DOING WITH LESS
The Ethics of Diminished Resources

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When demands for communal services or resources outstrip their supply, Jewish communal professionals face agonizing decisions about how to distribute the available resources in an equitable manner. This article examines some ethical guidelines found in classical Jewish texts that apply to the distribution of limited resources and contrasts them to contemporary explorations of this topic, particularly affirmative action.

Almost 500 years ago, Rabbi Joseph Caro, the compiler of the *Shulkhan Arukh,* noted that "we have never seen nor have we heard of a Jewish community that did not have a charitable fund for the poor" (*Yoreh Deyah* 256:1). Throughout Jewish history, irrespective of geographic boundaries, the sick, the hungry, and the destitute could all turn to the *kehilla* and justifiably expect that help would be forthcoming. So ingrained is this value of alleviating distress that contributing to a worthy cause represents, for some Jews, the lone remaining link with their ancestral heritage.

Along with the obligation to assist those in need has come the awareness of limits on the community's capacity and responsibility to provide help. Whether from the perspective of those contributing the funds (*Yoreh Deyah* 249:1) or of those allocating them (*Yoreh Deyah* 250–251), Jewish tradition has recognized that demand can easily outstrip supply. Thus, the task of those entrusted with managing communal resources becomes agonizingly difficult. Inevitably, some problems will not be addressed, and some people will not be helped.

This article examines some of the ethical guidelines found in classical Jewish texts that apply to the distribution of limited resources. These sources are then contrasted with contemporary explorations of this topic. It is hoped that the conclusions will be of help to those who regularly wrestle with this dilemma.

THE COST OF SURVIVAL

The Talmud, tractate *Baba Matzia* (62a), relates the following:

> Two men were traveling together through an area devoid of sustenance. In the possession of one of them was a container of water. If it is shared, neither man will have enough, and both will likely die. If one of them drinks the entire supply, he will reach the next settlement, and his companion will likely die. Ben Petura explained: It is better that both drink the water than that one of them see the death of his friend. Until Rabbi Akiva came and taught "that your brother may live with you" (*Leviticus* 25:36), your life (i.e., he who possesses the water) comes before the life of your friend.

Through this vivid depiction, the Talmud weighs two options for dealing with a necessary but insufficient resource. A third option, that of total self-sacrifice, is rejected out of hand. At no point does any sage or commentary suggest that he who is in possession of the water give all of it to his companion, saving the other's life at the expense of his own. Whether there exists theoretical justification for such an act is debatable, although one could conceivably construct a parent-child scenario in which such conduct would be condoned. Nevertheless, the above incident describes no comparable relationship, and the halacha considers only the two stated possibilities.

As this is one of ben Petura's few cita-

tions in talmudic literature, we would be hard pressed to determine with any degree of certainty the philosophical basis of his ruling. Despite the paucity of corroborating sources, Rabbi Yom Tov ben Avraham Ishbili, in his commentary on the Talmud *(Hiddushei ha-Ritba),* offers two possible bases: (1) ben Petura understands the verse "that your brother may live with you" to mean that unless your brother can live with you, it is better that you both die, or (2) the verse "and you shall love your neighbor as yourself" (*Leviticus* 19:18) implies that your treatment of others must be based on how you yourself would wish to be treated.

For our purposes, however, an operating principle seems to evolve from the perspective of ben Petura. In his view, it would be better to distribute a resource among all who need it or to all who request it than to decide who shall receive and who shall not. The decision maker need not take into consideration the probability that an overly wide distribution will result in an insufficient amount of the resource being available to each recipient. It is enough that, for all the recipients, some suffering will be alleviated.

Although this approach may assuage the consciences of some, it has troubling implications. The approval of a new medication, for example, sometimes engenders a painful quandary. Until sufficient amounts of the drug become available, not all those in need will receive it in time to ensure recovery from the newly conquered disease. Administering less than the recommended dose to a wider patient population will achieve no medically sound purpose.

Under such circumstances, it is doubtful that there are those, including the patients themselves, who would advocate not making a definitive decision about distribution. To act otherwise would be tantamount to withholding the medication entirely. Yet, it is entirely conceivable that ben Petura's stance necessitates the widest possible allocation, regardless of clinical effectiveness.

Similarly, how would ben Petura have us deal with the chronic problem of insufficient space in such institutions as hospitals and geriatric residences? Assuming equal need and eligibility, his position will be of little use in determining which of 30 applicants receive the existing 20 beds (Loewenberg & Dolgoff, 1988). Short of rotating the available space, even those accepting ben Petura's edict could not physically adhere to it in this situation.

Nevertheless, ben Petura's philosophy does indeed represent the basis for at least one aspect of social welfare policy. Those eligible for welfare entitlements receive an objectively predetermined amount, which is essentially unrelated to fluctuations in the number seeking such assistance. Few would characterize the amount allocated as sufficient to fulfill the minimum needs of a single, unemployed parent raising six children. Yet, no cry has been raised to change current policy in the direction of trimming the welfare rolls simply to allow increased amounts to be given to a smaller population.

