



Shivim Panim

with

RABBA YAFFA EPSTEIN
& RABBI DAVID WOLPE

NOTE FROM THE PUBLISHER: One of the hallmarks of SAPIR is its connection between theory and practice. We ask our authors not simply to make arguments but also to offer policy prescriptions. In *Shivim Panim* (referencing the 70 faces of the Torah), we ask two leading Jewish thinkers to apply Jewish wisdom to ethical dilemmas faced in Jewish communal life. The dilemmas are real, as are the people who pose them.

We invite you to send your own queries to us at info@sapirjournal.org.

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What are the ethical implications of considering whether philanthropic gifts are “tainted” by the personal or professional activities of the giver? Should recipients accept money to support their important work even if they are embarrassed to be associated with the giver? What if the funds are acquired in ways that contravene the values of the recipient organization?

For example, many cultural institutions worldwide have taken the Sackler name off their museum wings because of the family’s affiliation with opioids. The family itself has never been convicted of a crime, even though they were forced to dissolve their company and to pay billions of dollars to addiction-treatment and -prevention programs. Their gifts were generous enough to lead to naming rights, and most were made many years ago. They have presumably resulted in good things, including a great deal of cultural richness and important medical research. But there has been enormous public pressure for institutions to remove the Sackler name wherever it appears. What would you advise institutions to do in cases such as these?



Rabba Yaffa Epstein: This is indeed a thorny issue and one that is so relevant in our times. There are essentially two different questions here. The first is: What does Judaism have to say about tainted money? And the second: What is the obligation of nonprofits to accept, reject, or return such monies?

Regarding the issue of tainted money, it must be considered in two ways as well—is the money earned through explicitly

illegal activity, or is it money made legally that is somehow morally repugnant?

David, what would you say about the obligation of a nonprofit organization regarding a donation of stolen money?

Rabbi David Wolpe: If money was received that is clearly stolen and one can work toward its restoration, the answer is clear: Give it back. If the money cannot be restored—if it was earned through shady financial trades, for example—then the answer may depend on the nature of the institution. A charity that saves lives should not be required to return the money; that is a kind of foolish piety (Sotah 21b) where rules override good sense. We don't forfeit the life of a starving person for the ethical purity of a charitable organization.

Money that has been used by an institution but is later discovered to be tainted is close to the talmudic case of the “stolen beam” (Gittin 55a). If a person builds a house using a beam he has stolen, he need not tear the house down so he can return the beam—instead, he should restore the value of the beam to the person from whom he stole it. The larger point is: When a donation is already “baked in,” the institution should find a way to use it that is a restitution, a partial cleansing, a *tikkun* for the stolen money.

Epstein: There's another element to the case of the stolen beam in Gittin 55a: The reason Hillel does not require the demolition of the house derives from *Takanat HaShavim*—an ordinance instituted for the penitent. The Talmud is teaching us that requiring the thief to destroy the edifice he made with the stolen beam would prevent thieves from ever admitting their mistakes. There's a fascinating message here that the Jewish community should *want* to make it as easy as possible to admit mistakes, face them, and make restitution.

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through their giving. How must nonprofits relate to this rehabilitation—and in what ways does the system of philanthropy that we have built allow donors to use their philanthropy to continue to commit crimes?

Indeed, in the case of the Sackler family, for example, New York State claimed that the family “used their ill-gotten wealth to cover up their misconduct with a philanthropic campaign intending to whitewash their decades-long success in profiting at New Yorkers' expense.”

Perhaps the Tosefta (8:26) can help us. There we are taught that if a thief has stolen money and is unsure about exactly whom he stole from, then he must return the funds whose provenance he does know to their rightful owner, and donate the rest of the stolen money for the needs of the community. In a situation where someone truly wants to rehabilitate himself (not just his name), supporting the public good is the best way to do this.

What do you think, David? How do we build philanthropic systems that don't allow despicable people to whitewash their bad behavior, but do allow mechanisms for restitution?

Wolpe: We have to acknowledge the power of money. Wisely, Exodus 23:8 tells us: Do not take a bribe because a bribe puts out the eyes of the wise in judgment and subverts the words of the innocent. Notice the specifics—money changes the judgment of the wise and the innocent, so imagine what it does for the rest of us. One

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safeguard could be to create a panel of non-stakeholders advising the staff of the charity on what to do in complex situations.

