

Current Jewish Questions

Reparations: Slavery and Discrimination

I. The Need for a Conversation on Reparations

1. Ta-Nehisi Coates – The Case for Reparations

May 21, 2014

<http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/>

Perhaps no number can fully capture the multi-century plunder of black people in America. Perhaps the number is so large that it can't be imagined, let alone calculated and dispensed. But I believe that wrestling publicly with these questions matters as much as—if not more than—the specific answers that might be produced. An America that asks what it **owes** its most vulnerable citizens is improved and humane. An America that looks away is ignoring not just the sins of the past but the sins of the present and the certain sins of the future. More important than any single check cut to any African American, the payment of reparations would represent America's maturation out of the childhood myth of its innocence into a wisdom worthy of its founders.

II. For What are Reparations Needed?

Slavery – No explanation needed

2. Jim Crow Laws

https://en.wikipedia.org/wiki/Jim_Crow_laws

The Jim Crow laws were racial segregation laws enacted between 1876 and 1965 in the United States at the state and local level. They mandated de jure racial segregation in all public facilities in Southern states of the former Confederacy, with, starting in 1890, a "separate but equal" status for African Americans. The separation in practice led to conditions for African Americans that tended to be inferior to those provided for white Americans, systematizing a number of economic, educational and social disadvantages. De jure segregation mainly applied to the Southern United States. While Northern segregation was generally de facto, there were patterns of segregation in housing enforced by covenants, bank lending practices, and job discrimination, including discriminatory union practices for decades.

Some examples of Jim Crow laws are the segregation of public schools, public places, and public transportation, and the segregation of restrooms, restaurants, and drinking fountains for whites and blacks. The U.S. military was also segregated, as were federal workplaces, initiated in 1913 under President Woodrow Wilson, the first Southern president since 1856. His administration practiced overt racial discrimination in hiring, requiring candidates to submit photos.

These Jim Crow Laws followed the 1800–1866 Black Codes, which had previously restricted the civil rights and civil liberties of African Americans with no pretense of equality. State-sponsored school segregation was declared unconstitutional by the Supreme Court of the United States in 1954 in *Brown v. Board of Education*. Generally, the remaining Jim Crow laws were overruled by the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Systemic Economic Exploitation (Official and Unofficial)

3. Coates – The Case for Reparations (Excerpts)

Having been enslaved for 250 years, black people were not left to their own devices. They were terrorized. In the Deep South, a second slavery ruled. In the North, legislatures, mayors, civic associations, banks, and citizens all colluded to pin black people into ghettos, where they were overcrowded, overcharged, and undereducated. Businesses discriminated against them, awarding them the worst jobs and the worst wages. Police brutalized them in the streets. And the notion that black lives, black bodies, and black wealth were rightful targets remained deeply rooted in the broader society. Now we have half-stepped away from our long centuries of despoilment, promising, “Never again.” But still we are haunted. It is as though we have run up a credit-card bill and, having pledged to charge no more, remain befuddled that the balance does not disappear. The effects of that balance, interest accruing daily, are all around us.

When Clyde Ross was still a child, Mississippi authorities claimed his father owed \$3,000 in back taxes. The elder Ross could not read. He did not have a lawyer. He did not know anyone at the local courthouse. He could not expect the police to be impartial. Effectively, the Ross family had no way to contest the claim and no protection under the law. The authorities seized the land. They seized the buggy. They took the cows, hogs, and mules. And so for the upkeep of separate but equal, the entire Ross family was reduced to sharecropping.

This was hardly unusual. In 2001, the Associated Press published a three-part investigation into the theft of black-owned land stretching back to the antebellum period. The series documented some 406 victims and 24,000 acres of land valued at tens of millions of dollars. The land was taken through means ranging from legal chicanery to terrorism. “Some of the land taken from black families has become a country club in Virginia,” the AP reported, as well as “oil fields in Mississippi” and “a baseball spring training facility in Florida.”...

Three months after Clyde Ross moved into his house, the boiler blew out. This would normally be a homeowner’s responsibility, but in fact, Ross was not really a homeowner. His payments were made to the seller, not the bank. And Ross had not signed a normal mortgage. He’d bought “on contract”: a predatory agreement that combined all the responsibilities of homeownership with all the disadvantages of renting—while offering the benefits of neither. Ross had bought his house for \$27,500. The seller, not the previous homeowner but a new kind of middleman, had bought it for only \$12,000 six months before selling it to Ross. In a contract sale, the seller kept the deed until the contract was paid in full—and, unlike with a normal mortgage, Ross would acquire no equity in the meantime. If he missed a single payment, he would immediately forfeit his \$1,000 down payment, all his monthly payments, and the property itself.

The men who peddled contracts in North Lawndale would sell homes at inflated prices and then evict families who could not pay—taking their down payment and their monthly installments as profit. Then they’d bring in another black family, rinse, and repeat. “He loads them up with payments they can’t meet,” an office secretary told The Chicago Daily News of her boss, the speculator Lou Fushanis, in 1963. “Then he takes the property away from them. He’s sold some of the buildings three or four times.”

Ross had tried to get a legitimate mortgage in another neighborhood, but was told by a loan officer that there was no financing available. The truth was that there was no financing for people like Clyde Ross. From the 1930s through the 1960s, black people across the country were largely cut out of the legitimate home-mortgage market through means both legal and extralegal. Chicago whites employed every measure, from “restrictive covenants” to bombings, to keep their neighborhoods segregated.

Their efforts were buttressed by the federal government. In 1934, Congress created the Federal Housing Administration. The FHA insured private mortgages, causing a drop in interest rates and a decline in the size of the down payment required to buy a house. But an insured mortgage was not a possibility for Clyde Ross. The FHA had adopted a system of maps that rated neighborhoods according to their perceived stability. On the maps, green areas, rated “A,” indicated “in demand” neighborhoods that, as one appraiser put it, lacked “a single foreigner or Negro.” These neighborhoods were considered excellent prospects for insurance. Neighborhoods where black people lived were rated “D” and were usually considered ineligible for FHA backing. They were colored in red. Neither the percentage of black people living there nor their social class mattered. Black people were viewed as a contagion. Redlining went beyond FHA-backed loans and spread to the entire mortgage industry, which was already rife with racism, excluding black people from most legitimate means of obtaining a mortgage...

In return for the “deprivations of their rights and privileges under the Thirteenth and Fourteenth Amendments,” the [Contract Buyer's L]eague demanded “prayers for relief”—payback of all moneys paid on contracts and all moneys paid for structural improvement of properties, at 6 percent interest minus a “fair, non-discriminatory” rental price for time of occupation. Moreover, the league asked the court to adjudge that the defendants had “acted willfully and maliciously and that malice is the gist of this action.”...

The Contract Buyers League’s suit brought by Clyde Ross and his allies took direct aim at this inheritance. The suit was rooted in Chicago’s long history of segregation, which had created two housing markets—one legitimate and backed by the government, the other lawless and patrolled by predators. **The suit dragged on until 1976, when the league lost a jury trial.** Securing the equal protection of the law proved hard; securing reparations proved impossible. If there were any doubts about the mood of the jury, the foreman removed them by saying, when asked about the verdict, that he hoped it would help end “the mess Earl Warren made with Brown v. Board of Education and all that nonsense.”...

