

Let Our People Go: The Plague of Mass Incarceration in the U.S.



For thousands of years Jews have been studying in pairs or in groups, respectfully debating each other, learning the stories and legal texts of Judaism, and investigating their past as a means for enriching their present. Tonight, we continue to engage in the millennia-old practice of exploring the written word as a means to connect with our tradition, open ourselves up to our inner selves, make sense of the world around us, and inspire us to action. Thank you for joining us on this journey.

*This evening's event is part of The Well's **CSI: Coffee. Study. Interpret.** series, in partnership with the Jewish Bar Association of Michigan, and is made possible in part by funds granted by The Covenant Foundation. The statements made and the views expressed, however, are solely the responsibility of The Well.*

Mr. Mail Man

by Adolfo Davis

from *Thoughts of A Broken Child* (2014)

Mr. Mail Man, please don't pass me by today.
I need to receive some love from the outside world.
I guess they went on with their lives.

I don't know how many more pass-bys I can take from the mail man,
So please don't pass me by today.

The last letter I got was one I sent myself,
Just to hear them say "Davis" you got mail.

Because hearing your name called for mail is a feeling of grace, love,
peace, joy and happiness all in one.
Because you feel someone cares.

But, when your name isn't called,
It's like getting your heart broke for the first time.
You never want to feel that pain again,
But you still put yourself out there hoping you get mail.

So today Mr. Mail Man, Please don't pass me by.

P.S. I was passed up once again

Discussion Questions:

Adolfo Davis was imprisoned for life in Illinois at age 14, and wrote this poem in the decade or two that followed.

*When you think of "mass incarceration," what are the associated images and issues that come to mind?

*What were the factors that motivated you come here tonight?

Michelle Alexander
The New Jim Crow (2010)

“In the age of colorblindness, it is no longer socially permissible to use race, explicitly, as a justification for discrimination, exclusion, and social contempt. So we don’t. Rather than rely on race, we use our criminal justice system to label people of color “criminals” and then engage in all the practices we supposedly left behind. . . Once you’re labeled a felon, the old forms of discrimination—employment discrimination, housing discrimination, denial of the right to vote, denial of food stamps and other benefits, and exclusion from jury service—are suddenly legal.

In less than thirty years, the U.S. penal population exploded from around 300,000 to more than 2 million, with drug convictions accounting for the majority of the increase. The United States now has the highest rate of incarceration in the world, dwarfing the rates of nearly every developed country, even surpassing those in highly repressive regimes like Russia, China, and Iran. In Germany, 93 people are in prison for every 100,000 adults and children. In the United States, the rate is roughly eight times that, or 750 per 100,000. . .

No other country in the world imprisons so many of its racial or ethnic minorities. The United States imprisons a larger percentage of its black population than South Africa did at the height of apartheid. In Washington, D.C., our nation’s capitol, it is estimated that three out of four young black men (and nearly all those in the poorest neighborhoods) can expect to serve time in prison. Similar rates of incarceration can be found in black communities across America. “These stark racial disparities cannot be explained by rates of drug crime. Studies show that people of all colors use and sell illegal drugs at remarkably similar rates . . . This is not what one would guess, however, when entering our nation’s prisons and jails, which are overflowing with black and brown drug offenders.”

Discussion Questions:

*Are Alexander’s arguments convincing? Why or why not?

*Are you surprised to learn about the disproportionate number of racial minorities who are imprisoned? Why or why not?



Deuteronomy 25:2-3

“If the guilty one is to be flogged, the magistrate shall have him lie down and be given lashes in his presence, by count, as his guilt warrants. He may be given up to forty lashes, but not more, lest being flogged further, to excess, your brother be degraded before your eyes.”

Sifrei, Ki Tetze Piska 286

“Your brother will be degraded before your eyes.” [Why this language choice?] From the moment he is flogged, he is your brother....”

Discussion Questions:

*One of the primary Biblical-era punishments was the giving of lashes. Why do you think there was a maximum number of 40?

*The Torah’s language changes from referring to someone who needs to be punished as “the guilty one” to referring to that same person as “your brother” as soon the first lash lands. What can/should we learn from this? What is our Tradition trying to teach us, and how does it apply (or not) today?

What is hateful to you do not do to your neighbor. That is the whole Torah. The rest is commentary.

(Rabbi Hillel)

A Story from the Talmud (Gittin 58a):

Rabbi Joshua ben Hannanya once happened to go to the great city of Rome, and he was told there that there was in the prison a child with beautiful eyes, a handsome face, and curly hair arranged in locks.

