Daring Decrees and Radical Responsibility: Why Rabbinic *Tikkun Olam* Is Not What You Think

Meesh Hammer-Kossoy

In popular conception, the term *tikkun olam* is frequently used as a catchphrase for the Jewish imperative to pursue social justice and service.[1] Ironically, in coining the term *tikkun ha-olam*, the rabbis effectively undermined the utopian biblical vision of justice with which many contemporary social activists readily identify. In the mishnaic collection about *tikkun ha-olam*[2] found in the fourth and fifth chapters of tractate Gittin, the rabbis trade the Bible's grand program of social equality and economic justice for a set of incremental and realizable social changes. While their approach may seem, on the surface, to be less inspirational than the biblical model that they are reworking, the rabbis are actually deeply radical in their overall approach. By daring use of the rabbinic decree (*takkanah*), the rabbis take responsibility for doing whatever is possible within the constraints of reality to effect change—even at the risk of overruling the Bible. An examination of the Bible's far-reaching, revolutionary approach to regulating society's norms concerning lending money and the Sabbatical and Jubilee years, on the one hand, and the Mishnah's bold methodology but conservative approach to legislation concerning economic norms, on the other, will serve to highlight not only the significant differences between the two approaches, but also to underscore how both are ultimately anchored in a deep optimism about our ability to work toward—and achieve—a better society.

The Biblical Vision of Economic Justice

The most revolutionary expression of the biblical vision of economic justice is found in the legislation concerning the Jubilee and Sabbatical cycles. The Sabbatical year[3] is well known as a once-in-seven-years opportunity for the land to lie fallow. But beyond its restorative environmental merit, the Sabbatical year promotes the value of social and economic equality in at least four distinct ways. First, land is considered ownerless during the Sabbatical year; as Rashi explains, "You may not act as owner; rather, everyone is equal with respect to it."[4] Secondly, since normal gathering and harvesting are prohibited, equal opportunity for consumption apply to all, extending even to the animals: "But you may eat (*lakhem l'okhlah*) whatever the land during the Sabbatical will produce—you, your male and female slaves, the hired and bound laborers who live with you, and your cattle and the beasts in your land may eat all its yield" (Leviticus 25:6–7).[5] The phrase *lakhem l'okhlah* is translated by NJPS as "you may eat," but it may also be translated as "you *shall* eat." Thus, in an ironic and essential turn, the produce is *kodesh*—sanctified.[6] Whereas sanctity regarding foodstuff usually indicates that its use is reserved for a very limited elite (for example, priests), in the case of the Sabbatical year, the sanctity of the produce derives from the fact that it is available to everyone. Thirdly, this egalitarian vision is amplified by the biblical demand that lenders forgive all debts in the Sabbatical year (Deuteronomy 15:1–4). The social hierarchy—of rich and poor, lenders and debtors, slaves and slave-owners—is eliminated, inaugurating a new period of social solidarity, equality, and unity.[7]

Finally, this audacious vision of equality is not merely an economic plan for narrowing social gaps; there is a spiritual aspect at play here, as well. In Deuteronomy, the Sabbatical year is called *sh'mittah*, the year of "release."[8] This notion of release points beyond economic equality

toward an overall process of spiritual awareness. By letting go of our focus on material production, *sh'mittah* gives us the opportunity to rest together with our land—thus grounding ourselves, literally and figuratively. As Ibn Ezra explains, we are empowered to direct our thoughts beyond acquiring material wealth.[9] Social solidarity becomes more fundamental than accumulation of wealth and, by consuming less, we become aware of our own excesses. Ibn Ezra finds proof for this communal religious process in the national gathering for Torah reading that marks the end of the *sh'mittah* year, as ordained in the Book of Deuteronomy: "Every seventh year, the year set for remission (*sh'nat ha-sh'mittah*)…you shall read this Teaching (*torah*) aloud in the presence of all Israel" (Deuteronomy 31:10–11). Ibn Ezra understands that the public reading is a kind of closing ceremony, symbolic of what should be done throughout the Sabbatical year—Torah learning and reflection together as a nation. In working less, we enable reflection, which is no less vital to our existence than owning. But again, that release must be available to everyone; Torah learning must be done as a community: "men, women, children, and the strangers in your communities" (Deuteronomy 31:12).

Equality and inclusivity reach redemptive heights in the Jubilee year, which is essentially the Sabbatical year squared: "You shall count off seven weeks of years—seven times seven years—so that the period of seven weeks of years gives you a total of forty-nine years" (Leviticus 25:8). Not coincidentally, both the Jubilee (Leviticus 25:9) and the messianic age (Isaiah 27:13) are inaugurated by the blast of the *shofar*. In fact, the very name of the year, *yoveil*, means "ram" and references the horn that announces the year's onset, thus emphasizing its messianic dimensions.[10] And the *yoveil* trumpets a great egalitarian value: liberty, *d'ror* (Leviticus 25:10). In addition to the regular features of a normal Sabbatical year, the super-sabbatical Jubilee year mandates the release of slaves[11] and the return of all

Israelites to their familial inheritance.[12] It is essentially a return to a state of Eden: just as the Land of Israel was distributed in equal portions to all households in the time of Joshua,[13] so too during the Jubilee year everyone is entitled to return to their ancestral holdings, rooted as equals.

