JUSTICE IN THE CITY

An Argument from the Sources of Rabbinic Judaism

Aryeh COHEN

New Perspectives
in Post-Rabbinic Judaism

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Introduction

In this book I argue that the literature of the rabbis—and especially the Babylonian Talmud, the central canonical text of Rabbinic Judaism—paints a compelling picture of what a just city should be. A just city should be a *community of obligation*. That is, in a community thus conceived, the privilege of citizenship is the assumption of the obligations of the city toward others who are not always in view. These "others" include workers, the poor, and the homeless. They form a constitutive part of the city.[1]

The goal of this project is to ground a conception of justice in a tradition of rabbinic discourse centering on the Babylonian Talmud. This theory of justice that I seek to propose is significantly drawn from that textual tradition, while it is also based on a contemporary ethical and philosophical framework. Most prominently, I am indebted to the twentieth-century French Jewish philosopher Emmanuel Levinas for a framework of interpersonal ethics which allows me to see rabbinic ethics more clearly and to ask sharper questions about rabbinic ethics. At the same time, I am indebted to the Babylonian Talmud and the textual tradition it generated to enhance or critique what I consider to be Levinas's asymmetrical obsession with the Other.

Ancient Texts, Contemporary Claims

There are two areas in this work which might encounter resistance in different parts of the audience with which I am engaging. The first is the claim that I can read these texts of late antiquity such that they are relevant to contemporary situations and, even more so, will have some normative weight, and that I can still read them with integrity and academic rigor and discipline. This argument brushes up against a certain type of academic

propriety which would claim that there are unbridgeable social, cultural, philosophical, linguistic, and ideological chasms between us and the community of readers for whom and among whom the text was originally written.[2]

The second area of resistance might arise from those who think that the only faithful reading is one in which the reader exhibits certain specific faith commitments. My claim is that although my reading of Rabbinic Judaism in this book certainly makes claims on that tradition, it is not premised on specific faith claims. First things first.

The first argument is that a hermeneutic engagement with the Talmud will yield or generate a claim on our notions of justice which ought to be listened to. The claim is that writing within a tradition brings a certain gravity to an argument that it might not otherwise have. This is not the same as arguing from tradition (saying, for example, that *X* is old and hoary, and therefore, it is right). Arguing within a tradition brings a certain cultural vocabulary to bear on a problem which is not solved by recourse to first principles.[3]

The hermeneutic engagement itself brings to bear or is itself imminently intertwined with a necessary sociality.[4] Studying together in actuality or theory implicates both author and reader in a process of persuasion which is grounded on a textual moment. When we place a text between us either metaphorically (as in this book) or in actuality (if we were sitting around a table), we engage in an activity one of whose steps is entering into the parameters of a textually bounded moment. There is a notion of a "shared project" in the attempt to understand together or dialogue through the text. This notion is not dissimilar to constitutional interpretation, in that there is a premium placed on the legal interpretation arrived at being grounded in the textual situation (i.e., the Constitution or the Bill of Rights), rather than merely in this or that principled belief. For this type of textual reasoning to take place, the text that is mediating or generating the dialogue (and which, in this specific way, will ultimately ground the interpretation) must be a text that generates a certain level of respect or have at least a patina of gravity. One need not have a declared fidelity to the text (though one might, as

in the case of the Constitution), but one must have at least a level of respect for the text.

Through this joint study of a text—in the case of this book, rabbinic texts—I invite you into a discourse on an issue of import without having to develop an argument from first principles. The unfolding of the subsequent dialogue is informed by the fact that it is mediated through a text which is part of a tradition. This connection to tradition brings to bear a certain hermeneutic seriousness which might be called inspirational. By this I mean that in our dialogue, there is an intention to "follow in the footsteps"[5] of the implications of a *sugya* in the Babylonian Talmud, where implications would be arrived at through what might be a generous, though discursively rigorous, reading of that sugya. The sociality of the hermeneutic situation implies that the consequences of the engagement will be, or are intended to be, applied outside this specific engagement.