Whereas shortly before the New Deal, a typical mortgage required a large down payment and full repayment within about 10 years, the creation of the Home Owners’ Loan Corporation in 1933 and then the Federal Housing Administration the following year allowed banks to offer loans requiring no more than 10 percent down, amortized over 20 to 30 years. “Without federal intervention in the housing market, massive suburbanization would have been impossible,” writes Thomas J. Sugrue, a historian at the University of Pennsylvania. “In 1930, only 30 percent of Americans owned their own homes; by 1960, more than 60 percent were home owners. Home ownership became an emblem of American citizenship.”

That emblem was not to be awarded to blacks. **The American real-estate industry believed segregation to be a moral principle.** As late as 1950, the National Association of Real Estate Boards' code of ethics warned that "a Realtor should never be instrumental in introducing into a neighborhood ... any race or nationality, or any individuals whose presence will clearly be detrimental to property values." A 1943 brochure specified that such potential undesirables might include madams, bootleggers, gangsters—and "a colored man of means who was giving his children a college education and thought they were entitled to live among whites."

The federal government concurred. It was the **Home Owners' Loan Corporation, not a private trade association,** that pioneered the practice of redlining, selectively granting loans and insisting that any property it insured be covered by a restrictive covenant—a clause in the deed forbidding the sale of the property to anyone other than whites. Millions of dollars flowed from tax coffers into segregated white neighborhoods.

The federal government is premised on equal fealty from all its citizens, who in return are to receive equal treatment. But as late as the mid-20th century, this bargain was not granted to black people, who repeatedly paid a higher price for citizenship and received less in return. Plunder had been the essential feature of slavery, of the society described by Calhoun. But practically a full century after the end of the Civil War and the abolition of slavery, the plunder—quiet, systemic, submerged—continued even amidst the aims and achievements of New Deal liberals...

In 2010, Jacob S. Rugh, then a doctoral candidate at Princeton, and the sociologist Douglas S. Massey published a study of the recent foreclosure crisis. Among its drivers, they found an old foe: segregation. Black home buyers—even after controlling for factors like creditworthiness—were still more likely than white home buyers to be steered toward subprime loans. Decades of racist housing policies by the American government, along with decades of racist housing practices by American businesses, had conspired to concentrate African Americans in the same neighborhoods. As in North Lawndale half a century earlier, these neighborhoods were filled with people who had been cut off from mainstream financial institutions. When subprime lenders went looking for prey, they found black people waiting like ducks in a pen. "High levels of segregation create a natural market for subprime lending," Rugh and Massey write, "and cause riskier mortgages, and thus foreclosures, to accumulate disproportionately in racially segregated cities' minority neighborhoods."...

In 2011, Bank of America agreed to pay \$355 million to settle charges of discrimination against its Countrywide unit. The following year, Wells Fargo settled its discrimination suit for more than \$175 million. But the damage had been done. In 2009, half the properties in Baltimore whose owners had been granted loans by Wells Fargo between 2005 and 2008 were vacant; 71 percent of these properties were in predominantly black neighborhoods.

III. How Would Reparations Work?

4. Coates – The Case for Reparations

Scholars have long discussed methods by which America might make reparations to those on whose labor and exclusion the country was built. In the 1970s, the Yale Law professor Boris Bittker argued in The Case for Black Reparations that a rough price tag for reparations could be determined by multiplying the number of African Americans in the population by the difference in white and black per capita income. That number—\$34 billion in 1973, when Bittker wrote his book—could be added to a reparations program each year for a decade or two. Today Charles Ogletree, the Harvard Law School professor, argues for something broader: a program of job training and public works that takes racial justice as its mission but includes the poor of all races.

5. Matthew Yglesias – Slavery reparations are workable and affordable

May 23, 2014

<http://www.vox.com/2014/5/23/5741294/slavery-reparations-are-workable-and-affordable>

Attempting to reckon with vast historical crimes played out over multiple centuries is hard. It's better to start at the end — with a desirable outcome. **What would it take to close the gap in wealth between black and white households?**

Unfortunately for the cause of precision, in the United States wealth is measured at the household level while race is a property of individuals. But roughly speaking, the average American household has 2.55 people so closing the \$85,000 household wealth gap would require a transfer of approximately \$33,300 to each African American individual. There are about 41.4 million black people in America, so we're talking about approximately \$1.38 trillion.

Wouldn't that destroy the economy?

Probably not. Right now the Federal Reserve is engaging in \$45 billion per month of quantitative easing, printing money and using the proceeds to buy US government debt and Fannie Mae and Freddie Mac bonds. Before May, they were doing \$55 billion per month.

At the \$55 billion per month pace, it would take 25 months — just over two years — to transfer the full \$1.38 trillion to black America. Any potentially inflationary impact of the money-printing could be offset by halting quantitative easing immediately. If that's not enough to fully offset the impact, that would actually be good news since as Minneapolis Federal Reserve Bank President Narayan Kockerlakota observed earlier this week the Fed is currently generating less inflation and less job growth than it says it wants. If at some point during the two year span inflation did become undesirably high, the Fed could offset that by increasing the interest rate it pays on excess bank reserves or through conventional monetary means.

Could you really rectify centuries of racial injustice this easily?

Sadly, no. Even if the racial gap in median wealth were eliminated, it would still be the case that there's a substantial racial gap in median income. Lurking behind that gap is a gap in educational attainment. Unless those were rectified, the racial wealth gap would reemerge over time.

Beyond that, equalizing financial wealth would hardly level the overall playing field. Formally discriminatory public policies are a thing of the past, and public discourse is increasingly intolerant

of blatant displays of racism but many studies show African-Americans are disadvantaged by widespread (and often unconscious) biases in a range of contexts.

Monetary reparations are generally viewed as an extreme idea, but the reality is that financial leveling is one of the aspects of racial inequality that it would easiest to fix if the country wanted to.