At the initial level, this is an economic vision of relatively equal division of wealth, often called distributive justice. As Rashi explains, "all have an equal part in it."[14] While this aspiration toward equality is temporary and limited during the Sabbatical year, it is more expansive and enduring in the Jubilee year. The Torah designates it: "liberty (*d'ror*) in the land for all (*kol*) of its inhabitants" (Leviticus 25:10).[15] According to the Talmud, "liberty" and "all" are interdependent—if everyone is not free, then no one is free.[16] The Talmud notes that the Jubilee year enshrines economic equality in a way that has the potential to last beyond the end of the year itself. Not only are debts forgiven; in addition, slaves are released and given a grant that enables them to begin a new life.[17] At the same time, it is no less significant that we are encouraged to work, produce, and purchase for our own personal benefit in the intervening years: "Six years you *should* sow your field and six years you *should* prune your vineyard and gather in the yield" (Leviticus 25:3).[18] Distributive justice is therefore tempered with the right to be rewarded for hard work by earning and acquiring private property and wealth (often called retributive justice).

The biblical conception of economic equality is grand in its vision and scope. However, critics will protest: why bother working hard, producing, and acquiring property—only to have the results of one's labors dismantled at the end of fifty years? Surely that undermines the motivation to be productive! Medieval commentaries have pointed out that this is exactly where the genius of the biblical vision kicks in: the accumulation of private property is never an end in itself, and therefore must be limited. The Akeidat Yitzḥak (Rabbi Isaac

ben Moses Arama, c. 1420–1494) suggests that when we learn to make do with less, we all end up richer.[19] If we wonder, "Is all of our productivity really as fruitful as we thought it was?"—the Torah reassures us: "And should you ask, 'What are we to eat in the seventh year, if we may neither sow nor gather in our crops?' I will ordain My blessing for you in the sixth year, so that it shall yield a crop sufficient for three years" (Leviticus 25:20–21). Rather than a literal promise that the sixth year will produce three times as much, we might understand this as a reassurance that if we plan and reorient ourselves to a reality of less, there will be enough to carry through. By managing in those three years, and even succeeding to experience them as an opportunity, we are triply blessed: with enough to eat, as well as with a willingness to share with those less fortunate and to make time in our lives for things that are of ultimate importance.

To summarize: through the Sabbatical and Jubilee cycles, the Torah balances the ideal of distributive justice with incentives to produce by emphasizing equality, freedom, opportunities to begin afresh, and an inalienable stake in the Land of Israel with the rights of each individual to acquire material wealth. At the same time, the Torah redirects our attention away from individual wealth accumulation toward communal reflection and social solidarity, and reminds us that sometimes enough should be enough. No individual is left behind. A utopian vision indeed! Clearly, this moral grandeur would have been foremost in the minds of the rabbinic legislators who drew on the concept of *tikkun ha-olam* in enacting legislation likewise designed to move toward a more utopian society.

Too Good To Be True?

Sadly, the biblical ideal of economic justice is far removed from our present-day reality. Israel and the United States top the charts when it comes to gaps in wages between the highest and lowest earners.[20] In 2011, more than 450,000 Israelis—roughly six percent of the country's population—hit the streets in a call for "social justice," which was widely understood to be primarily about unfair distribution of wealth.[21] The American "Occupy Wall Street" movement expressed similar concerns.[22] Yet even with all of this recent popular attention being focused on issues of social inequality, the gaps remain enormous.[23]

In truth, the biblical vision of both the Sabbatical and Jubilee years has always been more a dream than a reality. There are no signs in historical sources that the Jubilee year was ever actually observed as prescribed.[24] By emphasizing that full inclusion was considered the *sine qua non* for the Jubilee year, the rabbis assert that the Jubilee had lost even its theoretical legal applicability with the beginning of the Exile.[25] Neither is there any evidence that the Sabbatical year was actually observed in the biblical period. The Torah itself tried to buttress Sabbatical observance with threats as well as promises.[26] But in spite of the rhetoric, it seems that the institution was not observed; indeed, non-observance of the Sabbatical year is cited in biblical texts as a major reason for the Babylonian Exile.[27] In the Second Temple period, there is ample evidence that the Sabbatical year was indeed observed. However, even then its observance came at a great cost and was fraught with tremendous practical difficulty, most notably the challenges of making loans available, eating, and paying taxes.[28]

Thus it is not only the Bible's grand revolutionary vision, but also its impracticalities, that serve as the backdrop against which we

must understand the rabbinic use of the expression *tikkun olam*. It is precisely at this juncture of utopian dreams and disappointing reality where the rabbinic institution of *tikkun olam* enters the scene for the first time. The Mishnah states that "for the sake of *tikkun ha-olam*, Hillel ordained *prozbol*."[29] *Prozbol* is a legal loophole that allows an individual lender to transfer a loan to the court and authorize it to collect the loan, on behalf of the lender, at any time. The court is not obliged to release the loan during the Sabbatical year; thus, it becomes permissible for the lender to collect it in the future (through the court), rather than suffering the financial loss that would be entailed by forgiving it. Lenders may even do the collecting themselves, as agents of the court.[30]

Just as the rabbis declare that the Jubilee year was no longer binding because the nation as a whole could not participate,[31] so too, in a bold move, "for the sake of *tikkun ha-olam*," Hillel essentially renders a major part of the Sabbatical year legally inoperative. To understand Hillel's motivation, we must remember that Jews are prohibited from collecting interest from other Jews, so any loan is an act of *tzedakah*.[32] In fact, an interest-free loan, rather than an outright gift, is the primary form of *tzedakah* prescribed by the Torah.[33] Because in an agrarian society these loans were essential for obtaining seed money in years of drought or failed crops, the rabbis considered it a value "not to lock the door in the face of borrowers."[34] Hillel saw that the Sabbatical year was driving a credit crisis: the wealthy were refusing to risk loaning to the poor as the Sabbatical year approached, out of a fear that the loans would be cancelled and they would lose their money—despite explicit Torah disapprobation of such refusal (Deuteronomy 15:9). Therefore, Hillel deemed it essential to encourage loans by enabling the wealthy to collect their loans even after the Sabbatical year, even at the expense of rendering the injunction to forgive loans in the Sabbatical year inoperative. In

modern terms, this could be classified as "trickle-down economics"—making conditions better for the rich in hopes that it will benefit the poor people indirectly. Could this really be *tikkun ha-olam*?

