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Crime and punishment in Jewish law

Jacob, Walter

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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

Judaism has sought to move in the other direction and to minimize the 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 effectively 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 halakha as we see it in the Mishnah and Talmud had to be creative—even though the power of its courts both in Babylonia and Palestine was limited. Whole tracts 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 halakhaic approach can shape our modern thinking in this area wherever we live, in the Diaspora or in Israel.

As we look at the halakha, 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