

Parashat Ki Tetze: Before Prisons Were Invented

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Dear Friends,

Parashat Ki Tetze is full of laws pertaining to human relations. Very full! Many "dos" and "don'ts". Some of them are logical and still relevant today, and some are not at all, and may seem unbelievable to the modern reader.

There is one phrase in particular that repeats itself several times in our parasha, and I would like to deal with it this week. "You will eradicate evil from your midst." We first read these words in Parashat Re'eh two weeks ago, and again in Parashat Shoftim last week, but this week it becomes more central.

Eradicate evil from your midst – a harsh and frightening phrase!

We, in the 21st century firmly believe in diversity, acceptance, and rehabilitation. We seek individuation, that is, an acceptance of all parts of a person – the lovable and the less lovable, and even the darker sides. Our Sages, who were very daring in their day, claimed that an evil person does not exist. There are only evil actions. The notion of eradicating evil from your midst is associated with extremists that have no room for diversity, and go to great lengths to quell and extinguish people and opinions different from their own.

I avoid reading the Torah as a historical, sociological or anthropological text, and relate to it as the timeless and eternal words of the "Living God". Therefore, I have to understand in what way this phrase is relevant and accurate for me and for the modern society in which I live.

It is important to mention a fascinating fact about ancient biblical justice. You may be surprised to discover that it was much more "logical" and "enlightened" than our own modern system. Today there is no connection between the crime committed and the punishment! What, for example, is the goal of sending a person to prison? If the point is to remove a dangerous person from society, then this is not a punishment but rather an act of self-defense. But then why imprison for a limited time? Will the prisoner change? Prison today is almost never used to remove a dangerous person from society. If we are honest with ourselves, it is our way of seeking revenge. We use the term "paid his debt to society", but these are whitewashed words. Sitting in jail does not "pay" society anything. On the contrary – it costs society a lot of money. It would be more accurate to say "he satisfied society's need for revenge". It is not that there is no revenge in the Torah – there sure is. But at least it is clear and honest, and is not confused with punishment.

There is no prison in the Torah. The only thing remotely similar to it is the concept of the Levite cities of refuge, to which a person who killed unintentionally can escape from the revenge of the victim's family and be safe.

What does biblical punishment look like? The Torah sees punishment as the natural result of an action. Someone who has smoked his entire life might suffer from various health problems. A society that cuts down the rainforests and exudes huge amounts of poisonous gases into the atmosphere might choke and boil in the ruins of the reality it has created. The Torah makes a simple, well-known equation: what is repellant to you, do not do to your fellow man, and if you do, don't be surprised if it comes back to afflict you. This famous equation is not written in the Torah, but coined later by Rabbi Hillel. In the Torah it appears as: "an eye for an eye, a tooth for a tooth, a soul for a soul."

Our Sages broadened the equation of "an eye for an eye". They evaluated the injury done and assigned it as a monetary fine to be paid. They calculated the amount due based on the damage done, the cost of healing, the value of the sorrow caused, etc. Today we just call it "damages", but they are in addition to a prison sentence.

So we can see that in many ways, we are much more vengeful and cruel today. We demand that the crime be paid for above and beyond the damage done, based on the amount of revenge we wish to take on the perpetrator of a crime.

Another difference between biblical and modern punishment has a direct connection to the phrase we are discussing "you will eradicate evil from your midst."

Wherever this phrase appears in the Torah, there is no mention of the crime itself. A distinction is between an evil deed and evil in and of itself. Evil deeds carry results which must be paid for, whereas evil (in the form of the person or animal who perpetrates it) must be removed or eradicated.

A single bad act – severe as it may be – warrants financial damages to the victim. However, we are asked to remove the sources of ongoing evil from our midst.

If I were a Darwinist, I would claim that this is the way nature actually works. Nature almost always removes that which is damaging or fatal to the natural order of things. Darwin and the Torah have this in common: "and you will choose life!" Anything that inhibits the natural sources of life and vitality must be removed.

Thank goodness we no longer execute people (although some of our neighbors near and far still do). Our Sages understood that if the goal is to enhance life, then stoning or other forms of execution contradict this.

This Shabbat we are invited to ponder what reduces our vitality. What in our life is not life-enhancing? Parashat Ki Tetzeh's advice is to remove these things from our lives. This is also a wonderful exercise for the month of Elul.

May we have a Shabbat of peace and of vitality!
Elisha