As a result, this form of interpretation will not be a claim for a literalist reading of texts or an insinuation of (the discourse of) a particular faith commitment into the political and ethical vocabulary of justice. It will rather be a display of the textured use of the vocabulary that the Jewish legal/textual tradition presents. This is itself a goal, since part of the larger exercise is staking a claim to a Judaism which privileges justice and in which justice is the warp and woof of society. That is, I would like to have shown by the end of this book that the discourse of justice that I refer to is not something grafted on to a core religious vocabulary by artificial means, but rather that this discourse of justice is of the essence of that core religious vocabulary. I will have accomplished this by revealing, from within the textual center of Jewish tradition, that vocabulary.

Locating This Book

This book is located in a number of theoretical and actual places. This is a discussion that is located in the city and also, in many ways, a particular city—Los Angeles. This is for both contemporary reasons and historical and traditional reasons. Rabbinic Judaism is an urban phenomenon.[6] While a large proportion of the laws that

are discussed in the earliest collections of Jewish law—Mishnah and Tosefta and the commentaries on those works, the Babylonian and Palestinian Talmuds—are agricultural laws, the authors of those collections themselves were urban dwellers. Further, the sages who composed these books, while being embedded in different cultures in many ways, share the fact that they were part of a multiethnic/multireligious urban milieu.[7] So while the sages, especially those of the Babylonian Talmud who will be at the center of our concerns, wrote about (almost literally) everything and everywhere, they were themselves located in an urban environment and saw its concerns as their concerns.

In the cities, in the markets, in the bathhouses, the sages came into contact with people of other religions and ethnicities. This led to competition, polemics, sharing, boundary crossing, and boundary marking.[8] The sages also came into contact with poverty, workers, conflict over wages, prices, ideologies, and practices. The sages wrote about institutional justice and (the problematics of) its application.[9] My working assumption, then, is that there is wisdom which might be extracted from these conversations which can be translated to contemporary realities.

Our contemporary urban centers are places of great conflict and injustice. According to a survey by the Institute for Research on Labor and Employment, "low-wage workers in Los Angeles regularly experience violations of basic laws that mandate a minimum wage and overtime pay and are frequently forced to work off the clock or during their breaks."[10] According to a 2009 study by the National Law Center on Homelessness & Poverty and the National Coalition for the Homeless, Los Angeles was spending $6 million a year to pay for fifty extra police officers to crack down on crime in the Skid Row area at a time when the city budgeted only $5.7 million for homeless services.[11] This becomes all the more startling when one notes that there were nearly fifty thousand homeless people in Los Angeles every night at the time of the study.[12]

Yet this is not, and need not be, the whole story. Megalopolises like Los Angeles, New York, and others—because of their size and the density of their populations—contain great possibilities for creating community and doing justice. An overwhelming number

of people live, work, play, and interact with each other in these urban centers. In my lifetime, I will meet a miniscule percentage of the people who share my city with me. However, on a regular basis, I will act in ways that will affect many of those other Angelenos for good or ill. The choices I make as a resident of this polis can lead to more justice and recognition of the others who share my city, or they can lead in the opposite direction.

This book, to some extent, is an attempt to flesh out Emmanuel Levinas's notion of a "humane urbanism."[13] I read this generally to mean a practice of living such that I am attentive to the consequences—immediate and ultimate—of my actions upon those whom I do not know but who share this city with me.

Levinas states the goal of his philosophical exploration as "maintaining, within anonymous community, the society of the I with the Other—language and goodness."[14] This dense statement is the translation of his philosophical insight into the working of the polis. The goal is to see the interactions between people—between the I and the Other, or between myself and another person—within an anonymous community, as sites or moments of justice. For Levinas, it is coming face-to-face with the other person, which is referred to here as "language," which removes the Other from anonymity and instills an obligation on the part of the I toward the Other—this is referred to here as "goodness."[15]

One of the important things to note here is that the reason Levinas speaks of the "I" and the "Other" rather than "myself and another person" is to distinguish between the two people in a complete way. The basic characteristic of another person is that she is not me—that is, she is not the same as me; and therefore, also, I am not able to glibly understand her as a slight variant of me. This is what Levinas refers to as the philosophical mistake of assimilating the Other into the Same.