IV. Approaches from the Torah

A. Principles of Jewish Justice

<p>6. M. Avot 5:8 Seven kinds of punishment come upon the world for seven classes of transgression...The sword comes upon the world because of the delaying of justice and the perverting of justice; and because of those that teach Torah not according to the Halakah.</p>	<p>6. משנה אבות ה:ח שבעה מיני פורעניות באין לעולם על שבעה גופי עבירה...חרב בא לעולם על ענוי הדין ועל עוות הדין ועל המורים בתורה שלא כהלכה:</p>
<p>7. B. Sanhedrin 7a R. Nahman said, reporting R. Jonathan: A judge who delivers a judgment in perfect truth causes the Shechinah to dwell in Israel, for it is written: God standeth in the Congregation of God; in the midst of the judges He judgeth (Ps. 82:1). And he who does not deliver judgments in perfect truth causes the Shechinah to depart from the midst of Israel, for it is written: Because of the oppression of the poor, because of the sighing of the needy, now will I arise, saith the Lord (Ps. 12:6) Again. R. Samuel b. Nahmani, reporting R. Jonathan. said: <u>A judge who unjustly takes the possessions/money of one and gives then to another, the Holy One, blessed be He, takes from him his life</u>, for it is written: Rob not the poor because he is poor; neither oppress the afflicted in the gate, for the Lord will plead their cause, and will despoil of life those that despoil them (Prov. 22:22-23).</p>	<p>7. תלמוד בבלי סנהדרין ז:א אמר רבי שמואל בר נחמני אמר רבי יונתן: כל דיין שדן דין אמת לאמיתו משרה שכינה בישראל, שנאמר +תהלים פ"ב+ אלהים נצב בעדת אל בקרב אלהים ישפט. וכל דיין שאינו דן דין אמת לאמיתו - גורם לשכינה שתסתלק מישראל, שנאמר +תהלים י"ב+ משד עניים מאנקת אביונים עתה אקום יאמר ה' וגו'. ואמר רבי שמואל בר (נחמן) +מסורת הש"ס: נחמני+ אמר רבי יונתן: <u>כל דיין שנוטל מזה ונותן לזה שלא כדן</u> - הקדוש ברוך הוא נוטל ממנו נפשו שנאמר +משלי כ"ב+ אל תגזל דל כי דל הוא ואל תדכא עני בשער כי ה' יריב ריבם וקבע את קבעיהם נפש.</p>
<p>8a. Exodus 23:3 And do not show favoritism to a poor person in a lawsuit. 8b. Exodus 23:6 Do not distort justice to your poor people in his dispute. 8c. Mechilta R. Yishmael Mishpatim 20 "Do not distort justice to the poor in his dispute" – Why is this said when it already says "do not show favoritism to the poor?" This only tells me if he is simply poor, but a poor person who is in need – how do we know it is forbidden to distort justice in his favor? Therefore the Torah says, "do not distort justice to the poor in his dispute."...If a wicked person and a good person stand before you in judgment, so that you do not say "since he is wicked I will rule against him in judgment," therefore the Torah says, "do not distort justice to the poor in his dispute" – someone who is poor in mitzvot.</p>	<p>8. שמות כג:ג וְדַל לֹא תִהְיֶה דָּרְיָבוֹ : שמות כג:ו לֹא תִטֶּה מִשְׁפַּט אֶבְיָנָךְ דָּרְיָבוֹ : מכילתא דרבי ישמעאל משפטים - מסכתא דכספא פרשה כ לא תטה משפט אביונך בריבו. למה נאמר, לפי שהוא אומר ודל לא תהדר בריבו, אין לי אלא דל, עני תאב מנין, ת"ל לא תטה משפט אביונך בריבו...רשע וכשר עומדין לפניך בדין, שלא תאמר הואיל ורשע הוא, אטה עליו את הדין, לכך נאמר לא תטה משפט אביונך בריבו, אביון הוא במצות.</p>

<p>9. M. Bava Kamma 3:11 If an ox was pursuing another's ox which was [afterwards found to be] injured, and the one [plaintiff] says, "It was your ox that did the damage" while the other one pleads, "Not so, but it was injured by a rock [against which it had been rubbing itself]," <u>the burden of proof lies on the claimant.</u></p>	<p>9. משנה בבא קמא ג משנה יא שור שהיה רודף שור אחר והוזק זה אומר שורך הזיק וזה אומר לא כי אלא בסלע לקה <u>המוציא מחבירו עליו הראיה</u></p>
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B. Justice vs. Charity

<p>10. B. Hullin 134a For Resh Lakish said, It is written: Do justice to the afflicted and poor; what is meant by 'do justice'? Can it mean, [favor him] in his lawsuit? Surely it is written: Thou shalt not favor a poor man in his cause! Rather it means: Be liberal with what is yours and give it to him!</p>	<p>10. תלמוד בבלי חולין קלד: א דאמר ר"ש בן לקיש: מאי דכתיב +תהלים פ"ב+ עני ורש הצדיקו? מאי הצדיקו, אילימא בדינים - והא כתיב +שמות כ"ג+ ודל לא תהדר בריבו, אלא - צדק משלך ותן לו!</p>
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For Jewish legal cases you need 1. Plaintiff 2. Defendant 3. A specific claim from the Plaintiff to extract money from the specific Defendant 4. No prejudice, case must be determined based on the merits of claim, not the status of the participants.

V. Some Relevant Laws

A. Rules of Damages

<p>11. B. Bava Kamma 91a Come and hear: <u>Regarding the Five Items, an estimation will be made and the payment made straight away</u>, though Healing and Loss of Time will have to be estimated for the whole period until he completely recovers. If after the estimation was made his health continued to deteriorate, the payment will not be more than in accordance with the previous estimation. So also if after the estimation was made he recovered rapidly, payment will be made of the whole sum estimated. <u>We see from here that estimation is essential also in the case of mere damage.</u></p>	<p>11. תלמוד בבלי בבא קמא צא: א ת"ש: חמשה דברים אומדין אותו ונותנין לו מיד, ריפוי ושבת - עד שיתרפא, אמדוהו והיה מתנונה והולך - אין נותנין לו אלא כמו שאמדוהו, אמדוהו והבריא - נותנין לו כל מה שאמדוהו; ש"מ: יש אומד לנזקין.</p>
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B. Generational / Future Responsibility