He went and stood at the doorway of the prison and quoted (from the prophet Isaiah 42:24): “Who subjected Jacob to plunder and Israel to spoilers?”

The child answered (with the conclusion of that verse in Isaiah): “Is it not God, the one against whom we have sinned and in whose ways they would not walk, neither were they obedient to his Torah.”

[Rabbi Joshua] said: “I feel sure that this one will be a teacher in Israel. I swear that I will not budge from here before I ransom him, whatever price may be demanded.”

It is reported that he did not leave the spot before he had ransomed him at a high figure, nor did many days pass before he became a teacher in Israel. Who was he? None other than Rabbi Ishmael ben Elisha [one of the greatest ancient rabbis].

Maimonides, Mishneh Torah, Laws of Gifts to the Poor 8:10

“The redeeming of captives takes precedence over the feeding and clothing of the poor. Indeed there is no religious duty more meritorious than the redeeming of captives, for not only is the captive included in the generality of the hungry, the thirsty, and the naked, but his very life is in jeopardy.”

Discussion Questions:

*The Jewish tradition places intense emphasis on “redeeming captives.” Who do you think constitutes a modern day captive?

*Does the fact that Rabbi Joshua is making this effort to free a child matter at all in its justifiability or outcome? Should it matter whether or not the child went on to become successful?

*At what point (if any) is the price for redeeming a captive too high to pay?

*What is the Tradition saying about how we should view those who happen to be behind bars?

Maimonides, Hilkhhot Rotzeach Ushmirat Hanefesh 2:5

“In the case of all of these murderers and such, who are not liable for death at the hands of the rabbinic court (due to a lack of the extreme evidence needed in a capital case – but the evidence is overwhelmingly clear that the person is indeed guilty) -- if a king of Israel wants to kill them, per royal law and for the sake of *Tikkun Olam* (repairing the world), he is permitted to do so. Similarly, if the rabbinic court thought it appropriate to carry out capital punishment on an emergency basis, if the hour demands it, they have permission according to what they see fit.

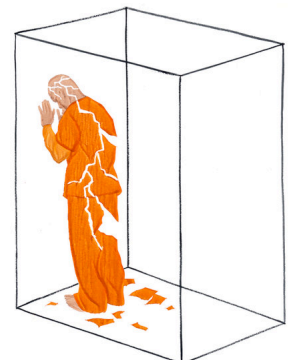
But if the king did not kill them, and the hour did not demand this, the court is obligated, in any case, to punish them with a serious punishment, close to death, and to confine them in a small and narrow place for many years, and to afflict them with all sorts of afflictions in order to instill fear in other wicked people, so that the incident will not become an obstacle or a stumbling block, such that another person will say “I will bring about the death of my enemy as so-and-so did, and I will go free.””

Discussion Questions:

For murder in particular, there seems to be medieval rabbinic support (Maimonides lived 1135-1204 CE/AD) for the argument of punishment as a deterrent – even going so far as to utilize solitary confinement as a warning to others.

* Should prisons be places of punishment and deterrence, or places of rehabilitation? Or both / neither?

* The words “*Tikkun Olam*” are often translated as “Repairing The World” and have become a rallying cry for liberal Judaism. Are you surprised to find them used here in this context? What do you make of it?



In Case You Thought This Was Simply a Partisan Issue...

Which 2016 Presidential Candidate Said It?

1. “Keeping them behind bars does little to reduce crime. But it does a lot to tear apart families and communities.”
2. “The current draconian mandatory minimum sentences sometimes result in sentencing outcomes that neither fit the crime nor the perpetrator’s unique circumstances.”
3. “We need to turn back from the failed ‘War on Drugs’ and eliminate mandatory minimums...”
- 4.” By [offering] treatment instead of prison for those with drug and mental health problems — upon entrance and exit from prison — the United States can eliminate our incarceration epidemic.”
5. “The War on Drugs is principally responsible for the wide gap in confidence between minorities and the police. African Americans use drugs at roughly the same rate as whites, but are more than twice as likely as whites to be arrested for drug possession. Harsh mandatory minimum sentencing laws have also contributed to fatherlessness in these communities. From 1980 to 2000, the number of children with fathers in prison rose from 350,000 to 2.1 million.”
6. “But let me say that I knew that, number one, we would save money by taking people out of prison and letting them get a job where they could become a taxpayer. To me conservatism is giving everybody a chance to be able to be successful.”