Navigating those anonymous interactions justly is dependent upon my recognition that the Other is beyond my grasp and my ability to completely understand, assimilate, and, especially, make use of or exploit. This leaves me only the ability to listen to, to hear, to learn from, or to be commanded by the Other. I am deprived of the ability to control, to own, to enslave. In an anonymous community,

in a non-intimate relationship with the many people whom I don't "know," I am still obliged to maintain this society with the Other. My obligation to the Other is forced upon me by my recognition of my asymmetrical relationship with another person—the Other is transcendent. This latter idea is somewhat counterintuitive to the current ethos of American culture. The political culture of the United States is a culture of rights, while the popular culture is a culture of individual expression and entitlement.[16] Levinas's understanding of the relationship between the self and the Other is a relationship of obligation—that is, I am obligated to the Other person from the moment of the first meeting or interaction.

I, therefore, need to recognize, to understand, and to be attentive to the ways in which my actions affect those parts of the larger anonymous community with which I am not in intimate contact. I must act politically (that is, as a member of the polis) in a manner which flows from my obligation to that larger anonymous community which is not "I" nor the same as "I." Finally, I must curtail the reach of those actions which come from a perspective in which I think that I can completely grasp the strangers in my city whom I don't know and place them into the neat categories that I already have. At the same time, I must expand those actions which respond to those strangers as complete human beings beyond my ability to completely understand.

My thinking in this book is in line with contemporary thinkers who might take as their motto the subtitle of a recent book by Kwame Anthony Appiah, *Ethics in a World of Strangers*.[17] The world I am focused on right now is the major urban center I inhabit—and similar ones inhabited by millions in many locations in the world.

The City in the Philosophical Tradition

In the Greek philosophical tradition, beginning with Plato in *The Republic* and continuing with Aristotle in *Politics*,[18] the city was understood in the context of virtue ethics. The point of a city was to enable all the excellences of all the virtues to come together in one place. This was a result of Plato's claim that any one person could only excel at or perfect one virtue or skill from youth. If there was to

be perfection of all the virtues, there would need to be a collection of people who together as a whole would perfect all the virtues. As Averroes, the thirteenth-century Muslim Spanish philosopher, paraphrased Plato's argument:

> It . . . appears that no man's substance can become realized through any of these virtues unless [a number of] humans help him and that to acquire his virtue a man has need of other people. Hence he is political by nature.[19]

Averroes explains that cities exist for one of three reasons: (1) There is an unavoidable necessity. In other words, the only way that many people can acquire the stuff of survival (food, clothing, etc.) is by banding together and mutually supporting each other. (2) Cities are easier. In cities, not everybody has to learn how to plant or sew or make pottery. People can benefit from the skills that others have. (3) It is the best way. "Since it is impossible that the human perfections be attained other than in different individuals within a given population, the individuals of this species are all different in natural disposition corresponding to the difference in their perfections. . . . [T]his being as we have characterized it, there ought to exist an association of humans—[an association] perfect in every species of human and [whose members] are helped to their completion in that the less perfect follows the fully perfect by way of preparing for his own perfection, and the more perfect aids the less by giving him the principles of his perfection."[20]

This last reason, unsurprisingly, is the most important reason for the Aristotelian tradition. That is, a city is an association in which people assemble to aid each other in perfecting their individual virtues, and then the city as a whole will be perfect in its virtues.

Finally, the city will be considered a just city, according to Plato, when each person pursues that activity to which he is disposed by nature. Justice is the "equity" that results when "every one of them [i.e., the citizens] will perform the activity that is his by nature and will not long for what does not belong to him. This being so, this city will be just in their associating together in it, for the equity in it consists only in every one of its citizens doing what is singularly his."[21]

Justice in the city, ultimately, for this tradition, is both a means toward and a reflection of the virtue of justice in an individual. Justice is based on the notion that each person has a specific nature which is immutable and must be perfected within its unique disposition. Finally, this mode of philosophizing starts from the question: "Why do people congregate in cities?" The method of thinking is to imagine an ideal city (which, it is conceded, is not like any city that is known) toward which our cities should aim.[22]

This approach, which invokes a thought experiment constructing an ideal city in order to decide what actual cities should be like, has a long trajectory. It is found throughout the Middle Ages and down to the contract theorists of the nineteenth century and on to the late twentieth century in philosophers, such as John Rawls and his *Theory of Justice*, which imagines an "original situation" in which people behind a "veil of ignorance" decide what the appropriate mix of benefits and deficits in wealth and poverty, hunger and plenty, etc., should be in the ideal city.[23]

