YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

By Debbie and David Sable

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**Shiur #02: 10 September 1952**

**Reparations from Germany**

On 10 September, 1952, an agreement was signed between West Germany and Israel in Luxembourg. According to the agreement, [West Germany](https://en.wikipedia.org/wiki/West_Germany) was to pay the State of [Israel](https://en.wikipedia.org/wiki/Israel) for the costs of "resettling so great a number of uprooted and destitute Jewish refugees,”[[1]](#footnote-1) and as the Claims Conference states in its mission statement, to compensate Holocaust survivors for the “suffering and losses resulting from Nazi persecution.”[[2]](#footnote-2)

The idea of accepting reparations from Germany began immediately after the end of World War II, but it was only in the early 1950s that the Israeli government put forward a claim of a billion and a half dollars. This calculation was based on three thousand dollars for each of the half a million refugees that Israel resettled from Europe.

Following the War of Independence, the new Israeli state was struggling. Jewish refugees were pouring into the country, which had yet to recover from a war that had killed one percent of the population. The economy was failing, and David Ben-Gurion, the prime minister at the time, realized the potential these payments had to boost the country’s economy.

Ben-Gurion made strong arguments in order to convince his colleagues in the Knesset to vote for the agreement. Quoting the famous verse from *I Melakhim* 21:19, “*Haratzachta ve-gam yarashta?*” (“Have you killed and also taken possession?”), he explained that Israel should not allow the German murderers to benefit from the death of their victims. He also claimed that the greatest revenge against the atrocities of the Nazis would be to use their money to build a Jewish homeland.

The fierce and violent opposition to the agreement, led by Menachem Begin, resulted in demonstrations against the government. In public rallies, Begin called the agreement an act of treason and betrayal.

In a dramatic speech to the Knesset, Begin appealed to his colleagues, begging them to vote against the payments and even suggesting holding a referendum[[3]](#footnote-3). Turning to the religious members of the Knesset, he argued:

…You went to your constituents during the election not with this issue in mind. You went to the people for the sake of the Jewish religion; for the dignity of the Torah of *Am Yisrael*. But what does the Torah of *Am Yisrael* have to do with the negotiations with Amalek? By doing so you might as well erase a holy and sacred verse from the Torah that states that God carries His war against Amalek “from generation to generation” (*Shemot* 17:16). How would God fight Amalek if you, the protectors of religion, vote for making peace with Amalek, merely for the sake of accepting money from him?[[4]](#footnote-4)

The debate over the reparations issue was probably the fiercest and most heated in Israel’s history. On 7 January 1952, the day of the debate, the Knesset was stormed by demonstrators and objects were thrown at members of Knesset.

In Jewish communities around the world, as well as in Israel, rabbis expressed deep emotions when arguing against the agreement. Some of the rabbis, echoing Begin, referred to the Germans as Amalek, thereby stirring up deep emotional and religious feelings. There are reports that in America, Rav Yaakov Kamenetsky announced at a rabbinical conference that “the majority opinion sides with the opinion of Rav Aharon Kotler, who opposed all negotiations with Germany even if large sums of reparations can be obtained.”[[5]](#footnote-5)

Rav Herschel Schachter[[6]](#footnote-6) records that Rav Joseph B. Soloveitchik opposed the agreement for two reasons. One, accepting the money might indicate that the Jewish people had forgiven the Germans for the atrocities they committed; two, he believed that the Germans have the status of Amalek and therefore we are not allowed to enjoy any benefit from them. Rav Soloveitchik understood that Amalek is not a specific race of people but rather any entity that wishes to destroy the Jewish people.[[7]](#footnote-7) My friend and colleague, Rav Dr. Nechemia Kleinman, told me that he, as a Holocaust survivor, was entitled to accept money from Germany. He asked Rav Soloveitchik for his opinion. The Rav told him that even though he opposed accepting any money, once the money is being distributed, one is allowed to accept it.

Rav Schachter adds that in later years he heard that Rav Soloveitchik admitted that he may have made a mistake by opposing the payments, because in retrospect the reparations saved the Jewish state.

