Mipnei Darkei Shalom: The Promotion of Harmonious Relationships in the Mishnah’s Social Order

Simcha Fishbane

Abstract

This paper will examine the principal of mipnei darkei shalom (in the interest of peace) as it manifests itself in the social order of Mishnah. This principle was used by the rabbis to modify putative laws sometimes explicitly stated in Mishnaic texts and at other times only implied. The Mishnah presents its reader with ten cases of mipnei darkei shalom. Before examining the cases, I first present eight assumptions on which Mishnah is based. These assumptions are used to analyze the ten cases and search out the components that motivate and justify the rabbis’ changing of an accepted law. Based upon my conclusions from the analysis of mipnei darkei shalom, I apply the Durkheim school of social theory to our evidence to better understand the social and cultural ideal world of Mishnah and its structure as presented by an early Palestinian rabbinic group.

My intention is that this essay is to offer a better understanding of the sociology and culture of the ‘world’ as defined by and in Mishnah’s substance, even if that world does not mirror any contemporary or historical Palestinian Jewish world.

Methodological Considerations

Scholars such as Neusner and Lightstone as well as my own work have written on the nature and problems of defining an approach to Mishnah in detail; therefore, I will simply note them here in brief.

Mishnah is a highly redacted document. Lightstone describes Mishnah as a “distinct literary oeuvre, authored, not simply compiled, by some person or persons with their own agenda,
outlook, style, purpose, and social provenance.”
This work, the entire corpus, can be viewed as a
self-consistent whole. Thus, Mishnah contains
not only authoritative modes of behavior but
also its author’s message.
Mishnah represents the rabbis’ view of an
ideal Temple-centered society. In this ideal soci-
ety, the Jerusalem Temple (destroyed in 70 CE) and
its related institutions stand and occupy the
center 130 or so years after the Temple—every-
thing related to it was destroyed. Although there are sections or statements in Mishnah that
would be relevant and can be applied to the
functioning of a rabbinic post-Temple culture,
these appear within the Mishnaic document
that represents the Temple society. Therefore,
it can only be suggested that these statements,
even though they are culturally relevant, are
focused on the synchronous message of the
Mishnah.
In a temple-structured culture, the religious
authority is the priest. In the post-Temple era,
the rabbis saw themselves as the inheritors of
this role, including the authority that it could
embrace. The Mishnah often implicitly (and
at times explicitly) manifests the importance of
the rabbis within an idealized Temple society.

The Mishnah, amongst the earliest author-
itative rabbinic documents in our possession,
offers a synchronous message. It also puts forward
a diachronic view of society, and both these
views serve to view the Mishnah’s present order
as an ideal Temple-focused society. The pur-
pose of this essay is to seek out the message of
the redactor concerning mipnei darchei shalom
within its constructed Temple society and not
to understand or shine light on the actual
Palestinian culture and society of the rabbis
during the third century.
As a rabbinic document, with its resolve to
create a social structure for the rabbinic Jew,
boundaries were created that excluded any out-
sider, such as the Gentile. Thus, the focus of
Mishnah is on the Jew. The only concern for
the outsider is that which affects the life of the
Jew but not of the outsider himself. The
Mishnah’s concern is to protect the rabbinic Jew
from various types of threats or dangers, be they
economic, religious, or security related.
Post-Mishnaic, Tannaic documents, Tosefta and
midreshei ha-halakhah are often consid-
ered as statements not utilized by the Mishnah
redactor but still having parallel authority. This
easy takes an alternate view. If we follow the
suggestion that Mishnah is a tightly redacted
document, any additional monograph would
suggest the redactors had an alternate agenda.
An examination of Tosefta compiled in the
aftermath of Mishnah would suggest a doc-
ument whose development was “dependent”
upon Mishnah but was not Mishnah. Neusner
describes Tosefta in metaphorical terms, as a
“vine on a trellis. It has no structure of its own
but most commonly cites and glosses a passage
in Mishnah, not differentiating its forms and
wording of sentences from those of the cited
passage. . . . The Tosefta covers nearly the whole
of Mishnah’s program but has none of its own.”
Tosefta is not Mishnah and does not necessar-
ily seek to convey the same message as that of
the Mishnah’s redactor(s). Neusner, in two
approaches, offers a greater in-depth under-
standing of the relationship between Mishnah
and Tosefta. First, he states: “Pericopae, which
clearly present a more refined, more subtle, or
more complicated picture of the same law as
found in Mishnah, must be regarded as devel-
opments of Mishnah’s pericopae and, there-
fore, as a commentary generated by Mishnah
itself, not by considerations absent in Mishnah”
(p. 3). Second, he refers to “autonomous” or
“independent” items proffering the following:
“Tosefta gives essentially the same principle as
Mishnah, but in its own formulation or with
its own examples.” They are a (secondary) sup-
plement to Mishnah . . . i.e., a collection of
additional materials relevant to but not found
in Mishnah will then apply to the autonomous
and independent materials.” (p. 3). The current
easy is concerned with Mishnah. Therefore,
following Neusner’s lead, I will only refer to
Tosefta when it serves as a commentary or as
an exegesis to Mishnah, or are a commentary on individual pericope and not Mishnah as a complete document (p.4).

