

# Ubuntu and Tikkun Olam

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Yom Kippur 5765  
Saturday, September 25, 2004

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*April 27, 1994, the watershed date, the beginning of a new era, ushered in the new South Africa... a democracy in place of the repression and injustice of the old discredited apartheid... Never again would God's children be humiliated by the crude methods employed by the Race Classification Boards as they sought to separate South Africa's inhabitants by race as if they were cattle.*

*It is a feeling that makes you want to cry and laugh at the same time, to dance with joy, and yet fearful that it was too good to be true and that it just might all evaporate... Maybe that is how people felt on VE and VJ days when the Allies roundly defeated the Nazis and the Japanese after World War II – people poured out into the streets of their towns, cities, and villages, hugging and kissing perfect strangers. That's how we felt.*

These are the words of Desmond Tutu from his work, *No Future Without Forgiveness*, describing the fall of apartheid and the first election where all could vote. He describes voting day as a time to laugh with joy and thanksgiving, yet also a time to cry, worried about what the future would bring. It was from this potential tinderbox of violence that a profoundly important, value-laden movement towards justice and healing was established. The South African experience, led by the Commission on Truth and Reconciliation, was to become a model of justice that would save the country from a bloody war of revenge to a relatively peaceful democracy. This model values reparation over retribution, community over individuality, and individuals over 'the State.' Today, on Yom Kippur, a day where we, like those in South Africa as we will see, view ourselves as perpetrator and victim, a day where we seek to restore and heal relationships, a day when we hear about and read about, and are called upon to do justice, I would like to speak about what is now called 'restorative justice,' as it exists within our Jewish tradition, and how it is being

applied elsewhere.

I want to begin this morning in the South African experience, where different models of justice were considered when they were faced with the amazingly difficult dilemma of how to bring about justice in a country where atrocities were committed on all sides, where one population had little education, little money and little or no trust in the system and where another population previously had held all the legal power. They had to balance, as Tutu points out, "justice, accountability, stability, peace and reconciliation" in order to ensure that a civil war would not break out. Among their considerations, the Nuremberg trial paradigm was considered and rejected for several reasons. Because all sides had perpetrators and victims, neither side could impose a "victor's justice." Most of the witnesses were perpetrators themselves and they had destroyed much of the evidence, so finding evidence would be difficult and costly; the only lawyers were white and the black population would have difficulty getting justice, it would have put an intolerable strain on their legal system,

and there was little money in the country. To put the perpetrators on trial would not work. Another idea was simply to move on – forgive and forget and grant a general amnesty. But then the victims would be silenced forever. Their stories, their history would be inconsequential. Their relatives would be bereft of their loved one's past and therefore, future. Like a person who dies at sea with no witnesses, there would be no story for those left and no closure. In addition, as Rev. Tutu so hauntingly reminds us, as it says over the entrance to the museum at Dachau, "Those who forget the past are doomed to repeat it." Forgive and forget was also not an option.

And so South Africa took a daring, middle ground approach: Amnesty was granted to those who made a full disclosure of the crime for which amnesty was sought. Both victims and perpetrators told their stories. This was done in public; a relief for some, and a humiliation and exposure for others. Most, it seems, felt a load lifted from their shoulders as they told their stories. And, after it was done, after 20,000 stories had been told, no one in South Africa could say, as many a German citizen had said, "I did not know," and expect to be believed. The transition was relatively bloodless, and a country transitioned from oppression and violence to, as it states in their constitution, a "democratic society based on freedom and equality." The day the whole population could vote was, as Reverend Tutu recalled, "a mountaintop experience."

