The Jewish Concept of *Rakhamim* in the Midrashic Tradition and Divine Compassion in Restorative Justice Practices

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Abstract

This is a time of pervasive injustices across the spectrum and intersection of multiple human individual and group identities. This paper addresses one societal attempt to mitigate the unwarranted pain inflicted through a punitive system of justice, that of Restorative Justice practices. Restorative justice views crime as more than breaking the law – it also causes harm to people, relationships, and the community. The ultimate goal of restorative justice is to lead both perpetrators and victims on a path back to integration into community and to personal equilibrium. Telling one's stories and engaging in sincere forgiveness on both sides have been the main determinants of long-term success in reducing recidivism among the involved parties. This thesis argues that we can learn more about the often missing and challenging element of compassion in restorative justice from a faith-based perspective, and specifically from the Jewish concept of *Rakhamim,* mercy, as illustrated and passionately applied by the Jewish midrashic tradition. Biblical narratives, especially in the Book of Genesis, reflect flawed human beings, who are entrenched in complex relationships with family, community and God. The narratives focused on in this study are Noah and the Flood, the Abraham-Sarah-Hagar triangle, and Joseph and his brothers. The interpretations of these narratives, and spin-off stories generated by the Rabbis to 'demonstrate' rather than just 'tell' us about the transformative nature of mercy and compassion is both an existential recipe for healing our soul's distress and a tool for rebuilding damaged relationships. Indeed, *rakhmanut* is a frame of mind, while restorative justice involves a one-time act. Thus, there is potential in including biblical narratives in which *rakhamim* is a redeeming force for human frailty and transgression in the restorative justice process as way of scaffolding the stories of offenders and victims, and also to teach and inculcate true compassion for each other.

Introduction

By the end of December 2020, the US criminal justice system was holding almost 2.3 million people in 1,833 state prisons, 110 federal prisons, 1,772 juvenile correctional facilities, 3,134 local jails, 218 immigration detention facilities, and 80 Indian Country jails as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories.[1] Note the disturbing aspects of the following figures reflecting a system of punitive justice:

> Of the approximately 612,000 individuals that are currently being held in county jails, the vast majority, about 460,000, are awaiting some type of adjudication and thus are presumed innocent. (The Square One Project. May, 2020)
>
> In the United States and worldwide, youth detainment has become an immediate, catch-all response to challenges perceived as affecting public order and safety.[2]
>
> As of the summer of 2019, an estimated 55,000 to 62,500 prisoners in the United States were held in isolation for an average of 22 hours a day for 15 days.[3]

We live in a litigious society, in which our infrastructures respond to all manner of political, social and criminal infractions of the law by isolating and punishing perpetrators. These crimes run the gamut of domestic abuse, human trafficking,

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[1] **Prison Policy Initiative Data:** The Prison Policy Initiative is a non-profit, non-partisan Prison Policy Initiative producing cutting edge research to expose the broader harm of mass criminalization, and then sparking advocacy campaigns to create a more just society, **https://www.prisonpolicy.org/reports/pie2020.html**.

[2] Elizabeth Trejos-Castillo, "Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth," Square One Project, December, 2020, https://squareonejustice.org/paper/learned-helplessness-criminalization-and-victimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangeline-lopoo-and-anamika-dwivedi-december-2020/.

[3] "A Snapshot of Restrictive Housing Based on a Nationwide Survey of U.S. Prison Systems," The Arthur Liman Public Interest Program at Yale Law School and the Association of State Correctional Administrators, September, 2020, https://law.yale.edu/centers-workshops/arthur-liman-center-public-interest-law/liman-center-publications.

illegal drug use, racial-sexual-gender-immigrant motivated harassment and violence, insurrection, and murder. Irrespective of the nature of the crime, there is widespread and accepted inequality in the severity or leniency of punishments among those legitimately convicted of their wrongdoing, influenced, more often than not, by the powers of advocacy on the sides of the prosecution or defense, or by the racial, ethnic and social status of the perpetrator. Albeit it is the perpetrators who ultimately serve out the punitive judicial sentence, they suffer due to the legal proceedings which have an exclusive eye to the crime and its legal punishment. In this scenario, we lose sight of the harm and damage done to both the victim and the offender, to their families and community. Instead of addressing the ways in which the latter are able to confront their losses - from individual and communal dignity to the death of loved ones, and to be guided toward material and spiritual reparations, and re-integrate into their rightful place in society, it is as if society has forgotten both them and their losses. It is exactly at this desolate point in time that a confluence of the principles of 'restorative justice' and the Jewish understanding of *rakhamim*, of 'mercy,' can inform and transform the concept and application of retributive justice to a more respectful, equitable, kind, and ultimately human model of living *b'tzelem Elohim*, in the image of God.

This thesis will attempt to highlight the elements of restorative justice practices that focus on the roles of mercy and forgiveness on the part of victims, and of empathy-building on the part of both victim and offender. These elements have been greatly overlooked in formal restorative justice proceedings giving way to the reparation of damages, to the extent possible. Declarations of guilt and requests for

forgiveness by offenders in these proceedings, are not always required, and are often insincere. Moreover, victims, entrenched in their sorrows, losses, and fear of future harm, are unable to emotionally forgive. Consequently, many have criticized the long-term success of restorative justice practices, based on a high rate of recidivism by perpetrators and the inability of victims to restore trust and mutuality in their own relationships.

Along with secular notions of restorative justice and its practices, people of faith can access what their traditions teach about justice. From a Jewish perspective, understanding the centrality of divine justice tempered with mercy and its actualization in biblical family narratives offer the potential and possibility of integrating lasting and sincere compassion in both offenders and victims. If humankind is confused about what it means to exercise mercy, the great sage Hillel the Elder reminds us what to do, both before committing a sin and the obligatory response to another's sin: "Do not do to another what you would not wish for yourself."[4] Striving to restore equity and harmony in all human relationships, as reflected in God's intended relationship with each human, is the only direction incumbent upon all who are complicit in the broken world in which we find ourselves at this moment in history. Restorative, rather than punitive justice is both the means and the end: it heals and rehabilitates, and enables us to love all creation and create again with love.

Teshuvah, the Jewish concept of repentance, is foundational for the restoration of brokenness in society and in personal relationships. The semantic root of

[4] BT *Shabbat* 31a. The section below on *"Rakhamim"* will further elaborate on the practice of countering sinister human intentions and replacing them with compassion, as well as replacing punitive measures in the wake of criminal actions with reparations, pardons and rehabilitation.

teshuvah means 'to return.' Thus, the goal of repentance, in its core understanding, is the way in which a transgressor can re-integrate into their place in the world. Along the journey, a sinner, in the words of the medieval philosopher Maimonides, must pass through three stages: a sincere confession, regret, and a vow not to repeat the misdeed.[5] Talmudic scholar and religious philosopher, Joseph Soloveitchik, writes extensively about a sinner's need to 'feel' a sin before embarking on the threefold stages of *teshuvah.* In the Jewish framework, this feeling is akin to praying with a full heart: "Prayer is called *avodah she'balev* (worship of the heart) and the *mitzvah* (commandment) that is involved is consummated not through enactment (speech), but through fulfillment (in the heart), in experiential happening. The same applies to repentance which is similarly a "silent" or "heart"-centered form of worship.[6] *Teshuvah*, like restorative justice, presumes a transformation of the heart, and the heart responds to compassion, to rebuke tempered with mercy and hope. The heart rarely responds to rebuke and punishment with no path to redemption.

Embedded in the second stage of the *teshuvah* process is regret, evidenced by asking and granting forgiveness by offender and victim. As will be discussed below, it is exactly the encouraged, but non-obligatory act of forgiveness in restorative justice practices that often derails the process and leads to failure, especially in domestic violence and capital crimes. The offenders' insincerity in asking forgiveness leads to

[5] There are multiple references throughout the Hebrew Bible and rabbinic texts regarding ritual sacrifices and often extreme outward displays of mourning to enact penitence. The medieval philosopher Maimonides espoused this rational three-step practice in this *Mishneh Torah,* Laws of Repentance 1:1.
[6] Joseph Soloveichik, in Pinchas Peli, *Soloveitchik on Repentance.* (NY: Paulist Press, 1984), p. 26.

recidivism, misdeeds, and the inability of the victims to trust offenders and accept their pleas for forgiveness.

Even a sincere apology may not be enough for true transformation. Judaism places *kaparah* (the act of atoning) within the larger concept of *teshuvah. Kaparah*[7] as a practice is meant to 'appease' in the Bible.[8] Essentially, *kaparah* aimed to dissipate the anger of the victim, wipe away the sin,[9] and change God's attitude toward the sinner. It involved a purification ritual in ancient days. A purification ritual today, in metaphorical terms, might involve a 'cleansing' of the heart, activated by the collective compassion of arbiter, judge, and society at large. In Judaism, the Judge, Arbiter, and the Wholeness of collective humanity is God, and God's mercy is essential for human transformation, beyond the obligatory expression of forgiveness. Similarly, restorative justice aspires to change the human attitudes of both offender and victim. Restorative justice practitioner and trainer, Ted Lewis, describes the release of blocked and/or negative emotional energies in mediation dialogues between offenders and victims: [There is] "that magic pivot point during a meeting when the mood shifts from tension and mistrust to relief and greater trust. It may emerge from a sincere apology from one party, or perhaps an empathic acknowledgement of what the other party has experienced. It is as if the human heart was a source of energy activity, the hub of where negative or positive energies were

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7 Rav Yehuda Rock, "The Meaning of Kapparah in the Torah," https://www.etzion.org.il/en/meaning-kappara-atonement-torah.

8 See *Genesis* 32:21 where Jacob purposes to assuage anticipated anger in the reunion with his brother by placing bountiful provision in front of him as a buffer: *akhapera fanav* (I will appease/be forgiven by him).

9 The origin of *kaparah* is Aramaic: "to wash away."

both stored and released,"[10] and the result is a true 'heart to heart' conversation. Lewis perceives the transformation of negative to positive energies akin to a burning candle in which the wax and flame and oxygen combust to create new forms of useful energy: warmth and light.[11] In the case of the restorative justice dialogue, the heart's release is both a cleansing or purification and the subsequent opening up to connection with another individual or group with hope and possibility.

What is Restorative Justice?

The concept and practice of restorative justice has been described as one of the most significant innovations to have arisen in the modern era in the administration of criminal justice, in particular, and in the mediation and resolution of national civil unrest in the broader societal sphere[12]. From small scale experimental beginnings in the early 1970s, it has since grown into a global social movement for change, embracing a diversity of discursive and peacemaking practices in a wide range of settings.[13]

As a concept, restorative justice addresses and challenges 'retributive' justice. The current legal system based on retributive justice focuses on rules and laws,

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[10] Ted Lewis, "The Language of Energy in Conflict and Resolution: More than a Metaphor," in *The Energy of Forgiveness: Lessons from Those in Restorative Dialogue,* edited by Mark S. Umbreit, et.al., (Eugene, Oregon: Cascade Books, 2015), p. 111.

[11] *Ibid.,* p. 112.

12 Howard Zehr, "Overview," *The Little Book of Restorative Justice,* (Delaware: Good Books/Skyhorse Publishing, 2015), pp.5-10.

13 The most notable international example is the South African Truth and Reconciliation Commission, which provided a transitional justice procedure, based on Restorative Justice, to legally end Apartheid in the 1990's.

accompanied by pre-determined punishments for offenders, often losing sight of the harm done to specific victims by the offender and the offense. Consequently, retributive justice makes victims, at best, a secondary concern of justice. Restorative justice, on the other hand, views crime firstly, as harm and displacement done to people and communities. The focus on harm implies a central concern for victims' need and roles. Restorative justice thus begins with a focus on harm, and with a concern for victims and how to meet their needs, and for repairing the harm done as much as possible, both concretely and symbolically. A focus on the harm done also implies an emphasis on offender accountability and responsibility. Too often accountability is equated with punishment under the retributive justice model. This model does not encourage offenders to understand the consequences of their actions or to begin to empathize with their victims. Accountability means taking responsibility for making things right with victims and the community to the greatest extent possible. The primary focus thus shifts to the restitution to victims and their affected communities (those of offenders and victims) by the offenders, through money and services. Underlying the practice of restitution is the aim to achieve healing for the harm done and civic and human obligations breached. Society rarely achieves justice that is fully restorative. A realistic goal is to engage in and move into a process that puts victims, offenders, and members of the affected community, along with their respective needs and roles, at the center of the search for a justice that heals.[14]

Secondly, healing communities at large through reparations for harm done does not automatically prevent recidivism on the part of the offenders and fear of future

[14] Howard Zehr, "Restorative Justice: The Concept," *Corrections Today*, Vol.59, Issue 7 (Dec. 1997), pp.68-70.

retaliation on the victims. As will be explored below, justice is not just conformity to law, but also the ideal human propensity for equitable, righteous and compassionate attitudes and behaviors towards each other. The latter goal, for the purposes of this thesis, does indeed represent an intersection between the greatest aspirations for a civil and equitable society, and the nature of righteousness at the core of a human being's effort to mimic the Divine in Judaism and in the majority of world faiths.

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The nomenclature, "Restorative Justice" emerged in the late 1960's with the rise of civil and human rights campaigns across the US and the world. The term itself is fraught with misconceptions and necessary ambiguities. First and foremost, unlike the law of the land, restorative justice affirms that 'one size does not fit all.' The term is connected to relationships, rather than to content. Simply put, the restorative justice is a process by which broken relationships can be addressed and repaired by those affected in order to move forward with dignity and possibility. The significance of relationship in restorative justice is powerful and essential to human existence, so much so that it defies quantification and exact linguistic description. There is an uncanny similarity to the Jewish understanding that God cannot be portrayed in human terms, both because God is far greater than our human selves and because God's unified perfection continues to be an unattainable aspiration for human redemption, albeit the primary motivation for our moral trajectory. Thus, we are meant to uphold and preserve the holistic and holy nature of our bonds with our families, our communities, our societies, and even ourselves in order to actualize our humanity, and fulfill the divine in each of us. Indeed, the roots of restorative justice reach back in human history when

indigenous tribal peoples interacted as collectives. Infractions in their culturally-framed social contracts were considered the responsibility of everyone, that is, a collective stain on the harmony of the community. All were called upon to fix a system that failed to support any one of its members, who resorted to an infraction of its guide for living, i.e., its law code.[15]

Howard Zehr, founder of practical restorative justice in the US can only tell us what Restorative Justice is not[16]: (1) 'Restorative' does not imply a return to, or a recreation of the past. Rather, it aims to mitigate and eventually eradicate all patterns of oppression. The restoration is understood as hope and transformation for our world. (2) Restorative justice is not a mediation program, limited to a neutralization of the offense, or a compromise between victim and offender. Rather, it demands accountability and mitigation of the damage done, with attention to the needs of the victim and the offender and their communities. (3) Restorative justice is not designed to reduce repeat offenses, but it may be a bi-product. (4) Restorative justice is not limited to minor offenses or first-time offenders; it is meant to serve any and all imbalances of power in society, including hate crimes, bullying, sexual abuses, et.al. (5) Restorative justice is not a cure or replacement for a legal system or even prison; it is a healing and peace-making process to bring humans into greater interdependence and harmony, and hopefully reduce our reliance on punitive justice. For this reason, we can understand

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[15] Jeffrey Ian Ross and Larry Gould, Eds. *Native Americans and the Criminal Justice System.* (Boulder, Colorado: Paradigm Publishers, 2006), Chapter 2: "Navajo Criminal Justice: A Jungian Perspective," pp.17-34. In this chapter, the Navajo concept of *hozho* is a guide for the criminal justice system as related to Navajo healing methods. Justice is seen as restoring an offender's harmony with the community, as well as restoring his or her own inner harmony. Appropriate restitution to the victim(s) is a requirement, and this restitution has to be agreed upon by all those affected by the offense, and must be in accord with traditional Navajo values. The restorative process is aptly named the "Navajo Peacemaker Court."

[16] Howard Zehr, *Restorative Justice*, pp. 14-20.

why a punitive and retributive legal system and incarceration are perceived as opposites of restorative justice as they alienate and separate humans from society at large, and do not lead to a repair of relationships and to the restoration of both parties involved. This notion is reiterated by civil rights attorney and racial justice activist Fania David: "Consonant with African and other indigenous communitarian values, restorative justice is profoundly relational and emphasizes bringing together everyone affected and to heal the harm to relationships and community, to the degree possible."[17]

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How do the modern practitioners of Restorative Justice practices characterize their goals, techniques and measures of success? In the criminal justice system, restorative justice aims to engage victims and offenders with each other face to face, along with their respective support communities. In the context of a specific offense, the meeting is an opportunity to not only review the facts of the case and seek appropriate reparations of harm done, but more importantly to recreate the life and character of both offender and victim as unique and contributing members to society. Face to face encounters are proven to be the most effective way to achieve restorative justice objectives. In a Marquette University Law Review article,[18] we follow one case in which a young man was convicted and incarcerated for crashing a vehicle while intoxicated and causing the death of passengers in the two cars. There were three opportunities for him to express remorse to the family of the deceased. He refused at his trial

[17] Fania E. David, *The Little Book of Race and Restorative Jusice.* (New York, NY: Good Books, 2019), p. 19.
[18] Susan J. Szmania and Daniel E. Mangis, " Finding the Right Time and Place: A Case Study – Comparison of the Expressions of Offender Remorse in Traditional Justice and Restorative Justice Contexts," *Marq.L.Rev.*, 335 (2005), http://scholarship.law.marquett.edu/mulr/vol89/iss2/6.

because he said that any expression of remorse and apology would have been lost on the victims' family, the defending attorneys, jury or judge, who were solely focused on sentencing him to the maximum punishment. Three years after the crime and into two consecutive 20-year sentences, the offender published his story and expression of remorse in a regional newspaper, which was not received with empathy or success. As it turns out, a public outcry in the media for stricter DWI laws derailed any positive reading of his op ed essay, even though his newspaper statement purposed to elicit awareness of his guilt and somewhat of an apology: "I never meant to hurt anyone. . . .I have the guilt and knowledge of those families' grief resting on my soul." The offender does not address the loss to the families by name. Moreover, by restricting his plea to the printed word, the offender had also lost his voice – his real feelings. Albeit without any legal advantage, the offender met with the victim's mother one year later. The face to face encounter outside of a courtroom is the guiding principle for restorative justice, as it works for "the opening of the heart through genuine dialogue, empowerment, and a recognition of each other's humanity despite the conflct."[19] The mediator reported many "little deaths and revivals" for both offender and the grieving mother as they both expressed their losses and insecurities, and then ways to move forward as prisoner with human connections outside the prison, and as mother who could turn her anger and broken spirit into peace for her soul and a meaningful social existence once again. The ultimate goal of restorative justice is to redeem and restore the world around each of the parties so as to enable all to return to their 'place' with a new moral reckoning to live more justly going forward.

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[19] *Ibid.,* p. 19.

The restorative justice process does not require victims to feel or exhibit mercy and compassion for their perpetrators, nor does it expect forgiveness. That said, there are detailed expectations: (1) repair the harm caused by an offense, (2) decrease the offender's risk of committing future offenses, (3) encourage the offender to verbally atone for the harm done, and (4) increase both victims' and offenders' satisfaction with, and perceived fairness of the judicial consequence.

The practice of restorative justice has generated much criticism amidst its popularity. Judicial practitioners and theologians alike have expressed doubt about its effectiveness to transform the moral trajectory of an offender or re-integrate offenders into their community. The lack of sincerity, for one, can undermine an authentic and effective process, for offender as well as victim. Without a resolution that comforts and endures, questions, emotional discomfort and even fear of the future remain for all the parties involved, and sometimes for the next generation as well. There is a notable biblical example of the complexity in achieving a just and lasting resolution for both victims and offenders, especially as the lines between victims and offenders may become blurred after years of the latter's incarceration. Let us recall the historical moment when the biblical Israelites were led by Moses from Egyptian slavery. They, too, were participants in a restorative justice process – moving away from the trauma of enslavement to the hope of freedom and redemption. We have only to cite the explanations that the Jewish interpretive tradition offers to justify the Israelites appropriating for themselves all of the jewelry of the Egyptians at the time of the Exodus.[20] If these precious items represent commensurate reparations for a life of

[20] Exodus 12:35-36.

oppression and deprivation, why do the Jews as victims continue to review and justify the morality of this act?[21] Was every Egyptian complicit in the oppression of the Israelites? Should there have been compassion for the Egyptians beaten down by the plagues, and mourning the loss of their first-born? Were they not also victims of their autocratic ruler? We do not have the benefit of dialoging with our ancestors, both Israelites and Egyptians, and therefore we are left with our questions and the ambiguities of the act. But, the midrashic tradition of the rabbinic sages does attempt to provide context and justifications when confronting injustice in the biblical text, and we can learn much from their wisdom and visions of divine inspiration.

In modern times, we can ask if reparations by Germans to Holocaust survivors reflect more than a functional repentance on the part of the offenders? Christopher Bennet argues[22] that ritualizing restorative justice for the sake of reparations for harm done also does not insure the sincerity of either the offender or victim. Moreover, in restorative justice practices, society becomes complicit for not insisting on a moral culpability for the crime since the goal is mainly for society to continue to function. This is no truer than in our present day as politics and profit-mongering replace morality, resulting in a broken society, almost, but not yet beyond repair. I would argue that the survival of any community is contingent upon the active and intentional practice of mercy and compassion driven by the human moral imperative. In the Jewish tradition one needs not look beyond the brave princess of Egypt who rescued baby Moses from

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[21] Traditional commentators Rashbam, Rashi, and Ibn Ezra all parse *vayash'ilum* in Ex. 12:36 as either the act of giving gifts by the Egyptians to the Israelites upon their departure, or items due to the Israelites in compensation for years of servitude. (*Torat Chayim: Chamisha Chumshei Torah*. Jerusalem: Mosad Harav Kook, 1993), p. 145.