The redactor of Mishnah was not always forthcoming regarding clarification of the laws. Laws dependent on Torah passages are conspicuously absent. Statements based on basic principles are ignored and then, subsequently, laws that require elucidation are presented. The rabbi-teacher had the following answers and had to be petitioned for the explanations, as is demonstrated in our discussion below.

**Mipnei Darchei Shalom**

The term *shalom* is most commonly translated as *peace*. This, however, is only one way it is used, for the term often appears as a way to greet and part from people. It is also explained as meaning completeness, wholeness, health, welfare, safety, soundness, tranquility, prosperity, perfection, fullness, rest, harmony, or congeniality, the absence of agitation or discord. An additional name for God is Shalom. In Mishnah, it is used as peace or something that can be referred to as a harmonious or congenial relationship.

*Mipnei darkhei shalom* appears in Mishnah twelve times within five separate mishnayot: Tractate M. Shabiit 4:3 (once); M. Shebit 5:9 (twice); Tractate M. Gittin 5:8 (eight times); M. Gittin 5:9 (twice); and Tractate M. Sheqalim 1:3 (once). The mishanayot in Tractate Gittin presents an overall summary and presentation of the Mishnah’s entire occurrences of *mipnei darchei shalom*, except for the individual case in M. Sheqalim. Therefore, we will focus on Tractates Gittin (Table 1) and Shekalim (Table 2), but not Shabiit.

**TABLE 1. M. Gittin 5:8**

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<table>
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<tr>
<td>I</td>
<td>A. And these rules did they state in the interest of peace:</td>
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<td>II</td>
<td>B. A priest reads first, and afterward a Levite, and afterward an Israelite, in the interest of peace.</td>
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<td>III</td>
<td>C. They prepare an <em>erub</em> in the house where it was first placed, in the interest of peace.</td>
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<td>IV</td>
<td>D. A well nearest to the stream is filled first, in the interest of peace.</td>
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<td>V</td>
<td>E. Traps for wild beasts, fowl, and fish are subject to the rules against stealing in the interest of peace.</td>
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<td>VI</td>
<td>F. Yose says, “It is stealing beyond any doubt.”</td>
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<td>VII</td>
<td>G. Something found by a deaf-mute, an idiot, and a minor is subject to the rule against stealing, in the interest of peace.</td>
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<td>VIII</td>
<td>H. Yose says, “It is stealing beyond any doubt.”</td>
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**TABLE 2. M. Gittin 5.9**

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<table>
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<td>VIII</td>
<td>A. A woman lends a sifter, sieve, handmill, or oven to her neighbor who is suspected of transgressing the law of the Seventh Year, but she should not winnow or grind wheat with her,</td>
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<td>IX</td>
<td>B. The wife of a <em>haber</em> lends the wife of an <em>am haaretz</em> a sifter and a sieve.</td>
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<td>X</td>
<td>C. She sifts, winnows, grinds, and sifts wheat with her.</td>
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<td>XI</td>
<td>D. But once she has poured water into the flour, she may not come near her, for they do not give assistance to transgressors.</td>
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<td>XII</td>
<td>E. And all these rules they stated only in the interest of peace.</td>
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<td>X-H</td>
<td>F. They give assistance to gentiles in the Seventh year but not Israelite.</td>
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<tr>
<td>XI-I</td>
<td>G. And they inquire after their welfare, in the interest of peace.</td>
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TABLE 3. Sheqalim 1:3

| A. | On the fifteenth of that same month [Adar] they set up money changers’ tables in the provinces. |
| B. | On the twenty-fifth [of Adar] they set them up in the Temple. |
| C. | Once they were set up in the Temple, they begin to exact pledges [from those who had not paid the tax in specie]. |
| D. | From whom do they exact a pledge? |
| E. | Levites, Israelites, proselytes, and freed slaves, |
| F. | But not from women, slaves, and minors. |
| G. | Any minor in whose behalf the father began to pay the sheqel does not again cease [to pay]. |
| H. | And they do not exact a pledge from priests, |
| I. | For the sake of peace. |

