



### ***Elul Restorative Justice Insert***

*Everything that was made during the six days of creation still needs work.  
Even a human still needs fixing. –Genesis Rabbah II*

If to everything there is a season, now is the season for turning. As Jews, we look inward during the month of *Elul* and the High Holy Days to see where we have missed the mark. While Rosh Hashanah and Yom Kippur are times of both judgment and change, the month of *Elul* serves as a safe space to restore ourselves and use the process of *tshuvah* (repentance) to embark upon a new beginning.

In addition to committing *tshuvah* in our own lives, Jewish tradition implores us to bring the possibility for *tshuvah* to places where it is desperately needed. One of those places is California's criminal justice system. This year, let us commit ourselves to creating a more restorative and *tshuvah*-oriented approach to this very broken system.

(How broken is our criminal justice system? See the **Additional Facts** page at the end)

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#### **Err, Admit, and Rectify**

The notion that repentance supersedes sacrifice, or punishment for sin, is prevalent in both prophetic and rabbinic literature.

Jews are encouraged to engage in moral return everyday. Maimonides articulates his famous "Four Steps of *Tshuvah*" to guide us in this process:

- 1] Admitting:** First we admit we have made a mistake.
- 2] Verbalizing:** "This is what I did." For this most crucial part of *tshuvah* according to Maimonides, we narrate the action done and articulate why it was wrong.
- 3] Regretting:** "I am embarrassed by my actions" or understanding how the action harmed another individual. We imagine ourselves suffering from the effects of our actions to generate an active, internal desire NOT to do it again.
- 4] Resolving:** "I will stop", the internal decision NOT to repeat the action. The plan or fundamental change to keep us from recommitting the offense.

#### **Jewish Responsibility?**

Jewish tradition teaches by example: we tell stories of respected heroes who confront others to facilitate *tshuvah* and work to find forgiveness for their own transgressions.

## **I] Abraham and Abimelech: Finding Space for *Tshuvah***

Before buying land from Abimelech and naming it *Be'er Shevah*, Abraham reproaches Abimelech for the well of water which Abimelech's servants had seized. Abimelech claims innocence but does not deny his responsibility as he says, "I do not know who did this; you did not tell me, nor have I heard of it until today." Abraham sets seven ewes of the flock by themselves as a pact, and Abimelech asks why he has separated the animals. Abraham replies, "you are to accept these seven ewes from me as proof that I dug this well." Though Abimelech does not offer reparations for the offense, Abraham's offering of a pact allows Abimelech to officially recognize Abraham's ownership of the well and rectify the offense while maintaining his dignity.

- Taken from *Genesis*, 21:25-30

**In June, 2007, a bill meant to introduce into Israeli law the principle of "healing justice" - mending the damage to the victim and community - encouraged the Israeli government to consider mainstream models of alternative methods to incarceration. Under the bill sponsored by MK Dov Khenin of the Hadash party, only teens suspected of crimes that carry punishments exceeding five years (sex and drug offenses, or aggravated violence) would be arrested. The bill sets clear, uniform criteria for eligibility for either non-prosecution or mediation. Upon mutual agreement, a teenager who has committed a crime would meet with the victim, and hear about the damage caused, try to understand, ask for forgiveness, and pay compensation. Family and community members would be brought into mediation proceedings to support both sides. Besides mediation costing a great deal less than going to trial, Khenin views the proposed law as a crucial tool for reducing crime in Israel. "All the research shows that locking up teenagers is a sure way to create criminality," Khenin said. "The time has come to adopt more progressive methods."**

-Taken from <http://www.haaretz.com>

### To Discuss:

How should punishment for an immoral act be decided? How much authority should the victim have on the matter?

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### **What role will you play?**

*Take these issues to your representative:* In order to create a more restorative approach to the California criminal justice system, we need a major *paradigm shift*. The overcrowding of our prisons, lack of social services, insufficient medical services, and other law enforcement issues need to change. California's decision-makers care about what we have to say. Call your representatives to see where they stand on these important issues.

