

Tzvi Novick

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The Jewish festival of Purim, which takes place annually around March, commemorates the story of the book of Esther: how the Jewish community of Persia in the 6th or 5th century BCE escaped the threat of genocide and took vengeance on its would-be persecutors. The book is self-executing, mandating, in chapter 9, verse 22, how it is to be celebrated, namely, with feasting and joy, and as “an occasion for sending portions, each to his friend, and for presents to the poor.” It is this last pairing that will serve as the starting point for our inquiry. Friends exchange portions of food, and they give charity to the poor. The contrast between these two transfers figures the poor as outsiders. The economy of reciprocal exchange is defined against, or in contrast with, the economy of charity. The poor individual is she who is, per se, *not* a friend. This dynamic readily translates into Girardian terms: reciprocal exchange among “friends” corresponds to mimetic contagion, and the poor, to the scapegoat, the excluded Other. The poor are not, of course, sent off to the wilderness to be stoned; they receive charity. But in doing so, they assume the character of the recipient, or the acted-upon, or in short, the victim.

Esther 9:22 merely clarifies the ethical dilemma implicit in the institution of charity generally: to aid the poor is, in a sense, to victimize them. Nor is the paradox specific to charity. It also threatens, for example, activism in the areas of feminism and disability. One who would draw attention to the unique problems confronted by women or the disabled runs the risk of robbing these groups, rhetorically, of agency, even of personhood. Consider, at a more abstract level, the analysis of pity in Aristotle’s

Nicomachean Ethics. As David Konstan observes, pity— $\epsilon\omicron/\lambda\epsilon\omicron\nu$ or $\omicron\iota\omicron=\kappa\tau\omicron\nu$ in Greek—presupposes a certain *distance* between the pitier and the pitied: one cannot “pity” a close friend or lover. One rather *sympathizes* with the beloved. “In Greek, then,” Konstan writes, “the subject and object of pity do not merge but rather maintain distinct emotions—that of the pitier is precisely pity—and perspectives: the pitier is always to some extent in the situation of an observer rather than a participant in the experience of the other, and views the suffering of the pitied from the outside, as it were.”

Today I take up the case of the poor specifically, and focus less on the problem than on the solution. I am interested, in particular, in ways in which rabbinic literature—a corpus produced between roughly the 2nd and the 6th century CE, and the basis of almost all subsequent forms of Judaism—manifests concern with the poor as legal agents, as responsible subjects rather than as objects. Now, it is possible to protect the dignity of the poor by means other than assignation of agency. I offer two examples. The first is from a fascinating report in the Babylonian Talmud (*b. Šabb.* 104a) about how children were taught to read the letters of the Hebrew alphabet. The various parts of the letters were assigned a homiletical significance that served as a mnemonic. You have images on your handout of the third and fourth letters, *gimel* and *dalet*. The third letter, *gimel*, has a “leg” that extends toward the fourth, *dalet*, because the *gomel*, the bestower of kindness, pursues the *dal*, the poor man, to provide him charity. But why does the *dalet* face away from the *gimel*? Because charity should be given surreptitiously, so that the poor person is not embarrassed. This homily advocates for the dignity of the poor, but it does not make them agents. The second example is from the Pentateuch. Notably, while Pentateuchal legislation has much to say about the poor, it never addresses them in the

second person. They are always spoken of in the third person. Sometimes, however, the legislator inhabits their consciousness, as it were. “If you take your neighbor’s garment in pledge, you must return it to him before the sun sets; it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate.” Thus Exodus 22:25-26. Here the ordinarily reserved Covenant Code becomes exceedingly rhetorical. It reinforces the obligation to return the poor person’s pledge by vividly evoking his perspective. This is the closest the Pentateuch comes to making the poor person a speaker. But it does not come close to making him a legal actor. The only actor here is the wealthy pledge-taker.

In focusing on legal agency, I carry forward an insight by Robert Cover, a scholar whose work inspired and remains at the center of the law and literature movement. Cover was fully conversant with the Jewish legal tradition, and he observed that while law in the modern West is rights-centered, rabbinic law is instead obligation-centered. “Indeed,” writes Cover, “to be one who acts out of obligation is the closest thing there is to a Jewish definition of completion as a person within the community.”

