

THE LAWS OF TZEDAKAH AND MAASER

Source Materials
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SOURCES

Torah

①

(i) Abraham gave Malkizedek one-tenth of all his possessions.

ויתן לו מעשר מכל: (רש"י מכל אשר לו לפי שהיה כהן). (בראשית י"ד כ)

And he gave him one-tenth of all (Rashi: of all his possessions since he (Malkizedek) was a Cohen). (Genesis 14:20)

פרקי דר' אליעזר פרק כ"ז

②

ר' יהושע בן קרחא אומר אברהם התחיל ראשון לעשר בעולם לקח כל מעשר סדום ועמורה וכל מעשר לוט בן אחיו ונתן לשם בן נח שנאמר ויתן לו מעשר מכל.

Pirkei d'Rabbi Eliezer Chapter 27

R. Yehoshua ben Korchah says "Abraham was the first in the world to (give a) tithe. He took all the maaser of Sedom and Amorah and all the maaser of Lot his nephew and gave them to Shem the son of Noah, as it is written "And he gave him a tenth of all."

③

(ii) Jacob vowed to give one-tenth of all his acquisitions to the Almighty.

וכל אשר תתן לי עשר אעשרנו לך: (בראשית כ"ח כ"ב)

And all that You give me I shall definitely tithe for You.

④

דעת זקנים מבעלי התוספות על התורה

וכל אשר תתן לי. מדרש יעקב תקן לתת מעשר מן הממון.

Baalei Tosafoth on the Torah

The Midrash states: Jacob ordained that tithes should be given from money.

(iii) The word כל is also used in Deuteronomy in reference to agricultural tithes, and is interpreted by the Rabbis as having wider significance. (See below Sec. c (i).)

עשר תעשר את כל תבואת זרעך... (דברים י"ד כ"ב)

You shall definitely tithe all your agricultural produce. (Deuteronomy 14:22)

Neviim and Kethuim

⑤

(i) הביאו את כל המעשר אל בית האוצר... (מלאכי ג' י)

(i) *Bring all your tithes to the storehouse.*

The Sefer Chassidim (Section 144) observes that this refers to giving the poor one-tenth of all one earns. Rabbi Reuven Margulies in his commentary explains, "In the time of Malachi, who is identified with Ezra, there was no Torah obligation to bring agricultural tithes, and this verse is therefore interpreted as referring to maaser kesafim." (See also p. 135.)

⑥

(ii) כבוד את ה' מהונך ומראשית כל תבואתך. (משלי ג' ט)

(ii) *Give honor to the Eternal from your possessions and from the first fruits of all your produce. (Proverbs 3:9)*

c) *Talmud and Midrash*

(i) *Sifrei*, quoted by *Tosafoth* (*Taanith* 9a) but not appearing in our versions:

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וא"ר יוחנן מאי דכתיב עשר תעשר, עשר בשביל שתתעשר: תוספות בד"ה עשר תעשר: הכי איתא בספרי עשר תעשר את כל תבואת זרעך היוצא השדה שנה שנה. אין לי אלא תבואת זרעך שחייב במעשר. רבית ופרקמטיא וכל שאר רווחים מנין ת"ל את כל דהוה מצי למימר את תבואתך. מאי כל לרבות רבית ופרקמטיא וכל דבר שמרויח בו: (i) *Rabbi Yochanan stated: "What is the significance of the two words Aser T'aser, tithe so that you may acquire wealth (Titasher)". Tosafoth s.v. Aser T'aser: The following is to be found in Sifrei: "You shall definitely tithe all your agricultural produce which comes forth in the field every year." From this we could deduce only that agricultural produce must be tithed. How can we deduce that it applies to loan interest, trading and all other profits? From the word 'all'; for the verse could have stated "your agricultural produce". What is the significance of 'all'? To include loan interest, trading and all other profits.*

(ii) *Tanchuma* ראה את י"ח. עשר בשביל שתתעשר, עשר שלא תתחסר. רמו [ג' הילקוט: לפרגמוטוטין ו.] למפרשי ימים להוציא אחד מעשרה לעמלי תורה:

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(ii) *Midrash Tanchuma: Aser T'aser, tithe so that you may become wealthy, tithe so that you should not be short. This is an indication to [businessmen and] those who go overseas to trade that they should separate one-tenth (of their earnings) for those who labor in Torah.*

