Mi-p'nei Tikkun Ha-olam in Tannaitic Literature: The Challenges of Law, Justice, and the Social Welfare

Gail Labovitz

Introduction

Rabbinic, and more particularly tannaitic texts—that is, the Mishnah and other roughly contemporaneous texts—are widely recognized as the earliest sources to reference the concept of tikkun olam.[1] Many other writers who have previously addressed this topic, however, have already observed that the language and concept as found in these sources is not identical to tikkun olam as we tend to understand and use the phrase today. In fact, they note that the actual phrase *tikkun olam* never appears as such in these earliest rabbinic documents; rather, the phrasing is *tikkun ha-olam*, with the definite article (the prefix *ha-* means "the"; this is, in fact, a more grammatically correct wording). Yet despite using the term multiple times and in multiple contexts, the texts are not especially forthcoming on its actual meaning and import.[2] The verbal root *taf-kof-nun*, from which the noun form *tikkun* is derived, has multiple valences, as the definitions provided by Marcus Jastrow[3] demonstrate: "(1) to straighten, mend, repair, set in order, prepare... (2) to establish, institute, introduce a legal measure, ordain." The word *olam* means "the world" in its broadest sense, but might in this phrase have the more limited meaning of "the world of the rabbis"—i.e., something more like "the entire community," or "the (rabbinic) system/way of life."

Moreover, tannaitic texts never mention only *tikkun ha-olam*, but rather always use the phrase *mi-p'nei tikkun ha-olam*, "because of *tikkun ha-olam*."[4] That is, *tikkun ha-olam* is not, apparently, a concept or goal in and of itself but is rather seen as grounds for explaining and/or justifying certain types of rabbinic legislative action. Many if not most of those who have written about the tannaitic (and related talmudic) examples of the phrase argue that the intent of the enactments described and justified by the phrase (as well as, for that matter, enactments merely included by implication in the category) has to do with corrective measures in the legal system, typically to respond to and ameliorate a problematic or even unjust situation that could arise from strict adherence to the letter of the law. A few examples of this type of analysis by contemporary writers will suffice to demonstrate the point:

> These rabbinic amendments modify existing laws because in particular circumstances the laws produce unjust or undesirable results.[5]

> In the Talmud, *tikkun ha-olam* is a response...to a perception of overarching injustice, a sense that existing law must be modified to create a more balanced society.[6]

> Within the Mishnah, this phrase is invoked in response to situations in which a particular legal detail threatens to cause the breakdown of an entire system...By invoking the concept of *tikkun ha-olam*, the Rabbis repair the flaw that endangers the stability of the system as a whole, and in doing so, they improve the system.[7]

Possible ways of translating *tikkun ha-olam* into English thus might be something like "for the sake of good order" or "the improvement of society."[8]

My aim here is not to dispute this sort of definition or description. What I will attempt to demonstrate, however, is that there are a number of difficulties revealed when we read the mishnaic sources more closely, and especially when we read them in conjunction with parallel materials elsewhere in the Mishnah and other tannaitic texts—difficulties that have not always been sufficiently acknowledged, and that complicate any understanding of how the concept of *tikkun ha-olam* functions in the tannaitic context. I hope that through my analyses here, a more complex and interesting picture will emerge about the challenges of making and interpreting law, advancing social welfare through law, and creating a system of justice and social benefit.

Mishnah Gittin, Chapters 4–5

Before turning to the substance of my analysis, I must begin by introducing the primary source for the concept of *tikkun ha-olam* in tannaitic literature. It is noteworthy that the bulk of the occurrences of the phrase "because of *tikkun ha-olam*" appear together in a single passage in the Mishnah, in tractate Gittin. On the surface, the Mishnah appears to be organized topically.[9] In practice, however, as any student of the text quickly becomes aware, there are a number of different organizational principles that may guide the flow of subject matter and information in the Mishnah. It is thus not uncommon to encounter sections of Mishnah that depart from the apparent topic at hand, to instead collect diverse rulings and statements linked by some other factor—such as the name of the sage making the ruling, linguistic similarity, or a common underlying conceptual theme. Chapters 4 and 5 of Mishnah Gittin—the tractate dedicated to the laws and procedures of divorce and the document by which it is effected—is an example of the latter instance: a collection of disparate materials connected by a common underlying conceptual theme, in this case *tikkun ha-olam*.

