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Article

Spiritual Criminology: The Case of Jewish Criminology

International Journal of Offender Therapy and Comparative Criminology
2018, Vol. 62(7) 2081–2102
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DOI: 10.1177/0306624X17693865
journals.sagepub.com/home/ijo

Natti Ronel[1] and Ben Yair, Y.[1]

Abstract

Throughout the ages and in most cultures, spiritual and religious thinking have dealt extensively with offending (person against person and person against the Divine), the response to offending, and rehabilitation of offenders. Although modern criminology has generally overlooked that body of knowledge and experience, the study of spirituality and its relation to criminology is currently growing. Frequently, though, it is conducted from the secular scientific perspective, thus reducing spiritual knowledge into what is already known. Our aim here is to present a complementary perspective; that is, spiritual criminology that emerges from the spiritual perspective. Following a description of the state-of-the-art in criminological research concerning spirituality and its impact upon individuals, we focus on Jewish criminology as an illustrative case study, and present a spiritual Jewish view on good and evil, including factors that lead to criminality, the issue of free choice, the aim of punishment and societal response, crime desistance, rehabilitation, and prevention. The proposed establishment of spiritual criminology can be further developed by including parallel schools of spirituality, to create an integrated field in criminology.

Keywords

crime desistance, Jewish criminology, positive criminology, rehabilitation, spiritual criminology

Jewish Criminology: Toward a Broader Spiritual Criminology

Throughout history, religions and spiritual schools have struggled to explain, prevent, and resolve criminality by applying spiritual codes in everyday practice and by attempting to promote personal and social peace. This knowledge, however, is

[1]Bar-Ilan University, Ramat Gan, Israel

Corresponding Author:
Natti Ronel, Department of Criminology, Bar-Ilan University, Ramat Gan 52900, Israel.
Email: roneln@biu.ac.il

overlooked in modern secular society, where religion and spirituality have to a great extent moved to the periphery (Pargament, 2007), in a process that Tart (2012) defined as “scientism.” Correspondingly, contemporary criminology is predominantly secular and ignores spiritual knowledge as a significant contributor to crime desistance and criminal justice, in spite of the proven productivity of spiritual codes and practice in achieving rehabilitation, crime desistance, and prevention (Baier & Wright, 2001; Ronel, 2000). Although religion and spirituality can be considered major prosocial capital as well as “wisdom capital” (Clute, 2010; Ronel, 2008), the study of their role is relatively scarce and until recently was not part of mainstream criminology. The growth of religion (mostly Judeo-Christian, according to Chui, Cheng, & Wong, 2013) and spirituality as topics in recent studies may reflect the growing role of religion and spirituality in various preventive and rehabilitative initiatives (Giordano, Longmore, Schroeder, & Seffrin, 2008; O’Connor, Duncan, & Quillard, 2006). Nevertheless, those research and practices were rarely established on common epistemology and ontology of religion and spirituality, as a unique system of interpretation and of being in the world (Brümmer, 2010; Pargament, 2002; Pargament, Magyar-Russell, & Murray-Swank, 2005), but rather on modern, mostly positivistic, theories of criminology (Chu & Sung, 2009). Most research and practices reduce the impact of religion and spirituality into social-only and psychological-only phenomena, thus missing out on this independent unique system of knowledge.

This theoretical article[1] attempts to address that shortfall and opens it for scholarly discussion by suggesting an innovative introductory description of Jewish criminology that derives from Jewish knowledge, faith, and worldview. Once it is fully constructed, we believe Jewish criminology will be capable of providing a holistic theory of criminology that applies Jewish spiritual codes to describe and explain criminality, crime desistance, and recovery. A fully developed Jewish criminology will be able to address legal issues and provide recommendations for a penal code (a discussion of the Jewish law is beyond our scope here) as well as for criminal justice practice. All of this will represent the basic Jewish assumptions, such as man’s relation to God and the role of faith, life as spiritual struggle, the supportive role of community, Jewish ethics, and more. The current discussion attempts to indicate an initial step toward such a construction.

Jewish criminology should be considered part of a greater spiritual criminology. Because Judaism is a religion, the relationship between religion and spirituality calls for clarification (Hill et al., 2000; Jang & Franzen, 2013; Schmidt, 2011). Religion, in general, and spirituality both represent human faith in the Supreme and a quest for ultimate meaning, the significance of a non-material realm and motivation, a set of values, a supportive community, and rituals of spiritual meaning (Tart, 2012). Nonetheless, religion usually refers to a social institute of beliefs, knowledge, norms, rules, customs, and rites, which have implications for how to manage life at any given level. In contrast, spirituality refers to personal faith and meaning that mostly relate to God with an individual understanding of God, and to the search and experience of the sacred, as well as corresponding personal intentions, practices, and a set of values (Allport, 1964; James, 1984; Pargament, 2007; Ronel, 2008; Worthington, Hook,

Davis, & McDaniel, 2011). Although spirituality was usually considered (and is still considered in traditional cultures) mainly as an aspect of the individual's practice of religion, there are also nonsectarian spiritual communities that provide support for their members in their individual spiritual journey (Ronel, 1998b).

In the following, we first describe state-of-the-art studies within criminology that relate to religion and spirituality. They can be grouped into three main topics: (a) religiosity and crime, (b) religion and public attitudes toward crime and punishment, and (c) religion, spirituality, and rehabilitation/recovery. We then present a preliminary description of a Jewish-based understanding of criminal conduct that is represented by the Jewish perception of evil, good, and free choice. Following that, we present some Jewish perceptions on punishment, and close with a Jewish understanding of recovery and a conclusion.

