Further Iyun

Giving Tzedaka – Who Gets Priority?

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With the multitude of *tzedaka* appeals, fundraising dinners, and headstart campaigns that we encounter on a daily basis, most people, even with the best of intentions, are simply unable to give *tzedaka* to everyone that requests it of them. There is a need to be selective and make a decision – when to give and when not to give. Indeed, Chazal set guidelines as to how to determine who takes precedence when it comes to giving *tzedaka*. This essay will explore whether those guidelines were meant to be an absolute requirement, or whether they merely outline a recommendation. Additionally, we will explore the precise nature of their application in contemporary society.

The Greatest Level of *Tzedaka*

When faced with the question of how to prioritize our giving of *tzedaka*, it would be prudent to begin with the question of what form of *tzedaka* would constitute the greatest fulfilment of the mitzva. Regarding this point we are faced with somewhat of a contradiction in the *Shulchan Aruch*. Throughout *Hilchot Tzedaka* (which spans *simanim* 247–259 in *Yoreh De'ah*) we find no less than four separate halachot that each seem to highlight a different suggestion as to the greatest form of *tzedaka*.

The ***Shulchan Aruch***[1] writes:

שמונה מעלות יש בצדקה, זו למעלה מזו: מעלה הגדולה שאין למעלה ממנה, המחזיק ביד ישראל המך ונותן לו מתנה, או הלואה, או עושה שותפות, או ממציא לו מלאכה כדי לחזק ידו שלא יצטרך לבריות ולא ישאל, ועל זה נאמר: והחזקת בו.

There are eight levels of *tzedaka*, each greater than the next. The highest level above which there is no greater one is one who supports an impoverished Jew and gives him a present or loan or partnership or provides him with employment in order to strengthen his hand that he should not be reliant on others and should not need to ask. About this it is written: "And you shall strengthen him."

The *Shulchan Aruch* codifies the eight levels of *tzedaka* as defined by the Rambam, in which the highest level is one who provides another with the ability to earn his own living, rather than remaining reliant on handouts from others.

1. *Shulchan Aruch, Yoreh De'ah* 249:6.

Later in the same *siman,*[2] the ***Shulchan Aruch*** writes that *gabbaei tzedaka* (those responsible for the *tzedaka* funds) should allocate their funds for the marriage of poor individuals, for there is no greater *tzedaka* than this.

In the very next halacha[3] the ***Shulchan Aruch*** writes:

יש מי שאומר שמצות בית הכנסת עדיפא ממצות צדקה, ומצות צדקה לנערים ללמוד תורה או לחולים עניים, עדיף ממצות בית הכנסת.

There are those who say that the mitzva of a *beit knesset* (synagogue)[4] is preferable to the mitzva of *tzedaka*. And the mitzva of giving *tzedaka* to youths learning Torah or to those who are sick and poor is preferable to the mitzva of [supporting] a *beit knesset*.

This halacha is comprised of two statements. The first (quoted in the name of some authorities) states that the mitzva of *beit knesset* takes priority over the mitzva of *tzedaka*. The second statement (which is agreed upon by all) indicates that certain forms of *tzedaka* would take priority even over the building of a *beit knesset*. We can thus extrapolate that these forms of *tzedaka* are indeed on a higher level than all others. While not stating so explicitly, the *Shulchan Aruch* has provided us with a third suggestion of the highest form of *tzedaka* – providing financial support to young people learning Torah or providing for the needs of the poor and sick.

Elsewhere,[5] the *Shulchan Aruch* discusses the mitzva of *pidyon shevuyim* (redeeming of captives). Although these halachot appear in a different *siman*, they still fall under the general title of *Hilchot Tzedaka* in the *Tur* and *Shulchan Aruch*, indicating that they too are part of the mitzva of *tzedaka*. The ***Shulchan Aruch*** implies here as well that this mitzva would be the greatest fulfilment of the mitzva of *tzedaka*:

ואין מצוה גדולה כפדיון שבויים.

There is no mitzva as great as the redeeming of captives.

How are we to resolve the seeming contradiction between these four sources?

One could suggest a distinction between the way in which *tzedaka* is given and to whom it is to be given. In the first halacha mentioned above, the *Shulchan Aruch* is describing the levels with regard to how one performs the mitzva, without addressing the question of who the recipient should be. The rest of the sources deal with how and where the *tzedaka* funds should be allocated.

