms of the ascent on a pyramid of needs toward peak experiences of extraordinary significance. However, to reach those moments of transcendent love and insight one must build on the satisfaction of lower needs:

“A visual aid Maslow created to explain his theory, which he called the **Hierarchy of Needs**, is a pyramid depicting the levels of human needs, psychological and physical. When a human being ascends the steps of the pyramid he reaches self-actualization. At the bottom of the pyramid are the ‘Basic needs or Physiological needs’ of a human being, food and water and sex. The next level is ‘Safety Needs: Security, Order, and Stability.’ These two steps are important to the physical survival of the person.

Once individuals have basic nutrition, shelter and safety, they attempt to accomplish more. The third level of need is ‘**Love and Belonging**,’ which are psychological needs; when individuals have taken care of themselves physically, they are ready to share themselves with others. The fourth level is achieved when individuals feel comfortable with what they have accomplished. This is the ‘Esteem’ level, the level of success and status (from self and others). The top of the pyramid, ‘**Need for Self-actualization**,’ occurs when individuals reach a state of harmony and understanding.”^{lxxvi}

So too, for Aristotle as well as for Maimonides, himself a student of Aristotelian philosophy, material resources are necessary for human fulfillment, for happiness. *Eudaeimonia* in the fullest sense is “living well,” not just surviving biologically, but enjoying social leisure and culture. The aim of government is that individuals should flourish. The purpose of society is “not only for the sake of life [self-preservation, mutual defense and common economic interests] but rather for the sake of living well, since otherwise there could be a city-state of slaves or animals where in fact there is not, because these share neither in happiness (*eudaeimonia*) nor in a life guided by deliberative choice” (*Politics*, 1280a30). To be a member of the polis requires the cultivation of virtue which presupposes material resources to enable the leisure to engage in the enriching practices of political, cultural and philosophical life. Aristotle suggests that all citizens should be able to participate in common meals as well as benefit from clean air and water. In Jewish society, marriage, being a family member and a householder (*baal habayit*), is the equivalent of being a citizen in the polis, which is, for Aristotle, one of the most essential human needs defining a worthwhile life. By contrast, the Stoics speak of freedom as the highest human achievement that transcends material conditions.

In this as in many ways, Jewish ethics is, especially in Maimonides' formulation, more Aristotelean than Stoic. For the Rabbis a meaningful life of companionship entails certain basic physical foundations which tzedakah must provide where necessary. The provision of such itemized material objects for marrying off an orphan manifest this step –by-step ladder on the way to human meaning in a social context. Unlike Aristotle, the Rabbis insisted that society help the needy human being of all classes and family-situations to fulfill that *end* of human life - **a life of shared companionship** by providing them with the financial *means* necessary for the realization of this understanding of human dignity and love. It is the lack of those resources which are the depredations of poverty articulated by the Israeli philosopher Avishai Margalit:

“The notion of poverty is relative. A person who is poor in California may be well-to-do in Calcutta. But being poor does not mean being in the lowest docile of income. Poverty is not defined relative to income distribution, but to the social concept of the minimal conditions of existence. This minimum is connected to **the social conception of what is needed for living a human life**. The minimum reflects the concept of humanity prevalent in each society. .. Poverty might leave the poor without even one option for living a valuable life...at least one option for a way of life that the person can respect and finds worth living. Poverty closes off ways of life that people consider dignified.”^{lxvii}

In sum, these are some of the broader principles of tzedakah that may be derived from our sugya's opening midrash on the needs of an orphan who wishes to marry:

1. A concern for **rehabilitation** is exemplified in turning an orphan into a family that may be socially and economically self-sufficient.
2. **Marriage is a basic need, not a luxury**, though it usually requires significant external aid to get an independent household started.
3. **A holistic understanding of human need** includes both emotional needs for companionship and the physical basis for homemaking, so the various items must come together to enable **a wholly fulfilling human life**.
4. **Society is obligated to step in, *in loco parentis*** (in place of the parent or blood brother) to provide familial support for orphans – as well as for many homeless who lack an indigenous welfare system.
5. **Giving tzedakah is an act of *imitatio Dei*** where **God is the matchmaker** helping not only in the selection of a bride, but also in the financial outlay of establishing their home, their little Garden of Eden.

Postscript: The Typology of the Poor by Yisrael ibn Al-Nakawa (14th C. Spain)

As we have seen, our sugya builds its understanding of tzedakah on the response to individual needs both material and social. In a sense, the whole principle is epitomized concisely in the Biblical verse "*sufficient for his/her needs in what s/he is lacking.*" Yet defining those needs and prioritizing them requires vastly complex legislative and socio-economic work which has taken thousands of years to develop and still deserves more insight, for human beings are so diverse and their social and economic situations and norms are always changing. Aside from Maimonides, the greatest cataloguer and finest reader of the human situation of need in medieval rabbinic tradition is Yisrael ibn Al-Nakawa of Toledo. So let us conclude with his catalogue of types of needs before devoting our time to analyzing the typologies of needs and benefactors in the Talmud and in Maimonides.