I once refused a charitable gift to my synagogue both because the giver had an unsavory past and because it would appear we were helping him “buy” redemption. But if you ask me whether anyone in the history of the shul has donated under similar conditions, I would have to imagine that the answer is yes. There is an element of how it feels at the moment that is hard to corral in abstract rules.

This also goes to intent: Is the donor assuaging a guilty conscience or whitewashing misdeeds in public? It’s not easy to say. But if, on the positive side of intent, a donor has publicly acknowledged his wrongdoing and is declaring the gift to be an act of teshuva (repentance), I would *dan l’chaf zechut*, that is, judge the person favorably and accept it.

A kindred question is — what if we know the money was made in a morally questionable manner? If a well-known madam wants to contribute her brothel’s proceeds to the synagogue, should we take them? What if it is in Nevada, where the proceeds are legal?

Epstein: The Torah considers that exact case. In Deuteronomy 23:19 we are told that a prostitute’s earnings are not to be used in the Temple. Clearly, the Torah feels that there is payment that can be morally compromised and should be kept far away from the pristine holiness of the Temple.

However, the Mishna in Temura 6:4 teaches us that if she was paid in money (rather than in animals), this money may be used

in the Temple, or, if she is paid in livestock, the animals may be redeemed for money, and used in the Temple. Indeed, if the object has been changed in any way, then it is no longer prohibited. Seemingly, this paves a path for a separation between a problematic act and the resulting payment, in order to allow people the chance to give to the Temple and be full members of the community, despite what may feel like a tainted source.

Wolpe: According to Balzac, who knew something about human nature and money, “behind every great fortune is a great crime.” We may know of the brothel’s source of money, but what about the donor who is giving away money made (now or in previous generations) through using child labor or ruthlessly undercutting competitors or buying influence? Is there any “pure” money?

Epstein: Ah, the million-dollar question: Where and how do we stop searching for the “source” of the money? It seems too heavy a burden to place on nonprofits to have to assume a thorough investigation of every gift. Maimonides states that as long as a person is not a known thief, I can trust that the goods I am buying from him are permissible. Organizations should also assume that the money is from an acceptable source. However, if they know that the person making the donation has acted criminally, they have an obligation to refuse that money.

Organizations need to have clear red lines and high ethical standards, but also a reasonable way to check their donations without putting undue burden on them.

Wolpe: Yes, it is almost literally the “million-dollar question,” Yaffa! Allied to it is the reputational issue. “Oh look, Ima — isn’t that the shul that took the brothel money?” is not a sentence we want any of our kids to say. In Joshua, God commands the Israelites to take nothing of the spoils of Jericho after the city’s conquest. There is then a huge upheaval because one fellow, Achan, indeed steals some

of this proscribed money (7:1). This is a question of not only ethics but also reputation: Israel does not want to be a power that conquers and loots. Similarly, Jewish organizations do not wish to be seen as rapacious or indiscriminate in taking money from anyone who is willing to give.

Epstein: Even more than reputational harm—some donations actually undermine the very mission of the organization, as when a health-focused organization takes money from a tobacco or candy company.

We need to hold ourselves and our community accountable: Are we allowing money and power to make us forget our own moral standards? Are we giving inappropriate honor to those who commit great evils in our society?

There is an amazing moment in the Jerusalem Talmud Tractate Bikkurim where the Rabbis discuss scholars who have bought (rather than earned) their Rabbinic ordination. Several Rabbis say that they won't give those people public honor. The charge is that they have turned God into gods of silver and gold.

We must take great care that, even for the sake of doing good and holy work, nonprofits do not allow themselves to become worshipers of gold over worshipers of God.

Wolpe: As a coda, the collapse of FTX ought to remind us that professed charitable intent and even previous charitable donations are not a reliable guide to probity or reliability. Yet final judgments are rarely easy. Between sheer scoundrelism and innocence lies the vast land of teshuva, but perhaps we should save that for another time.

So Yaffa, what general guidelines do we offer? I'll go first:

1. If it is a known bad source, stay away for ethical and reputational reasons.
2. Don't be so scrupulous that you deprive a legitimate charity of

the means it needs, since most fortunes are not collected with entirely clean hands.

Epstein: I'll add:

3. Philanthropy has done so much good for the Jewish people, but sadly, it has also been corrupted to help bad actors continue their bad acting. We must create mechanisms that will support our nonprofits in upholding high ethical standards while still letting them do their important work.
4. Don't forget that the person who donated this tainted money is also a human being. Yes, he acted badly, but Jewish tradition requires that we do not write him off. We must remember that teshuva and repair are possible. *