In Israel, the Chief Rabbi of Petach Tikva, Rav Reuven Katz,[[8]](#footnote-8) argued passionately against the agreement. An article on this topic was published in his book of essays on contemporary halakhic matters. He makes three points in this essay. First, like Rav Soloveitchik, he argues that the German nation has the status of Amalek. Second, he is concerned that the State of Israel would be accepting not only money but also products, machinery and technology from the Germans built and made by Jewish blood: “How can a Jewish hand touch machinery and products that are soaked in Jewish blood?”

Finally, he mentions one last reason: building the Jewish state with blood money would be a disgrace and a *chillul ha-shem* (desecration of the name of God). It would seem to the world that Jewish blood can be bought and sold.

Is this strong opposition to reparations based on purely emotional reactions to the horrors of the Holocaust, or is it predicated on halakhic principles?

In 1976, Rav Yosef Elyashiv was asked if it would be permissible to accept money from the German government for the purpose of printing manuscripts of Rishonim. In his article,[[9]](#footnote-9) he mentions the different Talmudic sources that prohibit accepting charity from non-Jews. He then quotes Rav Yosef Karo’s ruling[[10]](#footnote-10) that while it is forbidden to accept charity from a non-Jew in public, it is permitted to do so in a private, subtle manner. This ruling is based on the Gemara in *Sanhedrin* 26b, which explains that a Jew who accepts charity from non-Jews cannot act as a witness. The Gemara limits this rule to a person who accepts money in public, and adds that if the Jew has no other option but to accept donations in public, he is permitted to do so for his livelihood. Meiri (ad loc.) explains that in the latter case the Gemara permits accepting funds because of *pikuach nefesh* (saving a life), which overrides most halakhic considerations.

Some explain[[11]](#footnote-11) that the reason for the prohibition has to do with the *chillul ha-shem* which would be created if a Jew were to take the money, as this suggests that the Jewish community is turning its back on its own people. Rav Shabbetai Kohen[[12]](#footnote-12) explains that the *chillul ha-shem* is created when a Jew supplicates in public.

The matter is also discussed in *Bava Batra* 10b. Here the Gemara argues that Jews may not accept charity for a different reason: the concern is that by accepting the donations the Jewish people would be crediting the non-Jews with merit (*zekhut*), which in return would grant them the heavenly legitimacy to continue their rule over the Jewish people.

The Gemara does allow accepting the money in certain cases, e.g., in a situation in which rejecting the money would disrupt the good relations between the government and the Jewish community (*shelom malkhut*). Even so, the Gemara requires that the money be divided only amongst the poor of the non-Jewish community.

Is there a halakhic difference between the two arguments? In other words, why doesn’t Rav Yosef Karo seem to take *Bava Batra* 10b into account? If a poor person accepts donations privately, there still is the problem of giving merit to non-Jews!

The Taz (ad loc.) argues that the Gemara in *Bava Batra* is only concerned with cases in which the non-Jew specifically directs his charity towards Jews. In situations in which the non-Jew is donating charity out of the goodness of his heart and doesn’t designate his charity to Jews, we are not concerned about the fact that he is receiving merit for his mitzva of *tzedaka*.

Rav Waldenberg[[13]](#footnote-13) and Rav Kook[[14]](#footnote-14) explain that each source is discussing a different situation. While the Gemara in *Bava Batra* is referring to aid from a public body like a government, the Gemara in *Sanhedrin* is referring to charity given from one individual to another. *Chillul ha-shem* only applies in the latter case, in which a Jew is living off the generosity of a non-Jew, as this involves shame and disgrace. However, the concern of giving the non-Jew *zekhut* by accepting his donations refers to foreign governments. Because of this understanding, Rav Waldenberg permits accepting donations from private funds if no *chillul ha-shem* occurs.

Based on these sources, it seems that it would be improper to accept the German payments. Even if one were to argue that that there is no issue of *chillul ha-shem* when a country accepts money from another country, the argument of the Gemara in *Bava Batra* would surely apply.