[22] Christopher Bennet, "Taking the Sincerity Out of Saying Sorry – Restorative Justice as Ritual," *Journal of Applied Philosopy,* Vol.23, No.2, 2006, pp.127-145.

the Nile River, assuredly in maternal tenderheartedness and compassion, as an act which catapulted the creation of *am Yisrael*, the People of Israel.

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Let us consider a grander gesture for restorative justice, as it has been practiced internationally, especially in South Africa, under the appellation of “Truth and Reconciliation.” Here, too, the process, albeit a practical and powerful tool to end Apartheid, remains limited in its capacity to imagine an entirely new narrative for the offender, victim and environment. Racist offenses persist in society beyond individual offenses and reparations for those offenses. This is a sign that society has not committed to put the narrative of racism and its ugly manifestations in the past. In this scenario, a long-term positive impact may not be experienced in the lifetime of those involved. Restorative justice practices aim at society being able to put closure on a social infraction, restore a functional peace and move on. Opponents argue, that without transforming one’s moral and ethical beliefs, values, and attitudes - offenders, victims, and society are doomed to recidivism and disunity. Even more basic, injustice survives restorative justice practices, because the latter is a ritual rather than a frame of mind and heart. After the civil war between the ethnic groups, Hutsis and Tutsis, and the subsequent massacre of the Tutsis in Rwanda in the early 1990’s, the government took upon itself a pervasive education program for five years, naming and dismantling all ethnic group differentiations in service of reconciliation and to building a greater Rwanda. One can argue that the role of education for transformation is a powerful tool

and a reminder that it takes more than a generation to realize its goals.[23] Still, however much today's Rwandans have ostensibly put aside their ethnic animosities, personal cultural legacies and unique social mores have surely been lost in the process. This dilemma may be compared to any individual offender who cannot sincerely repent of an offense because, in doing so, one renounces the very core of one's identity. An example here might focus on the pro-life Catholic, who harasses a person who is pro-choice or even defaces a facility providing abortions. Can any practice change this offender's sincere personal convictions? Should it? Surely, it takes something much deeper inside the human psyche to not only reconcile conflict, but also to govern from the beginning how we can look upon humans with compassion rather than with judgment. Rabbi Dennis Ross calls this psychological and spiritual self-revelation and self-discipline 'unconditional positive regard' – unqualified faith in the worth of the individual, and an affirmation and acceptance of the latter's innate goodness and dignity.[24]

Rakhamim **as an Important Factor in Restorative Justice**

The Jewish interpretive tradition of the Bible, understanding and promoting the sacred task of all Jews and all humanity, as moral and ethical behavior towards God and towards each other, is also a path to restorative justice and wholeness, or *shalom*

[23] We might offer a parallel to our present crisis of addressing systemic racism in the US – educating Americans and transforming the narrative will also be a long process.

[24] Rabbi Dennis S. Ross in *God in Our Relationships: Spirituality between People from the Teachings of Martin Buber.* Woodstock, Vermont: Jewish Light's Publishing, 2003, p. 83.

in spiritual terms.[25] We recall the human creation of Genesis 1 as a kind of androgenous co-mingling of male and female, the second creation of male and female in Genesis 2 as separate bodies, and then the coupling of female and male characterized by *devaykut* – a bond of unbreakable and unconditional mutuality. In a perfect and godly world, humankind is meant to seek out and to ultimately be in relationship with each other based on mutual acceptance of our imperfections and a collective, aspirational effort to heal and repair that which has impaired any one or any part of us.

Jewish theology and tradition cultivate an attitude of mercy and compassion in order that humanity may survive and perpetuate, both in its diversity and collectivity. 'Mercy' as a concept has multiple interpretations guided by the tenets of faith communities, by legal statutes, by medical practitioners, and by individuals who aspire to be merciful to others. On what may appear as a rational, practical, or even politically motivated level of mercy, Malcolm Bull, in his highly original visionary study *On Mercy,* envisions a society dependent on humans' willingness to exercise mercy, even as most people do not feel merciful in their hearts. This means in reality that "mercy is not defined by its intended effects, but by the actual ones."[26] This understanding of mercy may or may not be an innate character trait, but does minimize harm done to another. He cites the following illustrative example:

> In *Soldiers of Salamis,* Javier Cercas's novel of the Spanish Civil War, the fascist writer Rafael Sanchez Mazas has escaped from a mass execution and is hiding in a ditch. During a search for him, a Republican

[25] "The One Who brings peace (*shalom*) upon us, will make peace on all Israel [and the world]" – Blessing of peace at the end of the central *Amidah* prayer in Jewish liturgy.
[26] Malcolm Bull, *On Mercy.* (Princeton, NJ: Princeton University Press, 2019), p. 3.

> soldier is standing on the edge of a ditch in which Mazas is crouching. When asked by his superior what is in the ditch, the soldier responds that no one is there. In that moment, the soldier has the absolute power of life and death over Mazas, but does not shoot or recapture him. He just walks away. His reasons are unscrutable.

Irrespective of the soldier's motivation for doing what he did, Bull insists that it counts as an act of mercy, both in how the soldier viewed the fugitive at first glance in the pit, and by way of the pardon the soldier bestowed upon Mazas in leaving him be. Bull acknowledges that absolute mercy as a reaction to wrongdoing is beyond human capacity: "An act of mercy is an action that is both intended to be and turns out to be less harmful than it might have been."[27] Applying mercy as manifested both 'before' and 'after' witnessing and/or suffering any injustice not only allows each side to survive intact (at least in this encounter), to rejoin one's place of identity and growth, and also implies the ambiguity in naming any act as an absolute 'right' or an absolute 'wrong.'

Bull's definition of mercy does have a place in a justice system that is defined by a rigid law code alone, where punitive consequences are measured only by harm done, without allowances for motivation, circumstances, and human frailty. Yet, there is a gap in Bull's example regarding interpersonal relationships. In the above narrative, the 'soldier' is responding to the 'fascist.' We do not know how the soldier will react to any other human in a different scenario. If human compassion drives the soldier's 'merciful' action [really, inaction], it is not expressed or implied in the text. *Rakhamim,* on the other hand, is meant to be the creative and reactive force deep within the God-created human psyche that responds to every human encounter, irrespective of external factors.

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[27] *Ibid.*

Embracing mercy – *rakhamim* - as a value and as a way of life can increase the effectiveness of restorative justice practices in two ways. The meeting, dialogue, or even indirect (through a mediator) interchange between offender, victim and involved communities in a restorative justice setting is descriptive: the offense is laid open in detail to all the parties to clearly expose the harm done to all, and mutually decide upon reparations. This conversation acknowledges that an act has indeed been committed. The conversation does not ensure that the offense will not be repeated. *Rakhamim*, on the other hand, is prescriptive: potential offenders can prevent themselves from causing harm to others if they practice compassion and empathy towards those with whom they disagree or to whom they feel hostility. The victims, who can muster up their innate, but clothed in pain and grief, *rakhamim* for the plight of the offender, who will be accountable for the harm done – those victims may be able to erase their sense of being violated and restore their equilibrium to live life more fully. This is possible since mercy is planted deeply into their beings as the primary way to human relationship.[28]

If a goal of restorative justice is for both victims and perpetrators to agree to "move on," how much more effective will both the victim's and perpetrator's reconciliation of an injustice be if mercy leading to forgiveness is present. This paper will offer both examples of iconic biblical stories as illuminated in midrashic sources,[29] in

[28] Philosopher Martin Buber espouses that human beings can only live in relationship to each other: "The elementary, spirit-awakening impressions and stimulations of the 'natural man' are derived from relational processes – the living sense of a meeting. . .with one who meets him." (Martin Buber, translated by Walter Kaufmann. *I and Thou.* NY: Charles Scribner's Sons, 1970, p. 70). Akin to restorative justice practices, Buber understands that the 'perfect relationship' emerges from a "fusion of opposite feelings" in an encounter in which "the purest and most open-minded and profound introspection can be recalled." *Ibid,* p.130. Buber's process assuredly requires a leap of faith, empathy and compassion for the 'other.'

[29] According to M. Gaster in the preface to *Chronicles of Yerahmeel*, "They (legends) lived on because age did not affect them, and people at all times were inclined to bestow benevolent attention upon poetical descriptions or pseudo-historical narratives." (xiii)

which mercy allows for both the story to continue, and for succeeding generations to learn from this process. One could also imagine the use of mercy in those instances in order to re-create a different and more viable outcome. Finally, this paper suggests that the concept of *rakhamim* in the Jewish tradition can enhance the restorative justice process in general as it aims to internalize a powerful mindset that can more effectively counter vulnerability, victimization, loneliness, and brokenness in both victims and perpetrators. Although mercy in this paper emerges from the Jewish religious tradition, it is a universal human trait. Indeed, it is this *rakhamim*, this all-encompassing mercy, which has been applied to the following examples of crimes against humanity, and which might enable the involved constituents to fully reconcile and be restored.

Although at first not specifically intended to address disparities in the criminal justice system, in recent years restorative justice has narrowed its efforts and practices to ameliorate the fates of disenfranchised offenders. The dissolution of South African Apartheid through a 'truth and justice reconciliation' process in the mid 1990's,[30] the rise of Black Lives Matter in 2011, the advocacy and work of the Equal Justice Initiative, and most recently the aggressive and empowering public response to racial violence and injustice perpetrated by the police, underscore a societal structure and ethos of separateness, competition and subordination, asserts Fania Davis.[31] In lieu of the supremacy of any one individual or group, restorative justice seeks restitution of material and emotional damage and reconciliation. The latter, says Davis, goes one

[30]"Truth and Reconciliation commissions, from the mid 1970''s, were fact-finding, non-judicial bodies that sought to unearth buried truths about massive human rights violations, past and ongoing, particularly in Africa and Latin America," in Fania Davis, *Race and Restorative Justice,*(NY: Good Books/Skyhourse Publishing, 2019), p.75.
[31] Ibid. p.21.

step beyond the original restorative justice objectives. For her, the precedent and model are the black family clans of Africa where an offender is urged to empathize with the person harmed, acknowledge the wrong, apologize, make amends and ask forgiveness. Indeed, the addition of the act of atonement [similar to *teshuvah* in the Jewish tradition] opens up a new possibility for the success of restorative justice. In *teshuvah,* full atonement requires the transgressor to ask for forgiveness, to repair hurts to the extent possible, and to avoid the same error in the future. Moreover, through the Jewish process of opening up and emptying one's conscience (see above), and exposing how each human act, good and bad, reverberates far and wide, it is hoped that the sinner will truly transform their way of engaging with others, from self-interest to empathy and compassion. Applying this process to the goals of restorative justice, we might expect that the victim and offender will also confront their humanness in humility and vulnerability, and thus may have a greater opportunity to live together without the tension of anticipating future recidivism, that is, with sincere rapprochement and acceptance through forgiveness. Moreover, healing interpersonal harm requires a commitment to transforming the context in which the injury occurs.[32] Jewish ethics scholar Lewis E. Newman encapsulates Davis's thesis from a Jewish perspective:

> I will define forgiveness as a moral gesture offered by the offending party to the offended party as a way of restoring that person's moral standing (whether in the context of their relationship or in some larger, social context), which entails adjusting one's feelings about and behavior toward that person in ways that minimize (and sometimes entirely negate) the ongoing effects of the person's past offence.[33]

[32] Ibid. p. 35.
[33] Lewis E. Newman, "Balancing Justice and Mercy – Reflections on Forgiveness in Judaism," *Journal of Jewish Ethics,* Fall 2013, Vol.41, No.3, p. 438.

Jewish theologian Abraham Joshua Heschel also understood the Jewish mindset that models restorative justice goals:

> Justice is not important for its own sake; the validity of justice and the motivation for its exercise lie in the blessings it brings to man. For justice, as stated above, is not an abstraction, a value. Justice exists in relation to a person, and is something done by a person. An act of injustice is condemned, not because the law is broken, but because a person has been hurt. What is the image of a person? A person is a being whose anguish may reach the heart of God.[34]

Heschel is reminding us that If we can embrace our own pain, then we can reach out and when we participate in other's pain, we can feel it in ourselves. This is *rakhamim.*

Rakhamim **in Jewish Biblical and Midrashic Tradition**

Elie Wiesel offers the operative function of *rakhamim* in human interactions in a 1983 lecture on Rabbi Abraham Yehoshua Heschel of Apta. Wiesel quotes the seventeenth century hasid Heschel in regards to his reproach of a repentant female petitioner: "It made me see, all of a sudden, that I was on the wrong path, for I chose *din*, judgment, over *rachamim*, compassion. A dangerous path for a rabbi. A barren one for a Hasid. Man is not meant to judge his fellow human beings, and even less to condemn them. He is meant to understand them. " [35]

Chazal, Wiesel's rabbinic predecessors and mentors 2000 years before him, trace Heschel's self-revelation and subsequent transformation to living a life of *ahavat Yisrael* back to its Divine source. A striking and unexpected example of the rabbis' midrashic reconstruction of God's attribute of *rakhamim* as the very essence of the

[34] Abraham Joshua Heschel, *The Prophets* (Harper Perennial Modern Classics, 2001), p.276.
[35] Lecture by Elie Wiesel, "Rabbi Abraham Yehoshua Heschel of Apta," 92nd St. Y, October 20, 1983.

Israelite God at an historical time of the lowest morale and confusion over culpability - the era of the Destruction of the Second Temple - is found in the midrashic *Lamentations Rabbah.* In one of the 36 proems of this midrashic compilation – *petikhta* 24 – there is a masterfully created sequence, a *mashal* (parable) to demonstrate that the Destruction was a cosmic event that was a catastrophe for God as well as for the people: God as the in-dwelling *Shechina* abandons the Sanctuary, allowing the enemy to overrun it; As the devastation manifests itself, God is anthropomorphically typecast as a king whose sons have provoked him and thus he banishes [or executes] them, only to respond in utter grief and loneliness at his own act. The Patriarchs and Moses appear, to bear witness to the suffering of God's people and beg God to bestow mercy upon them, and God's self-pity and mourning shifts to pathos for the victims, God's human creations. We can assuredly apply this shift in the rabbinical perspective from the people as sinners to the people as victims at the moment of their greatest sufferings**,** not just to the Jewish perennial hope for redemption in the future, but more importantly, for how we might view both the good and evil deeds of humanity through the lens of pathos (*rakhamim*) rather than the lens of judgment *(din*).

Rakhamim as a plural noun abstract concept is mentioned 39 times in the Tanakh, according to the Even-Shoshan Concordance.[36] Its semantic equivalents include: *khemlah, regesh ahavah, hishtatfut b'tza'ar hazulat* – compassion, love, and feeling for and even a vicarious participation in another's pain. It is paired with words in the biblical text, which together nuance a specific use of *rakhamim* in a specific

[36] *Kondordantzia khadasha l'Torah, Nevi'im, u'Ketuvim* (Jerusalem: *Kiryat Sepher,* 1980), p. 1072.

circumstance for a specific reason. These frameworks are not necessarily in the text itself, and are often offered through midrash on these texts. The most common understanding of *rakhamim* appears at the very beginning of human creation.

> Rabbi Berekhiah said: When the Holy One was about to create Adam, God saw both the righteous and the wicked who were to issue from him. So God said: If I create him, wicked men will issue from him; if I do not create him, how are righteous men to be born? What did the Holy One do? God diverted [deliberately disregarded] the way of the wicked from before God's sight, partnered the quality of mercy, saying to it, "Let us make humans," and then the Holy One made Adam..[37]

Here, *middat harakhamim* (attribute of mercy) is paired with *middat hadin* (attribute of justice): Justice gives birth to the 'wicked' whereas mercy is for the 'righteous.' According to Rabbi Berekhiah's pairing, only the creative force of *rakhamim* will allow humanity to be forgiven for its innate and inevitable propensity to sin and to cause harm, and thus to ensure their survival.

A midrashic pairing of *rakhamim* with *shalom* offers yet another layer of meaning (and practice):

> It is said that when Aaron was on the road, and met a man who was known to be evil, he would greet the man, saying: "Shalom" to you. The next day, if that man wanted to do evil, he said, "If I were to do this thing, how could I then lift up my eyes and look at Aaron? I would be ashamed before him, for he gave me a greeting of peace." So the man would hold back from doing evil.[38]

Rakhamim here is a show of greeting, of acknowledging a human outside of oneself, ostensibly with *sever panim yafot* – with a favorable and friendly countenance – irrespective of a person's reputation. Here, a greeting of *shalom*, spoken aloud and face to face, has the power and potential to transfer to the recipient, and prevent further transgressions in someone evil-minded. By association, *rakhamim* has this potential as

[37] Genesis Rabbah *8:3-4.*
[38] Avot d'Rabbi Natan *12,* Nuskha *A.*

well. Both of these midrashic examples interpret *rakhamim* as a preventative, that is, as having the capability to direct and keep humans on a sustained moral trajectory. Restorative justice practices have focused on *rakhamim* as an intuitively hoped-for, but never assured result. Societies may not be able to predict the crimes and recidivism of its members. Yet, the teaching and inculcation of *rakhamim* as an educational intention of restorative justice practices have the potential to increase its success in the process itself and in the re-integration of offenders and victims into community.

Jewish midrashic texts are deeply concerned about the absence of compassion in humans that leads to senseless and cruel acts. It is written in Proverbs 10:12: "*Yodea tzaddik nefesh b'hemto v'rakhamei r'shayim akhzari"* – "A righteous one knows the needs of one's beasts, but the compassion of the wicked is cruelty."[39] It appears that at least one midrashic text[40] accepts the first part of the verse literally, but not the second. The midrash equates 'righteousness' here with compassion for animals, as iconically represented in the story of the 'bird's nest.'[41] In that text, a person chances upon a bird sitting on her nest of eggs or fledglings on the ground or in a tree. The human intruder needs to shoo away the mother bird before taking the eggs or the young ones. One midrashic justification for this prescription is a show of compassion for the mother, so that she not witness the fate of her children. That same compassion in the second part of the verse ceases to exist in a wicked person, thus resulting in manifestations of cruelty to others, whether they be beasts or humans. Although hurtful, demeaning, and dehumanizing, cruelty is doomed to failure according to the rabbis, as

[39]Translations from Hebrew to English are based on the JPS *Tanakh,* unless otherwise noted.
[40] Midrash Tanhuma *C* – Printed Edition*, Emor* 13:1.
[41] Deuteronomy 22:6-7.

a deterrent to survival and fulfillment of prophecy. Examples in the Jewish tradition abound, throughout the Bible, and especially in the Genesis stories, Prophets, and the Psalms. in the Torah, we are told of the cruel acts of individuals and whole societies, ostensibly to consolidate for themselves the power of primary inheritance or hegemony over all living humans around them: Cain, the generation of Noah, Jacob, Joseph's brothers, Pharaoh, Amalek, the empires of the first millennium BCE, and even the Israelite idol-worshippers. In each of these stories, there were consequences for the perpetrators, but also, new birth, restoration, the survival of humanity, and the specific survival of the people of Israel. In each case, evil human designs of destruction were thwarted or sabotaged by God or by God's moral human agents. According to the midrash, the verse above in Proverbs affirms that compassion – *rakhamim* – is the antidote to cruelty.

Indeed, we are distressed and convinced of the need for *rakhamim* where it does not exist in our biblical narratives. For example, in the poignant and tragic story of Jephthah's daughter,[42] Jephthah vows that if God grants him a victory over the Amorites, in gratitude Jephthah will sacrifice to God the first person that greets him upon his return from battle. It is his daughter, and she is sacrificed. The rabbis and readers until today cannot abide by the absence of mercy in God or Jephthah. In the elaborate midrashic narrative of the *Chronicles of Yerahmeel,*[43] Jephthah's daughter has a name, Seelah, and a voice. She asks for a reprieve of two months before her sacrifice to retreat to the mountains and pray to God for her soul, her lost youth and

[42] Judges 11:30-39.
[43] *Chronicles of Yerahmeel* translated by M. Gaster, pp. 178-179.

unoccupied bridal canopy, and that her death will not be in vain. Her prayers take on the form of an indictment against her father for his lack of compassion in making the vow, against her mother's senseless birthing of a daughter with such a fate, against the unceasing laments of her friends and associates who will bury her, and even against nature which will reflect the young woman's suffering. The midrash is both appealing to Seelah's mother, to her friends, to nature, and to God to compensate for the amoral and unnatural inclination of Jephthah, and to blatantly expose the sinfulness of human action without *rakhamim.* For the reader of this text, resignation isn't the legitimate response to suffering and injustice. Chanting that God is merciful is not enough. The rabbis teach us that we can re-write a bolder and more compassionate ending to each story.

By definition, midrash is a genre of rabbinic writing that draws out meanings in biblical verses that allow the midrashic authors to apply the text to their own contemporary reality. The treatment of Jephthah and his daughter in the midrash equally addresses the spiritual crises of our time. Living in the midst of our own suffering, the midrash is demanding that we reflect on God's mercy, that we challenge God to be more merciful when mercy is absent, and that we apply mercy in our human interactions, as we surely have the power to dispense or withhold mercy, as individuals and as communities.

Rakhamim, as we noted above in the midrashic text from *Bereishit Rabbah*, is the singular reason for God committing to create humankind. If we humans exist *b'tzelem Elohim,* in the image of God, and by the grace of God, then we as well embody *rakhamim* as the primary wellspring for living a godly life. In the subsequent text in

Bereshit Rabbah, Rabbi Shimon introduces the pairing of 'Love and Truth' contending for the primary creative force, based on a verse from Psalm 85:11: "Love and truth fought together, righteousness and peace combatted with each other."[44] Love, like *rakhamim,* begets righteous acts, while truth leads ironically to strife and falsehood. Again, according to the midrash, the Holy One casts truth (later to be restored by the persuasion of the ministering angels) to the ground, out of reach in the creation of Adam. Indeed, the midrash says that Adam was already created prior to the Love/Truth debate. It was, then, *rakhamim*, that the Holy One wholly infused into humanity from the onset.

