

**CRIME AND PUNISHMENT  
IN JEWISH LAW**

Essays and Responsa

Edited by  
Walter Jacob and Moshe Zemer

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**Crime and Punishment in Jewish Law**

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*and*

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ABRAHAM LINCOLN



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Dedicated  
to the memory  
of  
Herbert Jacob  
A scholar in this field  
*and*  
Harold Ruttenberg  
A true friend of the Institute

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## INTRODUCTION

“When the State of Israel has its share of thieves, prostitutes, and thugs, then it will be a normal state like all others” is a statement attributed to Ben Gurion; he wished to characterize Israel as a “normal” land among all other nations. Actually this should have been the least of his worries as we have always had such a criminal element in our midst.

Judaism has sought to move in the other direction and to minimize this criminal element. As a “chosen people,” we would, hopefully, have a lower percentage of criminals in our midst. The aim is laudable, but the goal has never been attained. The legal systems that we have developed since Biblical days had to deal with crime and the criminal in an ethically effective way. The Bible presents only a small portion of the laws necessary for a state to function; undoubtedly criminal law developed separately as royal prerogative, although we know nothing about this. The later halakhah as we see it in the Mishnah and Talmud had to be creative even though the power of its courts both in Babylon and Palestine was limited. Whole tractates of the Talmud discuss a wide variety of legal issues both civil and criminal. Some elements of this material have been incorporated into modern Israeli law, but that is not the subject of this volume. We are concerned with the way in which the halakhic approach can shape our modern thinking in this area wherever we live, in the Diaspora or in Israel.

As we look at the halakhah, we must immediately distinguish between the practical and the purely theoretical. Although the jurisdiction of the bet din was limited in every land where we lived, the scholars felt that it was important to develop a system

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## THE FREEHOF INSTITUTE OF PROGRESSIVE HALAKHAH

The Freehof Institute of Progressive Halakhah is a creative research center devoted to studying and defining the progressive character of the *halakhah* in accordance with the principles and theology of Reform Judaism. It seeks to establish the ideological basis of Progressive halakhah, and its application to daily life. The Institute fosters serious studies, and helps scholars in various parts of the world to work together for a common cause. It provides an ongoing forum through symposia, and publications including the quarterly newsletter *HalakhaH*, published under the editorship of Walter Jacob, in the United States. The foremost *halakhic* scholars in the Reform, Liberal, and Progressive rabbinate along with some Conservative and Orthodox colleagues as well as university professors serve on our Academic Council.

This book follows the volumes *Dynamic Jewish Law, Progressive Halakhah—Essence and Application* (1991), *Rabbinic-Lay Relations in Jewish Law* (1993), *Conversion to Judaism in Jewish Law* (1994), *Death and Euthanasia in Jewish Law* (1995), *The Fetus and Fertility in Jewish Law* (1995), *Israel and the Diaspora in Jewish Law* (1997), and *Aging and the Aged in Jewish Law* (1998). It is part of a series whose subjects are diverse and the approaches taken by the authors are equally so. We wish to encourage wide-ranging discussions of contemporary and historic themes.



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