Rav Elyashiv permits accepting donations (specifically for publishing manuscripts for Torah study) based on a few reasons. First, he quotes Rishonim[[15]](#footnote-15) who argue that presents, unlike charity, are acceptable. The difference between a present and charity is that the giver of a present sometimes does so out of self-interest. Case in point, argues Rav Elyashiv: the Germans are paying for the manuscripts because they are honored that these esteemed authors were born in Germany.

Second, he quotes the commentators mentioned before, who in difficult times allow payments to be accepted.

Last, he mentions the law which states that a non-Jew who donates money to a shul is permitted to do so, as this is similar to donating a sacrifice to the Temple, which is allowed. The money in this case is going for a religious cause, and it would therefore be permitted.

In an article addressing America’s foreign aid to Israel, Rav Mordechai Fromm, a former rebbe in Yeshivat Mercaz HaRav, discusses the halakhic questions regarding accepting charity from non-Jewish governments.[[16]](#footnote-16) Even though there are vast differences between Germany’s reparations and America’s foreign aid, there are some halakhic arguments that are similar.

Rav Fromm questions if money given by governments is considered charity. Quoting the Taz, mentioned above, he argues that America distributes funds to other countries as well as Israel. The American government is not acting out of kindness but rather in its own national self-interest.

Rav Fromm recognizes that these laws of the Gemara (both sources) refer to Jewish communities as well to Jewish individuals. The Gemara in *Bava Batra* is concerned that accepting funds from non-Jewish governments might give the donors merits which might empower them to rule over the Jewish people. However, explains Rav Fromm, the question before us is a totally different one. Everything changes once we have an independent Jewish state. Permitting the Jewish state to accept foreign aid would cause the opposite result, as this money would in fact strengthen the Israeli state! Building a strong Jewish country would weaken the rule of other nations over us.

Finally, he mentions that in times of great need, especially in *pikuach nefesh* situations, one is permitted to accept donations. The State of Israel desperately needs these funds in order to sustain its security and economy; therefore the country is allowed to accept the aid.

It seems to me that the last argument mentioned could be used to argue in favor of the German agreement, as the money accepted from the Germans changed Israel’s financial status. Putting emotional reactions aside, the understanding that we are not dealing with individuals, but rather with international agreements between independent nations, creates a new reality that challenges the halakhic world.

1. The full agreement can be found online at: <https://treaties.un.org/doc/Publication/UNTS/Volume%20162/volume-162-I-2137-English.pdf>. [↑](#footnote-ref-1)
2. Available at: <http://www.claimscon.org/forms/CC_AR_2007.pdf>. [↑](#footnote-ref-2)
3. The minister of transportation at the time, sent an official request to Rav Eliezer Waldenberg , questioning the Torah’s opinion regarding holding a referendum. Rav Waldenberg answered that he is against it .See Hilkhot Medina, Vol 3 pp. 89-97 [↑](#footnote-ref-3)
4. For the entire speech (in Hebrew) see: http://www.daat.ac.il/daat/ezrachut/begin/neum4-2.htm. [↑](#footnote-ref-4)
5. Rav Tzvi Weinman, *Mi-Katowice ad Hei Be-Iyar,* p. 213. [↑](#footnote-ref-5)
6. *Nefesh HaRav*, p. 87. [↑](#footnote-ref-6)
7. See *Kol Dodi Dofek,* p. 111, fn. 23, in the name of his father, Rav Moshe Soloveitchik. [↑](#footnote-ref-7)
8. *Sha’ar Reuven*, pp. 301-304. [↑](#footnote-ref-8)
9. *Moriya*, Vol. 15, Adar 1987. [↑](#footnote-ref-9)
10. *YD* 254:1. [↑](#footnote-ref-10)
11. *Chokhmat Adam, Hilkhot Tzedaka* 146b. [↑](#footnote-ref-11)
12. Shakh, *YD* 254:1. [↑](#footnote-ref-12)
13. *Tzitz Eliezer*, Vol. 15, Ch. 33. [↑](#footnote-ref-13)
14. *Da’at Kohen* 132. [↑](#footnote-ref-14)
15. *Yad Rama*, *Bava Batra* 10b. [↑](#footnote-ref-15)
16. *Zekhor Zot Le-Ya’akov,* p. 81. [↑](#footnote-ref-16)