

Foundations of a Jewish Economic Theory

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The conventional wisdom about Israeli society, repeated almost daily by political leaders, commentators, and social activists, asserts that the greatest problem facing Israel is not terrorism, or the dissonance between religious and secular Jews, but the ever-widening gap between rich and poor—in short, the lack of what has long been called “social justice.” It is this view which has served, more than anything else, to lend support to an unusually high level of taxation in Israel in order to finance a highly developed welfare state, and to perpetuate in Israel many of the central principles of socialism.

In defending this belief, many Israelis enlist Jewish tradition in their cause. Judaism is concerned with caring for the needy, it is said. Therefore, it looks to remedy or eliminate the differences in income that are the true cause of poverty. Since the wealthy tend to be callous and greedy, and are moreover undeserving of their wealth because they are callous and greedy, they cannot and should not be entrusted with taking care of the poor as in the old days. Only a state that acts to improve the condition of the poor through taxation and even strives for economic equality among its citizens, it is argued, can be genuinely “Jewish.”

This tendency to identify Judaism with the aims of socialism is not new. In the nineteenth century, Jewish thinkers found in this activist and anti-clerical movement the raw material for the forging of a new, modern Jewish identity. “Judaism—any trace of haughtiness or aristocracy is foreign to it,” wrote Moses Hess in 1862. “The Jewish spirit is a social-democratic spirit down to its very essence.”¹ Judaism was depicted by many as a synonym for social justice and equality, and the Jews—no strangers to suffering—as the natural bearers of the torch of social reform. As the Labor Zionist leader Chaim Arlosoroff explained in 1916, “The folk socialism of the Jews, the noble spirit of the history of our people, the rule of the ideas of justice and human liberty in the spiritual development of Judaism, the spiritual quality which the Jews acquired over generations, their cultural consciousness and lofty aspiration for freedom—all these empower them to lead the fight for idealistic socialism.”² It is no surprise, then, that the struggle for economic equality became a central pillar of the new Jewish state’s worldview, finding expression in severe limitations and regulations in the sphere of private ownership, on the one hand, and heavy taxation—the lifeblood of the new social order—on the other.

In what follows, I will argue that this popular identification between Judaism and socialism is a false one. As I hope to show, the two central ideas which sustain the socialist redistribution of wealth—the limitation of individual property rights and the dream of economic equality—are alien to both the laws and the spirit of Judaism as reflected in the Hebrew Bible and the rabbinic tradition. Policies that derive from these principles, moreover, work to undermine a different economic ideal which the Jewish tradition *has* sought to advance. Thus while Judaism undoubtedly emphasizes concern for the needy—“for the stranger, for the fatherless, and for the widow”—through the commandment to give charity and numerous other precepts, this is not to be confused with the fundamental limitation of property rights in the interests of the poor.³ Nowhere does Jewish tradition call for the restructuring of society or the imposition of economic equality, even as an ideal.

But if the historical roots of socialism are not to be found in Judaism, then where do they come from? This is not an easy question to answer, and it is never a simple task to measure the impact of ideas in history. Yet it is difficult to ignore the fact that the most notable antecedents for these socialist ideas appear not in the Jewish sources, but in the doctrines of the very Catholic Church against which socialism had originally sought to array itself. The Church Fathers had a clear view of man's place in the world, according to which the individual's accumulation of wealth was seen as a form of injustice, and his rights to property were clearly limited by the needs of the poor. In the classical Christian view, man should not keep more than he needs to live modestly, and property should be made available to the needy, even in contravention of the owner's wishes.

Jewish tradition, in contrast, takes a positive view of both the institution of ownership and the accumulation of wealth. It respects economic success, seeing it as both a blessing and the basis of normative life on earth—so long, that is, as it is obtained honestly, and proper respect is shown for the social responsibility that accompanies it. In what follows, I will explore the basic tenets of a Jewish economics, and will make in this context the following three arguments: (i) As opposed to the classical Christian view, which extols self-denial and opposes the accumulation of private wealth, Judaism presents a contrary ideal, according to which man must exert control over the material in order to realize his divine potential as having been created “in God's image”; (ii) this view is reflected in the Jewish approach to property, according to which the right of individual ownership and the accumulation of wealth is seen as a means of fulfilling man's responsibility in the world; and (iii) the obligation to care for the poor stems from this same sense of responsibility, and is expressed through the act of *tzedaka*, or charity, in which the individual voluntarily gives away the fruits of his labor out of concern for his fellow man. The Jewish concept of charitable giving does not impinge on property rights, but rather expresses the individual's moral duty as a responsible person—a strong and productive individual who provides for himself and his family through honest means, on the one hand,

and gives of his time and money out of generosity and a sense of concern, on the other. Charity, in the Jewish view, thus suggests an ideal that differs sharply from that of classical Christianity, one which flows from a radically different view of man's place in the world and what it means to have been created in God's image.

In order to appreciate the gulf that separates the Jewish economic understanding from the common misperceptions of it, we must first take a look at the ideas which guided the Catholic traditions of property, wealth, and charity for many centuries before the Protestant Reformation and the rise of the modern era. It was this Catholic approach which, in all likelihood, had a decisive impact on the socialist movement in Europe and, in turn, on modern European Jewry. And its traces can still be felt in the calls for social justice that are frequently heard in the public debate in Israel and throughout the Jewish world, often in the name of Judaism itself.

II

The classical Christian view of private ownership and the accumulation of wealth is grounded in a theology that rejects the sovereignty of man over things in this world. God is at the center of everything, and therefore the idea that man was created in God's image does not speak to his productive potential on earth, but rather only to his ability to come closer to God in heaven, and to serve in the world as a channel of divine grace. Man, according to this view, is a wretched being. He lacks the ability to redeem himself; he is dependent always on God's grace.⁴ According to the Church Fathers, after the fall of Adam and Eve, man lost his dominion over the animals of the sea and the air, and by extension over all earthly property. The only road to salvation, then, is for man to undertake acts that make him a

conduit of divine grace. In this way, human achievement is the product not of his own defective nature, but of the grace that acts through his agency.

This position, which was the dominant Christian view prior to the sixteenth century, rejects the notion of human control over the world, as well as that of human creativity. The phrase “in God’s image” is interpreted in terms of the potential in every man: As the possibility of attaining God’s grace, and the opportunity to merit God’s mercy. This is a potential that all people are given in equal measure. The only thing that prevents man from being saved is sin, and because the nature and extent of each man’s sin differs, so too does the nature and extent of his closeness to God. It can thus be said that, according to the classical Christian view, it is not man’s creation in God’s image that makes him unique, but rather his sin.⁵

This view had a major impact on the meaning and limits of private property in Catholic doctrine. According to the early Christian authorities, original sin had the effect of rendering all human beings depraved, and making it wrong for men to rule over one another. Since private ownership is inherently a form of control, it was considered problematic. The Church Fathers did allow for individuals to possess some property, since God in his grace permitted man to use that which he requires for the fulfillment of his basic needs. However, true title to all property belongs to God.

It was in this spirit that Augustine, writing in the fifth century, responded to the Donatist heretics who complained when the emperor confiscated their property:

Since every earthly possession can be rightly retained only on the ground either of divine right, according to which all things belong to the Righteous [i.e., God], or of human right, which is in the jurisdiction of the kings of the earth, you are mistaken in calling those things yours which you do not possess....⁶

In other words, while the individual is permitted to possess property for his own, personal use, true ownership belongs only to God.