Religiosity and Crime

The relationship between religion and criminal or deviant behaviors is the subject of a growing body of research. Among the most cited studies is Hirschi and Stark's (1969) work, that found a lack of significant relationship between church attendance, religious beliefs, and delinquency. Similar results were found more recently by Topalli, Brezina, and Bernhardt (2013), who interviewed active street offenders and concluded that the participants' strong religious convictions had no deterrent effect on their criminality. Conversely, Evans, Cullen, Dunaway, and Burton (1995) found that participating in religious activities had a direct negative association with adult criminality as measured by a broad range of criminal acts. Johnson, Jang, Larson, and Li (2001) found a direct negative effect of adolescent religiosity on delinquency. In addition, Johnson (2008) found that among at-risk youth living in rundown neighborhoods, religious commitment reduced the likelihood of drug abuse. Baier and Wright (2001), based on a meta-analysis of 60 previous studies, concluded that religious beliefs and behaviors exert a moderate deterrent effect on individuals' criminal behavior. Their conclusion is also supported by more recent and multicultural studies. Chamratrithirong et al. (2013), for example, found that spirituality (traditional Buddhist) among Thai families can play an important role in preventing delinquency among early adolescents. Salas-Wright, Olate, and Vaughn (2013) found that among Salvadoran at-risk youth, both spirituality and, to a far lesser extent, religious coping function as protective factors against involvement in delinquent behavior; the authors attributed the stronger effect of spirituality to its greater emphasis on prosocial behavior when compared with religious coping strategies. Jang and Franzen (2013) also examined differences in the effect of spirituality, religiosity, and secularity on criminality in young adults; however, they obtained opposite results. Accordingly, being "spiritual" without being religious was found to be positively associated with the probability of engaging in violent and, to a greater extent, property crimes. In contrast, being religious was inversely related to criminal offenses whether or not in conjunction with being spiritual. Mapp (2009) also obtained comparable results; namely, weekly participation in religious services was found to mostly deter delinquency when compared with

different measures of religion, while religious affiliation and importance of religion and spirituality were shown to be negatively associated with marijuana use only, but not with arrests, "light" or "heavy" crime, and cocaine use. Fernander, Wilson, Staton, and Leukefeld (2004) examined spirituality measures among incarcerated Blacks and Whites and found that White prisoners scored higher. Because in previous studies, spirituality was identified as a fundamental attribute of the personalities of Blacks, the authors suggested that spirituality has a negative effect on criminality, and therefore, Blacks with high spirituality measures are less frequently incarcerated.

To conclude, although some studies were unable to show a negative relationship between religion (and spirituality) and criminality, more recent studies persistently demonstrate this connection. In addition, the more recent studies on criminality successfully differentiated their effect among types of religiosity and spirituality, different groups of population and types of criminality (e.g., Fernander, Wilson, Staton, & Leukefeld, 2005).

Religion and Public Attitudes Toward Crime and Punishment

Religion and spirituality indicate ways of life that are embedded in a larger belief-system and worldview (Pargament, 2007), and they may therefore affect the attitudes of the public and policy makers toward criminality and punishment (Unnever, Cullen, & Applegate, 2005). Studies have examined multiple aspects of religiosity and their effect on public opinion (Koster, Goudriaan, & van der Schans, 2009; Leiber & Woodrick, 1997). Based on their study of the effects of religious affiliation and the individual's level of religiosity on social norms in relation to victimless crimes, Koster et al. (2009) found that religious affiliation and religiosity both correlate with condemnation of victimless crimes, and that the effects of religiosity are stronger than those of religious affiliation. The authors concluded that, regarding public attitudes toward victimless crimes, internal sanctions were shown to have a stronger effect than external sanctions. Applegate, Cullen, Fisher, and Ven (2000) demonstrated that fundamentalist versus compassionate religious perceptions are related to public correctional preferences. Their findings also revealed that those religious perceptions were related to support for rehabilitation versus punitiveness. In the same vein, Unnever et al. (2005) examined the connection between individuals' images of God and their opinions on punishment. A perception of gracious, non-hierarchical, and more nurturing images of God was associated with less support for both capital punishment and harsher courts. The more forgiving individuals were, the less punitive they were. Rigid religious beliefs were associated with stronger support for capital punishment, and in contrast, individual religious activity correlated with decreased support for the death penalty. Based on similar results, Unnever, Cullen, and Bartkowski (2006) concluded that belief in a close relationship with a loving God can act as a symbolic predisposition that affects individuals' attitudes to significant public policy issues. Bader, Desmond, Mencken, and Johnson (2010) obtained partially comparable results: perceptions of an angry and judgmental God were accordingly associated with more punitive attitudes toward criminal punishment. However, perceptions of a loving God that is engaged in the world were less associated with certain attitudes toward criminal punishment. Still similarly, Evans and

Adams (2003) found that believers in a punitive God tend to support tougher criminal punishment. While the above-cited studies refer mostly to the Judeo-Christian perspective, Chui et al. (2013) attempted to provide a wider multicultural perspective in a study that compared the attitudes toward crime of Buddhists, Christians, and non-religious individuals. Accordingly, the more spiritual Buddhists were, the more they attributed crime to both individual and environmental causes, and the stronger their support of both coercive and social intervention measures. In comparison, the Christian and non-religious respondents were more supportive of treatment for offenders. Buddhists see criminal punishment as an opportunity for self-reflection and self-reformation. To conclude, individuals' perceptions of religiosity and spirituality were repeatedly proven to affect their attitudes toward criminals and their punishment and rehabilitation.

