

READING CLASSICAL RABBINIC TEXTS AS CONTEMPORARY ETHICAL AGENTS: A RESPONSE

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What do Hebrew and Aramaic rabbinic corpora, compiled by Jewish, male sub-elites in Roman and Persian imperial contexts from the first through eighth centuries, have to do with our contemporary moment? Ought they be imagined to shape, influence, or mediate the material, relational, and spiritual lives of contemporary selves and societies? Or ought they be preserved and reconstructed as historical relics and studied for antiquarian purposes? Over the past several decades a stream of rabbinics scholarship has emerged that uses theory to bridge the gap between these ancient texts and pressing contemporary questions, often about gender and sexuality, selves and bodies, violence and ritual, disability and ecology. This approach, which may be methodologically credited to Daniel Boyarin's *Carnal Israel* (1993), uncovers in the texts "cultural problematics" that resonate with those at work in society and culture today. While the theoretical turn allows contemporary forms of

life to shape scholarly engagement with the texts, it remains an overtly historicist inquiry into the past.¹ Its ultimate goals are to (re)construct the cultural world of the rabbis, the more varied world of ancient Jews, and the vast and complex universe of late antique Palestine or Babylonia. Against this backdrop, the essays in this volume foreground normative questions. Rather than pursue contemporary interests in the guise of an historicist project, they propose methods for mobilizing texts of antiquity in the making of contemporary selves.

Each of the essays treated below generates an ethically engaged reading by taking seriously both the world of rabbinic texts and that of contemporary ethical agents. These authors are drawn to this corpus precisely because generations of Jews have turned to it as an authoritative normative source. As seekers of ethical instruction, the authors take seriously the capacity of rabbinic texts to instruct. And yet, while recognizing the texts' canonical or authoritative status, they engage them

1 The monographs of the authors of this response can serve as examples. In Halberstam's *Law and Truth in Biblical and Rabbinic Literature* (Bloomington: Indiana University Press, 2010), she takes on questions about the unreliability of evidence—and indeed evidence law—in determining an understanding of the truth of the matter. She does so in a contemporary moment in North America in which feminist and critical legal thought—alongside other modes of cultural knowing—slowly chip away at faith in the courts to accurately determine facts. At the same time, however, many forms of halakhic Judaism as preached and practiced in the contemporary moment continue to uphold legal reasoning as an exclusive path to truth, over and above personal narrative (anecdote) or other cultural modes of knowledge production, in ways that can be both comfortingly clarifying and potentially harmful to those who clash with it in some way. The book takes pains to show that early rabbinic literature reveals an awareness of the limits and failures of legal epistemology and indeed finds alternate paths to truth via narrative and personal encounter with the sacred. It doesn't, however, overtly suggest that these conclusions may be useful in contemporary struggles to find alternatives to rationalist, legal modes of knowledge production in contemporary Judaism. The link between the book and the contemporary, postmodern moment is actually made by Martin Kavka in "Postmodern Jewish Ethical Theories" in *The Oxford Handbook of Jewish Ethics and Morality* (New York: Oxford University Press, 2013). Likewise, Alexander's *Gender and Timebound Commandments in Judaism* explores textual traditions that stand at the center of contemporary debates about women's participation in Jewish ritual. While recognizing that the book's energy comes from contemporary cultural debates about the role of women in society, it steps back from the contemporary context to read textual traditions as an artifact of history.

in unexpected ways. Though the authors find resources for contemporary self-formation in the texts, they recognize that there is extent to which they do not (or cannot) identify with the rabbinic project. As such, the Talmud retains a kind of foreignness or strangeness that allows them to defamiliarize rabbinic topics and think about them in new ways. Though the essays differ in the extent to which they integrate the tools of historical criticism into their readings, and in the extent to which they highlight or elide their remoteness from our world, all galvanize ancient texts in the project of contemporary ethical formation.

Furthermore, each essay finds a different point of entry into the movement between the contemporary moment and ancient texts. For Deborah Barer, the prod to ethical reasoning comes from a close reading of the text itself, while for Marjorie Lehman, it comes from attending to the needs of contemporary readers. Rebecca Epstein-Levi and Aryeh Cohen develop readings that are more dialectical in character. They alternate between privileging their reconstruction of the text's point of view and that of the contemporary reader. Experience within the contemporary world shapes their readings of text, and their readings of text in turn inform their development as ethical agents in the contemporary world. In what follows we discuss each of the essays in turn, highlighting points of convergence and difference among the different approaches to reading rabbinic texts as ethical agents.

