

# Toward a Halakhic Definition of Poverty

*Jill Jacobs*

Imagine a single-parent, two-child family with a household income of \$20,000/year living in the metropolitan Chicago area. Fair-market rent on a two-bedroom apartment would eat up almost 50 percent of this family's income.<sup>1</sup> The family would spend another 24 percent of their income on food, leaving only about \$5,000 for health care, child care, transportation and miscellaneous expenses.<sup>2</sup>

And yet, according to the official U.S. poverty threshold, this family is not poor.

Behind all of the debates about effective solutions to poverty lies the more basic question of who is poor. On a practical level, the ways in which our society responds to this question affect the type and level of assistance we make available. Perhaps more importantly, our answers say much about our society's attitudes toward the poor. Implicit in our answers to the question "how much is enough" is a statement about the level of dignity and quality of life we consider the poor to deserve.

Our efforts to allow Jewish texts to guide us toward a social agenda must, then, include an attempt at a definition of poverty. This definition will lead us both toward a more complete understanding of Jewish attitudes toward the poor, and toward the possibility of creating poverty policy that reflects halakhic concerns.

This article will offer a brief overview of the development of the U.S. poverty threshold, and then will discuss the ways that rabbinic sources and their associated commentaries might define a poverty threshold. This definition will, in turn, offer a lens into Jewish conceptions of poverty and into the ways in which halakhic sources conceive of our obligations toward the poor.

## **The Development of Federal Poverty Measurements**

The United States defines poverty according to two measurements: poverty thresholds and poverty guidelines. The poverty thresholds, determined by the U.S. Census Department, are used only for statistical purposes. The poverty guidelines, which are issued by the Department of Health and Human Services, are simplified versions of the poverty thresholds, used to determine eligibility for federal anti-poverty programs such as Head Start, school lunch programs, and food stamps.<sup>3</sup> In practical terms, the poverty thresholds and poverty guidelines produce fairly similar numbers. However, the poverty thresholds for a given year are not released until the summer after that calendar year—a full year and a half later. The poverty guidelines, on the other hand, are released in January or February of the calendar year and are used to determine program eligibility for that year. In 2004, the poverty guidelines defined poverty as an annual income of less than \$15,670 for a family of three or \$18,850 for a family of four.<sup>4</sup> The preliminary estimates of the 2003 poverty threshold<sup>5</sup> defines poverty as \$14,675 for a family of three or \$18,811 for a family of four.<sup>6</sup>

For the purpose of simplicity, this article will refer to the poverty thresholds, as these serve as the basis for the poverty guidelines. While the poverty thresholds and poverty guidelines for a given year may differ by a few hundred dollars, the bases for these two measures are the same.

The poverty threshold was first developed by Mollie Orshansky for the Social Security Administration in 1963–1964. This poverty threshold might have remained simply a statistical measure, of interest only to social scientists, if not for its emergence soon before President Lyndon Johnson’s declaration of a “War on Poverty” in his 1964 State of the Union address. To fight a “war” on poverty, one must define what poverty is.

Orshansky based the poverty thresholds on a series of food plans issued by the Department of Agriculture beginning in 1933. These plans, termed “liberal,” “modest,” and “low-cost,” estimated various levels of food expenses. To these three plans, the Department of Agriculture, in 1955, added a fourth “economy” plan which allowed even less money for food than the “low-cost” plan. To develop the original poverty thresholds, Orshansky used the “low-cost” and “economy” food plans as estimates of what poor families should spend on food. In accordance with the Depart-

## — Toward a Halakhic Definition of Poverty —

ment of Agriculture's 1955 Household Food Consumption Survey, she assumed that households should spend approximately one-third of their income on food, and therefore set the poverty threshold at approximately three times the cost of food, according to the low cost and economy food plans.<sup>7</sup> In justifying the choice of food costs as the baseline for poverty measurements, Orshansky explained, "there is no generally accepted standard of adequacy for essentials of living except food."<sup>8</sup>

It is not clear that Orshansky meant for her poverty thresholds, developed as a tool for studying the impact of poverty on families in various economic situations, to become the standard measure of poverty. However, emerging as they did right before Johnson's declaration of a "war on poverty," these thresholds offered a useful means of defining the battleground.

Over the past twenty years, the federal poverty standard has come under attack as an inaccurate indicator of one's financial well-being. The poverty threshold has been criticized for reflecting neither popular definitions of poverty, nor the amount of money necessary for self-sufficiency. In one indication of the discrepancy between public perception and the official poverty thresholds, respondents to the Gallup poll question, "What is the smallest amount of money a family of four (husband, wife, and two children) needs each week to get along in this community?" regularly offered a number that is more than one-and-a-half times the official poverty threshold.<sup>9</sup>

Much of the critique of the poverty threshold focuses on the use of food costs as the standard for determining poverty. At a time when food prices have plummeted, and when other costs such as housing, health care and child care consume greater percentages of family budgets, many argue that costs other than food should serve as the basis for estimating minimum household budgets. The poverty threshold fails to take into account regional differences or differences between urban, suburban, and rural areas. Additionally, the poverty threshold, developed at a time when the tax burden on the poor was insignificant, uses pre-tax income as its basis, rather than the post-tax income that determines spending power.