Rakhamim is a mirror of oneself: it is the acknowledgment that since we are all created in the image of God, our human characteristics are reflected back to us in others. This allows for forgiving others just like we forgive ourselves and God forgives us for less than praiseworthy motives and behaviors. Rabbi Harold Schulweis tells the story of a certain rabbi who immersed himself in sacred texts and prayers all his life, and who had an uncanny ability to understand all who sought his counsel – sinners, drunkards, gamblers, adulterers, people with anxieties, fear, and depressions. After meeting with the rabbi, each one left pleased. The rabbi explained, 'When they come, I listen to them. I look deep into their eyes and discover that their weaknesses are reflections of my own. It is not that I have done what they have done, but I sense within me their lusts, desires, weaknesses, and temptations. I find myself within them."[45] What this rabbi demonstrates and acknowledges is precisely what the injured party can

[44]Genesis Rabbah 8:5.
[45]Harold Schulweiss, "Bringing Your Sadness to God," *Words for the Soul.* (Woodstock, Vt: Jewish Lights Publishing, 2000).

see in the eyes of the offender in restorative justice practices when *rakhamim* is activated.

***Rakhamim* and *Din* / Mercy and Justice**

The rabbis imagine God as having two thrones, a throne of judgment and a throne of mercy.[46] We noted above[47] in a midrash on creation that the power of mercy superseded that of justice in order for humans to exist in the world. In another midrash, the attributes of justice and mercy are in equal measure, or perhaps merging with each other:

> 'Adonai Elohim' (Genesis 2:4) can be compared to a [human] king who had empty cups. The king said: "If I put hot water into them, [the cups] will burst. [If I put] cold water [into them], they will crack." What did the king do? He mixed the hot water with the cold, filled them [the cups] and they stood. Thus said the Holy One, Blessed be He, "If I create the world with the attribute of mercy [*middat ha-rakhamim*], there will be too much sin, and [if I create the world] with the attribute of justice [*middat ha-din*], how will the world stand? Rather, I will create it with the attribute of justice and with the attribute of mercy, and would that it will stand [will not crack].[48]

The rabbis are contemplating the merits and liabilities of justice and mercy in the above text. Sarit Gribetz[49] offers that justice and mercy seem to represent radical extremes: order and chaos, suffocating restriction and unbounded freedom. Each, on their own, is assumed to be so dangerous that it will shatter, crack, or deform the world. According to the logic of the midrash, unchecked mercy, without the counterbalance of justice, will lead to unabated sin. Strict justice without any mercy, on the other hand, does not

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[46] BT. *Sanhedrin* 38b

[47] See footnote 37, and R. Berachiah's dictum.

[48] Genesis Rabba 12:15.

[49] Sarit Gribetz, "A Jewish Response to the 2017 McGinley Lecture" at Fordham University, March 31,2017.

tolerate any human error. Either attribute, in its extreme form, is destined to destroy the world. Justice and mercy – in dialogue and in moderation – the midrash argues, is the only way for the world to balance between order and chaos, sin and punishment, fairness and generosity.[50] In the world of restorative justice, however, we might re-name the 'justice' in opposition to 'mercy' in the midrash as 'wholeness', or *shlaymut,* in society and community. When this 'wholeness' is broken by overstepping or challenging the mutual covenant for living in that place, it is the role of God's mercy, bequeathed to, and in the hands of humans, to assess the physical and spiritual damage and re-assemble the pieces that are adrift.

Rabbis in the midrash continually default to the origins of the human attribute of mercy in God to assure us of its legitimacy in all human relationships:

> What does God pray? Rabbi Zutra ben Tobi said in the name of Rav: 'May it be My will that My mercy (rahami) may suppress My anger, and that My mercy may prevail over My [other] attributes, so that I may deal with My children in the attribute of mercy (be-middat rahamim) and, on their behalf, stop short of the limit of strict justice (shurat ha-din).[51]

We find countless midrashic examples of God actualizing mercy in biblical narratives. The matriarch Rachel is one such recipient. When the biblical text says

וַיִּזְכֹּר אֱלֹהִים אֶת־רָחֵל וַיִּשְׁמַע אֵלֶיהָ אֱלֹהִים וַיִּפְתַּח אֶת־רַחְמָהּ׃

"And God remembered Rachel, God hearkened to her, and opened her womb" (Gen. 30:22), the Midrash[52] uses this text to justify the power of mercy over judgment through

[50] *Ibid.*
[51] BT. Berachot 7a
[52] Genesis Rabbah 73:3.

semantic play. First, "remember" is interpreted as "granting mercy."[53] Second, an earlier midrash[54] differentiates two of God's names, God as *Elohim* and God as YHVH: *Elohim* is God, the Judge, whereas *YHVH* is God, the Merciful One. In the above verse, *Elohim* not only causes Rachel to conceive by opening up her womb, her *rechem,* but also opens up and sets in motion the power of *rechem*'s cognate, *rakhamim* which the midrash says will counter and take precedence over God's 'judgment' in every case. In other words, God, the Judge, is opening up Rachel's womb and simultaneously opening up God's own capacity to transform *judgment* into *rakhamim,* or mercy.

What is remarkable in this and in many other midrashic entries on *rakhamim* is the insistence of the rabbis that God practice mercy over and over, even when the actions of humans do not appear to merit mercy. Referring to Psalm 104 and the Psalmist's entreaty to God, the rabbis relate the following vignette: In Rabbi Meir's neighborhood there lived some ruffians, who annoyed him so much that he prayed for them to die. His wife Beruriah said to him: What are you thinking of? Are you relying on the verse, "Let the sinners be consumed" (Ps.104:35)? But, in fact, is the word "sinners"? It is rather "sins." You should seek mercy for them, then they will turn in penitence, so that they will be wicked no more. Accordingly, he besought mercy (*rakhamim*) for them, and they did turn in penitence.[55] The rabbis are citing the last line of Ps. 104:

יִתַּמּוּ חַטָּאִים | מִן־הָאָרֶץ וּרְשָׁעִים | עוֹד אֵינָם בָּרֲכִי נַפְשִׁי אֶת־יְהוָה הַלְלוּ־יָהּ׃

[53] "Remember" is understood as "granting mercy" as a result of this midrash in the verse "And *Elohim* remembered Noah." (Gen.8:1).
[54] Genesis Rabbah, 33:3.
[55] BT, Berachot 10a.

"May sinners disappear from the earth, and the wicked be no more. Bless Adonai, O my soul. Hallelujah."

Grammatically, 'sinners' would be *khot'im.* The translation and understanding of *khata'im* as 'sinners' is an accommodation to poetic parallelism with *resha'im*, the wicked ones. Beruriah is wisely reminding her husband and the reader that God's attribute of *rakhamim* supersedes the will to punish. Moreover, the psalmist's entreaty, by virtue of the midrashic interpretation, is a prooftext that *rakhamim* is embedded in human beings and humans actively project back to God its practice in the world. The conclusion of this midrash implies that evil deeds do not define the whole person and the person who commits evil has the opportunity and choice to seek redemption through *teshuvah.*

Humans, then, become the primary agents of *Rakhamim.* In yet another midrash,[56] Moses challenges God as *Elohim*, who hardens the heart of Pharaoh, who, in turn, hardens the servitude of the Israelites. When God as *Elohim*, the Judge, reflects that Moses spoke to God thusly because of Israel's suffering, God, the Merciful One answers: "I am God (YHVH)". (Ex. 6:2) The Midrash is affirming here that humans have agency to remind God to rule the world with mercy and compassion, and by extension, have the agency to extend the same mercy to fellow humans. The following biblical narratives will reveal stories of God and humans as they navigate the complex, twisting, and seemingly incompatible pathways of justice and mercy, of righteous behavior and human weaknesses, of an absolute moral compass and human emotions, and of suffering and redemption. In all cases, as in the ultimate objective of

[56] *Exodus Rabbah* 6:1.

restorative justice, there is the possibility of integrating these opposites through acceptance of self and others as we humanly exist, with love, good will, and *rakhamim.*

Biblical / Midrashic Case Studies: Lessons in *Rakhamim*

We now narrow the focus to the role of *rakhamim* in Jewish consciousness and in midrashic interpretation of biblical narratives in particular to bring to life the ways in which *rakhamim* can truly enter our souls and be the default human response in all our relationships with others. The following midrashic applications to three biblical narratives will focus on such questions as (1) what is the nature of evil or transgression that merits mercy or the lack thereof; (2) What is the climate in which our rabbinic sages dwelt to motivate their responses to the texts; (3) Do the nuances of the midrashic responses reflect a re-confirmation of God's mercy and compassion, or do they point to a divergence from godliness to oppressive human systems that exist outside of God's moral trajectory; and (4) How do the midrashic sages understand the role of *Teshuvah,* and *Rakhamim* in each of these narratives?

Noah and the Flood

Elie Wiesel flippantly ruminates on the seminal flood narrative and specifically Noah, its protagonist. "He assesses Noah as selfish and passive. God told him, 'Build an ark.' He built an ark. God had to give him the measurements because he wasn't a builder. God said, 'Bring the animals.' He brought all the animals by pairs and kosher ones by sevens. Then God said, 'Leave the ark.' He left the ark. When they left the ark, what did he do? First of all, he brought a sacrifice to God, but then he got drunk.

Really - to live through such an event and get drunk?"[57] Thus begins Wiesel's caution on how he understands morality: "*Ki mal'u et ha'aretz hamas*, they filled the land with violence (Gen. 6:11), and that was the worst. As long as people offended heaven, God, in spite of his anger, was willing to wait and forgive. But when they ceased to be human towards one another he had to intervene and punish them." [58]

Just as our rabbinic sages concluded that God was able to create humanity because the attribute of mercy surpassed that of justice, they equally addressed succeeding destructions of humanity, and the shattering of bonds of family and community with questions relating to the absence of mercy. Therefore, let us examine Noah and the generation of the great Flood.

Prior to the beginning of the actual narrative of the flood, we encounter in the Midrash discussions related to Noah's name, and the blossoming of God's hatred of Noah's generation. In Genesis 5:28-29, Lemach begets Noah, and *Noah* is named, explaining

זֶ֠ה **יְנַחֲמֵ֤ נו** מִֽמַּעֲשֵׂ֙נוּ֙ וּמֵעִצְּב֣וֹן יָדֵ֔ינוּ מִן־הָ֣אֲדָמָ֔ה אֲשֶׁ֥ר אֵֽרְרָ֖הּ יְהוָֽה׃

"This one will provide us relief (y'**nakh**ameinu) from our work and from the toil of our hands, out of the very soil which the Eternal placed under a curse."

Rabbi Yochanan[59] objects to the correspondence of Noah's name to the act of relieving or comforting; rather, he says, if Noah is a source of relief, then the verb ought to have been *yanikheinu* instead of *yenakhameinu*. If Noah's name was meant to be derived from his defining attribute in the verse above, then his name should have been

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[57] Lecture by Wiesel, "World at Crisis: What are our Moral Obligations?" 92nd St. Y, April 4, 2010.
[58] *Ibid.*
[59] Bereishit Rabbah 25:2.

Nachman. Instead, R. Yochanan offers that Noah's name harkens back to Adam's status. God endowed Adam with dominion over all creatures. That dominion ended when Adam sinned. Noah, in contrast, was able to direct the ox and the ass with ease – a reference to *yenakhameinu* above [and also Ex. 23:12, i.e., allowing one's ox and ass to rest on the Sabbath day]. Regarding the so-called wickedness of Noah's generation, how are we to intuit from this verse, focused wholly on soil that was cursed and labor that was exhausting – both echoes of Adam's punishment and exile from the Garden of Eden and the continuing plague of famine – what kind of relief will be forthcoming? More likely, we might understand *yenakhameinu* as an a priori general term for human compassion of one, who has leadership potential over the rest of humanity, irrespective of the latter's vicissitudes. This is how we meet Noah and what we might expect from him going forward – bringing relief for the sins of humanity. Reish Lakish[60] corroborates Noah's name as comforter, citing Amos 5:8:

הַ קֹּרֵא לְמֵי־הַיָּם וַיִּשְׁפְּכֵם עַל־פְּנֵי הָאָרֶץ יְהוָה שְׁמוֹ׃

"Who summons the waters of the sea And pours them out upon the earth— God's name is the Eternal"

and Ps. 88:6

שְׁכְבֵי קֶבֶר אֲשֶׁר לֹא זְכַרְתָּם

like bodies lying in the grave of whom You are mindful no more,

Noah, according to Reish Lakish, comforts the dead along with the living, even the dead that ostensibly have been abandoned by God. For Reish Lakish, the same waters in the Amos verse that echo the destructive flood in Noah's generation is also the daily

[60] *Ibid.*

current that flows upon the earth, even through the graveyards, and symbolically assuages the sleep of the dead.[61] His optimism for God's *rakhamim* and sustaining humanity is perhaps from another phrase from the same verse: "*v'hofeikh la'boker tzalmavet* – [God] will turn deep darkness into morning." The psalmist refers to our tendency to forget the dead as both a rebuke, and a plea to remember the dead and the living in order to praise God as Creator and Redeemer even in the most difficult times.

If Noah's name endows him with the capacity to bring eternal rest to the agitated dead in their graves, then all the more so can he impact those living around him, addressing their ills, their sufferings, even their sins and scaffolding efforts for them to make amends. In restorative justice practices, especially in capital crimes, it is difficult, if not impossible, for those grieving for a deceased victim to encounter the killer and forgive the latter for a human loss that cannot be restored. Yet, here we have a rabbinic insight that addresses the dead and hints at the possibility of activating *rakhamim* - mercy, in order to bring peace of mind and closure not only to those present and alive, but to the memory of the dead victim as well.

Adjacent to the biblical verses and midrashic discussions about the meaning and the power of Noah's name is the description of the very generation that is growing up with Noah:

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[61]From our present-day scientific knowledge we know the benefits of water, especially saltwater: Salt in the seawater aids in diminishing depression and boosting feelings of well-being. Ocean salt water preserves tryptamine, serotonin, and melatonin giving us a better night's sleep, https://www.watercheck.biz/blogs/water-facts-trivia/the-psychological-and-emotional-benefits-of-water.

וַיְהִי כִּי־הֵחֵל הָאָדָם לָרֹב עַל־פְּנֵי הָאֲדָמָה וּבָנוֹת יֻלְּדוּ לָהֶם׃

"When men began to increase on earth and daughters were born to them," (Gen.6:1)

וַיִּרְאוּ בְנֵי־הָאֱלֹהִים אֶת־בְּנוֹת הָאָדָם כִּי טֹבֹת הֵנָּה וַיִּקְחוּ לָהֶם נָשִׁים מִכֹּל אֲשֶׁר בָּחָרוּ׃

"the divine beings saw how beautiful the daughters of men were and took wives from among those that pleased them''— (Gen.6:2)

וַיַּרְא יְהוָה כִּי רַבָּה רָעַת הָאָדָם בָּאָרֶץ וְכָל־יֵצֶר מַחְשְׁבֹת לִבּוֹ רַק רַע כָּל־הַיּוֹם׃

"The Eternal saw how great was man's wickedness on earth, and how every plan devised by his mind was nothing but evil all the time." (Gen.6:5)

From the above verses we learn that Noah's generation was wanton towards each other as their greed and arrogance resulted in each taking without reservation that which delighted their desires, irrespective of propriety and morality, with the most insidious examples given as the unconfined mixing of human and animal species with each other. Although not yet an explicit negative commandment from *Torah mi'Sinai*,[62] our tradition offers that the notion of right and wrong preceded the growth of law, as applied earlier to Cain's murder of his brother, Abel. The appearance of the Tree of Good and Evil in the Garden of Eden is proof. Moreover, since Noah found favor in the eyes of God (6:8), and Noah was accustomed to obeying and worshipping God with sacrifices upon an altar (8:20), he likely intuited what God demanded of him. The Noahide laws (Gen**.** 9:3–9:7) may be more descriptive than prescriptive of the categories of laws already known and practiced.

Ten generations after Adam, the people [except for Noah, according to the biblical text] did not comply with the boundaries of civilized society or identify with God's

[62] *Torah mi'Sinai* refers to the notion that God communicated God's will and law directly to Moses on Mt. Sinai. Thus, the Torah itself is understood as and has the authority of God's own words.

image or God's intention that they be *shomrei adamah v'shomrei enoshut* (guardians of the earth and guardians of humanity). Indeed, the text summarizes the behavior of the generation in Gen. 6:13:

כִּי־מָלְאָה הָאָרֶץ חָמָס - *they filled the land with violence*

As long as the people only offended Heaven, God, in spite of his anger, was willing to wait and forgive. But when they ceased to be human towards one another**,** God had to intervene and punish them. Yet, in the previous verse 6:6 we read:

וַיִּנָּחֶם יְהוָה כִּי־עָשָׂה אֶת־הָאָדָם בָּאָרֶץ וַיִּתְעַצֵּב אֶל־לִבּוֹ׃

"And the Eternal [regretted/was sorry/consoled Godself] that God had made a human on earth, and God's heart was saddened."

Through this anthropomorphic rendering of human feelings, we are able to enter into the inner conflicts of the Divine. On one hand, God may experience a profound sadness of disappointment that created humanity did not turn out as hoped. But, from a different angle, we might also infer that God's sadness is the outpouring of compassion for the unrelenting suffering that is about to befall the people, whether as retributive punishment for their evil ways, or as God's resolution to God's own dilemma – that of needing to keep recreating humanity to resemble the Divine image. Is it possible at this juncture in the human journey that God does not yet accept the imperfection of humanity? Yet, according to a midrash noted above regarding creation,[63] God knew from the outset that humans would sin and, as a result, God effected creation only through *rakhamim.* Something changed in Noah's generation that resulted in God

[63] Bereishit Rabbah 8:3-4.

employing the attribute of justice over mercy. The rabbis attempt to midrashically restore *rakhamim* as the ruling principle as seen in the following talmudic reference.

The Talmud records two opinions concerning God's attitude toward the destruction of the Generation of the Flood:[64] In the first, there is a juxtaposition between God's regret [*va-yenachem*] at having created Noah's generation in Gen. 6:6 and Noah's name in verse 8, *v'Noach* [and Noah]. With this configuration, Noah as well belongs to the generation of sinners that would be destroyed, except for the rest of verse 8: *v'Noach matza chen b'einay Adonai* (and Noah found favor in the eyes of God). The Talmud continues: Noah was not saved because of his being *tamim* – pure or righteous. It that were so, then those of his generation might have been saved simply based on Noah's merits. Rather, Noah was spared due to the grace, or mercy, that he found in the eyes of the merciful God.

In the second, the Talmud records multiple understandings of *vayinachem* (6:6). The text says that God was regretful that God had created these sinful humans. The Talmud expands the scriptural context: God is regretful - about destroying them, about having to bury humans *in* the earth (*ba'aretz*), since all humans do return to the earth, about God's own obligation to bring the destroyed sinners back to life on the earth (when ultimate redemption comes) in order to repent, and finally about having created humans instead of spiritual beings in the first place. All of these attempts to repurpose the scriptural *vayinachem* and showcase God's awareness are meant to characterize a

[64] BT. Sanhedrin 108a.

compassion with which God regards God's creatures, even as God decides to destroy them.

If God is conflicted concerning God's attitude towards human flaws and frailty, we wonder about Noah's capacity to address the sins of his generation and to attempt to save humanity. The Zohar, the chief work of the Kabbalah, recounts a conversation between Noah and God which took place after the flood.[65] What did God answer Noah when he left the Ark and saw the world destroyed? He [Noah] began to cry before God saying, "Master of the universe, You are called compassionate. You should have been compassionate for Your creation." God responded and said, "You are a foolish shepherd. Now you say this?! Why did you not say this at the time I told you that I saw that you were righteous among your generation, or afterward when I said that I will bring a flood upon the people, or after that when I said to build an ark? I constantly delayed and I said, 'When is he [Noah] going to ask for compassion for the world?' ... And now that the world is destroyed, you open your mouth, to cry in front of me, and to ask for supplication?" This Zoharic text is a cautionary tale that mercy and compassion is an *a priori* Divinely-created and thus human attribute, and thus must function as our first response, and not an after-thought. Moreover, *rakhamim* is a sign of true individual righteousness, and not relative goodness and morality measured against one's environment.

In the ark, Noah does change, enacting selflessness and compassion. We learn of a charming story in the Talmud[66] in which Noah is credited with tending to each

[65] Zohar *Hashmatot, Bereishit* 254b.
[66] BT. Sanhedrin, 108b.

individual animal in the Ark: R. Chana bar Bizma recounts a conversation between Eliezer, the servant of Abraham, and Noah's son, Shem. Shem affirms that those sequestered in the Ark for some 364 days endured great distress. He notes that any creature whose habit it was to be fed by day, they fed by day, and those by night as well, and also their habitual food. When it came to the *zikita* (small bird resembling a quail), Noah had no knowledge of its food. One day, sitting and cutting up a pomegranate, a worm fell out and the *zikita* pounced upon it and ate it. From then on Noah would knead bran in water to resemble a worm and the *zikita* would eat it. Noah must have attended to the needs of all the animals day and night without relief in order to keep them alive. He could no longer be selfish and passive. Noah inadvertently learned from the sage Hillel, who was to offer the axiom centuries later: "In a place where there are no human beings, try to be a human."[67] Noah shifted from relativizing his motivations and behavior with regards to being a *tzaddik* (righteous person) only *b'dorotav* (among his generation)[68] to one embodying compassion as an attitude that would respond involuntarily to all creatures and humanity. It is in the ark when Noah merits the moniker of *tzaddik.* In *Midrash Tanhuma,*[69] God designates a tzaddik by virtue of the latter's inclination to nourish creatures of the earth. Not only did Noah feed all the living creatures in the ark, but his status as *tzaddik* for this reason is attributed to the biblical Joseph, who also sustained his entire household at a time of crisis, in Egypt, as we read in Genesis 47:12:

יכַלְכֵּל יוֹסֵף אֶת־אָבִיו וְאֶת־אֶחָיו וְאֵת כָּל־בֵּית אָבִיו לֶחֶם לְפִי הַטָּף׃

[67] Pirkei Avot, 2:6.
[68] Genesis 6:9.
[69] Midrash Tanhuma – Printed Edition, *Noakh 5.*

"Joseph sustained his father, and his brothers, and all his father's household with bread, down to the little ones."