As is often the case, the collection begins with a ruling that is relevant to the topic of the tractate, and to the chapter of the tractate in which it is found. In order to understand the text, however, a few preliminary words about the rabbinic understanding of marriage and divorce are in order.[10] Marriage in rabbinic law is a unilateral process in which a man "sets aside" a woman as his wife, typically by giving her an item of value (in current practice a ring) and declaring "Behold, you are betrothed to me," with the result (among others, of course) that he has exclusive sexual access to her during the course of the marriage.[11] So too, then, divorce is a similar one-sided process in which the husband relinquishes his prior claim on the wife. This is done by the writing of a document (known as a get) in which the (about to be ex-) husband states, "Behold, you are permitted to any man." The document becomes effective at the moment it is delivered to the wife, or to her appointed representative.[12] Failure to execute any part of this process properly has potentially significant ramifications in Jewish law, both for the woman and her ability to remarry, and also for the legitimacy of her children from a new man—should she remarry, only to have the validity of her original divorce later thrown into question.[13]

The phrase *mi-p'nei tikkun ha-olam* is first introduced in the second *mishnah* of the fourth chapter of Gittin. The immediately preceding *mishnah* (4:1) explains that since a get is not valid until it has actually reached the wife, it is possible for the husband to change his mind and annul it while it is still in transit. He may do this by overtaking the messenger carrying the get (either himself or by sending a second messenger after the first) to cancel the delivery process, or by informing his wife (again, either in person or through another messenger), any time before the arrival of the get to her, that it is null. The next *mishnah*, 4:2, presents two cases relevant to divorce (the first of which follows directly from the rule of 4:1), and the phrase *tikkun ha-olam* is included in both cases:

(a) At first, he [i.e., the husband] would convene a court in another place and nullify it [i.e., the divorce document]. Rabban Gamliel the Elder enacted that they should not do thus, because of *tikkun ha-olam*.

(b) At first, he [i.e., the husband] would use an alternate version[14] of his name and her name [in the text of the *get*] at will, or of the name of his city and the name of her city. Rabban Gamliel the Elder enacted that he should write "the man so-and-so and all names that he has," "the woman so-and-so and all names that she has," because of *tikkun ha-olam*.[15]

What follows in the rest of this chapter of Mishnah and into the first part of chapter 5 is a series of rulings on a variety of topics of all sorts, including laws pertinent to personal relations and status, financial transactions, land ownership, slavery, and communal obligations. For example, we find statements that communities are forbidden to pay excessive ransoms to redeem captives (4:6), that under certain circumstances slaves may be freed, although required to repay their value to their former owner (4:4, 5), and that someone returning a lost object does not need to take an oath (5:3).[16] Some, but far from all, cases in these *mishnayot* are formally justified "because of *tikkun ha-olam*"; though the phrase appears thirteen times between 4:2 and 5:3, there are several *mishnayot* in which it does not appear at all, or in which it is applied to one case but not another. The grouping of these cases together suggests, to many scholars who have examined this unit, that the principle has a broader application to the collection as a whole, including to those cases in which it is not explicitly cited.[17] It is also possible, however, that any given case that is included with the rationale of *tikkun ha-olam* might also bring in its wake similar or related cases, in a secondary chain of associative connections. Below, I will offer a suggestion (which should be recognized as just a suggestion at this stage of my research) as to why certain rulings might not carry this justification of *tikkun ha-olam* with them.