In an effort to establish more accurate indicators of poverty status, some research institutions have issued "self-sufficiency" indexes, alternate estimations of families' minimum costs.<sup>10</sup> During the mid 1990s, a number of government agencies and sub-committees even cosponsored an independent

study by the National Research Council on new approaches to measuring poverty.<sup>11</sup> These alternate measures of poverty routinely suggest poverty thresholds or “self-sufficiency standards” many times the official federal poverty threshold.

### **Rabbinic Measures of Poverty**

Rabbinic texts establish at least three “poverty lines,” each of which determines one’s eligibility for various types of financial and/or food assistance. These poverty levels are based on the type and the immediacy of one’s need. Those without enough food even for a single day may receive emergency food assistance, whereas those with more resources are eligible only for longer-term help.

Each of these rabbinic “poverty lines” corresponds to one of the three types of mandatory tzedakah programs: *tamḥui*, *kupah*, and agricultural tzedakah, including *leket*, *pe’ah*, *shikḥaḥa*, and *ma’aser oni*. The *tamḥui* and the *kupah* provided emergency food and money to those without enough food to survive a day or a week, respectively. The four agricultural types of tzedakah, which I will discuss in depth later, offered more long-term assistance to those unable to support themselves for a year.

In contrast to the United States poverty thresholds, rabbinic texts do not define poverty per se, but offer guidelines for the purpose of distributing certain kinds of assistance. The apparent goal is not the classification of the poor, but the fair distribution of limited resources. Thus, rabbinic discussions of who should be permitted to accept tzedakah are most concerned with the issue of *gozel ‘aniyyim*, stealing from the poor—the worry that if an undeserving person takes tzedakah, there will not be enough resources left for those more in need.

Most post-talmudic codes and teshuvot assume that the institutions of *tamḥui* and *kupah* no longer exist, and that the laws pertaining to *leket*, *pe’ah*, *shikḥaḥa*, and *ma’aser oni* offer the precedent for contemporary tzedakah.<sup>12</sup> While addressing *tamḥui* and *kupah*, this article will concentrate primarily on the ways in which poverty is defined for the purpose of the latter four types of tzedakah. We will consider the ways in which early rabbinic sources and later commentaries have defined poverty, the values and obligations implicit in each of these definitions, and the possibility of

allowing these definitions to inform our own attempts to define and to respond to contemporary poverty.

### Meeting Immediate Needs

Rabbinic texts describe two types of emergency food assistance—the *tamḥui* and the *kupah*. The *tamḥui* appears to have been a type of soup kitchen, similar in format to today's Second Harvest organization. Every day, three collectors, appointed by the community, would go door to door to collect leftover food, which would then be distributed to those in need. Only those without enough food for a particular day could collect from the *tamḥui* on that day. As the *tamḥui* was distributed every day, those with limited food security knew that they would be able to collect food whenever they needed it, and therefore did not need to stockpile food on any given day. Furthermore, the *tamḥui*, which depended on the donations of local residents, was necessarily a limited fund. If those who did not need emergency food assistance accepted donations from the *tamḥui*, there might not be enough food left for those truly in need.

Similar in structure to the *tamḥui* was the *kupah*, a monetary fund collected and distributed by two members of the community. While the *tamḥui* was distributed daily, the *kupah* was distributed only once a week, on Friday afternoon. Only a person without sufficient food for the week could collect from the *kupah*.<sup>13</sup>

Both the *tamḥui* and the *kupah* responded to immediate need, and eligibility for both of these tzedakah programs depended on one's ability to survive until the next distribution of that particular fund. In both cases, the sole determinant of need is access to food. Other expenses, such as housing, health care, and education are not taken into consideration. As a number of later commentators suggest, the limited size of both the *tamḥui* and the *kupah* presumably necessitated the restriction of these funds to the poorest of the poor—those at immediate risk of starvation.<sup>14</sup>

### Agricultural Assistance

While the eligibility criteria for the *tamḥui* and the *kupah* seem relatively straightforward, the conditions for participation in the agricultural

tzedakah programs are somewhat more obscure. The Mishnah, based on biblical sources, defines three types of produce left in the field for the poor: *pe'ah* (corners of the field), *shikhaḥa* (forgotten sheaves) and *leket* (grain that falls during harvesting). In order to collect from these three types of produce and from the *ma'aser oni*, a tithe given to the poor every three years, one must possess no more than 200 *zuzim*.<sup>15</sup> This figure is obviously meaningless to us today. However, clues within the Mishnah itself, as well as the interpretations of later commentators, offer some possibilities for defining this threshold in a way that may inform our understanding of contemporary measurements of poverty.