"To give to each and every poor person what they need to take, each by their level and their needs. .. [Therefore communal] tzedakah may not be distributed by a committee of less than three scholars who are kosher, trustworthy, righteous, energetic and know all these issues and all these types of poor. Otherwise if they do not know all the conditions that I have explained regarding tzedakah, then one rejects them and does not collect any tzedakah... That is what God commanded - to give tzedakah to each adequate for their lack, but the text did not clarify how much is adequate for their needs, so the transmitters of tradition received and taught the measures of tzedakah which are nine." (*Menorat HaMaor*, Tzedakah Gate #7)

Yisrael Al-Nakawa lays out **a typology of the poor that is sensitive to their concerns for economic self-sufficiency, to their psychology and to their social standing**. Deriving his category names from the traditional seven synonyms^{lxxviii} for poor in Biblical texts, he characterizes them in an insightful and wholly innovative manner:

Typology of the Poor:

a. **Socially isolated.** "These poor are separated from their friends. When they became impoverished, their former friends and relatives separated themselves from them. Therefore one must support them and do kindnesses to them and honor them so they can act as they once did." For the formerly rich suffer socially in their downward mobility.

b. **Borderline poor without "deep pockets."** These poor support themselves with limited resources and when something occurs like an illness or sudden aging and so on, then they are immediately impoverished and their destitution is revealed... Therefore they must be supported preventively before they are completely impoverished and become dependent on others." Biblical laws that require that the day laborer be paid immediately before nightfall assume this precarious economic vulnerability (Deuteronomy 24:14-15; Leviticus 19:13) for such people live from day to day. The Talmud captures their worldview when it puts these words in their mouth: "We are

poor and we have worked all day, we are hungry and we have nothing” (TB BM 83a).

c. **Down and out – the perennial dependent.** "These poor are dependent on others all their lives for that is their luck (*korot hazeman*), their spin of the wheel of fortune (*galgalav*), so *when your brother slips down, hold him up*" (Lev. 25:35).

d. **The loners who lost their source of income.** "These poor supported themselves honorably yet hid their wealth [which may be the reason they never developed loyal friends]. After a while their fortunes decreased, their poverty was revealed, then they had nothing left, and due to their poverty everyone hated them, even their brothers and relatives."

e. **Working poor.** "These poor toil and sweat all their lives seeking an income but not making more than a modicum of their needs. Their income is inadequate, so they are in great sorrow, their lives are sad and all their days they live in pain."

f. **The miserable** poor hope for gifts, handouts, from people who despise and scorn them, even if they are scholars."²⁸

g. **The misfit.**²⁹ "These poor are always longing to make a living, but never achieving it. They do not know how to do a craft or how to do business. Even how to ask for tzedakah they don't know!...Of these the verse says, *the poor will never cease from the land* (Deut. 15: 11) for they do not know how to do a craft or how to do business or how to communicate properly, so there no reason that they will ever become richer." (*Menorat HaMaor*, Tzedakah Gate #7)

This sophisticated analysis shows why Al-Nakawa thinks it is so hard to be a distributor of tzedakah giving each person what they really need. That is why he does not envy those who take on this role.³⁰

A biographical detail worth noting is Yisrael Al-Nakawa's historical context which shapes his narrative of giving. Yisrael ibn Al-Nakawa, author of *Menorat HaMaor*^{lxxix} lived in the second half of 14th C. in Christian Spain in Toledo, Castile, during the demise of a great golden age under kings favorable to the Jews (especially Alfonso XI and his son Don Pedro until 1369). That prosperous era of scholarship, cultural creativity, and generosity was followed by terrible persecutions, exile and impoverishment under kings unfavorable to the Jews and influenced by fanatical priests. This led to riots, massacres, forced conversions, and to the burnings of synagogues or their conversion to

²⁸ In Yiddish this category might be called the *nebach*.

²⁹ In Yiddish this category might be called the *lo yutzlach*, the ne'er do well.

³⁰ Al-Nakawa defines **nine levels of tzedakah**, many overlapping with Maimonides and derived from sugya in TB Ketubot 67-68. The lower levels of Al-Nakawa's typology are defined by the amount of aid offered. The lowest category is the small amount set aside for a vagrant beggar knocking at the door - basic food and lodging for a traveler. But when the poor apply to the communal fund and their needs are known, then they may receive much more according to their prior social standing. The next level is an orphan bride who receives funds for marriage and an orphan groom who receives what is necessary to set up a household - utensils, linens, furniture and rent for a place to live. The next level is the formerly wealthy who receive what they were used to, even a horse to ride and slave. For the reluctant recipients of welfare, one is commanded "to ply them with gifts." Above that are, according to Al Nakawa, a category not mentioned in the Talmud – the honorable and easily embarrassed poor scholars for whom one arranges business transactions in which they will profit more than usual.