Religion, Spirituality, and Rehabilitation/Recovery

Historically, religious institutions and representatives of religion considered themselves to be rehabilitative and this has continued ever since (Whitehead & Braswell, 2000). In addition, the last century witnessed the growth of spiritual-but-not-religious institutions and approaches for recovery and rehabilitation of offenders. The related literature of this topic embraces rehabilitation and recovery in religious or spiritual environments, spiritual self-help groups, and spiritual-based professional rehabilitation programs (Ronel, 2000, 2012; Ronel, Chen, & Elisha, 2015; Ronel, Gueta, Abramsohn, Caspi, & Adelson, 2011). A growing body of studies focuses on religious education, intervention, and conversion in correctional institutes (e.g., Armour, Windsor, Aguilar, & Taub, 2008; Johnson, 2011; O'Connor & Bogue, 2010; O'Connor et al., 2006; Shorkey, Uebel, & Windsor, 2008; Timor, 1998), or during the life cycle (Giordano et al., 2008). Chu (2007), for example, found that religious behavior prevented the onset of delinquent behavior and also inhibited the continuation of drug use. In another study, Chu (2009) found that religious behavior was positively associated with Black clients' recovery from substance abuse, but this behavior was not a significant predictor of White clients' recovery. Bowen et al. (2006), in a study of participation in a Vipassana course in prison, and Himelstein (2011); Marlatt, Larimer, Blume, Simpson, and Parks (n.d.); and Orme-Johnson (2011), in research reviews of different meditation programs in correctional settings, concluded that these programs can provide enhanced well-being and effect a decrease in substance abuse and recidivism. An interesting contribution made by Rigsby (2014) provides a distinction between religious conversion of prisoners that may result in either pro-social or anti-social outcomes. The researcher concluded,

> Prisoner transformation through religious conversion is a varied pathway where the reasons for seeking change, for selecting religion as a means of change, the selection of a helper, the religious group affiliated with, and the effect of social, cultural and political factors create subtle distinctions in how one experiences conversion or not and, if so, how transformation develops and proceeds toward anti- or pro-social outcomes. (Rigsby, 2014, p. 73)

In the addiction field, there is a large body of research on the impact of participating in self-help 12-Step groups, and the nature of the transformation such participation creates in the participants' lives (e.g., Hertz, Addad, & Ronel, 2012; Maxwell, 1984; McCrady, 1998; McCrady & Miller, 1993; Ronel, 1998a, 1998b; Ronel & Humphreys, 1999-2000). An example of such studies is provided by Kaskutas, Turk, Bond, and Weisner (2003), who examined the role of religiosity in involvement in Alcoholics Anonymous (AA) and long-term sobriety. Participants who reported a spiritual awakening had the highest odds for continuous sobriety; however, religious self-definition was not associated with higher odds of sobriety. An increase in AA involvement was also associated with higher odds of sobriety. Robinson, Cranford, Webb, and Brower (2007) obtained slightly different results, showing changes in alcoholics' spirituality and/or religiousness that were associated with sobriety, though not with involvement in AA. Related results were obtained by Chen (2006), who showed better outcomes from active participation in a 12-Step program course when compared with attending Narcotics Anonymous (NA) only, or to non-attendance at any 12-Step program. Duwe and King (2012), who studied the effectiveness of a prisoner reentry program, concluded that faith-based correctional programs can work, but only if they apply what we know about effective correction. This conclusion is also supported by a study of a Jewish therapeutic community in Israel, where the inclusion of Jewish and 12-Step programs into a professional setting was beneficial to the clients (Ronel, Elisha, Timor, & Chen, 2013). Based on previous studies, Ronel (2000) indicated that some theoretical guidelines for constructing a spiritual 12-Step general theory of deviant behavior and recovery, named Grace Therapy, provides a professional approach to recovery. Ronel and Tim (2003) and Ronel (2009, 2012) described the application of Grace Therapy in various settings with different populations related to criminology and victimology.

Jewish Criminology

Judaism contains a vast treasure of knowledge, most of which is directed to guiding people toward what is considered a positive and normative way of life, achieved through the Jewish halachic codex and advice books, and by memorizing books on morals and ethical concepts that are intended to provide guidance in the gray areas of life and their ensuing dilemmas. In our view, one can refine criminological motives from the great wealth of Jewish literature, beginning with the Torah and the Talmud, via the Hasidic works and the Kabbalah and up the more contemporary Mussar literature on ethics: On this basis, we propose a Jewish criminological hypothesis that draws upon the foundations of Judaism and represents a Jewish worldview. Obviously the abundant literature of Judaism contains a wide range of criminological analogies that, naturally, cannot all be expressed here, and we therefore describe those we deemed representative. It is indeed possible that other commentators might select different aspects to represent their opinions on Jewish criminology, and in this respect, this article constitutes an original initiative intended to spark interest and induce further discussion that may enhance our understanding. Similarly, we hope that the discussion

below will also generate a presentation of spiritual criminology that draws on other traditions, such as Christianity and Islam, that in future may enrich these writings.

Jewish criminology has grown out of a vast body of literature that includes the Talmud, the Kabbalah, the literature of Hasidism and, of course, the Bible, which serves as a basis for these writings. Henning von Holtzendorff wrote about the Bible as follows:

> The most universal and most popular moral law of humanity is found in the Bible. The Ten Commandments represent the constitution of the civilized world. The supplementary criminal law in Scriptures has dominated the penal legislation of the secular and ecclesiastical powers. (in Max, 1940, p. 447)

As an institutionalized religion, Judaism also includes cultic rituals, religious obligations, and prohibitions. For discussion purposes only, we shall distinguish here between the spiritual levels of Judaism and those that are simply ritualistic-halachic or social (Miller & Thoresen, 2003), a distinction that will assist us in refining the Jewish criminological component. We shall focus on the spiritual perceptions and principles that have criminological significance, but we will not refer to violations of *Halacha* that are not offenses in the criminal sense.