The generative energy of Barer's essay comes from rigorous attention to the fine grain of the texts at hand. Her reading is prompted by dissatisfaction with what she calls the "conceptual" approach to an ethically charged phrase, *lifnim mi-shurat ha-din*. Ironically, the eagerness with which the conceptual approach rushes to ethical conclusions leads it to miss out on the productive ethical reflections made possible by close textual analysis.

At the heart of the conceptual approach is a question about the relationship between Jewish law and Jewish ethics. Do the two disciplines provide distinct and independent guidance for Jewish behavior, or

alternatively, is ethics encompassed within law? The Talmud describes rabbis who behave in a morally laudable but voluntary manner as acting *lifnim mi-shurat ha-din* (lit., “within the line of the law”). The conceptual approach asks what the source of this morally laudable behavior is. Does law anticipate and make allowances for this behavior in its very structure, in which case Jewish law encompasses ethical considerations, and no Jewish ethics exists independently of Jewish law? Or conversely, is this behavior inspired by extra-legal values, in which case law and ethics constitute two independent and equally authoritative sources for Jewish norms?

Talmudic tales of rabbis acting *lifnim mi-shurat ha-din* appear to hold the key to resolving this debate. Advocates of the “law-encompasses-ethics” position argue that sages who act *lifnim mi-shurat ha-din* act *within the scope of the law* by waiving a right that the law institutes with the understanding that it may at some point be waived. Conversely, advocates of the “ethics-is-independent-of-law” position claim that rabbis who act *lifnim mi-shurat ha-din* answer a moral calling that lies *beyond the scope of law*.

Prior ideological commitments may well be at work in framing the terms of this debate. One suspects that those who do not grant ethics status as a discrete normative source alongside law do so because they adhere to a Jewish belief system that envisions only one source as an authoritative guide (i.e., law) for Jewish behavior. Alternatively, those who grant ethics a legitimacy on par with law may wish to justify their use of extra-halakhic sources (i.e., ethical principles) to guide contemporary Jewish behavior.

The telltale sign that these positions on *lifnim mi-shurat ha-din* originate in contemporary ideological positions is that they exhibit the same strengths and weaknesses vis-à-vis talmudic texts that use the phrase. On one hand, neither position makes sense of Rav Pappa’s decision to interrupt his meal to join his son in the invitation that precedes the grace after meals. The rabbinic text does not state the rationale for Rav Pappa’s behavior, and nothing in the story suggests ethical motivations. As Barer notes, “one can imagine a variety of reasons that Rav Pappa might wish

to interrupt his meal...Perhaps he wished to honor his son...Perhaps he saw the the opportunity to participate in a *zimmun* as desirable in and of itself...Perhaps he wished to offer...ritual instruction...[In any event,] the editors offer no moral evaluation of his conduct." On the other hand, both positions provide equally compelling accounts of R. Hiyya's decision to compensate the woman for his mis-evaluation of her coin. R. Hiyya's behavior can plausibly be explained as a morally motivated gesture arising outside the law or as the exercise of a legal prerogative to waive his rights as an expert banker. The fact that neither position is more or less vindicated by the texts suggests that their genesis lies outside of the texts.

Barer's corrective is to engage in a close reading of the talmudic texts without preconceptions as to their ethical import. At the heart of her reading lies an unexpected discovery made possible by source criticism. Barer notices that the phrase *lifnim mi-shurat ha-din* is used "by the Talmudic editors to describe rabbinic actions, [and] not by named rabbis to explain [own] their behavior." That is, the phrase appears only in the latest stratum of the text. The question that drives Barer's analysis is what motivates this editorial reflection on certain sages' behavior. The answer comes when she observes that both of her texts arrange their constituent sources into a similar structure. Both stage a conflict between an accepted legal framework and a sage's behavior. Initially the texts cite a rule or set of rules ("two do not interrupt their meal for one," "expert bankers are not liable for their errors"). Subsequently, they introduce a narrative that depicts a rabbi acting contrary to the just-cited rule.