Certainly in the short term, we can recognize that Hillel's decree could in fact be beneficial for the poor by ensuring that loans would continue to be available to them, even as the Sabbatical year approached. On the other hand, this rabbinic enactment effectively cancels the loan forgiveness that the Torah grants the poor—and this could hardly be seen as beneficial for them. How can the rabbis deny the poor their Torah-right to periodically start afresh, simply because the rich were unwilling to abide by the Torah's mandate to forgive loans (and the rabbis were powerless to force them to comply)? Eradicating the practice of loan forgiveness does, certainly, result in additional concentration of wealth in the hands of the few and deeper impoverishment of the weak.[35] The utopian vision of distributive justice symbolized by the Torah's provisions for the Jubilee and Sabbatical years is officially abandoned by the rabbis' enactment of the *prozbol*. It is ironic that a measure undertaken for the sake of *tikkun ha-olam* may, in this way, in fact contribute to further economic disparity between rich and poor!

Tikkun Olam of the Mishnah: Incremental Justice and Brutal Realism

Hillel's approach to the Sabbatical year is part of a larger rubric of rabbinic social activism. Designated *tikkun ha-olam*, the rabbis use decrees (*takkanot*) as a methodological and ideological response to the overall biblical economic and social ideal as a whole, and not just the Sabbatical year in particular. While the Mishnah is generally organized topically, Hillel's *prozbol* decree is found in the tractate of the Mishnah that deals with divorce law. The pericope deals with many

different topics but is unified by the recurrence of the expression "for the sake of t*ikkun olam*,"[36] and it is followed by another collection of material that employs the recurrent formula "for the sake of peace" (*mi-p'nei darkhei shalom*). The average twenty-first century Jew who is familiar with the term *tikkun olam* in its modern usage might be surprised to learn how it is used in this early source.[37] Many of these *mishnayot* do protect the underdog: they make it easier for women to obtain a writ of divorce[38] and for widows to collect what is owed to them,[39] and they make provisions to protect orphans' property[40] and people with disabilities,[41] as well as for improving the conditions of slaves.[42] However, these laws lack the compassionate or mystical tones that are common in modern parlance with respect to *tikkun olam*. On the contrary, many of these *mishnayot* restrict entitlements, and take the approach that sometimes it is necessary "to be cruel in order to be kind."[43] Most importantly: not only does the Mishnah undermine the loan amnesty that the Torah prescribes during the *sh'mittah* years, but these texts even seem to abandon the revolutionary "no Israelite left behind" approach embodied by the Torah's egalitarian vision of the Sabbatical and Jubilee cycles. Instead, the rabbis of the Mishnah enact changes that reflect a concern for the community as a whole. In so doing, they limit and sometimes even undercut the benefit that the most vulnerable members of society would have received, according to a strict application of the Torah's law. While legally innovative, their approach seems to be fiscally conservative.

The changes to the halakah that are justified by the principle of *mi-p'nei tikkun ha-olam* may, in fact, undermine some of the legal protections for the underprivileged that are found in the Bible itself. For example, the Mishnah declares: "A man who sells himself and his children [as slaves] to a non-Jew is not to be redeemed. However, the children should be redeemed after their father's death."[44] The rabbis' laudable goal is to discourage abusive or dysfunctional fathers from

selling their children into slavery repeatedly.[45] However, the Torah dictates that even the father "shall be redeemed" (Leviticus 25:48).[46] Clearly, it is even more imperative to redeem an innocent child who has been enslaved to non-Jews against his or her will. Does the Torah not state that "children shall not die for the sins of their parents" (Deuteronomy 24:16)?[47] This *mishnah* seems not only to echo the most conservative positions, arguing for the detrimental effects of welfare, but also to undermine the basic Torah commandment to redeem captives[48] and to give *tzedakah* to those in need.[49] Surely, this would not resonate with liberal activists working under the banner of *tikkun olam*! Nor does it remain faithful to the biblical ideal of the Jubilee cycle, according to which slaves should be freed and the indigent should be given a chance at a fresh start.[50]

Similarly, the rabbis designate redeeming captives as a *mitzvah* of the highest priority. Summarizing the Talmud,[51] Maimonides states:

> The redemption of captives receives priority over sustaining the poor and providing them with clothing. [Indeed,] there is no greater *mitzvah* than the redemption of captives. For a captive is among those who are hungry, thirsty, and unclothed, and he is in mortal peril. Those who pay no attention to their redemption violate the negative commandments: "Do not harden your heart or close your hand" (Deuteronomy 15:7), "Do not stand by when the blood of your neighbor is in danger" (Leviticus 19:16), and "He shall not oppress him with exhausting work in your presence" (Leviticus 25:53). And they have negated the observance of the positive commandments: "You shall certainly open up your hand to him" (Deuteronomy 15:8), "And your brother shall live with you" (Deuteronomy19:18), "Love your neighbor as yourself" (Leviticus 19:18), "Save those who are taken for death" (Proverbs 24:11), and many other decrees of this nature. There is no *mitzvah* as great as the redemption of captives.[52]