According to Mishnah Pe'ah 8:8–9:

מי שיש לו מאתים זוז לא יטול לקט שכחה ומעשר עני היו לו מאתים חסר דינר אפילו אלף נותנין לו כאחת הרי זה יטול היו ממושכנים לבעל חובו או לכתובת אשתו הרי זה יטול אין מחייבין אותו למכור את ביתו ואת כלי תשמישו מי שיש לו חמשים זוז והוא נושא ונותן בהם הרי זה לא יטול

One who has 200 *zuzim* should not take *leket*, *shikhaḥa*, *pe'ah*, and *ma'aser oni*. If one has one *dinar* (equal to two *zuzim*) less than 200 *zuzim*, even if 1000 people give to him, he may take from all of them. [One whose 200 *zuzim*] are owed to a creditor or to his wife's *ketubah* may take. We do not obligate him to sell his house or his vessels [in order to acquire the 200 *zuzim* that would disqualify him from taking from the *leket*, etc.]. One who has fifty *zuzim* with which he does business should not take [from the *leket*, etc.].

This Mishnah offers a number of clues that point us toward the definition of a poverty line, for the purposes of agricultural forms of tzedakah. First, the restrictions on eligibility for these types of tzedakah do not necessarily depend on whether one will starve to death before the next distribution. While it is possible that 200 *zuzim* is the Mishnah's estimation of the cost of food from one harvest to another, such an explanation does not appear within the text itself. In contrast, the Mishnah specifies that one may take from the *tamḥui* and the *kupah* only if one cannot afford meals for the day or for the week, respectively. With its omission of a parallel statement about agricultural tzedakah, the Mishnah leaves open the possibility that the sum of 200 *zuzim* includes costs other than food.

## — Toward a Halakhic Definition of Poverty —

Second, the Mishnah recognizes that not all money is equally accessible or equally valuable. Thus, the Mishnah distinguishes between money that is wholly one's own and money owed to another party, and between money stored away and money with the potential to make more money. It seems obvious to point out that one whose money is owed to a creditor does not, in practice, have the same amount of money as one with no debt. However, in calculating eligibility for services, many contemporary anti-poverty programs count as assets cars, homes, and other items on which applicants owe money. In contrast, the Mishnah is primarily interested in one's ability to purchase necessities, and not in the amount of money one has in the bank.<sup>16</sup> Similarly, the Mishnah distinguishes between money with no growth potential, and money with which one does business. Again, the relevant issue is financial security, and not the value of one's initial savings.

Even more striking is the Mishnah's distinction between liquid assets and material possessions. Instead of compelling a person to sell his or her property in order to avoid taking tzedakah, the Mishnah insists on a certain standard of living even before one begins to calculate a poverty line. Poverty, according to the Mishnah, is defined as having no more than a home, cooking vessels and either 200 *zuzim* or 50 *zuzim* with which one does business. To this list, the Yerushalmi adds two garments, one for weekdays and one for Shabbat.<sup>17</sup> The Tosefta, differing somewhat from the Mishnah, mandates that a person who owns gold dishes must sell them and replace them with silver dishes. Similarly, silver dishes must be exchanged for bronze ones, and bronze dishes must be exchanged for glass ones.<sup>18</sup> With this ruling, the Tosefta attempts to balance a desire to prevent those with access to wealth from wrongly taking tzedakah with a wish to preserve the dignity of the newly poor by allowing them to maintain a standard of living similar to what to which they are accustomed. The Bavli tries to reconcile the Mishnah and the Tosefta by suggesting either that the two rulings apply either to two different kinds of dishes or to two different situations.<sup>19</sup> While disagreeing on the details, all three of these texts assume that the poor must be permitted to maintain a standard of living that preserves their dignity.

Even while limiting eligibility for tzedakah, the Mishnah acknowledges that even a person with 200 *zuzim* may not be able to support him/herself. Thus, a person whose net worth falls just below the 200 *zuzim* threshold may take tzedakah from multiple people, even when the cumulative value

of this tzedakah will lift him/her above the poverty line. As if to illustrate this point, the Yerushalmi tells the story of one of Rabbi Yehuda haNasi's students, who is one dinar short of the 200 *zuzim* that would place him over the poverty line. Some of his fellow students maliciously give him this final dinar, thus making him ineligible for tzedakah. When Rabbi Yehuda tries to give the student tzedakah, the student refuses, saying that he already has 200 *zuzim*. Rabbi Yehuda escorts the student into a store, directs him to spend more than a dinar there, and then proceeds to give him the originally intended tzedakah.<sup>20</sup> A net worth equal to the mishnaic poverty line, this story suggests, does not necessarily guarantee self-sufficiency.