Reading Mishnah Gittin 4–5 in Light of Tannaitic Parallels

When read on its own, M. Gittin 4:2 presents a pattern in its two cases. First, the original state of the law is described. Moreover, the *mishnah* implies that the original state of affairs has some significant potential negative consequence for one or more of the parties involved, although that consequence is not stated explicitly.[18] That is: in each example, an original practice or legal situation is described, but the reader is to recognize that each also has the capacity to create significant confusion as to the validity of a divorce and whether a woman has been released from the marriage or not. In the first case (labeled "a" above), a man has sent a divorce document with an emissary to be delivered to his wife. In this instance, unlike the case described in 4:1, the husband nullifies the document in such a way that neither the emissary nor the woman necessarily know that he has done so; the obvious risk is the wife's subsequent confusion as to whether she is in fact divorced or not. Moreover, it is an established principle that a divorce document must be written specifically for the divorcing couple. In the second case (labeled "b"), confusion of names could easily result in confusion as to whether the divorce document was in fact written by *this* husband, for *this* wife. At stake is her ability to document that she is in fact legally severed from her original husband, on which hinges the legitimacy of any subsequent relationship she might enter. Following the presentation of these problematic possible outcomes of the original law, then, is a statement describing subsequent rabbinic intervention. Rabban Gamliel the Elder, who lived in the mid-first century C.E., issues an enactment regarding each situation:[19] in one case forbidding the act in question, even though according to the rabbinic understanding of the law of the Torah it is technically legal and effective; in the other, putting additional safeguards into the written form of the divorce document, which resolves any possible problem. The stated motive in each case is "because of *tikkun ha-olam*."

This seems, then, an ideal source on which to base an argument that *tikkun ha-olam* represents the reason for and justification of rabbinic legal activism. Cases like these suggest that in order to create more just outcomes and to forestall serious societal problems, the rabbis of the tannaitic period felt empowered (or perhaps even obligated) to intervene in Jewish law, as they understood its demands, so as to alter its direction. Yet when we turn to the parallel toseftan passage to M. Gittin 4:2, we already see the first break into this narrative of intervention and repair.

We find this corresponding discussion in T. Gittin 3:3. It cites the case of the Mishnah, and then comments on it:

> "At first he would convene a court in another place and nullify it..."
> If he nullified it, it is nullified; [these are] the words of Rebbe [Rabbi Judah the Patriarch].
> Rabban Shimon ben Gamliel says: He cannot nullify it, nor add to its conditions.[20]

This rabbinic debate is predicated on Rabban Gamliel the Elder's enactment, as described in the *mishnah*.[21] Prior to the enactment, it was certainly the case that if a husband cancelled a get in this manner, it was legally cancelled. What Rebbe and Rabban Shimon ben Gamliel[22] are disputing, then, must be: what happens if a man tries to cancel a get in this manner after—*and in spite of*—Rabban Gamliel the Elder's ruling? As noted above, according the rabbinic understanding of the law of the Torah, it is always within the husband's discretion to nullify the get prior to the moment it reaches the wife and takes effect. The method by which he does so is less relevant than the fact that the choice to preserve or undo the marriage must be his. Rabban Gamliel the Elder has attempted to close off one possible means of cancelling a *get*, because of the confusion that is likely to result if it is cancelled in that manner. But what if a man ignores and violates Rabban Gamliel's ruling? Although Rabban Gamliel

attempts to impose a solution on a genuine problem, the Tosefta introduces the possibility that the rabbinic intervention might not be observed. Moreover, it records that the later *tanna·im* were not unified in their response to this challenge.

As hinted at above, the following *mishnah* (M. Gittin 4:3) is the first indication that this chapter of the Mishnah (and the next) will deviate from a topical structure, into an associative pattern based on the phrase *mi-p'nei tikkun ha-olam*. It includes three cases, only one of which addresses divorce:

(a) A widow does not collect payment [of her marriage contract] from the property of the orphans, except through an oath. They refrained from imposing an oath on her. Rabban Gamliel the Elder enacted that she should vow[23] to the orphans whatever they desire, and collect her marriage contract.
(b) The witnesses sign on the divorce document because of *tikkun ha-olam*.
(c) Hillel enacted *prozbul*[24] because of *tikkun ha-olam*.

For my purposes here, I will concentrate on the first two cases of this *mishnah* (marked as "a" and "b"). The first (the widow attempting to collect her marriage settlement; case "a") has a nearly identical structure to the two cases of enactments by Rabban Gamliel the Elder in the previous *mishnah*: a legal situation that becomes problematic, and an enactment instituted by Rabban Gamliel the Elder that attempts to resolve the problem. Although the topic has shifted from divorce to a different area of marital law, both the name of the sage and his legal step of making an enactment link this case to the preceding *mishnah*, and likely explain the presence of this material here. Yet the rationale of *tikkun ha-olam* is not explicitly cited to justify this enactment.