Our sages focus on Noah's compassion for the animals in the ark. Yet, the Zohar accuses him of the absence of *rakhamim* for his human counterparts. How are we to reconcile these two opposing interpretive stances? Both Genesis Rabbah and Rashi have something significant to say about Genesis 6:3 that addresses this dilemma as a reflection of God's own vacillation between justice and mercy towards humanity:

וַיֹּאמֶר יְהוָה לֹא־יָדוֹן רוּחִי בָאָדָם לְעֹלָם בְּשַׁגַּם הוּא בָשָׂר וְהָיוּ יָמָיו מֵאָה וְעֶשְׂרִים שָׁנָה׃

YHVH said, "My breath shall not abide in man forever, since he, too, is flesh; let the days allowed him be one hundred and twenty years."—

Rashi understands that the word *yadun* neither describes a comfortable habitation ("abide") of the spirit of God, nor the primary operative of 'judgment' towards humans [from the root *din*], but rather**,** 'my spirit shall not *strive* against a human,' meaning that God's spirit shall not be in a state of discontent for a long time - *l'olam* ("forever") – and shall not strive within Godself because of humans, i.e., attempting to decide whether to destroy humankind or to show mercy. Why? Rashi continues to clarify that God discovers the answer to God's own question in the second half of the verse: *b'shegam hu basar.* Humans are not God, just mortal flesh and are limited in their ability to control their God-given *yetzer ha'ra,* (evil inclination). Even so, God grants a lifetime of 120 years to each human in order that there be time to repent of any transgression. According to Rashi, we may conclude that the generation of Noah did not repent of their sins after 120 years, and thus God had no choice in the matter of the flood. This verse and Rashi's understanding of it were inviolable. Rashi here clearly points to God's deepest desire to reconcile with humans through God's own long-suffering inner

struggle to accept the humanity God created and to endow humanity with the rule of mercy over justice, both in God's treatment of humanity and in God's expectation that humans would apply mercy to themselves and to other humans through the vehicle of *teshuvah,* or repentance.

Genesis Rabbah 26:6 adds the object 'rebellion' to *yadun, and* plays on the word *b'shegam.* Although 'cryptic' in meaning and usage according to Robert Alter,[70] most translate *b'shegam* as an adverb: '*in that* [they = humans] are also [flesh], or '*since* [they are flesh].' Rabbi Eleazar[71] suggests this is really the verb *meshaggeman*, meaning, "I am bending them [through suffering]" because of their rebellion. This reading, together with the limitation imposed by God of 120 years in the life of a human, may suggest that God has placed a limitation on God's own patience for human frailty and the human inclination to transgress, a God-given inclination. The midrash goes on to explain that this suffering is a result not of a human being's accountability to God, but rather that they are answerable for the injuries inflicted on other humans. An alternative and more forgiving interpretation, akin to Rashi, of *lo yadun* might indicate that God does not judge humans with absolute justice because they are flesh and blood, and the one hundred and twenty-year lifespan that follows directly is descriptive rather than prescriptive. Yet, another and most palatable explanation of God's removal of God's spirit from humanity in Genesis Rabbah[72] defaults to human suffering as a necessary antidote to rebellion, i.e, "my spirit" is attributed to a human rather than to God in the

[70] Robert Alter, *The Hebrew Bible, a Translation with Commentary: The Five Books of Moses.* (NY: W.W.Norton & Co., 2019), p.25f.
[71] Genesis Rabbah 26:6
[72] *Ibid.*

interpretation of Rabbi Jose the Galilean. R. Jose says about the generation of the Flood: “The Eternal will not judge my spirit.” This does not mean that God is not the eternal Judge. Rather, God’s attribute of Justice will not supersede God’s attribute of Mercy. Justice will prevail in matters of injury between humans, but justice will not assess the spirit of humankind.

Following the theme of transgressions and harm perpetrated between human beings, the midrash yet again condemns the generation of the Flood and Noah as the sole survivor, with a creative verbal interchange between the flood victims and Noah concerning building materials and atonement. Rabbi Huna in the name of Rabbi Yosi suggests that for 120 years God warned the generation of the Flood to make atonement. As they did not atone, God proceeded to instruct Noah to construct an ark of gopher-wood. It was at that juncture that Noah atoned, and planted cedar trees (for the wood). His generation asked him for what reason. With transparency, he responded that God was seeking to bring a flood to the world and to make an ark so that he and his family would find refuge there. The generation scorned Noah, and he continued to nourish his cedars and they grew large. The generation continued to ask him what he was doing and continued to scorn him, and Noah cut down the large cedars. They asked him once more. This time Noah responded that a warning had been given, that because they did not atone immediately, God will bring down a flood to wipe out the entire world. Divine *rakhamim*, then, is tied both to the human nature of humankind, and also to the act of repentance.

Genesis 6:9 adds to our insight concerning the nature of Divine and human compassion:

אֵלֶּה תּוֹלְדֹת נֹחַ נֹחַ אִישׁ צַדִּיק תָּמִים הָיָה בְּדֹרֹתָיו אֶת־הָאֱלֹהִים הִתְהַלֶּךְ־נֹחַ׃

"This is the line of Noah—Noah was a righteous man; he was blameless in his age; Noah walked with God."

What consumed our rabbinic sages? From a textual perspective, there is the triple repetition of Noah's name giving way to the commentator's need to apply meaning to any redundancy in the Torah. Midrash Tanhuma[73] suggests that the repetitions represent three biblical persona who inhabited "worlds" that were destroyed and rebuilt: For Noah – a whole world; for Daniel – the building of the First Temple, rebuilt as the Second Temple; for Job – his house. For those of us who aim to move on from the sufferings of repeated injustices and who are seeking Divine mercy – the *rakhamim* that assures us of Divine and human love, that will motivate the re-establishing of one's place and relationships in family and society, Noah, Daniel, and Job in all the complexity of their unjust suffering and of their theological indecisiveness or omissions provide examples of potential *tikkun* – the rebuilding of the destroyed framework in which one lives and functions. Rabbi Shimon ben Lakish echoes this sentiment in Genesis Rabbah 25:2*:* "Until Noah came**,** the tides would rise high twice, once in the morning and once in the evening, flushing corpses out of their graves. With the coming of Noah [read: *nahu* = "were stilled"], the tides were stilled." Whether Shimon ben Lakish is characterizing Noah's innate nature or envisioning the outcome of Noah's work on earth, the result is a condition of stasis, harmony and peacefulness.

[73] Midrash Tanhuma (Printed Edition), Noach 5:1.

Noah cannot transform himself or others alone. The biblical persona is inextricably tied to the biblical God:

אֶת־הָאֱלֹהִים הִתְהַלֶּךְ־נֹחַ - *Noah walked with God.* (Gen. 6:))

The rabbis understand the peripatetic nature of the verb *hithalekh* as weakness and indecisiveness in Noah. Indeed, Noah was sinking in the mud of the earth, physically and morally, and thus needed to "walk" in tandem with God, close by, so that Noah would not sink further. The rabbis compare Noah to Abraham and our forefathers who walked in front, as true leaders, ready and able to do the will of God. We might view *hithalekh* from the perspective of the warring forces of selfishness and compassion for others that lurk in every human consciousness. It may be that the biblical writer did not want to record that Noah may be vacillating between preserving his own life at all costs, or going out on limb to argue with God in favor of saving the rest of humanity. Even as Noah struggles to resolve these tensions, he needs the guiding companionship of God, translating *et* as 'with,' Noah was with God. This image assumes God's acknowledgment and support of Noah's struggles, another characteristic by which we can recognize God's attribute of *rakhamim,* along with the verse quoted above: "Noah found favor in the eyes of God*."* (Gen.6:8) These verses are both manifestations of God as a model of *rakhamim,* and the way in which *rakhamim* functions in a compassionate relationship.

The biblical Noah narrative continues to reverberate for our sages as a reminder of the horror of full-scale destruction of nascent creation and also of God's promise not

to repeat it (Gen. 9:15-16). In the following midrash,[74] the promise is juxtaposed, and thus intertwined with God's mercy:

> Once, when Rava came to the Tigris, he said to Bar Avin, "Get up and utter a prayer for God's Mercy [the rivers were overflowing]." He rose and said: "More than a third of the land is already submerged in water; remember your covenant and have mercy upon us. . . "

Although this midrash is an example of a phenomenon in nature (rain) over which we humans have no control and theologically may not align with a sin and punishment quid pro quo, still it points to the yearnings of humans to call upon and expect God's mercy in moments of tension, pain and loss of equilibrium.

It is fitting to conclude the exploration of *rakhamim* in the story of Noah and the Flood with another midrashic narrative[75] that depicts the mechanics of mercy as it applies to human behavior, and for which we do have agency to align ourselves with God's merciful intentions:

> In R. Meir's neighborhood there lived some ruffians, who annoyed him so much that he prayed for them to die. His wife Beruriah said to him: What are you thinking of? Are you relying on the phrase, "Let sinners be consumed" (Ps. 104:35)? But, in fact, is the word "sinners"? It is rather "sins." Moreover, look at the end of the verse [and you will see]: "And let the wicked be no more," which implies that when sins come to an end, the wicked will be no more. You should seek <u>mercy</u> for them, that they turn in penitence, so that they will be wicked no more. Accordingly, he besought <u>mercy</u> for them, and they did turn in penitence.

This story is a stunning tribute to the notion that humans are not innate sinners, albeit commit sinful acts. Humans are accountable for these acts as R. Jose also implies in his understanding of *lo yadun rukhi b'adam* – "my breath shall not abide in a human

[74] BT. Moed Katan 25b.
[75] BT. Berachot 10a.

being" (Gen. 6:3) above, but the attribute of mercy in humans themselves [emulating Divine mercy] impels us to be patient with those who sin and support them towards a process of repentance. Noah is flawed. Yet, he is able to bring relief to the earth from the sins of humanity and replant the seeds to replenish what had been lost, because God saw fit to save him out of *rakhamim,* out of mercy – a message of hope for both sinner and sufferer.

Abraham – Sarah – Hagar

The rabbis perceived complex and flawed relationships between God and Noah, and Noah and humanity of his time. Nevertheless, we may be uplifted that our tradition weighs in on the transformative nature of Noah, initially passive in the biblical text, making no effort to fight for human survival beyond his own family. Yet, Noah does build the ark, and during the long period of containment on the ark he doggedly preserves his family members and all of the creatures within. He does not rebel against God at the beginning in righteous indignation, yet builds an altar of thanksgiving at the end for his and humanity's survival. Here we might glean that the prosaic category of these 'lost and found' items can also apply to the essence of who we are, and the belief in something greater than oneself. In this case, the loss of humanity outside the ark and the assuredly 24/7 encounter with his family members and the creatures who provided them sustenance aboard the ark increased Noah's appreciation and love of what is, rather than what no longer exists. Along with his family on dry land after the flood, Noah 're-plants' the earth and also re-unites with his Divine Maker in constructing an altar of

thanksgiving for God's mercy upon him and his family. His response to the existential angst of human loss is life and God-affirming, albeit not from a place of personal harm or loss.

Let us now turn from God's dilemma with collective humanity told through the experience of one redeemed survivor to the Abrahamic narratives, ten generations hence, in order to explore (1) rabbinic responses to harm and loss within individual members of a family through an inter-generational triangulation of relationships,[76] and (2) the role of God as Intervener, Mediator and Redeemer.

There is a poignant textual link between Noah and Abraham. Genesis 6:9 reads:

אֵלֶּ֚ה תּוֹלְדֹ֣ת נֹ֔חַ נֹ֖חַ אִ֣ישׁ צַדִּ֑יק תָּמִ֥ים הָיָ֖ה בְּדֹרֹתָ֣יו אֶת־הָאֱלֹהִ֥ים הִתְהַלֶּךְ־נֹֽחַ׃

"This is the line of Noah.—Noah was a righteous man; he was blameless in his age; Noah walked with God.—"

Similarly, regarding Abraham in Genesis 17:1

וַיְהִ֣י אַבְרָ֗ם בֶּן־תִּשְׁעִ֤ים שָׁנָה֙ וְתֵ֣שַׁע שָׁנִ֔ים וַיֵּרָ֥א יְהוָ֖ה אֶל־אַבְרָ֑ם וַיֹּ֣אמֶר אֵלָ֗יו אֲנִי־אֵ֤ל שַׁדַּי֙ הִתְהַלֵּ֣ךְ לְפָנַ֔י וֶהְיֵ֖ה תָּמִֽים׃

"When Abram was ninety-nine years old, the LORD appeared to Abram and said to him, "I am El Shaddai. Walk in My ways and be blameless."

Although descriptive in the case of Noah and prescriptive in the case of Abraham, both represent God's presumption and expectation of human behavior. Walking before, next

[76] Triangulation in family systems theory refers to the process of pulling a third person into a strained dyad in order to distribute stress more broadly among parts and achieve a better sense of balance. Negative impacts of triangulation in families include forcing a member of the triangle to choose sides between the other two, and/or imitating one of the other members of the triangle in order not to hurt someone's feelings at the expense of self-differentiating as a unique individual.

to, or behind God, being *tamim,*[77] is the starting point for all created humans, assigning equal worth to all. In contrast to Noah, who, together with his family members, serve as a collective symbol of human survival, Abraham uniquely becomes God's covenantal partner for the Jewish People. Thus, the biblical narrative and rabbinic interpretations give rise to family divisions (ultimately leading to national divisions) and separate destinies for the sake of realizing the covenantal promise. Indeed, God, the Divine Self, according to Rashi, sets up a [triangulating] tension between Abraham and Sarah in Genesis 17. In the context of God's covenantal promise to Abraham that a son will be born to him and to Sarah (v. 16 and again in v. 19), from whom will emerge God's chosen people of Israel (identified in this chapter as 'nations' and 'rulers of peoples'), Abraham responds as follows:

וַיִּפֹּל אַבְרָהָם עַל־פָּנָיו וַיִּצְחָק וַיֹּאמֶר בְּלִבּוֹ הַלְבֶן מֵאָה־שָׁנָה יִוָּלֵד וְאִם־שָׂרָה הֲבַת־תִּשְׁעִים שָׁנָה תֵּלֵד׃

"Abraham threw himself on his face and laughed, as he said to himself, 'Can a child be born to a man a hundred years old, or can Sarah bear a child at ninety?'"

His initial reaction links both his and Sarah's old ages to the absurdity of such a conception and birth. Similarly, in Genesis 18:12, Sarah also reflects on the aged and declining physical impossibility of fulfilling sexual impulses and procreation:

וַתִּצְחַק שָׂרָה בְּקִרְבָּהּ לֵאמֹר אַחֲרֵי בְלֹתִי֙ הָיְתָה־לִּ֣י עֶדְנָ֔ה וַאדֹנִ֖י זָקֵֽן׃

[77] *Tamim* - sound, wholesome, unimpaired, innocent, having integrity: *of God's way* (Biblehub – interlinear translation). Moreover, from Numbers Rabbah 2:12 we can fine-tune these translations for Abraham: "The Holy One said: How is one to know whether he will have the power to stand firm? But after he [Abraham] was cast into a fiery furnace, sanctified God's name, and stood up to the test, at once the Holy One brought him nearer, and to the land of Israel. There Abraham. . .built an inn and gave food to wayfarers." The implication here is that *Tamim* for Abraham also includes withstanding God's tests, being steadfast in communicating God's ways, and demonstrating hospitality.

"And Sarah laughed to herself, saying, 'Now that I am withered, am I to have enjoyment—with my husband so old?'"

Yet, God, in the very next verse quotes Sarah to Abraham:

הַאַף אֱמְנָם אֵלֵד וַאֲנִי זָקַנְתִּי׃

"Why did Sarah laugh, saying, 'Shall I in truth bear a child, old as I am?'"

It appears that God misquotes Sarah and directly puts the blame on Sarah for doubting God's prediction of the upcoming birth. We can only imagine how disquieting God's 'lie' was to our Commentators. Given that Abraham had fathered Ishmael at age 86, and that Abraham had vocally expressed his desire that Ishmael be favored by God to be the father of rulers and nations,[78] God may be appeasing Abraham's vulnerability at this moment, and maintaining *shalom bayit* between Abraham, Sarah, his first-born son and his mother, Hagar. Tradition understands that God's revision of Sarah's pronouncement may also teach us about prioritizing the weighty demands on the Jewish people to realize God's promise to them, from the biblical theological perspective. Regarding the latter, God changed what Sarah said so that Abraham would not be responsible for not fulfilling God's greatest charge to him to found a nation in service to God. Yet another interpretation of this textual discrepancy refers to an explication of the last line of the Priestly blessing (Numbers 6:26) in Sifrei Bamidbar 6:42. There God is intentionally inaccurate to spare the married couple any discord over the fault being with Abraham. Although we may not at all resonate with the male-centered rabbinic hegemony of males both in domestic relationships and in ancestral

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[78] Genesis 17:18: לוּ יִשְׁמָעֵאל יִחְיֶה לְפָנֶיךָ׃ "O that Ishmael might live by Your favor!"

lines, our tradition argues for the primacy of *shalom bayit* (peace in the home). Whether we acknowledge the primacy of Abraham's feelings or superimpose the rabbinic ordinance that a man may divorce his wife if she is barren, after a certain number of years, we defer to the holiness of the text of the traditional marriage *ketubah,* aimed at preserving the marriage relationship. Indeed, the same *Sifrei* text compares the plight of Sarah with that of the unnamed wife of Manoach in Judges 13, who is also visited directly by an angel of God who presages the birth of a son – Samson – to be victorious over the Philistine enemy of the Israelites and thus redeem the people. That text tells us that God would blot out God's own name for the sake of peace between a husband and wife. In both narratives, it is the spoken word which has the power of agitation or appeasement. Words may or may not reveal the intention and motivation of the speaker, but they always cling to the values, attitudes, antipathies, and yearnings of the listener. Abraham needs to hear that he can regenerate in order to be open to the possibility of not only birthing a second son, but embracing this son as the future progenitor of the Israelite nation. Thus, how we hear what we hear presages our own responses both now and for the future. For Abraham, and any human, the ability to maintain respectful and compassionate relationships with his wife and other family members living in his house is quintessential to how he will navigate relationships in the greater world outside his house. Moreover, we note here that what God hears can invoke in God responses to human needs. God names Hagar's future son, Ishmael – 'God will hear' – (Gen. 16:11), to assure the mother that God will hear her and her son's sufferings and respond with compassion, with *rakhamim.* We will see God's response in the midrashic rendering below.

Rashi did not consider *shalom bayit* in his interpretation of Genesis 18:12. He comments that the word *vayitzak* (ויצחק) is translated by Onkelos as *v'khadai* וחדי which signifies joy ("and he rejoiced''), but the feminized verb, in the case of Sarah *vatitzak* in Genesis 18:12 he translates as meaning 'laughter.' From this, it is understood that Abraham had faith and rejoiced, and that Sarah had no faith and sneered, and that is why God was angry with Sarah (when she laughed), but was not angry with Abraham. We might conclude, then, that God exhibits a bias against Sarah when God misquotes her. However, historically, given Rashi's admiration for and inspiration to edify his own daughters, the commentary is unlikely to stem from a misogynous stance. Moreover, we expect Rashi to dedicate his understanding of biblical text as a vehicle to reconcile and solidify a positive and close relationship between God and every Jew. Surely Rashi knew from Genesis Rabbah 53:7 that one interpretation of *Yitzkhak*, the name Abraham bestows on the son of his old age, is *yatzah khok*, that at Isaac's birth "Torah's Law went forth to the world, went forth as God's gift to the world."[79] Greatness, even the destiny of the Jewish people, will come from both Sarah and Abraham. Rabbinic commentators may persist in reconciling the troubling circumstances and reversals in the biblical descriptions of the family life of our very first monotheists and founding parents. In truth, all the moments of discomfort in this text are the prototypes of wavering, indecisive, and conflicting human behavior, alternating between despair and cheer, even of those who believe in and are loyal to the one God.

[79]Genesis Rabbah 53:7.

It appears that both our protagonists, Abraham and Sarah, need God's compassion and allowance for the ambivalence of human nature. Rashi may also be responding to the aggadic sympathy for Sarah in earlier rabbinic texts. BT. *Bava Metzia* 87a relates a fantastic expansion of Gen. 21:7 in this regard: "Who would have said unto Abraham that Sarah would give children suck?" On the day of Isaac's weaning, Abraham gave a great feast. He was ridiculed by the peoples of the world who accused him of picking up a foundling from the street to be his son, in lieu of believing that Sarah and Abraham could birth a child at such old age. Subsequently, Abraham invited each female guest to bring a child without a wetnurse. A miracle was wrought for Sarah as her nipples poured out milk like two jets of water to be able to suckle all the children in attendance. When the guests continued to scoff at Abraham and Sarah's ability to conceive, another miracle transformed Isaac's visage to look exactly like Abraham's and then the people believed.[80] The women went on to add: "We do not merit our children suckled on the milk of such a righteous woman." The rabbis here viewed Sarah as inherently righteous and full of God's compassion. We see that Abraham, Sarah and Hagar at different junctures in the biblical narrative all require merciful intervention by God, and by midrashic oversight to restore them to a state of being *tamim* and 'walking with God,' meaning, embodying the divine within us.