As Basser and Basser correctly point out,\textsuperscript{12} mipnei darkhei shalom refers to the need to establish standards of behavior to avoid conflict in potential: “This rubric offers protocols to avoid undue strife. These protocols override or amend either the intention or the explicit rulings of the Mishnaic rabbis.” The issue to be considered is whether the concept of mipnei darkhei shalom amends or enhances an existing law. Why, in some cases, does the law transform a thing that is permitted into a prohibition, while in others it overrides a rabbinic ruling prohibiting something—to then allow it? In my analysis of such cases involving mipnei dakchei shalom, I will explore this query in the following set of aforementioned cases:

**Case 1:** “A priest reads first, and afterward a Levite, and afterward an Israelite, in the interest of peace.”

This ruling is based upon a discussion of reading the Sefer Torah discussed in Mishnah Tractate Megillah 4:2, 4. These mishnayot discuss the number of individuals who are to be invited to read from the Torah (during the prayer service on days that the Torah is read in the synagogue), but no specific category of persons is identified. The Mishnah Horayot 3:8, while not specifically referring to Sefer Torah, presents the established hierarchy for the Mishnah’s world, repeated below:

A. A priest takes precedence over a Levite, a Levite over an Israelite, an Israelite over a mamzer, a mamzer over a Netin, a Netin over a proselyte, a proselyte over a freed slave.

B. Under what circumstances?

C. When all of them are equivalent.

D. But if the mamzer was a disciple of a sage and a high priest was an am haaretz, the mamzer who is a disciple of a sage takes precedence over a high priest who is an am haaretz.

Although not explicitly stated, this division of status discussed in the above mishnah should also include Torah reading—the educated rabbi would supersede the priest. The rabbis, in this instance, where it is an issue of honor rather than of authority or financial implications, for the sake of harmonious relationships relinquish their prior place of honor.\textsuperscript{13} In the Mishnah’s perceived ideal Temple society, in which the priest is the religious leader, they, the priests, still enjoyed a place of symbolic honor. The rabbis chose to apply the principle “in the interest of peace” to alter and override an existing ruling. The rabbi, the inheritors of the priests, even with this awarded honor, still ruled.

**Case 2:** “They prepare an erub in the house where it was first placed, in the interest of peace.”

TractateS Sabbath and Erubin both discuss the Torah prohibition against carrying any object from one domain to another on the Sabbath. One scenario regards cases when houses in an urban area were constructed within courtyards (common during late antiquity). In order to permit individuals to carry objects from their houses into the courtyard (hatzer) and vice-versa, an erub hatzarat is created. The rabbinic process requires that all the neighbors...
place food items in one of the courtyard houses before Shabbat. The erub hatzarot, thus, organizes all these domiciles into a single domain in which carrying is permitted.

There are various options for obtaining these food items. One person from the courtyard can contribute the food, or the other residents can jointly contribute towards the amount of food required to make the erub hatzarot. There are instances, as discussed in Mishnah Erubin 7:11, in which money is donated towards the purchase of food items.

Our paradigm, which discusses erub hatzarot, seems to imply that in order to reduce clashes between neighbors, maintain harmonious relationships, and not insult the householder, the erub hatzarot should remain in the home of the residence where it was initially placed. I believe there is an additional consideration implied in this instance—the possibility for financial gain on the part of the homeowner where the erub hatzarot is assigned. Although the food products belong to everyone in the courtyard, after the Sabbath, this individual would have the opportunity to acquire it before the others. As mentioned above, there are also possibilities for the transfer of monies. Although it is no more than a possibility, this consideration would offer greater clarity in understanding why mipnei darkei shalom is a factor in placing the erub and amending the law.

Case 3: “A well nearest to the stream is filled first, in the interest of peace.”