TALMUD KESUBAS (50a) ט"ז כ"ג (נ)

The Gemara cites and discusses a third decree from Usha cited by R' Il'a:

[The Sages] – באושא התקינו – R' Il'a said: – אמר רבי אילעא enacted in Usha – המכובז אל יבזבז יותר מחומש – that one who lavishes money on charity should not lavish more than a fifth of it.¹⁴

The Gemara offers support for this ruling: It was also taught thus in a Baraisa: – תניא נמי הכי – המכובז אל יבזבז יותר מחומש – ONE WHO LAVISHES money on charity SHOULD NOT LAVISH MORE THAN A FIFTH of it, – שמתא יצטרף לבריות – LEST HE BECOME DEPENDENT ON PEOPLE for his support. – ומעשה – AND there was AN INCIDENT INVOLVING ONE individual WHO SOUGHT TO LAVISH MORE THAN ONE FIFTH of his wealth, – ולא הניח לו חבירו – AND HIS COLLEAGUE DID NOT ALLOW HIM to do so.

The Gemara identifies this "colleague": – And who was he? – R' Yesheivav. – רבי יששב – R' Yesheivav.

Another version of this incident: – It was R' Yesheivav who wanted to lavish more than a fifth of his wealth, – and his colleague did not allow him. – ולא הניחו חבירו – And who is [this colleague]? – R' Akiva. – רבי עקיבא – R' Akiva.

The Gemara now seeks a Scriptural allusion to the "one-fifth" figure with respect to on donations:

– Rav Nachman, and some say it was Rav Acha bar Yaakov, said: – מאי קרא – What is the verse that alludes to this law?¹⁵ – וכל אשר תתן לי עשר – Scripture states:¹⁶ – *and all that You will give me, tithe, I shall tithe it to You.* The repetition of the word "tithe" implies that two tithes may be dispersed, for a total of a fifth.

The Gemara objects: – וקא לא דמי עישורא בתרא לעישורא קמא – But the last tithe is not identical to the first tithe, because some of the principle is already gone!¹⁷ – ? –

The Gemara answers: – Rav Ashi said: – *I shall tithe "it"* – אמר רב אשי implies that – לבתרא בי קמא – the last tithe should be like the first tithe.¹⁸

Mar Ukva's final act of charity:
 אמר איתו לי - When [Mar Ukva] was dying, כי קא ניקא נפשיה
 חושבנאי דצדקה - he said, "Bring me my charity records."
 אשכח אלפי - He found written therein שבעת אלפי
 דינרי סיאנקי - that he had given seven thousand Siyankian
 דנארי קלילי ואורקא - [Mar Ukva] remarked, אמר -
 "My provisions are light and the way is long."^[47]
 קם בובויה לפלגיה ממוניה - He went ahead and lavished half his
 assets on charity.^[48]

מקור (30)
 10 TALMUD
 RESUBUS

The Gemara asks:
 והאמר רבי - How was he permitted to do so? היכי עבדו הקי
 באושא התקינו - In Usha באושא התקינו - Why, R' Il'ai has said:^[49]
 התקינו אל יבזבז יותר מחומש - one who
 lavishes money on charity should not lavish more than a fifth
 of his assets upon it. - ? -

The Gemara answers:
 שמה ירד - That pertains only during one's life, הגי מילי מחיים
 מנכסי - lest he give too much charity and become bereft of his
 possessions. אבל לאחר מיתה - But if one wishes to make a
 charitable contribution that will take effect after his death, when
 such a concern no longer exists, לית לן בה - we have no
 objection to it (his giving more than a fifth).^[50]

11 שוחר ארוח
 SHUCHAN
 ARUCH

א [א] * שיעור נתינתה אם ירו משגת יתן א כפי
 צורך העניים ואם אין ירו משגת כל כך יתן
 עד חומש נכסיו מצוה מן המובחר [ב] ואחר מעשרה
 מדה בינונית פחות מכאן עין רעה ב [ג] וחומש
 זה [ה] שאמרו שנה ראשונה מהקרן מכאן ואילך
 חומש [א] שהרויח בכל שנה :
 הגה ד ואל יבזבז אדם יותר מחומש שלא יטעך לכריות [כ"י] בשם הנמ'
 פ' נערה שנתפחה ודוקא כל ימי חייו אבל בשעת מותו יכול
 אדם ליתן צדקה כל מה שירצה [כ"ז] שם פ' מילואה האשה ה ומייתי לה
 רי"ף ורש"ש ור"ן ומרדכי ג [ד] * ואין לעשות ממעשר שלו דבר
 [ב] [ב] מזה [ג] כגון נרות לבית הכנסת או שאר דבר מזה [א] רק
 יתנו לעניים (מהרי"ל הל' ראש השנה) :