<p>12a. B. Ketuvot 68a-b Said R. Kahana to R. Papa; According to the statement you made that the <u>repayment of [a debt to] a creditor is a religious act</u>, what is the ruling where [a debtor] said, 'I am not disposed to perform a religious act'? — 'We', the other replied. 'have learned: This applies only to negative precepts, but in the case of positive precepts, as for instance, when a man is told, 'Make a sukkah' and he does not make it [or, 'Perform the commandment of the] lulab' and he does not perform it he is flogged until his soul departeth.</p>	<p>12. תלמוד בבלי כתובות פו: א-ב א"ל רב כהנא לרב פפא, לדידך דאמרת: פריעת בעל חוב מצוה, אמר לא ניחא לי דאיעביד מצוה, מאי? א"ל, תנינא: במה דברים אמורים - במצות לא תעשה, אבל במצות עשה, כגון שאומרין לו עשה סוכה ואינו עושה, לולב ואינו עושה, מכין אותו עד שתצא נפשו.</p>
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<p>12b. B. Arachin 22a R. Nahman said: At first I would not distraint upon the property of orphans. But when I heard the statement of our colleague, R. Huna in the name of Rav: As for orphans who enjoy what does not belong to them, let them follow him who left them! From that time on I distraint upon it. Why not at first? — R. Papa said: The paying of a debt is a commandment and minor] orphans are not obliged to fulfil the commandment.</p>	<p>תלמוד בבלי ערכין כב:א אמר רב נחמן: מרישא לא הוה מיזדקינא לנכסי יתמי, כיון דשמענא להא דרב הונא חברין משמיה דרב: יתמי דאכלי דלא דידהו ליזלו בתר שיבקייהו, מכאן ואילך מיזדקינא. מעיקרא מאי טעמא לא? אמר רב פפא: פריעת בעל חוב מצוה, ויתמי לא בני מיעבד מצוה נינהו.</p>
<p>13. M. Bava Kamma 9:5 One man robbed another to the extent of a perutah and took [nevertheless] an oath [that he did not do so], he would have to convey it personally to him [even as far as] to Media. He may give it neither to his son nor to his agent, though he may give it to the sheriff of the court of law. <u>If the plaintiff died, the robber would have to restore it to the heirs.</u></p>	<p>13. משנה בבא קמא ט משנה ה הגוזל את חברו שוה פרוטה ונשבע לו יוליכנו אחריו אפילו למדי לא יתן לא לבנו ולא לשלוחו אבל נותן לשליח בית דין <u>ואם מת יחזיר ליורשיו:</u></p>
<p>14a. B. Bava Batra 63a Our Rabbis taught: If a Levite sells a field to any [ordinary] Israelite with the stipulation that the first tithe therefrom is to be given to him, the first tithe from it must be given to him. If he stipulated that it was to be given to him and to his sons and he then died, it is to be given to his sons. If the stipulation is, 'as long as this field is in your possession,' and he [the purchaser] sells it and then buys it again, the Levite has no claim on him. <u>How can [all] this be, seeing that a man cannot transfer to another possession of something that does not yet exist!</u></p>	<p>14. תלמוד בבלי בבא בתרא סג:א תנו רבנן: בן לוי שמכר שדה לישראל, ואמר לו על מנת שמעשר ראשון שלי - מעשר ראשון שלו; ואם אמר לי ולבניי, מת - יתן לבניי; ואם אמר לו כל זמן שהשדה זו בידך, מכרה וחזר ולקחה - אין לו עליו כלום. <u>אמאי? אין אדם מקנה דבר שלא בא לעולם!</u></p>
<p>14b. Rambam Mechirah 22:1 A person cannot transfer ownership over an article that has not yet come into existence. This applies with regard to a sale, with regard to a present or with regard to the disposition of an oral will. What is implied? If a person states: "What my field will produce is sold to you," "What this tree will grow is given to you," "Give so and so the offspring that this animal bears," the recipient does not acquire anything. Similar principles apply in all analogous situations.</p>	<p>רמב"ם מכירה כב הלכה א אין אדם מקנה דבר שלא בא לעולם, בין במכר בין במתנה בין במתנת שכיב מרע, כיצד מה שתוציא שדה זו מכור לך, מה שיוציא אילן זה נתון לך, תנו מה שתלד בהמה זו לפלוני, לא קנה כלום וכן כל כיוצא בזה.</p>
<p>14c. Rambam Mechira 22:16-17 Since this is so, if a person on his death bed says: "Whatever this tree produces should be given to the poor," or "The rent from this house should be given to the poor," the poor acquire these objects. There are Geonim who differ with this principle and hold that the poor acquire only in a similar matter to that of an ordinary person. Therefore, they do not acquire an entity that has not come into existence. I do not accept these principles. My rationale is that a person is not commanded to transfer ownership of property. <u>He is, however, commanded to fulfill his</u></p>	<p>רמב"ם מכירה כב:טז-יז והואיל והדבר כן אם צוה אדם כשהוא שכיב מרע ואמר כל מה שיוציא אילן זה לעניים, או כל שכר בית זה לעניים זכו בהן העניים. יש גאונים שחולקין על דבר זה ואומרים שאין העניים זוכין אלא בדברים שהדיוט קונה בהן, ולפיכך לא יזכו בדבר שלא בא לעולם, ואין דעתי נוטה לדברים אלו, שאין אדם מצווה להקנות, והוא מצווה לקיים</p>

<p><u>pledges to charity or to consecrate property, as he is commanded to fulfill other vows, as we have explained in Hilchot Arachin.</u></p>	<p><u>דבריו בצדקה או בהקדש כמו שהוא מצווה לקיים הנדר כמו שביארנו בערכין.</u></p>
<p>15a. M. Bava Kama 9:9 If a man robbed his father and, [when charged by him,] denied it on oath, and [the father afterwards] died, he would have to repay the principal and a fifth [and a trespass offering] to his [father's] children or to his [father's] brothers; but if he is unwilling to do so, or he has nothing with him, he should borrow [the amount from others and perform the duty of restoration to any of the specified relatives] and the creditors can subsequently come and [demand to] be paid [the portion which would by law have belonged to the robber as heir].</p> <p>15b. B. Bava Kama 109a R. Papa added: He must however say, <u>This is due for having robbed my father</u>. But why should he not remit the liability to himself? Have we not learnt: Where the plaintiff released him from payment of the principal though he did not release him from payment of the Fifth [etc.], thus proving that this liability is subject to be remitted? — Said R. Johanan: This is no difficulty as that was the view of R. Jose the Galilean, whereas the ruling [here] presents the view of R. Akiva, as indeed taught: But if the man have no kinsman to restore the trespass unto, how could there be a man in Israel who had no kinsmen? Scripture must therefore be speaking of restitution to a proselyte. Suppose a man robbed a proselyte and when charged denied it on oath and as he then heard that the proselyte had died he accordingly took the amount of money [due] and the trespass offering to Jerusalem, but there [as it happened] came across that proselyte who then converted the sum [due to him] into a loan, if the proselyte were subsequently to die the robber would acquire title to the amount in his possession; these are the words of R. Jose the Galilean. R. Akiva, however, said: <u>There is no remedy for him [to obtain atonement] unless he should divest himself of the amount stolen</u>. Thus according to R. Jose the Galilean, whether to himself or to others, the plaintiff may remit the liability, whereas according to R. Akiva no matter whether to others or to himself, he cannot remit it.</p>	<p>15. משנה בבא קמא ט: ט הגוזל את אביו ונשבע לו ומת הרי זה משלם קרן וחומש לבניו או לאחיו ואם אינו רוצה או שאין לו לזה ובעלי חוב באים ונפרעים:</p> <p>תלמוד בבלי בבא קמא קט: א אמר רב פפא: וצריך שיאמר זה גזל אבי. אמאי? נמחליה לנפשיה! מי לא תנן: מחל לו על הקרן ולא מחל לו על החומש? אלמא בר מחילה הוא! אמר רבי יוחנן, לא קשיא: הא רבי יוסי הגלילי, הא רבי עקיבא; דתניא: + במדבר ה' + ואם אין לאיש גואל להשיב האשם - וכי יש אדם בישראל שאין לו גואלים? אלא בגזל הגר הכתוב מדבר, הרי שגזל הגר ונשבע לו, ושמע שמת הגר, והיה מעלה כספו ואשמו לירושלים, ופגע באותו הגר וזקפו עליו במלוה, ומת - זכה הלה במה שבידו, דברי רבי יוסי הגלילי; ר' עקיבא אומר: אין לו תקנה עד שיוציא גזילו מתחת ידו. לרבי יוסי הגלילי, לא שנא לנפשיה לייש לאחרים מצי מחיל, ולרבי עקיבא, לייש לאחרים ולא שנא לנפשיה לא מצי מחיל.</p>

C. Secondary Damages and Personal Responsibility

16. Coates – The Case for Reparations

And just as black families of all incomes remain handicapped by a lack of wealth, so too do they remain handicapped by their restricted choice of neighborhood. Black people with upper-middle-class incomes do not generally live in upper-middle-class neighborhoods. Sharkey's research shows that black families making \$100,000 typically live in the kinds of neighborhoods inhabited by white families making \$30,000. "Blacks and whites inhabit such different neighborhoods," Sharkey writes, "that it is not possible to compare the economic outcomes of black and white children."

17. Public Housing: Image Versus Facts - US Department of Housing and Urban Development

<http://www.huduser.org/periodicals/ushmc/spring95/spring95.html>

Public housing serves black households at a rate substantially greater than their share of the renter population. Forty-eight percent of public housing households are black compared to only 19 percent of all renter households. Taking income into account does not alter this conclusion, since only 30 percent of households with incomes low enough to qualify for public housing are black.