This mishnah would seem to portray a scenario in which a channel flows from a river alongside a series of fields. The owners of these fields use the channel’s water to irrigate their fields. To avoid the possibility of water drying out before the fields are irrigated, the owners dug cisterns at the edge of their fields to collect water from the channel. To avoid conflict between the field owners as to who had first rights to the water from the channel, the Mishnah, applying the principle of mipnei darkei shalom, decides who has first entitlement to the water.

The Mishnah, as well, chooses to amend situations that could lead to conflict and strife. There is no halakhic ruling that the principle “in the interest of peace” would be required to have an override. Rather, this is a financial issue in which the strongest person would win and, thereby, cause a clash.

Case 4: “Traps for wild beasts, fowl, and fish are subject to the rules against stealing in the interest of peace.”

The following three cases (4, 5, 6) are concerned with the acquisition (kinyan) of various objects through different methods. Our example case deals with acquisition through one’s property or utensils rather than by placing or dragging it by hand. Mishnah is not explicit in defining the principle of acquisition through the use of an individual’s utensil with a receptacle attached to a base (beit kibul). It is implicitly alluded to in an example of divorce in Mishnah Gittin 8:1, which says, “He who threw a writ of divorce to his wife . . . [if he threw it] into her bosom or into her basket she is divorced.” The basket becomes the acquisition since it has a beit kibul while the trap does not; thus, preventing its owner from legally acquiring the catch. The Mishnah employs the principle of mipnei darkei shalom to amend the law of kinyan and allow the owner of the trap to keep the prey. The rabbis permit the trap owner to retain his catch, and the one who takes it is a thief.

Case 5: “Something found by a deaf-mute, an idiot, and a minor is subject to the rule against stealing, in the interest of peace.”

Although not stated explicitly in Mishnah, it is based on a principle that any Jews who fell within these three categories of persons (deaf-mute, idiot, minor) could not acquire property. For example, in Mishnah Baba Metzia 1:5, in discussing an object found by a minor, the
Mishnah informs us that such objects are not acquired (*kinyan*) but become the property of the father (after he makes a *kinyan*). These three categories of Jews were unable to own property and to conduct independent business transactions. The reason for the limitation on them was a lack of perceived mental capacity. This understanding was common during the Greco-Roman period by the Jews and Gentiles. It is clarified in Mishnah Arakhin 1:1 in the discussion of the valuation of different types of individuals, including the use of one’s monetary value of his body for determining a pledge amount to the Temple. The Mishnah rules that a *heresh*, *shoteh*, and *katan* may not dedicate such a valuation, since they are not mentally competent. A lack of mental capability for dealing with reality would also exclude the *heresh*, *shoteh*, and *katan* from making a *kinyan* on any object.

The Mishnah amends this law in prohibiting the taking of a found object for these three types of individuals. In this case, there is a clear possibility of monetary gain.

**Case 6:** “A poor man beating the top of an olive tree. What is under it [the tree] is subject to the rabbinic override forbidding others to take what has fallen to the ground. In the interest of peace, Yose says, ‘it is stealing beyond any doubt.’ ”

The Mishnah commentaries explicate this scenario referring to the laws of Gleaning (*leket*), the Forgotten Sheaf (*shikhah*), and the Corner of the Field (*peah*)—agricultural gifts awarded to a poor person. The second individual claiming the right to the produce is forced to comply with this suggestion since an individual who is not poor has no right to these products, yet, if appropriated, they would be his—if not for the principle of *mipnei darkei shalom*. Again, this case is an issue of acquisition. The poor person shakes the tree, but since he does not hold the olives in his hand, he does not acquire them. Therefore, if another poor person grasped them first, if not for the case of *mipnei darkei shalom*, they would belong to him.

The Mishnah, thus, amends a permitted circumstance and prohibits any other individual from acquiring the produce. I would like to suggest an additional consideration. The gifts offered to the deprived person can be his basic means of sustenance. If guidelines for receiving these assistance are not clearly defined, he could lead to brawns and possible damage to property, in our case that of the field’s owner. The need for *mine darkei shalom* would, therefore, go beyond a mere clash between two individuals and could result in financial loss to the owner of the property. The fear of violence from a poor person is implied in Mishnah Peah 4:4, which reads, “Peah, they [the poor] do not reap with sickles, and they do not uproot it [the field] with spades, lest they strike one another.” This violent behavioral pattern found in a destitute individual could also result in physical and material damages.