DETAILS RELATING TO PROFUSE SPENDING
 ON CHARITY

According to the Gemara (Kethuvoth 50a), the Sages in Usha in-
 stituted that the profuse spender on charity should not distribute
 more than a fifth, lest he thereby later become dependent on public
 support. This admonition does not refer to the extremely wealthy
 person, according to the authorities, since he was expressly excluded
 from the ordinance. (See: Bava Kamma 9b, Tosafoth s.v. *Ilema*;
 also, *Chochmath Adam*, Laws of Charity.) Nor does it include the
 critically ill who makes a distribution immediately prior to his death.
 The reservation that he might become dependent on charity does not
 apply; therefore, he may give away a larger amount. (In his note on
 Yoreh Deah, Chap. 249, Par. 1, Rama rules that such a person may
 dispose of as much as he wishes. (Cf. the later authorities who cite
 the opinion that such a person may give away one third or a half of
 his wealth, but not more.) The Gemara relates of Mar Ukva
 (Kethuvoth 67b) that he reviewed the sums he had distributed in his
 lifetime, and remarked, "The way is long and the provisions scanty."
 He thereupon allocated one half of his possessions to charity.

12 AHAVAS
 CHESED
 (2:20)

Some authorities declare that the rule, "the generous giver shall not give away more than a fifth," only applies when the donor seeks, of his own volition, to find needy people and to distribute charity among them. When, however, hungry and bare individuals approach him, whom he is duty bound to feed and clothe as the Torah requires (Deut. 15.8): "Sufficient for his needs in which he is lacking," or, if

he were to encounter captives to whom the Divinely ordained obligation to redeem applies, then, if he wished to spend more than a fifth of his capital for this purpose, he is permitted, and this is deemed a saintly characteristic (Rambam: Mishnah Commentary, *Peah*, Chap. 1). Apparently the limitation does not apply where danger to life is involved. If, for instance, the captive is in danger of his life or the hungry of starving to death, then the limit of one fifth is inoperative. The Gemara (Bava Metzia 62a) only lays down that one's own life takes priority over his neighbor's; we have found no source to indicate that one's wealth takes precedence over his neighbor's life.

Know, too, that the injunction limiting one's spending to one fifth only applies when one squanders his possessions. This is indicated by the term *mevazbez*. Where a person holds a steady position or owns a going concern from which he derives his weekly sustenance and a little more besides, he is allowed to spend the extra income on charity even if, proportionately, this amounts to more than one fifth of his earnings.

PSALMS
 (ה'א"י) (כ"ז: כו)
 13 74: 21

אל-יִשָׁב דָּךְ נִכְלָם עֵינַי וְאֶבְיוֹן יִהְיֶה לִּי שְׁמִי: קוֹמָה
 אֱלֹהִים רִיבָה רִיבָה זָכֹר חֲרַפְתָּךְ מִנֵּי-נֹכַח כָּל-הַיּוֹם: אֶל-תִּשְׁפַח קוֹל
 צַרְרֶיךָ שְׁאוֹן קְמוּיָה עֲלֵה תְּמִיד:

²¹ Let not the oppressed turn back in shame, * let the poor and destitute praise Your Name. ²² Arise, O God, champion Your cause! Remember Your disgrace from the degenerate all day long. ²³ Forget not the voice of your enemies, the tumult of Your opponents which always rises.

SHULCHAN ARUCH (14) וַיִּזְכֹּר יְיָ אֱלֹהֵינוּ (מ"ג: 3)

ד' [ז] אם שאל לו העני ואין לו מה יתן לו לא יגער בו ויגביה קולו עליו אלא יפייסנו בדברים ויראה לבו הטוב שרצונו ליתן לו אלא שאין ידו משגת :
 הגה ואסור להחזיר העני השואל ריקס אפילו אין נותן לו רק גרונת אסת שנאמר אל ישוג דך נכלם (לשון ספור לקמן סי' ר"ן בשם הרמב"ם) :

15

Actual Presence or Knowledge – What Is Required?

