Justice in the City

BY ARYEH COHEN

Every December, a Los Angeles organization called The Giving Spirit packs thousands of survival packs containing apples, bars of soap, crackers, notepads, Slim Jims, tuna, wool hats, and more—the alphabet of bare coping in a desperate environment. The packs are distributed to Los Angeles residents whose only home is the street.

Each year my family and I go to a local Modern Orthodox synagogue on a Sunday to break down boxes of toothbrushes, tissues, lip balm, skin cream, and tuna fish and then, working as a human conveyor belt, we fill plastic containers with these items, which are shipped to a Presbyterian Church where other volunteers place these supplies and more in large duffel bags. On the next weekend, we gather at the church and move the duffels and camp blankets out of the large auditorium and into our cars. We drive off to areas with heavy populations of homeless folks to distribute our wares and to meet a small percentage of the sixty thousand or so Angelenos who live on the streets. The most depressing part of the activity is the speed with which we are able to distribute the packs.

For a few hours, a thousand or so volunteers stand face to face with people who share our city but not our privilege. We make a small dent in one side of a structural problem. Hopefully, as a result of our actions some more folks will make it through the winter. Hopefully, after distributing the packs and meeting the people, more folks will start asking why so many residents of this great city are living on the streets. These are the thoughts that I hope will shadow the plastic snow in the downtown windows and the warm glow of candles in the windows of our homes.

I believe that out of Rabbinic Judaism a model of responsibility emerges which, while recognizing the poor and homeless in society, citizen and noncitizen, as groups in need of

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care and deserving of support and shelter, sees the answer to homelessness and poverty also in political terms. It is an idea that I have developed at more length in my book *Justice in the City*. The responsibility is placed on the city as a community defined by obligation toward those who reside in its boundaries. The boundaries of obligation are not the geographical boundaries of intimacy or municipality. The central argument here is that the boundaries of responsibility redraw and exceed the boundaries of intimacy, community, and municipality.

**The Ritual of Accompaniment**

There is a ritual, obligatory in Jewish law, that serves as a recurring reminder that the boundaries of obligation exceed the boundaries of geography or intimacy. When a guest leaves one’s house, one is legally obligated (according to Jewish law) to accompany that person for a set distance beyond the front door or the front of one’s property. The rabbis ground this ritual in one of the more interesting of biblical laws: the law of the “broken-necked heifer.” In the section of laws of war in Deuteronomy, the following situation is described: “Someone slain is found lying in the open, the identity of the slayer not being known.” The biblical authors face two questions. First, whose responsibility is this corpse? Second, how can the blood guilt be purged from the land, since there is no known murderer to atone for the sin?

The solution they proffer is both technical and moral. Since the victim was found “in the open,” that is, not in the municipal boundaries of any settlement, those who discovered the body must take measures to find which town is closest, and then that town must assume responsibility for the purging of the blood guilt. The elders of that town (and I am simplifying the ritual a bit) bring a young heifer to a river bed and kill the heifer by breaking its neck while reciting, “Our hands did not shed this blood, nor did our eyes see it done.”

This ritual seems to be an anti-sacrifice. First, it is not brought to the Temple in Jerusalem (or the altar in the place “that I have chosen”). Second, the sacrificial victim is not slaughtered in a way that is ritually proper—it’s neck is broken; its throat is not slit, as are those of all sacrificial victims. The rabbis understood the oddness of the sacrifice and interpreted the ritual as a simultaneous acceptance of responsibility for the victim and rejection of that responsibility.

The third-century Mishnah (Sotah 9:6) restates this part of the ritual in the following manner:

The elders of that town wash their hands in the water at the place of the killing of the heifer, and they say: “Our hands did not spill this blood, and our eyes did not see.”

And did we believe that the elders of the court are spillers of blood?

Rather [they say]: “For he did not come to us and we dismissed him. And we did not see him and let him be.”

The Babylonian Talmud (sixth to seventh century) expands this moment in the following way:

And they shall make this declaration: “Our hands did not shed this blood, nor did our eyes see it done.”

And did we believe that the court [is composed of] murderers?

Rather [they say]: “He did not come to us and we dismissed him with no food,” and “We did not see him and yet leave him with no escort.”