The Mishnah, however, states: "One does not redeem captives for more than their value, for the sake of *tikkun ha-olam*."[53] This *mishnah* is shocking, especially because its authors were assuming that captives were being sold on the slave market rather than ransomed by terrorists. How can anyone put a limit on the value of a human being? After all, the Mishnah states elsewhere that "whoever saves a single soul, it is as if they saved an entire world."[54] In fact, over the course of history the restriction on redeeming captives for more than their value was more honored in the breach than observance. So much was this the case that in the sixteenth century Rabbi David ben Solomon Ibn Zimra (1479–1573) resigned himself to accepting the prevalent norms of behavior in light of the noble motivation from which they emerge: "The whole nation of Israel has already become accustomed to redeeming captives for more than their value on the slave market. Leave Israel be—they are doers of kindness, descendants of doers of kindness."[55] Surely it was this same sentiment that led to the national jubilation all across Israel that accompanied the 2011 ransoming of IDF soldier Gilad Shalit for an almost unprecedented exchange of 1,027 prisoners.[56] But the Shalit deal also illustrates precisely the concerns that motivated the rabbis to restrict captive redemption in the first place. The rabbis certainly support redemption of every member of the Jewish community, but not at too high an expense to the community as a whole—either in the short term or in the long term. The laws of the Jubilee cycle embody the utopian concern that genuine freedom must include "all inhabitants" (Leviticus 25:10), and that if that freedom does not include everyone, it does not exist at all (B. Arkhin 32b). However, this biblical idealism is compromised by the rabbis of the Mishnah in the name of rabbinic *tikkun olam*.

One more example will suffice to prove my point. The Mishnah states:

> If a man was half slave and half free,[58] he should labor one day for his master and one day for himself; so ruled the School of Hillel.
> The School of Shammai said to them: You have fixed the matter for his master, but for him you have not fixed it. He cannot marry a slave because he is half free. He cannot marry a free-woman since he is half slave. Should he desist? And was not the world only created for fruition and increase, as it is written: "He created it not a waste; he formed it to be inhabited" (Isaiah 45:18)? Rather, for the sake of *tikkun olam*, they should compel his master to set him free; and the slave to write him a promissory note for half of his value.
> The School of Hillel retracted and taught according to the opinion of the School of Shammai.

No doubt, this is a *mishnah* about human rights. The slave has the inalienable right to marry and procreate, and that right overrides another's right to private property. However, how can the School of Hillel and the School of Shammai reconcile themselves to slavery and call it *tikkun olam*? Instead of incrementally improving the plight of the slave, why not abolish slavery altogether?[59]

How different is the rabbinic methodology reflected in the idea of *tikkun olam* from that of the biblical Jubilee cycle! So much is learned from the contrast of the two. Unlike the biblical vision, the mishnaic collection that cites the principle of *tikkun olam* works within the existing social order. In the sub-collection about "the ways of peace," the rabbis repeatedly pay homage to the status quo, even when it is not justified legally or morally, "for the sake of peace."[60] Not only do they sanction slavery (even child slavery!), but the rabbis even legally recognize the criminal Roman takeover of Jewish land. Despite the

fact that Roman extortionists expelled lawful Jewish landowners by force, the rabbis give *de facto* status to their thievery by allowing Jews to purchase the land from the Roman squatter who is selling land he possesses but does not own, while requiring the Jewish purchaser to make only symbolic payment to the displaced lawful Jewish owner.[61] The rabbis discount the original owner's rights in order to further the overall national interest of encouraging Jewish possession of the land.

In a nutshell: biblical idealism seems to give way to rabbinic pragmatism, as evinced in the legislation of Mishnah Gittin that justifies itself by citing the principle of *tikkun olam*. In every instance, the rabbis are motivated by a well intentioned and deeply felt desire to benefit the Jewish community as a whole. However, this overall betterment comes at the expense of individual entitlements. The rabbis abandon the revolutionary vision of universal entitlement for *every* citizen that is reflected in the Jubilee cycle, in favor of small but attainable improvements in the economic welfare of the community as a whole. Nevertheless, in spite of its conservative appearance, there is actually a bold and radical core of the *tikkun olam* program.

Tikkun Olam as Radical Rabbinic Responsibility

Despite the conservatism that inheres in the incremental steps toward improving the world, the expression *tikkun olam* also reflects the rabbis' bold methodology: the rabbinic decree, or *takkanah*. Generally speaking, the rabbis' authority derives from received tradition. "Moses received the Torah at Sinai and handed it on to Joshua; Joshua to the elders; the elders to the prophets; and the prophets handed it on to the men of the Great Assembly."[62] As the earliest compendium of the Oral Law, the Mishnah could be described as a collection of transmitted traditions or laws derived from the Torah, using a fixed set of hermeneutic principles.

Tikkun olam depends on a different, radical kind of authority in which the rabbis accept upon themselves the responsibility to legislate, independent of Torah tradition. The Hebrew word *tikkun* means "repair," but the same verbal root (*tav-kof-nun*) also generates the word *takkanah*, "decree."[63] Indeed, every law in the *tikkun olam/ darkhei shalom* collection is explicitly or implicitly understood as a rabbinic decree designed either to repair the world or to promote peace.[64] The fact that decrees are utilized relatively frequently by the rabbis does not detract from the radical nature of the institution.[65] After all, the rabbis deem it axiomatic that the world was created for and through the blueprint of Torah.[66] There is no wisdom that is not already contained in the Torah, as Ben Bag Bag taught: "One should turn it over and turn it over, because everything is in it."[67] Thus, the notion that the world is best repaired through rabbinic injunctions that seem to set aside the Torah's vision of justice is poignant. A number of decrees in the collection seem not only to legislate concerning matters about which the Torah is silent; they seem to override Torah commandments![68] The notion that the rabbis would supersede a Torah rule is so radical that later rabbis of the Talmud find themselves incredulous: how could the rabbis of the Mishnah dare to overrule the Torah?[69] "If it were not stated, it would be impossible to say"[70]—it is almost as if the rabbis are suggesting that *they* know better than God how to create a just world. And yet, the very fact that they undertake such a bold approach suggests that the rabbis of the Mishnah believed that their times demanded exceptional measures.

