



DVAR TZEDEK

Parshat Dvarim 5769

By Adina Gerver

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The term *tzedakah*, commonly understood as “charity,” serves as a catch-all for many biblical commandments designed to help the poor, including leaving harvest gleanings and the edges of fields for the poor, providing interest-free loans, forgiving loans and tithing.¹ The word “*tzedek*,” which has the same root as *tzedakah*, appears carrying its now-common meaning of “justice” for the first time in *Parshat Dvarim*. Though closely related linguistically, these two concepts each hold up a different ideal of righteousness in the Torah and in the eyes of the Rabbis.

One way that the obligation of *tzedakah* has been articulated is through a prioritization of giving based on relationships and proximity. Reading the commandment to “lend money to My people...[and] exact no interest from them,”² Rabbi Yosef, a 4th-century Talmudic sage, says that the phrase “My people” teaches us that:

[Given a choice between giving money to] a Jew and a non-Jew—the Jew has preference; the poor or the rich—the poor takes precedence; your poor [i.e. relatives] and the [general] poor of your town—your poor come first; the poor of your city and the poor of another town—the poor of your own town have prior rights.³

This endorsement of prioritization of those closest to you in *tzedakah* is quite different from the mandate for *tzedek* that appears in our *parshah*, where God clearly forbids favoritism in judging legal disputes:

[Judges must] ...decide justly [“*ush’fatitem tzedek*’] between any man and a fellow Israelite or a stranger. You shall not be partial in judgment: hear out low and high alike.⁴

Why, in giving *tzedakah*, are our personal feelings of responsibility for those closest to us allowed to dominate, while in judging—*tzedek*—we are commanded to ignore those feelings that arise from the very real concentric circles of obligation around us?

The difference may lie in differing natures of obligation. The commandment to give generously is addressed to individuals and is dependent on their unselfish willingness to share their wealth. The Rabbis understood that if we feel kinship with a recipient, we give more; their understanding of human nature allows for the pull of personal relationships to affect how and when individuals choose to give. Not so with the commandment to establish a just court system, which is addressed to an entire community, where there is no room for individual feelings of closeness or responsibility towards certain groups, be they family, neighbors, rich or poor. To the contrary, Jewish sources emphasize that an unbiased court system is all that exists to protect the rights of the minority stranger against those of the judge’s brother.

¹ Leviticus 19:9-10, Leviticus 23:22, Exodus 22:24, Deuteronomy 15:1-11 and Deuteronomy 26:12-13.

² Exodus 22:24.

³ Babylonian Talmud, Tractate Bava Metzia 71a.

⁴ Deuteronomy 1:16-17.

Unfortunately, most poor people today—four billion around the world—live outside the shelter of the law.⁵ Participating in informal economies and vulnerable to abuse and oppression, they lack the legal rights and protection that would enable them to prosper. For the marginalized poor, *tzedek* means more than making sure that judges are unbiased. It means making sure that courts are geographically accessible; that people are educated about their legal rights and how the justice system functions; and that those without financial means can secure legal representation. A just court system is not only a crucial component of every fair society and necessary for protecting the rights of the underprivileged, but also critical to eradicating poverty in the long term. According to the United Nations, it is the right that “guarantees all others,” creating the conditions that ensure the success of development initiatives.⁶

The establishment of fair judiciary systems in countries that lack them requires collaboration between local and national governments, international organizations such as the United Nations, regional bar associations and local organizations that can both monitor judicial processes and empower community members to understand their legal rights.⁷ Grassroots NGOs around the world are working to educate people about their legal rights and help them overcome violations of their rights in the courts.

Tzedek and *tzedakah* are clearly linked, and not only linguistically. At its essence, *tzedakah* is not about handouts to the poor compelled by pity or obligation; at its core, *tzedek* is not about deciding disputes in court. Both are about righting the wrongs that are all too pervasive in our world. They are about justice, tempered with a realistic acknowledgment of human reality. These practices should be mutually enriching: We should strive to extend the ideal of unbiased *tzedek* to our own personal practice of *tzedakah*; and in our pursuit of justice around the world we should embrace the ethics of personal responsibility embodied by the Jewish tradition of giving. By combining the highest ideals of both practices in our pursuit of each, we pursue justice in its purest and most meaningful form.



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⁵ *Report of the Commission on Legal Empowerment of the Poor*, Volume 1, 2008, The Commission on Legal Empowerment of the Poor and the United Nations Development Programme, p. 2. [http://www.undp.org/publications/Making_the_Law_Work_for_Everyone%20\(final%20rpt\).pdf](http://www.undp.org/publications/Making_the_Law_Work_for_Everyone%20(final%20rpt).pdf).

⁶ *Ibid.*, p. 5. (For a description of the problems in a country without an unbiased, independent judiciary, see “Sri Lanka’s Judiciary: Politicised Courts, Compromised Rights,” *Asia Report #172*. International Crisis Group, June 30, 2009. <http://www.crisisgroup.org/home/index.cfm?id=61865/l=1>)

⁷ *Ibid.*, p. 10. See pp. 62, 83-84, and 87 for information on the bodies that can help make permanent, lasting change in the arena of free and unbiased judiciaries.

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