In summary, this initial view upholds the notion that it is better to give something, albeit not enough, to everyone than to give enough to everyone minus one. From ben Petura's perspective, there is no relevance to the question of who currently is in control of the resource; it is only relevant that a resource exists, distribution is possible, and there are those in need of it. Whether medication, entitlements, or water, allocation matches demand and implies the hope for an as yet unforeseen fortuitous development.

"UNTIL RABBI AKIVA CAME . . ."

Some two generations after ben Petura, Rabbi Akiva, disagreeing with his predecessor, stated what later became the prevailing societal guideline. In situations of limited resources, he said, criteria do indeed exist as to priorities for distribution. For example, one is not required to share a limited resource with someone else in need, if such an act causes significant hardship to the giver.

At first blush, the position taken by Rabbi Akiva appears surprisingly harsh. He is, after all, the same talmudic sage who was characterized by the qualities of charity (*Kidushin* 27a) and humility (*Moed Katan* 21b), and the belief that "all Israel are the children of kings" (*Shabbat* 128a). It was he who declared that to love one's fellow man as oneself is a fundamental principle of the Torah (*Nidarim* 9:4).

Any attempt to understand Rabbi Akiva must focus initially on the language in the above-cited excerpt: "Rabbi Akiva came and taught 'that your brother may live with you', your life comes before the life of your friend." First, the term "taught" is not generally used in the Talmud to connote the creation of a legally binding precedent. Its appearance here, therefore, must imply that Rabbi Akiva dealt with this issue on a level other than the purely legislative.

In addition, Rabbi Akiva's proof text is part of a four-verse section that deals not with the issue of limited resources, but with the problems of poverty and profiteering:

> And if your brother becomes poor and his means fail with you, then you will strengthen him, though he is a stranger or a sojourner, so that he may live with you. Do not take interest or profit from him, but fear your God, *that your brother may live with you*. Do not give (lend) him your money with interest, nor give him your food for profit. I am the Lord your God, who took you out of the land of Egypt, to give you the land of Canaan, to be your God (*Leviticus* 25: 35–38).

Although the first three verses of this paragraph are written in the singular, the fourth, interestingly enough, is written in the plural. According to Rabbi Ovadiah ben Yaakov Sforno, in his classic commentary on the Bible, these edicts, which prescribe individual behavior, clearly have communal implications. Thus, each human interaction fashions, in part, the overall fabric of society.

For Rabbi Akiva, who lived during an epoch of war, destruction, and scarcity, the problem of limited resources was all too real. Difficult decisions had to be made, decisions that literally had life-and-death implications. For his own generation and for generations to come, Rabbi Akiva chose to concern himself not with the decisions, but with the decision makers.

When resources become scarce, those in control must be empowered to set and enforce guidelines for distribution. I hereby condone all such actions, says Rabbi Akiva, providing that one criterion is met. In the event that a situation is created in which one who needs will receive and another will not, be guided by the verse "that your brother may live with you," in its original context. Each policy-making decision influences the quality of individual giver-receiver interactions, and the sum total of these interactions defines the nature of the society in which they occur.

Decision makers grapple with different and often unanticipated issues in each instance of insufficient supply. Rabbi Akiva's outlook acknowledges the pressing need to resolve such issues, unpleasant as they may be, and gives to those doing so the full approbation of Jewish tradition. Damage, pain, and hardship, however, must be minimized to the greatest possible extent.

Support for this perspective on Rabbi Akiva comes from the talmudic commentary of Rabbi Shemuel Eliezer ben Yehudah Ha-Levi Edels (MaHaRShA) in his work, *Hiddushei Halakhot v'Aggadot*. When both men have equal possession of the container of water, he writes, Rabbi Akiva would agree with ben Petura that both will die, rather than one be permitted to take the water forcibly from the other. The reason for this may be, continues the MaHaRShA, that one person cannot maintain that his blood is redder (i.e., that he is intrinsically better) than that of another.

In other words, the unalterable limit on distribution is illegal, involuntary redistribution. Robbing the rich to give to the poor, for example, may find favor in the eyes of the residents of Nottingham, but

does little to please the rabbis of the Talmud. Taxing the rich, on the other hand, and legally appropriating the designated amount would fall squarely in line with halachic dicta (*Yoreh Deyah* 256:5).

Thus, the roles of giver and receiver must comply with legitimate societal norms. Within the framework of these norms lies the domain of the decision makers, who, in the eyes of Rabbi Akiva, may now, creatively and resolutely, direct themselves to the awesome responsibility of setting distribution priorities.

A CONTEMPORARY VIEWPOINT

Frederic Reamer has written extensively on the subject of ethical dilemmas in social work practice, including the issue of distributing limited resources (1982, 1983). He suggests that four criteria, singly or in combination, have often been used to guide the decisions made in this area:

1. *The principle of equality*—Individuals are entitled to have equal access to resources. This access can be achieved through equality of opportunity (first come, first served), equality under lottery conditions, or actual equality (equal shares).
2. *The principle of need*—Resources should be distributed to the least advantaged, provided, in the opinion of some, that the result is not a disproportionate inconvenience to the giver and that those in need assume some responsibility for their own welfare.
3. *The principle of compensation*—Special consideration should be given to those groups whose forebears have been the victims of discriminatory practices.
4. *The principle of contribution*—The eligibility of each individual to receive a specific resource is based on that individual's contribution to the existence of the resource.