Hagar, although named in the biblical text as *shifkha mitzrit* - merely an Egyptian servant / concubine (Gen. 16:1) - by her very presence, also upsets any existing *shalom bayit* between Abraham and Sarah. This is due to the tension between her undesirability as a disenfranchised household member and her desirability as fertile and

[80]B.T. *Bava Metzia* 87a.

procreative. When Hagar becomes pregnant with Abraham's child, a reversal of status emerges and Hagar condescendingly says about Sarah, her mistress: *vatakeyl g'virtah b'eineha* – "her mistress was lowered in her esteem" (Gen. 16:4). It is logical and human for Hagar to exhibit an attitude of disdain given Sarah's exploitation of Hagar, as a slave in the household. Hagar is a pawn, ostensibly to enable the continuation of Abraham and Sarah's marriage, given the afore-mentioned super-imposed rabbinic ordinance that a marriage without children after 10 years may dissolve. In short, Hagar has no control over what happens to her. Her mistress forces her to have sex with her mistress's husband, she conceives, and her mistress becomes bitter and deals so harshly with her that Hagar runs away. Rashi surprisingly treats the two women more as equal rivals. He understands that Hagar is rationalizing that she was blessed with a child from the very first coupling with Abraham while Sarah's attempts over many years were fruitless. Further, Ishmael is never identified in the biblical text as 'son of Abraham' as is Isaac. He remains the 'son of Hagar,' the son of a servant, another reminder of both their disenfranchised status. Hagar's new status as 'wife' according to the midrash[81] does not obviate her being treated as a servant/slave. The midrash interprets *va'te'aneha* (Gen. 16:6) in several ways: (1) Rabbi Abba said: "She [Sarah] restrained her [Hagar] from cohabitation," (2) Rabbi Berechiah said: "She slapped her face with a slipper," and (3) R. Berechiah said in R. Abba's name: "She bade her carry her water buckets and bath towels to the baths." With this understanding in mind, we can forgive Hagar (whose name may be derived from "the one who has been dragged away") for condescending to Sarah in order to build up her own ego and internal drive to

[81] Genesis Rabbah, 45:6.

survive. Moreover, that an angel (or three separate angels according to some rabbinic interpretations) visits Hagar on the road in the wilderness of Shur, and ostensibly tries to ease her fate and vulnerable state of pregnancy (although it is questionable if returning to the household of her harsh treatment is a solution) is a prooftext of the attention God gives to Hagar and God's merciful response to her. We note that Hagar is the recipient of God's mercy when she is alone on the road and away from the strangulating and triangulating circumstances of her mistress and master's house.

וַיִּמְצָאָהּ מַלְאַךְ יְהוָה עַל־עֵין הַמַּיִם בַּמִּדְבָּר עַל־הָעַיִן בְּדֶרֶךְ שׁוּר׃

"An angel of God found her by a spring of water in the wilderness, the spring on the road to Shur," (Gen. 16:7)

Sforno notes that because it is written in verse 11, *shama Adonai et onyaykh* – "God heeded Hagar's affliction," that what God heard in verse 7 above was a personal prayer that opened up Hagar's heart and consciousness to the possibility of God's mercy upon her and of hope for a future solution to her dilemma. Moreover, Sforno reflects on *ayn ha'mayim* – a spring of water*:* in rabbinic parlance, *ayn ha'mayim* indicates a crossroads, where two separate roads commence.[82] Not only does Hagar open up to possibilities for her own redemption, the divergent pathways offer her a choice, a way of actualizing and empowering her own life and purpose. At this juncture in the narrative, Hagar cannot yet envision a future of possibilities, as evidenced in the text. When an angel of God asks her where she has come from and to where she is going, Hagar only answers the first part of the question – she is running from her mistress, Sarai. The

[82] BT. *Ketubot 17a.*

Malbim comments that this is the fate of the fugitive, always knowing where they came from but not to where they will go.[83] The angel, a divine emissary, surely hears Hagar's pain. Perhaps this is the very reason why the angel counsels Hagar to return to the scene of her servitude, to face her fears and her vulnerability until she can transform them into a plan for self-preservation and self-redemption. Hagar names this place *Be'er L'hai Ro'I*, the "Well of [God's] Living Vision," which Rashi and the Midrash understand as the God who sees the humiliation of one afflicted by others.[84]

This won't be the last time that Hagar has to leave her home. The next time that she leaves, she and her son will be cast out by Abraham (Gen. 21:14). Again, an angel of God appears, this time to Abraham to announce again that that Hagar's son will be a king among many: "As for the son of the servant-woman, I will make a nation of him, too, for he is your seed." (21:13) Indeed, Hagar merits divine visitation twice, while Sarah not even once. Hagar's experiences of the Divine serve as a reminder that even the marginalized and unempowered deserve divine attention and just treatment, and this has relevance to our focus on restorative justice.

That God comforts and revives those beaten down is reflected in the *ayn ha'mayim,* the 'well of water' where the messenger of God finds Hagar the first time she is sent from Abraham and Sarah's home (Gen. 16:7). The biblical narrator offers us a full physical and spiritual image in the one Hebrew root, *ayin-yud-nun:*[85] *Ayn* as a 'well' or natural 'spring' is where Hagar can quench her thirst in a wilderness terrain. Perhaps

[83] Malbim's Commentary on Genesis 16:8.
[84] Genesis Rabbah 45:10.
[85] Brown, Driver and Briggs, *Hebrew and English Lexicon of the Old Testament.* London: Oxford University Press, 1962, pp. 744-745.

she sees her own reflection in the water – a face contorted with anger, resentment and despair. *Ayn,* or *ayin, as* its semantic cognate, 'eye,' is a weighted and multi-layered noun and concept in Jewish textual tradition. Not only does Hagar see her own pitiful condition in the water's reflection, but God 'sees' it as well. Hagar knows this as she invokes God as the One who 'sees':

וַתִּקְרָא שֵׁם־יְהוָה הַדֹּבֵר אֵלֶיהָ אַתָּה אֵל רֳאִי כִּי אָמְרָה הֲגַם הֲלֹם רָאִיתִי אַחֲרֵי רֹאִי׃

"And she called God who spoke to her, "You Are El-roi [the God of seeing], by which she meant, "Have I not gone on seeing after the One who saw me!" (Gen. 16:13)

The Midrash points to God's opening Hagar's eyes for the first time: "Rabbi Benjamin b. Levi and R. Jonathan b. Amram both said: All may be presumed to be (spiritually or morally) blind, until the Holy One, blessed be God, enlightens their eyes."[86] Another midrash on the same verse offers that God can see the humiliation to which people are subjected by others.[87] The reflection of Hagar's eyes in the water opens the possibility of a relationship between Hagar and God – at the moment Hagar bends over, stares into the water, and replenishes her physical thirst. God must surely open up her eyes as well to God's *rakhamim.* God is present as comforting listener and companion through her lifelong struggles. Perhaps, it is this spiritual alliance, made through the metaphorical (and anthropomorphic, in the case of the Divine) meeting of the eyes of God and the downtrodden servant that enables Hagar to return to the scene of her abuse with new empowerment.

[86]Genesis Rabbah 53:14.
[87]Genesis Rabbah 45:10.

The image of God as listener can inform restorative justice practices, which also distinguish between 'active' and 'compassionate' listening. Clinical pastoral disciplines train primarily in the former, in order to confirm and validate the verbal statements of those whom they serve, and as a way of both checking assumptions and creating shared meanings. Compassionate listening aims to allow the healing energy of a story to flow uninterrupted. It requires listening to one another with our heart as well as with our mind and our ego.

> It requires a conscious effort to avoid fixating solely on understanding the verbal content being expressed, and be open to looking for the emotional energy underneath the language, which may be quite inconsistent with the words being expressed. . . .Deep listening is a way of being, rather than a way of doing. It is not about a technique and has everything to do with the energy of one's presence, and one's own groundedness in humility and compassion.[88]

Biblical narratives are, for the most part, devoid of the full expression of a character's motivations, emotions, and even values. It has been up to rabbinic sages, and primarily through the extrapolations and creative imaginations of the Midrash to make sense of the range and complexity of human nature. Moreover, the 'way of being' referred to above parallels the ideal image of humanity as reflected in the image of God in the Jewish midrashic and rabbinic tradition. God's 'seeing' Hagar at the wellspring is surely an example of compassionate listening.

From yet another perspective on Hagar's wilderness and water experience, individuals without the immediate interference of family tensions and interrelationships that provoke either aggressive, inauthentic, or overly meek responses can hear and

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[88] Mark Umbreit, Jennifer Blevins, and Ted Lewis, *The Energy of Forgiveness, Lessons from Those in Restorative Dialogue,* (Oregon: Cascade Publications, 2015), p. 9.

'see' God more clearly and honestly, in their hearts and in their psyches. We encounter the efficacy of God's power of communication and *rakhamim* towards humans and the human petition to God for God's mercy over and over in the Bible, and in life, when we are alone.[89] In the narrative under discussion, prayer, i.e., praying directly to God, offers a path to 'walk with God.' The power of prayer, that is, the opening up of a powerful connection from God to Abraham, is evident on multiple layers, as in the story of Abraham and Avimelech in Genesis 20:17: "Abraham then prayed to God, and God healed Avimelech and his wife and his slave girls, so that they bore children." Leading up to this verse we learn that Abraham emigrates to the southern region of Gerar, whose king is named Avimelech. Abraham states that Sarah, his wife, is really his sister, leading Avimelech to try to take Sarah as a wife; however, God intervened before Avimelech touched Sarah. This is one of three sister / wife narratives in the Bible, and has begged for rabbinic interpretation and justification of Abraham's act, perceived as unjust and detestable. Abraham himself explains to Avimelech in the text (Gen. 20:11-12) that he feared for his life, knowing that Avimelech and his people were not God-fearing and thus would not respect the sanctity of marriage. Moreover, Sarah was indeed his half-sister in the family structure – another source of rabbinic discomfort with incestuous relationships, albeit not an uncommon custom of the times. Rashi picks up on this theme. He understands that Abraham left for the south to physically distance himself from Lot's incestuous relationship with his daughters. Perhaps Rashi is implying that we all find ourselves in compromising predicaments, and often without the time and reflection to check our impulses. Abraham's psyche was surely swirling as well with

[89] Here, we might point out in particular that God and our tradition espouses compassion especially to the orphan, the widow and the stranger – all characters that mostly find themselves alone in their circumstances.

guilt that he still could not put his full trust in God's protection no matter how dire the circumstances. After all, he had been chosen to initiate and to enact God's covenantal promise to the Jewish people. This promise, in the awareness of biblical theology, should have assured him a favorable outcome to any impediment to fulfilling the promise, but the text narrates otherwise. Abraham continues to encounter challenges and 'tests' to his very mission for God, e.g., Sarah's barrenness, bearing witness to Sodom and Gomorah, the near-sacrifice of his son Isaac, etc. All this is to say that Abraham must have been hurting deeply internally. He prays for release from these hurts, noticeably not for his own welfare, but for the one who might have violated him and Sarah when he prays for Avimelech and his family. The verse (Gen. 20:17) ends with the healing of Avimelech's family. The rabbinic sages interpreted cause and effect in the juxtaposition of actions in the same verse, here notably Abraham's prayer and the healing of Avimelech's family. Abraham is modeling the healing character of God, enacting the restoration of fertility for Avimelech and his wife through the act of praying. This is a response to what could have been a vicious cycle of deceit and revenge, which, instead, promoted restoration on both sides, rather than continued loss. Rashi echoes again the healing power of Abraham's prayer at the beginning of the next chapter: As God takes note of / remembers – *pakad* – Sarah in Genesis 21:1, Rashi says that this section is placed after the preceding verse to teach us that whoever prays for mercy on behalf of another (Abraham for Avimelech), when he himself also is in need of that very thing for which he prays on the other's behalf, will himself receive a favorable response from God. Here, Abraham has internalized, at least for the moment,

the nature of God's *rakhamim*, with its potential for *tikkun*, righting the wrong, and for collecting and re-bonding the familial and social fragments that may have frayed.

Yet, at that moment, domestic tension explodes in Abraham's household during the joyous celebration of Isaac's weaning in Genesis 21:9-12. Sarah watches Ishmael carefully, as though with distrust and perhaps in anticipation of deception, and describes him as *metzakhek.* Rabbinic interpretations of this word in this narrative reject its meaning of "play" or "laugh." This is based in some interpretations on the image of Ishmael playing not with his brother for whom the feast is dedicated, but rather with his father Abraham. Jonathan Schwartz imagines[90] Sarah looking at her husband playing with his eldest son and the wave of panic that must have come over her. In addition to feelings of jealousy,[91] she might fear that if Abraham were to die suddenly, who would inherit, given Isaac's young age of weaning? Literary scholar Robert Alter ascribes to Schwartz's bias for Sarah's plight, with a linguistic justification for Sarah's decision to banish Ishmael:

> We may also be invited to construe it as "Isaac-ing-it" [**מְצַחֵק**, metzaḥeq]–that is, Sarah sees Ishmael presuming to play the role of Isaac, child of laughter, presuming to be the legitimate heir.[92]

From a purely historical perspective, it was generally accepted that young children in their early years were raised by their mothers, and contact with men of the family was often limited to formal occasions and ceremonies. *Metzakhek* might not describe such formality, but rather a deep and special love and devotion between father and son. If *metzakhek* here is a sign of such intimacy between Abraham and Ishmael, we might

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[90] Schwartz, Joshua. "Ishmael at Play: On Exegesis and Jewish Society." *Hebrew Union College Annual*, vol. 66, 1995, pp. 206-207. *JSTOR*, www.jstor.org/stable/23508519.

[91] Sarah's jealousy of Ishmael at the weaning party is expressed in *Jubilees* 13:19.

[92] Robert Alter, *Genesis* (New York: Norton 1996), p. 98.

deem Abraham a monster for casting out the beloved son and mother a few verses later.

Alternatively, a second understanding of *metzakhek*[93] ranges from mocking Sarah, Abraham or Isaac, to idol-worshipping, to illicit sexual acts and even to murder. This is safer ground for the rabbis. Sarah immediately takes action and aggressively demands of Abraham to cast Ishmael out with his mother, Hagar, because Ishmael, who is rightly the first-born son, will definitely not share in the inheritance set aside for her own son Isaac. In order to defend Sarah, rabbinic tradition occasionally portrays Ishmael's actions as reprehensible as possible. Although distressed about the fate of a son that Abraham acknowledges as his own first born, Abraham cannot resist Sarah, who receives approbation for exiling Hagar from the house in Genesis 21:12. God does intervene to re-iterate that the nation of Israel will emanate from Isaac and yet to promise Abraham that Ishmael will also father a great gentile nation. God's promise does not assuage the grieving Abraham (Gen. 21:11: *and the matter distressed Abraham greatly)* as he personally sends off Ishmael and Hagar the next morning into the desert with only bread and water (Gen.21:14). We know from the text that Hagar and Ishmael are again saved through Divine intervention and go on their way to blossom into a thriving and lasting ancestral line.

What are we without our roots and the acknowledgment of all our familial connections? Translated into contemporary reality, can we escape spiritually and emotionally the strains of family tensions and their frequent expression in degrees of

[93] See Gen.39:17 for this usage when Potiphar's wife attempts to seduce Joseph.

domestic violence? The Rabbis were surely concerned with these issues in gifting us with an elaborate narrative of how Abraham followed up on the loss of his son Ishmael, a son that he must have loved as much as Isaac and for whom he needed God's compassion both to acknowledge that loss and to motivate himself to reconcile to the extent possible with Ishmael. Although the biblical text ends Abraham's paternal bond of thirteen years with Ishmael abruptly upon casting the latter out, the Midrash gives us hope in revisiting a father's unjust treatment of a son and providing an opportunity to restore a caring and respectful relationship. In one midrash[94] Abraham tied a heavy pitcher of water to Hagar's hip so it would drag in the sand and leave a trail, and thus Abraham would be able to find his son. In another midrash,[95] Abraham, following the traces in the sand, goes to see his son Ishmael in the wilderness of Paran three years after Ishmael has married a Moabite woman. Ishmael is not at home when Abraham arrives, but Abraham speaks to his wife and asks her for some bread and water, which she refuses to give him - even though it is midday in the middle of the wilderness. Abraham instructs her to tell her husband that an old man from Canaan came to see him, and to tell him that "the thresh-hold of this house is not in good repair." When the wife transmits this message to Ishmael, he understands that the 'threshold' is his wife, he divorces her, and his mother finds him another wife. Three years later, Abraham goes to see his son again, and again does not find him at home. Abraham asks this new wife for some bread and water, because he is weary, and she brings these items to him. The midrash continues: "Then Abraham entreated the Holy One on his son's behalf, and Ishmael's house was filled with all manner of good things. When Ishmael

[94] Pirkei de Rabbi Eliezer 30.
[95] *Ibid.*

came back, his wife told him what had happened. Then Ishmael realized that it was his father, who still loved him."

Ishmael was destined not to be the link to Abraham's future, but he was still Abraham's flesh and blood. The midrash portrays Abraham seeking to let Ishmael know that he is still interested in his son's life, that he wants his life to be good and happy (with a kind-hearted wife), and that he wants to provide him with whatever material goods he can - given the destiny which God has outlined for him. This is a more natural description of what must have happened after the "casting off", and more a model for us even in difficult, strained parent-child relations.

The rabbinic restoration of Abraham's relationship with Ishmael extends to Hagar as well. In some midrashic portrayals, Hagar converted, observed the commandments and engaged in good deeds and was thus fit to be Abraham's wife. These traditions (including Rashi[96] and *Targum* Yonatan[97]) identify Hagar with Keturah, who, in Genesis 25:1 was taken as a wife by Abraham after the death of Sarah. Although absent from the biblical text but expressed in the Midrash, Abraham brought back Hagar, renamed as Keturah, and she bore him additional children. And, to ensure that she was a fitting wife, the rabbis relate that from the last time Hagar was in Abraham's presence until she returned to his household, she remained chaste.[98] If we defer to Keturah's identity as

[96] Rashi comments on *Gen.*25:1 based on R. Judah's comment: "This [and Abraham took another wife] was Hagar" in *Genesis Rabbah* 60:4.

[97] The Torah text of Pseudo-Jonathan identifies Keturah as Hagar in *Genesis* 25.1: אוסיף אברהם ונסיב איתא ושמא קטורה היא הגר – Abraham took another wife whose name was Keturah, that is, Hagar.

[98] Hagar's life of chastity and status as mother of all Arabic tribes is reiterated in Islamic traditions as well. See Reuven Firestone, *Journeys in Holylands.* Albany, NY: State Univ. of New York Press, 1990.

Hagar, we can acknowledge that Abraham, in the end, sought to redress his past transgressions and rehabilitate her. And, let us not forget that there is also a hint of brotherly reconciliation when Isaac and Ishmael bury their father together at the cave of Machpelah (Gen. 25:9). We can only wonder what words and what sentiments were shared during their time together. We can only rely on Genesis 25:11 to justify our assumptions about a positive outcome to the brothers' reunion. "After the death of Abraham, God blessed Isaac, and Isaac settled near Beer-lahai-roi." The scene of Hagar's earlier abandonment (Gen. 16:14) is none other than *Be'er L'Hai Ro'i.* Now, ironically, it becomes the place where Isaac settles, with God's blessing. Ishmael, Hagar's son, by extension, and Isaac are bonded by sharing the very place where both families received God's attention and compassion in their time of need.

Yet, even death does not always cancel out all the harm done in life within the context of families. Given the harsh words and actions of the protagonists of this biblical narrative, who is/are the real perpetrator(s) and who is/are the victim(s)? Who harms and who restores? One contemporary perspective notes:

> For millennia, Torah scholars and philosophers have wrestled with the theological implications of the Binding of Isaac (Genesis 22), the patriarch Abraham's ultimate trial of faith, but scant ink has been spilled over God's role in the banishment of Hagar and Ishmael (Genesis 21:9-21).[99]

Rachel Adelman, the author of the above quote goes on to compare the linguistic similarities (and thus, meaning) of the binding of Isaac narrative with the fate or "trial" of Ishmael? She observes through a contemporary lens that our story is also about the

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[99] Professor Rachel Adelman, https://www.thetorah.com/article/the-expulsion-of-ishmael-who-is-being-tried.

biblical exile of non-Jewish members of a Jewish household - the shame that surfaces with unjust treatment of the marginalized and that directly opposes Torah ethics. In an attempt to redress the debasement of Hagar and Ishmael in the Hebrew Bible, Islam has appropriated and revised the story of Hagar and Ishmael.[100] Islamic tradition says Abraham was ordered by God to take Hagar and Ishmael to Mecca, and later, Abraham returned to Mecca to build the Kaaba.

Have we also been swayed by rabbinic interpretations of yore that have set a crime in motion or, at the very least, framed the biblical persona into good and evil polarities? For example, even though Rashi himself implicates Ishmael with the three cardinal sins: idolatry, illicit sexual relations, and murder,[101] based on his understanding of *metzakhek,* nothing in the biblical text justifies such a harsh reading of the verse. In the biblical text itself, unlike the later scene of blessing between Isaac and Jacob (27:18-29), where the blind father does not realize Esau, the firstborn, is being displaced, the scene of the banishment of Hagar and Ishmael entails a conscious complicity on the part of the patriarch to cut his firstborn son out of the inheritance and out of the covenant, irrespective of his own pain. Sarah is bitter to Hagar and also faithful to and protective of God's covenantal promise. Hagar in the wilderness, thirsty and near death, sets her son *k'mitakhavei Keshet* – a bowshot away[102] instead of cradling him at this critical moment. The 'attract and repel' magnetic tensions between all the individuals in this family saga defy our labeling any single perpetrator or victim.

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[100] For Islamic traditions on Hagar and Ishmael, see *Journeys in Holy Lands* by Reuven Firestone. Albany, NY: State Univ. of New York Press, 1990.
[101] *Genesis Rabbah* 58:7.
[102] This expression also foreshadows Ishmael's future vocation as bow-carrying hunter.

Indeed, all the parties are guilty of being human, with human expectations and limitations. They – we – are all part of a greater context in which there often exists conflicting emotions and motivations with the same relationships. Here we might apply the ethical / theological aspirations of Martin Buber, who dedicated his life work towards clarifying the perfect I / Thou relationship.[103] For him, the opposite is I / It by which most exist and function. In the latter mode, we relate to every other human, whatever the nature of the relationship, and more so with those close to us, by virtue of how the other can be of use to us literally or psychically. The converse, I / Thou points to a mutually reciprocal love between humans, and between humans and God in which souls are intertwined, free of conditions and pure of judgment. The midrashim and rabbinic renderings of the Abraham – Sarah – Hagar – Ishmael – Isaac narratives are sincerely meant to offer rapprochement between those afflicted and denied. In the end, we are left with imperfect human beings who keep on striving for harmony, even in their pain and disappointment.