The talmudic comments take the Mishnah’s expanded or midrashic reading of Deuteronomy 21:7 one step further. The author of this comment takes the generalized Deuteronomic ritual of purging blood guilt and focuses it on the imputation of responsibility to the elders (as the representatives) of the town closest to the victim. The talmudic comment explains what is meant in the Mishnah by “dismissed him” and “let him be.” The former refers to not providing the stranger with food and letting him sally forth on his own, hungry. In the eleventh century, Rashi (Rabbeinu Shlomo Yitzhaki) poignantl commented: “This is what is meant by ‘our hands did not spill’. . . . He was not killed as a result of our action that we dismissed him without food and he was forced to steal from people and was killed as a result of that.” Rashi adds another narrative layer in trying to imagine what the
The Babylonian Talmud calls for the levajah of the dead—the accompaniment of a body across the threshold to burial. Our obligation to accompany the living can similarly draw us across unexpected boundaries. Prayer for the Dead by David Schwab.

exact events leading to death were. The counterfactual story, the story that the elders are disavowing, is that a stranger comes to town, does not find any food, and leaves empty-handed, alone, and hungry. Desperate for food, he attempts to rob another wayfarer and is killed in the attempt. The detail in this story, which we swear did not happen, pushes us to begin to suspect that it may, in fact, have happened. This is somewhat akin to what the literary theorist Jacques Derrida calls “writing under erasure”—introducing something into the conversation and immediately negating it, in the manner of saying “Johnny is not sick” rather than “Johnny is well.” Saying “Johnny is not sick” places the idea of sickness in the conversation (as if one said “Johnny is sick”).

This is true here. The elders, the representatives of the city, say: “This stranger came to us and we dismissed him without food and he was forced to rob another person and was killed in the process.” The counterfactual details, the facts of the case that are disavowed continue: “We let him be without providing an escort for him.” It is not true, the elders protest, that we were blind to his plight. The growing facts of the disavowed narrative lead us to the conclusion that there is actual responsibility here. Somebody should have seen. What kind of place is this in which a stranger can wander through in total anonymity and not be offered food and provided with escort? Therefore the court, the institution that defines a settlement as a city, has to atone for this death.

The feeling of responsibility for one who passes through is immediately translated into legislation as the talmudic discussion continues.

Rabbi Meir would say, “We coerce accompaniment, for the reward for accompaniment has no measure.”

This is the final step in articulating the responsibility placed upon the city. In the Deuteronomic ritual, we first find the elders responsible because of geographic distance from the blood impurity that must be purged—“Your brother’s blood cries out to me from the soil” (Genesis 4:10). The Mishnah assigns a more specific responsibility, which the comment thickens. A stranger passing through town is owed, it seems, food and protection. Finally, Rabbi Meir codifies this responsibility.

The “coercion” of Rabbi Meir’s statement implies that there are judicial institutions in the background able to enforce the law. In the twelfth century Maimonides articulated this responsibility in his great code of Jewish Law, the Mishneh Torah: “We coerce accompaniment as we coerce alms-giving; the court would appoint agents to accompany a person who was traveling from one place to another.”

Can Accompaniment Be Coerced?

There are two parts to Rabbi Meir’s statement quoted just above. The first part is as stated: “We coerce accompaniment.” There seems to be an internal contradiction in this phrase itself. Accompaniment suggests itself as an intimate act. One accompanies a friend home after dinner. One accompanies a lover to a play. Or, in an example less anachronistic to the talmudic texts, one accompanies a sage to the study hall and back as a sign of respect and love. Why then does Rabbi Meir say that we coercé accompaniment? This then is obviously not (only) the intimate accompaniment of friends and lovers, or even of students and teachers, but the accompaniment of strangers. The accompaniment of those for whom the city takes responsibility since there is not necessarily a single person who otherwise would take responsibility. The care for the stranger could no longer rely on the omniscience of individuals. There is too much risk of inaction, of indifference. The city as a body needs to be able to delegate obligations to individuals in order to maintain the justice of the whole.

We now read the second half of the statement: “... for the reward for accompaniment has no measure.” If the reward for accompanying a stranger has no measure, why would there be a need to coerce someone to do it?

Rabbi Meir’s statement highlights the fact that accompaniment is part of two discourses. On the one hand, it is a matter of personal piety, for which the reward has no measure; it is immeasurably large. On the other hand there is the matter of justice in the polis. The city as a community based on relations of justice has an obligation to the stranger. This
obligation devolves upon any or every specific individual as a limb of the communal body.

Levayah (accompanying or escorting) occurs in one other context, which might shed some light on the structure of the gesture itself. The only other usage of the term levayah is in the discussion in the Babylonian Talmud (Berachot 18a) of the obligation to accompany a dead person on the way to burial.