churches. In Rabbi Yisrael ibn Al-Nakawa himself was martyred. It is with this background that we may appreciate why his book of ethical advice, *Menorat haMaor*, opens with the three modes for changing one's fate mentioned in the High Holiday poem - *Unetaneh Tokef* about "who will live and who will die." These powerful decree-suspending practices are tzedakah, *tefillah* (prayer) and *teshuvah* (repentance). The section on tzedakah opens the book and its last paragraph applies an obscure Talmudic opinion³¹ to the period of persecution in which he lived:

"When the nations of the world rob one's earnings, then it is treated as if that were a contribution to tzedakah. What we pay as tax to the nations of the world to allow us to survive and study Torah and do mitzvot is called tzedakah."^{lxxx}

Al-Nakawa's biography explains this most shocking transformation of blood money into a religious act of compassion – tzedakah. Even money spent to bribe the persecuting nations and even money confiscated arbitrarily by the government can be counted to one's credit as tzedakah.

Appendix: For and Against Cosmetic Plastic Surgery for Eligible Single Women

“RABBI ISHMAEL CRIED AND LAMENTED: THE DAUGHTERS OF ISRAEL ARE BEAUTIFUL, BUT POVERTY HAS MADE THEM REPUGNANT!” (Mishna Nedarim 9:10)

The ethical concern for promoting the conventionally defined beauty of the daughters of Israel, which we see in the tale of Rabbi Yishmael, animates a major debate among the greatest contemporary ultra-Orthodox halakhic authorities of the 20th C. Rabbi Moshe Feinstein ruled that cosmetic plastic surgery is permitted on the following grounds:

"I was asked about a young woman who wishes to make herself more beautiful by means of the surgery that doctors have invented, so that [bridegrooms] will "jump on them and marry them" (TB Ketubot 52b). ...It is permitted for a young woman to beautify herself for her own good and by her own desire.... For a wife is for beauty (TB Ketubot 59b)."^{lxxxii}

Rav Ovadiah Yosef concurs: "It is permitted to do plastic surgery to improve her form and her natural beauty *to find favor in the eyes of all who see her* (Esther 2:15), so she can find a good match according to her social standing. Even if she is married, it is permitted to increase her husband's affection."^{lxxxii} The quotation is from Megillat Esther where the virgins are anointed in various oils for 12 months and arrayed in jewelry as they wish in order to find favor in the eyes of the king in his search for a wife. Rav Yosef is apparently not bothered by the implicit comparison of Jewish women's pursuit of cosmetic allures to that of the harem of a mindless drunken king whose only concern is external appearances. The pursuit of favor in the eyes of

³¹ Rabbi Elazar says that tzedakah replaces the half-shekel that was paid to the Temple to bring atonement. In fact, he says if you do not give tzedakah from your own money, then the nations will come and take it anyway – as taxes or spoils or tribute. But he ends his sermon with a bizarre statement: what “the nations of the world take from them by force is nevertheless credited to them as tzedakah, as it says, *your oppressors are tzedakah* (Isaiah 60:17)” (TB Baba Batra 9a). (In Or Zarua, Laws of Tzedakah #1 this adage is attributed to Mar Ukba).

men is a normal part of marital arrangements and Jewish women are liberally complimented by the Rabbis for their beauty.

However Rabbi Eliezer Waldenburg, rabbi of Shaarei Tzedek Hospital in Jerusalem, registered a vigorous dissent from this rabbinic approval of the pursuit of feminine beauty with medical interventions. When the plastic surgery is not connected to disease or physical injury, he forbade doctor and patient to engage in them. His value orientation is important for our consideration of human needs for it rejects societal norms defining the need for beauty and appeals to natural, that is, Divine ones.

"One should know and believe that there is no artist like our God and God may his name be blessed designed and imprinted each and every one of God's creatures with God's image and form as befits each one – so no one is to add or delete from it. . .King Solomon, inspired by the spirit of God, preached that *Grace is deceptive, beauty is ephemeral; a woman of piety is to be praised* (Proverbs 31:30). All whose hearts have been touched by piety to God should not go astray after the fad of plastic surgery for the sake of cosmetic beauty alone. For this fad is generally only concerned with external appearances and variable moods of people which are differ one from the other . . . One should not try to be sophisticated and to change nature with these activities, for that is as if one said [blasphemously] 'to the Artist who made them: how ugly is the utensil you made!'(TB Taanit 20b)^{lxxxiii}

Thus Rabbi Waldenburg exercises strong ideological critical filter by which to remove those needs from the list of human needs that may be met and certainly he would not consider it an act of tzedakah to sponsor such cosmetic plastic surgery.

ⁱ Roe Fulkerson's column appeared in the Kiwanis Magazine (September 1924).

ⁱⁱ In 1938 Spencer Tracy won an Academy Award for the MGM feature film "Boys Town" which also featured Mickey Rooney as an orphan.

ⁱⁱⁱ Rema (R. Moshe Isserles):

All of this [To one who can use bread, we give bread. [To one who can use] dough, we give dough. **A bed**, we give a bed. One who can use hot bread, hot; and cold bread, cold. [If he needs to be] spoon-fed, we spoon-feed.