Since Christianity's earliest days, then, individual ownership rights were severely circumscribed. By making ownership of property conditional upon its proper use—that is, for meeting one's basic needs—the Church Fathers raised the possibility that improper use would cause the forfeiture of one's claim to his own property. Property, inasmuch as it exists at all, exists not as dominion but as *license of use*; if property is misused, the ownership is invalidated, and the property can, in theory at least, be confiscated in order to put it to better use. It follows from this that the unlimited accumulation of property is considered wrongful: One who has more than he needs has too much. Individual wealth is an affront to the principle of the equality of mankind, and an affront to God himself, who in his mercy granted man permission to possess property solely on condition that it be used appropriately. As Augustine writes:

Do we not convict all those who enjoy things they have acquired legitimately and who do not know how to use them, of possessing the property of another? For that certainly is not the property of another which is possessed rightly, but that which is possessed rightly is possessed justly, and that is possessed justly which is possessed well. Therefore, all that which is badly possessed is the property of another, but he possesses badly who uses badly.⁷

Excess property, or property possessed by one who does not need it yet refuses to give it to the poor, is judged by Augustine to be improperly used. Augustine's teacher Ambrose, one of the fourth century's eminent Church Fathers, went so far as to say, "It is no less a crime to take from him that has, than to refuse to succor the needy..."⁸ By drawing a legal equivalence between refusing to give charity and stealing, Ambrose further circumscribed the boundaries of private ownership, not only condemning the accumulation of excessive wealth, but also granting legitimacy to the poor who would steal from those rich who refuse to give of their wealth freely. In effect, the Church made the forcible appropriation of an individual's property on behalf of the poor a legitimate act.

Ambrose's approach typified the Church's regard for material wealth, an approach that was crystallized in the teaching of Isidore of Seville in the seventh century.⁹ His view gained acceptance among later Christian philosophers: In the thirteenth century, Thomas Aquinas concluded his deliberations on the subject of property by adopting the teachings of his mentors, according to which property must be defined in terms of an item's use, and not in terms of the item itself.¹⁰ Accordingly, the only possible justification for ownership is man's need for a particular item. It follows that an item's improper use nullifies the privilege of ownership altogether. For this reason, excessive wealth is akin to stealing from the public. Accumulation of property is allowed only on condition that whatever is not needed be made available to the poor.¹¹

The Christian view of private ownership became only more radical as a result of internal Church politics in the thirteenth century. In response to the Church's emergence as an economic and political world power, Francis of Assisi decreed in 1209 that members of his order would take a vow of poverty—a practice which would become standard throughout the Catholic clergy. Later this vow would be expanded among many to include a ban on even touching money, except when helping the most needy. Whereas a wide debate ensued between the Franciscans and the Church over whether even the Church itself must disavow its vast wealth, there was nonetheless a consensus among Catholics against wealth among individuals.

Catholicism based this approach on a limited view of man's role in the world. For if man is indelibly tainted by sin, he surely cannot expect to have a significant positive impact on the world around him; he must accept that with which God entrusted him, taking for himself only the minimum required to meet his needs. It was only during the Reformation in the sixteenth century that thinkers such as Martin Luther and John Calvin offered readings of the Hebrew scriptures in support of a wider view of private ownership. Nevertheless, even these reformers remained true to the classic

Christian contention that despite a more fulsome idea of property rights, the true owner of all property remains God himself. They, too, saw man as inherently and irreparably sinful, and therefore his designs on changing the world must be limited.¹²

III

Unlike the classical Christian position, Jewish tradition is insistent that man can, and should, have a powerful impact upon the material world. This insistence plays itself out in a vastly different view of property rights. Like Christianity, Judaism begins with the idea that man was created “in God’s image.” In Judaism, however, these words are read in an altogether different light.

In the Jewish view, the body and soul of every person are rooted in the material world. The fact of his alone having been created in God’s image, however, elevates his material existence. His inherent godliness sets man apart from all other creatures on earth: He is not merely flesh and blood, but rather a “portion from God above,”¹³ an earthly being who contains an element of the divine essence. This unique combination of the human and divine does not mean that man should cut himself off from the material world or direct all his actions toward God; on the contrary, man’s place is here, in this world, as an integral part of material existence. Man is obligated to express his dominion over creation, to channel his efforts towards worldly action, and in the process to elevate the material world to a higher level.

Man’s dominion finds expression, first of all, through his enjoyment of the good of creation. Whereas the Christian view permits man to derive benefit only according to his need, the Jewish sources teach that man is entitled, even obligated, to take pleasure in the world. This is not an

endorsement of hedonism; rather, the aim is to enable man to actualize the potential hidden in creation, and thereby to bring the work of creation to completion. By benefiting from the world, man infuses it with spiritual content, which serves as a link between the Creator and creation. “If one sees beautiful creatures and beautiful trees,” the Talmud teaches, “he says: ‘Blessed is he who has such in his world.’”¹⁴ This is not simply an expression of gratitude, but an act of elevation of the mundane. This is why the rabbis taught that “man will have to account for all that he sees with his eyes and does not partake of.”¹⁵ When we deny ourselves the experiences of this world, even the simplest of pleasures, we cut creation off from its higher source, and condemn it to a crude, brutish existence. Judaism insists that man not limit himself to his bare necessities, but instead delight in the goodness of the world as an expression of his dominion over it.

Beyond benefiting from the world, however, dominion means that man is also obligated to take responsibility for protecting and preserving it. The rabbis put it most succinctly in the following parable:

In the hour that God created man, he stood him before all the trees of the Garden of Eden and said, “See the works of my hands, how beautiful and wondrous they are. All that I created, I created for you. Yet take care not to spoil or destroy my world, for if you do, no one will repair it.”¹⁶

Man is called upon to take care of his world because it is given to him as a responsible being. When God created Adam and Eve, he commanded them to “have dominion over the fish of the sea, and over the birds of the air.”¹⁷ Indeed, the Jewish tradition makes clear that man’s authority over all other creatures is unequivocal. Yet, at the same time, he is enjoined to act responsibly in the material realm. When God placed man in the Garden of Eden, he commanded him “to work it and to keep it”—to derive benefit from it, but also to protect it for future generations.¹⁸

Man’s sense of dominion, however, is most vividly expressed not in the benefit he derives from the world or his protection of it, but in his unique

ability as a *creator*—the most important manifestation of his having been created in God’s image. The Church Fathers held that the world belongs to God, and man in his state of sinfulness has no right to control it. Judaism, however, insists that man is required not only to be involved in the world, but also to perfect it through creative acts. According to Judaism, man’s creative development of the world is the ultimate expression of his unique status. Man is obligated, to use the idiom of the rabbis, to “create worlds”:

So said the Holy One to the righteous, “You are like me... I create worlds and revive the dead, and so do you.”¹⁹

The power of mankind, according to the rabbinic view, is nearly unlimited. Like God, who “renews creation each and every day,”²⁰ man, too, is invested with the supreme power to create worlds. As such, he reshapes reality in accordance with his human spirit—a spirit which in its godliness brings the material world to fulfillment through its elevation. In this way, man plays an integral part in the process of creation, a process that cannot be brought to completion without human intervention. “All that was created during the six days that God created the world,” says the Midrash, “still requires work.” Even the smallest, seemingly trivial things require man’s contribution for their completion. “Even mustard seed must be sweetened, and wheat must be ground.”²¹ The ultimate act of creation, however, is undoubtedly that of human procreation: Man and woman bring another creative soul into the world, the ultimate expression of human godliness. In this way they, like God, “create worlds and revive the dead,” and become true partners in the act of creation.²²

Man’s role, according to Judaism, is thus distinctly informed by the notion that he, having been created in God’s image, is to have dominion over the world—a dominion that expresses itself through his obligation to benefit from it, to take responsibility for it, and to perfect it through creative acts.