18. Rich Morin – The politics and demographics of food stamp recipients

July 12, 2013

<http://www.pewresearch.org/fact-tank/2013/07/12/the-politics-and-demographics-of-food-stamp-recipients/>

Beyond politics, equally large or larger gaps emerge in the participation rates of many core social and demographic groups. For example, women were about twice as likely as men (23% vs. 12%) to have received food stamps at some point in their lives. Blacks are about twice as likely as whites to have used this benefit during their lives (31% vs. 15%). Among Hispanics, about 22% say they have collected food stamps.

19. National Center for Education Statistics
 Youth Indicators 2011 America's Youth: Transitions to Adulthood
http://nces.ed.gov/pubs2012/2012026/tables/table_32.asp

Table 32. Number and percentage of people receiving public assistance, by sex, race/ethnicity, and age group: Selected years, 1980 through 2009

Age group and year	Total		Percent receiving public assistance							
	Number receiving public assistance (in thousands)	Percent receiving public assistance	Sex		Race/ethnicity					American Indian/ Alaska Native
			Male	Female	White	Black	Hispanic	Asian/Pacific Islander		
All persons										
1980	10,300	4.6	4.0	5.1	3.1	12.5	7.8	—	—	—
1985	10,800	4.6	4.2	4.9	3.0	12.4	7.3	—	—	—
1990	25,190	10.1	9.2	11.0	6.4	27.2	17.2	12.8	24.3	24.3
1995	27,250	10.3	9.4	11.2	6.0	26.5	18.9	12.6	24.1	24.1
2000	18,600	6.7	6.1	7.2	4.3	15.5	10.0	7.5	12.9	12.9
2001	17,610	6.2	5.7	6.8	4.1	14.4	8.6	7.6	14.1	14.1
2002	17,460	6.1	5.7	6.5	4.1	13.6	8.7	5.8	13.2	13.2
2003	18,580	6.4	6.0	6.8	4.4	14.6	8.9	5.9	15.8	15.8
2004	18,560	6.4	6.0	6.7	4.5	14.3	8.1	5.4	15.4	15.4
2005	18,110	6.2	5.7	6.6	4.2	14.0	7.8	5.8	13.2	13.2
2006	17,100	5.8	5.2	6.3	4.1	12.5	7.2	5.3	14.4	14.4
2007	17,210	5.8	5.4	6.1	4.1	12.8	7.0	5.2	11.4	11.4
2008	19,540	6.5	6.1	6.9	4.5	14.0	8.4	5.5	12.8	12.8
2009	19,670	6.5	6.1	6.8	4.4	13.5	8.7	5.9	16.1	16.1
15 to 24 years old										
1980	1,700	4.1	3.9	4.3	2.4	11.7	6.9	—	—	—
1985	1,760	4.6	4.7	4.5	2.9	12.5	5.0	—	—	—
1990	3,790	10.9	9.1	12.7	6.8	25.8	15.1	15.1	27.2	27.2
1995	4,390	12.1	10.2	14.0	6.8	29.4	18.2	13.2	22.4	22.4
2000	2,750	7.1	6.3	7.9	4.5	15.9	9.2	7.4	8.0	8.0
2001	2,640	6.7	6.1	7.3	4.1	15.8	7.6	9.0	15.4	15.4
2002	2,590	6.5	6.2	6.8	4.2	14.3	7.7	7.0	13.0	13.0
2003	2,960	7.3	6.6	7.9	4.9	16.7	8.0	5.8	15.9	15.9
2004	2,930	7.1	6.6	7.6	4.9	16.2	7.7	6.0	13.3	13.3
2005	2,770	6.7	6.4	7.0	4.1	15.4	8.1	6.8	15.3	15.3
2006	2,500	6.0	5.6	6.4	4.3	12.2	6.2	6.4	14.1	14.1
2007	2,460	5.9	5.6	6.2	3.9	13.2	6.3	5.5	8.4	8.4
2008	2,910	7.0	6.3	7.6	4.6	14.9	8.4	5.7	11.3	11.3
2009	2,930	6.9	6.4	7.5	4.4	14.9	8.1	7.4	17.3	17.3

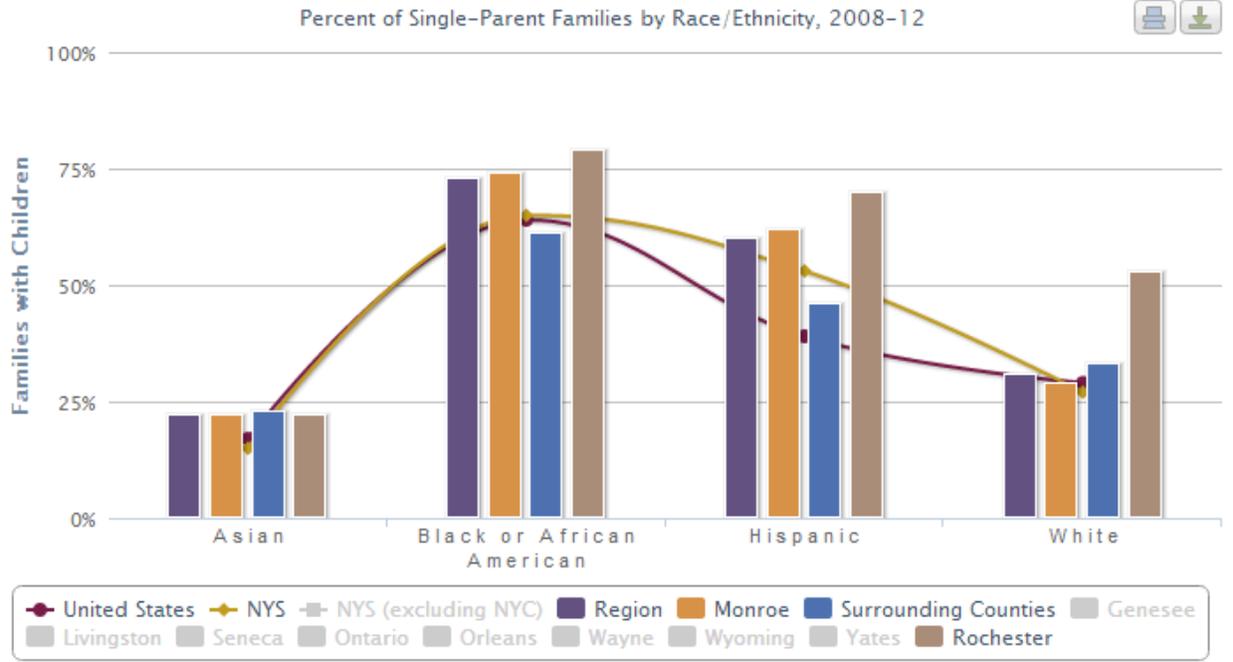
— Not available.

20. Coates – The Case for Reparations

One thread of thinking in the African American community holds that these depressing numbers partially stem from cultural pathologies that can be altered through individual grit and exceptionally good behavior. (In 2011, Philadelphia Mayor Michael Nutter, responding to violence among young black males, put the blame on the family: “Too many men making too many babies they don’t want to take care of, and then we end up dealing with your children.” Nutter turned to those presumably fatherless babies: “Pull your pants up and buy a belt, because no one wants to see your underwear or the crack of your butt.”) The thread is as old as black politics itself. It is also wrong. The kind of trenchant racism to which black people have persistently been subjected can never be defeated by making its victims more respectable. The essence of American racism is disrespect. And in the wake of the grim numbers, we see the grim inheritance.