Good, Evil, and Choice

The first element we present is the question of the nature and origin of "evil," which we perceive here, similar to the Golden Rule (Reinikainen, 2005), as expressed in a deliberate act causing harm to others or even to oneself, and sometimes in the prevention of an act that might assist another (e.g., criminal neglect). The discussion of good versus evil has early roots in the philosophy that addresses questions on human nature, whether good and evil are innate, and what it is that drives human actions (Nolen-Hoeksema, Fredrickson, Loftus, & Wagenaar, 2009). In criminology, a variety of hypotheses have developed that discuss the origin of the evil act, for example, the positivistic-deterministic perception of Lombroso and his followers, as well as other biological, genetic, and hereditary hypotheses that have mostly dealt with the assumption that man is delinquent from birth (Appelbaum, 2005; Carra & Barale, 2004; Cauffman, Steinberg, & Piquero, 2005). In contrast, other approaches stress the influence of the family and surroundings via imitation, learning, the instillation of norms in childhood, and so on (Fagan & Tyler, 2005; Hoffmann, 2006; Sutherland & Cressey, 1978).

Judaism's perception of evil constitutes, in our opinion, the basis for Jewish criminology. It is based on the perception of evil as any non-normative act. Rabbi Yaakov Tzvi Mecklenburg described the primordial Adam as initially being good, with no inclination for evil, though possessing the ability for free choice. After Adam made his choice and was banished from the Garden of Eden, he was transformed, and thus the choice of evil became his first nature (Rabbi Yaakov Tzvi Mecklenburg, 1924, Genesis 3, 24). This Jewish perception has a parallel in modern criminology. For example, Hirschi (1969) claimed that by nature, man is inclined to commit an offense and therefore the question

to be asked on the nature of man is why man does not choose evil. According to the Jewish perception, it appears that good and evil do indeed reside within man and are subject to his choice; however, before man sinned in Eden, his natural choice leaned toward good, and it was only since the expulsion that man's first tendency is toward evil, which came to occupy his thoughts. The Talmud elaborates on this point: "R. Isaac said: Man's evil desire renews itself daily against him, as it is said, [every imagination of the thoughts of his heart (Genesis, ch. 6, verse 5)] was only evil every day" (Babylonian Talmud, Tractate Kiddushin, 30b). Rashi (2000) interpreted the Talmudic saying as follows: "All day long, his evil renews itself" (Commentary on Tractate Kiddushin, 30b).

Multiple Jewish sources explain that the essence of evil is the absence of good; therefore, evil does not exist for itself, only as the negation of good (e.g., Malbim, 1990, Job, ch. 1, verse 6). Maimonides (2005) compared evil with darkness and good with light, and he writes as follows in *The Guide for the Perplexed*:

> Just as we say of him who puts out the light at night that he has produced darkness, so we say of him who destroyed the sight of any being that he produced blindness, although darkness and blindness are negative properties, and require no agent.

In accordance with this view, we explain the following passage of Isaiah: "I form the light and create (bore) darkness: I make peace, and create (bore) evil" (Isaiah, ch. 45, verse, 7) (Maimonides, 2005, part 3, ch. 10). From here, Judaism refers to the question of good and evil as to light and darkness in their respective spiritual meaning, and also likens them to expressions of physical light and darkness. In other words, evil (darkness) is emptiness—devoid of true reality, its power is measured by the quantity of light that does still exist (good). Maimonides (2005) added yet another proof from a different angle: " . . . And likened it to man whose death is evil and nonexistent" (Maimonides, 2005, part 3, ch. 10).

To this, the Malbim (Rabbi Meir Leibush ben Yehiel Michel Wisser) adds that what brings about this absence is the material world, and declares that evil powers are satanic powers that exist only in materialistic levels, but not in higher levels of spirituality (Malbim, 1990, Job, ch. 1, 7). Further on, he writes about a man who does not succumb to evil impulse, but fights material tendencies while overcoming his lust; he thus rules all of his powers, and the power of absence cannot have any control over him (Malbim, 1990, Job, ch. 1, 8).

One can see that this perception refers to good and evil as the poles of a continuum, along which man's intentions and behavior are located at certain points. The continuum begins at zero, the complete absence of good, represented by evil, and grows toward ultimate good, or the divine. Good is analogous to light, and the intensification of the light is the progress along the continuum toward the positive pole. According to Rabbi Eliyahu Dessler (Carmell & Halperin, 1991), every individual has a characteristic range of choice between good and evil; the higher point represents a person's choice to approach good, while the lower point represents the movement away from good. A person's spiritual path is characterized by movement along that continuum and a strengthening of the positive direction. Criminal behavior and thought represent

the absence of good, which is evil, and people should aspire to progress toward the positive or good. Rabbi Kook (1983) stated a similar position:

> We know ultimate good, the finding of which is absolute good and bliss, and the perfection of its reality and expansion are the paths of good and sublime paradise; absolute and complete evil is the absence of ultimate good, whose expansive being is thereby reduced. Despite this, we know absolute evil, from which complete good is absent and its contrary, and the reduction of its being is the way to attain the path to good. The lower side of evil does not attain perfection, being worse than the upper side, and it is still aware of the joy in its decline, and yet yearns for being. Meaning that even within the person steeped in criminal behavior, in "evil." There may be a desire to reduce it, and this very aspiration is the good that can be increased, thereby decreasing evil. (para. 276)

