



חטא העגל

THE ENDS VS THE MEANS

THE NEW YORK TIMES: SHOULD CHARITIES REPAY THEIR MADOFF MONEY?

Today, Bernard Madoff will likely be sentenced to spend the rest of his life in a federal penitentiary. But his sentencing is merely the beginning of the litigation and recrimination he has spawned with his vast investment fraud.

The inevitable accusations — and perhaps criminal charges — against his co-conspirators, and particularly his family, are sure to continue. And another troubling aspect of the Madoff fraud has emerged in the past few weeks. It is now being alleged that certain charitable foundations and individuals on the whole reaped profits in the millions, if not billions of dollars, from Mr. Madoff's misdeeds.

And much of this money may have been subsequently donated to innocent charities. This situation raises some of the most troubling questions about Bernie's legacy. First, did charities on the whole benefit from Mr. Madoff's crime? And second, do these innocent charities have a moral or legal obligation to return the money?

...The bottom line is that there were net winners in the Bernie Madoff scandal, and many charities received money that was at best tainted by Mr. Madoff, and at worst directly attributable to his crime. In the coming months, many of the people who benefited from Mr. Madoff, inappropriately or otherwise, are going to be sued or otherwise asked to return the money they received.

What about the charities who received this money after it was distributed? In some cases, the money is not even there. The charities have already distributed it. In other cases, the money will be untraceable. For example. Carl Shapiro allegedly lost over a half a billion with Mr. Madoff (his profits, if any, are not public) — but before Mr. Madoff's scheme was discovered, Mr. Shapiro was mightily generous with his money, millions of which he made himself. How do you differentiate between tainted and untainted money that he distributed — if indeed Mr. Shapiro did know what was occurring, or profited?

Charities, particularly Jewish ones, have been hit hard by Madoff. In some respects, this was a false bubble for them — these charities were benefiting from money that never should have been there. This is not to diminish the hurt they received. But they may have (or perhaps should have) to grapple with a much more difficult question. Do they legally have to return this money? Under the law of fraudulent conveyance, there is a six-year lookback, and they could conceivably be sued to return the money. However, traceability of the money here will be a problem, and in many cases protect the charities.

But if they are not legally liable to return the money, do the charities have a moral obligation to do so? And can the charities even do it?

- **IN YOUR OPINION— SHOULD THE CHARITIES THAT BENEFITED FROM MADOFF'S FRAUD HAVE TO RETURN THE MONEY THEY WERE GIVEN?**
- **IF USING MONEY FOR A GOOD CAUSE, SHOULD IT MATTER IF THE MONEY CAME FROM A BAD PLACE?**
- **CAN YOU THINK OF A TIME WHERE YOU DID SOMETHING BAD FOR A GOOD REASON?**

KUZARI: FIRST ESSAY

97

[2] “[During this period in history,] Israel was waiting for that which Moshe had promised to bring down to them from God — something that they could see and focus upon, just as they had focused upon the pillar of cloud and the pillar of fire when they left Egypt. They would gaze and concentrate upon the pillars, and would exalt them by bowing down to God’s presence in front of them. They behaved the same way with the pillar of cloud that descended upon Moshe when God spoke with him.¹²⁷

[4] “The people patiently waited for Moshe to descend from the mountain, and they retained their holy status all this time. They did not change in their appearance, their jewelry, or their clothes from their first day at Mount Sinai; they stayed where they were, awaiting Moshe’s return. Moshe tarried for forty days, without having taken any provisions with him. And when he had first left them to ascend the mountain, it was with the understanding that he would return that very day¹³⁰ — they therefore assumed that he was dead]. It was then that an evil thought overtook a small minority of the nation.

[5] “This minority fought among themselves in proposing various ideas and courses of action, until finally a group of them banded together to make a tangible object of worship — something upon which they would be able to focus, just like all the other nations did. Their intent was not to deny the God Who took them out of Egypt; rather, it was to have something in front of them upon which they could concentrate when recounting God’s wonders.

[6] “Their sin, therefore, was the making of an image which was forbidden to them. They further sinned by ascribing Divinity to something which they themselves had constructed without the sanction of God.¹³⁴

[9] “Nevertheless, the nation’s intention was not to depart from serving God; [on the contrary —] they believed that they were refining their worship of Him. This is why they came to Aharon and revealed their desire to him, and this is why he agreed to help them.¹³⁹ He was still guilty, though, for transforming their thoughts of rebellion into reality.

- **WHY WERE BNEI YISROEL PUNISHED FOR CREATING THE GOLDEN CALF IF THEIR INTENTIONS WERE GOOD?**
- **HAS RELIGION EVER COMPELLED YOU TO SACRIFICE A MEANS TO GET TO AN END?**
- **ACCORDING TO RAV YEHUDAH HALEVI, DO THE ENDS JUSTIFY THE MEANS?**

והיו מבני ישראל מצפים למה שיצד אותם משה שיוריד להם ענן מאת האלהים שיראו אותו ונקבילוהו, באשר היו מקבילים עמוד הענן ועמוד האש בצאתם ממצרים, אשר היו מביטים אליו ומקבילים ומגדלים אותו ומשתחווים נכחו לאלהים, וכן היו מקבילים עמוד הענן אשר היה יורד על משה בדבר אתו האלהים, והיו עומדים בני ישראל ומשתחווים נכחו לאלהים.

ונשארו העם מצפים לרדת משה והם על עננים, לא שנו תארים ועדים ובגדיהם אשר עמדו בהם יום מעמד הר סיני, אך נשארו בתכונתם ומתינינים למשה, ובושש מהם ארבעים יום, והוא לא לקח צידה ולא נפרד מהם אלא על ויח וינשור ליומו. אז זברה המחשבה הרעה על קצת ההמון ההוא הגדול.

והתחילו המון העם להחלק מחלקות ומרבים העצות והמחשבות, עד שנוצטרכו מהם אנשים לבקש נעבד מרגש יכונו נגדו כשאר האמות, מבלי שיכחשו באלהות מוציאם ממצרים, אבל שיהיה מנח להם להקביל אליו כשיספרו נפלאות אלהיהם,

וחטאתם היתה בציור, אשר נאסר עליהם, ושיחסו ענן אלהי אל מה שעשו בידם ורצונם מבלי מצות האלהים.

עם שלא היתה כונת העם לצאת מעבודת האלהים אך היו חושבים שהם משתדלים בעבודה, ועל כן באו אל אהרן לגלות מצפונם, ועל כן סיע בעשותו, ונאשם בהוצאתו מרייהם מן הכח אל המעשה.