Is it implied? Many scholars have in fact read this entire mishnaic passage as a coherent unit.[25] In considering a response to that question,

it is intriguing to note that this case does not appear where it might seem most likely to have been included: in chapter 9 of Mishnah Ketubot (the tractate dedicated to, among other topics, financial arrangements between spouses, including the details of marriage contracts and their collection)—where a number of *mishnayot* discuss when a widow might be required or exempted from the obligation to take an oath to collect her marriage settlement. Its placement here instead, then, may be suggestive: one might argue that while Mishnah Ketubot describes the system as it ideally functions, when the system falters in some way and must be corrected (via *tikkun ha-olam*), then, since that given specific case would no longer "fit" there, it was therefore placed in the collection in Mishnah Gittin instead.

However, it should also be noted that there are also some significant questions to be raised about the problem itself, notably: who refrained from making widows take oaths, and why? As Aryeh Cohen has observed, "The Mishnah's declaration 'they refrained from imposing an oath on her'...can actually be interpreted in two ways. Either passively as 'they were restrained from administering...[by some unidentified outside force],' or actively as 'they stopped (or no longer) administered....'"[26] He further notes that "[a] reading of the Mishnah in the context of M. Gittin 4 might just as easily support the passive reading. The first *mishnahs* are all dealing with responses to 'historical' events in the form: (1) ruling; (2) occurrence which no longer allowed for ruling to occur; (3) *takanah*."[27] Understood either way, the source of the problem may be a significant factor distinguishing this case from those of the previous *mishnah*: here, it is not sticking to the letter of the law that triggers a potential problem and evokes Rabban Gamliel the Elder's enactment in response, but rather some outside circumstance that prevents the law from being properly observed. Were the law to function as originally intended, it would seem, there would be no need for intervention; widows would take the appropriate oath (thereby reassuring the orphans of the validity of their claims), and collect what had been duly promised

to them as a marriage settlement. Moreover, if it was in fact the rabbis themselves (or the rabbinic courts) who had stopped administering oaths for some unstated reason, then the difference is especially acute. Read this way, the *mishnah* itself acknowledges that Rabban Gamliel the Elder must intervene—not to amend the law, but precisely because of a rabbinic failure (or unwillingness) to observe the letter of the law! Perhaps when a rabbi attempts to resolve a problem of outside origins, or even of (other) rabbis' own making, then *tikkun ha-olam* is not the most immediate rationale to be invoked.

In the second case of M. Gittin 4:3, we return to a ruling (case "b") that both addresses the topic of divorce documents and also that is said to be motivated by *tikkun ha-olam*: "The witnesses sign the divorce document because of *tikkun ha-olam*." As noted above, according to rabbinic law a divorce does not take place until the moment that the divorce document (*get*) reaches the wife's hands; strictly speaking, witnesses to the delivery would be sufficient to establish the validity of the divorce. Under this new enactment, witnesses signed on the document itself, once it was written, thereby attesting to the husband's intent and that they had seen proper procedures followed. Although there is no description of what might have been the problem arising from the prior practice that this ruling is meant to correct,[28] some possible advantages of having the witnesses' names written on the divorce document can be readily imagined. Doing so ensures, for example, that the woman does not need to produce actual witnesses (who might not be available)—either to the writing of the document or its delivery—in order to validate her status as divorced, should questions ever arise in that regard in the future; the signature of the witnesses on the document, together with the fact that the document is now in her possession, is sufficient to prove that she is indeed divorced.

Whereas the previous case (regarding widows' oaths) did not have parallels in its more "natural" location (in M. Ketubot), this ruling is in fact cited in several other tannaitic sources, including a parallel

mishnah and toseftan *halakhah* elsewhere in tractate Gittin.[29] These two passages further complicate matters by questioning whether this ruling is in fact a requirement—or, put another way, whether the motive of *tikkun ha-olam* is sufficient to make this change mandatory. The mishnaic parallel, M. Gittin 9:4, reads:

> Three divorce documents are invalid, but if she [re]marries [on the strength of them] the offspring [from the second marriage] is valid: he wrote it in his handwriting but there are no witnesses on it; there are witnesses on it but no date; there is a date on it but there is only one witness on it—these three divorce documents are invalid, but if she [re]married the offspring is valid.
>
> Rabbi Eliezer says: Even if there are no witnesses on it, but rather he gave it to her in the presence of witnesses, it is valid...because the witnesses only sign on the divorce document because of *tikkun ha-olam*.