Judaism, however, does not restrict itself to establishing the role of men as individuals. One of Judaism's central aims is to create a certain kind of society, one that is best suited to man's unique role. This means that the idea of human dominion will express itself not just through theory and parable, but also through law. Perhaps the most important legal institution in this regard, which forms the very foundation of society from the Jewish perspective, is the institution of private property.

IV

The creation of man in God's image, and his consequent duty to exercise dominion over the world, are the foundations upon which the Jewish concept of property rests. In contrast to the classical Christian view, in which ownership is conditional and relates to the manner of an object's use, the right to private property in Judaism is nearly absolute, and can be restricted only in the most extreme circumstances. In accordance with man's role in the world, it is only through the protection of the individual's property that human beings will be able to actualize the divine image within them and act as full partners in creation.

Property, understood as full dominion over an object, is thus a central pillar of Jewish law, and its protection is a recurring theme in the Bible and the rabbinic teachings. The significance with which the Tora invests the right of ownership is evident in the numerous prohibitions pertaining to the property of others: The commandment, "You shall not remove your neighbor's boundary mark"²³ establishes the prohibition against stealing land; "You shall not have in your pocket different weights, large or small. You shall not have in your house different grain weights, large or small.... All who do such things... are an abomination to the Eternal your God,"²⁴ prohibits the acquisition of property through fraud; "You shall not see your

brother's ox or his sheep go astray, and hide yourself from them: You shall surely bring them back to your brother"²⁵ prohibits the neglect of other people's property even when it is not in your care, and obligates the return of lost items. By declaring as criminal anything that results in the loss of other people's property, the Tora emphasizes the importance accorded to the institution of private property. This is expressed as a general principle in a number of verses in the Tora, such as: "You shall not steal" and "You shall not defraud your neighbor, nor rob him."²⁶ The lengths to which the Tora goes to encourage a respect for private possessions, however, is demonstrated most sharply in the Tenth Commandment: "You shall not covet your neighbor's house... or his ox, or his ass, or anything that belongs to your neighbor."²⁷ Here the prohibition goes beyond the unlawful acquisition of property to include even the "coveting" of another's possessions.²⁸

Further evidence of the high regard in which Judaism holds private property can be found in the punishments which are meted out in the Bible to those who undermine the social order through their flagrant disregard for it. Such, for example, is the attitude taken by the prophet Elijah against King Ahab for his mistreatment of Naboth the Jezreelite in the book of Kings. Ahab is cited repeatedly in the text for his worship of the pagan gods Baal and the Ashera, but his most important sin, for which he is stripped of his kingdom, is the murder of Naboth for the sake of stealing his vineyard. Here, the theft is seen as an atrocity, equal in weight to the murder itself:

And the word of the Eternal came to Elijah the Tishbi, saying: "Arise, go down to meet Ahab King of Israel, who is in the Shomron, in the vineyard of Naboth, where he has gone to possess it. And you will speak to him, saying, 'Thus says the Eternal: Have you murdered, and also taken possession?' And you shall speak to him, saying, 'Thus says the Eternal: In the place where the dogs licked the blood of Naboth shall the dogs lick your blood, even yours.'"²⁹

The rabbinic tradition, as well, emphasized the gravity of acts that violate another's property, equating them with the destruction of the foundations

of society. The flood in the time of Noah, for example, was depicted as punishment for the sins of his generation against the property of others: “Come and see how great is the power of thievery,” the Talmud teaches, “for behold, the generation of the flood transgressed all, and yet they were not doomed until they stretched out their hands to steal.”³⁰

The importance of property rights and the societal obligation to uphold them is similarly emphasized in the corpus of legal writings pertaining to ownership. According to the halacha, for example, transference of ownership is valid only when accompanied by an “act of acquisition” (*ma’aseh kinyan*), such as erecting a fence around a property or breaking down a surrounding fence, acts that signify the assumption of new ownership over the property, or at least the previous owner’s relinquishment of his claim.³¹ An owner’s dominion over his property is signified not only by his right to transfer, or to refuse to transfer, his assets to another, but also by his ability to do with his property what he wishes, even if that means its neglect or destruction. This is developed, for example, in a ruling of the Mishna, where it is written that if someone tells his friend, “Tear my garment,” or “Break my pitcher,” the friend is liable for damages; but if the owner explicitly exempts his friend from damages, the exemption holds, because he is understood to be carrying out the owner’s will.³² While it is possible to debate the details of this ruling, it is clear that everything turns on the owner’s will with regard to the object. Ownership, in other words, is understood to be so complete as to include even the right to destroy one’s own property.³³

The definition of ownership as complete dominion is a fundamental principle of Jewish law, the aim of which is to preserve the individual’s dignity and sovereignty, and to prevent any encroachment on his dominion over his small portion of the material world. The rabbis of the Talmud, indeed, pushed the matter to the point of hyperbole: “To rob a fellow man even of the value of a *peruta*,” the Talmud asserts, “is like taking away his life from him.”³⁴ Indeed, the right to private property is protected even in the most extreme cases. For example, the rabbinic legend tells the story of

King David's deliberations over whether he should set fire to another man's field in order to drive out the Philistines who were hiding there.³⁵ The rabbi's answer that in all cases in which a person "saves himself through his friend's wealth"—that is, destroys someone else's property in order to save his own life—he must nonetheless pay damages. In other words, even in the case of saving a life, which in Jewish law is understood to override nearly every law, one is not exempt from paying damages that result from the actions taken.³⁶

Yet Judaism's affirmation of ownership does not end with the protection of property; in many places it also encourages the accumulation of wealth. Economic success is considered a worthy aim, so long as one achieves it through honest means. This stands in remarkable contrast to the classical Christian view, where the accumulation of wealth is rejected and the wealthy are held in contempt. "It is easier for a camel to go through the eye of a needle," Jesus says in the book of Matthew, "than for a rich man to enter into the Kingdom of God."³⁷ In the Jewish view, however, man's obligation to exercise dominion over the world, as a function of his having been created in God's image, brings him to the exact opposite position—to an affirmation not of poverty, but of wealth. For wealth that is gained through hard work and honest means is, in Judaism, a positive expression of man's efforts as a godly being. "One who benefits from his own labor is greater," says the Talmud, "than one who fears heaven."³⁸ This stunning assertion is not meant to denigrate the fear of heaven, but rather to affirm the principle that one who turns his talents into achievements is greater than one who neglects his own capacity to strive and create in the world. In the Jewish view, wealth that is derived from hard and honest work is considered virtue rather than vice; in the rabbinic teachings, such wealth is the lot of the righteous. Thus the legend says of Jacob, who risked his life to save his property: "Said Rabbi Elazar.... 'For the righteous, their property is dearer to them than their own body. Why so? Because they do not stretch out their hands to steal.'"³⁹ Worldly wealth, despite having no obvious spiritual content, is even said to

contribute to the indwelling of the Divine Presence: “The Divine Presence rests only on one who is wise, strong, wealthy, and of great stature.”⁴⁰

Judaism’s affirmation of wealth becomes even more striking when one considers its attitude towards poverty. As opposed to the classical Christian view, nowhere in Judaism is poverty associated with righteousness. In the rabbinic teachings poverty is first of all considered a form of pointless suffering. “There is nothing worse than poverty,” we find in *Exodus Rabba*. “One who must weigh every penny—it is as though he bears all the suffering of the world upon his shoulders, and as though all the curses from Deuteronomy have descended upon him.”⁴¹ For this reason, Jewish law calls upon man to do everything in his power to avoid becoming dependent on his community for his welfare. As Rabbi Akiva taught his son: “It is better to profane your Sabbath than to become dependent on others.”⁴² From his perspective, man is never excused from taking responsibility for himself, and is never allowed to make himself a burden on others.