The levayah of the dead reinforces the basic structure of accompaniment. It is a reaching out toward another, a gesture that has no hope of being repaid. It is not a gift in the anthropological sense—a gesture that creates an obligation. It is only an answer to a commanding of the Other, the Stranger in the Levinasian sense.

Redrawing the Boundaries of Responsibility

The obligation to accompany another is an obligation to cross boundaries. In accompanying the dead, the boundaries that are crossed are those between life and death. The gesture is not one that is dependent on a sense of mutuality, since there is no possibility that the dead will repay the kindness. Accompaniment is a stretching across fixed boundaries, whether those of a city or of life itself.

This movement of stretching across boundaries (especially the impermeable boundary between life and death) moves the conversation into the realm of the fantastic. The distinguishing feature of the fantastic as a literary genre is an uncertainty or a hesitation experienced by the reader. As Tzvetan Todorov notes in *The Fantastic: A Structural Approach to a Literary Genre*, “The fantastic is that hesitation experienced by a person who knows only the laws of nature confronting an apparently supernatural event.” The fantastic functions only in the context of the normal workings of the universe or, as Todorov writes, “The fantastic is always a break in the acknowledged order, an irruption of the inadmissible within the changeless everyday legality.” Within a work of fiction, the intervention of the supernatural in life constitutes a break “in the system of pre-established rules.”

I want to suggest that accompaniment presages just this “irruption of the inadmissible within the changeless everyday legality.” One might even be tempted to read the phrase “it has no measure” as meaning that the effects of accompanying the stranger are unknown, are beyond the simple causality of the day-to-day. The assumption of the obligation of accompaniment by the city and its performance by an individual serves to redraw the boundaries of a city. The boundaries of the city are no longer the geographical boundaries or the cartographical boundaries. They are the boundaries of responsibility. These boundaries lie well beyond the boundaries of intimate geography that define most of our communities. The gesture of accompaniment points toward, or is in fact, a reaching through or stretching of the boundaries of intimacy, which are usually defined by hospitality.

We find this explicitly in the discussion of accompanying the dead, levayat hamet, in Tractate Berachot. The discussion there moves seamlessly from the initial charge to accompany the dead to stories of the “courtyard of death,” in which the dead and living meet and the dead can teach the living. Escorting the dead leads to crossing the boundaries that separate the living from the dead.

So often “justice” in the city looks like this: police brutality against those struggling for change or against the most vulnerable. How can we bring true justice—a justice grounded in care and a sense of radical interconnection—to our cities? *August, 1968* by Phyllis Serota.
Bringing Levinas's Theory of "the Other" into a Political Context

Emmanuel Levinas argued for the importance of grounding philosophical speculation in the initial gesture of recognizing the Other—any other person—as being beyond our grasp. He described this recognition of an unknowable Other as a departure from the Western philosophical tradition's approach to "knowing" the world by describing it with categories that originate in the knower. For most Western philosophers, he suggested, the task of knowing is to successfully assimilate the Other into the Same, that is, the knower or me.

This may seem to be a good way to go, philosophically, for a while. If I want to know what exists in the world, I create large categories of things (flowers, plants, planets, TV shows) and then slowly distinguish between the objects in each category by the subtler differences between them. Thus I am not left with an undifferentiated laundry list of stuff that happens to be in the world. I have a way of grasping what those objects are. What I am doing at base is bringing those objects into my categories so they become familiar. I am bridging or breaking the gap between them and me, intellectually. Hence I am assimilating that which is other, different, not me, into that which is the same—that is, me and my intellectual concepts.

Knowing an object in this way does, however, deny the object any uniqueness. A unique object cannot ever really be known—just as we must guess at the meaning of Hebrew words that occur only once in the Torah. If there is no category in which to place the object, then there is no way to differentiate it from some other category.

This is, perhaps, all fine and good for inanimate objects. But as Levinas argues, the basic characteristic of a person is that he or she is unique. Or, to use Levinas's terminology, a person is an "infinity." This is opposed to those other objects that are a "totality," meaning that we can grasp them in toto. The problem then is that if we want to know the world, perhaps the most important, or at least the closest, part of that world that we want to know cannot be described by category and difference. The basic characteristic of other people, the Other, is that they are ungraspable, an "infinity." Then if I do breach the chasm that exists between me (the Same) and you (the Other), I have misunderstood you. If I place the Other in a category and define the Other by difference, I have by definition misdefined the Other.