21. ACT Rochester – Single-Parent Families, by Race/Ethnicity

<http://www.actrochester.org/children-youth/family-support/single-parent-families/single-parent-families-by-race-ethnicity/charts>



Source: U.S. Census Bureau

CGR

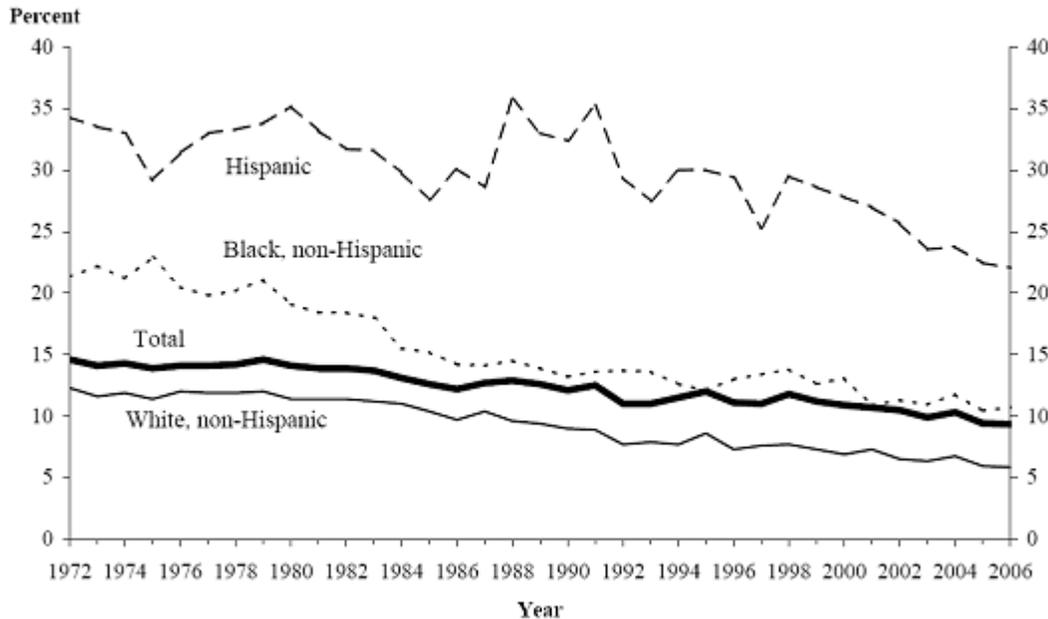
Percent of Single-Parent Families by Race/Ethnicity, 2008-12

	Asian	Black or African American	Hispanic	White
United States	17%	64%	39%	29%
NYS	15%	65%	53%	27%
NYS (excluding NYC)	13%	62%	41%	27%

22. National Center for Education Statistics – High School Dropout Rate

Table 128. Percentage of high school dropouts among persons 16 through 24 years old (status dropout rate), by sex and race/ethnicity: Selected years, 1960 through 2011

http://nces.ed.gov/programs/digest/d12/tables/dt12_128.asp



23. B. Bava Kamma 85a

Our Rabbis taught: Whence can we learn that where ulcers have grown on account of the wound and the wound breaks open again, the offender would still be liable to heal it and also pay him for [the additional] Loss of Time? Because it says: Only he shall pay for the loss of his time and to heal he shall heal. [That being so, I might say] that this is so even where the ulcers were not caused by the wound. It therefore says further 'only'. R. Jose b. Judah, however, said that even where they were caused by the wound he would be exempt, since it says 'only'. Some say that [the view of R. Jose that] 'even where they were caused by the wound he would be exempt' means altogether from any [liability whatsoever], which is also the view of the Rabbis mentioned last. But others say that even where they were caused by the wound he would be exempt means only from paying for additional Loss of Time, though he would be liable for Healing. With whom [would R. Jose b. Judah then be concurring in his statement]? With his own father.

The Master stated: '[In that case I might say] that this is so even where the ulcers were not caused by the wound. It therefore says further "only".' But is a text necessary to teach [that there is exemption] in the case where they were caused not by the wound?

23. בבלי בבא קמא פה א:

ת"ר: מנין שאם עלו בו צמחים מחמת המכה ונסתרה המכה, שחייב לרפאותו וחייב ליתן לו שבתו? ת"ל: רק שבתו יתן ורפא ירפא, יכול אפילו שלא מחמת המכה? ת"ל: רק; ר' יוסי בר יהודה אומר: אף מחמת המכה - פטור, שנאמר: רק. איכא דאמרי: אף מחמת המכה - פטור לגמרי, כרבנן בתראי; ואיכא דאמרי: אף מחמת המכה - פטור משבת וחייב בריפוי, כמאן? כאבוה.

אמר מר: יכול אפילו שלא מחמת המכה? ת"ל: רק. שלא מחמת המכה בעי קרא? אמרי: מאי שלא מחמת המכה? כדתניא: הרי שעבר

<p>— It may be replied that what is meant by 'caused not by the wound' is as taught: <u>'If the injured person disobeyed his medical advice and ate honey or any other sort of sweet things, though honey and any other sort of sweetness are harmful to a wound, and the wound in consequence became gargutani [scabby], it might have been said that the offender should still be liable to [continue to] heal him. To rule out this idea it says "only"'</u>.</p>	<p><u>על דברי רופא ואכל דבש או כל מיני מתיקה, מפני שדבש וכל מיני מתיקה קשין למכה, והעלה מכתו גרגותני, יכול יהא חייב לרפאותו? ת"ל: רב.</u></p>
<p>24. B. Bava Kamma 22b Come and hear: In the case of fire being entrusted to a deaf-mute, an idiot or a minor [and damage resulting], <u>no action can be instituted in civil courts, but there is liability according to divine justice.</u> This again is perfectly consistent with the view maintaining that Fire implies human agency, and as the agency in this case is the action of the deaf mute [there is no liability]; but according to the [other] view that Fire is chattel, [why exemption?] Would there similarly be exemption in the case of any other chattel being entrusted to a deaf-mute, an idiot, or a minor? — Behold, the following has already been stated in connection therewith: Resh Lakish said in the name of Hezekiah that the ruling applies only to a case where it was a [flickering] coal that had been handed over to [the deaf-mute] who fanned it into flame, whereas In the case of a [ready] flame having been handed over there is liability on the ground that the instrument of damage has been fully prepared. R. Johanan, on the other hand, stated that even in the case of a ready flame there is exemption, maintaining that it was only the handling by the deaf-mute that caused [the damage]; there could therefore be no liability unless chopped wood, chips and actual fire were [carelessly] given him.</p>	<p>24. בבלי בבא קמא כב:ב ת"ש : השולח את הבעירה ביד חרש שוטה וקטן - <u>פטור מדיני אדם וחייב בדיני שמים</u>; בשלמא למ"ד אשו משום חציו, חציו דחרש הוא, אלא למאן דאמר אשו משום ממונו, אילו מסר שורו לחרש שוטה וקטן, הכי נמי דלא מיחייב? הא אתמר עלה, אמר ריש לקיש משמיה דחזקיה : לא שנו אלא כשמסר לו גחלת וליבה, אבל מסר לו שלהבת - חייב, מאי טעמא? ברי היזקא. ורבי יוחנן אמר : אפילו שלהבת - פטור, קסבר : צבתא דחרש קא גרים, לא מיחייב עד דמסר ליה גוואזא סילתא ושרגא.</p>