A major distinction between the city of this philosophical tradition and the city of rabbinic literature is that the latter is grounded in the concrete reality of actual human interaction. The existence of cities is a given. There is no attempt made to imagine the city of the philosophical imagination, to construct an ideal city out of whole cloth.[24] The purpose of rabbinic legislation is to start with the cities as given and move them in the direction of justice. A city needs a court;[25] a city needs a social safety net;[26] a city must provide food and shelter for wayfarers.[27] The city is the mediating element of the obligations of individuals. In a way, this is a revolution of thought whose origins were in the demands placed on individuals for poverty relief in the Torah. These individual demands, if aggregated, could become a loose safety net. The genius of the rabbis was to institutionalize and universalize the demands. A pauper looking for relief in the city of the Torah's imagination would easily find that relief if she was lucky enough to be living in a rural and highly agrarian area. The city-born-and-bound poor would be highly disadvantaged when trying to collect their share of the gleanings from the few fields in the urban orbit.

The rabbis moved beyond the idea of a city as the mechanism by which individuals could fulfill their obligations to others, to an idea of the city as being the locus of obligation, whose burden was shared by all residents. The social safety net (food, clothing, shelter) was an obligation of the *city*.[28] The city, through its institutions and representatives, passed that obligation on to its residents. It is in the legal construction of this web of interpersonal responsibility, which is backed up with the force of both moral and legal authorities, that the just city, the community of obligation, emerges.

While there are many important differences between the rabbinic city and the Aristotelian *polis*, using the term *polis* allows me to use the terms politics and political in a way which conveys commitment to the ideals of a community of obligation rather than the degraded understanding that the word has assumed in contemporary culture.

The Rabbinic Textual Tradition and This Book

This work is intellectually and spiritually located in the rabbinic textual tradition, and especially the articulation of that tradition in the Babylonian Talmud. By this, I mean two things. First, the conceptual frame which I develop in this book emerges from a close and diligent reading of texts in the Babylonian Talmud (called *sugyot*). This is not an exercise in selective quotation of seemingly sympathetic or noxious lines, but rather a reading of arguably complete discussions. It is the reading itself which reveals the conceptual frame. It is then in this type of thick analysis that the conceptual vocabulary of *Justice in the City* will come to light, rather than being found in the occasional saying or anecdote.

Rabbinic thought can also serve as a critique of Levinas's radical focus on my obligation to the other. For Levinas, obligation is not mutual; it is asymmetrical. There is no serial order of obligation (even though you would see me as hierarchically elevated, as I do you). I do not respond to you because I expect that you would respond to me in the future. While this is powerful when I think about my obligations to others and to the Stranger (even *our* obligation to the Stranger), it is disempowering from the point of

view of the Other. If obligation is what defines me as a member of the polis, what defines the one to whom I am obligated as a member of the polis? As I will demonstrate, the sages of the Mishnah and the Talmud are very clear on this point. Since all are defined as persons based on obligation, all are obligated—even the poor must give charity, etc. The community of obligation that I envision is one in which all of its members are obligated.

The Personal

This book is also located in my own intellectual biography. Although I am profoundly interested in philosophy, I am not trained as a philosopher. I am a Talmudist by training, having studied in both traditional settings (Yeshivot) and universities. While I have in almost every sense left the world of the Yeshivot, I still carry the bias toward thinking through texts which I grew up with in the *batei midrash*, study halls, of my youth and young adulthood. At the same time, one of the reasons that I left the world of the Yeshivot was so that I could think critically about the biases of the texts.

I teach in a seminary which trains men and women for the Conservative rabbinate. This means that I am challenged on a daily basis to articulate the connection between the texts I am teaching and the people "out there" to whom my charges will minister. "How is this relevant?" I am often asked. Often the best and most appropriate response is to deflect the question—to teach my students to listen to the text as "commanding Other" before immediately attempting wholesale pastoral transvaluation. However, I am also invested in my students, future rabbis, being able to think about and articulate to their eventual congregants, colleagues, and fellow citizens, the obligations that devolve upon them from being part of a polis. I think in Jewish terms about these obligations and would hope that my students would too.