Barer convincingly argues that the editors characterize these sages' actions as *lifnim mi-shurat hadin* in order to defuse the tension between the legal and narrative materials. The editors achieve this because the *lifnim mi-shurat ha-din* label indicates that these sages "did not engage in a process of rule-based decision-making" when determining their course of action. Instead, the editors assert, they reflected on the particularities of the case at hand, considered the social repercussions of following the rule as stated, and opted for a course of action that was more responsive to the needs of the moment than the rule. They did not, of course, "go 'off-script' in a way that [would] cause them to violate the law." That is, they stayed

“within the line of the law,” even as they adopted an unexpected course of action. When the editors claim that the sages’ acted *lifnim mi-shurat ha-din*, they neutralize the conflict between the sages’ behavior and the rules. It’s not, the editors say, that these sages referenced a different rule—one that contradicts the stated rule—to determine their behavior. It’s that they eschewed rules altogether in this single instance. One reason this interpretation is compelling is that it accomplishes a task that has eluded so many others: it makes sense of the opacity of the literal meaning of the phrase, *lifnim mi-shurat ha-din*. Though acting “within the line of the law,” these sages were not enacting the dictates of the rule. Barer characterizes this form of decision-making as the use of “discretionary judgment.”

As a legal practice, discretionary judgment complements rule-based judgments, compensating for the latter’s shortcomings. While rule-based judgments have the benefit of being easily executed, they do not yield an optimal outcome in every case. And this is where discretionary judgment comes in. This approach to legal decision-making allows a judge to bypass the rule in a particular instance without having to institute a new rule.

When understood as “discretionary judgment,” passages employing the phrase *lifnim mi-shurat hadin* prove to be fertile ground for ethical reflection. Barer notes the importance of social context and relationships (e.g., between Rav Pappa and his son, between R. Hiyya and his clients) when exercising this kind of judgment. It is noteworthy that sages do not act *lifnim mi-shurat ha-din* when standing outside of a situation, as they would when serving as a judge in a courtroom, for example. Instead, they employ discretionary judgement in the context of everyday life when *they themselves are a party to events*. This observation invites speculation about when it is beneficial to depart from the expectations created by rules. What can we learn from the fact that the Talmud requires the decision to be made in the context of a relationship in which one is personally invested? It would seem to locate this type of judgment within the context of a network of relationships. Another of Barer’s ethical insights is that “while rule-based decision-making constrains the choices available, exercising discretionary judgment expands them. This...creates the possibility for both better *and* worse outcomes.” This risk may explain why the Talmud

depicts only rabbinic agents acting *lifnim mi-shurat ha-din*, and even then, only rarely. Again, this observation invites reflection. What conditions might need to be met if one wants to set rules aside? Is certain expertise necessary? Is such a requirement inappropriately elitist? Rather than supplying hard and fast answers, Barer's reading exposes the questions.

The most refreshing surprise in Barer's essay is the extent to which source criticism is integrated into an ethically-oriented reading. According to conventional wisdom, source critical methods support decidedly historicist types of inquiry. Source criticism attempts to reconstruct the sources that ancient editors wove together into the current text by noticing the residual traces of their editorial work. The method is particularly attentive to the abrupt juxtaposition of distinct styles and vocabularies, for which it accounts by attributing the styles and vocabularies to discrete sources. Having disentangled the sources from each other, source criticism goes on to determine which are early and which are later, thereby laying bare the stages of the text's development. The main work of source criticism, however, is complete when the text's constituent parts have been identified and catalogued. In its starkest form, source criticism is unconcerned with what a text means, and certainly not with what it means for us today. In Barer's hands, however, the source critical method, with its historicist overtones, does not lock the text into an antiquarian context. Ironically, it liberates the text to speak more robustly and with greater nuance to contemporary circumstances. The ethical questions that Barer raises through her reading have a relevance beyond the context of sectarian conflict between streams of modern Jewish thought. They speak to the human condition more generally, which is one of the desiderata for the academic practice of Jewish ethics outlined by Epstein-Levi, more on which is discussed below.

If the center of gravity of Barer's reading is the world of the text, the stimulus for Lehman's is the world of contemporary ethical agents. Lehman is aware that her students are engaged in an identity-forming project that they assume would have been anathema to the ancient rabbis. The fact that both the Bible and the Mishnah censure male-male sexuality in severe ways gives credence to "their view that the rabbis of the Talmud

are homophobic.” As many of the students “are struggling with their own sexuality,” they imagine the rabbis have nothing to offer them. Lehman rejects historicist approaches to defusing the tension between the world of her students and that of the texts. To emphasize the cultural and historical remoteness of the rabbis is to concede that the texts are not relevant to the students’ contemporary ethical struggle, and this is the very premise she wants to undermine.