D. Divine Justice – Collective and Generational Accountability

<p>25. Joshua 6:26-27, 7:1-1 26 At that time Joshua pronounced this solemn oath: “Cursed before the Lord is the one who undertakes to rebuild this city, Jericho: “At the cost of his firstborn son he will lay its foundations at the cost of his youngest he will set up its gates.” 27 So the Lord was with Joshua, and his fame spread throughout the land. 7:1 <u>But the Israelites were unfaithful in regard to the devoted things[a]; Achan son of Karmi, the son of Zimri,[b] the son of Zerah, of the tribe of Judah, took some of them. So the Lord’s anger burned against Israel.</u></p>	<p>25. יהושע ו:כו-כז א:ז (כו) וַיִּשָׁעַע יְהוֹשֻׁעַ בְּעַת הַהֵיכָל לֵאמֹר אֲרוּר הָאִישׁ לִפְנֵי יְקֹוֹק אֲשֶׁר יִקְוֹם וַיִּבְנֶה אֶת הָעִיר הַזֹּאת אֶת יְרִיחוֹ בְּבָכְרוֹ וַיִּסְדָּנָהּ וּבְצַעֲרוֹ וַיִּצַּב דָּלְתֶיהָ : (כז) וַיְהִי יְקֹוֹק אֶת יְהוֹשֻׁעַ וַיְהִי שְׁמֹעוֹ בְּכָל הָאָרֶץ : (א) וַיִּמְעְלוּ בְנֵי יִשְׂרָאֵל מֵעַל בְּחָרָם וַיִּקַּח עֲכוֹן בֶּן כְּרָמִי בֶן זֶבְדִּי בֶן זֶרַח לְמַטֵּה יְהוּדָה מִן הַחֲרָם וַיַּחֲרֵם אֹף יְקֹוֹק בְּבְנֵי יִשְׂרָאֵל :</p>
<p>26. II Samuel 21:1-14 During the reign of David, there was a famine for three successive years; so David sought the face of the Lord. The Lord said, “It is on account of Saul and his blood-stained house; it is because he put the Gibeonites to death.” 2 The king summoned the Gibeonites and spoke to them. (Now the Gibeonites were not a part of Israel but were survivors of the Amorites; the</p>	<p>26. שמואל ב כא:א-יד (א) וַיְהִי רָעַב בַּיָּמִי דָּוִד שְׁלֹשׁ שָׁנִים שָׁנָה אַחֲרֵי שָׁנָה וַיִּבְקֹשׁ דָּוִד אֶת פְּנֵי יְקֹוֹק ס וַיֹּאמֶר יְקֹוֹק אֶל שְׂאוּל וְאֶל בֵּית הַדְּמִים עַל אֲשֶׁר הָמִית אֶת הַגִּבְעֹנִים : (ב) וַיִּקְרָא הַמֶּלֶךְ לַגִּבְעֹנִים וַיֹּאמֶר אֲלֵיהֶם וְהַגִּבְעֹנִים לֹא מִבְּנֵי יִשְׂרָאֵל הֵמָּה כִּי אִם</p>

Israelites had sworn to spare them, but Saul in his zeal for Israel and Judah had tried to annihilate them.) 3 David asked the Gibeonites, “What shall I do for you? How shall I make atonement so that you will bless the Lord’s inheritance?” 4 The Gibeonites answered him, “We have no right to demand silver or gold from Saul or his family, nor do we have the right to put anyone in Israel to death.” “What do you want me to do for you?” David asked. 5 They answered the king, “As for the man who destroyed us and plotted against us so that we have been decimated and have no place anywhere in Israel, 6 let seven of his male descendants be given to us to be killed and their bodies exposed before the Lord at Gibeah of Saul—the Lord’s chosen one.” So the king said, “I will give them to you.” 7 The king spared Mephibosheth son of Jonathan, the son of Saul, because of the oath before the Lord between David and Jonathan son of Saul. 8 But the king took Armoni and Mephibosheth, the two sons of Aiah’s daughter Rizpah, whom she had borne to Saul, together with the five sons of Saul’s daughter Merab,[a] whom she had borne to Adriel son of Barzillai the Meholathite. 9 He handed them over to the Gibeonites, who killed them and exposed their bodies on a hill before the Lord. All seven of them fell together; they were put to death during the first days of the harvest, just as the barley harvest was beginning. 10 Rizpah daughter of Aiah took sackcloth and spread it out for herself on a rock. From the beginning of the harvest till the rain poured down from the heavens on the bodies, she did not let the birds touch them by day or the wild animals by night. 11 When David was told what Aiah’s daughter Rizpah, Saul’s concubine, had done, 12 he went and took the bones of Saul and his son Jonathan from the citizens of Jabesh Gilead. (They had stolen their bodies from the public square at Beth Shan, where the Philistines had hung them after they struck Saul down on Gilboa.) 13 David brought the bones of Saul and his son Jonathan from there, and the bones of those who had been killed and exposed were gathered up. 14 They buried the bones of Saul and his son Jonathan in the tomb of Saul’s father Kish, at Zela in Benjamin, and did everything the king commanded. After that, God answered prayer in behalf of the land.