In addition to my practice in the academy, I am also a social justice activist who has held (and still holds) leadership positions in Jewish and interfaith social justice organizations (the Progressive Jewish Alliance or PJA and Clergy and Laity United for Economic Justice or CLUE). My involvement in the Jewish social justice

movement has allowed me to combine my academic practice with the practice of organizing and advocating in the streets. I was instrumental in the creation of the Jewish Community Justice Project, a restorative justice project which mediated between first- or second-time nonviolent offenders and those who were hurt by their offenses. I was part of a group that wrote and submitted amicus or "friend of the court" briefs in which we articulated an objection from within a progressive Jewish position to the death penalty, to trying minors as adults, and to other issues. I participated in the Justice for Janitors campaign, writing a letter outlining the responsibilities of employers to their workers and workers to their employers in the Jewish tradition. Ultimately, tens of rabbis from Southern California signed the letter, and it was instrumental in winning a union contract from one of the largest mall owners in the country. I went with interfaith delegations of clergy to managements in support of hotel workers, security workers, and grocery workers. I participated in civil disobedience and was arrested while supporting hotel workers' demands for a fair and just contract.

Being on both the front lines and in the study hall sharpened my sense of the need for an articulated Jewish view of justice, drawn from the heart of the textual tradition. I was not satisfied with the oft-cited verses which traditionally decorate the banners and placards at protests and demonstrations. I began by developing curricula and articulating positions in papers that I shared with my academic colleagues at conferences and my activist partners in a nascent think tank at the PJA. I started developing a course to teach to my rabbinic students and ultimately developed a joint course with Bill Cutter of the Hebrew Union College for rabbinic students of both our institutions, and CEOs of companies in Los Angeles, on issues of economic justice in the Jewish textual tradition. The logical endpoint of that activity is this book—a textured and grounded Jewish account of certain principles of social justice in an urban setting.

The Order of the Book

The book is organized along the following lines. The first three chapters draw out three fundamental principles of justice in the city. Chapter 1's bottom line is concisely articulated as "Choose to be like God and not like Pharaoh." This chapter discusses the obligation to create our urban spaces so that we are able to hear the cry of the poor. The chapter analyzes a text from Tractate Baba Bathra and the commentary upon it in the Babylonian Talmud. This involves stories about Elijah, the prophet, and the sages he comes to visit. Ultimately, the challenge posed by the first principle is to live in the city such that you are available to hear your neighbor—whom you do not know—in her moment of despair, so that you can act in a manner that is just.

The second chapter argues for the obligation of dissent. If cities should ultimately be comprised of webs of just relationships between strangers, one incurs an obligation to protest against injustice at any place along those webs. This chapter analyzes a Talmudic story which supplies a counterexample to protesting injustice, and investigates the way that that story was dealt with in the commentary tradition.

The third chapter argues that the boundaries of responsibility of one who lives in an urban setting extend far beyond the geographical boundaries of one's home and neighborhood and specific community. I argue that the boundaries of obligation of necessity encompass all who live in the city, and that I am obligated to make the ramifications (even the distant ramifications) of my actions occasions of justice.

An important corollary of this principle is that it extends not only beyond my geographical space and the community therein—implicitly arguing against an ethic of intimacy or hospitality—but beyond my religious community.

The second part of the book engages specific areas of social justice.

Chapter 4 addresses the issue of homelessness. I trace the obligation to house the homeless in the textual tradition as it moves from an individual obligation, impinging on certain absolute

property rights, to a communal obligation, as a recognized "need of the poor." At the same time, I argue that homelessness itself subverts the very idea of a city as a community of obligation.

Chapter 5 addresses labor. Relationships between employers and employees play out much differently when framed in an ethic of obligation. This approach is neither market based nor classically socialist. The question of the value of labor and the worth and dignity of the laborer is central to rabbinic discussions. In this chapter, I argue that the community has an obligation to intervene in the market to ensure that the distinction between wage labor and slave labor is bright and wide. The "market" is not a natural force in the world, but rather a long and involved series of choices made by individuals. At each juncture, one can choose justly or unjustly. When decisions about labor are made from the point of view of the community and its obligations to justice, one cannot hide behind the screen of "market forces" or "the demands of Wall Street."

If one were to operate within the principles I have argued for, one would then have to rethink the justice system along the lines of restorative rather than punitive justice. This is the subject of the sixth chapter. If the goal of a system of justice is to restore to wholeness the web of relationships that were rent by the actions of a person who disregarded his or her obligations to others, then the end of that system would not be punishment but "restoration." Restoration would include both compensation and (in many cases) some form of punishment (especially in cases of violence in which the offender either is still a threat or has proven himself or herself unable to participate in a just community), but ultimately the goal would be to restore the community. Restorative justice, as I understand it, is based on two principles. The first is that human character is corrigible and not immutable. The second claim is that justice is dependent on the recognition of the dignity of everyone in the community.