Another important aspect of *aniyei kamai* — poor people “in front of you” — is whether or not the indigent himself actually has to be present, or is *knowledge* of an indigent sufficient to be categorized as “in front of you”? The consensus of the *Poskim* is that just the knowledge of an indigent needing money would obligate one in the mitzvah of *tzedakah*.^[21]

Therefore, one who receives validated letters requesting help for a poor person would be obligated to contribute *tzedakah* to that individual since *knowing* about his plight suffices to obligate the potential donor.^[22]

By sending letters the impoverished person is publicizing his plight. Therefore, one would only be obligated to contribute *towards* his needs but not provide the entire amount, as previously established.

However, he is only obligated if he has not yet given the amount of *tzedakah* he intended. Once he has donated one-fifth of his money he no longer is obligated.

אל' בס' פ' ק' (16)

TALMUD
PESACHIM
(112a)

The Gemara cites the final clause of the Mishnah which states: 'וְאִפְלוּ מִן הַתְּמָחָי וְכוּ' — AND EVEN IF HE IS SUPPORTED FROM THE charity PLATTER etc. [he is obligated to fulfill the mitzvah of drinking the Four Cups].

The Gemara asks: פְּשִׁטָּא — It is obvious that the mitzvos pertain to all Jews. Why does the Mishnah have to state that the mitzvah of the Four Cups pertains even to one who is supported by the charity plate?

The Gemara answers: לֹא נִדְרָכָא אֲלָא אִפְלוּ לְרַבִּי עֲקִיבָא דְאָמַר — This part of the Mishnah was needed only to inform us that the ruling applies even according to R' Akiva, for [R' Akiva] said, עֲשֵׂה שְׁבִתְךָ חוּל וְאֵל תִּצְטַרֵךְ — “Treat your Sabbath as a weekday, but do not be dependent upon people for aid.”^[19] הֲכָא מְשׁוּם פְּרִסּוּמֵי נִסָּא מוֹדִי — Here, because of the importance of publicizing the miracle of the redemption from Egypt, [R' Akiva] concedes that one must resort even to charity to fulfill the mitzvah of the Four Cups.

The Gemara cites a Baraisa regarding R' Akiva's ruling: תִּנָּא דְבֵי אֱלִיָּהוּ — A Baraisa was taught in the academy of Eliyahu.^[20] אָף עַל פִּי שְׂאֲמַר רַבִּי עֲקִיבָא עֲשֵׂה שְׁבִתְךָ חוּל וְאֵל תִּצְטַרֵךְ — EVEN THOUGH R' AKIVA SAID “TREAT YOUR SABBATH AS A WEEKDAY, BUT DO NOT BE DEPENDENT UPON PEOPLE for aid,” אָבָל עֲשֵׂה הוּא דְכָר מוֹנֵעַ בְּתוֹךְ בֵּיתוֹ — HE SHOULD, HOWEVER, MAKE A SMALL [DISH] IN HIS HOUSE in honor of the Sabbath.^[21]

יח לעולם ידחוק אדם עצמו ויתגלגל בצער ואל יצטרך לבריות ואל ישליך אדם עצמו על הצבור. וכן צוו חכמים ואמרו עשה שבתך חול ואל תצטרך לבריות. ואפילו היה חכם ומכובד והעני יעסוק באומנות ואפילו באומנות מנוולת ולא יצטרך לבריות. מוטב לפשוט עורות הנבלות בשוק

ולא יאמר לעם חכם אני וגדול אני וכהן אני פרנסוני. ובכך צוו חכמים : גדולי החכמים היו מהם חוטבי עצים ונושאי הקורות ושואבי מים לגנות ועושין הברזל והפחמים ולא שאלו מן הצבור ולא קיבלו מהם כשנתנו להם :