מִיֵּתֵר הָאֲמָרִי וּבְנֵי יִשְׂרָאֵל נִשְׁבְּעוּ
לָהֶם וַיִּבְקֹשׁ שְׂאוּל לְהַכֹּתָם
בְּקִנְאָתוֹ לְבְנֵי יִשְׂרָאֵל וַיהוּדָה : (ג)
וַיֹּאמֶר דָּוִד אֶל הַגִּבְעֹנִים מָה
אֲעֹשֶׂה לָכֶם וּבַמָּה אֶכַּפֵּר וּבְרַכּוּ
אֶת נַחֲלַת יְקֹוֹק : (ד) וַיֹּאמְרוּ לוֹ
הַגִּבְעֹנִים אֵין לִי לָנוּ כֶּסֶף וְזָהָב עִם
שְׂאוּל וְעִם בֵּיתוֹ וְאֵין לָנוּ אִישׁ
לְהַמִּית בְּיִשְׂרָאֵל וַיֹּאמֶר מָה אַתֶּם
אֹמְרִים אֲעֹשֶׂה לָכֶם : (ה) וַיֹּאמְרוּ
אֶל הַמֶּלֶךְ הַאִישׁ אֲשֶׁר כָּלְנוּ וְאֲשֶׁר
דָּמָה לָנוּ נִשְׁמַדְנוּ מִהַתְיַצֵּב בְּכָל
גְּבֹל יִשְׂרָאֵל : (ו) יִתֵּן יְתֹן לָנוּ
שְׁבַעַה אַנְשִׁים מִבְּנֵינוּ וְהוֹקְעֵנוּם
לִיקֹוֹק בְּנִבְעַת שְׂאוּל בְּחִיר יְקֹוֹק ס
וַיֹּאמֶר הַמֶּלֶךְ אֲנִי אֶתֶן : (ז) וַיַּחְמַל
הַמֶּלֶךְ עַל מִפִּי בִשְׁתַּ בֶן יְהוֹנָתָן בֶּן
שְׂאוּל עַל שְׁבַעַת יְקֹוֹק אֲשֶׁר בִּינְתָם
בֶּן דָּוִד וּבֶן יְהוֹנָתָן בֶּן שְׂאוּל : (ח)
וַיִּקַּח הַמֶּלֶךְ אֶת שְׁנֵי בְנֵי רָצְפָה בַת
אֵיָה אֲשֶׁר יָלְדָה לְשְׂאוּל אֶת אַרְמֹנִי
וְאֶת מִפְּבֹשֶׁת וְאֶת חַמְשַׁת בְּנֵי
מִיכַל בַת שְׂאוּל אֲשֶׁר יָלְדָה
לְעַדְרִיאֵל בֶּן בְּרִזְלֵי הַמַּחְלָתִי : (ט)
וַיִּתְּנֵם בְּיַד הַגִּבְעֹנִים וַיִּקְיַעֵם בְּהַר
לַפְנֵי יְקֹוֹק וַיַּפְּלוּ שְׁבַעַתִּים שְׁבַעַתֶּם
יַחַד וְהֵם וְהַמָּה הַמָּתוּ בְיַמֵּי קִצִּיר
בְּרֵאשִׁיטִים תַּחֲלַת בַּתְּחִלַּת קִצִּיר
שְׁעָרִים : (י) וַתִּקַּח רָצְפָה בַת אֵיָה
אֶת הַשֶּׁק וַתִּטְהַר לָהּ אֶל הַצֹּרֵר
מִתַּחֲלַת קִצִּיר עַד נִתְּדָּ מִיַּם עֲלֵיהֶם
מִן הַשָּׁמַיִם וְלֹא נָתְנָה עוֹף הַשָּׁמַיִם
לָנוּחַ עֲלֵיהֶם יוֹמָם וְאֶת חַיִּת
הַשָּׂדֶה לְלֵלָה : (יא) וַיִּגַּד לְדָוִד אֶת
אֲשֶׁר עָשְׂתָה רָצְפָה בַת אֵיָה פְּלִגְשׁ
שְׂאוּל : (יב) וַיִּלְדֵּךְ דָּוִד וַיִּקַּח אֶת
עַצְמוֹת שְׂאוּל וְאֶת עַצְמוֹת יְהוֹנָתָן
בְּנוֹ מֵאֵת בְּעָלֵי זָבִישׁ גִּלְעָד אֲשֶׁר
גָּנְבוּ אֹתָם מִרְחֹב בֵּית שֹׁן אֲשֶׁר
תְּלוּם תְּלֹאוּם שֵׁם שְׁמָה
הַפְּלִשְׁתִּים פְּלִשְׁתִּים בְּיוֹם הַכּוֹת
פְּלִשְׁתִּים אֶת שְׂאוּל בְּגִלְבָּע : (יג)
וַיַּעַל מֹשֶׁם אֶת עַצְמוֹת שְׂאוּל וְאֶת
עַצְמוֹת יְהוֹנָתָן בְּנוֹ וַיֵּאֱסֹפוּ אֶת
עַצְמוֹת הַמּוֹקְעִים : (יד) וַיִּקְבְּרוּ
אֶת עַצְמוֹת שְׂאוּל וַיהוֹנָתָן בְּנוֹ
בְּאֶרֶץ בְּנֵימִן בְּצִלְעַ בְּקִבְרֵי קִישׁ
אֲבִיו וַיַּעֲשׂוּ כָל אֲשֶׁר צִוָּה הַמֶּלֶךְ
וַיַּעֲתֵר אֱלֹהִים לְאַרְצָא אַחֲרַי כֹּן :

27a. Exodus 34:7

Maintaining love to thousands, and forgiving wickedness, rebellion and sin. Yet he does not leave the guilty unpunished; he punishes the children and their children for the sin of the parents to the third and fourth generation.

27b. B. Sanhedrin 27b

From what our Rabbis taught: The fathers shall not be put to death for [on account of] the children. What does this teach? Is it that fathers shall not be executed for sins committed by their children and vice versa? But is it not already explicitly stated, Every man shall be put to death for his own sin? Hence, Fathers shall not be put to death on account of children, must mean, fathers shall not be put to death on the testimony of their sons and similarly, and sons shall not be put to death on account of fathers, means, nor sons on the testimony of their fathers. [To revert to the text.] Are not children then to be put to death for the sins committed by their parents? Is it not written, Visiting the iniquities of the fathers upon the children? — There the reference is to children who follow their parents' footsteps. As it has been taught: And also in the iniquities of their parents shall they pine away with them, [i.e.,] if they hold fast to the evil doings of their fathers. Thou sayest thus: Yet perhaps it is not so, but true even if they do not hold fast to their [evil] doings? When Scripture states, Every man shall be put to death for his own sin, [it must refer to those who do not hold fast to their fathers' ways. Then how shall we interpret, And also in the iniquities of their fathers shall they pine away with them?] — As referring to those who continue in the ways of their fathers. But do they [really] not [suffer for the sins committed by others]? Is it not written, And they shall stumble one upon another, meaning, One [will stumble] through the sin of the other, which teaches that all are held responsible for one another? — There the reference is to such as had the power to restrain [their fellowmen from evil] but did not.

27c. B. Makkot 24a

Said R. Jose b. Hanina: Our Master Moses pronounced four [adverse] sentences on Israel, but four prophets came and revoked them.... Moses had said, The Lord is...visiting the iniquity of the fathers upon the children and upon the children's children, unto the third and unto the fourth generation; Ezekiel came and declared, the soul that sinneth, it shall die.

27. שמות לד:ז

נָצַר חֶסֶד לְאֲלֹפִים נִשָּׂא עֹון וְפָשַׁע
וְחִטָּאתָ וְנִקְהָ לֹא יִנְקָה פֶקֶד עֹון
אבות על בנים ועל בני בנים על
שלשים ועל רבעים:

תלמוד בבלי סנהדרין כז: ב
דתנו רבנן: + דברים כ"ד + לא יומתו אבות על בנים, מה תלמוד לומר: אם ללמד שלא ימותו אבות בעון בנים ובנים בעון אבות - הרי כבר נאמר + דברים כ"ד + איש בחטאו יומתו. אלא, לא יומתו אבות על בנים - בעדות בנים, ובנים לא יומתו על אבות - בעדות אבות. ובנים בעון אבות לא? והכתיב + שמות ל"ד + פוקד עון אבות על בנים! - התם כשאוחזין מעשה אבותיהן בדיהן. כדתניא: + ויקרא כ"ו + ואף בעונות אבותם אתם ימקו - כשאוחזין מעשה אבותיהם בדיהם. אתה אומר כשאוחזין, או אינו אלא כשאין אוחזין? כשהוא אומר איש בחטאו יומתו - הרי כשאוחזין מעשה אבותיהן בדיהן. ולא? והכתיב: + ויקרא כ"ו + וכשלו איש באחיו - איש בעון אחיו, מלמד שכולן ערבים זה בזה! - התם שהיה בידם למחות ולא מיחו.

תלמוד בבלי מכות כד: א
אמר ר' יוסי בר חנינא: ארבע גזירות גזר משה רבינו על ישראל, באו ארבעה נביאים וביטלום... משה אמר: + שמות ל"ד + פוקד עון אבות על בנים, בא יחזקאל וביטלה: + יחזקאל י"ח + הנפש החוטאת היא תמות.