**Case 7:** “They do not prevent poor gentiles from collecting produce under the laws of Gleaning [*leket*], the Forgotten Sheaf [*shikhah*], and the Corner of the Field [*peah*] in the interest of peace.” Implied in Mishnah’s statement, is that a poor Gentile is forbidden to receive gifts of produce. As stated above (work detail 5), Mishnah is not interested in the welfare of the Gentile but rather in that of the rabbinic Jew and the world of Mishnah. The concern here is for the security of the destitute Jew seeking these gifts but there are also implications for financial gain/loss. As shown in the above case, the poor can tend towards violence. If the needy Gentile could not share in these gifts, that could lead to the destruction of property and, thus, to financial loss both for the Jew who is poor and for the proprietor of the field.

This amended ruling is designed to prevent gentiles from claiming that Jewish law discriminates between Jew and Gentile and is, thereby, intended to reduce conflict. Ultimately, the Jews gain, as it is in their interests to prevent enmity.
Case 8: “A woman lends a sifter, sieve, hand mill, or oven to her neighbor who is suspected of transgressing the law of the Seventh [Sabbatical] year, but she should not winnow or grind wheat with her [in the interest of peace].”

This statement first appears in Mishnah Shebiit 5:9. The Mishnah is discussing a case of a woman who is suspected of not observing the laws of the Sabbatical year and wants to lend an item that can be employed in the transgression of shebiit from one who does observe the laws of the Sabbatical year. To clarify: During the Seventh year in the land of Israel, one is prohibited from working the land or enjoying its produce in any fashion, and at a designated time must destroy food stored in the house from these fields. Our case concerns the cooking utensils, which normally would not be lent, as the receiver, who is suspected of ignoring the laws of the Seventh year, might use them with forbidden produce from the Sabbatical year. Mishnah verses 6 and 7 of chapter 5 states that any utensil employed (during the Sabbatical year) for the purpose of transgression may not be sold. Selling is only permitted if the item can also be used for a permitted activity. Lending would fall under the same law. Therefore, our Mishnah would need to override the law, as it was considered prohibited to use the utensils. The assistance offered to the suspected woman would benefit her financially. For example, she would not need to purchase a new one. The point of mipnei darkei shalom here is to avoid conflict caused by the usual strict application of laws.

In the ideal world of Mishnah, women were also segregated and assigned specific roles. One can find in Mishnah at least a partial or limited division of labor between men and women. People resided in close proximity to one another, as demonstrated by the hatzer. Closeness gives rise to both great dependencies on each other as well as friction and conflict. Thus, the Mishnah rabbis choose to apply the principle of mipnei darkei shalom to a case that applied to women. They chose to subjugate these tensions by applying the principle of mipnei darkei shalom as a way to override the law that forbade assisting a sinner.

Lending a vessel to the suspected woman would be of benefit to her financially since then she did not need to purchase a new one. The point of mipnei darkei shalom here is to avoid conflict caused by the usual strict application of laws.

Therefore, our mishnah would need to override the law, as the use of the utensils was considered as prohibited. The assistance offered to the suspected woman would benefit her financially. For example, she would not need to buy or rent these items to use them domestically or for her business. As I stated above in the pre-industrial rural societies, women played an important economic role in the world of agriculture. They were core economic partners with men. Scott and Tilly correctly argue that women did work and that they were necessary for the survival of the family unit (p.41). Their contribution was primarily in the home but also could include working the family fields. This was essential for the family unit whose solidarity provides the basic framework for mutual aid, control, and socialization (p. 43).

Case 9: “The wife of a haber lends the wife of an am hares [suspected of not keeping the laws of purity] a sifter and a sieve. She may sift winnow, grind, and sift wheat with her. Nevertheless, once she has poured water into the flour [enabling the dough to contact impurity], she may not come near her, for they do not give
assistance to transgressors. And all these rules they stated only in the “interest of peace.”