Yet what allowed this system of complete disclosure and confession to work? After all, if a perpetrator could receive amnesty only after going through a gut-wrenching process, and if they might never have been prosecuted for their crimes had they not come forward, what impelled them to come before the commission? Wouldn't it have been easier and less costly to remain silent? And what allowed so many to forgive rather than demand retribution? Apparently, a central feature of the African culture is the

idea of *ubuntu*. I am fascinated by this concept. It is hard to translate, but it means, "My humanity is caught up, is inextricably bound up by yours," "I am as a result of we are" Or, as I read in Rev. Tutu's work,

*a person with ubuntu is open and available to others, affirming of others, does not feel threatened that others are able and good, for he or she has a proper self-assurance that comes from knowing that he or she belongs in a greater whole and is diminished when others are humiliated or diminished, when others are tortured or oppressed... Anger, resentment, lust for revenge, even success through aggressive competitiveness, are corrosive of this good. To forgive is not just to be altruistic. It is the best form of self-interest. What dehumanizes you inexorably dehumanizes me.*

In the records kept from all the confessions, there are stories of people who ruthlessly killed and destroyed communities, yet who, as part of their amnesty asked the Commission to arrange visits so that they could face the entire village to ask for forgiveness and help to restore what they had once sought to destroy. Perhaps that was *ubuntu* at work.

For me, the most central and interesting aspect is the concept of *ubuntu*. As Americans, we have a hard time with this concept. Too often we lack the ethic that says all of our humanity is intertwined – when I am wronged, you are wronged; when one of us is diminished, we are all diminished. There is a minority of people who feel that when we lessen the dignity of a group of people – gays, lesbians, people of color, women, men, etc.—we all lose something. But as Jews, we come close to having *ubuntu*. We say that *Kol Yisrael arevin zeh lazeh* – All of Israel is responsible one for another. We speak of *klal Yisrael*, 'the community of Israel.' We do have a feeling of interconnectedness with other Jews throughout the world. When Gal Fridman won the gold medal in windsurfing, all of us felt proud. When Yigal Amir killed Yitzhak

Rabin we felt the horror and the shame. When we hear of senseless killings both of Palestinians and of Israelis, we all feel the loss. Indeed, our humanity is bound up in theirs. Further, the prayers we have recited this morning are written in the plural even when we think of them in the singular – על חטא שחטאנו לפניך – for the sin which WE have sinned against you, אלהינו ואלהי אבותנו, סלח לנו מחדל לנו, כפר לנו. Our God and God of our ancestors, forgive US, pardon US, grant US atonement. *Ashamnu, bagadnu*, WE have sinned, WE have transgressed... Indeed, as Jews, if not as Americans, we can understand *ubuntu*. Like those in South Africa, perhaps it is this feeling of interconnectedness and this feeling of responsibility for one another that propels us to act, in our own lives if not in the public sector, towards reconciliation, and shalom. Indeed, in many ways, our own tradition speaks of 'restorative justice'. We begin in Torah:

דבר אל-בני ישראל איש אריש כי  
יעשו מכל-חטאת האדם למעל מעל  
ביהוה ואשמה הנפש ההוא:  
והתורו את-חטאתם אשר  
עשו והשיב את-אשמו בראשו  
והמישתו יסף עליו ונתן לאשר אשם לו:

We read in the book of Numbers ( 5:6-7) *When a man or woman commits any wrong toward a fellow man, thus breaking faith with Adonai, 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.*

Our rabbis have viewed this situation in (at least) two ways. What is the wrong that has been committed? The first opinion is that the phrase "breaking faith with Adonai" indicates that the person has defrauded another and then has denied it under false oath. The second opinion is that of Yitzchak Meir Alter of Ger:

*Any breach of faith toward another is an*

*offense against God, who commands justice and whose image is found in every human being. Why is the principle of expiation associated here with a case of misappropriation of property? Every breach of faith is a form of theft, stealing another's trust under false pretenses, using one's God-given talents for a purpose other than that which God intended.*

And so, a person misuses or steals another's property. What must he or she do? The first requirement is confession. The Hebrew word that is used for confession here is *hitvadu*; it is reflexive, suggesting that not only must she confess to the wronged party, but she must also confess to herself, that is she must take full responsibility for the wrong committed. Further the perpetrator must perform an act of restitution, of making the situation right; first by full payment and then with a penalty of 20%. In fact, in the two other places in Torah where full restitution plus a fine is required, the penalty is double or more the value of the property. Here, the penalty is reduced, to encourage the thief to come forward voluntarily, as he has done in our verse. True confession, restitution plus a fine, and justice is done. It does not take much to see the similarities between this and those who voluntarily came before the Commission on Truth and Reconciliation Commission, suffered the pain and humiliation of confession (the 20% fine), and sought to make things right in the community they had harmed. Only then was justice done.