Lehman’s response to this conundrum is to engage in what she calls a “pedagogy of confrontation.” Rather than expect the texts to instruct her students in a top-down manner, as per the stereotype about how sacred texts function, she prompts the texts to speak to the students as fellow travelers. Lehman sets up an exercise in which the texts “provoke us to confront the rabbis as they provoke one another, [and in which we talk] with them and back to them about the issues they raise.” This pedagogy recognizes the complexity of rabbinic texts and focuses on those that grapple with the normativity of heterosexuality. It highlights places “where the rabbis...complicate their own definitions of male and female sexuality.” Instead of taking the rabbis to be the source of answers and norms, Lehman positions them as peers and conversation partners with whom her students can identify. The students stand to grow as human beings by reading rabbinic texts —not because the rabbis are authoritative and the students compliant, but because they struggle with similar issues.

Lehman brings together texts that, on one hand, confirm and, on the other hand, complicate the students’ assumptions about rabbinic sexuality. M. Sanhedrin 7:4 prescribes the death penalty for male-male sex and creates an equivalency between it, incest, and bestiality. While such a text validates the students’ preconceptions regarding the rabbis as homophobic, other texts present the national hero and patriarch Joseph as drawn to male-male sex. Lehman wants her students to wrestle with inconsistencies that confound their expectations.

Lehman constructs her reading of Joseph’s sexual experiences as a counterpoint to what she calls “cultural readings.” The two approaches differ in their understandings of the sexual tension that permeates Potiphar’s household. Cultural readings position Potiphar’s wife as the

antihero and “Joseph’s ‘cultural other.’” According to this approach, the wife’s pursuit represents the enticing yet dangerous temptation of foreign culture, and Joseph’s rejection offers an inspiring model for how to preserve Jewish identity in a hostile environment. While cultural readings of this sort pick up some important themes in the Joseph narrative, they neglect equally important others. Lehman directs her students’ attention to several midrashic texts that suggest that the sexual tension in the household was not between Joseph and the wife, but between Joseph and the master, Potiphar himself. In these texts Potiphar’s wife is depicted not as a seductress seeking to satiate her sexual appetite, but as a matriarch along the lines of Tamar. Cast in this vein, Potiphar’s wife (like Tamar) works to assure the future of the covenantal line by proposing to engage in otherwise illicit sexual relations. In place of the wife, Potiphar now plays the role of sexual predator.

Potiphar’s advances threaten Joseph in a way that the wife’s do not because apparently Joseph experiences temptation with men rather than women. At the heart of Lehman’s pedagogy are texts that imply that Joseph does not embody heterosexual manliness. Building on the Bible’s portrait of Joseph as a dandy, midrashic texts accentuate his femininity and depict him attending to make-up, hairstyle, and gait. In fact, Joseph’s attraction towards other men is so strong that only divine intervention can save him from himself. God (or his agent Gabriel) castrates Potiphar and prevents Joseph from acting on his natural desires. The portrayal of Joseph as a man of dubious “manliness” is reinforced by the vignette of neighborhood thugs taunting him. When they spot him primping in the marketplace, they challenge him to assert his manliness in conventional ways, namely by dominating the “she-bear” that is Potiphar’s wife.

And yet, this man of fluid sexuality is a cultural hero. Lehman writes, “In the end, the rabbis preserve a tradition that leaves us to integrate the image of Joseph’s confused sexuality with his utter greatness as one of Israel’s forefathers.” It is a pedagogically potent approach to juxtapose texts that evince vastly different attitudes towards gender identity and homosexuality. Lehman’s teaching engages texts that repudiate fluid gender identities alongside those that recognize it in the nation’s heroes.

Lehman concludes that “rabbinic texts provoke [her students] to think not only about their sexuality, but also about the relationship between their sexuality and the people they ultimately want to be in the world.” She finds that these texts make space for national heroes whose sexual identities are in flux.

Lehman is aware that she is bucking scholarly conventions by reading this particular group of texts together. The texts arise from distinct temporal, geographic, literary and cultural settings. Her reading is directed at her students and aims to disrupt *their* preconceptions about the rabbis. She accomplishes this by bringing together texts that have radically different viewpoints. A gap exists between halakhic traditions that “other” homosexuality and aggadic expansions on the Joseph narrative that humanize male-male attraction. Lehman hopes to encourage her students to grow by thrusting them into the in-between space. In confronting the needs of her students, Lehman makes us aware of the ways in which conventional academic historicizing falls short. Her students’ own lived identities and experiences render conventional scholarly approaches to this rabbinic material irrelevant, because the historical, scriptural, and exegetical contexts of these rabbinic statements pales in significance to the violence the text perpetrates on its readers in this instance. Lehman invites us to imagine a more fluid historical-contextual approach that speaks directly to contemporary audiences and opens space for ethical reflection.