If he has no wife, we get him married. We rent for him a **house** with a bed and furniture, and afterwards we provide a wedding] applies to the tzedakah collectors, or to many people acting together, but an individual is not obligated to provide "sufficient for his needs." Rather, he announces the poor person's troubles to the community. If there is no community, the individual does provide ["sufficient for his need"], if he can afford it. (Translated and collected by Jeffrey Spitzer, Gann Academy, Boston, MA)

^{iv} The middle of the Mishna which has been skipped is:

IF THE [BRIDEGROOM when becoming engaged] AGREED TO TAKE HER IN NAKED [without the father supplying clothing or dowry], HE [BRIDEGROOM] MAY NOT SAY, 'WHEN I HAVE TAKEN HER INTO MY HOUSE I SHALL CLOTHE HER WITH CLOTHES OF MY OWN', BUT HE MUST PROVIDE HER WITH CLOTHING WHILE SHE IS STILL IN HER FATHER'S HOUSE.

^v Redeeming a captive citizen or marrying off a citizen's orphaned daughter by providing a dowry was a duty of state for which one like Cicero was proud. (Paul Veyne, 31)

^{vi} *Where might one expect to find Tzedakah discussed in the Talmud?* The Talmud is organized around topics of the six orders of the Mishna. In the Jerusalem Talmud and similarly in Maimonides' Mishne Torah, Tzedakah is discussed in *Zeraim: Peah* – "The Order of Seeds (plants): The Corner of the Field" as part of the agricultural laws since the Biblical laws stipulate certain portions (produce growing in corners of the field or all produce growing on the Sabbatical year) be set aside for the poor or percentages of the harvest (tithes every third year) be given to the poor. But the Babylonian Talmud has no discussion of the laws in *Zeraim* (except for *Brachot* Blessings over Eating etc) since the laws of agriculture and hence *Peah* etc apply only in Eretz Yisrael where the land is regarded as belonging to God and the Tzedakah percentages for the poor are perhaps a form of "rental payment" to God the landlord via God's human representatives – the poor as well as the priests and leviim. The Babylonian Talmud chooses to bring its discussion in *Nashim: Ketubot* – Women: Marriage Contracts and in *Baba Batra* – property rights and city taxes. The latter makes perfect sense, but not the former. But as it happens the Mishna of Ketubot mentions the family's obligation to support a new bride along with the community's obligation to support orphan brides, so that becomes a technical hook for the treatment for tzedakah.

What does this family law context add to our categorization of tzedakah? That is an open question about which one can only speculate.^{vi} One intuition is that the poor – classically, the orphan, widow and stranger (resident alien) – have no family to take care of them. So we, the Jewish brotherhood, the extended ethnic family, step in as the next of kin to redeem them. In fact, if the ideal Jewish form of help is (as Maimonides makes explicit) transforming the helpless into the self-sufficient, then the ideal for the family-less is to help them marry and establish their own unit of mutual caring and sharing. If the first example of serving human needs and fixing a broken world was God's finding partner for the loneliness of the Adam, then Ketubot is an appropriate place to locate a discussion of supplying human needs.

^{vii} **Tripartite Breakdown of the Mishna:**

Opening part: A parent – probably the father in a patriarchal society – who has agreed to provide something (unspecified – *stam*) for his daughter's marriage should give her at least 50 zuz (probably for clothing – either for the marriage ceremony or a wardrobe for the first year of marriage).

(In the Mishna on TB Ketubot 64b we learn that 50 zuz was the minimum clothing allowance of a husband for his wife for a year. Generally clothing was purchased or made at Rosh HaShanah for winter use and the summer fashion for the poor was to cut down and redesign the used winter clothes for summer use. In Kiddushin 30b and TB Ketubot 52b we hear that fathers were obligated to marry off their daughters not in the sense that they forced them to marry or chose the husband but that they made the daughters attractive “catches” by “giving them property and clothing so people will jump on them.”)

Middle part: However if the father agreed to the marriage arrangements yet explicitly stipulated that no clothing allowance would be given (that she will enter “naked” without a clothing dowry), then the responsibility falls to the husband to provide clothing even before she comes to reside in his house. The husband cannot legally claim that his responsibility for clothing his wife (a standard in the Ketubah) shall begin only when she moves in.

Last part.: In the case of the orphaned bride, the community’s is also 50 zuz (similar to the minimal amount of the father-cum-husband’s financial responsibility to the marrying woman’s wardrobe). In fact if there are sufficient funds available (for the Tzedakah fund or the individual donor, then it she should be supported *according to her social status* (probably the standing of her family prior to the death of the parent or unrelated to the present financial situation created by the death of the parent).