How, then, does rabbinic law recognize the legal agency of the poor, and thus, following Cover, their personhood in the fullest sense? I highlight three areas. The first involves marshalling the charity system not to support the poor generally, but specifically to allow them to fulfill their obligations under the law. Many such obligations involve expenditure of money. Thus, for example, for the feast of Tabernacles, one must build a hut and dwell in it for seven days. In the context of the morning prayer on those seven days, one must take up a palm branch and a citron fruit. What if one cannot afford to build the hut, or to obtain the palm branch or citron? R. Shimon bar Yoh^{ai} addresses

this question by comparing two verses. You have the text in source 2 on your handout; I will summarize it. The first verse, well-known from the Decalogue, is: “Honor your father and your mother.” (Ex 20:11) The second verse occurs in Proverbs (3:9): “Honor the Lord from your wealth.” The Proverbs verse, in context, simply mandates that one should convey some portion of one’s produce to God or to his temple. But R. Shimon takes the words “honor your Lord” as a reference to service of God generally, and “from your wealth” as a qualification thereto. One is not obligated to perform the ritual commands—the commands directed to God, and not to other human beings, such as dwelling in a hut, taking up the palm branch, wearing phylacteries—unless one can afford them. But the qualifier “from your wealth” does not occur in the Decalogue, in the context of serving parents. Therefore, concludes R. Shimon, even the indigent are obligated to beg, or literally, to make the rounds of the doors, so that they may properly honor their parents. On R. Shimon’s view, the law does make monetary demands of the poor, but not many. Honoring parents, but not ritual observance: not building a Tabernacles hut, not wearing phylacteries, etc. But other areas of the legal system harness the institution of charity to ensure that the poor fulfill the obligations of Jewish ritual life. Interestingly, this strategy is particularly prominent in connection with the holiday of Passover. Thus, for example, one source in the Palestinian Talmud makes reference to a fund for “the wheat of Passover,” i.e., wheat given to the poor so that they would be able to bake and eat unleavened bread, *matzah*, on Passover. The major code of classical rabbinic literature, the Mishnah, specifies that on Passover eve, “even a poor person in Israel must recline while he eats, and he must be provided with no fewer than four cups of wine, even from the daily dole.” The poor Jew, like other Jews, must recline

at the *seder* meal, and must consume four cups of wine. If he cannot afford the latter, he must be provided them. We might also think here, outside the rabbinic corpus, of the evidence from the book of Acts (21:23-24), where Paul is said to prove his faithfulness to the law by paying the expenses associated with the purification rites of four, evidently poor nazirites.

This, then, is the first means by which the rabbinic system reinforces the legal agency of the poor: by directing the distribution of charity in light of their obligations under the law. The second and not unrelated strategy that I wish to highlight today is the creation of internal gradations, so that a given obligation may be fulfilled in different ways, some more financially onerous and some less. The classic example of such gradation occurs in sacrificial law, in the form of what some rabbinic texts call the *qorban oleh ve-yored*, the sacrifice of the ascendant, i.e., the wealthy, and the descendant, i.e., the poor. According to Leviticus 5, for example—you have the relevant verses on your handout, under source 3—an individual who unknowingly incurs impurity, and then becomes cognizant of the fact, must bring a sin or purification offering in the form of a sheep or goat. But if he cannot afford livestock—literally, “if his hand does not reach to” them—he may offer instead two birds. And if he cannot afford even these—literally, “if his hand does not attain to” them—then he may make a grain offering. This body of law thus addresses the poor as agents. Indeed, from the perspective of agency, the rhetoric of the passage is particularly striking. Leviticus 5 does not address first the case of the wealthy sinner, then that of the middle class sinner and then that of the poor sinner. The three scenarios involve not three distinct individuals, but the same individual, in three different financial circumstances. The law thereby avoids reification of class differences.

The rabbinic term *qorban oleh ve-yored*, the sacrifice of the ascendant and the descendant, captures this fluidity: the rich and poor are defined not in static but in dynamic terms. Thus the law not only affords agency to the poor, but normalizes poverty as a legal condition.