Since both Mishnah cases discuss women, the consequences of their society’s structure and assisting a potential sinner, the rabbi has grouped cases 8 and 9 together. Case 9 works on the same principle as 8 but is concerned with the violation of the laws of tithes and ritual purity (tuma) rather than the haber. As in case 8, there are financial results from the cooperation of both women. In order to permit realization of Mishnah’s view, it was necessary to override the law. Mishnah identifies two status levels of individuals, the haber, who is meticulous in the observance of Sabbatical, purity laws, and the am haaretz (uneducated in Torah and rabbinical law), who is distrusted. There should be limited interaction between these different classes of women (as specified in Mishnah Demai 6:7 and 2:3), since the Mishnah is concerned that the wife of a haber would become ritually impure or eat from foods not tithed. Even so, in the interest of peace, the Mishnah overrides the law and offers restricted assistance from the wife of the haber to the wife of the am haaretz up to the point where the tuma becomes an actual danger and not just a concern.

Case 10: “They give allow (real) assistance to [G]entiles in the Seventh year but not Israelites [in the interest of peace].”

This mishnah first appears in Shebiit 4:3, then in 5:9. It is later presented and summarized in Gittin 5:9. The opening of the Mishnah (in Shebiit 4:3) reads as follows:

During the Sabbatical year [Jews] lease from gentiles fields newly ploughed [during that year for the purpose of cultivating them during the following year,] but (they do not [lease] from an Israelite [a field which he has plowed during the Sabbatical year, in violation of the law].

This opening is not repeated in the other two Mishnaic citations. It is clear throughout the entire Mishnah that the focus is upon the Jew and not the Gentile. The Gentile’s role is to assist the Jew to better function in his world of Mishnah.

This case implies that even though the Land of Israel is holy and should not be worked by either Jew or Gentile on the Sabbatical year, one cannot prohibit the Gentile from working the land. Thus, the Jew, if this were the only consideration, should not encourage the Gentile to work the land; that is, aside from the principle the rabbis applied of mipnei darkei shalom. By maintaining a harmonious relationship with the Gentile, the Jew will receive financial gain, by having a plowed field in the eighth year ready to plant, in addition to the security of friendship.

Case 11: “And they permit inquiring after [the Gentile’s] welfare, in the interest of peace.”

This statement, as in the case above, is first found in Mishnah Shabiit 4:3, then in 5:9. An examination of Mishnah will demonstrate that there is no discussion concerning a prohibition to greet pagan Gentiles even on their festivals when Mishnah prohibits various kinds of interaction with them. The Mishnah’s concern is that any interface with pagan Gentiles during their religious festivals would encourage and enhance their practice of idol worship. There is no reference in Mishnah to any type of prohibition regarding asking after their welfare. To clarify the issue, one turns to Tosefta in Abodah Zarah 1:2, where a discussion of pagan festivals clearly says, “Nor should one ask after their welfare. . . . But if one happened to come across [the pagan] in a routine way, he asks after his welfare with all due respect. They permit inquiring after the welfare of the gentiles on their festivals for the sake of peace.”

I choose to view this Tosefta under the category of Mishnah clarification or commentary rather than as an autonomous Tosefta. Two issues are elucidated: first, that Mishnah is concerned with the different occasions when the pagan holiday was celebrated. Other than on these times (when it would be prohibited),
it was permitted to greet the Gentile in a specific fashion. Second, the Tosefta clarifies that if not for the principle “for the sake of peace,” it would be prohibited to ask after the well-being of the Gentile on their holiday. This is demonstrated in the language of Tosefta, identical to that of Mishnah, except that Tosefta adds the words “on their festival.”

In the above case, the motivation for assisting the Gentile is economic. In our case, I suggest that it is primarily a security issue, as in case 7 concerning Peah, although financial loss is also conceivable. Religious holiday gatherings can be a time of incitement to violence and the destruction of property. The Mishnah is interested in the Jew and his welfare, not in the Gentiles. Thus, we need to look at these texts with only the rabbinic Jews’ concerns in mind. If offering greetings on the pagan festival will offer greater security to the Jewish community, their physical well-being, and the protection of their property, one would seek to override the prohibitions.

Cases 10 and 11 as well as cases 8 and 9 are parallel in structure. Cases 8 and 10 override a law related to shabiti. Cases 9 and 11 are not related to shabiti but override a prohibition connected to the status of the person in the previous case. Ruling 9, which relates to women and appears in cases 8 and 11, relates to the Gentile who appears in 10.

Case 12: “And they do not exact a pledge from priests, for the sake of peace.”