However, this only explains the first source but fails to resolve the apparent contradiction between the other three. In order to do that, we need to define the mitzva of *tzedaka* on its most basic level.

Defining the Mitzva of *Tzedaka*

Contrary to what we may have thought, not every case of donating money to a worthy cause may actually fulfill the technical requirement of the mitzva of *tzedaka*. The name of "*Hilchot Tzedaka*" given to these laws in the *Tur* and *Shulchan Aruch* may be indicative of a broader category of mitzvot that one fulfills when making donations to other causes (including *pidyon shevuyim*, *talmud Torah*, building of a *beit knesset*, and supporting a *chatan* and

2. Ibid., 249:15.
3. Ibid., 249:16.
4. This refers to the mitzva of building a *beit knesset*, and possibly to the costs involved in its upkeep as well.
5. *Siman* 452.

kallah). However, the actual mitzva of *tzedaka* is reserved for the act of giving money to the poor, and providing for an individual who is unable to support himself. This is certainly the context of the Torah's directive to give *tzedaka,*[6] and a close reading of the Rambam would seem to support this idea as well. The **Rambam** defines the mitzva of *tzedaka* as "giving *tzedaka* to the poor" and throughout these halachot,[7] he only writes about this mitzva in the context of supporting the impoverished. The other causes for donations, mentioned above, would fulfill the requirements of their own mitzvot, but not that of *tzedaka*.[8]

We can now understand that the *Shulchan Aruch* contains no contradiction regarding the highest level of *tzedaka*. *Pidyon shevuyim* takes precedence over other mitzvot because it is based on the principle of *pikuach nefesh* – saving a life. Providing for youths who learn Torah may take precedence over other mitzvot based on the principle that תלמוד תורה כנגד כולם.[9] Regarding providing for the poor and sick, this may take precedence over other forms of *tzedaka* as it constitutes a fulfillment not just of one mitzva but of two: providing for the poor (*tzedaka*) and contributing towards healing the sick.[10]

What we have learned is that when it comes to priorities in donating money to charitable causes, two distinct questions need to be answered:

1. What is the order of priority among these various mitzvot? (*pidyon shevuyim, talmud Torah, beit knesset, tzedaka*)
2. Regarding the mitzva of *tzedaka* specifically, which of the poor take precedence when it comes to allocating the funds?

Another important idea that emerges from this discussion is that one should be careful that at least some of the funds that he donates to charitable causes should be given to the poor. A hypothetical situation could emerge in which one donates money to various institutions, yeshivot, hospitals and other charities, but while certainly fulfilling a mitzva in supporting these causes, he has unwittingly neglected to fulfill the specific mitzva of *tzedaka*. As **Rav Asher Weiss** writes:[11]

> דאף דהמעלה הגדולה ביותר היא ליתן לצורך ת"ת אין זה אלא כשיש לפניו שתי המצוות ואין מעותיו מספיקין אלא או לעניים או לת"ת אבל המפריש כל מעותיו להחזקת התורה בלבד ואינו נותן דבר לעניים עושה שלא כהוגן, דאטו יבטל לגמרי מצות צדקה משום החזקת התורה. וכי מצוה אחת דוחה חברתה? והלא מצות הצדקה בפשטותה צדקה לעניים הוא... וא"כ פשוט דעל כל אדם לקיים גם מצות צדקה כפשטותה דהיינו ליתן צדקה לעניים ולגמילות חסדים ואינו יוצא יד"ח בחיזוק מוסדות התורה בלבד, אלא אחוז בזה וגם מזה אל תנח ידך.
>
> Even though the greatest level is to give money in support of *talmud Torah*, that is

6. As found in *Parshat Behar* and *Parshat Re'eh.*
7. Which are found under the category of "gifts to the poor."
8. This idea can also be seen in the comments of the Rema regarding how one may allocate money reserved for *ma'aser kesafim.* The Rema writes (*Yoreh De'ah* 249:1) that *ma'aser* money may not be used for other mitzvot (such as for candles in a *beit knesset*) but may only be given to the poor. Thus, we see once again the definition of *tzedaka* as money given to support the destitute. See also *Derisha* who argues that one may use *ma'aser* money towards the fulfilment of other mitzvot.
9. Mishna, *Pe'ah* 1:1.
10. This may constitute the mitzva of *hashavat aveida* or *gemilut chassadim*. For further details and an alternative explanation, see *Minchat Asher*, *Devarim siman* 21.
11. Minchat Asher, ibid.

only when one is faced with two mitzvot and is lacking the means to provide for both the poor and for Torah study. However, one who [has enough for both] and donates all his money only for supporting Torah and gives nothing to the poor has acted in an improper manner… One mitzva does not nullify another and the simple meaning of the mitzva of *tzedaka* is providing for the poor.