In this text, we observe that the move to require witnesses to sign a divorce document was in fact a contested matter among tannaitic authorities—or, at least, there was one prominent authority (Rabbi Eliezer) who dissented, and who deemed witnesses' names within the document itself altogether unnecessary, so long as there were witnesses to the delivery of the document (in keeping with the original law, as noted above). This may further mean (much as emerges when M. Gittin 4:2 is compared with T. Gittin 3:3) that the rabbinic enactment described in M. Gittin 4:3 requiring the signature of witnesses may not have been universally accepted, despite the seemingly categorical language of M. Gittin 4:3. It is true that in his statement Rabbi Eliezer does not entirely dismiss the new enactment, but he does reinterpret the rationale of *tikkun ha-olam* so that it becomes not a motive for requiring absolutely that witnesses sign on a divorce document, but at best a reason why doing so is good practice.

What is more, there may be significant ramifications to imposing a legal requirement that insists on having witnesses' signatures on a divorce document, as emerges from T. Gittin 6:9:

> A basic divorce document on which one witness is written [or] a folded divorce document[30] on which two witnesses are written [or][31] its witnesses are within it, she must leave [her subsequent marriage] and the "thirteen things" [are applied] to her; the words of Rabbi Meir (that he said in the name of Rabbi Akiva).[32]
> But the sages say: the witnesses only sign on the divorce document because of *tikkun ha-olam*.

Several things are noteworthy in this passage. First, if one insists on having witnesses sign a divorce document as a legal requirement, then it follows that failure to meet this requirement could call the validity of the divorce document into question, with considerable negative results. The "thirteen things" are a series of consequences suffered by a woman who remarries under a misapprehension either that her first husband was dead or that her divorce was valid; these include: she may not remain married to either man, her children by the latter husband are *mamzeirim*,[33] and she loses her entitlement to her marriage settlement or any other financial support from either man.[34] Rabbi Meir in fact holds that this is precisely how the law must be applied. In contradiction to the rule of M. Gittin 9:4, he rules that if only one witnesses signed on the document, not only the document but also the woman's subsequent remarriage is entirely invalid, and the woman (and her children from the latter marriage) may suffer these very legal repercussions. In other words, an enactment that was meant to effect some sort of needed repair and adjustment—that is, to effect *tikkun ha-olam*—might instead (or in addition) lead to other, equally problematic results.

The opinion attributed to an individual in M. Gittin 9:4 (Rabbi Eliezer), on the other hand, becomes here in the Tosefta the collective

(and hence, in rabbinic thinking, more authoritative) view. *Tikkun ha-olam* does not mandate a new practice or irrevocably overturn the old, but rather simply recommends a certain procedure. By deeming the ruling that witnesses sign the document to be merely good advice, in this case the rabbis can effect a different "repair"—namely, protecting the remarried woman and the status of her children. By changing the meaning and valence of *mi-p'nei tikkun ha-olam*, it seems that another potential *tikkun ha-olam* has been effected. Understood yet another way, what these two sources also suggest is that there are circumstances in which the *tikkun ha-olam* of the legal change, if made into an absolute requirement, could become the opposite of *tikkun ha-olam*—and function quite to the detriment of the woman in divorce.

Finally, while the underlying issues are somewhat more complex than I want to discuss here in detail, I would like to conclude this section by making brief note of M. Gittin 5:6, particularly as analyzed by Jeffrey L. Rubenstein,[35] as another case that pulls together several of themes discussed here. The case is one that responds to conditions that come from outside of the rabbinic legal system—namely, land seizures by non-Jewish authorities as a result of the Jewish rebellion(s) against Roman rule. In short, the *mishnah* addresses questions arising when another Jew, other than the original owner, seeks to purchase confiscated land from the non-Jew now in possession of it: what are the rights, if any, of the original Jewish owner to first rights of purchase, or to reclaim the land or some part of its value from the latter Jewish purchaser? The rabbinic response passes through several stages, with the ultimate ruling that the purchaser does take title and owes only minimal recompense to the original owner. This conclusion is (therefore?) not explicitly justified as a measure "because of *tikkun ha-olam*," though Rubenstein suggests this motive may be implied. It may be notable that the toseftan parallel, T. Gittin 3:10 cites an alternate concern: "because of settlement of the country" (*mi-p'nei yishuv ha-m'dinah*)—that is, bringing real estate in the Land of Israel

back into Jewish hands, rather than *tikkun ha-olam*. Moreover, as Rubenstein further observes (quite forcefully), the rabbinic ruling to address this situation does not result in a just solution as regards the original owner of land, who does not recover the property or even receive back its full value when it is repurchased by someone else from the person now occupying it: "Jewish law essentially recognizes Roman appropriation of the land and 'collaborates' in the injustice by legitimating the sale..."[36]