Poverty is therefore something which must be avoided at all costs. To that end, the sages exhort all men to earn their living through work. Under no circumstances are the poor to be absolved of their responsibility through the redistribution of wealth. As opposed to the classical Christian view, the property of the wealthy in Judaism is entirely theirs, to do with as they wish. Even in a society of significant income differences between the wealthy and the poor, the poor have no legal claim against the wealthy. Judaism’s concern for the poor, which will be discussed at length further on, does not extend to the juridical realm; judges are admonished in the Tora not only never to skew justice in favor of the wealthy, but likewise never to favor the poor.⁴³ Even in a case of voluntary giving, Jewish law cautions against excessive generosity, and forbids a person from donating more than one-fifth of his assets, so as not to become poor himself.⁴⁴ This was expressed powerfully in the ruling of Maimonides in his code, *Mishneh Tora*:

One should never dedicate or consecrate all of his possessions. He who does so acts contrary to the intention of Scripture.... Such an act is not

piety but folly, since he forfeits all his wealth and will become dependent on other people, who may show no pity towards him. Of such, and those like him, the rabbis have said, "The pious fool is one of those who cause the world to perish." Rather, one who wishes to spend his money on good deeds should spend no more than one-fifth, so that he may be, as the prophets commanded, "One who orders his affairs rightly,"⁴⁵ whether in matters of Tora or in the affairs of the world.⁴⁶

The prohibition against giving too much to the poor is an expression of the Jewish view that there never was, nor will there ever be, an ideal state of economic equality among all men. The sages emphasized that each man is created different from his fellow, and that this difference is an expression of every individual's uniqueness, of every man having been created in the image of God.

According to the Jewish approach to property, then, economic equality is not only impossible, but even undesirable: Such a condition negates the uniqueness of the individual, and therefore negates the image of God within him. Thus the Bible says, "For the poor shall never cease out of the land."⁴⁷ Economic disparity does not demonstrate the moral corruption of society, but the fundamental differences among the individuals whom it comprises.

V

Of course, all this raises the obvious question: What, then, will become of the poor? How, indeed, is society to protect the unfortunate individual who is unable to support himself and his family?

Some will inevitably argue that it cannot protect him—that is, that so strong a concept of property contradicts the obligation to care for the

poor, and that any society which adopts it will end up abandoning its weakest members to destitution. Yet such a claim misunderstands the Jewish conception of man's role as being created in the divine image. In the Jewish view, man is granted dominion over the world not merely that he may benefit from it, but also that he may take responsibility for it. The legal understanding of property in Judaism is therefore only one part of a broader conception of the role of man in the world, one which plays itself out as well in his duty to care for those in need, through the commandment of charity, or *tzedaka*. As Maimonides explains:

The term *tzedaka* is derived from *tzedek*, "righteousness"; it denotes the act of giving everyone his due, and of showing kindness to every being according as it deserves. In Scripture, however, the expression *tzedaka* is not used in the first sense, and does not apply to the payment of what we owe to others. When we therefore give the hired laborer his wages, or pay a debt, we do not perform an act of *tzedaka*. But we do perform an act of *tzedaka* when we fulfill those duties towards our fellow men which our moral conscience imposes upon us; e.g., when we heal the wound of the sufferer.⁴⁸

Fulfilling a legal obligation such as the timely dispensation of wages is not considered charity. Rather, charity is something that flows not from a sense of justice but from the goodness of one's character, or the generosity of one's heart. The same "image of God" which enjoins man to delight in this world and to exercise dominion over it also obligates him to take responsibility for his fellow man, in particular for those in need. The fact of his being created in God's image indeed gives him the legal and moral basis for keeping his own interests in clear view and striving to advance them by the sweat of his brow. And yet, just as the godliness within him encourages man to work and to be productive for his own sake, it also obligates him to care for those who cannot care for themselves. Moreover, it is the affirmation of wealth and the struggle for it, and the legal protections that are given to wealth once it has been attained, which make philanthropy a possibility in the first place. If

man did not strive first for his own interests, and if the fruits of his labor were not protected, he would have nothing to offer those in need.

For this reason, the sages defined charity foremost as a moral principle, not a juridical one. Thus they admonished those who would take money from others in order to give it to the poor: “Better is he who gives a smaller amount of his own charity than one who steals from others to give a large amount of charity.”⁴⁹ Again, it is worth comparing this with the classical Christian approach, according to which, since all men are equal before God, they are all equally entitled to his benevolence. Therefore, those possessions in excess of our basic needs must be distributed among the poor. Charity, according to this view, is not an act of magnanimity so much as the means by which man acts as a vessel for God’s grace. And since all are equal before God, they are all entitled to the same measure of grace. Christian charity, then, is substantively superhuman, and leaves little room for the free choice of the individual: Not only is the individual enjoined to give of his wealth *because it is not really his*, he is also obligated to give to those who are not close to him, thereby giving expression to the universality of divine grace, rather than his own personal feelings of loyalty or mercy. Thomas Aquinas wrote of this quite forcefully:

It would seem that we are not bound to do good to those rather who are more closely united to us. For it is written: “When you make a dinner or a supper, call not your friends, nor your brethren, nor your kinsmen.”⁵⁰ Now these are the most closely united to us. Therefore we are not bound to do good to those rather who are more closely united to us, but preferably to strangers and to those who are in want. Hence the text goes on: “But, when you make a feast, call the poor, the maimed....”⁵¹

In Judaism, however, the idea of charity focuses on the donor and his relationship with the poor, not on the recipient. Its aim is to cultivate a sense of responsibility, as a moral and religious obligation. For this reason, the rabbis maintained that the donor should favor his relatives over strangers:

“When choosing between your own poor and the poor of the city, your own poor come first.”⁵² By giving to those for whom he feels a special obligation, the donor expresses his self-understanding as a unique individual who takes responsibility for those around him. This kind of giving, moreover, emphasizes the fact that we are talking not about an act of “justice,” of satisfying the just claims of the poor against the wealthy, but about an act of personal obligation stemming from his sense of responsibility for those around him.