The only possible engagement with the Other is response. The relationship is not equal; it is hierarchical, with the Other always in the transcendent position. It is also not mutual. My response to you is not contingent upon an expectation that you will then respond to me.

As I've described it, this is an ethics of intimacy. This is a powerful way of describing and conceptualizing relationships between two individuals so that I do not profess to ever be able to know you to the extent that I might be tempted to use you. The model, however, stumbles on the political. This is sometimes referred to as the problem of the third. If there are three people in a relationship (or more, ad infinitum), who is responding to whom? As a political model it seems unworkable.

Accompaniment as a conceptual frame offers a solution. Apart from my obligation to respond to the Other, the city as a community of residents has an obligation to the Stranger. The city mediates this obligation in the form of delegating responsibility to residents. "We coerce accompaniment." The reward for accompaniment is that my neighborhood or community does not have impermeable boundaries. The obligation of accompaniment accomplishes both the Levinasian task of recognizing one's obligation to respond to the other face-to-face while at the same time not being overwhelmed by the ethical perplexity of all the Others that equally demand one's response. The city mediates the response to Others as Strangers by placing the obligation of response on one resident (coercion). However, this still preserves the uniqueness of the Other as a particular person whose presence demands a response from me.

Creating a City Where Justice Dwells

The logic of levayah/accompaniment says that the justness of a city is a function of the web of relationships between "strangers," people who are anonymous to each other. If people can fall into a place that is beyond anybody's responsibility, this is a reflection on the justness of the city itself. This is when the city needs to atone.

Accompaniment as a practice exists for both the individual and the city. The actual accompaniment of guests out of one's house as the invoking of the Abrahamic ideal of hospitality is a token of remembrance that the boundaries of responsibility extend beyond the boundaries of intimacy. In our daily lives, the practice of reaching out beyond ourselves is also a performance of accompaniment. This practice starts with paying attention to the other people whose paths we cross.
Acknowledging the cashier as a person and not just part of the cash register, for example. Speaking to the workers you happen upon in the hallways of the hotel. Walking the picket line with them. Respecting the servers, janitors, and salespeople in the places that we eat and work and shop. Engaging a homeless person in a conversation rather than either walking by or just giving them money.

Giving money to people who live on the street is not the solution to the fact that thousands of people are homeless. However, responding to the immediate needs of a homeless person with money, water, or food is a practice of inclusion, a statement that the homeless person is also created in the image of God and is part of the community. Responding to the immediate needs of the homeless person in front of the grocery store or in the parking lot is only a placeholder for the commitment to address poverty and homelessness politically and structurally. We who are privileged must also teach our children that while poverty is dangerous, poor people are not.

Finally, in the life of a city, when budgets are being decided upon, when scarce resources are being allocated, the response to the Stranger has to be in the center of the discussion. Eradicating the existence of “ownerless places” has to be the first, not the last, priority. We must be allies with all the residents of the city who are made invisible by the corporatist mentality of the city. We must demand adequate housing; we must demand living wages; we must demand access to education; we must demand a fair tax burden and an equitable sharing of resources.

The very facts of widespread homelessness, of people suffering and dying because they cannot afford health care, and of people going hungry shatter the illusion that we live in a just society.

On the other hand the promise of the fantastical implications of accompaniment is that, if we do embrace this personal and political practice of responding to the Other, it has the power to immeasurably transform our urban landscapes—to make our cities over into communities of obligation wherein justice once again dwells.

We are then, at this moment, in the midst of this era’s seemingly radical indifference to the Other (to the many, many Others), faced with a choice. We can either succumb to the distance and desolation in which a just society is impossible, or embrace the radical possibilities of accompaniment, in which we start to create the city in which justice dwells. ■

Islamic Law and the Boundaries of Social Responsibility

BY RUMEE AHMED

Rumee Ahmed’s essay on “Justice in the City” in this issue of *Tikkun*—and his remarkable book on the same subject—sent me searching for an analog in the medieval Islamic texts that I study. I was inspired by Cohen’s fresh look at rabbinic legal discourse, in which he uncovers profound disquisitions on the nature of obligation and interpersonal relations in an urban context. He manages to connect ancient legal debates on such pedestrian topics as zoning rules and ritual law to issues like homelessness in modern-day Los Angeles. Cohen is not the first to attempt

Rural Muslim jurists expressed a similar vision of obligation as can be found in Rabbinic Judaism, but jurists from medieval Islamic cities focused more on individual rights in the context of a welfare state. This sixteenth-century miniature painting by Matrakçı Nasuh depicts the city of Aleppo in Syria.