There are multiple moments in the Abraham – Sarah – Hagar narrative in which human compassion would have turned the story in a different direction, to benefit all and perhaps result in a happier outcome for all. For these characters at the dawning of faith development and a relationship with the Divine, insight may have still been blurred and God's display and lessons of compassion unrecognized. Reflection on, and study of their story compels us to address these crossroads differently, to fill in the gaps of the Torah text with its complexity and full range of human emotions and motivations, and

[103] Martin Buber, *I and Thou, a New Translation by Walter Kaufmann.* NY: Charles Scribner's Sons, 1970.

society's checks and balances, and then to apply *rakhamim* – compassion, for ultimately it is the only attribute that fosters human hope and survival.

Joseph

In the Jewish tradition, the essence of justice was defined at the dawn of creation, as a relationship between God and humanity, as well as between human beings, handed down in Torah and liturgy as a direct reflection of 'ideal' Divine behavior. Humans are created equal in God's image, with God-like potential. It is certainly true that the Bible is replete with divine retribution for the continuing recalcitrance and defiance of God's laws by the Israelites. And throughout history, on the human level, we see and continually experience first-hand justice distorted and justice denied. Yet, transgressions and punitive consequences and/or reparations become opportunities for redemption and goodness (assuredly through the Jewish value of *teshuvah*). Nowhere more acutely are the poles of character destruction and restoration evidenced than in the story of Joseph, so prominent that, as the longest focused narrative in the Bible, it spans the last fourteen chapters of the book of Genesis. The talmudic phrase, *igra rama l'bira amikta*[104]– "from the high roof to the deep pit" – aptly describes the fall of Joseph from a well-established and settled family life to a deep literal pit of danger, vulnerability, and lack of agency at the beginning of his career, and again into the 'pit' of an Egyptian jail. Each time, he emerges with renewed motivation and agency, coming

[104] BT. Hagiga 5b.

from within by way of faith in God and in his own decisions, and from without by the confluence of human circumstances.

The familiar story follows the youthful Joseph as his father's favorite male child among twelve male siblings. As a result of his father Jacob's unique gift to him of a 'coat of many colors,' and then Joseph's verbal flaunting of his dreams that predicted his reign over his brothers and parents, his brothers were justifiably angry, envious, and full of hatred towards him. When the opportunity arose, they sold him into slavery and faked his death. A string of unexpected events ensued that brought first Joseph and then his entire family to Egypt. Rabbinic commentators and homilists alike observe that Joseph, both perpetrator and victim, was a vehicle for the divine destiny of the Jewish people; without Joseph in Egypt, there may not have been an "Exodus" and "Return to the Promised Land." This view derives from Genesis 45:7:

וַיִּשְׁלָחֵנִי אֱלֹהִים לִפְנֵיכֶם לָשׂוּם לָכֶם שְׁאֵרִית בָּאָרֶץ וּלְהַחֲיוֹת לָכֶם לִפְלֵיטָה גְּדֹלָה׃

"God has sent me ahead of you to ensure your survival on earth, and to save your lives in an extraordinary deliverance."

And, again, at the beginning of Genesis 45:8

וְעַתָּה לֹא־אַתֶּם שְׁלַחְתֶּם אֹתִי הֵנָּה כִּי הָאֱלֹהִים

"So, it was not you who sent me here, but God"

Nehama Leibowitz claims that the above verses are the key to the entire narrative, that the plot was all in the hand of Divine Providence.[105] Indeed, she counters Genesis 37:14: "So he [Jacob] sent him [Joseph] out of the valley of Hebron," which points to human agency from the onset of Joseph's vicissitudes. Joseph, himself, at the height of

[105] Nahama Leibowitz, *Studies in Genesis,* Jerusalem: Alpha Press, 1972, p. 394.

his illustrious career in Egypt and reunited with his brothers in their guilt and shame, envisions the bigger picture (45:7 above). He understands that (1) the brothers 'survival on earth' is predicated on their procuring food from Egypt, and (2) that the 'great deliverance' is a prophetic link to 400 years of slavery of the Hebrews in Egypt and their redemption to follow through the hands of Moses. An additional prooftext of the view that Divine Providence is at work in this narrative is reiterated in Genesis 50:20:

וְאַתֶּם חֲשַׁבְתֶּם עָלַי רָעָה אֱלֹהִים חָשְׁבָהּ לְטֹבָה לְמַעַן עֲשֶׂה כַּיּוֹם הַזֶּה לְהַחֲיֹת עַם־רָב׃

"Besides, although you intended me harm, God intended it for good, so as to bring about the present result—the survival of many people."

The notion of God as the Prime Mover of this plot appears short-sighted, given elements of the story that go beyond the dynamic of cause and effect. God is brought into the narrative only in Egypt. Joseph resists the sexual advances of his master Potiphar's nameless wife because he avows that this is a sin against God. Perhaps he is well-versed in the Noahide Laws or those behaviors which we expect society to naturally adopt, even prior to the giving of the Torah, in order to live together in relative safety. Joseph invokes God's name again in Genesis 45 to assuage his brother's admission of guilt and remorse for throwing Joseph into a pit, for selling him off for profit, and for lying to their father about the episode. We might posit that Joseph's conscience is motivated by a divine morality and prophecy through these invocations, yet how others affect his life and how he responds emerge more powerfully as being human rather than divine.

Aviva Zornberg illuminates this question of God's actions versus human agency in the Joseph narrative.[106] Her questions offer much food for thought: What are the limits of our human freedom with regards to our human relationships? How do freedom and moral responsibility relate to each other? Are there issues of control and entrapment as well as cause and effect? With regards to cause and effect, Zornberg distinguishes between human actions that are intended to cause a specified reaction or consequence, and those actions that produce unintended consequences. The latter is not a true case of 'cause and effect' for humans. For God, in the realm of biblical theology, there are no unintended consequences. Joseph's brothers throw Joseph into a pit out of hatred and jealousy. At that moment, they do not know nor have they mapped out how the plot will unfold for Joseph. Moreover, did Joseph's grand illusions of control and his self-obsessed pose as a youth result in his inability to see his affect on those in front of him, and ultimately land him in both physical and moral traps: the pit, Potiphar's wife's bedroom, the royal jail, and the throne room with his brothers? If the latter rings true, we wonder just exactly what Joseph did see and what conscious choices did he make to pursue and achieve justice for himself, his family, and his charges.

Let us analyze the biblical text more closely.

Let us first reflect upon the character of Joseph and the justice both meted out to him and later by him as a compelling example of both the failure of retributive justice and the cogency of restorative justice. Joseph is a product of his ancestors as well as

[106] Aviva Zornberg, *Genesis, the Beginning of Desire,* Philadelphia: Jewish Publication Society, 1995, p. 255.

his own nuclear family. Family life among all the patriarchs and matriarchs was rife with divisive power struggles, and in particular, competition for the birthright and for parental favor. Beyond the context of family, whether political, social, religious or cultural, we can agree that hierarchical structures have always framed society. Compassionate and progressive humans have made heroic efforts to erase the tensions inherent in the gap between rulers and the ruled, and the inescapable dehumanization of the ruled.[107] Faith-based humans truly believe this disparity runs counter to God's intention in human creation, and still we have not yet reached this ideal intention on earth. It is no surprise that Joseph is also caught up in the desire for approval and personal recognition among his own family members. We meet him as the *na'ar* – the young one of his large family, the 'child of his father's old age,' both pampered by his father and repelled by his brothers. The designation of *na'ar* is used again when the butler in Pharaoh's court refers to Joseph as the *na'ar ivri* (Gen.41:12). In the latter scene, time has passed for Joseph to mature and integrate his own life struggles, yet Joseph remains the *na'ar,* still motivated by his own survival and good fortune. The commentator, Baal Ha-Turim even equates the word *na'ar* with *shoteh,* meaning [naïve] 'fool,' because they both have the same numerical value.[108] Joseph's favored status with his father is not enough to sustain Joseph's ego. Joseph may be the recipient of his father's special material gift in the 'coat of many colors,' but a close and mutually open father/son relationship is sadly lacking. There is mostly silence between them. At the beginning of Joseph's 'journey,'

[107] Here we refer to examples of socialism and egalitarianism in political terminology and of liberation theology for those seeking freedom scaffolded by their faith.

[108] *Kitzur Baal Ha'turim* on *Genesis* 37:2: בגימטריא שוטה זה שאמר הכתוב ומוציא דבה הוא כסיל **נער** – *na'ar* in gematria has the equivalence of the word *shoteh,* a 'fool,' as when it is written in the Torah that he brought bad reports – this means that he was a fool.

the only direct conversation between the two is Jacob's berating of Joseph for sharing aloud his two dreams of wielding power over his family members (Gen. 37:10) and the father's instructions to Joseph to go visit his brothers in the field and bring back a report (Gen. 37:13). On one hand, the material gift of the 'coat of many colors' is assuredly a symbol of special affection. On the other hand, Jacob is not oblivious to the effect of Joseph's narcissistic behavior toward his brothers, but he makes no overtures to get to the heart of the matter, to instruct his son to correct his behavior, resolve family tensions and restore *shalom bayit* (peace in the house) in his role as head of the house. The text emphasizes Jacob's ignorance of domestic strife: In Genesis 37:2 we read that Joseph brings *diba ra'a* – evil reports of his brothers' actions. One midrash sides with Joseph, accusing the brothers of eating the limbs torn from living animals, cohabitating with the daughters of the land, etc.[109] Another midrash proves the above wrong, that the brothers were attentive to laws of ritual purity. The prooftext is in the ritually appropriate slaughter of the goat by the brothers, with the goat's blood as a substitute for Joseph's. Up to this point, there is no textual evidence of illicit behavior on the part of the brothers. Joseph slanders his brothers in his attempts to defame them and aggrandize himself, perhaps, in desperation for his father's love. Jacob, in turn, asks Joseph to bring back a *davar* – a 'word,' another verbal report of the brothers. Did Jacob not discern Joseph's slanderous intentions the first time? In as much as *diba* implies a defamation or untruthful report of evil doing[110] and *davar* is usually not judgmental, and also encompasses both words and actions, did Jacob assume that Joseph would distinguish a difference between a *diba* and a *davar* and now bring back

[109] *Genesis Rabbah* 86:7.
[110] See examples of this usage in Numbers 13:32, 14:37, Ezekiel 36:3, and Proverbs 10:18.

an unbiased report given his history with his siblings? The text does not tell us outright if Jacob has become a more discerning mentor to his son. Yet, there is a hint that Jacob has distanced himself from the intimacy of a father/son relationship. "Israel" in verse 13, not 'Jacob,' or his 'father' – conveys the mission to Joseph, perhaps another sign either of the impersonal interchange between father and son, or as commentators have suggested, a prophetic hint of Joseph's future as the biblical persona who will lead the Jews *down into* Egypt. The latter interpretation is girded by Joseph's one-word response to his father. *Hineini*, an expression, repeated fourteen times in the Bible, is interpreted mostly as response to a divine calling and as a sign of readiness to do God's will, recalling Abraham in Genesis 22 (3 repetitions in the story of the binding of Isaac) and Moses at the burning bush. There are alternative interpretations of *Hineini* here that relate to interchanges solely between humans. Within the literal context of this chapter, we might also consider that Joseph was eager to comply with his father's instructions because he had not directly heard any threats from his brothers in response to his evil reports of them and to his dreams, and he continued to seek his father's favor. Rashi credits Joseph as indeed aware of his brothers' hatred for him, but out of respect for Jacob, Joseph complies with a humble *hineini,* instead of a plaintive pleading not to enter this familial 'lion's den.'

There are assuredly complex emotions and internal motivations among the biblical players in this narrative, both expressed in the text and intuited and justified by our rabbinic sages. Historically, Joseph came from a broken family with a long history of deceptions, violence and dysfunction, and his was no exception. Even if God had manipulated the malice of previous generations for good, it would not have erased the

effect that it had on Joseph's psyche. Zornberg frames Genesis, chapter 37 in this way: *Vayeshev Ya'akov* – Jacob "settled," meaning that he was attempting to settle his family and his affairs into a peaceful stasis, but to no avail.[111] Verse 33 ends with *tarof toraf Yosef* (Joseph was exceedingly torn apart) – The double verb, *tarof toraf,* grammatically may be for emphasis, but the deed reverberated in two people: According to the brothers, Joseph was torn apart by a beast, but Jacob's heart was also torn asunder, and so, too, the entire household. The text of chapter 37 does not explicitly tell us the thoughts, needs and wants of a father, a favored son, and his brothers. We must guess through the actions of the protagonists. When Jacob does confront Joseph about his dreams, *vayig'ar bo* – he berates him. When Joseph responds *hineini* to his father's request, we wonder about his sincerity. Perhaps Jacob does intuit a lack of sincerity as he immediately responds to Joseph in verse 14*: Re'eh et sh'lom akhekha. . . v'hashiveini davar* – "See how your brothers are faring, . . .and bring back a 'good' word." If Jacob intended to admonish Joseph for his past arrogance and redirect him, the message was too subtle and obtuse for his young son. The rabbis teach that to 'see' in biblical terminology means to truly understand and empathize with the one who faces another, or at least attempt to do so. This is what we expect in healthy familiar and familial relationships, even those marred by occasional rivalries and tensions. The brothers at this juncture in the story neither want to 'see' Joseph's perspective, nor show him any compassion. They cannot face their father as well. Indeed, they send an emissary to shove in Jacob's face Joseph's bloodied coat in verse 32, endowing yet another emotional layer to *tarof toraf* – the rending of Jacob's equilibrium, and perhaps

[111] Aviva Zornberg, *Genesis, the Beginning of Desire,* Philadelphia: Jewish Publication Society, 1995, p.247.

their own, through their act of cowardice. It is inconceivable to imagine that they felt no remorse for throwing Joseph into a pit, selling him for profit, and never bothering to search for him.

Parenthetically, we might consider here the human capacity for change by Joseph and his brothers, moving, perhaps from pervasive fear of revenge to the brothers reconciling, coming to terms with their guilt, their family responsibilities, and gaining a sense of empathy for all their suffering, as we will observe in the continuing saga below. Joseph, himself, evidences real transformation, both in the text and in Midrash. The Midrash even dubs Joseph as "the righteous one," unique among our biblical ancestors. Jacob, on the other hand, even after years of agonizing separation from Joseph, says to the latter at their reunion (Gen. 46:30-31): "Now I can finally die after I have seen you, that you are still alive." Why did Jacob not try to fill in the gaps of elapsed time through a myriad of questions, e.g., What happened all those years ago? Did your brothers really do this to you? Why did you not send a message to me once you had risen to a position of power? Were you trying to forget us? Did you forget who you were and where you came from? Similarly, Joseph did not ask his father: Where were you? Why did you send me to my brothers when you knew they hated me? Did you really believe I was dead? Father and son did not really communicate and hear each other in Joseph's youth, and this continues in Egypt. We know from Genesis 50:16-17 that upon Jacob's death, Joseph's brothers sent word that Joseph was to forgive his brothers for what they had done to him. Even if Jacob yearned for Joseph to forgive his brothers, Joseph could equally have concluded that the message was not in the interests of family peace, but rather for the brothers to protect themselves from

further consequences of their cruel acts. Even though Jacob was silent and estranged from Joseph to the end of his days, *vayeiv'k Yosef* – Joseph cried upon hearing his brothers' words. Did he cry because he was moved to forgiveness, or was he hurt by the very idea that his brothers believed him incapable of forgiveness? Or, was Joseph's emotional outpouring because of the relationship with his father that could have been, but never was? He cried because he loved his father, who never verbally or physically reciprocated that love, save through a material gift. In any relationship between two parties that is 'torn asunder' by silence, by the absence of confronting the unfulfilled expectations and hurts between them, or by avoiding the ways in which to restore the relationship, there can be no reconciliation, no hope for a future of co-existence at the very least, and perhaps of mutual respect and love at the most.

Joseph was left alone and untethered to family support, even in his own household. The attention he may have craved from his father was never expressed in words from the heart. He was never effectively rebuked for flaunting his damaging and degrading dreams to his family members. Lost in his own ego and self-pity, his path to a conscious and organic maturation from teen to adult is obfuscated. Does his lack of familial and social mooring in some way shape the trajectory of Joseph's undulating transformation from his dreams to the pit to Potiphar's house to royal dungeon, to a royal seat? The questions which must frame our observations focus on decision-making at moral crossroads, motivations for actions committed, the harm done, and the potential path to repairing the harm and restoring one's rightful and human place in the world. This is, in fact, the bird's eye view of restorative justice – a process which looks deeply and compassionately into each participant involved in a breach of society's

expectations of its members, especially those infractions that affect the health and welfare of another. In lieu of relying on a theology of divine intervention for the sake of a divine plan, let us consider the Joseph story in its family context, and, by extension, as a symbol of relationships between larger groups in any community. The ambiguity in the Joseph story of who, at different junctures, is the perpetrator and who is the victim provides an ideal example of the complexity of every human's individual psyche and the ambiguity in all human relationships. Louis Ginzberg in his multi-volume *Legends of the Jews* encapsulates the contradictions in Joseph's nature from youth, as portrayed in the midrash:

> Until he was seventeen years old, Joseph frequented the Bet ha-Midrash, and he became so learned that he could impart to his brethren the Halakhot he had heard from his father, and in this way he may be regarded as their teacher. He did not stop at formal instruction, he also tried to give them good counsel, and he became the favorite of the sons of the handmaids, who would kiss and embrace him.
>
> In spite of his scholarship there was something boyish about Joseph. He painted his eyes, dressed his hair carefully, and walked with a mincing step. These foibles of youth were not so deplorable as his habit of bringing evil reports of his brethren to his father. He accused them of treating the beasts under their care with cruelty--he said that they ate flesh torn from a living animal--and he charged them with casting their eyes upon the daughters of the Canaanites, and giving contemptuous treatment to the sons of the handmaids, Bilhah and Zilpah, whom they called slaves.[112]

The surfeit of attention and privilege given to Joseph alone in the above passage might explain the resulting arrogance he exhibits towards his brothers. Joseph may have come into this world with an uncomplicated and unassuming *nature*, but the way in which he was *nurtured* led him in the opposite direction, towards being social outcast. On the other hand, a holistic approach to maturity acknowledges that at any moment in

[112] Rashi's comment on *Gen.*37:2, based on Tanhuma, Vayeshev 7 (Printed Edition).

time a person speaks, acts and reacts based on both conscious and unconscious internal considerations of the welfare of others as well as of oneself. In order for the 'good' of all to prevail, the Jewish tradition calls upon our God-given *rakhamim,* our compassion for self and others, to both prevent a harmful act and to address a crime after it is committed for the sake of repairing the material and human damage done and enabling sincere *teshuvah.* For the one we deem 'perpetrator,' one of the primary goals of restorative justice is to see the whole picture leading up to any crime in order to begin to really understand the criminal's nature and assist with building empathy in the criminal to combat recidivism. For the one we deem 'victim,' restorative justice dialogue and mediation aims to provide reparations to the extent possible and also build empathy so that the victim can forgive the perpetrator in order to mitigate lingering pain and rancor and find some inner peace.

What happens to Joseph in Potiphar's house fits into this schema, as understood the by rabbinic commentators, that is, the eternal human struggle not to fall prey to condescension from others, nor its opposite, not to wield abusive power when the opportunity arises. When sold to the Egyptian courtier by the Ishmaelites merchants, Joseph assuredly begins on the lowest rung of servant labor. We can only imagine that Joseph arrives in Egypt bedraggled from his physical and psychic descent into the pit, abandoned by every one of his ten older brothers, far from home and the sheltering wings of his beloved father and handmaiden-surrogate mothers. His survival from a 'slave's journey' is miraculous in itself, perhaps necessary to the Divine plot, and also a tribute to Joseph, the victimized 'survivor.' Ensconced in Potiphar's house, the text immediately tells us that God was with Joseph (Gen. 39:2-3) and he succeeded at all

tasks. Malbim, the bibilical commentator, understands that Joseph's success was based both on his natural, innate talents, and also on a higher level of intuition and psychic ability directly infused by God.[113] As a result, Joseph always knew what his master needed and wanted. Moreover, the phrase that accompanies Joseph's tenure in Potiphar's house, "And the Eternal was with him," (Gen. 39:2) reappears to scaffold Joseph's successful dream interpretation in the royal jail. (Gen. 39:21) God guides Joseph from the depths upward, not only to give due credit to the primary role of divine intervention in the Bible, but also to encourage and empower Joseph to make the right decisions for himself. Moreover, Malbim notes that the brothers had each other, but Joseph had no strong and active human mentor in these moments. Ultimately, Joseph's talents and initiative may explain the most unusual and precipitous promotion of Joseph to being the head of Potiphar's household, as Potiphar might well have wanted to benefit from Joseph's 'golden touch.' Ironically, commentators do not look kindly upon the Joseph who wields such power, even in a private home. For them, the phrase: *va-ya'azov kol asher lo b'yad Yosef* - "he left everything in Joseph's hands" (Gen. 39:6) is meant to emphasize not the breadth of Joseph's power in the household, but rather that he was not accountable to anyone for anything, except for 'bread.' Why 'bread?' In a culture perhaps where royal conspiracies invite poison plots, we might imagine that there are checks and balances associated with every morsel Potiphar, the courtier, ingests. In the tradition of Jewish intertextuality, bread becomes a euphemism

[113] Malbim on *Genesis* 39:3: "And Yosef had those two different types of success, natural and providential. His master recognized "that Adonai was with him", through seeing "that all that he does" - that he succeeded even things that he did that were not naturally successful, because "Adonai lent him success" - [meaning] God transformed into success what was "in his hand" through Adonai and His providence."

for a sexual encounter with a woman[114] or partnering with a woman. Midrash Tanhuma recalls that Jethro demanded that his daughters bring home Moses after he comes to their aid at the well in order to break bread – leading immediately to a marriage with Jethro's oldest daughter.[115] The master's 'bread' in the Joseph story (Gen. 39:6) also leads to the temptation of Potiphar's wife. The Midrash relates that Joseph became so pleased with himself that he ate and drank well, frizzed his hair, and thanked God for helping him forget his father, who remained mourning in sackcloth and ashes.[116] Why else, the commentators intuit, would the same verse in the text that describes Joseph's reign over Potiphar's house end in a description of Joseph's handsome appearance? The midrash continues: The Holy One rebuked Joseph: "You pampered brat – I will set a she-bear upon you." It was the master's wife. Potiphar, it seems, had an inkling that the still youthful and immature Joseph could not see beyond his own desires, now buttressed by his new domestic hegemony. Joseph could not 'see' the effect his attention to his coiffeur might have on the women of the house, and most especially Potiphar's equally physically desirable wife. Joseph is surely wasting his assets – his real talent for organization, management, and serving others.