This is borne out, moreover, in the specific place Jewish legal codes have always given the laws of charity. Charity is always placed among religious duties (*isur veheter*), rather than civil law (*dinei mamonot*).⁵³ Although both categories are equally binding on the Jew, within Jewish law they are two separate worlds, each with its own set of rules and implications, each built on very different legal foundations—such that in the proper study of law, one is not allowed even to draw conclusions in one realm on the basis of examples from the other.⁵⁴ The first category concerns the obligations man has towards God, and covers such subjects as *kasbrut*, idolatry, and family purity; the second covers man’s obligations to his fellow man, such as in contracts and damages. Whereas laws that pertain to the latter category are what make up the system of civic life, their obligations relate to a person’s property: When someone signs a contract, he is committing his estate within the context of a social order, and as such the courts are permitted to confiscate property in order to effect payment of debts or damages, or to place a lien on his property when he cannot pay. Ritual duties, on the other hand, cover the relationship between man and God, and they fall solely on his moral conscience, not on his property.⁵⁵

Despite the fact that charity relates to one’s money, it does not fall into the category of civil law governing property, but of religious laws governing moral and ritual obligations. Man is commanded by God to be sensitive to the distress of those in need: “If there be among you a poor man, one of your brethren within any of your gates in your land which the Eternal your God gives you, you shall not harden your heart, nor shut your hand from your poor brother: But your shall open your hand wide to him.”⁵⁶ Thus

R. Joseph Karo, author of *Shulhan Aruch*, included charity in the *Yoreh De'a* section of his work, which refers to religious obligations such as the observance of the laws of *kashrut*, vows, and mourning.⁵⁷

None of this is meant to undermine in any way the importance of charity as a moral duty. On the contrary, Jewish tradition views the commandment to give charity as one of the most important of religious obligations. This sentiment is expressed in the words of Maimonides, who wrote in his *Mishneh Tora* that “We must be more diligent in obeying the commandment to give charity than any other positive commandment.”⁵⁸ As Maimonides further attests, tradition has always found charity to be a staple of Jewish society: “We have never seen nor heard of a Jewish community that did not have a charity box.”⁵⁹ The point here, rather, is that by enshrining it on the moral, rather than civil-legal, plane, Judaism expresses a radically different understanding of the individual’s “image of God” than that expressed in Catholicism and, subsequently, socialism: Man is encouraged to be a strong, creative, and responsible person, one who builds his wealth so that he may take responsibility both for himself and for those around him.

The essentially religious, rather than civil, nature of charitable enforcement begins with the agricultural laws from which it is derived. It is a moral-religious, rather than a civic-legal, idea which undergirds the laws of *ma'aser ani* (tithing one’s harvest for the poor), *leket* (leaving for the poor those sheaves that have fallen behind during the harvest), and *pe'a* (leaving a corner of the field, vineyard, or orchard unharvested for the poor). In none of these cases is there implied a limit to the accumulation of wealth, but rather a minimum of charitable giving as a portion of one’s wealth. The religious focus of these laws is underscored, moreover, by their presentation in the Bible and rabbinic literature together with the laws of *teruma* and *ma'aser*, tithes that support the priests and Levites, who are charged with conducting the worship of God in the Temple—in other words, tithes that are ritual in essence. Again, these laws have all been traditionally classified in the area of ritual law (*dinei isur veheter*) rather than civic law (*dinei mammonot*)—meaning that they do not curtail property rights or invoke a notion of civic

justice, but instead establish a moral and religious duty to maintain a divine link to the land, to care for the needy, or to support a priestly class.

With the emergence of urban society in mishnaic times, poverty became more widespread among the Jews, and the rabbis looked to the old rules as a model with which to expand significantly the charitable responsibilities placed upon the community. The most important example was the custom of giving a tenth of one's earnings to the poor, derived from the commandment to give a tenth of one's agricultural yield to the poor in the third and sixth years of every seven-year agricultural cycle.⁶⁰ In this way, the sages set a minimum for charitable giving, and also permitted those who could to give more—up to a fifth of their income—a philanthropic system that continues until our own day.

Moreover, the rabbis authorized the community to compel its members to fulfill their obligations to the poor. The office of the “charity collector” (*gabai tzedaka*) was established and empowered by the community to collect, distribute, and manage its charitable funds.⁶¹ The Talmud, which raises the issue on several occasions, refers to these individuals as “people in authority,” or people who are authorized to extract collateral from those who refuse to give to the poor.⁶² Indeed, their job is viewed as so important that they are authorized to take this collateral at any time, “even on the eve of the Sabbath.”⁶³

It is this provision for enforcement that was taken by a number of modern writers as the basis for identifying in Judaism the origins of distributive justice.⁶⁴ However, this is an incorrect reading. As we have seen earlier, the central logic of socialism begins with the Christian belief that because it is wrong to retain wealth in excess of one's needs, individual property rights are limited; government, according to socialism, is therefore charged with the duty of redistributing excess wealth in order to limit the economic gaps between rich and poor, leading towards an ideal of economic equality. In the rabbinic sources, however, coercive authority comes from a different source altogether: Not as a means of distribution and justice, but as a way of

enforcing a minimum level of moral and religious rectitude among its citizens. It is a moral corrective, not an economic one.

Unlike most modern conceptions which hold that “moral” obligations are essentially unenforceable by society, Jewish tradition holds that such laws *are* enforceable, and they in fact have been enforced by communities over the generations. Jewish law recognizes the need to impose moral and religious principles on individuals, in order to foster righteousness among citizens and sustain them in the community. The rabbis called this “setting the boundaries,” or *migdar milta*.⁶⁵ In this spirit, Maimonides ruled:

He who does not want to give charity, or gives less than is proper, will be forced to do so by the rabbinical court, even to the point of striking him, until he gives his due, and the court will examine and assess his property in his presence, and take what is proper for him to give. And they may take collateral for charity, even on the eve of the Sabbath.⁶⁶

It is important to note that the use of physical coercion in dealing with rebellious behavior (*makat mardut*) is not restricted to the enforcement of charity, but appears in many areas—always, however, as an essentially pedagogical tool, meant to bring a wayward individual back to the fold of the righteous. The intended target is not man’s property, but his character. We see this same idea in the ruling known as “enforcing to prevent the vice of Sodom” (*kofin al midat sedom*), which holds that an unjustifiably spiteful person—someone who refuses to help his fellow man even though he stands to lose nothing by it—may be compelled to do the right thing. Again, enforcement is not aimed at the person’s property, but rather at his virtue, in an effort to set him on the proper moral path. A similar example concerns the vindictive husband who refuses to release his wife through a writ of divorce, despite the fact that their marriage has ended for all intents and purposes. According to Maimonides, if he does not voluntarily give the writ, the courts are authorized to “strike him until he says, ‘I am willing.’”⁶⁷ Although this view is not universally held by the halachic authorities, it is

nonetheless derived from a clearly ritual source: A statement in the Talmud according to which the individual may be compelled to bring sacrifices at the Temple even though he does not wish to do so; they should “force him until he says, ‘I am willing.’”⁶⁸

The enforcement of charitable giving, then, exists entirely on the moral and ritual, rather than civil and legal, plane. This is not the same kind of enforcement as the award of damages or the forced fulfillment of a contractual obligation. The aim here is to effect not justice, but virtue—not to limit one’s wealth, but to increase personal responsibility. When someone refuses to give charitably, it is not the poor person who files a claim against him, but the community which seeks to rid itself of wrongdoing. There is no question as to how much money a poor person requires, or what constitutes poverty. There is only one question: Is the giver acting as a responsible, moral individual?

Unlike the classic Christian view, which disdains wealth and considers property rights to be limited to man’s basic needs, Judaism praises man’s financial independence, encourages him to work hard and to create and to enjoy the fruits of his labor, so long as they are obtained honestly. But Judaism insists that man also exhibit a sense of responsibility for his world, including the plight of the needy. It is this combination of honest labor and the giving of charity that mark the true fulfillment of man’s divine nature. Uniquely entrusted with sovereignty over this world, man not only will be strong and independent, but will also temper his power with a sense of responsibility.

VI

Unlike the socialist outlook, Judaism holds a fundamentally positive view of individual wealth. Property is an expression of man's sovereignty, his capacity to rule over the material world, so that he may benefit from it, care for it, and perfect it through creative acts. It is the most apparent means through which "God's image" is expressed in human life. It is the necessary and inevitable outcome of man's uniqueness among all God's creatures.

