



## CRIME AND CONSEQUENCE

*A new, six-session course on the Talmud, Jewish ethics,  
and the Criminal Justice System*

Criminal justice policy affects the safety and peace of mind of all citizens, and has broad implications for crime victims, the accused, the convicted, and their families.

With a growing consensus that criminal justice reform is necessary—either because the current system is unjust, inequitable, ineffective, or simply too expensive to taxpayers—*Crime and Consequence* is particularly timely.

Across six sessions, *Crime and Consequence* moves between Judaic and secular legal doctrines, addressing ethical concerns, and sharing multiple perspectives on criminal justice reform. The course raises some of the most important questions about criminal law in the light of Talmudic law: What is the Talmud's theory of criminal justice, and how does it compare with secular theories? How can we impose punishment fairly and effectively? What are we to think about the large numbers of people in incarceration? Should the death penalty be permissible? How can offenders be rehabilitated? How can recidivism be reduced? When, if ever, can trust be restored to a convict? And most importantly, how can crime be prevented?

The Talmud is a rich compilation of Jewish legal and moral scholarship, preserved and taught by the ancient sages and transmitted by scholars throughout the ages. This work is well-positioned to shed light on some of the modern ethical and legal dilemmas because it provides not only answers, but also probes questions—asking not only what, but also why; and because it is willing to suppose, to imagine, and to test the boundaries of intellectual curiosity.

The following is a brief breakdown of the six sessions:

### LESSON ONE

## INCARCERATION

In 1996, Anthony Rolon, a seventeen-year-old drug dealer, stabbed Bobby Bothelo to death in a street fight. Rolon was sentenced to life in prison without the opportunity for parole. But in 2012, the Supreme Court held that a life sentence without parole for juvenile offenders was unconstitutional. The court drew from neuroscience and developmental psychology and reasoned that, because juvenile brains are not fully developed, juveniles must always have the possibility for parole, given their potential for rehabilitation. At Rolon's parole hearing that followed, he pleaded with the board that he was a changed man and that he deserved a second chance. But Bothelo's family argued that an irreversible crime demands an irreversible sentence and that freeing Rolon would send the wrong message to society.

This case brings into focus some of the most important questions about modern criminology: Why is incarceration our favored method of punishment? Is it being overused? Which theory of punishment guides our criminal justice system? Why is recidivism so high? How ought we to balance the rights of the accused with the rights of victims and their families? And delving deeper: How do secular theories of criminal justice compare with Talmudic theories? How might the Talmud advise us on how to change the way we incarcerate and rehabilitate offenders?

### LESSON TWO

## DEATH PENALTY

Dzhokhar Tsarnaev, the captured and convicted Boston Marathon bomber, is often cited as an example of someone deserving the death penalty. Can one be *against* the death penalty even in the face of such abject evil? On the other hand, the case of Cameron Todd Willingham, executed in Texas under very dubious circumstantial evidence, is invoked by those who wish to do away with the death penalty. Can one still

be *in favor* of the death penalty even after learning about such a highly questionable execution?

What is the Judaic take on this question? The U.S. Supreme Court actually debated this question in 1988 (*Hayes v. Lockhart*) where the majority opinion held that a prosecutor did not violate the defendant's rights when he cited Exodus 21:12—"He that strikes a man who dies shall surely be put to death"—during closing arguments in a capital murder case. However, the dissent noted that such "selective quoting" from the Hebrew Bible was "not only incendiary, but misleading," since in reality, "ancient Jewish law abhors the death penalty." So, which is it?

### LESSON THREE

## DUE PROCESS

Sixteen-year-old Brendan Dassey confessed to the rape and murder of Teresa Halbach, and this admission was the primary evidence a Wisconsin jury relied on in reaching a guilty verdict in 2007. But questions have been raised about Dassey's confession. He has an IQ in the borderline deficiency range and he had been interrogated with the "Reid Method," with no legal representative or parent present. In *Dassey v. Dittmann*, United States magistrate judge William E. Duffin ruled that Dassey's confession had been involuntary and unconstitutional. But the Seventh Circuit reversed, and the Supreme Court declined to hear the case. Should these types of confessions be considered voluntary and admissible as evidence?

This lesson compares Talmudic law with laws in the United States and other countries related to the trustworthiness of testimony as it pertains to confessions and the testimony of cooperating witnesses and "jail snitches."

### LESSON FOUR

## REHABILITATION

Jacob Dunne, a British teenager, killed a paramedic with a single punch in 2011, after grabbing his fancy pirate hat following an England sports match. Stacie Rosen, a Florida woman, was arrested and accused of em-

bezzling more than \$140,000 from her former employer between 2011 and 2014.

Can Dunne and Rosen be rehabilitated? If yes, how might this be achieved?

If society is going to reclaim rehabilitation as its goal in criminal sentencing, we must discuss how this would practically look, to what types of offenders it would and would not apply, and how to fashion a sentence that would really achieve this goal.

The Talmud offers a prescription for repentance that is meant to restore one's place within society. This prescription consists of an elaborate and rigorous multistep process that is driven by a motivated and repentant offender. By examining this process, we can gain insight into some key ideas for how to achieve rehabilitation in modern society. Some organizations that advocate alternative sentencing and restorative justice have incorporated elements of this thinking into their manner of operation.

#### LESSON FIVE

### CRIMINAL RECORDS

Convicted criminals who have served their time often have a difficult time reintegrating into society. Society looks at them with suspicion, and many employers conduct background checks and are inclined to reject ex-offenders. There's a widespread consensus that this is a disincentive for convicts to try to turn their lives around, and the end results are injustice and higher recidivism. On the other hand, completion of a sentence is no guarantee of rehabilitation, and it is reasonable to be concerned about the chance of re-offense.

How should we balance these differing concerns? What criminal history information should be available to prospective employers? At what point should trust be restored to an offender? Does the nature of the crime make a difference? On a personal level, how should an employer deal with an ex-offender applying for a job? This lesson examines Talmudic and secular laws in different countries as well as the underlying ethical values.

## LESSON SIX

**CRIME PREVENTION**

The first five lessons of *Crime and Consequence* focus on the *consequences* of crime: Why should we punish offenders? How can we punish fairly? How do we rehabilitate? When is trust restored? The sixth lesson pivots to focus on the root causes of crime. From a Jewish perspective, one of the most important ideas about criminal justice is to view crime as a consequence of societal factors that, if changed, can prevent crime from occurring in the first instance.

Poverty and unemployment are often cited as factors that create the preconditions for crime, and, as this lesson demonstrates, there is much truth to this argument. But the lesson proceeds to show that poverty and unemployment are not the only relevant factors.

This lesson argues that schools must incorporate more virtues, values, character development, religion and prayer into their curricula, arguing that this will result in adults who are less inclined to engage in criminal activity due to enhanced self-control, empathy, and personal integrity.