Conclusion

Law—making it, interpreting it, applying it—is a complex process. A legal system can be challenged at multiple points, and in multiple ways. The rabbinic legal enterprise entails not just rabbinic oversight and intervention but communal compliance as well—which may not be forthcoming. What is just, or even what will produce a just outcome, is not always (or often) clear. Rabbis themselves can create, and not just recognize, unjust or unworkable situations. Moreover, they can even create a new unjust situation in the very attempt to resolve a prior difficulty.

Modern analyses of the phrase *tikkun ha-olam* as it is used in early rabbinic sources, it seems to me, have often carried with them a subtle, even hidden, but nonetheless detectable subtext: not only an argument that the rabbis, during at least one time in Jewish history, felt empowered enough to make explicit emendations to the law when it led to unjust or damaging results, but also a further implication that perhaps rabbis and Jewish leaders of our own day should exercise similar courage in our approach to Jewish tradition and practice. Certainly, there is much to be said for encouraging this sort of proactive approach to Jewish law and practice at this time. My argument here, however, has been that the rabbinic texts themselves, from the very outset (that is, both from introduction of the concept

in the earliest rabbinic texts, and in the first *mishnayot* of the series in Gittin chapter 4) carry their own subtle, and at times even hidden—but nonetheless detectable—subtext. This is a complicated subtext, one that challenges our reliance on law as a medium that should move inexorably in the direction of justice, or of repairing the community—and perhaps even the world. This reading I have offered here challenges us to think more deeply about what it is that we are doing—or could be doing—as we interpret and modify and apply the laws of our tradition, and particularly when we invoke that process as a pathway to a more just and equitable society. And may we do so *mi-p'nei tikkun ha-olam*.

NOTES

[1] The Mishnah is the first and foundational redacted work of rabbinic Judaism, produced in the land of Israel and dated to approximately the beginning of the third century C.E. It is divided into six "orders" (*s'darim*), each covering a broad area Jewish law and practices: Zera·im ("Seeds," dealing with agricultural laws); Mo·eid ("Appointed Times," dealing with holidays and calendrical laws); Nashim ("Women," dealing with marital law); Nezikin ("Damages," dealing with torts, as well criminal and civil judicial procedures); Kodashim ("Holy Things," dealing with sacrificial law and ritual slaughter); and Tohorot ("Purities," dealing with matters of ritual purity and impurity). Each *seder* is further subdivided into tractates (*massekhtot*) whose titles, on the whole, indicate the specific topics that they cover; for example, Nashim includes tractates such as Ketubot (marriage contracts), Kiddushin (betrothals), and Gittin (divorce documents). Tractates are divided into chapters, and chapters into individual units, each of which is also referred to as a *mishnah* (using the lower case, to distinguish from the work as a whole, i.e., Mishnah, capitalized), or *mishnayot* in the plural. An individual *mishnah* typically covers one or two cases, including possible rabbinic disagreements on a ruling. The Tosefta roughly follows the format and structure of the Mishnah and typically parallels its content, often adding additional material (hence its name, which is derived from the Hebrew/Aramiac root meaning "to add or increase") that does not appear in the Mishnah or that elucidates mishnaic materials. Although likely redacted after the Mishnah, there is ongoing scholarly debate as to the provenance of the materials it contains, some of which may predate mishnaic materials. An individual unit in the Tosefta is refererd to as a *halakhah* (plural, *halakhot*). This essay will refer primarily to these two works, and indeed to comparisons and contrasts between them. There are also several exegetical (midrashic) collections attributed to rabbinic circles of this time period, but references to the subject at hand are very few in this corpus. Rabbis cited in these works are known as *tanna·im* (singular, *tanna*).