In Judaism, sovereign control over one's property is not conditional upon giving charity. The opposite is true: The ability to give charity is conditional upon private wealth. This is reflected in Jewish civil law, which, as we have seen, forcefully defends individual property rights. This does not mean, of course, that Judaism's view of a good society is based solely on the institution of private property, or that it disregards the plight of the poor. On the contrary, Jewish law insists that man take responsibility for his fellow man, show compassion, and give charity. This is only possible, however, when man has full control over his property and is free to accumulate wealth through honest means. Man's responsibility for his fellow man does not impinge upon his legal right of ownership, but is a powerful moral demand. Charity is a deed that flows from strength of character rather than the weakness of one's claim to property. It is a mark of responsibility, and as such it can only have meaning when one has the legal freedom to do with one's property as he wishes.

Is it possible to draw conclusions from this with respect to economic policy? It is fair to suggest that any economic system that sets severe limits on the individual's control over his property, restricts the degree of wealth one may attain through honest means, or undermines his capacity to give charity voluntarily is inconsistent with a desire to enable man to act in accordance with the Jewish understanding of the godliness within him. An

economic system based on the redistribution of income with the aim of fostering economic equality is likely to violate many of these basic tenets. By supporting a great portion of its population through transfer payments, such a system encourages dependence and undermines the value of hard work and creative innovation. At the same time, the heavy taxation required to sustain such a system seems to violate the basic right to private property, and undermines the incentive to work, innovate, and take responsibility. The Jewish approach seeks to encourage individual responsibility and innovation among both society's most successful and its poorest members, for it is in these qualities that man acts as one created in God's image.

None of this is to say that the government cannot create a safety net for society's poor through taxes. If citizens are given the economic breathing room to support the needy through philanthropy, it is legitimate to demand that *all* citizens contribute a minimum amount to that end—perhaps even using the biblical model of a ten-percent minimum of charitable contribution. Regardless of the way it is implemented, what makes a welfare system accord with the principles of a Jewish economics is not that the solution to economic distress be laid solely on the shoulders of individuals, but that it be found through policies which encourage a sense of responsibility among all citizens, wealthy and poor. True charity stems, first and foremost, from the goodness of one's heart, and not from the mechanism of coercion. In the words of Rabbi Elazar: "The reward of charity depends entirely upon the kindness in it."⁶⁹

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Notes

1. Moses Hess, *Rome and Jerusalem and Other Jewish Writings*, trans. Yeshurun Keshet (Jerusalem: Zionist Library, 1983), pp. 170-171. [Hebrew]

2. Chaim Arlosoroff, "Jewish Popular Socialism", in *The Writings of Chaim Arlosoroff*, ed. Yaakov Steinberg (Tel Aviv: Shtibel, 1934), vol. iii, p. 55. [Hebrew] See also Nachman Syrkin, *The Jewish Question and the Socialist Jewish State*, trans. Efraim Broida (Tel Aviv: Hakibutz Hameuhad, 1986), p. 80 [Hebrew]: "The existence of the Jews is a protest against violence, a fight for justice, man's striving to maintain his selfhood. The Jews have embodied a substantial portion of human merit, which would be lost with the destruction of the Jews. The destruction of the Jews is therefore akin to the destruction of humanity."

3. For two variations on this theme, see Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), pp. 3-6, 75-78, 92; and Meir Tamari, *With All Your Possessions: Jewish Ethics and Economic Life* (Jerusalem: Jason Aronson, 1998). As Tamari puts it: "Charity is not simply an act of kindness but rather the fulfillment of a legal obligation"; "The community has a responsibility for the welfare of its members and a corresponding right to finance those needs through taxation over and above the individual's duty to contribute to charity." Tamari, *With All Your Possessions*, pp. 52, 240; see also p. 277.

On the question of the relationship between individual and community with regard to taxation in the interest of the poor, see also Hanoch Dagan, "The Laws of Wealth Creation: Between Judaism and Liberalism," in Daniel Gotwein and Menahem Mautner, eds., *Law and History* (Jerusalem: Zalman Shazar Center for Jewish History, 1999), p. 179 [Hebrew]: "The giving of charity in Jewish tradition is not a matter of compassion, kindness, generosity, or personal conscience but of justice (which accounts for the close linguistic association between charity, *tzedaka*, and justice, *tzedek*). The giving of charity is the fulfillment of a legal obligation; the exercise of rights to the property of the wealthy, held by the community and by those within it whom fate has not blessed." Dagan's basic argument rests on the principle of "one benefits and the other does not lack," which comes, in his opinion, from the halachic *kofin al midat sedom* (the obligation to act in an unselfish manner). The problem with this, however, is that, in the opinion of the majority of the rabbinic commentators, there is no connection between benefit with no attendant obligation and *kofin al midat sedom*. He errs, therefore, in his assumption that it is in some sense possible to force the rich to use their wealth to attend to the poor. Dagan believes that only if the poor man causes damage to the rich one may the latter be excused from his legal obligation to help him. Yet the theoretical *quid pro quo* between the "one who benefits" and the "other who does not lack" is contractual, and is dependent on the benefit. The moment that this benefit causes a loss for the other party, the theoretical contract is translated into a legal claim against the one

who benefits. Only a benefit that entails no loss avoids creating a contractual debt or the basis for a legal claim.

4. For a comparison of the Jewish and Christian views of redemption and human capacity, see Meir Soloveichik, "Redemption and the Power of Man," *AZURE* 16, Winter 2004, pp. 51-77.

5. See Yair Lorberbaum, *Image of God: Halacha and Agada* (Tel Aviv: Schocken, 2004), p. 149, note 10, [Hebrew] where he says: "For Christianity, man in God's image became a historical tale of salvation. Paul, and later Origen and the entire Christian tradition, integrated the idea of God's image with the myth of the fall from grace." The ability of man to accept God's grace, not from an active or creative standpoint, but from a passive one, is made clear in Etienne Gilson's analysis of Aquinas: "This participation in the divine life is in man's case the germ of a new life.... Grace, which is the germ of this life, affects man deeply, regenerating and, as it were, re-creating it. The soul thus affected is still a soul endowed with reason and intelligence. It is because it is capable of intellectual knowledge and therefore of friendship with God, that the human soul is able to receive this divine supernatural gift.... When grace divinizes the human soul it not only re-establishes the balance which had once been destroyed, but causes a new life to spring up, a life freely given to nature. This life participates in the divine and so, by reason of its source, will move spontaneously into the order of the eternal. It is called the 'spiritual life,' a term which implies that absolute transcendence of body and time which is characteristic of divine things." Etienne Gilson, *The Christian Philosophy of St. Thomas Aquinas*, trans. L.K. Shook (Notre Dame: Notre Dame, 1956), pp. 345-347.

6. Augustine, *Patrologiae Latinae*, ed. J.P. Migne (Paris, 1844-1864), Letter 133, 12, vol. 33; cited in Richard Schlatter, *Private Property* (London: Allen and Unwin, 1951), p. 37.