The setting apart of 'bread' in the text can also function on a metaphysical or theological plane. If 'bread' was the one item which was forbidden to Joseph, it is reasonable to imagine that Joseph had to stop and take notice and refrain from touching or managing any bread he may have encountered in any form. The bread that Joseph could not physically touch may be providential - the unseen hand of the Divine, who is

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[114] Proverbs 9:17: "Stolen waters are sweet, And bread eaten furtively is tasty."
[115] Midrash Tanhuma, Shemini, 9:1, Genesis Rabbah 86:6.
[116] Midrash Tanhuma, Vayeshev 8, Genesis Rabbah 86:5.

reminding Joseph of the limits of his human powers, instilling in Joseph the accountability that will enrich his yet to be determined leadership, and ultimately saving Joseph from an irreversible sin. God, then, becomes the loving and instructive parent for Joseph here in Potiphar's house. It is, thus, no surprise that Joseph defers to God for the first time when calling out the sin of adultery and naming the source of his resistance to it in Genesis 39:9: "How then could I do this most wicked thing, and sin before God?"

Here, Joseph encounters and recognizes a moral dilemma for the first time. The reader has already been discomforted through Joseph's flaunting of his dreams of family power earlier in the narrative, but Joseph was oblivious then to the harm that he caused to his brothers and father. Now, no matter the extent to which Potiphar's wife attempts to seduce Joseph, he resists. Joseph's response to Potiphar's wife is clear, definitive, and a true reflection of a strong moral decision:

> But he refused. He said to his master's wife, "Look, with me here, my master gives no thought to anything in this house, and all that he owns he has placed in my hands.
>
> He wields no more authority in this house than I, and he has withheld nothing from me except yourself, since you are his wife. How then could I do this most wicked thing, and sin before God?" (Gen. 39:8-9)

Joseph says nothing from the time he is sold until he is lured by Potiphar's wife. And now he finally finds his voice, one that reflects God's role in his behavior and moral temperament. What is remarkable here is the text's juxtaposition of Joseph's near limitless authority in his master's house and his accountability in not engaging with his master's wife. There are limits to his power. Joseph does not see these limits in his

own home environment, but embraces them here in a strange land. Egypt, as will be the case for all the Hebrews four hundred years hence, is a 'narrow place' with imposed restrictions. Joseph cannot take for granted in Egypt the freedom he enjoyed at home. In Egypt, he initially has little or no freedom. Thus, the goal of survival may motivate Joseph's actions. Moreover, survival based on God-given, moral intentions and behaviors are sure to bring greater rewards in the biblical context, all the more so in a landscape that challenges one's moral compass. Joseph's individual and upright act of refusing to engage in adultery with Potiphar's wife will eventually and more formally define the Jew's covenantal relationship with God, a gesture that goes hand in hand with empathy and compassion for all who are affected by any individual and group behavior. Both make space for others to live alongside us with mutual respect and authenticity. They are antidotes to oppression and suppression.

Once again, Joseph finds himself in a 'pit.' The comparison with the *bor* in which Joseph was tossed by his brothers is all the more justified in that in the ancient world prisons were underground: cisterns, wells, or pits – all dark and miserable places.[117] Joseph himself links the pit of his brothers' doing with the royal dungeon in the concluding phrases of Genesis 40:14-15: *min habayit hazeh* (from this house [prison]) . . . . *ki samu oti babor* (when they put me in a pit).

Joseph is unjustly accused by Potiphar's wife, who plants false evidence of an attempted rape. In an almost formulaic, stylized plot, it is Joseph's torn garment that is given as evidence to the irate courtier husband, just like the torn 'coat of many colors'

[117] Jeremiah 37:16: *el beit ha-bor* – Jeremiah descended to the "house of the pits," i.e., the dungeon.

that prefaced Joseph's first descent. Joseph ends up in the royal dungeon. This time the isolating and degrading experience becomes a crossroad for Joseph's self-empowerment. According to Aviva Zornberg, "To be thrown into a pit, effectively, is to be declared dead in the mind of others."[118] This was the intention in the case of the first pit. The royal dungeon as well can be a place of imminent death, but also a potential for rebirth for Joseph.

As in Potiphar's house, God again "was with Joseph." (Gen. 39:21, 23) The plain meaning of this phrase directs us to God's intervention in turning the tide of Joseph's fortune, and the second half of verse 21 underscores a core message for the argument of this paper: *vayet eilav chased* - God extended to him kindness.

The text does not tell us whether God's kindness instilled in Joseph the inclination to be kind to others, or if God's kindness was a reward for the way in which Joseph extended kindness to his fellow-incarcerated. We might envision here triangles of reciprocity: God endows humans with kindness; we receive it and pay it forward. By our kindness to others, we both reflect the kindness endowed to us by God, and give God great satisfaction with the human enterprise of spreading kindness among other humans. And, recipients of our kindness will both repay us in kind and enact kindness to others. It is this intention and this dynamic which reminds us of our present role in a place greater than our individual selves. The restorative dialogue process can also trigger a positive chain reaction by embracing those in tension with each other and allowing every painful story to be told. The resulting release of pain and shame and

[118] *Genesis, the Beginning of Desire*, p. 292. Zornberg adds that the Talmud states that the presumption of death in a pit is so strong that the victim's wife may remarry.

guilt is meant to acknowledge the humanity and worth in all of us, and the necessity for humans to be in relationship with each other in order to survive and thrive again in community. This is what is meant by God's extending God's kindness to Joseph, so that Joseph is reminded of his own worth, even in a hostile environment, and is infused with the hope that he will find an entry point back into his family and community.

At this juncture in the biblical text, neither Joseph nor the biblical reader knows the long-term impact of God's kindness for Joseph or Joseph for his fellow-incarcerated. What is known is that Joseph fulfilled a successful wardenship in the prison for some measurable amount of time - *akhar ha'devarim ha'eileh* – And some time later (Gen. 40:1). That Joseph rose to greater power and responsibility in jail is a tribute to his 'good behavior' and his divine fate, but more importantly, Joseph's tenure in jail afforded him the time and space to look deeply into his own conscience, undisturbed by what must have been the latest local gossip. Indeed, our sages agree with this perspective and add that an appropriate span of time in jail deflected Joseph's [falsely accused] transgression onto Pharaoh's cupbearer and baker, allowing Joseph the opportunity to now come to their aid.

What can Joseph's time in jail contribute to restorative justice practices? The ultimate goal of these practices is to keep perpetrators out of prison. Yet, in truth, society has not reached that goal, and thus, for now, we must apply best practices to those offenders already incarcerated. Inmates have the time to think about their mistakes, about the devastating effects those mistakes have on their families and communities, including estrangement from all those who previously were present in

their lives. Joseph also seems to use his prison time to this advantage. Joseph may have descended to physical depths, but assuredly maintains some sense of dignity and self-worth, recognized by God as having potential for a successful reversal of fortune. He is a model for inmates, isolated and perhaps alienated as well (as in undocumented detainees in particular), who may need to rely on their innate self-worth, most likely hidden behind the implicated criminal act, in order to be open to reconciliation. Joseph may have been unjustly imprisoned in a pit, both by his brothers and by Potiphar. Yet, we do not read in the biblical text that Joseph protested or advocated for his innocence. Nor, did he submit entirely to his fate. We might conclude that he himself understood two consequences of those actions: First, whatever Joseph did to his brothers as well as in Potiphar's house produced indirect victims. Joseph's brothers may have thrown him into the first pit, but they were also victims of his taunts, and Jacob his father, although he may not have responsibly parented his spoiled young son, was a victim of the tragedy of Joseph's pretended death. In the case of Potiphar's wife, the accusing temptress must also have been a victim of a culture and society that brought status to noble women as primarily sexual objects. Potiphar himself was a victim of a plot that left him without his competent house manager. Joseph needed to discern the far-reaching harm caused by his actions, whether personally motivated or driven by circumstance. His time in jail affords him the space and time[119] to reflect and plan, devoid of youthful impulsivity and desires. Second, without social distractions in jail, Joseph, inspired by God's favor towards him, begins to "see" those around him and himself - both the

[119] *Vayehi akhar ha-devarim* – "and after these things" is often interpreted by the Rabbis as an introduction to a misfortune. Here, the phrase literally points to a passage of time, the time built into incarceration as prolonged punishment from one perspective, or, from another, a period of self-reflection and a new awareness of the wide impact of a transgression.

effects of incarceration on the human psyche, and his own ability to empathize with the needs of those inside the "pit." When the text tells us that God extended *chesed* – kindness – to Joseph, (Gen. 39:21) it sets off a chain reaction: Joseph must have been amenable to the warden, who, in turn, bestowed new freedoms and responsibilities upon Joseph (Gen. 39:21). We learn in Genesis 40:4 that the warden put Joseph in charge of serving two other prisoners, the royal cup-bearer and royal baker, who had already been incarcerated for some time for unknown charges.[120] Perhaps this omission is intended to focus less on the nature of these ministers' infractions and more on the impact of Joseph upon them. Rabbi Judah and Rabbi Chanan in the name of R. Yochanan said that God caused these ministerial servants to inflame their master, Pharaoh, in order to confer greatness upon the righteous Joseph, all this being part of God's divine plan.[121] It will be up to Joseph to uncover the severity of these charges through interpreting the prisoners' dreams. The interpretation of their dreams puts Joseph on an equal footing with the ministers' status as understood by medieval commentators Radak and Bachya in Gen: 40:7: Pharaoh's *sarisim* (ministers) were *ito bamishmar* – "with him in custody." 'With' here literally points to Joseph's living side by side with these ministers, and also symbolically putting him on an equal footing with them. Not only is this new status a sign, a prelude to Joseph's rise to power in Egypt, but also points to the beginning of his process of inner transformation.

There are other hints of Joseph's transformation during the interlude with the cup-bearer and the baker, and their dreams. Joseph approaches his two charges,

[120]Genesis Rabbah 87:2 imagines fanciful transgressions inadvertently committed by the cup-bearer and the baker: a fly was found in a goblet and a pebble in the baker's confection.
[121] Genesis Rabbah *88:3.*

saying, “Why are your faces downcast today?” (Gen. 40:7) This is a Joseph who notices body language and facial expressions before embarking on a weighty conversation. He is ‘reading’ their mood, and will craft his own demeanor and words to fit their ability to listen and embrace those words. This is not the youthful Joseph who flaunts his grandiose dreams to his brothers and father without a thought to their feelings and reactions. The condemned ministers, in return, trust Joseph enough to listen to his interpretations of their dreams. “And Joseph said to them, “Are not solutions from God? Pray, recount [the dreams] to me” (Gen. 40:7). They may already be aware of the power of Joseph’s God. Moreover, as Joseph named his resistance to Potiphar’s wife’s enticements as a ‘sin against God’, so, too, here Joseph now defers to the presence and role of God in his own abilities and destiny. His former arrogance is giving way to humility. Joseph interprets and predicts a pardon in the cup-bearer’s dream. He says to the latter: “*Yisa Par’o et roshekha*” – literally “Pharaoh will raise up your head.” (Gen. 40:13) In the Bible, this expression is used in counting the census, just as the cup-bearer will once again be counted among Pharaoh’s trusted ministers. Metaphorically, raising one’s head, especially before one’s master, is a sign of the restoration of status and relationship, of one’s dignity and self-confidence. Joseph’s wording here is again evidence of his thoughtful consideration of others. Finally, Joseph uses his status to potentially restore freedom and its responsibilities to other incarcerates in the way he knows best, through dream interpretation. Pharaoh later acknowledges to his courtiers that Joseph’s intuitive gift is an entry into greatness, as well as existing by the grace of God: “…*ha’nimtzah kazeh is ha’ish asher ruach Elohim bo?”* - “can [another] man like him be found in whom is the spirit of God?” (Gen.

41:38). For Joseph, patience, empathy and a new self-awareness have an astounding domino effect in this segment of the narrative, to be rechanneled anew in Joseph's upcoming reunion with his siblings.

Indeed, the first time the brothers approach Joseph in Egypt (knowing him only as the honored vizier in charge of food distribution), they "bow low with their faces to the ground" (Gen. 42:6). Their subservience is the proper ancient protocol, and also reflects their weak and deflated state of mind and spirit, as compared to Joseph's high position, confidence and admiration by his adopted land at this moment. Joseph's ascent from the 'pit' and his lofty position are most glaring in sight of his brothers brought low. From Joseph's vantage point and that of the reader, we have returned to the beginning scene of Joseph's story, in which his youthful dreams of ruling over his brothers have finally been realized. As with Joseph and his brothers, we are reminded here that every human being, throughout their life journey, can weave in and out of transgressions, trauma, blessings, curses, pitfalls and reconciliations. The beauty of the foundation for restorative justice practices is the very acknowledgment of life's injustices for both victims and offenders, even as the focus narrows to address and repair the harm done in one specific crime. This holistic approach is best illustrated in truth-telling by both victims and their offenders of all that surrounds a person's life in time and space. In cases of domestic abuse, the abuser has once been abused. In scams, the con artist has often been cheated out of material or emotional security. In capital crimes, the perpetrator is driven by an infinite number of unknowns. Telling the whole story exposes what Holocaust survivor and scholar Elie Wiesel familiarly calls 'moral

memory'[122] which, through a Jewish lens, leads to Divine and human compassion for imperfect humanity and the possibility of reconciliation through *Teshuvah.*

The invocation of 'moral memory' reaches its climax in the reconciliation of Joseph with his brothers. Recalling what is past is the base meaning of the Hebrew root *zayin-khaf-reish*. For Jews, memory is the lens of our beliefs and ethical actions. On a national level, it is our 'collective' memory of being slaves in Egypt and, for those who do remember, the rabbinic notion that *sinat khinom* – vacuous hatred – caused the destruction of the Second Temple, that motivates our obligation to treat others with equity and respect. It is the act of remembering first before we are able to enact a positive commandment or *tikkun olam* (repair of a broken world).[123] Wiesel, in the tradition of Spanish philosopher, George Santayana, who wrote "those who cannot remember the past are condemned to repeat it," continually reminds the Jewish people of the unjustifiable and inexplicable inhumanity of the murder of six million in the Holocaust. Wiesel is obsessed and puzzled by the absence of revenge by the Jewish people upon its perpetrators. He can only conclude that Jewish memory of our moral obligation to serve humanity from the onset of human creation, along with our faith in a God who endows our acts with meaning and merit for their own sake, drives us to counter evil with good. This process of continual *tikkun*, repair, applies as well to each and every individual, in our initiatives and in our opportunities for *teshuvah* to redress past wrongs, committed by us or others to whom we relate.

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[122] Lecture by Elie Wiesel, "A World in Crisis – What are our Moral Obligations?" April 15, 2010.

[123] For this reason, the Rabbis teach that the first set of Ten Commandments in Exodus 22 tells us to "remember the Sabbath day," whereas the second rendering in Deuteronomy 7 substitutes "keep the Sabbath Day."

Joseph also moves from recalling the degrading incidents of his youth for which both he and his brothers are guilty to remembering the obligations and love ideally meant to govern family life. The inducement to moral and ethical behavior, then, stems from his memory of experiencing personal injustice and his need to redress the struggles in his family life. It bears noting that Joseph's transformation is scaffolded by the presence of God, in Potiphar's house and later in the Egyptian prison. (Gen. 39:2,21). We might envision here a higher level of transcendent memory of God's intentions in creating humans as a vehicle for *rakhamim,* for compassion and forgiveness.

In Genesis 41 we find Joseph now regent and provider in Egypt, second only to Pharaoh, married, with two sons and wielding unprecedented power. In theory, he has hindsight in his favor. Joseph made irresponsible and hurtful choices as a youth that got him into trouble, but then was swept into vicissitudes that were beyond his control. Now, at the end of his story, Joseph has control of the outcome and he makes different decisions. The text might deter us from the possibility of Joseph's personal redemption and family reconciliation, as is written in Genesis 41:51: Joseph named his first-born Manasseh, meaning, "God has made me forget completely my hardship and my parental home." *Ki nashani Elohim* – "for God has caused me to forget" – is troubling. Why would God, who has already given him the spirit of wisdom through dream interpretation, who has raised up Joseph from the pit to a position of such status and power, now cause Joseph to forget or neglect his own troubled past? Perhaps, the name will assuage Joseph's bitter memories of his early home life and allow him to embrace a future on his own terms. Robert Alter suggests that a common usage of this

root, *nun-shin-hay,* in the *piel* conjugation is 'to hold in debt,' and here in particular 'to relieve from the condition of debt.'[124] The cause and effect implication is that with the birth of Menasseh followed by his brother, Ephraim, whose name stems from the root *pay-reish-hay,* 'to be fruitful,' the name could mean that Joseph's prosperity has cancelled out the damage done in his youth and provided a clean slate unhampered by the drive to seek revenge. Aviva Zornberg muses here on a philosophical level: the juxtaposition of the names of Joseph's sons will forever remind him that there is an element of ambivalence in every decision with regard to its impact, and, of the bitterness and sweetness that accompanies any life fully lived.

The biblical text then subtly reminds us that a clean slate is not so easily attained. Jacob and his other sons appear in chapter 42 in the throes of the famine and needing to go down to Egypt to stave off their fear of death from hunger. Each of the first 3 verses repeats the Hebrew root *shin-bet-reish*: (1) *ki yesh shever b'mitzrayim* – because there is grain in Egypt; (2) and again: *ki yesh shever b'mitzrayim;* (3) *vayerdu akhay Yosef asarah lishbor bar mimitzrayim* - and ten of Joseph's brothers went down to get grain rations in Egypt. *Shin-bet-reish* also means "shatter." In exchange for food, the brother's lie and ruse will finally be shattered, exposed, retold, and redeemed for a greater purpose, the latter hinted at by yet another meaning with its co-phoneme *sin-bet-reish*: hope. Before the final dramatic scene of restoration, there will be a role reversal in which the brothers will unwillingly come under the absolute control of Joseph. Ironically, the haughty dreams of his youth come to fruition. Yet, this time the

[124] Robert Alter, *The Hebrew Bible, a Translation with Commentary.* New York, NY: W.W. Norton & Co., 1996, p. 161.

drama belongs primarily to Judah and Joseph through whom we observe the movement from what could have been a permanent family estrangement to a confrontation of past hurts and a family reconciliation for the sake of goals greater than any one brother – survival amidst famine and honoring one's father. This very point on the axis of possible directions and outcomes for Joseph and his family is poignantly encapsulated through both sides of [aforementioned] *shever*: human shattering or the restoration of hope.

The text does allude to actions on Joseph's part, who immediately recognizes his brothers, as initially revengeful. They are tests to ascertain if he can finally trust them, but there is no textual indication Joseph will be the cause of physical or permanent harm to his brothers, unlike their previous behavior towards him. Moreover, the apparent vacillations and ruptures in the plot lines leading up to Joseph's revelation to his brothers further makes us wonder about Joseph's intentions and if he truly is extending compassion and forgiveness to his brothers. We see a Joseph who, in the Midrash contrives to make them vulnerable by publicly identifying each brother as they enter the city, each at different gates ostensibly to be inconspicuous, but each now alone and known,[125] and we see a Joseph who, in the biblical text, speaks "harshly" to them, accuses them of being spies, detains them under guard for three days, and imprisons Simeon demanding Benjamin for ransom. It is exactly at this moment in the narrative that Reuben, the eldest, figuratively wakes up and proclaims the sin of his

[125] Genesis Rabbah 91:6.

brothers for he fears his father's distress at losing his youngest son. Still Reuben takes no personal responsibility.

When the brothers eventually return with Benjamin and stand face to face with Joseph, still unrecognizable to them, Joseph weeps for the second time, tears of his longing for the love of his brothers and father. We wonder, then, why Joseph schemes to entrap his brothers into a state of panic, and in fear of losing their lives. We wonder why Joseph instigates false accusations that the brothers stole from him, by planting royal property in their saddlebags, subsequently moving them in and out of jail and making their rations of food conditional on his whims. In their fear of all the accusations, however false, the brothers who sold Joseph into slavery offer themselves as slaves. (Gen. 44:9) When Joseph's silver goblet is found in Benjamin's knapsack, there is a shift in the narrative and in the consciousness of all the players. Joseph was compelled to push his brothers until they were willing to acknowledge aloud their prior transgressions. Benjamin, as the pawn, was the instrument by which to reach that reckoning. Joseph's emotions and tears at seeing Benjamin after so many years (Gen. 43:30) opened up his floodgates of anger and resentment. The brothers' terror of returning to Jacob without Benjamin and their pent-up guilt and shame for what they did to Joseph in his youth must also find release.