## II] Joseph and His Brothers: At What Point Do We Forgive?

*"Who is mighty? He who makes of his enemy a friend."*

*-Avot, according to Rabbi Nathan, chapter 23*

The story of Joseph forgiving his brothers articulates the essence of Rabbi Nathan's statement. Genesis narrates that Joseph's brothers betray him and sell him into slavery. During a famine years later, they journey to Egypt, and, not recognizing Joseph, petition their now powerful brother for food. Despite the wrongs committed against him, Joseph forgives his brothers. After forcing them through an assortment of trials and tribulations, Joseph reveals himself to his brothers and embraces them with love saying, "Now, do not be distressed or reproach yourselves because you sold me hither; it was to save life that God sent me ahead of you."

*-Adapted from Genesis, chapter 45*

**The following story was told by a mediator who worked with Hawthorne-based Centinela Youth Services' mediation program: Sally\*, a high school student employed as a cashier at a large department store, found a gift card that a customer had left behind. After using it sparingly for a few months, she is caught, fired, and told that she will never be hired again. Sally's crime is non-violent and a first-time offense, and the judge sentences her to mediation. Though the judge refrains from issuing a more retributive sentence, Sally is wracked by guilt. Her shame and embarrassment inhibits her academic success and makes it hard for her to spend time with her friends. The loss prevention employee with whom she is engaged in mediation suggests that she write for her school paper about her action. Her article will be about her experience: "I did something stupid, I lived and learned." The article was warmly received by the student body, Sally's employer is satisfied with her statement, and Sally feels released and can move on with dignity.**

### To Discuss:

Though he revealed himself to them in the end, Joseph made his brothers suffer, calling them spies, framing and accusing them of stealing, holding them in confinement, and forcing them to return to Canaan to bring him their youngest brother, Benjamin (Genesis, chapters 42-44). Should Joseph's treatment of his brothers be considered restorative or retributive criminal justice? What might be another way for the forgiveness process to have been carried out?

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### **What Role Will you Play?**

*Become a Jewish Community Justice Project mediator: Provide an alternative to juvenile incarceration by becoming a trained mediator between first and second-time nonviolent juvenile offenders and their victims.*

### III] Rabbi Yochanan and Reish Lakish: Everyone Makes Mistakes

No one is perfect. Jewish tradition is filled with people—great people—who changed the way they acted once they were given a chance to reflect and rebuild.

During Roman rule, after the destruction of the Second Temple, Reish Lakish, or Shimon, the son of Lakish, was an infamous leader of a group of bandits. Also said to be a gladiator, he had a reputation for great strength, with a wild, even violent streak. Yet in addition to his infamy, he was known for his great leadership ability and high, if somewhat misdirected, intelligence. One day, as Rabbi Yochanan was bathing in the Jordan River, Reish Lakish jumped in after him. Recognizing his positive attributes, Rabbi Yochanan said, "Your strength should be used for Torah." Reish Lakish retorts back, "Your strength should be used for women." Rabbi Yochanan continues, saying, "If you will abandon your ways, I will give you my sister [in marriage] who is even more beautiful than I am." Reish Lakish agreed and became one of the greatest rabbinic figures of his time.

-Adapted from *Bava Metzia* 84a, Part II

**Wearing a brand-new suit, J T Gottlieb was released from prison in September 2006 after serving 25 years in three different prisons, including a decade at San Quentin. Gottlieb grew up in Southern California and had a bar mitzvah. As a teenager, he got into drinking, drugs and theft. He ran with a rough crowd, he said, and ended up driving the getaway car for a man who committed murder. He received a 17-year-to-life sentence, and after four attempts, got out on parole. Claiming that the prison system does not facilitate rehabilitation, Gottlieb says a prisoner has to come to that point on his own. While he continued to use drugs and alcohol in prison for six years, he finally came to a realization and beat his habit. Today, he works for Project IMPACT (Incarcerated Men Putting Away Childish Things), an organization working to help incarcerated men reconcile with themselves, their families and their communities. Project IMPACT operates through an eight module program teaching male accountability, violence prevention, addiction issues, relationship skills, ethics, and finances 101 to enable successful transitions back into the community.**

#### To Discuss:

What do we make of Rabbi Yochanan's successful bribe to bring Reish Lakish out of his cycle of crime? What might be positive and negative implications of this tactic?

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#### **What Role Will You Play?**

*"Ban the Box" Campaign:* Los Angeles municipal job applications currently require individuals to identify themselves as former felons by checking a box. The "Ban the Box" campaign would remove this box and make discussions about criminal history part of the interview process, thereby ensuring that prior charges are not used as an initial weeding process. In 2005, San Francisco passed a similar resolution. Join PJA to help Los Angeles follow San Francisco County's lead by supporting the "Ban the Box campaign" today.