It is intriguing to consider the ways in which Lehman’s and Barer’s readings are structurally similar. Both begin by noting a conflict between clear-cut norms expressed by rules and narrative materials that defy the rules. Lehman treats rules prohibiting male-male sex, and Barer draws attention to the rules that state that “two do not interrupt their meal for one” and “expert bankers are not liable for their errors.” The narratives on which Lehman focuses circle around a biblical Joseph whose sexual fluidity has been midrashically enhanced. The narratives at the heart of Barer’s work feature rabbinic sages whose behavior does not conform to the rules. Central to the work of both is an awareness that narratives have the potential to confound rules. Where Barer highlights how *ancient rabbis*

(in the guise of the Talmud's editors) make sense of the gap between stated rules and received sage stories, Lehman draws the gap to the attention of *contemporary ethical agents* and forces *them* to wrestle with the incongruencies. Taken together, Barer's and Lehman's work suggests that ethical reflection is productively generated, whether in antiquity or today, by attention to rabbinic narratives that do not conform to or confirm rabbinic rules.

Barer and Lehman generate their ethically engaged conversations between the worlds of the ancient text and contemporary readers by focusing on opposite sides of the exchange. While Barer enters the conversation by engaging in a source critical reading of the text, Lehman enters by listening attentively to her students. In contrast, Epstein-Levi and Cohen generate the conversation in an overtly dialectical manner.

Epstein-Levi critiques the manner in which ethicists typically correlate the norms and wisdom from ancient rabbinic texts with the circumstances of contemporary ethical subjects. Too often thinkers assume that rabbinic norms can be mapped onto contemporary moral dilemmas with a one-to-one correspondence. According to the conventional approach, rabbinic texts about "sex" are the best (if not the only) resources to use as guides for contemporary behaviors involving "sex." Epstein-Levi convincingly argues that establishing topical correspondence between the ancient and contemporary is much less important than establishing *functional* equivalence between the two. She notes that "sex" fulfills different social, ritual, and moral functions in the textual world of the rabbis from the ones it does in the contemporary world. Though the concept of "sex" appears in both contexts, it refers to different things in each. In the texts for example, "discourse on sex actually has more to do with establishing social, familial and religious boundaries—and the rabbis' ability to define them—as well as setting the stage for stories of exemplary sagely conduct, than it does with sex for its own sake." Consequently, sage stories about illicit sexual temptation provide little insight into the best ways to mitigate the dangers of sexually transmitted infections (STIs).

Instead of assuming a straightforward and easy translatability between the worlds of ancient rabbinic texts and contemporary ethical subjects, Epstein-Levi advocates employing a functionalist approach that “engag[es] the very strangeness of the rabbinic text.” She identifies a point of convergence between the two worlds that is limited, but relevant to the issues raised by the ethical dilemma at hand. This approach “does its moral work by identifying the ways the rabbis figure certain phenomena as functioning socially, ritually and morally and then carefully comparing them to social, ritual, and moral aspects of the contemporary problem under discussion.”

Epstein-Levi finds her functionalist analogue to public health concerns surrounding the spread of STIs in an unexpected place. She argues that “ritual purity, which seems on the surface to have little to do with any aspect of contemporary life, functions in rabbinic texts in ways that have significant implications for sexual health.” The perspectives and concerns that emerge in rabbinic discussions of the spread and containment of ritual impurity overlap in interesting ways with the perspectives and concerns of those thinking about the spread and containment of STIs. First, the context in which both of these conditions are spread involve “social intercourse that is fundamentally important to the flourishing of most people.” Second, actors in both settings involve themselves in a risk when engaging in social intercourse because “there is no foolproof method for preventing” the transmission of both conditions. Finally, both conditions are “not generalizable [but] vary in severity, virulence, and potential routes of transmission.”