A literary and structural examination of our sources illuminates the overall rabbinic stance regarding *tikkun olam*. The location of our collection in the middle of the section of the Mishnah dealing with divorce law is not coincidental; in fact, the *tikkun olam* corpus is framed with a concern for marriage and family—and thus, ultimately, Jewish continuity (both literally and metaphorically). The destruction

of the Temple and the ensuing exile from the Land of Israel was seen by the rabbis as an attempt on God's part to divorce Israel, seen as bride of the Divine.[71] Thus, the collection opens with a series of decrees designed to protect the vulnerable divorced woman[72] and closes with a set of emergency decrees desperately seeking to preserve the Jewish presence in the Land, symbolizing the marriage between God and Israel. Jewish land ownership was threatened by Roman extortion after the military defeats of 70 and 135 C.E., but the rabbis refused to resign themselves to failure. The rabbis confront a world in which God seems to have stepped out of the picture: God has hidden the divine face.[73] The rabbis respond by filling this void through the institution of *takkanah*. By creating a vision of radical responsibility, they demand that God return to the marriage and restore the divine vision of justice in the world.

Furthermore, although speculative, the fact that this collection is found in the middle of tractate Gittin, which occupies a central place in the entire Mishnah, may hint that *tikkun olam* is central to the rabbinic mission.[74] Support for the centrality of the decrees for *tikkun olam* and the sake of peace may also be detected in the "envelope structure" found in the mishnaic corpus, as presented in the printed text.[75] The key words—forms of the root *tav-kof-nun*, and *shalom*—are central in the final *mishnayot* of both the opening and closing tractates of the Mishnah. The final *mishnah* of the Mishnah's opening tractate, Berakhot, reads as follows:

> All blessings made in the Temple were closed with the expression "for eternity" (*min ha-olam*). But after the heretics corrupted [matters] by saying there is only a single world (*olam*), [the rabbis] **decreed** (*hitkinu, from tav-kof-nun*) that that one should say "from eternity and for eternity" (*min ha-olam v'ad ha-olam*). And they also **decreed** (*hitkinu*) that one

> should inquire about the **peace** (*shalom*) of one's fellow with the [divine] name, as it says: "And behold, Boaz came from Bethlehem, and said unto the reapers, 'The Eternal be with you'; and they answered him, 'The Eternal bless you'" (Ruth 2:4). And it is written, "The Eternal is with you, valiant warrior" (Judges 6:12); and it says, "Do not disdain your mother when she is old" (Proverbs 23:22). And it says, "It is time to act for the Eternal: they have violated Your law" (Psalm 119:126). Rabbi Natan says: "They have violated Your law because it was time to act for the Eternal."[76]

The root *tav-kof-nun* features doubly in this *mishnah*: not only do the rabbis make *takannot*, but the decrees come to "fix" the corruption wreaked by the heretics. Furthermore, the key words olam (meaning both "world" and "eternity") and *shalom* ("peace") also feature prominently. Since all three of these words do not occur together elsewhere in the Mishnah, the resonance with our collection is strong. Of course, the conceptual connection to our collection is also clear: sometimes it is necessary for the rabbis to make rabbinic decrees that actually uproot Torah law, for God's sake and for the sake of preserving the Israel–God relationship.[77] What looks like rabbinic abandonment of the Jubilee ideal is really a radical attempt by the rabbis to "break it in order to fix it."

The closing of the Mishnah's final tractate also includes the words *olam* and *shalom* and thus seems to resonate with our collection,[78] but with a twist:

> Rabbi Joshua ben Levi said: The blessed Holy One will cause every righteous person to inherit three hundred and ten **worlds** (*olamot*), as it says "That I may cause those that love Me to inherit *yesh* (310),[79] and that I may fill their treasuries"

> (Proverbs 8:21). Rabbi Shimon ben Ḥalafta said: The blessed Holy One found no vessel that could hold Israel's blessing except **peace**, for it is written, "The Eternal will give strength to His people, the Eternal will bless His people in **peace**" (Psalm 29:11).[80]

In this closing passage of the Mishnah, the rabbis set forth their own utopian vision, in which the key words "world" and "peace"—in that order yet again—continue to feature prominently. But this time, the rabbinic decree (*tav-kof-nun*) is conspicuously absent. That is because in the redeemed world imagined here, the rabbinic decree is no longer necessary. The rabbis' bold decrees—with which they opened the Mishnah, and which they literally placed at the center of their program—have been successful in restoring the intimate relationship between God and Israel. Their demands have been answered, and it is no longer necessary to fill the void created by God's hidden face; as God returns as the primary actor, the rabbis step back. While conjectural, this literary reading is interesting to consider.

So on the one hand, the rabbinic methodology of incremental change justified as *tikkun olam* is diametrically opposed to the utopian, revolutionary biblical approach to justice found in the institutions of the Sabbatical and Jubilee years. The rabbis contend with the world in brutally realistic ways and they work toward equality through incremental steps. However, their understanding of *tikkun olam* should be seen both as deeply radical and also as profoundly utopian—utopian in its visioning of an ideal world, but radical in the formulation of the steps to be undertaken, in order to get there. Their world is in need of *tikkun* because it is broken. But there are two aspects of to this brokenness (and ultimate repair): both the social/economic order on earth, as well as the other-worldly dimension of the relationship between Israel and God—which is, at its source, grounded in Torah (both Written and Oral). In a radical

step, the rabbis take full responsibility for restoring that relationship, even if it means temporarily overriding the Torah they treasure so dearly. This is spiritual audacity at its finest.