כִּי־יְהִיֶה֩ בְךָ֨ אֶבְיֹ֜ן מֵאֶחָ֜ד אֶחֱיֶ֗יךָ בְּאֶחָ֜ד שְׁעָרֶיךָ בְּאַרְצֶ֑ךָ אֲשֶׁר־יִהְיֶה֩ אֵלֶיךָ֨ גִתּוֹ לָךְ לֹא תֹאמַ֜ר אֶת־לִבְּךָ וְלֹא תִקְפֹּץ אֶת־יָדְךָ מֵאֶחֱיֶ֑יךָ הָאֶבְיֹ֜ן: כִּי־פָתַח֩ תִפְתַּח֩ אֶת־יָדְךָ לּוֹ וְהֶעֱבַט֩ תַעֲבִיטֶנּוּ הֲיִי מִחֹסְרוֹ֙ אֲשֶׁר יִחְסֹר֩ לּוֹ: הִשְׁמַר֩ לָךְ פֶּן־יִהְיֶה֩ דְבָר־עִם־לִבְּךָ בְּלִיעַל לֵאמֹר֩ קִרְבָּה שְׁנַת־הַשְּׂבַע֙ שְׁנַת־הַשְּׂמִטָּה וְרַעַה עֵינֶךָ בְּאֶחֱיֶ֑יךָ הָאֶבְיֹ֜ן

DEUTERONOMY (18) דברים (15:7) (15:16)

*7 If there shall be a destitute person among you, any of your brethren in any of your cities, in the Land that HASHEM, your God, gives you, you shall not harden your heart or close your hand against your destitute brother. 8 Rather, you shall open * your hand to him; you shall lend him his requirement, whatever is lacking to him. 9 Beware lest there be a lawless thought in your heart saying*

Priority List

Below is a list of the order of priority and each item will be explained as necessary.

1. The donor himself
2. Wife and small children
3. Rebbe who taught without taking payment
4. Parents
5. Grandparents
6. Young adult children
7. Rebbe who taught and was paid
8. Grandchildren
9. Brothers and sisters
10. Uncles and aunts — father's side
11. Uncles and aunts — mother's side
12. Cousins — father's side
13. Cousins — mother's side
14. Remaining relatives
15. Divorced spouse
16. Close friends
17. Neighbors
18. People from the same city
19. People living in Yerushalayim
20. People living in the rest of Eretz Yisrael
21. People living in other cities outside of Eretz Yisrael

(19)

יו"ט (20) יו"ט
 SHUCKAN
 ARUCH

ג' הנותן לבניו ובנותיו הגדולים ד שאינו חייב
 במוזנותיהם כדי ללמד את הבנים תורה ולהנהיג
 הבנות בדרך ישרה [ג] וכן הנותן מהנות
 ה' (ג) לאביו והם צריכים להם הרי זה בכלל צדקה
 [ד] ולא עוד אלא שצריך להקדימו לאחרים ואפילו
 אינו בנו ולא אביו אלא (ב) י קרובו צריך להקדימו
 לכל אדם ו' ואחיו מאביו קודם לאחיו מאמו ועניי
 ביתו קודמין לעניי עירו ועניי עירו ו קודמין לעניי
 עיר (ד) (ג) אחרת (כ"מ נכמ"ג וסמ"ק ועוד) :

הגה [ה] והקבועים בעיר קרובים עניי העיר והם קודמין לעניים
 אחרים הנאים לשם ממקומות אחרים (כ"מ דלא ככ"י נר ברך)
 (ד) ויושבי ארץ ישראל קודמין ליושבי חוצה לארץ;
 הגה [ו] פרנסת עמנו קודמה לכל אדם ואינו חייב לתת צדקה עד שיהיה
 לו פרנסתו והח"כ יקדים פרנסת בניו ואמו אם הם עניים והם
 קודמים לפרנסת בניו והח"כ בניו (ב) ו' והם קודמים לאחיו והם קודמין
 לשאר קרובים והקבועים קודמים לבניו ובניו לאנשי עירו ואנשי
 עירו לעיר אחרת והוא הדין אם היו שבוים וצריך לשדוקן (הכל בעור) :

G. Non-Relatives

Now we will list, and explain where necessary, the order of distributing *tzedakah* to poor people who are non-relatives.

1. The first priority in helping a poor person who is a non-relative is someone with whom one has a relationship.^[22]
2. One's neighbors.^[23]
3. A person from one's own town.^[24] The definition of such an individual is anybody who has lived there for one month.^[25] However, if one bought a house^[26] or intends to take up permanent residence there, he would also be considered as a resident of that town.^[27]
4. One who lives in Eretz Yisrael.^[28] Those who dwell in Yerushalayim take precedence over those who live in other cities in Eretz Yisrael.^[29] There is no difference between the old city and the new city of Yerushalayim.^[30]
5. Indigents from all other cities in the Diaspora.^[31]

(21)