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A Shabbat Message from Rabbi Arthur Weiner

Friday July 22, 2022 ~ Parsha: Pinchas

Dear JCCP/CBT family,

How Should Society Punish Violent Crime?

We are living at a time of appalling violence. Yet even in a nation that is struggling with an epidemic of crime and murder, the death of 53 migrants from South America in Texas last month stood out for its sheer horror. As you may recall, a tractor trailer filled with migrants was abandoned near San Antonio with its human cargo inside. Temperatures inside the truck topped 100 degrees. The truck lacked a functioning cooling system. 53 men, women and children were found dead. Another 10 were injured. I literally cannot comprehend how any human being, even criminals engaged in the vile enterprise of smuggling illegal immigrants across our southern border could be so indifferent to human life. Obviously, the people who would engage in this practice to begin with are among the worst that exist. But to leave them to suffer and die?

How do you punish a crime like that? And how do you make the statement that this crime was so bad that it threatens the very order of our society, and we simply can't tolerate it?

There is only one way. The death penalty.

It is no secret to anyone that has heard me speak over the last 26 years that I am among the few Rabbis in New Jersey who supports the death penalty. I want to assure you that I am aware of the many problems associated with the death penalty that have rightly been pointed out over the years by those who question its justice or morality. It is meted out too often to those from the lower economic classes. We know that there is

a terrible racial imbalance in its application. We know that groups like the Innocence Project have determined through DNA evidence that dozens of people sentenced to death simply did not commit the crimes they were convicted of. Those are important (actually extraordinarily important!) reasons to worry about the very institution itself. Or so death penalty opponents argue.

I would argue that all that proves is that the death penalty needs to be far more infrequent, and that we as a society must be far more judicious when it comes to actually sentencing someone to death. But those arguments do not themselves make a strong case for the abolition of the death penalty.

We must be able to draw distinctions between different types of violent crime, even horrific crimes. Not everyone that deserves the death penalty should receive it. Yet some crimes, and some criminals, if not punished with the most severe form of punishment, threaten the very society that would tolerate them. The death of 53 migrants on June 27th is one of them.

Now most members of the community at one time or another have probably heard the statement from the Talmud that is always used by activists in the Jewish community that oppose capital punishment. *If a Sanhedrin puts a person to death once in seven years it is considered to be 'cruel.* But even this was too often for some of the sages. *Rabbi Elazar ben Azariah said, "Even once in seventy years. Rabbi Tarfon and Rabbi Akiva say, 'Were we members of the Sanhedrin no person would ever have been put to death!*

However, what often gets ignored in this discussion from the Talmud is the next line. While those opposed to the death penalty often quote this section, they choose to ignore the final and probably more authoritative statement in this passage:

Rabbi Simeon ben Gamliel retorted. It seems that these sages would rather increase the shedders of blood in Israel. In other words, by failing to impose the death penalty when warranted, the Rabbis who took pride in their reticence would actually increase crime and violence in society.

I fear that the same holds true in our great nation as well.

I know the issue of the death penalty is not a simple or straightforward one. No study has ever shown that the death penalty is a deterrent to murder. And Jewish law is not of one mind on this issue. While there are strong arguments to be made for the abolition of capital punishment, we must understand that the Rabbis never took this punishment off the books. They ultimately believed that a duly constituted *Beit Din* (Jewish court) could and should impose the death penalty in extreme cases. They were, however, cautious to an extreme when and how this practice should be carried out

This must be our approach as well. Justice and morality would be better served by making the statement that some criminals must pay the ultimate price for their atrocious deeds.

Shabbat Shalom, Rabbi Arthur Weiner