We have to this point examined two ways in which rabbinic law attends to the poor *qua* agents: first, by directing the charity system so that they can fulfill their obligations under the law, and second, by creating graduated obligations that include less expensive means of fulfillment. The third and final area that I will take up today is the transformation of the poor into legal agents in the very act of receiving charity. This is achieved in a number of ways, most radically, through the insistence that the poor are legally obligated to accept charity, so that, in the charity transfer, the law directs not only the giver, but the receiver. Rabbinic sources are far from unanimous on this point. Tractate Peah, which stands at the beginning of the Mishnah, treats of the obligation to leave a corner (*peah*) of one's field unharvested, for the poor to glean. Hence it also addresses the topic of charity more broadly. The tractate ends thus: "Anyone who is not needy but nevertheless takes [charity], does not die in old age until he has need of creaturely help. And anyone who is needy but does not take, does not die in old age until he is in the position to support others from what he has. And concerning him, Scripture says: "Blessed is he who trusts in the Lord, whose trust is in the Lord alone. He shall be like a tree planted by waters, etc." (Jeremiah 17:7-8) The anonymous voice of the Mishnah advances a most stringent ideal: the poor should, ideally, refuse charity, and rely upon God alone. But a commentator in the Palestinian Talmud, R. Ashi, boldly rewrites the Mishnah: it should say, rather, "Anyone who is needy but does not take is a murderer,

and it is forbidden to pity him. If he does not take compassion on himself, will he take compassion on another?” One who refuses, despite his poverty, to take charity, manifests cruelty toward himself, and it may therefore be presumed that he will show the same or worse cruelty to others, even to the point of murder. On R. Ah%a’s account, there is no principled difference between the giver and the receiver in the charity transfer: both act under a legal obligation to take compassion on the poor, the former by offering charity, and the latter by accepting it.

A second way in which the receiving of charity itself becomes a manifestation of legal agency emerges from the beginning of Mishnah tractate *Shabbat*, dedicated to the laws of the Sabbath, and especially the various forms of prohibited labor. The tractate opens with the most anomalous labor prohibition, that against carrying an object from the public to the private domain, or the reverse. This is the final source on your handout. “There are two takings-out on the Sabbath, which are in fact four, and there are two takings-in on the Sabbath, which are in fact four.” Rather than parse this extremely terse line here, let’s just move directly to the illustration that follows. “How so? The poor person stands outside and the homeowner inside. If the poor person extends his hand inside and places into the hand of the homeowner, or if he takes from it and brings out, the poor person is liable and the homeowner is exempt. If the homeowner extends his hand outside and places into the hand of the poor person, or if he takes from it and brings in, the homeowner is liable and the poor person is exempt.” Let’s stop here. What’s going on? The basic notion is that, to have violated the Sabbath prohibition against transferring across domains, one must have lifted up the object in one domain, brought it to a different domain, and caused it to come to rest in that new domain. The Mishnah’s

illustration employs two figures: a poor person, standing outside the home, in the public domain, and the homeowner, inside his house, in a private domain. In the first case, the poor person extends his hand, holding an object, from the outside to the inside, and drops that thing into the homeowner's hand. What object? Probably a receptacle, into which the homeowner will place money or food. The poor person has violated the Sabbath labor prohibition, because he has moved the object from the outside, and caused it to rest on the hand of the householder, inside. Likewise, if the poor person extends his hand, this time empty, inside the house, and then takes something, presumably food or money, from the hand of the householder, and then the poor person retracts his hand, to the outside, he has again done wrong, because he has lifted up the food or money inside the house, and brought it outside. The same holds, *mutatis mutandis*, for the householder, should he be the one who extends his hand outside, either to provide money or food, or to bring the receptacle inside (into which he will then place money or food). We now proceed further in the text: "If the poor person extends his hand inside, and the homeowner takes from it, or if he places into it, and he takes out, they are both exempt." In the two cases conveyed here, there has been no violation—or at least, no actionable violation—of the prohibition against carrying, because the two parties have divided the action. The poor person transfers his receptacle from outside to inside, but he does not put it in the homeowner's hand. Rather, the homeowner takes the receptacle from the poor person's hand. Thus the poor person escapes punishment, because he did not complete the transfer into the private domain, while the homeowner is of course exempt, because he did not transfer. The same holds if the poor person extends his empty hand into the house, but, rather than taking food or money from the householder's hand, the

householder instead places the food or money into the poor person's hand, and the poor person retracts his hand. Again, the poor person has carried, this time from outside to inside, but he is not liable, because it was the householder, not he, who originally placed the food or money in the poor person's hand on the inside, and thus started it on its journey. We may omit discussion of the last line of the Mishnah, which plays out the same "cooperative carrying" scenario in reverse.