**And Tshuvah Works!** According to the Center for Restorative Justice and Mediation at the University of Minnesota in St. Paul, recidivism rates are lower following restorative justice programming than following traditional retributive punishment. 81% of young offenders who participated in mediation complete their restitution to their victims, while only 58% of young offenders commit their restitution when merely ordered to do so by the courts.

## What Role Will You Play?

*Join PJA's Criminal Justice Working Group to Make a Difference!*

PJA's Criminal Justice Working Group works to reform the criminal justice system to embody a more restorative and rehabilitative approach. New projects are always in progress and working group members choose and organize how PJA focuses its campaigns.

For more information, email Zach Lazarus at [zlazarus@pjalliance.org](mailto:zlazarus@pjalliance.org)

For more information about any of these resources and ways to get involved, please contact PJA at [office@pjalliance.org](mailto:office@pjalliance.org) or call (323)761-8350.

To learn more, please go to our website at [www.pjalliance.org](http://www.pjalliance.org).



PJA connects Jews to critical social justice issues through education, advocacy, and organizing. Over the past six years, PJA has created a new model of Jewish community organizing, and has reinvigorated the progressive Jewish landscape in Los Angeles.

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*This Elul insert was written by PJA member Rachel Firestone and the PJA staff.*

## Additional Facts

### **How does California's Criminal Justice System Measure Up?**

#### **In our current criminal justice system...**

- Offenders, even non-violent juvenile criminals, are sent straight to prison and do not interact with victims or encounter the effect of their actions. Few programs exist to help inmates correct and move on. The recidivism rate in California is an alarmingly high 70%. About two-thirds of parolees return to prison because of a parole violation, such as not calling in to the parole officer; only 14% of them commit a new crime.

#### **In our current criminal justice system...**

- Over 125,000 people are released from California's prisons every year. Approximately one third of them are returned to Los Angeles County, the equivalent of about 100 people per day. An estimated 70-90% of formerly incarcerated people are unemployed. A Los Angeles County study of employer attitudes and practices around hiring ex-prisoners revealed that only 20% of the 619 companies surveyed would hire an ex-prisoner. Few programs exist that address the understandable fears employers have on hiring felons. While employers cannot disqualify on prior conviction alone, formerly incarcerated people repeatedly suffer shame and unfair denials of opportunities as they must check "the box" indicating a prior felony or misdemeanor conviction, even on applications for jobs unrelated to their past offenses.

#### **In our current criminal justice system...**

- California's prison system now holds approximately 80,000 more prisoners than the 100,000 its 30+ prisons were designed to house. Rather than facilitating rehabilitation, the overcrowding and lack of beds, the insufficient medical, mental health, and social work services, the prevalence and lack of accountability for sexual violence, and the use of force and lock-ups on prisoners diminishes the chance of a successful return to society upon release.

#### **In our current criminal justice system...**

- California's 3-Strikes Law delivers a life sentence for any third conviction (not necessarily violent) after two serious felony convictions. Offenders convicted under the 3-Strikes Law are sentenced to three times the term otherwise provided with a minimum of 25 years, must serve no less than 80% of the sentence, may not be granted probation by the court, and are not allowed to plea-bargain. Because any parole violation, such as a failure to arrive at a court date, failure to contact probation offer, or an arrest of any kind, counts as a third offense, California's 3-Strikes Law puts many non-violent offenders away for life. Approximately **4,431** "3rd strikers" have received at least a 25 years-to-life sentence for nonviolent and non-serious offenses.

#### **In our current criminal justice system...**

- Los Angeles incarcerates more males than anywhere else in California. But two thirds of these incarcerated males are held in Susanville, a small town of 13,000 in the mountains of Northern California. For the most part, Prisons are built in isolated areas, severing relationships between prisoners and families and making prisoner re-entry even more difficult.

#### **In our current criminal justice system...**

- There is a current de facto moratorium on executions in California. While PJA applauds this de facto moratorium, we advocate for its indefinite de jure extension. While the moratorium is a positive step, it is indefinite and there is still work to be done. Our current campaign focuses on educating and preparing the public for reforms within California's criminal justice system, which the California Commission on the Fair Administration of Justice is currently drafting.

For more information on these and other campaigns, please visit [www.pjalliance.org](http://www.pjalliance.org).