The Message

I have suggested that the uncompromisingly realistic strategy of mishnaic *tikkun olam* should be seen as a reaction to the impracticality of implementing the utopian biblical model of Sabbatical and Jubilee years. The Torah envisions radical equality and social solidarity in which every individual has an inalienable stake in the national wealth. At the same time, it cultivates a deep connection to the land and eschews the slavery of insatiable acquisition. But this vision remains a dream lacking a handhold in the real world. The rabbis, on the other hand, boldly act in the unredeemed world before them. They take full responsibility for the current state of the world and its repair—so much so that, when necessary, they are even willing to override biblical laws. As courageous as all that may be, their agenda is moderate and realistic in its ambitions, even as it is radical in its tactics. They take incremental (and sometimes painful) steps, which are intended to improve the plight of the weakest members of their society in the long run and to preserve peace in the short term, but to do so, they must relinquish the Torah's ideal of complete equality.

In choosing a spiritual and political path for ourselves, we can draw much inspiration from both the biblical and rabbinic models. The Jubilee cycle, as delineated in the Torah, provides us with the essential vision toward which we must strive, even if we will never quite achieve it: the ideals of equality, freedom, and modest consumption. Rabbi Jonathan Sacks teaches that dreaming is one of the most practical things we can do.[81] Without aspirations we lack direction;

soaring is impossible. And occasionally, even the utopian dream can become a reality. Is there anything more utopian than the Zionist dream? David Ben Gurion, Israel's first prime minister, is reported to have said, "In Israel, in order to be a realist, you must believe in miracles." It was this kind of sheer determination that allowed for Herzl's famous aphorism, "If you will it, it is not a dream"—and that made it possible for the dream of the early Zionists to be realized, in the founding of the State of Israel.

If dreams can become realities, why would the rabbis abandon that utopian dream in favor of smaller, more concrete steps toward attaining a practical, this-worldly justice? To be sure, dreaming carries with it risks—because not every dream will come to fruition, and thus working toward a dream entails a recognition that one may, in the end, fail to achieve the dream…and this is a sobering thought. While Ben Gurion and Herzl's unflagging optimism led to miraculous success, Yossi Klein Halevi has recently documented the unfulfilled utopian dreams of both the left and the right of Israeli society.[82] Both utopianisms had detrimental impact: the utopian vision of the leftist Kibbutz movement led to dangerous flirtation with Stalinism, while the utopianism of the right-wing Gush Emunim movement has led to an unsustainable settlement policy beyond the pre-1967 borders. Similarly, failed messianic delusions in the aftermath of the Great Revolt of 70 C.E. and the Bar Kohkba Revolt in 132 C.E. led not only to the destruction of the Temple but also to huge death tolls and the near-total decimation of the Jewish presence in Judea. The sages of the Mishnah, having witnessed these truly catastrophic consequences of utopianism, caution us to temper our utopian vision with realism.[83] It is better to take two steps forward and one step back, than to misstep and fall off a cliff. However, while no longer utopianists, the rabbis maintained the most important characteristic of the optimist: a belief in the ability to shape their own destiny.

While the Torah teaches a bold agenda of equality and freedom, the rabbis teach us never to give up, but to work slowly and steadily. "The day is short and the tasks are great."[84] With many small steps, we can get far. The road is long, but if we have a clear sense of where we want to wind up, then we can be assured that small, incremental steps will surely lead us in that direction.

NOTES

[1] This is the basic assumption of the entire volume of *Jewish Educational Leadership* 11:1 (Winter 2013); see specifically Zvi Grumet, "Letter from the Editor," p. 2.

[2] The Mishnah uses the formulation *tikkun ha-olam*, but the definite article (*ha-*) is not usually employed in modern colloquial English. I use both locutions, *tikkun olam* and *tikkun ha-olam*, interchangeably.

[3] The laws concerning the Sabbatical year are found in Leviticus 25:1–7, Exodus 23:9–12, and Deuteronomy 15:1–12.

[4] Rashi to Leviticus 25:6, s.v. *v'haytah shabbat ha-aretz*.

[5] The translations of biblical passages throughout this essay are, unless otherwise noted, generally based on the "new JPS" translation of the Tanakh (Philadelphia: Jewish Publication Society, 1985), hereafter referred to as NJPS.

[6] Y. Sheviit 4:7 (35c), based on Leviticus 25:12, reading the verse to reference the *sh'mittah* year.

[7] The social vision addressed in this essay is limited, of course, to relative economic equality for males.

[8] Deuteronomy 15:1; see also Exodus 23:11, where the verbal form of this Hebrew word (*tishm'tennah*) appears.

[9] See comment of Abraham Ibn Ezra (1108–1164) to Deuteronomy 31:12, s.v. *u-l'ma·an yilm'du*.

[10] Rashi to Leviticus 25:8, based on B. Rosh Hashanah 26a. However, Ibn Ezra, Ramban, Ḥizkuni, and others suggest that the word *yoveil* is derived from a root meaning "lead away," thus suggesting a hyper-release or return to roots occasioned by the manumission of slaves. The English word "Jubilee" is an Anglicization of the Hebrew *yoveil*. The contemporary meaning of "jubilee" as a huge celebration relates to the celebratory freedom granted in that year.