[2] David S. Widzer, for example, writes: "Nowhere in the Talmud is the phrase *mi-p'nei tikkun ha-olam* explicitly defined, nor is a set of parameters given to determine whether or not the concept applies in a given instance"; see his "The Use of Mi-p'nei Tikkun Ha-Olam in the Babylonian Talmud," in *CCAR Journal* 55:2 (2008), p. 35.

[3] Compiler of the most widely used English dictionary for rabbinic terminology; see Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (1886; rpt. New York: The Judaica Press, Inc., 1996), pp. 1691–1692.

[4] With one exception, in T. Ketubot 12:2—which is perhaps the exception that proves the rule: after a ruling is described and justified with the phrase *mi-p'nei tikkun ha-olam*, Rabbi Yose asks/challenges: "But what tikkun ha-olam is there in this [ruling]?" See Saul Lieberman, *Tosefta Ki-feshutah: Be'ur Arokh La-*

Tosefta, 2nd ed., vol. 3 (1962; rpt. New York: Jewish Theological Seminary of America, 1995), p. 370.

[5] Jeffrey L. Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore and London: The John Hopkins University Press, 1999), p. 160. To be fair, Rubenstein also notes that the example that is of most relevance to his topic (M. Gittin 5:6) itself may result in a different unjust outcome. I will return to this case below.

[6] Jane Kanarek, "What Does *Tikkun Olam* Actually Mean?" in *Righteous Indignation: A Jewish Call for Justice* (Woodstock, VT: Jewish Lights Publishing, 2009), p. 21.

[7] Jill Jacobs, *There Shall Be No Needy: Pursuing Social Justice Through Jewish Law & Tradition* (Woodstock, VT: Jewish Lights Publishing, 2009), p. 54.

[8] Rubenstein, Talmudic Stories, p. 160 and Gilbert S. Rosenthal, "Tikkun HaOlam: The Metamorphosis of a Concept," in The Journal of Religion 85:2 (2005), p. 219, respectively. Similarly, Kanarek offers "a recalibration of the world" (p. 19) and Jacobs suggests "for the sake of the preservation of the system as a whole" (p. 33). In this vein, see also Eugene J. Lipman, who lists several more ways the term has been rendered in English by scholars and translators in his "*Mipne Tikkun Ha'Olam* in the Talmud: A Preliminary Exploration," in *The Life of the Covenant: The Challenges of Contemporary Judaism*, ed. Joseph A. Edelheit (Chicago: Spertus College of Judaica Press, 1986), pp. 107–108.

[9] As suggested above in note 1.

[10] It may be noted that the following general principles continue to guide the practice and rituals of marriage and divorce in Jewish law to this day.

[11] See Gail Labovitz, "'The Language of the Bible and the Language of the Rabbis': A Linguistic Look at *Kiddushin*, Part 1," in *Conservative Judaism* 63:1 (2011), pp. 25–42, and idem, "'He Forbids Her to All': A Linguistic Look at Kiddushin, Part 2," in Conservative Judaism 63:2 (2011), pp. 27–48.

[12] Although there are grounds on which a woman may petition for a divorce and a rabbinic court may rule that a divorce is indeed in order, the power to grant the divorce remains with the husband.

[13] If she is not properly divorced from the prior husband, then the subsequent relationship is legally adulterous. Children born of an adulterous relationship are deemed *mamzeirim* in Jewish law, and are severely restricted in their ability to marry within the Jewish community: they may only marry others of their own status, and in any case they pass their status on to their descendants.

[14] Literally: "he would alter." Nearly all commentators understand that what is at issue here is a person (or place) known by more than one name—that, is, his/her name has been altered at some point. Think, for example, of someone who is known to some by an English name and to others by a Hebrew name, or who is known to some (but not all) by a nickname that is not immediately obvious as a diminutive of one's given name. See also the end of M. Gittin 8:5 and T. Gittin 6:5, which also address situations in which someone may be known by more than one name (and/or may be considered a resident of more than one

location), and the implications of these situations for the proper drafting of a divorce document.

[15] All translations of primary sources in this essay are my own.

[16] That is, an oath that the individual is returning in full the article that he or she found—as, for example, in a case where the finder found less than the entirety of the item(s) that was originally lost.