7. Augustine, *Patrologiae Latinae*, Letter 153, 6, vol. 33; cited in Schlatter, *Private Property*, p. 38.

8. Thomas Aquinas, *Summa Theologica*, 2-2, Que. 66, Art. 3.

9. Isidore of Seville adopted the differentiation between natural, national, and civil law as applied in Roman law and expressed in the *Codex Justinianus*. It follows from natural law that ownership is common to all. See Augustine, *Patrologiae Latinae*, 5, 4, vol. 82. However, Isidore did not draw a clear distinction between natural and civil law, nor did he determine a value interface between the different legal systems; see Schlatter, *Private Property*, p. 41. This omission was later to cause considerable confusion in the canonical law, which was not resolved until Aquinas. Evidence of this confusion can be found in the writings of Isidore quoted in the great collection of twelfth-century canonical laws, the Gratianus collection. On the one hand, Gratianus contends that natural law is the permanent and unchanging basis of law, and every human law that contravenes natural law is null and void. See

“Decretum Magistri Gratiani,” in *Corpus Iuris Canonici*, ed. Emil Friedberg (Leipzig: Officina Bernhardi Tauchnitz, 1879), Distinctions 5; 6, 3; 8, 1; and 9. On the other hand, he asserts, quoting the Church Fathers, that common ownership is the basis of natural law. Gratianus does not, however, explain how this can be consistent with private ownership.

10. Aquinas, *Summa Theologica*, 2-2, Que. 66, Art. 7.

11. Gilson, *Christian Philosophy*, pp. 314-315.

12. Schlatter, *Private Property*, ch. 5.

13. Job 31:2.

14. Brachot 58b.

15. Jerusalem Kidushin 4:12. See also Nedarim 10a: “If one who afflicted himself only with respect to wine is called a sinner, how much more so one who afflicts himself in many respects.”

16. Ecclesiastes Rabba, 7:13.

17. Genesis 1:28. This commandment was given to man while he was still in the Garden of Eden, and was not altered after he sinned. See also Yevamot 65b; Kidushin 35a.

18. Genesis 2:15.

19. Midrash Tehilim on Psalms 116; see also Genesis Rabba 99: “The Holy One creates worlds, and so, too, your father creates worlds.” Moreover, according to the sages, since man was created in the image of God, his first duty is to create a God-like man—a being in which soul and body merge: “Elazar ben Azaria says that whoever is not engaged in fertility and propagation sheds blood and negates the character according to which man was created in the image of God.” Tosefta Yevamot 8:7.

20. Traditional weekday morning prayer, *Yotzer Or*.

21. Genesis Rabba 11:6.

22. Cf. Yosef Yitzhak Lifshitz, “Secret of the Sabbath,” *AZURE* 10, Winter 2001, pp. 85-117.

23. Deuteronomy 19:14.

24. Deuteronomy 25:13-16.

25. Deuteronomy 22:1.

26. Leviticus 19:13.

27. Exodus 20:14.

28. According to the rabbinic tradition, “You shall not covet” does not apply to thought alone, but rather to the act of bringing unreasonable pressure to bear on one’s neighbor in an effort to persuade him to hand over his property, even for monetary compensation. See, for example, Maimonides, *Mishneh Tora*, Laws of Robbery and Loss 1:9. However, even according to this interpretation, it is an extremely significant extension of the principle of private property.

29. I Kings 21:17-19.

30. Sanhedrin 108a.

31. Mishna Bava Batra 3:3. Some have attempted to define property on the basis of the discussion in Gitin 47b over whether “acquiring the fruits is like acquiring the body,” viz., if someone who buys the produce of a field is comparable to the owners of the field itself. It was established that ownership of fruit is not the same as ownership of the object: See Maimonides, *Mishneh Tora*, Laws of the First Fruits 4:6. Some have deduced from this that according to Jewish law, ownership is not determined solely by the right to make use of an object, since it is possible to draw up a contract by which one party is the owner of the object and the other of what it yields. Yet although this may be useful as a figurative example of ownership divorced from usage, it is a mistake to draw a parallel between objects and their yield, on the one hand, and possession and use, on the other. The owners of a field are still entitled to use it for purposes other than its produce. Moreover, ownership of the yield pertains not only to its use, but also to the full possession of that yield.

32. Mishna Bava Kama 8:7.

33. On the strength of this law, Rashi offered an interpretation of the rule cited in Bava Kama 26b, which exempts a man from punishment if he uses a stick to break a vessel that someone has thrown from a roof, while it is still in flight. Rabbi Yosef Dov Halevi Soloveichik, author of *Beit Halevi*, explained: “As has previously been said, if someone threw a vessel from the roof and someone comes along and breaks it with a stick, he is not liable. Why so? He broke that which was already broken.” Rashi adds on this case: “The owner of the vessel threw the vessel,” he and no other. Rashi’s insistence on this point is difficult to understand, since if the vessel is thrown by its owner from the top of the roof then it must be considered to have been abandoned, and there is no liability for damaging an abandoned object. The most likely answer is that by throwing the vessel, the owner demonstrated his ownership by doing with it as he pleased. Ownership in this case is shown not by the use of the vessel but by its deliberate willful destruction. Rabbi Yosef Dov Halevi Soloveichik, *Responsa of the Beit Halevi* (Vilna: Yosef Rubin, 1863), 1:24, 2:7. [Hebrew]

34. Bava Kama 119a.

35. Bava Kama 60b.

36. The single exception to this rule is the king, who is granted a special dispensation to confiscate or damage private property during an emergency without having to make restitution, insofar as he is acting for the public good. See Maimonides, *Mishneh Tora*, Laws of Damage, 8:2 R. Joseph Karo, *Shulhan Aruch, Hoshen Mishpat*, 388. According to Rashi, moreover, one man must sacrifice his life rather than damage someone else's property. See Rashi on Bava Kama 60b, s.v. *vayatzileha*: "He may not burn it [even in order to pay afterwards] since it is forbidden to extricate himself by paying for it to be reinstated." In contrast, see *Responsa of Rabbi Solomon ben Aderet* (Jerusalem: Or Hamizrach Institute, 1998), 4:17 [Hebrew]: "He may certainly save himself in order to pay." See also Yoma 83b: "I deprived the shepherd and you deprived the entire city."

37. Matthew 19:24. See also Vernon Bartlet, "The Biblical and Early Christian Idea of Property," in *Property, Its Duties and Rights: Historically, Philosophically, and Religiously Regarded*, ed. Charles Gore (New York: Macmillan, 1922).

38. Brachot 8a.

39. Hulin 91a.

40. Shabbat 92a.

41. Exodus Rabba 31:14.

42. Pesachim 112b.

43. Leviticus 19:15

44. Cf. Ketubot 50a: "One who donates should not donate more than one-fifth lest it should be needed for others; and there is a story about one who wanted to donate [more than one-fifth] and his friend did not let him." See also Karo, *Shulhan Aruch, Yoreh De'a* 249:1.

45. Psalms 112:5.

46. Maimonides, *Mishneh Tora*, Laws of Oaths and Vows 8:13.

47. Deuteronomy 15:11.

48. Maimonides, *Guide for the Perplexed*, trans. M. Friedlander (New York: Dover, 1956), 3:53, p. 393. By contrast, see Ephraim Frisch, *An Historical Survey of Jewish Philanthropy* (New York: Macmillan, 1924), p. 77. Frisch remarks on the etymological connection between charity and righteousness, which he says arose from a change of meaning between the language of the Bible and that of the sages. The meaning of *tzedaka* in the Bible is righteousness, meaning an attribute of a righteous person, whereas in the rabbinic literature it refers to the giving of charity to the needy. See also Tamari, *With All Your Possessions*, p. 36: "The divine origin of wealth is the central principle of Jewish economic philosophy. All wealth belongs to God, who has given it temporarily to man, for his physical well-being"; p. 52: "The

‘haves’ in Judaism have an obligation to share their property with the ‘have-nots,’ since it was given to them by God partly for that purpose.”