The strengths-based approach in behavioral sciences presents a perception that can be deemed similar, as it bases therapy on the patient's strengths and abilities, and the assumption that positive strengths can be found in everyone. This approach enables the individual to recognize opportunities, hopes, and solutions, rather than problems and helplessness (Drolet, Paquin, & Soutyrine, 2007; Saleebey, 1997). In other words, Judaism's perception of evil as a lack points to the ensuing path to recovery, and therapy as a way to enhance and reinforce the good, at least in the sense of the Golden Rule: This actually reduces the share of evil. Positive criminology offers a similar perception, according to which reinforcing good can lead to the reduction of evil and therefore, in treatment and therapeutic interventions with offenders, the emphasis should be on positive social components like human good, social acceptance, positive feelings and attitudes, faith, and morals, while distancing oneself from behavior perceived as deviant (Ronel & Elishe, 2011; Ronel, 2015).

Another perception in Judaism regarding evil claims that it constitutes an essential part of a person. Moreover, there is a similar view on zeal which in the Midrash is ostensibly considered to be a flaw. "The Holy One said: Envy me! For without envy the world would not stand, man would not take a wife and build a house" (Yalkut Shimoni, 2006, Psalms, Ps. 37). Interestingly, echoes of this perception are also found in modern psychological perceptions, and even in the doctrines of Freud and Jung, who see the significance of impulses in human development (Storr, 1988). However, in Jewish thought, the context described is mostly broader and refers to the tension between human necessity and yearning for the divine.

Judaism often engages in ethics and explains that pride, which is the opposite of humility, has the power to induce someone to commit a crime, and is considered a veritable personality flaw; as it is written, "If a man is arrogant, this is a blemish in him" (Babylonian Talmud, Tractate Megilah, ch. 29a) and explicitly, "Rabbi Abba Bar Kahana said in the name of Rabbi Levi, The Holy One, blessed be He, intimated to him that he who attempts to resist the wave is swept away by it, but he who bends before it is not swept away by it" (Midrash Rabbah, 1878, Genesis, Lech Lecha, ch. 44, verse 15). Thus, when a man derides the power of temptations and difficult situations in life and faces them with arrogance, they can sweep him away, yet if he is sufficiently humble regarding his abilities, he is careful and is thus saved.

One of the methods for explaining criminal behavior focuses on the social influences that function via a large variety of mechanisms with theories representing them, such as supervision and commitment to a group, labeling, imitation, and association with non-normative groups and individuals (Becker, 1973; Durkheim, 1964; Hirschi, 1969; Sutherland & Cressey, 1978). Judaism also refers to these strong influences and engages in frequent discussions on this matter. One of the more prominent examples appears at the beginning of the Book of Psalms: “Happy is the man who walked not in the counsel of the wicked, nor stood in the way of sinners, nor sat in the seat of the scornful . . . ” (Psalms, Ps. 1, verse 1). To this, Maimonides adds that the nature of a man is to follow his friends’ actions and thoughts, and therefore he should associate with the righteous and be constantly in the company of the wise, so as to learn from their deeds. Conversely, he should keep away from the wicked who walk in darkness, to avoid learning from their deeds (Maimonides, 1963-1968, 6, 1). Maimonides actually presents his perception of the environment’s influence on man for good or bad. In this regard, Rashi (2000) added and explained how our vision drags us into crime, in his interpretation of the following verse:

> And you shall not wander after your heart. Like from scouting the Land (13: 25). The heart and eyes are the spies for the body. They are its agents for sinning: the eye sees, the heart covets and the body commits the transgression. (Numbers, ch. 15, 39)

This discussion leads us to address the matter of free choice, a substantially discussed theme in Jewish sources. As we already noted concerning man’s original sin and role reversal, man has had a choice ever since the Creation (Rabbi Yaakov Tzvi Mecklenburg, 1924, Genesis, ch. 3, 24). Tractate Niddah describes that which is predetermined and that which is dependent upon man—that is, the choice between good and evil—as follows:

> The name of the angel who is in charge of conception is “Night,” and he takes up a drop (of semen) and places it in the presence of the Holy One, blessed be He, saying, “Sovereign of the universe, what shall be the fate of this drop? Shall it produce a strong man or a weak man, a wise man or a fool, a rich man or a poor man?” *Whereas “wicked man” or “righteous one” he does not mention.* (Babylonian Talmud, Tractate Niddah, ch. 16b, emphasis added)

In his writings, Maimonides (2005) often engaged with questions of free choice; accordingly, the Torah and everyone who follows it state that man has absolute free choice, and can choose whatever direction he wishes (*Guide for the Perplexed*, part 3, ch. 17). Nonetheless, man must understand that he bears responsibility for his actions. To this, Maimonides adds that God does not enforce on or decide for him which way to choose (good or evil) but man himself chooses his own way and thus must also bear the consequences: It would be right for him to weep and lament for his sins (Maimonides, Laws of Repentance, 5, 2). Hereafter Judaism indicates that absolute free choice plays an important role in whether we feel responsible for our behavior,

and in the development of hope regarding the future: Both are especially critical for those who have deviated from their path and seek to mend their ways.