^{viii} Gradually the justice system replaces the blood avenger in a series of stages where the interim situation described in Numbers is the city of refuge that protects perpetrators of accidental death and evaluates their culpability for allegedly intentional murder before handing them over to the blood avenger or at least expelling them from the city of refuge. Eventually Jewish society dropped the legal role of the blood avenger as well as the notion that collective punishment of children for the sins of their fathers (Deuteronomy 24:16; Ezekiel 18:20). Then each individual was to be judged and punished as an individual by the society, not by the brother redeemer

^{ix} In *Yoman shel Hodu* p. 87- 93, Azriel Carlebach, editor of the newspaper Maariv, describes a debate he supposedly held with Indian intellectuals in the 1950s about the relative progress embodied in the socialized system in Israel. The Indian insisted that the caste system takes care of each individual and their needs much better than any anonymous cold bureaucratic system of dispersal.

^x In Imperial Roman Christian Empire Constantine opposed the exposure of unwanted children or children the parents could not support. He encouraged and supported church efforts to care for orphans, for it is repugnant “to leave some to perish with hunger and others to turn to crime” (Codex Theodosius XI 27,1.12 cited in Herbert Mayer, *Charity in the Western Empire* (PhD. Washington University, 1973), p.223)

^{xi} Analyzed in Book One of this trilogy Chapter #10

^{xii} See the medieval Talmud commentary Shiltei Giborim on the Rav Alfasi.

^{xiii} Some halakhic authorities say that the father may not be coerced to give a *nedunya*. (Rav Y’hi’el Mikhel HaLevi Epstein, Arukh HaShulkan Even HaEzer, Kiddushin 58).

^{xiv} TB Ketubot 52b; TB Kiddushin 30b

^{xv} TB Ketubot 64b, 67b; Maimonides, Laws of Marriage 13:5

^{xvi} See Rav Y’hi’el Mikhel HaLevi Epstein, Arukh HaShulkan Even HaEzer, Kiddushin 58

^{xvii} In Babylonia in the Muslim era all private contributions made at the holy graves of the Biblical Prophet Daniel, traditionally thought to be buried in Babylonia, were set aside for marrying off orphans, supporting poor students or fixing synagogues. In addition the support for orphans or the burial of the indigent were covered directly by the communal *kuppah* of tzedakah. (Yehuda Bergman, *Hatzedakah B’Yisrael*, 42-44).

^{xviii} Or Zarua, Laws of Tzedakah #9

^{xix} Samuel Raphael Hirsch, *The Pentateuch*, translated by Isaac Levy, commentary on Deut. 15:8.

^{xx} Lori Lefkowitz, *Valuing Giving: The Book of Ruth* by, Kolot, 49

^{xxi} Yedidot Aharonot newspaper, May 21, 2010.

^{xxii} TB Kiddushin 32b; see TJ Kiddushin; Maimonides, Book of Judges, Laws of Rebels 6:3

^{xxiii} Mark Cohen, *Poverty and Charity in the Jewish Community of Medieval Egypt*, p. 190-191

^{xxiv} The West German Basic Law of 1949 devotes an entire Article to the protection in principle of family relationships: ARTICLE 6.

(1) Marriage and family shall enjoy the special protection of the state.

(2) The care and upbringing of children are a natural right of, and a duty primarily incumbent on, the parents. The national community shall watch over their endeavors in this respect.

(3) Children may not be separated from their families against the will of the persons entitled to bring them up, except pursuant to a law, if those so entitled fail or the children are otherwise threatened with neglect.

(4) Every mother shall be entitled to the protection and care of the community.

(5) Illegitimate children shall be provided by legislation with the same opportunities for their physical and spiritual development and their place in society as are enjoyed by legitimate children.

^{xxv} However the demise of the family is already foreseen by Adam Smith. "In commercial countries, Where the authority of law is always perfectly sufficient to protect the meanest man in the state, the descendants of the same family, having no such motive for keeping together, naturally separate and disperse, as interest or inclination may direct. They soon cease to be of importance to one another; and, in a few generations, not only lose all care about one another, but all remembrance of their common origin, and of the connection which took place among their ancestors." (Adam Smith, *Theory of Moral Sentiments* VI.ii.I.13).

^{xxvi} Alexis de Tocqueville, *The Old Regime and the French Revolution*, xiii

^{xxvii} AFLA (1981) is a Congressional act to support pregnant teenagers and adolescent parents.

^{xxviii} Daniel Goodin, *Social Welfare and Individual Responsibility*, 136, see also 43 Elizabeth Poor Laws I, C 2, # 7; French *Code civil* # 205, #26, Daniel Goodin, *Reasons for Welfare*, pp. 341-349

^{xxix} Daniel Goodin, *Reasons for Welfare*, pp. 341-349

^{xxx} Robert Goodin, *Social Welfare and Individual Responsibility: For and Against*

^{xxxi} In a debate between Maimonides and the Rabad, **the question of an adult child's care for a mentally deranged parent was debated, for the child might not be handle the burden respectfully.**

"If one's father or mother should become mentally disordered, one should try to treat them as their mental state demands, until they are pitied by God. But if he finds he cannot endure the situation because of their extreme madness, let him leave and go away, appointing others to care for them properly." (Maimonides, *Laws of Rebels* 6:10)

However **Rabbi David of Provence** responded: "This is an incorrect teaching. If he leaves, whom will he assign to supervise the well-being of his parents?"