The Mishnah in Gittin omits the case in mishnah Sheqalim 1:4. Ancient custom saw in Exodus 30:12–16 a basis for all Israelites during the Temple period to give an annual tax of a half-shekel for community sacrifices. If a person could not pay the tax, the rabbis required the giving of a security pledge for the payment of the half-shekel tax. Priests were also required to contribute, and if they did not, they too, strictly speaking, were subject to giving a security pledge despite their status. The authorities felt it necessary, as Safrai explains, to maintain the internal solidarity of the community by exempting them from giving security although they were expected to pay (p. 75). Safrai’s analysis, based upon Tosefta Menahot 13:18–19 and Zebahim 11:17, shows that the priests were aggressive when their financial gain was involved. This behavior would explain why the rabbis of the Mishnah needed to employ the mipnei darkei shalom principle in order to avoid bickering and strife and to override the law obligating priests to give security.

This ruling differs from the cases in Mishnah Gittin. In the Gittin, scenarios were all undisputed. Mishnah Sheqalim 1:4 demonstrates that not all tannaim were in agreement as to whether the priests should be exempted from paying the half shekel. The first opinion in Mishnah 1:4 exempts the priest from paying the half shekel, and, thus, they would also be exempted from giving collateral; therefore, the mipnei darkei shalom principle would not apply.

It is clear that there is financial gain as well as prestige for the priests in having an exemption from this tax security pledge. I would like to suggest that there is an additional advantage for the rabbis, who are the inheritors of the priests, through the inclusion of this law. Religious taxes took different forms after the destruction of the Jerusalem Temple when the half-shekel tax was no longer required. If the priests were exempt from a religious tax that could serve as a basis for the rabbis to expect exemptions from the religious taxes of their time.

<table>
<thead>
<tr>
<th>SUMMARY OF MIPNEI DARKEI SHALOM IN MISHNAH</th>
</tr>
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<tbody>
<tr>
<td>Jew</td>
</tr>
<tr>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Case 1</td>
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<td>Case 2</td>
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SUMMARY OF *MIPNEI DARKEI SHALOM* IN MISHNAH—CONTINUED

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<tr>
<th>Case</th>
<th>Jew</th>
<th>Gentile</th>
<th>Harmony</th>
<th>Security</th>
<th>Financial gain</th>
<th>Amend law</th>
<th>Override law</th>
<th>Social status</th>
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Summary and Concluding Remarks

It can be seen from the above cases that Mishnah is concerned with civil law and religious law, primarily those regarding financial concerns, affecting varied strata of society, beginning with its leadership and concluding with the Gentile outsider. The Mishnah sought social stability and social order. Therefore, to avoid conflict and ensure a secure and stable society, the principle of *mipnei darkei shalom* was instituted to amend or override rabbinic stringencies that encompassed elements endangering this stability. The rabbis chose cases in which they applied the principle of “in the interest of peace” primarily in scenarios with financial implications. It was the area of economic relationships, interdependence, and cooperation that would most strongly impact the social solidarity of the collective community: what was required was the “moralization!” of economic relationships.

In order to understand how the above cases play a role in understanding the sociology and culture of the “ideal world” defined by Mishnah, I turn to the Durkheim’s school of social theory. I do not believe that there is one neatly packaged world of Mishnah, but rather there is what appears as different variables, which are presented in this document. For example, we find that on the one hand Mishnah presents a Temple-based culture and on the other hand a third-century Palestinian social reality. Many pieces make up the puzzle of Mishnah. The topic of *mipnei darkei shalom* is only one piece in this puzzle, but it may reflect on, or inform, other texts or laws of Mishnah when all the pieces are examined and placed together.

Durkheim in his work *The Division of Labor in Society* presents his theory of society, moral consciousness, social order, and stability. I do not believe that this theory in its entirety can be applied to the unpacking of the world of Mishnah. However, there are elements of the theory that, even taken out of context, can be used to understand the Mishnah’s topic *mipnei darkei shalom* and, therefore, one segment of the Mishnah’s ideal world.

Positive solidarity in society can be considered as playing an essential role in creating the social order; it is an entirely moral phenomenon. To achieve this, a legal system with a complete moral consciousness is necessary. Moral ideals and codes of conduct order the functioning of society, and when it is strong, it unites individuals in their social framework. This could then facilitate the basis of the authority necessary to retain the social order. The solidarity would...
result in what Mary Douglas terms a strong grid group.36 A robust legal system in a diverse society as manifested in Mishnah brings people together. Solidarity overcomes the diversity and strengthens the collective. Furthermore, based upon our examples of mipnei darkei shalom, I suggest that if we apply the group grid cosmology to the ideal world of Mishnah we find that “there are visible rules about space and times related to social roles. Individuals do not, as such, transact with each other.”37 In other words, in this world, the individual is not the focus of this cosmology, as the individual’s recognition would weaken the culture.