A Short Primer on Rabbinic Literature for the Uninitiated

When, in this book, I refer to the rabbis or a specific rabbi (or equally, when I refer to a sage or the sages), I refer not to a contemporary cleric, but rather to a member of the intellectual and spiritual guild which flourished in the first seven or so centuries of the first millennium and which created Rabbinic Judaism. (Rabbinic Judaism is, for all intents and purposes, the archetype for every contemporary Judaism from right to left.)

The central texts of the rabbinic canon are the Mishnah, the Tosefta, the Palestinian Talmud, and the Babylonian Talmud. The Mishnah is arguably the first text of Rabbinic Judaism. It was published in the first part of the third century of the Common Era. It is a collection of legal statements which might be a law code or a legal textbook or a casebook. This is still being debated. The Tosefta is an alternative version of Mishnah published either before it or as a commentary to it. None of the classical texts of Judaism come with a real introduction, so some of the basic meta-questions about them are not answered or cannot be answered.[29]

The Palestinian Talmud is a commentary on most of Mishnah. It was finished in the fourth or fifth century and consists of legal discussions of the Mishnah and, at times, the Tosefta. It also has material which is not directly connected to either the Mishnah or the Tosefta, but to its own legal or theological agenda.

The seventh-century Babylonian Talmud is the crown jewel of rabbinic texts and has been the cornerstone of the traditional Jewish curriculum from as early as the tenth century. The Babylonian Talmud is a sprawling work which is comprised of law, legal theory, religious discourse, and folk wisdom, and uses the commentary form often as the pretext for excursions which go far afield, following an internal logic. The Babylonian Talmud has also generated a voluminous commentary tradition which began soon after its completion and continues to this day.

Notes

[1] For this reason, in this work, I use the Greek term *polis* interchangeably with *city* and identify the latter as a community of obligation. A *polis* denotes not only a randomly assembled mass of humans who by chance live together. A *polis* in the Greek sense is the end result of a natural tendency of humans to congregate and create communities. A person, in the Aristotelian philosophical tradition, is a *zoon politikon*, a political being.

[2] See, for example, Miriam B. Peskowitz, *Spinning Fantasies: Rabbis, Gender and History* (University of California Press, 1997), pp. 154–177, esp. 171: "Our modern ways of making the past make meaning offer no salvation and little redemption. Relations with the past are never innocent. They are always gendered, and often with ill effects."

[3] This is not the same as Alisdair Macintyre's notion of tradition. Cf. *Whose Justice? Whose Rationality?*, esp. chapter 18. See also Moshe Helinger, "Justice and Social Justice in Halakhic Judaism and in Current Liberal Thought" (Heb.) in Yedidia Z. Stern, ed. *My Justice, Your Justice: Justice across Cultures* (The Zalman Shazar Center, the Israel Democracy Institute, 2010), 111–145. Helinger's fine article is marred by his felt need to distance himself from unnamed "contemporary Jewish liberal understandings which often bend before the liberal norms without sufficient critique of that position" (p. 125). This is especially unfortunate since he must know that there are those who would apply this same critique to his own "personal" reading of the Jewish political tradition. For a different approach to bringing Talmudic discussions to bear on contemporary issues, see Gerald J. Blidstein, "Talmudic Ethics and Contemporary Problematics," *Review of Rabbinic Judaism* 12.2 (2009): 204–217.

[4] Robert Gibbs, "Verdict and Sentence: Cover and Levinas on the Robe of Justice" in *Journal of Jewish Thought and Philosophy*, vol. 14, no. 1–2 (2006): 73–90.

[5] Cf. Edith Wyschogrod, *Saints and Postmodernism: Revisioning Moral Philosophy*, especially chapter 1.

[6] Cf. Charlotte Elisheva Fonrobert, "The Political Symbolism of the Eruv," *Jewish Social Studies 11*, no. 3 (2005): 9–35; Alan Segal, *Rebecca's Children: Judaism and Christianity in the Roman World* (Harvard University Press, 1986).

[7] Fergus Millar, *The Roman Near East: 31 BC–AD 337* (Harvard University Press, 1994).