^{xxxii} Susan Moller Okin, *Justice, Gender and the Family*, 18,22

^{xxxiii} Okin, *Justice, Gender and the Family*, 4

^{xxxiv} Stephen Pope, "Poverty and Natural Law," 270

^{xxxv} Aquinas, *Summa Theologica* II-II, Q 66 A7

^{xxxvi} Adam Smith, *Two Treatises* I 4.42

^{xxxvii} Samuel Fleischacker, *A Short History of Distributive Justice*, 26

^{xxxviii} Thomas Reid, *Active Powers*, 1788, 423-424

^{xxxix} Fleischacker, *A Short History of Distributive Justice*, 142, disagrees with D. D. Raphael who takes Thomas Reid to be an anticipation of modern arguments for the justice of the welfare state in *Concepts of Justice*, p. 236. However Samuel Fleischacker counters: "While it might be useful to employ Reid's analogy today to clarify or defend what we call distributive justice, Reid himself clearly means to defend **nothing more** than the traditional right of necessity (this is especially clear when the passage is read in context, which argues for other, classically accepted features of the natural law account of property rights)." I think Fleischacker may be understating the implications of Reid's terminological innovation because it does not stimulate a societal revolution in the conception of distributive justice as in the French Revolution. But it is language of rights and justice though not of equality and it refers to ongoing aid for the needy -0 not sporadic emergency rights to "steal.."

^{xl} D. D. Raphael takes Thomas Reid to be an anticipation of modern arguments for the justice of the welfare state in *Concepts of Justice*, 236. However Samuel Fleischacker counters: "While it might be useful to employ Reid's analogy today to clarify or defend what we call distributive justice, Reid himself clearly means to defend **nothing more** than the traditional right of necessity (this is especially clear when the passage is read in context, which argues for other, classically accepted features of the natural law account of property rights)." (Samuel Fleischacker, *A Short History of Distributive Justice*, 142). However the language used by Reid in this passage does not support Fleischacker's disclaimer, even if other passages in Reid do. This one plants a radical seed even if not fully developed.

^{xli} In a homily (Exodus Rabbah 45) God shows Moses all the treasures prepared in Heaven for the righteous and telling him that the most valuable treasure is reserved for those who bring up orphans.

^{xlii} Rav Eliezer Waldenberg, *Tzitz Eliezer*, Responsa 9 #1:2

^{xliii} The *Apostolic Constitutions* (4.1-2, SC 329, 170-172) encouraged the church to train orphans in a trade and to help girls find a husband. But also supported consecrated virgins and elderly widows so that they need not marry or remarry for reasons of greater spirituality. (Richard Finn, *Almsgiving in the Later Roman Empire* (313-450), 70-72).

^{xliv} The 20th C. Hafetz Hayim sums up the Rabbinic tradition that: "To pay from the poor tithe for one's own children's education is prohibited for one is obligated to teach one's own children or hire a

teacher” (*Ahavat Hesed*, Chapter 19). However it is permissible to use the tithe to help the poor learn Torah or a profession and learning a profession is very important for then they can support themselves. Therefore Rabbi Moshe Feinstein and Shlomo Auerbach rule that that portion of school tuition used to subsidize children without financial means may be treated as part of the poor tithe” (Yehiel Domb, *Ma’asser Kesafim*, 87)

^{xlv} Ibid., p. 464

^{xlvi} cited in Vol. A Simcha Asaf, *Mekorot L'Toldot Hahinuch B'Yisrael*, edited by Shmuel Glick, 286

^{xlvii} “The cantor shall not recite a personal blessing (*mishebeirakh*) for one who received an aliyah to the Torah until they make a commitment to contribute to the [funds designated for] visiting [and caring for] the sick and for Talmud Torah [education]” Takkanot of the Community of Polish Jews in Amsterdam (1672) Vol. A Simcha Asaf, *Mekorot L'Toldot Hahinuch B'Yisrael*, edited by Shmuel Glick, 416

^{xlviii} Jerry Muller, *Capitalism and the Jews*, 88-93

^{xlix} One social welfare program called “Homebuilders” has sought to keep as many children in their homes as possible since foster care is not only more expensive but often less effective for raising a child. However, the families need special aid and training to be good parents through the provision of round the clock help and supervision, whether by social workers or good neighbors. (Edgar Cahn, *No More Throw Away People*, 135-136) Tanya Zion-Waldoks, a gender studies expert, comments: “Though it is hard to argue with the need to support families with fewer resources, one might question the class-based assumptions behind some of these programs which link the quality of one’s parenting directly to one’s financial resources. It is questionable whether rich parents can always be trusted to do a better job raising future generations than poor parents who need to be reeducated and supervised. This bias seems to be based on a cultural assumption that their poverty itself is proof that the parents are flawed in their character, values, or decision-making ability. These pitfalls seem to be circumvented by the rabbinic model, which clearly lays out the educational duties of all parents, focusing on the children of the poor or the orphans only to enable them to have equal access to educational resources.”