Alongside these similarities, rabbinic discourse on ritual impurity has some distinctive features that, if taken to heart, can be very instructive for contemporary thinkers, policy makers, and actors. First, rabbinic discourse on impurity is “exhaustive, matter-of-fact, detailed and depersonalized.” This way of “discussing social contagion—nearly *ad nauseum!*—offer[s] a model for de-stigmatizing STI discourse and making it so commonplace as to be unthreatening.” Epstein-Levi suggests that contemporary subjects would also benefit from a discourse that frames the

exercise of managing health risk in a matter-of-fact and de-personalized way.

Second, the rabbinic ethic of impurity management employs a “multi-factorial process of diagnosis and response” that recognizes varying levels of virulence (routes of transmission) and severity (consequences of being impure). While different kinds of impurity have different levels of “absolute” virulence and severity, context also determines virulence and severity. Like impurity, STIs also pose different risks based on both virulence and severity, each of which can be considered contextually and absolutely. For example, though HIV is easily spread through blood and semen (high absolute virulence) and, if left untreated, almost always fatal (high absolute severity), antiretroviral treatment almost eliminates the risk of fatality (low contextual severity), and the responsible use of barrier methods and prophylactic drugs greatly reduce its contagiousness (low contextual virulence). Gonorrhea, on the other hand, is rarely fatal (low absolute severity), but the fact that it is a bacterial STI means that it is vulnerable to antibiotic resistance (leading to high contextual severity). Additionally, it is easily spread by fellatio, which is often recommended as a safe alternative to intercourse (leading to high contextual virulence). Epstein-Levi writes, “So, in certain contexts —communities where HIV rates are under control and people have access to effective treatment—gonorrhea certainly has greater *contextual virulence* and may well have greater *contextual severity* and thus be a greater overall risk than HIV.” This example illustrates how rabbinic discourse about impurity can provide ethical instruction that is surprisingly useful to contemporary discussions about how to mitigate the risk of STIs.

Epstein-Levi does not downplay the extent to which “our present day ethical concerns drive the way we see rabbinic texts.” In her case, she reads the texts as a practical ethicist reflecting on the management of STIs from a public health perspective. The fact, however, that she “reads [the texts] with eyes all our own” does not give her license to superimpose her values and commitments. “On the contrary,” she writes, “paying attention to the particular ways in which our experiences unavoidably shape our interaction with the text...[helps us] understand those effects and steer

them in constructive directions.” If rabbinic texts serve as no more than an echo chamber for one’s own committed convictions, they merely provide rhetorical buttressing for one’s already established positions. In order to advance one’s understanding of the contemporary predicament, one has to be open to the unexpected within the texts. Ironically, acknowledging in a frank and open manner where and how the rabbis diverge from contemporary ethical subjects creates “the possibility of being taught, and thereby being changed, corrected, and unsettled by this alien perspective.” The ethical guidance Epstein-Levi gains from reading rabbinic texts is powerful precisely because it comes from unexpected places and in unanticipated ways.

Bringing her work into conversation with Barer and Lehman highlights several trends and distinctive features. As already noted, Barer and Lehman focus their energy on one or the other pole in the relationship between text and reader, while Epstein-Levi shuttles back and forth between the two. Like Lehman, Epstein-Levi responds to an urgent contemporary issue. Lehman focuses on texts that will be meaningful to her students as they explore their sexual identities, and Epstein-Levi focuses on texts that are useful to conversations about managing STI risk. Though Epstein-Levi proactively pushes a contemporary ethical agenda to the fore, the second step of her process involves stepping back to hear what the texts have to say to her. Having identified a functional equivalence between rabbinic impurity discourse and contemporary discussions of STI risk, Epstein-Levi has no preconceptions about where and how rabbinic texts will offer ethical insight. Like Barer who reads the texts without an ideological agenda (in contrast to practitioners of the “conceptual approach”), Epstein-Levi is open to unexpected ethical instruction. Barer’s reading prompts reflection about the conditions under which it is appropriate to depart from the expectations created by rules and Epstein-Levi’s produces a template for the responsible and effective management of STI risk. Neither scholar anticipates what the ethical “take-away” will be before embarking on the exercise. Though Epstein-Levi’s work is not explicitly historicist like Barer’s, she evinces an historicist sensibility by refusing to domesticate rabbinic texts or remake

them in a contemporary mold. Epstein-Levi frankly recognizes the extent to which rabbinic impurity discourse is alien and strange to contemporary audiences.