[11] Exodus 21:2 dictates the release of slaves after six years of servitude. Some biblical scholars have suggested that this release was intended to correspond to the Sabbatical year, rather than to the beginning of an individual's period of servitude; this understanding is also found in *Targum Yonatan* to Exodus 21:7, 22:2, and in the commentary of Joseph Bekhor Shor (twelfth century, France) to 21:6. This seems to be the way 2 Chronicles 36:12 understands Jeremiah 34:13–14. Others scholars have followed the traditional understanding, found in Y. Kiddushin 1:2 (59a), that the six years are calculated from the beginning of servitude.

[12] The egalitarian vision of the Torah is largely symbolic, and limited, however, since non-Jews are excluded and women do not generally inherit a portion of the Land of Israel. See further Numbers 27:1–8, however, for an example of the willingness of Scripture to enfranchise women even when doing so rejected existent tradition.

[13] The allotment is detailed extensively in Joshua 13–21.

[14] Comment to Leviticus 25:6, s.v. *v'haytah*.

[15] This is my own translation.
[16] B. Arakhin 32b.
[17] Rashi to Leviticus 25:10, s.v. *u-k'ratem d'ror*.
[18] My translation. The imperfect form of the verbs in Hebrew can be understood either descriptively or prescriptively.
[19] *Sefer Akeidat Yitzḥak* to Leviticus, gate 69 (ed. Lvov 5628 [1867–1868]), p. 144b, and see also gate 67, chap. 7.
[20] See, for example, the information provided by the Organisation for Economic Co-operation and Development on their website, at www.oecd.org/els/soc/income-distribution-database.htm.
[21] Bradley Burston, "Some 450,000 Israelis March at Massive March of the Million Rallies Across Country," *Haaretz* English edition (September 3, 2011), available online at www.haaretz.com.
[22] Cf., e.g., Kerry Picket's article, "Occupy Wall Street Protesters Post Manifesto of 'Demands,'" published in the *The Washington Times* on October 3, 2011.
[23] Lev Grinburg, "The Success of Israel Social Protest Failure," in *Haaretz* (January 23, 2013). For a concise list of what was achieved by the protests, see Talia Gorodess, "'The People Demand Social Justice:' How the Israeli Social Protests Ignored the Palestinian Issue, and the Road Ahead," in *Atkins Paper Series* (July 2013), pp. 6–9; John Cassidy, "American Inequality in Six Charts," in *The New Yorker* (November 18, 2013); and Catherine Muldbrandon, "The One Chart You Need to Understand America's Mind-blowing Income Gap," in *Huffington Post* (April 15, 2013).
[24] David L. Lieber, "Sabbatical Year and Jubilee," in *Encyclopedia Judaica* (Jerusalem: Keter, 1971), vol. 14, p. 575.
[25] B. Arakhin 32b. *Sh'mittah* also lost all or some of its biblical force, according to rabbinic interpretation (B. Gittin 36a).
[26] See Deuteronomy 15:9 for a threat, and Leviticus 25:20–21 for a promise.
[27] See 2 Chronicles 36:21 and Jeremiah 34:12–13, and cf. Leviticus 26:34–35 and 43.
[28] 1 Maccabees 6:49, 53 and Josephus *Antiquities* 3:280ff. Cf. also Nehemiah 5:1–13, which some scholars have understood as a sort of Sabbatical year and others as proof that it was not observed. According to rabbinic understanding, once the Jubilee year was defunct, the Sabbatical year had the force of a rabbinic law. As the economic situation in the Land of Israel deteriorated, the rabbis found various leniencies to make the requirements less onerous. For all historical aspects of the Sabbatical year, see the collection of essays in *Sh'mittah: M'korot, Hagut, Meḥkar* (Jerusalem: Amana, 5733 [1972–1973]).
[29] M. Gittin 4:3. I identify this *mishnah* as the earliest occurrence of the term *tikkun olam* even though the term is not used in the parallel, probably original, context (M. Sheviit 10:3–4). Even assuming that the term is a later accretion, the decree represents the ideology embedded in the text perfectly. My goal is a literary–ideological, rather than historical, understanding of *tikkun olam*.
[30] M. Sheviit 10:4.

[31] B. Arkhin 32b.
[32] Leviticus 25:37. This prohibition is still in force today; thus the institution of the Hebrew Free Loan Society in later centuries. However, this prohibition is frequently circumvented with the help of a *heter iska* agreement, a legal loophole designed to allow businesses to circumvent the laws governing lending on interest.
[33] The biblical verses on this topic are understood by Maimonides as requiring not outright gifts, but rather loans to the poor; see his M.T. Matnot Aniyim 7:1.
[34] This expression appears at least nine times in the Babylonian Talmud. See, for example, B. Gittin 50a and B. Bava Kamma 8a.
[35] The approach of the rabbis seems to have won the day: the *prozbol* is still utilized, even in modern times. Furthermore, a similar "halakhic fiction" was employed starting in the late nineteenth century as Jews returned to the Land of Israel with the Zionist movement and engaged in agriculture. Inspired by the leniencies that Rabban Gamaliel and Rabbi Judah the Prince had already implemented to save the Jewish communities in the Land of Israel in antiquity, modern rabbis sought to support the struggling agricultural movement by allowing a fictional sale of the land to non-Jews (called *heter m'khirah*). Rabbi Abraham Isaac Kook (1865–1935) was the most prominent rabbinic proponent of the sale, on a temporary basis, in 1909. The Ḥazon Ish (Rabbi Avraham Yeshaya Karelitz, 1878–1953) opposed the sale even then, and such opposition has increased steadily to the point that in recent *sh'mittah* years, the chief rabbinate of Israel has left it to the discretion of local rabbis whether or not to rely on it.
[36] M. Gittin, chapters 4 and 5. One exception is 4:8, which is appended to 4:7 because of its similar formulation. Similarly, 5:4–7 do not employ the expression explicitly but are closely related to the theme. Hillel's *prozbol* decree is also found in M. Sheviit 10:4.
[37] Modern scholars have critiqued liberals for what they consider to be their manipulative use of the term *tikkun olam* in a way that seems almost to do violence to the non-liberal, non-radical politics of the mishnaic collection. See especially Hillel Halkin, "How Not to Repair the World," in *Commentary* (July 2008), pp. 21–27.
[38] M. Gittin 4:2.
[39] M. Gittin 4:3, 5:1.
[40] M. Gittin 5:2.
[41] M. Gittin 5:5–6.
[42] M. Gittin 4:4–6.
[43] Even before Shakespeare coined this phrase in *Hamlet* (Act 3, scene 4, line 178), it was found in the midrash at Kohelet Rabbah 7:16, where we read: "Whoever is merciful where he should be cruel is destined to be cruel where he should be merciful."
[44] M. Gittin 4:9.
[45] Either the son has been taken captive in payment for an unpaid loan (see 2