### Interpretations of the Mishnah

Post-talmudic halakhic sources preserve the mishnaic distinction between material necessities and the wealth that determines one's poverty status. The Tur (Jacob ben Asher, 1270–1343), one of the first major Jewish law codes, revisits the question, raised and discussed by the Mishnah and Tosefta earlier, of whether a person is forced to sell gold and silver dishes before receiving tzedakah:

יש לו בית וכלי בית הרבה ואיו לו מאתים זוז היו יטול ואין צריך למכור כלי ביתו ואפילו הם כלי כסף וכלי זהב בד"א בכלי אכילה ושתייה ומצעות וכיוצא בהן אבל יש לו מנורה או שלחן של כסף וכיוצא בהן צריך למכור ולא יטול מהצדקה והא דאין מחייבין אותו למכור כלי תשמישיו של כסף וזהב דוקא כל זמן שאיו צריך ליטול מהקופה אלא מקבל בסתם מיחידים ומקרוביו ויכולין ליתן לו וא"צ למכור כליו אבל אם בא ליטול מהקופה של צדקה לא יתנו לו אלא ימכור כליו

One who has a house and many utensils but does not have 200 *zuzim* may take tzedakah and does not need to sell his utensils, even if they are of silver and gold. This applies to utensils for eating and drinking and such, but if he has a silver menorah or table or such things, he must sell it and not take from the tzedakah fund. The statement that we do not force a person to sell his silver and gold utensils applies only in the case that the person does not need to take from the *kupah*, but is taking only from individuals or from relatives—they may give tzedakah to him, and he does not need to sell his uten-

## — Toward a Halakhic Definition of Poverty —

sils. However, if he comes to take from the *kupah*, we do not give to him, but rather, we force him to sell his [gold and silver] utensils.<sup>21</sup>

While insisting that a poor person be able to keep his home and utensils, even if the latter are very expensive, the Tur worries that a person with material wealth may deplete the communal tzedakah funds, thereby depriving even more deserving people of assistance. For the purposes of accepting donations from individuals, however, the definition of poverty is more lenient, as the size of individual donations has less of a direct impact on the amount of assistance available for other poor community members. In our time, we can say that government assistance programs are comparable to the *kupah*, in that they are communally-administered funds, whose size is necessarily limited.<sup>22</sup> Applying the Tur to contemporary assistance programs, we might argue that the calculation of a person's eligibility should not take into account basic possessions, but should consider material wealth.<sup>23</sup>

In an attempt to understand the exclusion of one's property from calculations of wealth, the Nimukei Menaḥem (Rabbi Menaḥem ben Pinchas of Merseburg, 14th century Germany) speaks of the precarious nature of one's home and land.<sup>24</sup> Land may or may not produce fruit, he says, and a house may burn down. While it is possible to protect other forms of wealth from loss, one cannot always guarantee the long-term stability of land or a house. With this interpretation, the Nimukei Menaḥem introduces into our discussion the idea that income security determines poverty status. That is to say, the classification of a person as poor or not poor depends on whether that person can expect to remain self-sufficient for at least a year—and not on his/her current economic situation. Thus, given the contemporary system of property insurance, we might suggest, based on the Nimukei Menaḥem, that in determining poverty status today, property for which one has insurance *should* be included in the calculations, but property for which one has no insurance should not. This emphasis on financial security—rather than on the possession of a specific amount of money—will become even more pronounced in post-talmudic discussions of the value of the 200 *zuzim* mentioned by the Mishnah.

## The Value of 200 *Zuzim*

Having established that, according to the major halakhic sources, one's home and utensils are not factored into the determination of poverty status, we next must consider the value of the 200 *zuzim* that define the poverty line for the purposes of agricultural tzedakah. As little is known about monetary values in Roman Palestine, I will not even venture a guess about the real worth of this amount of money.<sup>25</sup> More important for our purposes is an examination of the ways in which this amount has been understood in halakhic sources and in commentaries on the Mishnah.

From the assumption within the Mishnah that the poor person in question already owns a house and utensils, we can assume that the 200 *zuzim* that would disqualify this person from taking tzedakah is not expected to pay for these items. The figure of 200 *zuzim* must, then, be based on other expenses.

In his commentary on the Yerushalmi, the P'nai Moshe (Moshe ben Simeon Margoliot, d. 1781) explains that 200 *zuzim* is the value of food and clothing for an entire year.<sup>26</sup> The Or Zarua (R. Yitzhak ben R. Moshe c. 1180–c. 1250) suggests that this amount also includes food for one's wife, dishes, shoes, and other necessities.<sup>27</sup> However, quoting *ba'alei haTosefot*, he argues that the amount of assistance will necessarily vary from person to person and from situation to situation:

אומר אני הכל לפי פרנסתו ופרנסת ביתו דהא אשכחן דהוּוּ מזלפיו י"ו היו  
כופלין ארבע מאות זוז לפי מה שרגיל

I say that everything depends on what a person needs to support his household, for we find that if a person is a wine drinker we need to double the limit to 400 *zuzim* according to that to which he is accustomed.<sup>28</sup>

For the Or Zarua, poverty is defined as the inability to provide for the basic physical needs of oneself and one's family. These needs may include food and clothing, but may also be extended to luxuries such as wine. The fundamental goal of tzedakah, in his articulation, is the preservation of a person's dignity and comfort, even beyond the provision of basic necessities. Like most of the sources we have seen, the Or Zarua understands poverty as a temporary condition, caused perhaps by a bad agricultural

yield or a personal disaster. He therefore worries about maintaining a person's accustomed standard of living, even during this aberrant year, and does not address the case of chronic poverty. It is unclear whether the Or Zarua would allow a poverty threshold higher than 200 *zuzim* for a person who has always been poor, but who has expensive tastes. Regardless, the primary contribution of the Or Zarua is the acknowledgment that different people have different levels of need. In the contemporary world, there would be little support for a definition of basic needs that included a wine allowance. However, we can imagine creating a poverty line that takes into account individual medical, educational, child care or transportation expenses.