If Epstein-Levi constructs a conversation between the contemporary world and the world of rabbinic texts—a conversation “necessarily occurring across...difference”—Aryeh Cohen posits little to no difference between these two spheres, revealing the ways in which the rabbinic textual world and our contemporary one are mutually constitutive. Almost the direct inverse of Epstein-Levi’s contention (based on her readings of Charlotte Fonrobert, Beth Berkowitz, and Mira Balberg) that “rabbinic texts are primarily about the rabbis and their world,” Cohen’s observation is that rabbinic texts are about us and our embodied, lived experience of *our* world. We cannot understand rabbinic literature from a distance, according to Cohen. Crafting what he calls “a hermeneutic of the real,” he “places the text as a frame to a reality, a lexical filter to enable a discourse. It is the real which animates the text, and the text which supplies a conceptual vocabulary for the reality to which the text points.” Thus similar to Epstein-Levi’s method, rabbinic texts provide “a conceptual vocabulary” for a contemporary reality. In contrast, however, Cohen sees our contemporary, embodied reality as an important lens through which we can arrive at a good understanding of the text. We ought not simply read, compare, and think at arm’s length to understand rabbinic literature, argues Cohen. Citing Edith Wyschogrod, Cohen implores us to “walk in the footsteps of the text”—not because we are “inspired” by it, but in order to form a better understanding of the text itself.

Instead of choosing lesser known rabbinic texts, Cohen dwells on a familiar rabbinic narrative. This story, which appears both in a late midrashic collection called the *Tanhuma* and in tractate *Berakhot* of the Babylonian Talmud, describes R. Aqiva publicly “bringing gatherings together” to expound on the Torah despite a Roman prohibition on Torah study. When another sage pleads with him that he desist for his own and his students’ safety, Aqiva persists, relating a parable about fish swimming in a stream and claiming that the people Israel are safer when

they are immersed “in the element in which [they] live” (*b. Ber.*61b, cited in Cohen). This story about R. Aqiva refusing to capitulate to Roman authority has been read and reread to the point of its domestication. It seems to traffic in oft-rehearsed dichotomies: imperial versus divine authority; capitulation versus resistance; the ways of Rome versus the ways of the Jews. It is also an accessible story which does not threaten contemporary values (unlike ritual purity texts or rabbinic teachings on homosexuality). Does this story really have anything new to teach us?

For Cohen, it was his own real-world experience learning about and practicing activist politics that allowed him to read this story anew. Traveling to El Salvador, for example, to learn from Salvadoran human rights activists brought Cohen’s attention to the life and teachings of Oscar Romero: Romero’s activism and his (Catholic) understanding of the way the word of God comes alive in the worldly and the material, and how worldly and material experience can be “transfigured” into the sacred. In this context, Cohen was able to both deepen his reading of the Aqiva story and challenge Abraham Joshua Heschel’s germinal take on the different worldviews—mystical and rationalistic—of the Aqivan and Ishmaelian schools. For Cohen, the story about R. Aqiva studying Torah despite the Roman ban was not about Aqiva’s retreat into a mystical connection with God *despite* governmental prohibitions; it was a rather a public act, a transformation of Torah study into something decidedly “of and in this world,” an act of “nonviolent resistance” intended precisely for the government to take notice. Aqiva could have continued to hold Torah study sessions in private to ensure the safety of all participants while still defying the imperial prohibition. Rather, the story divulges the location of Aqiba’s act—that he studied Torah “in public”—to reveal that “the space of the action is part of the action”—in other words, to reveal that Aqiba’s Torah study was the political protest of an activist.

While a rabbinic or late ancient historian might object to Cohen’s method here, arguing that Cohen reads his own experience *into* rabbinic literature without enough justification, Cohen’s argument is anchored decisively in a precise, historical-philological reading of the words of the story. Parsing the word *bafarhessya* as denoting not just “in public” but “in

the public," and drawing from contextual meanings of the word *parhessia* in Greek, Cohen demonstrates that his newly discovered insight into Aqiva's political activism is not merely a foreign or anachronistic imposition on the text but a detail already encoded in the text, unlocked through a parallel embodied experience many centuries later.