[8] Cf. Galit Hasan-Rokem, *Tales of the Neighborhood: Jewish Narrative Dialogues in Late Antiquity* (Ewing, NJ: University of California Press, 2003); Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity* (University of Pennsylvania, 2004).

[9] Cf. Beth A. Berkowitz, *Execution and Invention: Death Penalty Discourse in Early Rabbinic and Christian Cultures* (Oxford University Press, 2006).

[10] Ana Luz Gonzalez Ruth Milkman, Victor Narro, *Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers* (UCLA Institute for Research on Labor and Employment, 2010), 1.

[11] "Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities" (The National Law Center on Homelessness & Poverty and the National Coalition for the Homeless, 2009): 33.

[12] "2009 Greater Los Angeles Homeless Count Report" (Los Angeles Homeless Services Authority, 2009).

[13] The term is found in his essay "Cities of Refuge," which appears in the collection *Beyond the Verse: Talmudic Readings and Lectures* (Athlone Press, 1994).

[14] Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, translated by Alphonso Lingis, (Duquesne University Press, 1969), 47.

[15] Levinas's claim is actually stronger. He claims that "Desire," whose essence is murderous of the Other, "becomes, faced with the other, and 'against all good sense,' the impossibility of murder" of the Other (ibid.).

[16] For one of a plethora of examples, see Rob Walker, *The Born Identity*, http://www.nytimes.com/2010/08/01/magazine/01fob-consumed-t.html. (A version of this article appeared in print on August 1, 2010, on page MM19 of the New York Times magazine).

[17] Kwame Anthony Appiah, *Cosmopolitanism: Ethics in a World of Strangers* (W. W. Norton, 2006).

[18] By the Middle Ages, these were read as complementing each other. See *Averroes on Plato's Republic*, translated, with an introduction and notes by Ralph Lerner (Cornell University Press, 1974).

[19] Averroes, *Averroes on Plato's Republic*, translated, with an introduction and notes (Cornell University Press, 1974), 5. Cf. "It follows that the state belongs to the class of objects which exist by nature, and that man is by nature a political animal." Aristotle, *Politics*, I.253.a1.

[20] Ibid., 6.

[21] Ibid., 53.

[22] Cf. "Since we see that every city-state is a sort of community and that every community is established for the sake of some good (for everyone does everything for the sake of what they believe to be good), it is clear that every community aims at some good, and the community which has the most authority of all and includes all the others aims highest, that is, at the good with the most authority. This is what is called the city-state or political community." Aristotle, *Politics*, I.1.1.252a1-7 translation from Fred Miller, "Aristotle's Political Theory," The Stanford Encyclopedia of Philosophy (Spring 2010 Edition), Edward N. Zalta (ed.), URL = http://plato.stanford.edu/archives/spr2010/entries/aristotle-politics/.

[23] Rawls's *Theory of Justice* is of course not just another contractarian theory,

but the most important contemporary restatement of the theory. The discussion and use of Rawls's theory abound. See, for example, Martha C. Nussbaum, *Frontiers of Justice: Disability, Nationality and Species Membership* (Harvard University Press, 2007). The book is dedicated, "In memory of John Rawls." Nussbaum writes: "I have singled out Rawls's theory for critical examination because it is the strongest political theory in the social contract tradition that we have, and, indeed, one of the most distinguished theories in the Western tradition of political philosophy" (p. ix).

[24] One could make the argument that there is an attempt at creating the "anti-city" or the model of the unjust city in the representations of Sodom in Rabbinic literature. See, for example, Genesis Rabbah 49:6 or Mekilta deRabbi Ishamael Tractate Shirata 2.

[25] b Sanhedrin 56b.

[26] Tosefta Peah 4:9.

[27] Mishnah Peah 8:7.

[28] The subject of the verb *ayn pohatin*/"should be given not less than" in Mishnah Peah 8:7 is the *city* as a whole rather than any specific individual. ("A poor man that is journeying from place to place *should be given not less than* . . .")

[29] For the most recent entries in this debate, see Judith Hauptman, *Rereading the Mishnah: A New Approach to Ancient Jewish Texts* (Mohr Siebeck, 2005) and Shamma Friedman, *Tosefta Atikata 'al Masechet Pesach Rishon* (Heb.) (Ramat Gan, 2003).