Maimonides, in his laws on *Teshuvah* offers four steps that one needs to do take in order to restore a damaged situation. The perpetrator must 'make whole the damage,' 'ask forgiveness,' 'resolve not to do it again,' and 'change his life in order to make sure that he never does it again.' Others have suggested that in addition to Maimonides' requirements, one must first recognize the sin, *hakarot ha cheyt*, that is take responsibility for it, and show remorse, *charata*. This is our form of restorative justice. We are obligated to restore the situation as much as possible

and make sure it never happens again.

Perhaps, it is our *ubuntu* that calls us to work for *tikkun olam* — the repair of the world, and our tradition of *shalom*, both in the sense of peace and wholeness that calls many of us to think about restorative justice in the American justice system, as well as in our own lives.

Presently in our system of justice, a crime committed is considered a crime against the state. In the restorative system, it is a crime committed against a member of the community. In a retributive system, we look at what laws have been broken, who broke them and what punishment should be meted out. In the restorative system we look at who has been hurt, what are their needs, whose obligation is it to meet those needs, and how will they be met. We ask the perpetrator to take full responsibility for their actions, work to resolve the wrong, and even to change their life to make sure they will never commit that crime again.

Two years ago, Tom Ewell of the Maine Council of Churches came to my office to speak with me about a new project he wanted to promote. A few weeks ago, the Restorative Justice Center of Maine was opened in Hallowell. I have left some brochures out for those of you who might want to get involved. As the brochure says, they work in the area of criminal justice — juvenile as well as adult, victim's rights and school discipline, while they focus on advocacy, education, networking, communication and more. In their mission statement they say that they, "attend to the needs of those harmed, foster accountability and rehabilitation and support safer schools and communities." Their approach is one that values humanity, community, justice and wholeness even as the popular approach stops at blame and punishment. They work directly with victims and help them to get their lives together. They work with the offenders both in prison and outside. They work with other groups in the schools, they help to reintegrate released prisoners, they work with the police and other service agencies to break the crimi-

nal cycle for those who are mentally ill and those who have addictions. And I know they need our help. As our Talmudic sages remind us, if we can save one life, it counts as though we saved the world. I am reminded of Archbishop Tutu's formulation of the need for justice, accountability, peace and reconciliation not only for South Africa, but also for all of us, from the smallest of situations to the fighting in Iraq, Israel, and all over the world.

I would like to leave you with a final midrash. Although it is about reconciliation, it also teaches us how we can avoid situations that lead us to commit acts that cause brokenness, and hurt and then need repairing. It is about *ubuntu*.

In Exodus 23:5 we read: "When you see the ass of your enemy lying under its burden and would refrain from raising it, you must nevertheless raise it with him."

The midrash continues:

It says in Psalms (99:4) "Mighty King who loves justice. It was you who established equity, who worked righteous judgment in Jacob."

Rabbi Alexandri taught: Two donkey-drivers who hated each other were walking along the road. The donkey of one of the drivers lay down. His enemy saw him and passed them by. After passing he thought to himself, "it says in the Torah, 'when you see the ass of your enemy...'" He immediately returned and reloaded and raised the donkey together with his 'enemy.' The 'enemy' began to think: "If the other donkey-driver was really my enemy he wouldn't have helped me." He therefore concluded, "He must really be my friend and I hated him for naught. Let me proceed to reconcile with him." They entered a tavern, ate and drank and made peace with each other. What is it that caused them to make peace? The fact that one of them peered into the Torah. This is the implication of, "It was you who established equity."

*G'mar chatima tova* — may you be sealed in the book of righteousness.