Punishment

The roots of modern penology partly lie in ancient philosophical and religious conceptions that influenced and even shaped the different practices of punishment in accordance with the specific culture and time (Garland, 1991). In general, the concept of criminal punishment as reflected in Jewish writings represents a humanistic approach, emphasizing the mending of the self, which constitutes a critical element in rehabilitation. This is in spite of the "an eye for an eye" assertion which in Talmudic civil law and damages is considered to relate to material retribution. Rabbi Samson Raphael Hirsch (2001) argued that "according to our Sages, every punishment is atonement, that is not an atonement of the infringed measure of justice, but the atonement of the sinner himself" (Genesis, Noah, ch. 9, 6). In other words, punishment is for the spiritual benefit of the individual who went astray, not for society or those who suffered from the wrongdoing, who may receive material compensation. Therefore, an offender serving his sentence is labelled a repenter and as such is worthy of respect.

This claim opens a window to a rehabilitative concept as it is expressed in the Gemara dealing with a thief who was sold as a slave, and whose master is obliged to respect him even more than himself:

> Because he is well with thee: he must be with [i.e., equal to] thee in food and drink, that thou shouldst not eat white bread and he black bread, thou drink old wine and he new wine, thou sleep on a feather bed and he on straw. Hence it was said: Whoever buys a Hebrew slave is like buying a master for himself. (Babylonian Talmud, Tractate Kiddushin, ch. 20a)

This description represents a concept of mutual social responsibility that involves society's responsibility to support the offender's rehabilitation, rather than merely demanding the restoration of social justice that was violated by the offense. In the above example, the slave's master represents society and its commitment to a humane treatment of the slave, given that his enslavement constitutes part of the mending and the rehabilitation.

The above parable further illustrates that Judaism's concept of mending the offender sets a personal example for those concerned, in that they should not only expect the offender to rehabilitate, but ought to set an example of desirable behavior, and perhaps even expect more from themselves than they expect from the rehabilitating offender. This concept is also reflected in positive criminology, which is partly derived from self-help groups for addicts, where the presence of mutual responsibility—chiefly expressed in the unconditional acceptance of the rehabilitating offenders—sets a personal example of progress they can emulate (Ronel & Segev, 2014).

In the ruling pertaining to the case of a man who killed his friend not for the sake of murdering him, but to prevent him from raping a girl, the judge cited Tractate

Berachot, stating that the main purpose of the punishment is preventing the offense: "Bruria, Rabbi Meir's wife, pointed out that it is the sins rather than the sinners that should be uprooted, in other words the abolition of a sin is a higher cause than the punishment of a sinner" (Tennenboim, 2001, p. 1).

The educational objective inherent in the Jewish concept of punishment also concerns the punishment of arrest (Ishon, 2009; Kirshenbaum, 2013; Lipton, Martinson, & Wilks, 1975; Max, 1940). It seems that the Torah does not support arrest and understands its shortcomings. Rabbi Samson Raphael Hirsch in his commentary to the Torah (2001, Exodus, ch. 21, 6) explained that punishment through arrest brings a man to lose hope and corrupts his morality which lies behind the prison walls, and this is also because of the sorrow and stress of the prisoner's wife and children. Therefore, the Torah does not support the punishment of imprisonment but arrest for questioning only, and only for a short period (Rabbi Samson Raphael Hirsch, 2001; Exodus, ch. 21, 6).

Rabbi Kook (1983) clarified the rehabilitative objective inherent in punishment according to the spirit of Judaism by adding the positive educational aspect of the pain inflicted by punishment. He even distinguishes between worthy and unworthy punishment, according to the spirit of Judaism. He explains that punishments, especially those connected to capital damage, have two spiritual sources—good and evil. The first stems from the acknowledgement that it is forbidden to commit a wrong, and the wrongdoer must be set apart so that his awareness of good can increase; whereas the second one comes from envy, that "no one else should enjoy or touch what belongs to me" (paragraph 267), since the feeling of "mine" and "me" is immensely strong. Here, Rabbi Kook ties the two types of punishment to their sources: One is the divine source of good punishment and the other is the source of human selfishness that generates unworthy punishment. This binary distinction implies that any law that is not nurtured by the Divine feeds on evil. Hence, in Rabbi Kook's opinion on the purpose of punishment, a worthy act of punishment is supposed to reflect the person's intention toward the divine and help the offender to proceed in this intention. Punishment based on rehabilitation is worthy, while punishment based on some version of "retributive justice" has lesser value. In fact, the latter represents a similar motive to the offense itself, namely a motivation based on self-centeredness, which is less prone to rehabilitation as has been indicated in positive criminology (Ronel & Segev, 2014).

Prevention and Rehabilitation

In the previous analysis of Jewish sources, we looked at the practical rehabilitation-oriented thought according to the principles of good and evil, choice and belief as professed by Judaism. The rehabilitation of offenders is part of the larger idea of repentance called "*teshuvah*" that constitutes a basic principle in Judaism. As a religion aspiring to the repair of the self, Judaism attributes great importance to repentance. This is proven by many sources, including the most ancient ones, as it is written: "And shalt return unto the Lord thy God, and hearken to His voice according to all that I command thee this day, thou and thy children, with all thy heart, and with all thy soul" (Deuteronomy, ch. 30, 2); "Return, ye backsliding children, I will heal your

backslidings. Here we are, we are come unto Thee; for Thou art the Lord our God" (Jeremiah, ch. 3, 22); "Say unto them: As I live, saith the Lord God, I have no pleasure in the death of the wicked, but that the wicked turn from his way and live; turn ye, turn ye from your evil ways; for why will ye die, O house of Israel?" (Ezekiel, ch. 33, 11). As the last citation shows, the purpose of society's reaction to the offense lies in the sinners' repentance, rather than in harming the sinners or banning them from society.