The Tur offers an even more liberal interpretation of a person's eligibility for tzedakah, whose laws he equates with the laws of *leket*, *pe'ah*, *shikhaḥa* and *ma'aser oni*. He writes:

וַיֵּא שְׂכַל אֱלוֹ הַשְּׁוֹעוּרִים לֹא נֹאמְרוּ אֲלֵא בִּימֵיהֶם שֶׁהָיָה לָהֶם קוּפָה וְתַמְחוּי וְהָיוּ מַחְלִקִין מַעֲשֵׂר עֲנִי בְּכָל שָׁנָה וְהָיוּ נוֹטְלִין לְקַט שְׂכַחַה וּפְאֵה לְפִיכָךְ שִׁיעֲרוּ שְׂמֵי שִׁישׁ לֹר' זֶז לֹא יִטוֹל לְפִי שִׁיכּוֹל לְעִבּוֹר בְּהֵן שָׁנָה וּלְשָׁנָה הַבֹּאָה יִהְיֶה לוֹ בְּמָה שִׁיְהִיָּה אֲבֵל הָאִידְנָא שְׁאִין כָּל זֶה יִכּוֹל לִיטוֹל עַד לוֹ שִׁיְהִיָּה לוֹ קֶרֶן כְּדִי לְהַתְּפַרְנֵס מִן הַרְיּוּחַ תַּדַּע לָךְ שֶׁהָרִי יֵשׁ חִילוּק בֵּין אִם נוֹשֵׂא וְנוֹתֵן שְׂאֵז אִפִּי' אִם יֵשׁ לוֹ נ' זֶז לֹא יִטוֹל שְׁאִפְשֵׁר לוֹ לְהַתְּפַרְנֵס מִן הַרְיּוּחַ אֲלֵמָא הַכֵּל לְפִי הַעֲנִין וְאִפְשֵׁר כִּי בִּימַחְהֶם הִיתָה הַחֻצָּאָה מְעוּטָה וְאִפְשֵׁר לְהַתְּפַרְנֵס בְּרוּיַח שֶׁל נ' זֶז אֲבֵל הָאִידְנָא אִ"א וְהַכֵּל לְפִי הַמְּקוֹם וְהַשְּׁעָה

All of these values (200 *zuzim* or 50 *zuzim* with which one does business) apply only in their time (in the rabbinic period), when the institutions of the *kupah* and the *tamḥui* existed and when *ma'aser oni* was distributed yearly, and when the poor would take the *leket*, *shikhaḥa* and *pe'ah*. Therefore, one who had 200 *zuzim* would not take [tzedakah], since this person would be able to survive for a year on this amount, and the following year, he would have whatever he had. However, today, when we do not have these institutions, one may take until he has enough capital that he is able to live off of the profit. You should know that there is a distinction between one who does business with his money and one who does not, as it says "One who has 50 *zuzim* with which he does business should not take" as it is possible for him to live off of the profit. Similarly, all laws of tzedakah follow this principle. It is possible that, in their time, salaries were low and one could live on the profit made

from 50 *zuzim*. However, today, this is not possible, and everything goes according to the place and the time.<sup>29</sup>

Most striking in the Tur's discussion is his permission to take *tzedakah* until the point at which one can live off of one's business profit while, presumably, retaining some capital. A contemporary application of this principle might extend the definition of poverty to anyone without any money in savings.<sup>30</sup> While the amount of money that should remain in this *keren* or savings fund remains undefined, the Tur's essential innovation is the characterization of poverty as determined by economic insecurity. A person may take from the communal *tzedakah* fund as long as s/he is not absolutely certain of being able to survive on his/her year's profits. Furthermore, the Tur emphasizes that the 200 *zuzim* specified by the Mishnah represents not a fixed amount, but rather an approximation of the cost of living during the rabbinic period. The poverty line, according to the Tur, should reflect the cost of living in a particular place in a particular time.