This experience of revealing hidden layers of meaning in the first line of the story does not end here. Cohen admits to being "infatuated" with the story and returning to it again and again. In yet another phase of his life as an activist, Cohen is struck by the words immediately preceding "*bafarhessya*": "*mak'hil kehilot/gathering communities*." Reflecting on the experience of bringing together over twenty organizations for a political action, Cohen understands how significant an undertaking "gathering communities" is, and how foundational this kind of organizing is for effective public protest. With this discovery, R. Aqiba is transformed from "a lone martyr...[to] a community leader and organizer." Again, Cohen's reading derives from his lived experience of protest and arrest, but it is firmly grounded in historical-contextual research regarding the semantic range of this rabbinic phrase. Toggling back and forth between the text and the world, Cohen opens up new horizons of meaning in just the three words used to set the stage for Aqiva's act in the Babylonian Talmud: "gathering public communities." Rather than seeing a story about a mystic who shuts out the "secular" world to study Torah, as the remainder of the story may imply for contemporary readers, Cohen finds a story that articulates a "rabbinic theory of political resistance." Cohen's "hermeneutics of the real" insists that reenacting a canonical story does not simply duplicate or draw from the original, but allows the reenactor new insight into these ur-texts as well. In Cohen's words, "performance is part of the *study*."

Despite his life of political activism and protest, Cohen interestingly ends up inside the world of the text. Performance and action—significant in their own right—become a means for greater insight into the text. His choice of text, not incidentally, is not one he finds distasteful or off-putting, as compared, say, to rabbinic teachings on homosexuality. They are also not texts he finds strange or lacking contemporary referents, as

with texts on ritual impurity. Rather, as with Barer's textual focus, Cohen's choice of text is one he is drawn to precisely because of its (potentially) appealing ethical message. While Barer complicates an ethical "infatuation" with rabbinic texts by revealing the complexity that the "conceptual approach" glosses over, Cohen celebrates this affective engagement with an appealing text and its ability keep pulling the interpreter in closer, opening up new worlds of meaning time and time again. Perhaps in this sense Cohen reenacts not only Aqiba's public acts of resistance, but also Aqiva's *love* of Torah. For Cohen, meaningful and historically-philologically grounded readings of texts do not require critical distance; they can be born from deep emotional and embodied engagement.

In Cohen's example, the talmudic story offers, at face value, a meaningful ethical message. As Cohen continues to live with the narrative, its ethical import only deepens, shedding further light on the ethical obligation to publicly protest injustice and stand with the vulnerable. Cohen's method does, however, raise the question of how to wrestle with texts that are less or not at all appealing, as those that are confronted in Lehman's and Epstein-Levi's work: texts that inspire disgust, or even indifference, rather than love. Cohen alludes to a practice of embodied reading, as articulated by Ruhama Weiss, in which texts chafe against lived experience, such as when a reader with terminal cancer encounters a text about the enjoyment of suffering and miraculous healing. There are other ways to experience a text through the lens of the real than those which are born out of love.

If both Barer and Lehman turn to the power that inheres in narrative to oppose or complicate rabbinic rules, Cohen's appeal to narrative is more complementary with law: he sees these stories as an integral part of figuring out how to live the rules. Just as the law compels performance, the narratives of the Babylonian Talmud *assume* embodied performance rather than just passive reception; they "assume an embodied reader who both responds and works out the text in the world outside the text." Narrative, for Cohen, does not so much supplement or confuse

performance of the law as model. Rather, the law inscribes and compels performance in its own right.

All four essays in this issue, then, find rabbinic texts a useful and perhaps even necessary resource for contemporary (Jewish) ethical thought. Such “use” of this canonized body of literature, a “classic” among the world’s sacred writings, is not new; the authors of these essays—some of whom teach or were trained in seminaries, others of whom teach or were trained in ethics—travel a well-trod path in deferring to the claim rabbinic literature makes on contemporary readers who regard it as authoritative, or, in any sense, “required reading.” But these essays go further: they subject rabbinic literature to the gaze of the present, allowing something new to be created in between.

All four authors, in their turns to narrative, affect, and relationship, are attentive to the bodies of those who lived and breathed in the rabbinic era and those who currently read and reenact the scripts they left for us. They refuse to flatten these corpora into abstracted and generalized codes of conduct or ethical platitudes, opting instead to draw out the nuances and tensions of how real people would have lived, and do in fact live, the ways of life the rabbis depict. In doing so, they open up a space between our embodied reality and letters on page left to us from late antiquity. This space allows rabbinic writings to come alive in often unexpected ways, whether by allowing previously marginal texts to float to the center, noticing the importance of previously unnoticed words and phrases, or detaching distinct historical layers from each other to allow each to have its own say. These essays reveal the ways this middle space that negotiates between empirical claims about history and the ethical demands of the present can deepen our understanding of both rabbinic history and ourselves.