49. Ecclesiastes Rabba 4:6. One of the exceptions is *Sefer Hasidim*, from which it emerges that the wealth the rich man accumulates is considered robbery: “If the Holy One gives wealth to the rich man and he does not give to the poor, then he gives to one what could have provided for a hundred and the poor come and cry out before the Holy One, ‘You gave to him what could have provided for a thousand and he provided me no benefit.’ And God makes a calculation with the rich man as if he had robbed many and says to him, “I gave you wealth so that you could give according to your financial means to the poor and you did not give, so I will take back from you as if you had committed robbery and as if you abused my deposit because I put wealth into your hands so that you could distribute it to the poor and you appropriated the wealth for yourself.” Rabbi Yehuda Hehasid, *Sefer Hasidim* (Berlin: Mekitsei Nirdamim, 1891), note 1345, p. 331 [Hebrew]; on the Christian spirit pervading this passage see Yitzhak Baer, “The Socio-Religious Tendency of *Sefer Habasidim*,” *Zion* 3 (1938), p. 29. [Hebrew]

50. Luke 14:12.

51. Aquinas, *Summa Theologica*, 2-2, Que. 31, Art. 3.

52. Mechilta d’Rabbi Ishmael, Masechta Dechaspa Mishpatim, ch. 19; Bava Metzia 71a.

53. Menahem Elon, *Jewish Law: History, Sources, Principles*, trans. Bernard Auerbach and Melvin J. Sykes (Jerusalem: Jewish Publication Society, 1994), vol. i, p. 122: “Although all parts of the halacha are rooted in the same source, share the same principles and methods of analysis, and provide and receive reciprocal support, nevertheless, study of the halachic sources reveals that the halacha did make very fundamental distinctions between its two major categories, namely, monetary matters (that part of the halacha included in the concept of *mamon*) and non-monetary matters (that part of the halacha included in the concept of *isur*).”

54. Ketubot 40b, 46b; Kidushin 3b.

55. Bava Metzia 30b. On this subject, Menachem Elon, the foremost authority on the application of halachic jurisprudence to Israeli law (*mishpat ivri*) and a former justice of Israel’s Supreme Court, wrote as follows:

The failure to perform a civil norm [in Jewish law] is subject to judicial sanction, and a court will enforce compliance; not so a moral imperative—this is a matter for the individual himself, between God and conscience. The juridical realm does not involve itself in the performance or lack of performance of purely moral obligations and certainly does not enforce compliance.

Elon, *Jewish Law*, vol. i, p. 141; see also on the question of the distinction between law and religion and morality in the responsa of Rabbi Yehiel Jacob Weinberg, in

Seridei Esh (Jerusalem: Mosad Harav Kook, 1977), part 1, note 65 [Hebrew]: “And now I will raise a general matter: It is well known how hard learned jurists strove to discover the dividing line between law and morality, or between law and equity. Books in foreign languages have already been written on the subject. And note that in the laws of Israel we have found explicit in Bava Metzia 83a in the story of the wine carriers: “He said, ‘Is that the law?’ He inquired. ‘Even so,’ he rejoined: “That you may walk in the way of good men.”” See also Ketubot 49b concerning the duty of a son to sustain his father.

56. Deuteronomy 15:7-8.

57. Rabbi Joseph Karo, *Shulhan Aruch, Yoreh De'a* 248:1. The commandment to act beyond what is required by the law is generally considered to be a sign of piety. See Maimonides, *Mishneh Tora*, Laws of Murder and Preservation of Life 13:4: “But if one is pious and does more than the letter of the law demands, even if he is a prince of the highest rank, still if he sees another’s animal crouching under its burden of straw or sticks or the like, he should help unload and reload.” See also Maimonides, *Mishneh Tora*, Laws of Robbery and Loss 11:7. On the other hand, the enforcement of selfless behavior is not a measure of piety but the policy of the rabbinical court and is a specific example of a ruling on moral and not legal grounds, in accordance with the instruction to the rabbinical court to educate the people and preserve the principles of religion and morality. See Maimonides, *Mishneh Tora*, Laws of the Sanhedrin and the Punishments Meted Out 24:4. The obligation to behave in a selfless manner has the authority of the Talmud (e.g., Bava Kama 21b) and Maimonides: “Thus also in all instances where one benefits while the other incurs no loss thereby, the latter is compelled to accede to the demand of the former.” *Mishneh Tora*, Laws of Neighbors 7:8.

58. Maimonides, *Mishneh Tora*, Laws of Gifts to the Poor 10:1.

59. Maimonides, *Mishneh Tora*, Laws of Gifts to the Poor 8:3.

60. See Rabbi Meir of Rothenburg, *Responsa of the Maharam Ben Baruch* (Prague Press), note 75, s.v., “And to distribute his wealth [to his children].” See also Rabbi Moses Isserlis’ commentary on *Shulhan Aruch, Yoreh De'a* 249:1, and the commentary of Rabbi Shabtai ben Meir Hakohen (*Shach*) ad loc. sub-clause 3.

61. Mishna Demai 3:1; Mishna Kidushin 4:5; Mishna Bava Kama 10:1; cf. Jerusalem Pe’a 1:1.

62. See, for example, the discussion of this question in Bava Batra 8b.

63. Bava Batra 8b.

64. Ze’ev Falk, *The Values of Law and Judaism: Towards a Philosophy of the Halacha* (Jerusalem: Magnes, 1980), pp. 117, 119 [Hebrew]; Dagan, “Laws of Wealth Creation,” pp. 178-190; Shimon Federbush, *Laws of the Kingdom in Israel*

(Jerusalem: Mosad Harav Kook, 1952), pp. 23-25, 126-128, 138-140 [Hebrew]; Aharon Lichtenstein, "A Clarification of *Kofin al Midat Sedom*," in *Jewish Philosophy in America*, eds. Menachem Zohari, Aryeh Tartakover, and Haim Ormien (Tel Aviv: Brit Ivrit Olamit, 1973), pp. 380-381 [Hebrew]; Tamari, *With All Your Possessions*, pp. 36-38, 52-56, 210-211, 240, 242-243, 248-249, 277; Frisch, *Historical Survey*, pp. 77, 80; Walzer, *Spheres of Justice*, pp. 3-6, 75-78, 92.

65. Yevamot 90b. According to this moral principle, Rabbi Isaac ben Avraham, one of the great twelfth-century Tosafists, compared the duty of charity to that of honoring one's father and mother. See Tosafot to Bava Batra 8b, s.v. *akfeh lerav natan*; see also Rabbi Nisim Gerondi on Ketubot 18a; Nachmanides on Bava Batra 8b. For more on Rabbi Isaac ben Avraham, see Ephraim E. Urbach, *The Tosafists: Their Lives, Writings and Methodology* (Jerusalem: Bialik Institute, 1996), pp. 261-271. [Hebrew]

66. Maimonides, *Mishneh Tora*, Laws of Giving to the Poor 7:10. Regarding the enforcement of moral laws in the form of *migdar milta*: "The court is empowered to flog him who is not liable for flagellation and to mete out the death penalty to him who is not liable for death. This extensive power is granted to the court not with the intention of disregarding the law, but in order to build a fence around it." Maimonides, *Mishneh Tora*, Laws of the Sanhedrin 24:4.

67. Maimonides, *Mishneh Tora*, Laws of Divorce 2:20.

68. Bava Batra 48a.

69. Succah 49b.