Joseph Caro echoes the Tur's insistence that the definition of poverty changes according to time and place. In a *teshuvah* about the permissibility, when funds are limited, of giving *tzedakah* to Torah scholars whose net worth exceeds the technical limit of 50 *zuzim* of capital, he refuses to set any fixed limit for the amount of money one must have to lose eligibility for *tzedakah*, saying:

אין קצבה דלא כל המקומות כל האנשים שוים דיש מקום משא  
ומתן שבדבר מועט מקרן יכול להריח פרנסתו ויש מקום דאפי' בכפלי  
כפלים לא יוכל להרויח פרנסתו. וכן באנשים יש בקי בסחורה שמצליח  
בה ויש שאינו בקי וגם יש שאין לו טיפול ויספיק לו דבר מועט ויש  
שיש לו טיפול

There is no limit [to the amount of capital that would place a person over the poverty line] for not all places or all people are the same, for there are places in which one can do business with very little capital and make sufficient profit to support oneself, and there are places in which even with four times as much capital, one cannot make sufficient profit to support oneself. Similarly, with people, there are those who are knowledgeable about business and are able to succeed at it, and there are those who are not knowledgeable. Also, there are those who have few needs and who are satisfied with little, and those who have more needs.<sup>31</sup>

## — Toward a Halakhic Definition of Poverty —

The poverty line should vary, Caro suggests, according to an individual's situation and ability, as well as according to time and place. In contemporary terms, we might understand his position as support for regional, rather than national, poverty lines, and/or for differences among the poverty lines of urban, rural, and suburban areas. Based on Caro's distinction between those "who are talented at business . . . and people who are not," we might also suggest different levels of assistance for those with college degrees or career skills than for those unlikely to secure lucrative jobs. However, the difficulty of determining a person's potential earnings, as well as other mitigating factors such as job availability and physical and mental health, serves as a caution against implementing such an approach.

Going a step further than either the Tur or Caro, the *Ḥavvot Yair* (Rabbi Yair Chaim ben Moses Samson Bachrach, 1683–1702) argues that, in his time, there may be no limit on who may take tzedakah:

כמ"ש במשנה סוף פאה מי שיש לו מאתים זוז או חמשים זוז והוא נושא  
ונותן בהם הי"ז לא יטול דשיערו חז"ל דשיעור זה הוא כדי פרנסת איש  
וביתו ומעתה י"ל דה"ל דה"מ בזמניהם שלא היה כולי האי עול משא מלך  
והיה הכל בזול כבמוכח בכמה דוכתי ומבואר . . . בתשובה אחרונה  
שכתבתי בספרי חוט השני משי"כ בזמנינו אין גבול לומר די לחיות נפשינו  
ונפש אשה וילדיה

As it says in the Mishnah at the end of Peah, "one who has 200 *zuzim* or 50 *zuzim* with which he does business may not take" — this is the limit set by the rabbis, as this is the amount of money necessary for supporting oneself and one's family. From this, we can say that the Mishnah refers to their time [the rabbinic period], when they did not have all of the injustice of the king's burden, and when everything was cheap, as is clear from several places and as is explained in another responsum that I wrote in my book, *Ḥut haSheni*. But in our time, there is no limit at which one says, "I have enough for myself, my wife and my children."<sup>32</sup>

The *Ḥavvot Yair* may speak to a reality in which everyone in the community actually is deserving of tzedakah. In our society, it would be hard to argue that there is nobody who has enough for their families. However, the *Ḥavvot Yair* does remind us that the definition of poverty changes according to time and place, and that even a higher poverty line may never be able to take into account every individual need.

## Contemporary Applications

All of the texts that we have examined—from the Mishnah through the early modern *teshuvot*, assume that the calculation of one's wealth for the purposes of defining a poverty line, does not include basic material necessities such as a house and eating utensils. Implicit in this assumption is an insistence that even the poorest of the poor should have a home and basic utensils. A contemporary translation of this principle would suggest that, when determining the poverty line, we should first calculate the price of housing and consider other costs afterwards. Such a strategy might produce definitions of a poverty threshold that parallel the National Low Income Housing Coalition's proposed "housing wage"—the amount of money one must earn in order to afford adequate housing in various places.<sup>33</sup>

In defining the value of 200 *zuzim* as the cost of food, clothing and other necessities for the year, sources such as the P'nai Moshe force us also to include these items in the calculation of a poverty threshold. Furthermore, based on the Tur, Joseph Caro, and the H'avvot Yair, we may insist that the poverty threshold take into account regional and individual differences and reflect rising costs. According to these sources, we should, perhaps have no federal poverty threshold, but should instead have separate poverty thresholds for individual regions, states, or cities, and should link this poverty threshold to the rate of inflation. Caro's differentiation among the differing needs of individuals may also call for a poverty threshold that takes into account medical costs, child care, and educational expenses. Finally, based on the Tur, we might suggest that the poverty threshold be high enough that a family living exactly at this line will always have some amount of savings in the bank.

These provisions will necessarily lead to a poverty threshold much higher than the current one, which is based solely on the cost of food, and which does not take inflation into account. We would expect the final calculation of this poverty threshold to mirror the previously-mentioned "self-sufficiency indexes." These reports consider the costs of housing, food, clothing, transportation, and child care for families of various sizes and, as expected, produce estimates much higher than the federal poverty threshold. Even such a self-sufficiency index, however, may not take into account the recognition of individual differences or the need for economic security identified by a number of the halakhic texts.

