

High Holy Days: A Criminal Justice Text Study

Justice, Justice Shall You Pursue

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During the High Holy Day season, when the Gates of Repentance are open, we reflect on ideas of sin and repentance, punishment and forgiveness, justice and mercy. At this time, let us also consider our criminal justice system and ask challenging questions: Are those who stand before the courts of justice treated equally? How are those individuals who are incarcerated within our penal system treated? How can we best assist those who have paid their debt and successfully reentered into our community? Let us pose such questions during this season in which we seek forgiveness, mercy and compassion for our own misdeeds.

We encourage you to use the **High Holy Day Criminal Justice Fact Sheet** (see www.rac.org/holidayguides) as well as the following texts and discussion questions to engage in thoughtful dialogue during the High Holy Days, a season of repentance.

Text 1: Justice Reptition

Justice, Justice shall you pursue. – *Deuteronomy 16:20.*

1. What is powerful about this text?
2. Why do you think the word justice (tzedek) is repeated? Can one derive additional meaning from this repetition?

Text 2: Compromise

As it has been taught: Justice, justice shall you pursue; the first [mention of justice] refers to a decision based on strict law; the second, to a compromise. How so? — ... If two camels met each other while on the ascent to Beth-Horon; if they both ascend [at the same time] both may tumble down [into the valley]; but if [they ascend] after each other, both can go up [safely]. How then should they act? If one is laden and the other unladen, the latter should give way to the former. If one is nearer [to its destination] than the other, the former should give way to the latter. If both are [equally] near or far [from their destination,] make a compromise between them, the one [which is to go forward] compensating the other [which has to give way]. – *Talmud Sanhedrin 32b*

1. What can you learn from the example given in the Talmud? Can you think of a modern example?
2. Would you consider *compromise* an example of justice?

Text 3: Judaism Demands Justice

The demand for justice is indeed a persistent part of the Jewish sources from the Bible to our own day, and it is a significant element in Jewish visions for the future. This includes both procedural justice and substantive justice. Procedural justice demands that people be treated fairly in court and in society generally, with distinctions drawn

among persons only for reasons having to do with their own actions or skills. So, for example, a just society is one in which their own people are not judged guilty or innocent, or fit for a job, according to the color of their skin or how much money they currently have. – *Rabbi Elliot Dorff, The Way into Tikkun Olam (pg. 238-41)*

1. How does Rabbi Dorff explain the Jewish view of criminal justice?
2. What lessons can be learned from this text about our own criminal justice system?

Text 4: Criteria for a Fair Trial

Both civil and criminal/capital cases demand inquiry and examination, for it is written: *you shall have one manner of law* (Lev. 24:22). What is the difference between civil and criminal/capital cases? — civil suits [are tried] by three; criminal/capital cases by twenty-three judges. ... In monetary cases the decision may be reversed both for an acquittal and for condemnation; whilst in criminal/capital charges the verdict may be reversed for acquittal only, but not for condemnation. ... Civil suits can be concluded on the same day, whether for acquittal or condemnation; criminal/capital charges may be concluded on the same day with a favorable verdict, but only on the next day with an unfavorable verdict. ... All are eligible to try civil suits, but not all are eligible to try criminal/capital charges, only priests, Levites, and Israelites [laymen] with whom priests can enter into marriage relationship [i.e. people of good pedigree and standing in society]. – *Mishnah Sanhedrin 4:1*

1. Do the differentiations between civil and criminal case proceedings as stated here make sense? Are they valid distinctions?
2. Do you think our own justice system makes similar distinctions?

Text 5: Justice v. Revenge

Rabbi Akiva taught: **Love your neighbor as yourself** (Lev. 19:18): this is a great principle in the Torah. Therefore, do not say: Since I was demeaned, let my fellow be demeaned as well, since I was cursed let my fellow be cursed as well. Rabbi Tanhuma said: If you do this, know whom you are demeaning [since] **in the image of God, humans were made** (Gen. 5:1). – *Midrash Genesis Rabbah 24:7.*

1. Does this passage from Midrash compliment or contradict the Jewish view of criminal justice?
2. How do you see these attitudes reflected in our own criminal justice system?
3. What role does punishment play in the balance between revenge and criminal justice?