Repentance was thus considered important and hailed as such: "Seven things were created before the world, and they are: The Torah, *repentance*, the Garden of Eden, Gehenna, the Throne of Glory, the Temple, and the name of the Messiah" (Babylonian Talmud, Nedarim, ch. 39b, emphasis added). In other words, the possibility of repentance is considered a basic need, to the extent that it was constructed before the world. This perception acknowledges the basic human tendency to err, and opens the way to correct whatever is needed under any circumstances. Without the ability to right the wrong, humanity could not exist as such (Ecclesiastes, ch. 7, 20), because "There is no righteous person who does good without sometimes transgressing" (Anonymous, n.d., Gate of Teshuvah,).

The process of repentance in Judaism is marked by several stages:

> However the boundaries of repentance are fourfold: The first stage is to feel remorse about what preceded the iniquities, secondly one has to desist from them, thirdly to admit them and seek forgiveness, and the fourth stage is to accept in one's soul that one shall not repeat them in one's heart and in one's consciousness. (Rabbenu Bahya Ben Joseph ibn Paquda, 1928, The Gate of Repentance, ch. 4, 220)

This process entails substantial external and internal changes, and emphasizes the factors of desistance (Peled, 1991; Timor, 1989, 1996). Maruna (2001) wrote,

> I argue that to desist from crime, ex-offenders need to develop a coherent, prosocial identity for themselves. As such, they need to account for and understand their criminal pasts (why they did what they did), and they also need to understand why they are now "not like that anymore. Ex-offenders need a coherent and credible self-story to explain (to themselves and others) how their checkered pasts could have led to their new reformed identities." (pp. 7-8)

This concept of personality change and stigma avoidance is emphasized in the Jewish process of repentance (Timor, 1996) as reflected in the words of Rabbi Shimon ben Yochai, who is strict on this point: "And even someone who is completely wicked all his life and repents on their last day, will not be reminded again of his wickedness" (Babylonian Talmud, Tractate Kiddushin, ch. 40b).

Given that repentance is an ongoing process, one should always be engaged in thoughts about repenting, as reflected in Rabbi Eliezer's saying: "Repent one day before your death." When asked how a person can tell the day he will die, he explained that a person should repent today, in case he dies tomorrow, and thus his whole life will be spent in repentance. And Solomon too said in his wisdom (Ecclesiastes, ch. 9, 8), "Let thy garments be always white; and let not thy head lack ointment" (Babylonian

Talmud, Shabbat, ch. 153, 71). These issues are also addressed by the 12-Step Program that focuses on a spiritually based rehabilitation, where the recovering ones live their lives according to the program's understanding that addiction is an integral part of them, like a chronic disease (Narcotics Anonymous, 1988; Ronel, 2000). The program directs recovering addicts to a different life by offering them a new narrative pattern (Marsh, 2011). Maimonides writes that the way of *teshuvah* is to cry out to God constantly and pleadingly, give charity according to one's means, keep far away from what he transgressed against, change his name as if to say, "I am someone else; I am not the person who did those things." (Maimonides, 1963-1968, 2, 4). Maimonides adds that it is important for a man to exile himself, because exile atones for transgressions by making one submissive, humble, and meek.

Drawing on the basic Jewish idea of repentance, ultra-orthodox yeshivot in Israel now offer religious rehabilitation programs for suitable convicts. In addition, the Israel Prison Service and the Prisoner Rehabilitation Authority in Israel have a significant Torah rehabilitation division (Timor, 1998). Thus, in any prison in Israel, prisoners (Jews and non-Jews as well) can apply to join the Torah world where they study and practice Judaism. When released, they can be supported by the Torah Department of the Prisoner Rehabilitation Authority, to continue their Jewish study, practice, and rehabilitation. Peled (1991, 1994) claimed that this form of rehabilitation, where the offenders maintain a Jewish religious lifestyle and engage in studying the Torah, has achieved high success rates.

The guiding principle in religious rehabilitation is "If thy brother is beaten before thine eyes—on having received the flogging he is [considered] 'thy brother'" (Babylonian Talmud, Tractate Makkot, ch. 23a). Thus, we ought to treat the offender who has completed his sentence like a brother, reach out to him, and care for him on the same level of closeness. Rabbi Moses ben Jacobs Cordovero further develops this point, saying that even if a man is radically evil he has already been punished, and so he is already loved and treated as his brother (Rabbi Moses ben Jacobs Cordovero, 1960, ch. 1, p. 9). Tractate Shabbat further elaborates on the attribute of mercy: "All who show mercy to others, will have mercy shown them by Heaven, and all who do not show mercy to others will not have mercy shown them by Heaven" (Babylonian Talmud, Tractate Shabbat, ch. 151b).

As a matter of fact, exegesis recognizes the presence of mercy in the first biblical verse from the very beginning of Creation: "On the day the Lord made earth and heaven," which the Sages read as follows:

> For in the beginning it was His intention to create it with the Divine Standard of Justice, but He perceived that the world would not endure; so He preceded it with the Divine Standard of Mercy, allying it with the Divine Standard of Justice . . . (Rashi, 2000, Genesis, ch. 1, 1)

This idea of compassion as a mode of rehabilitation was expressed by Hari (2015) in the detailed study he performed in the field of worldwide legal policy on psychoactive substances: "A compassionate approach leads to less addiction" (p. 252).