## — Toward a Halakhic Definition of Poverty —

The halakhic texts examined in this piece can be characterized by a tension between the desire to establish a definitive poverty threshold, and an awareness of the need to adapt this poverty threshold to each individual situation. Based on these sources, I would suggest a departure from traditional measurements of poverty and a move toward a matrix that takes into account regional differences, family make-up, health care costs, educational expenses, and other factors that differentiate one family's budget from another. This matrix would, necessarily, be even more complex than the various proposed self-sufficiency indexes, but would offer a more realistic portrait of who, in our society, should be eligible for assistance.

### NOTES

1. The fair market rent for a two-bedroom unit in metropolitan Chicago is \$823/month. Affordable housing is generally defined as housing that costs no more than 30 percent of one's income. *Out of Reach 2003* (National Low Income Housing Coalition, 2003).

2. Diana Pearce and Jennifer Brooks, *The Self Sufficiency Standard for Illinois*, prepared for Women Employed, December 2001.

3. Many governmental poverty programs do recognize the poverty threshold as an inadequate measure of economic self-sufficiency and therefore use a multiple of the poverty threshold when determining eligibility. For example, families earning up to 200 percent of the federal poverty threshold may be eligible for Medicaid.

4. These guidelines are applicable only to the 48 contiguous states. In accordance with the practice of the Office of Economic Opportunity, since the late 1960s, there have been separate poverty guidelines—though not poverty thresholds—for Alaska and Hawaii.

5. As of May 27, 2004.

6. It is important to note that the minimum wage does not even produce salaries in line with these poverty thresholds. A worker earning the minimum wage of \$5.15/hour for 40 hours/week will earn \$10,712/year—more than \$4,000 short of the poverty guidelines for a family of three.

7. Gordon M. Fisher, "The Development of the Orshansky Poverty Thresholds and Their Subsequent History as the Official U.S. Poverty Measure," Working paper for the U.S. Census Bureau, 1992 (revised 1997).

8. "Counting the Poor: Another Look at the Poverty Profile," *Social Security Bulletin*, Vol. 28, No. 1 (January 1965), p. 5.

9. Denton Vaughan, *Exploring the Use of the Views of the Public to Set Income Poverty Thresholds and Adjust them Over Time* (U.S. Census Bureau, 1993; updated 2003).

10. See, for example, Diana Pearce and Jennifer Brooks, *The Self-Sufficiency Standard for New York* (New York: New York State Self-Sufficiency Steering Committee, 2000) and Pearce and Brooks, *The Self-Sufficiency Standard for Massachusetts* (Boston: Women's Educational and Industrial Union, 2003). These self-sufficiency indexes are not directly comparable to the U.S. Census Bureau's poverty line as, unlike the poverty line, these indexes distinguish between families living in different parts of the target metropolitan area and between families with children of various ages. However, these self-sufficiency indexes, which, in addition to food, factor in the cost of housing, transportation, health care, child care, and other expenses, generally estimate that to be self-sufficient, a family of three living in a metropolitan area must earn between twice and four times the national poverty line.

11. Constance F. Citro and Robert T. Michael, ed., *Measuring Poverty: A New Approach* (Washington, DC: National Academies Press, 1995).

12. See, for example, *Sefer Or Zarua* I, *Hilkhot Tzedakah* 14 (*dibbur hamathil "Sha'al Rabbi Kalonymous"*) (1180–1250) and *Teshuvot haRashba* I:871 (1235–1310). The Tur (*Yoreh Deah* 253) without comment applies the laws of *leket*, etc. to tzedakah. Commenting on this section, the *Beit Yosef* (1488–1575) says:

ואע"פ שבמשנה לא אמרו אלא לא יטול לקט שכחה ופאה ומעשר עני כתב רבינו לא יטול צדקה כלל משום דמשמע דכל שאינו נוטל את אלו אינו נוטל שום צדקה וכן כתב המרדכי בפ"ק דביב (סי' תק) בשם רבינו אפרים ובשם האור זרוע (הלכות צדקה סי' יד)

“Even though the Mishnah only says that one [who has 200 *zuzim*] should not take *leket*, *shikhaḥa*, *pe'ah* and *ma'aser oni*, our rabbi [the Tur] wrote, ‘one should not take any tzedakah,’ for one who does not take these things should not take any kind of tzedakah. This is in accordance with the Mordekhai's commentary on the first chapter of Baba Batra (500), which he attributes to Rabbenu Ephraim and to the Or Zarua.”

13. B. Baba Batra 8b, M. Pe'ah 8:7.

14. See, for example the discussion of *gozel 'aniyyim* in the Beit Yosef on *Yoreh Deah* 253:1.

15. M. Pe'ah 8:8.

16. Later commentators specifically forbid a creditor from collecting tzedakah money, as the giver of the tzedakah intends for it to go to the recipient, and not to the creditor. (See, for example, *Teshuvot Radbaz*, 4:159 [Rabbi David ben Solomon ibn Avi Zimra, 1479–1573].)

17. Y. Pe'ah 8:8 (21a–b). This opinion, cited in the name of Rabbi Hanina, is challenged by others, who consider one garment to be sufficient. In the end, the gemara appears to accept the opinion of Rabbi Hanina.