^l Edgar Cahn, 119- 123.

^{li} See Maimonides, Laws of Poor 7:3-4 and Sefer HaHinukh #479

^{lii} Nancy Fraser, a political ethicist, writes:

“In late-capitalist, welfare-state societies, **talk about people’s needs is an important species of political discourse**..... We argue about what exactly various groups of people really do need and about who should have the last word in such matters. In all of these cases, **needs-talk functions as a medium for the making and contesting of political claims**.”

The first [moment] is the struggle to establish or deny the political status of a given need, that is, the struggle to validate the need as a matter of legitimate political concern or to enclave it as a nonpolitical matter. The second is the struggle over the interpretation of the need, the struggle for the power to define it and, so, to determine what would satisfy it. The third moment is the struggle over the satisfaction of the need, that is, the struggle to secure or withhold the provision.

(Nancy Fraser, “Talking about Need: Interpretive Contests as Political Conflicts in Welfare-State Societies,” in *Ethics* (99, no. 2 (Jan. 1989) 291-292) cited in Darryl Trimiew, *God Bless the Child That’s Got Its Own: The Economic Rights Debate* (AAR #89). 285-286

^{liii} “Given the body’s natural tendency to jumble together its needs, wants, preferences, urges, biases, overreactions, and personal tastes into one raucous sensory shout, we can best wisely distinguish and perceive what are truly needs if we begin with some idea of what the word need actually means. ‘Need’ can be a noun, an adverb, or a verb, all synonymous with some variant of “lack.” Its broad meaning is “distress, force, necessity.” It may derive from the Old English root meaning corpse, and the Old Norse meaning “to be exhausted.”

The noun can mean a want of something that is required, desired, or useful; a physiological or psychological requirement for maintenance of the **homeostasis** of an organism; a condition requiring supply or relief; or want of the means of subsistence.” (Susan Holman, *God knows there’s need: Christian Responses to Poverty* (2009), 26)

^{liv} In the 19th C or earlier tzedakah associations supported rents for the poor’s housing (Yehuda Bergman, *HaTzedakah B’Yisrael*, 124). In 19th Germany the community opened service agencies to find the unemployed a job. (Yehuda Bergman, *HaTzedakah B’Yisrael*, 128)

^{lv} In Judges 18:7,10 describes a desirable area for colonization as lacking in nothing. In Judges 19:19-20 the Ephraimite insists he will not be a burdensome guest in Givah for he has all lacks fulfilled by his supplies of food, water, fodder. Anyway his host offers to supply every want. See also Proverbs 21:5.

^{lvi} Rabbenu Yaacov Baal HaTurim: “The measure of giving is to give according to the needs of poor in so far as one can. How much does one give? ‘*dei mahsoro asher yechsar lo*’ – ‘Sufficient for one’s needs in what are one’s own needs’ (Deuteronomy 15).

How so? If one is hungry, feed that one; if naked, dress that one; if they need household utensils, buy them for that one; even if that one is used to a horse to rise on and a slave to run before one – a rich person who became poor – then buy a horse and hire a slave. **So to each and everyone according to their individual need.**” (Tur Yoreh Deah, 249)

Rabbi Yoel Sirkus adds: “If one is not used to bread and dough but requests **money so that one can buy the kind of food one wants**, then give him the money for it says in the Torah ‘*yechsar lo*’ – ‘Sufficient for ... one’s own needs (Deuteronomy 15:8).

^{lvii} Susan Holman, *The Hungry are Dying: Beggars and Bishops in Roman Capadocia* (2001), 5-6

^{lviii} Richard Finn, *Almsgiving in the Later Roman Empire* (313-450), 19

^{lix} *How the original meaning of Deuteronomy 15:8 was transformed by the Rabbinic midrash?*

Deuteronomy 15:8 is the place to start with the full context:

- a. giving interest free loans, not donations
- b. helping out for general needs, not for marriage as such
- c. helping all needy not necessarily orphans
- d. the background fear of those asked to make loans that the recipients will delay until the Sabbatical year when all loans are cancelled
- e. the rhetorical style of the law that recognizes and then seeks to overcome human reticence about opening one’s hand and releasing one’s funds for the other.

As in many Midrashim the superfluous phrases arouse interest and the Midrash both seeks to give meaning to that literary anomaly and to use the authority of the verse to give legitimacy to the point already in mind. However the Midrash is also in dialogue with the larger context of the verses.

The problematic phrase is the repetitious use of the root *mahsor* (lack) and of the reference *lo* (to him). The **Midrash Halakha** arbitrarily breaks it up into phrases to justify its preexistent list of basic needs – house, bed, table. Its reading of *lo* from **Deuteronomy 15:8 in light of Genesis 2:18 transforms both texts** beautifully. Economic needs in Deuteronomy become emotional existential ones as well, for example, providing free dating service. Emotional needs in Genesis are taken out of Gan Eden and transferred to a society where marriage presupposes basic economic resources for privacy, intimacy and dignity. Helping one’s fellow citizen in Deuteronomy becomes imitation of Divine love and care. Thus Midrash by playing loosely / creatively / associatively with the original contexts creates an intertextual context that gives great depth and radically expands our notion of human needs and Tzedakah responsibilities.