A complex case, a striking hypothetical. This is how the Mishnah chooses to introduce the Sabbath, and this choice may reflect on its view of the Sabbath's nature. But more relevant, for our immediate purposes, is what the Mishnah tells us, through these illustrative permutations, about the act of charity. At a minimum, it conveys that the act of charity is fraught, both for the giver and the receiver, with legal implications. Both parties must take care that it is done properly; the penalty for intentional violation of the Sabbath is death, or at a minimum lashes, and even unintentional violation renders one liable for a sin-offering. But the Mishnah's rhetoric is as interesting as its substance. The Mishnah creates a perfect, almost hypnotic symmetry between the poor person and the homeowner. Each extends his hand, each retracts; each places, each takes. The householder and the poor person are equal agents in the charity transfer. Note, moreover, that all objects have been stripped from the picture: we must infer a receptacle, food, money, but the Mishnah says nothing of these things, even though there is no carrying at all without them. Suppressing the objects allows the Mishnah to enhance symmetry—it need not differentiate between the receptacle in one case, and the food or money in the other—but it also has the effect of highlighting the hand. The Mishnah is interested only in the hand. The hand is *the* metonym, in the Bible and in post-biblical literature, as in

many other languages and cultures, for action. It is also the metonym for acquisition of wealth; consider Leviticus 5, which we analyzed earlier, where poverty is characterized in terms of a hand that does not reach or attain to livestock or birds. The poor person and the householder here manifest, in the charity transfer, equally agentive hands.

The Mishnah's symmetry owes much to its legal, and especially its scholastic character. It abstracts, it spins out hypotheticals, it considers all permutations. But this—the symmetry born of law—is not in itself insignificant. I romanticize law but do not altogether fictionalize it when I say that the legal pushes toward equivalence where the social would reify difference. When this general feature of legal thought intersects with the specific obligation-centeredness of rabbinic legal culture, agency tends naturally to multiply. I would suggest, more specifically, that this last text points us toward a different “anatomy of obligation,” so to speak, than the one famously advanced by Emmanuel Levinas. For Levinas, obligation originates in the face of the Other; indeed, the Other's face is the origin, in a certain sense, of one's very Self. Now, the generative power of the face of the Other is a topic that probably ought not to be broached in the final minutes of a talk, especially a talk that began in 5th century Persia, but let me venture only the following possibility. Martin Buber offers this criticism of Levinas' ethics: “[One who does not have access to the other] may clothe and feed the hungry all day and it will remain difficult for him to say a true Thou. If all were well clothed and well nourished, then the real ethical problem would become wholly visible for the first time.” I take Buber as claiming that, to have ethics become manifest most fundamentally in obligation toward the Other is to miss the dialogical component of the ethical relationship, which depends on a mutuality of agency. I am sympathetic to Buber's

criticism, but I don't think it ultimately requires us to bracket out obligation from the ethical encounter. We might instead begin by modifying our anthropology of obligation. The face—a metaphor, for Levinas, but not only a metaphor—is in essence static. Is it really the vision of the face, of the Other as image, that generates obligation, and selfhood, or does the generative power of the Other rather lie in the Other's hand, in the Other as actor? Image, or actor? Face, or hand? Leaving you with this question, I will summarize, more prosaically, the three contexts wherein classical rabbinic literature recognizes the legal agency of the poor: in directing the charity system so that it allows the poor to fulfill their legal obligations, in providing graduated systems of obligation that incorporate less expensive modes of fulfillment; and in loading the act of receiving charity itself with the substance and rhetoric of agency.