At this moment, Judah will step forward and become the spokesperson for all the brothers, "the ringing voice of their collective conscience."[126] Judah steps up to take

[126]Alter p. 173.

responsibility for Benjamin's life, for his father's life (as an Egyptian slave sentence for Benjamin would surely kill Jacob), and for the crime of all the brothers. Judah's gestures are all the more authentic as he does not yet know before whom he stands. He is both calculating in his plea to Joseph in order to present a cogent argument, and he also exhibits a new sense of culpability and humility. It is as if Joseph now exacts a debt from his brothers. Judah proceeds to implicate all of the brothers as he speaks in the first person plural – *ma n'daber. . .ma nitztadak. . . hinenu avadim* – "what shall we say. . . how shall we justify ourselves. . . here we are, your slaves" (Gen. 44:16). Albeit the goblet was found in Benjamin's knapsack, Judah references a "hand in which the goblet was found" (Gen.44:16). The hand, according to Alter, metaphorically puts agency and guilt directly into Judah's and the brothers' hands.[127]

Judah proceeds to retell in detail to Joseph's face the episodes of what the brothers did to Joseph in days of old and of the recent trips back and forth from Egypt, stressing the emotional hardship on an aging father. The Midrash points to Judah's soliloquy as an expression of righteous indignation clothed in polite speech as befitting the viceroy of Egypt. However, Alter's interpretation is more humane and forgiving of all the parties. He alludes to two verses spoken by Judah: (1) "We cannot see the face of the man [Jacob] if our youngest brother is not with us" (Gen. 44:26), and (2) "Let me not see the woe that would overtake my father" (Gen. 44:34). In the first verse, the image of *lir'ot p'nay ha'ish* – 'seeing the face of a man,' demands the courage of honesty and transparency. Seeing someone's face, and 'seeing' in general in the Bible means recognizing the essence of who or what is being seen. Here Judah is alluding in the

[127] Ibid. p. 174.

first verse to the depths of Jacob's suffering, and similarly in the second verse, woes that have caused his father to mourn inconsolably. This 'seeing' was previously missing when the brothers sent Joseph's torn and bloody coat to their father through a messenger. Now, a face to face reckoning characterizes Joseph, Judah, and the other brothers by extension. And to the *ra* – the evil of verse 34, Alter offers:

> This stands. . .in stark contrast to [Judah's] willingness years before to watch his father writhe in anguish over Joseph's supposed death. [Judah's] entire speech . . .is at once a moving piece of rhetoric and the expression of a profound inner change. Joseph's 'testing' of his brothers is thus also a process that induces the recognition of guilt and leads to psychological transformation.[128]

In the retelling, Judah connects the distress of Joseph's pleas with the brothers' hardships in Egypt. This narrative is different than the one that the brothers had told each other all along. This narrative is the one that leads to the truth of the anguish of Joseph and Jacob, and the opportunity to address the harm done, and allow compassion and new-found connection to grow between all the family members.

The narrative connections in chapter 45 function as bookends to the saga of Joseph and his brothers as well as focus on the essential meaning and lessons of the text. Joseph reveals himself and proclaims through tears in verse 3: *Ani Yosef, ha'od avi chai?* - "I am Joseph. Is my father still alive?" Joseph is not only looking for confirmation of his father's health, but is also aligning himself with his brothers' primary concern with their father. After Joseph's revelation, his immediate question of Jacob's status in one terse phrase assures the brothers that Joseph is not focused on revenge. This is confirmed when Joseph disavows the brothers of any guilt toward him by saying

[128] Alter, p. 176.

that God had sent him to Egypt for a purpose, to preserve life during the famine. As Joseph sends his brothers on their way back to Canaan to bring Jacob to Egypt, his parting words are *al tirg'zu ba'darech* - "don't quarrel on the journey." Rashi understands this directive as Joseph anticipating that the brothers may accuse each other of the heinous crime against Joseph and thus fracture their relationship just at the moment of family reconciliation. It is a risk Joseph does not want to take or be responsible for. From a self-focused and compassion-less youth, who ignores the feelings of his siblings, Joseph now intuits human nature and consciously speaks and acts with compassion to maintain *shalom bayit* – peace in his house.

Compassion – rakhamim – is the driving force and objective as it is in restorative justice practices. Like Joseph listening to the dreams of his fellow prisoners, and later listening incognito to the story of his own life from Judah's mouth, restorative justice's face to face dialogue, in particular, offers opportunities for listening to the stories of others without interruption, for stories are at the heart of our ability to understand and empathize with the struggles of others. The biblical text is indeed a blueprint for listening. Speech follows speech, but there are rarely interruptions mid-dialogue. The result of listening is the opening up of understanding the full context of the pain or circumstances of victims and offenders, hopefully with subsequent forgiveness on the part of the listeners, without every mentioning the word [forgiveness]. Whereas the biblical text more often describes actions without emotions attached to them, the rabbis and the Midrash often take over to provide a fuller context in order to justify painful actions and unjust outcomes. Two of the most egregious biblical examples are the

Akedah – the binding of Isaac,[129] and the murder of Jephtha's daughter in *Judges* 11. In both cases, tradition expounds on the psychological pain of both offenders, Abraham and Yiftach, and offers alternative endings for the victims.[130] No one dies prematurely in the Joseph narrative, but there is fear and anticipation of death associated with Joseph's experiences in the 'pits.' In each of these incidents and their accompanying emotions, rabbinical tradition exposes gaps in the text, creates preludes and epilogues, sets up spaces for all to argue, and respect divergent resolutions about the nature of act or test, and about the guilt or innocence of each of the characters.

In the parlance of contemporary restorative justice practices, there are parallel examples of bringing both offenders and victims out of a 'pit' literally and figuratively, with the goal of heightening empathy in all of the participants, and of enabling release and the potential towards positive change deep within the involved parties. In almost every example, it is necessary for both victim and offender to share their stories and provide for the other a glimpse into their entire life, and not just the committed crime. If the victim and offender are unable to depict themselves holistically, their families, friends, colleagues and community will fill in the supporting details, in the way that our rabbinic sages do.

The anthology of case studies of restorative justice practices, *The Energy of Forgiveness, Lessons from Those in Restorative Dialogue,*[131] cites the attainment of the

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[129] *Genesis* 22.

[130] The more accepted and traditional fate for Isaac, who does not return with Abraham from Mt. Moriah, is that he moves in the direction of yeshiva study; Yiftach's daughter, according to the midrash, is not killed, but rather whisked away to a convent.

[131] Mark S. Umbreit, Jennifer Blevins, and Ted Lewis, *The Energy of Forgiveness, Lessons from Those in Restorative Dialogue.* Eugene Oregon: Cascade Books, 2015.

above goals, when time is allocated to prepare both victims and offenders to encounter each other. One such case can illuminate the benefits Joseph must have acquired in his time in the royal dungeon to review his past, acknowledge his own feelings and flaws, and approach life differently going forward. In the contemporary case, a woman connects with her father's murderer. The offender is in his twentieth, of a twenty-five-year prison sentence. Although Joseph remains in prison an unspecified amount of time in the biblical text, thirteen years elapsed between his sale to the Ishmaelites (Gen. 37:1) and his release from prison and appointment as head over Egypt at age 30 (Gen. 41:46). Thus, we can assume that he as well had ample time for inner reflection. In the modern scenario, the victim's daughter has finally agreed to encounter the perpetrator. This was an opportunity for both sides to tell their stories in full, which was left out of the original trial in deference to the defending lawyer's agenda. The stories came to the surface because there was a safe and trusted space[132] to ask as many questions as remained on the minds of each party, including the principal one from victim to offender: Will he cause harm to her family when he is released – will there be revenge in the future for the prison sentence? The answer from the offender was a definitive no. Perhaps it was easy for the offender to offer that he would never harm the family again, that he was not a recidivist. The conclusion of the Joseph saga offers some wisdom here in Joseph's instruction to his brothers not to quarrel once they were away from his supervision. We are all human and fallible. Thus, we need reminders – a moral

[132] The encounter in this case was facilitated by two restorative justice practitioners who nurtured a relationship with both victim and offender over a two-year period.

memory that becomes so prominent in our conscience as to keep us naturally on the moral pathway.

How do such intense feelings of anger and personal pain for both victim (the daughter) and offender feed into a process that in the end yields deep compassion and understanding? During a three-hour encounter, the victim heard multiple apologies from the perpetrator, but could not express forgiveness. She reflects: “The murder is not mine to forgive; there are some things that are unforgivable.” That said, the victim admitted that the perpetrator’s good intentions for a positive future are hallmark signs of an act of forgiveness in which both parties have shifted the focus from the past to the future. In addition, both victim and offender are consciously working on controlling their feelings, first by exposing them to each other and then by acknowledging their negative feelings without acting on them. The telling and the sharing were bridge-building. As the story widened with all that led up to the wrongdoing and all the harm it had caused to so many direct and peripheral participants, both offender and victim were humbled by the ripples of pain. The catharsis was effective in lifting long-held psychic weight. In this case, both parties grew in their understanding and compassion of each other, similar to the ending of the biblical narrative of Joseph. Yet, there are other encounters in which victims and offenders, either from a lack of ability to tell their personal stories, or an unwillingness to expose their deepest flaws, could benefit by delving into a parallel biblical tale nuanced in the style of the midrashic tradition. An external and relevant tale would invite more easily accessed reactions and a ready-made pathway into complex human natures and interactions, all for the sake of growing compassion among those encountering each other.

Conclusion

At this very moment in a time of overwhelming vulnerability and uncertainty, human beings must assuredly look deeply into themselves for the path to hope and meaning in life. The assaults of the pandemic, the pervasive injustices of race, gender, ability, age, economic status, and the unrelenting fear of losing personal agency to preserve our dignity and our lives, have collectively resulted in the shattering of the peace and harmony that was meant to govern human existence. Indeed, "overwhelming fear leads people to disengage," often leading to a loss of self-awareness and moral conscience, which can only develop in community.[133]

In an effort to address how to more effectively repair only one of the many broken existential vessels of our time – that of the punitive legal system, which at some point touches upon all of the above injustices, this paper explores how God's attribute of *Rakhamim,* of mercy, from the Jewish perspective can be both a deterrent to the human urge to cause injustice and also an essential ingredient in treating both the perpetrators and victims of wrongdoings with respect and compassion. In truth, society is not attuned to human urges, and thus mainly concerns itself with the consequences of observed and hurtful human actions.

This thesis has delineated the formal steps required to set restorative justice in motion through one or more encounters between the affected parties. The pivotal step

[133] Rachel Mikva. "American Values and Voices, Letter 16," https://www.valuesandvoices.com/letters-2021/letter-16/.

for transformation, as we have explored, is the role of mercy and forgiveness on the part of victims, and of empathy-building on the part of both victim and offender. Without sincere regret and the embracing of empathy and compassion, both offenders and victims respectively experience both recidivism and resentment, which challenge the long-term viability of restorative justice as not only as an antidote to incommensurate punishments, including life incarceration and the death penalty, but also as the most reasonable and viable way for humans to function peaceably and respectfully in society.

The study of the Jewish concept of *rakhamim*, of mercy, in the midrashic interpretation and its creative expansion of the biblical narratives, reveals both an attribute and a tool for enhancing the restorative justice process. Short of an exhaustive study of the innumerable references to *rakhamim* in the Jewish tradition, this paper has addressed the balance between justice and mercy in the creation of the world and humanity. As long as humans are endowed with the freedom to choose between good and evil, between selflessness and greed, between humility and power, and between love and hate, then we need an accommodation to restore us when our decisions bring down ourselves or others to a state of suffering and dehumanization. God's accommodation and model for human behavior is compassion – the ability to acknowledge human frailty, be accountable for transgressions,[134] repair the harm done to the extent possible, and re-integrate each of us into the greater collective of

[134] This annual process in the Jewish tradition is called *cheshbon hanefesh*, "the accounting of the soul." It is less about one's self worth, and more about one's behavior as individuals. The questions, most relative to the subject of this paper, that *cheshbon hanefesh* asks is 'How have I made the life of others easier or better in the past year' and 'Have I sought forgiveness from those I wronged and forgave those who have wronged me'?

humanity. Rabbi Maggie Wenig encapsulates: “If we wish to remain in relationship with one another, we have to find compassion for one another’s failings.”[135]

Thus, *rakhamim* is inexorably linked to the goals of restorative justice practices. Indeed, laws laid out in the Torah parallel the steps of these practices:

> Speak to the Israelites: When a man or woman commits any wrong toward a fellow man, thus breaking faith with God, and that person realizes his guilt - he shall confess the wrong that he has done. He shall make restitution in the principal amount and add one-fifth to it, giving it to him whom he has wronged. (Num.5:6-7)

Missing in this statute is the role of *rakhamim.* That said, when instructed to follow God’s ways, we are to ‘clothe the naked, visit the sick, and comfort the mourner,’[136] all instances of *rakhamim.* We are not asked to imitate God in strictness or severity. The task of applying *rakhamim* to biblical narrative, when not explicit, has fallen to rabbinic sages and commentators to this day, both as a way of embracing difficult biblical texts and also to infuse in their audiences the God-centered and God-inspiring essence of compassion necessary for human survival. This process of retelling biblical narratives of human frailty and transgression through a lens of *rakhamim* has the potential of embracing and transforming those individuals participating in a restorative justice encounter as well.

Rakhamim is an equalizer. It does not recognize titles, race, gender, age, sex, economic status – all the identities humans both express and discriminate against. The

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[135] Rabbi Margaret Moers Wenig, “Meditations on the Poetry of *Un’taneh Tokef,”* in *Prayers of Awe: Who by Fire, Who by Water – Un’taneh Tokef,* edited by Rabbi Lawrence A. Hoffman, (Woodstock, Vt.: Jewish Lights Publishing, 2010), p.127.

[136] Genesis 3:21, 18:1, and 25:11.

rabbis bestow *rakhamim* upon the most evil of sinners[137] as well as the petty triflers. Their most common strategy is understanding the sins and injustices of individuals by widening the lens of their family life, their social pressures, and their human urges. No individual receives a free pass for wrongdoing, but all are given a path to redemption. Rabbi Nancy Flam further clarifies this perspective:

> *Rakhamim* is classically envisioned as the force that mitigates the severity of the din. *Rachamim* makes it possible for us to live in the reality of din [law, or justice]. Our human acts of mercy, compassion and empathy make it possible for us to endure, to suffer the sometimes excruciatingly painful limits and losses of creation.[138]

In order to delve deeper into the way in which the rabbis offer their world view and insights on *rakhamim,* and apply *rakhamim* to human nature, relationships and interactions, I chose in this paper only three out of a myriad of possible biblical narratives for study. Each of these three – the narratives of Noah, Abraham, and Joseph – all reveal the complexity of human nature, of family relationships, and of external circumstances that both challenge and require our ability to be merciful in order to maintain personal and collective 'wholeness,' or *shalom.* The story of Noah represents the entire world of humanity as a challenge to both God's compassionate nature and intentions, and that of one human being. Both heavenly and earthly responses at the outset are fraught with judgment and the relativization of evil: "YHVH

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[137] For example, the rabbis don't forgive the biblical Jepthah's sacrifice of his own daughter, but their analysis of the text imagines that Jepthah was abused by his own brothers and may have carried psychological and physical abuse into his own parenting.

[138] Nancy Flam. "The Angels Proclaim It, But Can We? The Whole Earth is Full of God's Presence," in *CCAR Reform Jewish Quarterly.* Spring, 2009. Pp.

saw how great was man's wickedness on earth, and how every plan devised by his mind was nothing but evil all the time" (Gen.6:5), and ". . . . Noah was a righteous man; he was blameless in his generation; Noah walked with God" (Gen.6:9). God and Noah may have been in sync with each other, but together they disassociated from the rest of nascent humanity, which God had created only 10 generations prior. Rabbinic commentaries, on one hand, attempt to support the biblical text by portraying the unforgivable evil of humanity at this time, and the unexpressed attempts of Noah to bring over his fellow humans from the dark side, yet the flood and destruction of the world happens. On the other hand, the sages midrashically take the opportunity for Noah, subsequently stranded on the ark with his immediate family and the secured animals, vulnerable amidst the surrounding waters, to face his own *cheshbon ha'nefesh,* and discover and plan for a new way of being in order to survive and re-birth himself and his charges in a changed environment. Noah grows in compassion as he feeds the living creatures on the ark and anticipates being grateful to God and the growth of the land, which will occur immediately after the flood. Noah's growth and transformation is matched by God's: "God remembered[139] Noah and all the beasts and all the cattle that were with him in the ark, and God caused a wind to blow across the earth, and the waters subsided" (Gen.8:1). This is the moment of Noah's awareness of his integral connection to and responsibility for all living creatures, and also God's renewal of a mutual and lasting connection with human beings, through Noah (and a rainbow), as the test case. A confluence of God's re-birthed compassion and faith in

[139] The verbal root *zayin.chaf.reish* when preceded in the *Tanakh* by *Elohim* followed by a direct object is understood by the rabbis to mean that God remembers these individuals with kindness, with blessing, with protection and with deliverance: Brown, Driver, and Briggs. *Hebrew and English Lexicon of the Old Testament.* (England: Oxford Univ. Press, 1962), p. 270.

humanity. Noah's observance of God's compassion and discovery of his own place in the world; and Noah's subsequent actions to ensure the survival of all in his care and complete his mission after the flood subsides – is exactly the moment in the story when true personal transformation takes place. Instead of figuratively 'killing off' perpetrator(s) of crime through isolation and punishment, restorative justice may benefit from harnessing the power of God's compassionate nature (for those who are willing to engage in a faith-based perspective) and of the human potential to become compassionate towards others. In other words, this paper argues for the transference of *rakhamim* as it functions in the midrashically enriched biblical narrative to the restorative justice encounter. This is a way of giving cogency to the efforts in place to instill sincere and mutual compassion and acceptance of the truth among those involved, who are already profoundly struggling to reverse their negative emotions.

Working towards the same objective, the Jewish midrashic tradition in the Abraham-Sarah-Hagar narrative aims to expose the internal emotional upheaval that drives families in a push-pull relationship – how God's compassion responds to Sarah's barrenness, how Abraham navigates his relationship with Sarah, his wife, and Hagar, the surrogate, how parents show favoritism for their children, how siblings treat each other, and how familial jealousies end up in family separations. Nevertheless, the Midrash speaks of Abraham seeking Ishmael in the desert, the son lost to him in the biblical text, out of fatherly love and concern, in order to reconcile and restore some measure of family connection. The Midrash even suggests that Hagar is actually Keturah, Abraham's second wife after the death of Sarah. Restoring family members to their place in family, not because each family member merits a place of respect and

reward, but merely because the most recalcitrant family member is a human being and deserves the *rakhamim* of another human, most assuredly in family and also in the greater community.

Lastly, this paper describes Joseph through his chronological and spiritual development. He passes from naïve, self-centered, and spoiled youth to family victim, then slave of foreigners, to an even more debased prison experience, to lifting himself up to royalty and to a final reconciliation with family – not unlike the zigzagging vicissitudes of migrants, transients, the jobless, and any downtrodden marginalized person. Unlike this list of unfortunates, Joseph is liberated from his incarceration, and comes into great wealth because of his wits and because he is endowed with the spirit of God. But, perhaps more relative to the conversation around restorative justice, Joseph ultimately reunites with his family and his roots. Whether or not Joseph committed crimes against his brothers, his father, Potiphar's wife, and any other unknown victim, the Rabbis of the Midrash apply the understanding of *rakhamim* at multiple points in the narrative, often by virtue of their sustained attention to that which enables human existence, or undermines that very existence: living in relationship to others, living morally, and living with a purpose. The rabbis in the Midrash understand that Joseph is challenged by all three of the above, specifically regarding his quixotic relations with his nuclear family, his charged sexual 'mis'-encounter with Potiphar's wife, and his role in providing sustenance to all in time of famine. Yet, the pivotal moment of reconciliation and transformation is the mutual forgiveness between Joseph, the ruler, and his brothers, the subjects. At that moment, it matters not who was the original oppressor-offender and who the victim. The love and ties of family pushed aside all

other aggravating factors. In the same way, the encounter between offender and victim in a restorative justice scenario must both endure the stories of the life challenges of each side as well as the painful and lingering effects of actions perpetrated against one side or the other. Crime is fundamentally a violation of people and interpersonal relationships. Victims and the community around the victims have been harmed and are in need of restoration. Offenders need to make things right as much as possible. At the end of the day, say the Rabbis of the Midrash, *rakhamim* and love can relieve and sometimes replace the pain and infuse hope for a purposeful future.

This paper draws a parallel between restorative justice encounters and the ways in which the Midrash mediates the less than perfect characters of biblical narratives. In the former, a trained facilitator mediates a direct encounter between offender and victim. The facilitator listens to the stories of the latter two, expecting them to overcome their entrenched emotions for the mutual good of both and their constituents. In particular, the incarcerated offender bears the weight of transgression, punishment, and isolation. The victim is traumatized by loss and fear of future harm. Howard Zehr, founding member of restorative justice practice in the United States, expresses the struggle for both offender and victim to overcome shame and to forgive and to receive forgiveness in the atmosphere of these emotional burdens. He suggests that "it can be helpful for the person harmed to meet with a surrogate offender who has caused a similar harm, or an offender may meet with a surrogate victim."[140] For those who are open to a faith-

[140] Howard Zehr, *The Little Book of Restorative Justice,* (Delaware: Skyhorse Publishing, Inc., 2015), p.67.

based perspective, the persona of biblical narratives through the eyes of the midrashic lens provide a worthy surrogate.

Thus, it is the proposal of this paper that incorporating the content of biblical narratives on human experiences and the way in which the Rabbis apply a measure of mercy and compassion and push humanity in these stories towards reconciliation and redemption may offer a way to promote good faith for the parties involved in all the steps of the process. Akin to the interpretive mission of the Rabbis, the goal of restorative justice is to bring back into community, rather than shut out any human who has been rejected for what they did, rather than for who they are. This exploration into the power of biblical narratives and Midrash to bolster today's efforts to promote restoration and transformation in all arenas of punitive justice is but one example of finding its contemporary relevance and application. Future studies of the concept and applications of *rakhamim* in the Jewish traditions of *Musar,*[141] Hassidic stories, and even modern Hebrew literature may prove to increase our understanding of how God's intention for humanity can be revived and reverse the profound injustices of our time.

[141] Musar may be defined as a Jewish spiritual practice that offers concrete instructions on how to live a meaningful and ethical life. It began as a formal field of study and practice in the Middle Ages, becoming a popular movement in the 19th century, led by Lithuanian Rabbi Israel Salanter.

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