^{lx} Stephen Pope, “Poverty and Natural Law” in W. Galston, *Poverty and Morality*, 267

^{lxi} Stephen Pope, 269; Aquinas, *ST I-II*, 2-4

^{lxii} Stephen Pope, 269; Aquinas, *ST II-II*, 32, 5,6

^{lxiii} Yusuf al-Qardawi, *Zakat*, 359 cites al-Bukhari, *Haslsiyat ar-Rawd al-Murbi*, I 400, *Sharh Kitab an-Nil wa Shift' al-Ail*, in *Ibadi jurisprudence II* 135

^{lxiv} Shulhan Arukh, Yoreh Deah 250:1 Rabbi Yosef Karo:

How much do we give to the poor? “*Sufficient for his need, whatever he lacks.*” How?

If he is hungry, feed him. If he needs clothes, dress him. He has no furniture, buy **furniture**. Even if when he was rich it was his custom to ride a horse with a slave running in front, but he became poor, buy him a horse and slave.

And similarly with each individual, according to what is necessary.

To one who can use bread, we give bread. [To one who can use] dough, we give dough. **A bed**, we give a bed. One who can use hot bread, hot; and cold bread, cold. [If he needs to be] spoon-fed, we spoon-feed.

If he has no wife, we get him married. We rent for him a **house** with a bed and furniture, and afterwards we provide a wedding.

^{lxv} The father of Bill Gates, founder of Microsoft, writes about the utility of marriage: “I have spent a lot of time thinking about women and their role in society. My first wife, Mary Maxwell Gates, was a force of nature. It seemed perfectly natural to me that she would become a community leader and a trailblazer as one of the first women ever invited onto corporate boards. I think my children also saw that when a man partners with a strong woman, everyone benefits.” (Bill Gates, Sr, Review of the book *Half the Sky*, 2010)

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- ^{lxvi} Moshe Halbertal suggests that the term *Tikkun Olam* is first used in Rabbinic literature to refer to the civilizational mission to propagate and settle the world (Mishna Gittin 4:5). That is how the Rabbis understand God's partnership with human beings in filling the world with the image of God. The Mishna cites Isaiah 45:18 which links God's concern for procreation to the desire to settle an otherwise uninhabited and uncivilized world. (Lecture by Moshe Halbertal at Hartman Institute Rabbinic Seminar, summer 2009)
- ^{lxvii} In Jerusalem Ketubot 5:8 and TB Ketubot 62b a husband is obligated not only to supply food for his wife but to eat with her at least once a week on Friday night.
- ^{lxviii} Maimonides, Mishne Torah, Laws of Marriage 4:1
- ^{lxix} Exodus 21:7-11
- ^{lxx} Maimonides, Mishne Torah, Laws of Marriage 3:19
- ^{lxxi} Maimonides, Mishne Torah, Laws of Marriage 3:19
- ^{lxxii} Arukh HaShulkhan O.H. Yom Kippur 613:10
- ^{lxxiii} Maimonides, Mishne Torah, Laws of Marriage 13:4
- ^{lxxiv} David Shipler, *The Working Poor*, 11
- ^{lxxv} Abraham Cronbach, "Social Action in Jewish Lithuania," HUC Annual 23 (1951), part two, 593ff. The Lithuanian Council also provided for refugees in a systematic way. Refugees from the 1648 uprising of Cossacks were distributed by the council to be taken in by each Jewish town – one refugee per ten adult householders.
- ^{lxxvi} Kathleen Stassen Berger *The Developing Person through the Life Span*, 44, cited in Wikipedia
- ^{lxxvii} "The Welfare Society", by Avishai Margalit, in *The Decent Society* p. 229
- ^{lxxviii} Leviticus Rabbah 34.6; Midrash Proverbs 22.29 etc
- ^{lxxix} Later the original Menorat HaMaor was plagiarized without credit and reworked by Rabbi Isaac Aboav in his own work of the same name (late 14th C. Spain)
- ^{lxxx} Al-Nakawa cites as his proof text, Mar Zutra [or Mar Ukba] who says that when the nations take our money by force, then it counts as tzedakah, as if we had contributed the shekel of atonement for our soul to the Temple (TB Baba Batra 9a).
More fully Al-Nakawa writes: "When trouble and tribulation come upon a human being in this world, yet one accepts it with a welcoming countenance and justifies [God's] judgment; and when one is exploited [*nagas* also means to exact payment mercilessly],.... then it counts as tzedakah."
- ^{lxxxii} Igrot Moshe Hoshen Mishpat B 66
- ^{lxxxiii} Responsa Yabia Omer Part 8: Hoshen Mishpat #12
- ^{lxxxiiii} Responsa of Tzitz Eliezer Part 11 #41. Thanks to Debbie Koren for her collection of sources and teaching on this subject.