Priorities in Giving – A Recommendation or an Obligation?

The order of priorities when it comes to selecting a poor person to whom to give *tzedaka* is delineated in the ***Sifrei***[12] based on the *pasuk*:[13]

כִּי־יִהְיֶה בְךָ אֶבְיוֹן מֵאַחַד אַחֶיךָ בְּאַחַד שְׁעָרֶיךָ בְּאַרְצְךָ...

The *Sifrei* derives from the sequence of words in this *pasuk* that the order of priority is:

1. One who is more needy
2. A closer relative
3. The poor of one's own city
4. The poor of Eretz Yisrael

The *poskim* point out based on this that allowance should always be made to give much of one's *tzedaka* funds to one who is poorer and requires it more. Only when dealing with a case where several individuals face the same degree of need do the questions of priority and degree of closeness between them become relevant.[14] To this end, when faced with competing claims for *tzedaka*, it is important to ascertain that the money is being directed towards a genuine need of sustenance and not towards additional luxuries. In fact the ***Shevet HaLevi***[15] laments the fact that in many instances *tzedaka* is collected for purposes which can only be defined as excesses, and this would constitute dishonesty.

How strict does one have to be in following the guidelines set down by the *Sifrei* as to how to allocate one's *tzedaka* money?

Perhaps the fact that this order of priority appears only in the *Sifrei* but not in the Talmud is indicative of a less than binding nature. In the Talmud we do find a statement regarding the allocation of *matnot kehuna* – presents that were allocated to the *Kohanim*. One is free to decide which *Kohen* to give these gifts to, but the Gemara[16] implores one not to give all his gifts to a single *Kohen*, as this would lead to starvation in the world. The provision of these gifts is meant to ensure that all the *Kohanim* have their basic needs met. In a similar way, the aim of *tzedaka* is to provide for all members of society. It would thus be inappropriate that all of one's *tzedaka* should be given to one individual; rather, it should be divided among the poor that need it.[17] Just as we said earlier that one should not neglect to perform each of the various mitzvot which involve donating to charitable causes, so too within the mitzva of *tzedaka* one should be careful to split one's resources among the poor. The order of priority is thus a recommendation of where to start giving, but by no means a limitation not to give to others further down the list.

12. *Devarim, Parshat Re'eh* 116.
13. *Devarim* 15:7.
14. *Teshuvot Vehanhagot* 1:567.
15. Responsa *Shevet HaLevi* 4:130.
16. *Eiruvin* 63a.
17. See *Aruch HaShulchan, Yoreh De'ah* 257:16, who makes explicit mention of the above-quoted Gemara in the context of the mitzva of *tzedaka*.

Rav Moshe Feinstein[18] takes the comparison between the *matnot kehuna* and *tzedaka* one step further. In the same way that an individual is free to choose to which *Kohen* his gifts should go, so too he is free to decide to whom to give his *tzedaka*. The order of priority is neither an obligation nor even a recommendation when it comes to an individual. However, regarding *gabbaei tzedaka*, those who are charged with the responsibility of allocating the community's *tzedaka* funds, the rules set out in the *Sifrei* are meant to guide them as to how to allocate those funds appropriately. The guidelines were given to ensure that every member of society is taken care of appropriately. By being followed by the representatives of the community whose job it is to allocate the funds, this goal will surely be attained.

In our days, the precise order given by the *Sifrei* may no longer be as relevant. As alluded to above, priority for *tzedaka* was given to those in closer proximity to the giver in order to ensure that everyone was taken care of. Only if every community made sure to support the poor who were nearby could it be ensured that no one was left behind. However, nowadays in an age of mass travel and instant communication, when appeals have global reach, that can no longer be said to be true. Thus there is even more room for one to allocate *tzedaka* to the recipient of one's choice, even if he is not strictly speaking "next in line."

We have seen that despite the clear guidelines and order of priority set out by the *Sifrei,* there is a need to spread out one's *tzedaka* funds, and there is certainly no prohibition in deviating somewhat from the list. Whether one follows this exact order or not, the giving of *tzedaka* should contribute to the ultimate goal of the mitzva – וחי אחיך עמך.

18. *Igrot Moshe*, Y.D. 1:144.