It also must be considered that, as in our case of Mishnah, religion and religious law often initiate moral consciousness. Moral bounds were provided by religion. In a religious social structure, morality is permeated with religion. Juridical life protects these moral bounds and is essential for ensuring social harmony. The rabbi’s social order was religious in character and articulates moral behavior. Religion provided for all social aspects of their ideal society. The world of Mishnah had the maximum characteristics38 for the development of a collective consciousness. Durkheim identifies these, which compose the collective consciousness of this religious social order, as the volume, intensity, rigidity, and content of the beliefs and values. For Durkheim the state was a moral agency.39 The role of this body was to focus the collective representation on moral consciousness. For Mishnah it was the rabbi’s role to take on the responsibility to implement the moral phenomenon into their ideal world, and to either develop or retain the stability required for that world and their authority. One tool they used to achieve these goals was the application of the principle mipnei darkei shalom.

REFERENCES

2. Lightstone, Mishnah and the Social Formation, 7.
3. As Cohn explains, in Naftali S. Cohn, The Memory of the Temple and the Making of the Rabbis (Philadelphia: University of Pennsylvania Press, 2013), 1–4, there was no one alive to testify to or even experience Temple life or ritual, and a new form of Jewish rabbinic ritual life was in the making. The Temple life, ritual, and society were chosen to serve the rabbis’ agenda and enhance if not justify their authenticity and authority. As Jewish history has shown time and time again, when the new becomes the old, it acquires legitimacy.
5. Cohn’s 2013 monograph focuses primarily on this hypothesis of the Mishnah placing the rabbi in the major role, even in the Temple society. I believe that Cohn’s maximalist position is over-emphasized, but it is not the purpose of this essay to take him to task. See Cohn, Memory of the Temple.
7. This argument dismissing the parcelling of Mishnah and Tosefta is developed in Jacob Neusner’s Tosefta: Its Structure and Its Sources (Atlanta: Scholars Press, 1986).
13. For a general discussion of honor and the priest to include Sefer Torah, See Shlomo Josef Zevin, ed. Talmudic Encyclopedia. Vol. 27. [Hebrew]
14. In his Mishnah commentary to our case, Maimonides suggests that this is related to a financial issue.

15. The Talmud 60b describes a scenario in which the last rather than the first cistern in the field receives the priority for the river’s water.

16. See Mishnah Kidushin 1:4–5 and Baba Batra 5:7 for a discussion of kinyan by dragging an object.

17. Throughout, the tractate Mishnah Kelim clarifies that a utensil is an object with a proliferation. Although not relevant to Mishnah, the Babylonian Talmud Baba Batra 85a states this principle.


20. Mishnah Pea 8:7–9 defines who is considered a poor person and may accept these gifts.

21. Tosefta in Gittin 5 offers an autonomous statement that the poor Gentiles are supported along with the Jew. I believe this to be a separate statement independent of the agenda of the redactor of Mishnah, with its own agenda.

22. Although the commentators intensively discuss this Mishnah, offering varying interpretations, I am looking at the direct implications of the Mishnah.


25. Ibid., 41.

26. Ibid., 43.

27. The prohibitions regarding the interactions between the haber and the am haaretz are clarified in Mishnah Demai, chapter 2.


29. This is implied in the passage in Leviticus 25:3, which states that the land should rest on the Seventh year. For a rabbinical discussion supporting this view; see *Talmud Yerushalmi Tractate Shebiit* [in Hebrew] (Jerusalem: Beth Midrash Hagavoah Bahalakhah Bahityashvut, 2006).

30. Translation of Tosefta is adapted from Neusner, 1969.


33. The Talmud chooses to explain this action by the rabbis because of the honor the priests deserve. The Mishnah implies otherwise.

34. In the case of Mishnah, it is difficult to differentiate between them.


38. For a discussion of each of these characteristics, see Anthony Giddens, ed., trans., *Emile Durkheim: Selected Writings* (Cambridge, New York: Cambridge University Press, 1973), 5.

39. Ibid., 18.