

Book Review

THE COURAGE OF COMPASSION: A JOURNEY FROM JUDGMENT TO CONNECTION¹

by Robin Steinberg

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The first difficulty is simply to make sense of what is involved in ceasing to hold an action against someone while continuing to regard it as a wrong as attributed to the perpetrator in the way which is necessary for there to be something to forgive.^[2]

1 What is it like to be a public defender – a defence counsel for those who are unable to afford one? This book provides various insights into the answer by exploring the many cases undertaken by Robin Steinberg. She went to law school at New York University in 1980 and has now spent about 40 years working as a public defender. She is a founder of The Bronx Defenders in New York City. Every state and country has its own version of the office of the Public Defender. The most crucial differences concern how each is funded and operates.

2 Home to only 5% of the world's population, the USA is home to 25% of the world's incarcerated. To alleviate this blemish, Steinberg believes that "a public defender for the poor is essential to the proper functioning of an adversarial system of justice and has become even more critical given our seemingly insatiable appetite for jailing people, even before they've had a trial".³

3 Public defenders in New York City work mainly under the city's Legal Aid Society. After a failed strike in 1994, then mayor, Rudolph Giuliani, invited tenders for an alternative office of public defenders. At that time, Steinberg had already worked as a public defender for 15 years with a small, community-based organisation to provide legal aid to the poor. Having that experience gave Steinberg the confidence to bid for the

1 Optimism Press, 2023.

2 Lucy Allais, "Wiping the Slate Clean: The Heart of Forgiveness" (2008) 36(1) *Philosophy & Public Affairs* 33 at 54.

3 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 2.

city's contract. She won the tender in 1997 and the doors of The Bronx Defenders were opened the same year.

4 In this autobiographical account of her work, Steinberg introduces the reader to the work of a public defender in New York City and in doing so, explains what motivated her to pursue this line of practice instead of clerking for a judge or joining a lucrative law firm. A public defender's client has no money to pay legal fees, and often views the public defender with indifference and sometimes suspicion. In a system where resources make all the difference, and where, in practice, the pursuit of justice is "more an exercise in power and dealmaking, the odds are stacked against the poor – starting with one's inability to raise cash for bail".⁴

5 It was during a law school project in the Bedford Hills Correctional Facility for Women (located in one of the most bucolic and affluent towns in New York City) that Steinberg decided to become a public defender. At the facility, she saw how women tried to overcome "crushing poverty" in order to give their children hope and a better future, but felt "helpless in the face of a system that was merciless".⁵

6 She quickly learned "how important it was – when you go inside any system or institution – to know your values, to have principles, and to hold your ideals for the type of society you want to live in".⁶ And she gradually understood that to be a public defender is to be a defender of the public, the society and its values as a whole, as well as the individuals who make up the public – and that includes every one of its individuals – for we may never know how the dice of life is cast. Even millionaires may find themselves in need of public defenders should their wealth be lost.

7 Public defenders have fewer resources than lawyers from established firms. Their work is grounded not only on the skills of an adept lawyer, social worker and investigator, but also in the strength of character necessary for the task. It requires, she writes, "personal vigilance, courage, self-knowledge, and a clear sense of the lines that you will – and will not – cross".⁷

4 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 7.

5 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 5.

6 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 52.

7 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 53.

8 Through her cases, Steinberg reveals the problems and questions that gnaw at her conscience. She makes it clear that she does not condone the crime, but she feels the need to find what justice is – it is not about retribution, and it is also not about mercy – “Wasn’t that the lesson of all those crucifixes adorning necks and walls?”⁸

9 Her stories do not just concern sociological and jurisprudential issues, but, as in the case of Martin, she teaches forensic strategies and tactics – how they work, and sometimes do not. In Martin’s case, she had to deal with a tape recording of a police officer threatening the accused and trying to force a confession from him.⁹ In this chapter she shows the camaraderie among public defenders and how they help each other, since they do not have the support and resources of large firms.

10 Steinberg shows the big picture of the palace of justice, and then explores all of its nooks and crannies. “Traditional public defense”, she writes, “tends to focus on only the client’s criminal case, missing the larger reality of how an arrest can upend a person’s life”.¹⁰ In the 1990s, US citizens were sold on the idea that crime was rampant and the solution was tough measures in law enforcement and the punishment of offenders. The result, partly because of the new attitude towards and perspective on crime, and partly because the system became overworked, is that there are “over ten million arrests every year in the United States, and most cases end in plea bargains”.¹¹ It is in such cases that Steinberg sees the proliferation of injustice and ameliorating that became the focal point of her work as a public defender.

11 The case of Faith Stevens made Steinberg realise the overlapping issues between criminal and family court proceedings. Faith was a single mother with two children, but had taken baby Jordan as a foster child. Jordan was born with a rare genetic disorder, arthrogryposis multiplex congenita. When the paediatrician discovered multiple fractures on Jordan, Faith was reported to the city’s child services and she was charged for child abuse. That led to her two biological children being taken into custody by the child agency. Expert after expert concluded that the fractures were evidence of abuse. Then, Steinberg came across the name

8 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 55.

9 See ch 5, entitled “Defeat versus Resilience”: Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 63.

10 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 93.

11 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 93.

of the doctor (Dr Ibrahim) who had examined Jordan at birth. She and her team rushed to consult him. He remembered the child and had indicated that his condition meant that his bones were prone to fracture. In this case, the fractures were symmetrical on both limbs, indicating that they were broken during physiotherapy.¹²

12 As a micro-study of an aspect of the criminal justice system most in need of change, the chapter entitled “Skin in the Game *versus* a Pound of Flesh” examines the tragic consequences that often befall persons charged with an offence, but were either denied bail or were unable to post it.¹³ In 2010, Kalief Browder, aged 17, was charged for stealing a backpack. He was remanded in Rikers Island for three years because he could not post bail of US\$3,000. Eventually, his case was dismissed. In 2015, he committed suicide.¹⁴ In contrast, Harvey Weinstein was charged in 2018 for, *inter alia*, rape, and he went home after posting bail of US\$1m.¹⁵

13 The underlying theme of this book is the need for compassion in the administration of justice. One of the significant aspects of the flawed system in the US is the increasing rate of mass incarceration. But, “[u]ndoing mass incarceration will require a fundamental reorientation of the criminal justice system”¹⁶ because “retribution and vengeance are powerful forces in our society and thus the criminal system”.¹⁷ What is thus critical, Steinberg says, is to understand that “only the inner work of compassion can change what we expect from justice when individuals commit harm”.¹⁸

12 See ch 7, entitled “Judgment *versus* Curiosity”: Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 109.

13 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 173.

14 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 174.

15 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 174.

16 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 171.

17 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 172.

18 Robin Steinberg, *The Courage of Compassion: A Journey from Judgment to Compassion* (Optimism Press, 2023) at p 172.