To what extent are these principles consonant with the theoretical constructs in the above discussion of talmudic viewpoints?

For ben Petura, the principle of equality represents both a necessary and a sufficient criterion for the granting of aid. In all probability, however, he could not accept the mechanics of a lottery or of "first come, first served," as they would inevitably result in some eligible persons receiving nothing. In a recent article, Bleich (1990, p. 3) has underscored this point: "There are ample sources that serve to demonstrate that every member in society has legitimate claim to whatever is necessary for the preservation of his life, health and general well-being."

Although Rabbi Akiva could accept the principle of equality as necessary, he would not find it sufficient. In his view, the brutal but unavoidable reality of limited resources renders eligibility but one facet of the allocation process. Recognizing the need to make distribution decisions, however, Rabbi Akiva may indeed accept Reamer's suggestions about process. Thus, using a lottery or "first come, first served" strategy may, in fact, prove to be the most equitable methods of disposition.

Neither ben Petura nor Rabbi Akiva would take issue with the principle of need. Setting standards for eligibility implies that decisions about relative exigencies must be made. The difficulty arises when faced with the responsibility of weighing the demands of disparate groups. A stark presentation of this dilemma is offered by Dorff (1990, p. 8), who asks that we "recognize that allocation of resources for expensive and often futile treatment for the terminally ill in preference to providing basic health care, food, clothing, and shelter for the viable is a direct threat to the latter's lives."

Reamer, in the first caveat to this principle, offers a definition of the term "disproportionate inconvenience," explaining that one who wishes to do good toward another need not automatically deprive oneself of an equal or greater good. As evidenced in our case of insufficient water, ben Petura would most assuredly reject this perspective. He mandates that the giver deprive himself of the equal "goods" of

not just water, but very possibly his life, for the sake of someone else in need.

As for Rabbi Akiva, the above-cited text does not provide sufficient evidence to determine with any confidence his perspective on disproportionate inconvenience, other than where the act of giving threatens the life of the giver. Nevertheless, emphasizing as he does the quality of the giver-receiver dyad, it would be difficult to say that he accepts Reamer's conceptualization as a fundamental or operating principle. Rather, he would more likely include it as a relative factor, among the many that go into the decision-making process.

The principles of compensation and contribution would not find favor in the eyes of either ben Petura or Rabbi Akiva. For both sages, the overriding concern is an existential one—the needs of the moment. Past deprivations or past preparations have no current relevance. Nor, according to the MaHaRShA quoted above, may account be taken of an individual's worth, financial or otherwise. Every soul is equally holy.

CONCLUSION

From the Talmudic perspective, as shown in the dispute between ben Petura and Rabbi Akiva, several tentative, interrelated conclusions about the distribution of limited resources may be drawn. First, the distribution of resources occurs in a human environment. The mechanics of giving and receiving must be geared therefore to a person-to-person context. Society will be as much influenced by the quality of this context as by the actual help allocated.

The experience of being in welfare offices or other settings that provide concrete services illustrates this point. The transfer of assistance from giver to receiver tends to occur mechanically and indifferently, with frequent complaints of apathy and abuse. The Talmud enjoins us to remember that, in such situations, attitude is as important as amount.

Second, at times, the distribution of equal but insufficient shares may present the most equitable means of dealing with limited resources. When doing so, however, proves to be counterproductive or even damaging, those in positions of authority must set priorities decisively.

American educational policy mandates that each child have access to a classroom chair. An increase in the number of students without a concomitant increase in the number of teachers reduces, to some extent, the quality of education provided to each student. Thus, although each "share" remains more or less equal, it is less sufficient than it was before. In such a situation, the option of changing eligibility requirements among potential students does not exist.

When classrooms become so overcrowded that learning and discipline cease, then budgetary priorities must be re-examined. Existing social welfare programs may suffer new constraints in order to uphold educational policy, and those making these determinations have no alternative but to decide for some interests and against others.

Third, however society plans to cope with future obligations or repair past wrongs, it must not lose sight of the here and now. Those in need at the moment require our immediate intervention, regardless of past injury, previous contribution, or anticipated potential.

This final point would clearly call into question the theory underlying affirmative action programs. Atoning for historical wrongs should not be done, from the perspective of the Talmud, at the expense of others who are currently eligible. Similarly, one's financial or social status—past, present, or future—should not, in principle, enhance or detract from eligibility.

The utopian notion of plenty for all has yet to be fulfilled, and by all accounts, the current situation will not change substantially in the near future. Contemporary society, faced with ever increasing and complex demands on finite resources, confronts an abundance of painful dilemmas:

care for the homeless versus care for the elderly, rehabilitating the disabled versus rehabilitating the drug abuser, improving our institutions versus improving our neighborhoods. Setting allocation priorities remains, therefore, a task of overriding significance and a burdensome responsibility.

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