18. T. Pe'ah 4:11. cf. B. 68b.

19. The Bavli here suggests that one of these texts applies to the situation of a person who has not yet taken tzedakah, and that the other applies to the situation

of a person who has already taken tzedakah. It is not clear which text the Bavli applies to which situation. Rashi understands the gemara to apply the Mishnah text to situation of one who has not yet taken tzedakah, and the Tosefta text to the situation of one who has already taken tzedakah. However, if a wealthy person fraudulently takes from the agricultural forms of tzedakah, the court may seize and sell his expensive dishes in order to regain the worth of the produce this person has stolen. Rabbenu Tam takes the opposite approach, applying the Tosefta to the case of a person who has not taken tzedakah, and the Mishnah to the case of one who has already taken tzedakah. According to Rabbenu Tam, a person who owns expensive dishes is forced to sell these before taking tzedakah. However, if a person has already taken tzedakah and then comes into possession of expensive dishes, we do not force him/her to sell these. The Rosh takes a third approach, suggesting that a person who takes tzedakah in private is not forced to sell his/her dishes, but that one who must begin accepting tzedakah publicly, from the tzedakah collector, is forced to sell expensive dishes. Presumably, the Rosh is concerned that a community will stop giving tzedakah if it seems that the tzedakah is going to the wealthy.

20. Y. Pe'ah 8:7, cf. Y. Sotah 3:4 and the commentary of the P'nai Moshe on both sugyot.

21. Yoreh De'ah 253:1.

22. The limits of any particular program are, of course, determined by the government that administers them. As such, we might argue that governmental programs are less limited than the *kupah*, whose size depended on the wealth of the individuals in a particular community.

23. Perhaps more permissively, the Rema (Rabbi Moshe Isserles, c. 1530–1572) considers one's house and utensils to be outside the purview of wealth calculations for the purpose of tzedakah. He writes:

וכן במקום דאיכא תקנה שלא ליתן צדקה למי שיש לו דבר קצוב. אין חושבין לו בית  
דירה וכלי תשמישיו

“In any case in which there is an enactment that prohibits giving tzedakah to those who have a certain amount, we do not count one's house or utensils” (Yoreh De'ah 253:1). From the absence of any qualification of “כלי תשמישיו” we may assume that the Rema would not distinguish between fancy vessels and plain ones.

24. S.v. “*Din d'ain*.”

25. From what is known about prices and monetary values in other parts of the Roman Empire, some have tried to determine the value of money in Palestine during this time. See, for example, Gildas Hamel, *Poverty and Charity in Roman Palestine* (University of California Press, 1990) and Richard P. Duncan-Jones, *Structure and Scale in the Roman Economy* (Cambridge University Press, 1990). Hamel, for example, suggests that during much of this period, one day's worth of bread (two loaves) cost  $\frac{1}{2}$  dinar (p. 39). At this rate, 200 *zuzim* would buy bread for 1200 days—more than three years. However, the economic differences between Palestine and other parts of the Roman empire make it impossible to come to any definitive

conclusions about the real value of a *zuz*. Despite his attempts to determine the value of Palestinian currency during this period, Hamel admits that “one cannot rely upon [the figure of 200 *zuzim* as the poverty line], if only because the value of the *zuz* varied during the period (especially during the third century C.E.)” (p. 218). I would like to thank Dr. Seth Schwartz for his guidance and cautions on this matter.

26. On Y. Pe’ah 8:7 (20d).

27. I *Hikhot Tzedakah* 14. Cf. *Teshuvot haRashba* I:572.

28. Ibid. Cf. *Teshuvot Ba’alei ha Tosefot* 32 (s.v. “*U’mah she’amarta*”). Like most rabbinic and later halakhic sources, the *Ba’alei haTosefot* assume that poverty is a temporary, rather than a permanent condition. Consistent with talmudic sources, the insists that a poor person be helped to maintain the same lifestyle that he had before becoming poor.

29. Tur Yoreh De’ah 252:2; cf. Sefer Mitzvot Katan 146.

30. The *Helkat Ya’akov* (R. Mordechai Yaakov Breisch, 1896–1970) considers and rejects the possibility that interest may constitute the “*revach*” mentioned by the Tur (Yoreh De’ah 137 [4:1]). If this were the case, anyone not able to live for a year off of his/her interest would be considered eligible for *tzedakah*! Instead, Breisch says, one should simply include the value of the interest earned in the calculation of one’s assets. Breisch, citing the *Tur*, stresses that 200 *zuzim* should be understood as the amount of money necessary to live for an entire year.

31. *Teshuvot Avkat Rokhel* 2 (s.v. “*Teshuva im*”).

32. *Teshuvot Havvot Yair*, 186.

33. Winto Pitcoff et al, *Out of Reach 2003* (Washington, DC: National Low Income Housing Coalition, 2003), <http://www.nlihc.org/oor2003/>.

---

*Rabbi Jill Jacobs is the director of outreach and education for the Jewish Council on Urban Affairs, based in Chicago.*