Potential Choices:

- a. Hillary Clinton
- b. Ted Cruz
- c. Rick Perry
- d. Rand Paul
- e. John Kasich
- f. Bernie Sanders

(Answers on bottom of page 9)



Attorney General Eric Holder
Washington Post, 2/27/15

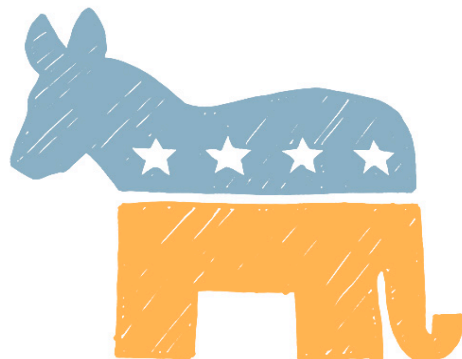
“There is a clear will to act. In a time of seemingly intractable partisanship in Washington, criminal justice reform is an issue that is transcending party lines. Just over a week ago, conservative stakeholders such as Koch Industries and Americans for Tax Reform joined with progressive voices such as the Center for American Progress to form a new coalition dedicated to this cause. On Tuesday, President Obama convened a bipartisan collection of lawmakers — including Sens. Mike Lee (R-Utah), Dick Durbin (D-Ill.), Rand Paul (R-Ky.) and Cory Booker (D-N.J.) and Reps. Jason Chaffetz (R-Utah) and Bobby Scott (D-Va.) — to discuss possible congressional action. And just two days ago, Supreme Court Justices Antonin Scalia, Anthony Kennedy and Clarence Thomas joined a dissent by Justice Elena Kagan lamenting a federal criminal statute “with too-high maximum penalties.” These unlikely alliances on what was recently one of the country’s most divisive political issues highlight the opportunity to act, and act now.”

Koch Bros to Bankroll Prison Reform
The Daily Beast, 1/13/15

“We are hopeful that by addressing overcriminalization, the relationships between law enforcement and the communities they serve will improve,” Mark Holden,[a senior VP and general counsel at Koch Industries] said. “Criminal justice reform is not a conservative or liberal issue, or a rich or poor issue, although the disadvantaged are the most negatively impacted by the abuses in our criminal justice system.”

Discussion Questions:

- *Are you surprised at the apparent bi-partisan nature of the conversation around prison reform? Why or why not?
- *For many years being “tough on crime” was deemed a key component of running for office. What do you think changed, if anything?
- *It has been more than a year since AG Holder wrote the above op-ed and since the Koch Brothers made their commitment. Have we lost our window to act?



End note

Rabbi Shimon ben Gamliel taught: The world stands on three things—on judgment (*din*), on truth and on peace. (Pirkei Avot 1:18)

In America today, these foundations of our world are at risk. Our criminal justice system fails to do justice, especially for people of color. When cases of brutality involving police officers rarely go to trial, we lose the chance to pursue truth. Peace will only come when we act as though all of communities depend on the safety and dignity of one another.

The Torah insists that even the worst criminal is *achicha* -- your brother. Even those guilty of crimes must be treated as we would want members of our own families treated. But the American criminal justice system too often throws people away--even people not yet convicted of a crime or convicted of a non-violent crime find themselves in inhumane conditions that violate the dignity of a creation *b'tzelem elohim* (in the image of God).

Tzedek tzedek tirdof—"Justice, justice you shall pursue"—the Torah commands (Deut. 16:20). Why does the Torah, usually so sparing in its language, repeat [the word] *tzedek*? Rabbi Simkha Bunim of Pczsha, an early 19th century Chasidic rabbi, taught that this means, "Pursue justice justly. The methods we use to pursue justice must also be just."

In a time when the only options for criminal "justice" are harsh minimum sentences disproportionate to the crime, indeterminate years of solitary confinement for even the youngest of offenders, fatal shootings and chokeholds for carrying toy guns or selling loose cigarettes—all within a system that structurally resists accountability—in such a time, we are a far, far cry from pursuing justice justly.

Courtesy of T'ruah, the Rabbinic Call for Human Rights

See more at: <http://www.truah.org/8-issues/campaigns/torture/651-launching-t-truah-s-mass-incarceration-campaign.html>

Answers to game on page 9:

1. a 2. b 3. f 4. c 5. d 6. e