[17] See, for example, J. N. Epstein, *M'vo·ot L'sifrut Ha-tana·im: Mishnah, Tosefta, U-midr'shei-Halakhah* (Jerusalem: Magnes and Tel Aviv: D'vir, 1957), p. 995, Rubenstein, *Talmudic Stories*, p. 162, or Widzer, "The Use of *Mi-p'nei Tikkun Ha'Olam*," pp. 44–45, n. 27.

[18] This issue is thus a topic frequently addressed in the talmudic commentaries.

[19] An important question some scholars have explored is that of the relationship of measures adopted "because of *tikkun olam*" to the *takkanah*, a form of rabbinic ordinance or decree. After M. Gittin 4:3, the use of the verb *tav-kof-nun* to describe the process of instituting the change is absent from the rest of the mishnaic passage. Are these changes nonetheless to be understood as *takkanot*? Note, for example, that while the title of Lipman's article suggests that its topic is "*Mi-p'nei Tikkun Ha'Olam* in the Talmud," he dedicates several pages to cataloguing and discussing rabbinic uses of the verb *tav-kof-nun* in the sense of a legal enactment, before he turns to the phrase *mi-p'nei tikkun ha-olam* itself. Similarly Rosenthal, "*Tikkun HaOlam*: The Metamorphosis of a Concept," pp. 215–217.

[20] A get may be given with conditions included, so that the divorce is valid only if the conditions are met. An example of such a condition might be, "if you give me 200 *zuz*"—from the time that she gives the money, she is divorced, whereas of she does not give the money, she is not divorced.

[21] Indeed, this is the understanding of the Babylonian Talmud, which cites and discusses the implications of this tradition in B. Gittin 33a. See also Lieberman, *Tosefta Ki-feshutah* (*Nashim*), p. 829.

[22] Both are descendants of Rabban Gamliel the Elder, and son (Rebbe) and father (Rabban Shimon ben Gamliel) to each other, though I do not know exactly what to make of this fact.

[23] While both vows (*n'darim*) and oaths (*sh'vu·ot*) are binding and taken quite seriously in rabbinic law, a vow is of lesser severity than a court-imposed oath.

[24] The *prozbul* is a "rabbinic enactment allowing for loans to be collected after the Sabbatical Year...The Torah requires all loans to be cancelled at the end of the seventh year of the seven-year cycle (see Deuteronomy 15:1–11). If, however, the loan contract has been given to the court for collection, the loan is not cancelled...Hillel's innovation lay in making this arrangement...public by means of...a document formalizing the transfer of authority to the court." Quoted from Adin Steinsaltz, *The Talmud: A Reference Guide* (New York: Random House, 1989), p. 247.

[25] See, for example, those cited in note 17 above.

[26] Aryeh Cohen, *Rereading Talmud: Gender, Law and the Poetics of Sugyot*

(Atlanta, GA Scholars Press, 1998), p. 156; brackets in original.
[27] Ibid., n. 3.
[28] In a similar vein, the last of the three cases of the *mishnah* (case "c")—the *prozbul*—includes the language of "Hillel instituted" and the rationale of *mi-p'nei tikkun ha-olam*, but no explanation of the problematic situation that Hillel's enactment was meant to correct. This information appears in M. Sheviit 10:3, but without the rationale of mi-p'nei tikkun ha-olam. See also Sifrei Devarim §113 (ed. Finkelstein, 1940; rpt. New York: Jewish Theological Seminary, 5753 [1992–1993], pp. 173–174), which in some manuscripts includes a citation/conflation of these two *mishnayot*.
[29] And see also T. Gittin 7:13, which I will not discuss here.
[30] As explained by Steinsaltz, *Reference Guide*, p. 175: "In contrast to a regular document, a [folded document] was folded a number of times and sewn at the folds. At least three witnesses were required for such a [document] and one witness had to sign on the outer side of each fold. The original purpose of this elaborate procedure was to delay a hasty decision by a priest to divorce his wife..."
[31] See Lieberman, *Tosefta Ki-f'shutah* (*Nashim*), p. 899 regarding the proper reading here.
[32] But see Lieberman, ibid.
[33] For an explanation of this term, see note 13 above.
[34] See M. Yevamot 10:1 and M. Gittin 8:5 for a complete listing.
[35] See Rubenstein, *Talmudic Stories*, p. 162.
[36] Rubenstein, *Talmudic Stories*, pp.160–163; citation from p. 162.