The rehabilitative, optimistic, and positive aspects in the Jewish perception of the offender are most fittingly described by Rabbi Nahman of Bratslav (1808):

> Know that you must judge every person favorably. This applies even to the worst of people. You must search until you find some little bit of good in them. In that good place inside them, they are not bad. If you can just find this little bit of good and judge them favorably, you really can elevate them and swing the scales of judgment in their favor. This way you can bring them back to Teshuvah. This teaching is contained in the Psalms: "And yet a little while, and the wicked is no more; yea, thou shalt look well at his place, and he is not (Psalm , Ps. 37, verse 10)." (Part A, 282)

According to this optimistic approach, within every person is a good core that can gradually grow, and this precisely should be the objective of rehabilitation. Modern positive criminology represents this stance, as we have shown here. In a similar vein, Maimonides (1963-1968) pointed to the positive side of a person who has committed an offense and wishes to rehabilitate:

> A man who has done teshuvah shouldn't consider himself beneath a righteous person as a result of his past sins. That's not so, for he's just as beloved by God as if he'd never sinned. Not only that, but he also enjoys a great merit for he has sinned, forsaken it and conquered his evil tendency. As the sages said in a metaphoric form: "Even a completely righteous person cannot stand where those who have done Teshuvah stand" (Berachot ch. 34b), which means that such a person's worth is even greater than those who never sinned, because he has conquered his evil tendency to a greater extent than they. (ch. 7, 4)

The basic Jewish concept therefore considers full rehabilitation possible, in a way that voids the offender's past deeds. Such a view lays the responsibility on society to accept and warrant the offender's rehabilitation, as we have attempted to show here.

Conclusion

Although religions and spiritual schools intensively address crime and reactions thereto, the results of this thought after years of development come mostly from the fringes of mainstream criminology. The integration of a spiritually based rehabilitation into modern rehabilitation programs (e.g., O'Connor & Bogue, 2010; Rigsby, 2014; Timor, 1998), as well as research on the relation between spirituality, religion, and crime (e.g., Kaskutas et al., 2003), exemplifies the need to create an integrated spiritual criminology. Based on a spiritual perspective, it will serve to supplement the knowledge based on secular criminology. In our understanding, spiritual criminology should represent a comprehensive framework for different religious and spiritual schools of thought addressing issues pertaining to criminology and criminal justice.

A major aspect of spiritual criminology in general and Jewish criminology in particular is its relation to God. Having said that, we would like to broaden this definition by adding a phrase borrowed from AA (Alcoholics Anonymous, 1976)—God as one understands God. This small but important addendum recognizes the variety of views

on God in the Jewish literature and elsewhere. Following the example of AA, we believe it may help different perceptions to be included under Jewish criminology and spiritual criminology.

Jewish criminology is basically a faith-based criminology. Although secular criminology may assimilate several Jewish (and other religions as well) or broader spiritual values and practice, we perceive spiritual criminology in general and Jewish criminology in particular as mainly represented by indicating a perspective that is God-centered. Every Jewish understanding of issues in criminology or criminal justice, and any consequent practice, are by their very definition God-directed. The above described components of a Jewish criminology—perceptions of good, evil, and free choice; issues of punishment; and recovery—are all indicators of the centrality of the Divine in Jewish criminology. Jewish sources thus defined evil as a conduct reflecting a choice that relates not to God, but to material or sensual gains. A criminal conduct that is based on material, sensual, or egocentric motives is accordingly wrong in that it distances man from God. It is notable that non-criminal conduct, though with similar motives, could also be considered evil, and future Jewish criminology will have to make a clear distinction between those kinds of so-called evil conducts. Nevertheless, the Jewish perception emphasizes that each one can choose differently; everyone can get closer to God, and as we add, to God as one understands God. Similarly, punishment is perceived as the ability to assist a person in the journey toward God, and it is legitimized only if it has been used accordingly. Punishment should thus be rehabilitative, not meted out for the sake of retaliation. Retribution—"an eye for an eye"—can be considered solely as a form of material compensation. Recovery, according to the Jewish understanding, is a personal journey from one's previous choice of evil—that is, a choice "with no God"—to a way of life chosen in the direction of God. Those who were rehabilitated set an example for others as well, by representing the benefit of spiritual recovery.

The different aspects we have discussed here demonstrate a first attempt to create a theoretical spiritual model, as part of a larger spiritual science. In our opinion, this theoretical model could contribute to establishing parallel sub-fields such as Buddhist, Christian, and Islamic spiritual criminology, and also a spiritual criminology, as represented by the 12-Step Program, that is not confined to a particular religion (e.g., McCrady, 1998). An additional development of the spiritual criminology proposed here is the enlargement of spiritual disciplines within fields that are parallel to criminology such as law, psychology, and sociology. First, harbingers are already visible in the evolving spiritual field within psychology (e.g., Pargament, 2007) and we are positive that the addition of spiritual criminology is a natural process.

To sum up, Jewish criminology provides a comprehensive system that is focused on the relation with God, and interprets interpersonal and everyday situations, decisions, and activities accordingly. It is a spiritual view on everyday issues that are related to criminality and criminal justice. The very importance that Judaism pays to issues in criminology and rehabilitation is based on faith in God and the wish to help people and the community in the journey toward God. However, to be fully developed, Jewish criminology will have to include a faith-based methodology that can explore Jewish spiritual knowledge and examine it with corresponding scientific tools so it can retain

its spiritual integrity, and not reduce its fundamental faith-based assumptions into material-only phenomena.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Note

1. This article is part of the theoretical background of a larger research on Jewish criminology that is currently being conducted as a PhD study by the second author, supervised by the first author.

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