Kings 4:1 and B. Gittin 46b), or the sale was a transgression, since the father can sell his daughters but does not have the right to sell his sons into slavery (see Exodus 21:7 and Mekhilta *Nezikin* 3).

[46] My translation is based on Rashi to this verse, who states, "Do not leave him there until the Jubilee year"; so too Rambam, M.T. Hilkhot Matnot Aniyim 8:13. See, however, NJPS translation, "One of his kinsmen shall redeem him," or Harold Fisch, in the Koren 1989 edition of the Tanakh: "After he is sold, he may be redeemed again." Even if redemption is merely a right rather than an imperative, as indicated by Rashi, our *mishnah* seems to undermine it.

[47] My citation of this verse is intended for figurative effect, but as explained in Exodus 21:7 and Mekhilta N *ezikin* 3, the father has literally sinned in selling his son.

[48] Maimonides associates the command to redeem captives with a number of verses: Deuteronomy 15:7, Leviticus 19:16 and 25:57, and negative commandments Deuteronomy 15:8, Leviticus 25:37 and 19:18, and Proverbs 24:11. See M.T. Hilkhot MatnotAniyim 8:10, as well as S.A. Yoreh Dei·ah 352:6.

[49] S.A. Yoreh Dei·ah 352:2.

[50] In fact, the rabbis of the Talmud find the simple reading of this *mishnah* so harsh that they interpret it to only be applicable when the poor sells himself into slavery repeatedly; see B. Gittin 46b.

[51] Primarily B. Bava Batra 8b.

[52] M.T. Matnot Aniyim 8:10, based on the translation of Eliyahu Touger (Jerusalem and New York: Moznayim), 2005, p. 172.

[53] M. Gittin 4:6.

[54] M. Sanhedrin 4:5, cited according to the Parma and Kaufman manuscripts. Some printed editions of the Mishnah contain the text "who saves a single soul from Israel," but the words "from Israel" are a later interpolation.

[55] Responsa of the Radbaz 1:40, ed. Warsaw 5646 [1885–1886], pp. 6a–b.

[56] Gilad Shalit was serving in the IDF when he was abducted by Hamas in 2006. In 2011 Shalit was ransomed by the State of Israel in exchange for 1,027 Palestinian and Israeli–Arab prisoners. Despite the extraordinary price and the attendant security risks incurred by the exchange, polls showed that 79% of Israelis favored the exchange; see "Poll: 79% of Israelis Support Shalit Deal," in *Yediot Aḥronot* (October 17, 2011), available online at www.ynet.co.il. In 1985, Israel agreed to a similar but less extreme exchange (coined the Jibril Agreement), in which three Israeli soldiers were exchanged for 1,150 security prisoners.

[56] M. Gittin 4:5.

[58] The slave was probably freed by one of his or her two owners and is thus technically only half free.

[59] In truth, my critique of the rabbis for falling short of the biblical vision is somewhat overstated in this case. The Torah also could have abolished slavery altogether. Even while the Torah demands "freedom for all inhabitants" and

return to ancestral inheritance, the inheritance only includes (male) Jewish inhabitants. While Hebrew slaves (both male and female) are liberated in the Jubilee year (and after seven years of servitude generally; see Rashi to Leviticus 25:10, s.v. *d'ror*), Canaanite slaves—the subject of discussion in this *mishnah*—are enslaved eternally and can be bequeathed for "all time" (Leviticus 25:46). The limits of the Torah vision of equality, while very real, are a subject for another essay.

[60] M.Gittin 5:8–9. Take, for example, the practice of giving the first *aliyah* of the Torah reading to priests. While the right to this honor may and should be waived in certain circumstances, the rabbis prohibit doing so—for fear of causing quarrels. This pattern holds true in the first three decrees in this mishnaic text.

[61] M. Gittin 5:6.

[62] Pirkei Avot 1:1, trans. Rabbi Jonathan Sacks in the *Koren Siddur* (Jerusalem: Koren 2006), p. 641.

[63] Hebrew words are built on three-letter roots. Thus, apparently disparate words based on those roots should be understood as related, even though the connections may not be apparent in translation.

[64] The verbal infinitive (*l'hatkin*) appears explicitly four times in the collection (M.Gittin 4:2–3), but is implicit in the refrain "because of *tikkun olam*." Take for example M. Gittin 4:4, which contrasts the decree (*takkanah*) with strict law (*halakhah*): "According to the strict law…but for the sake of tikkun olam…." Similarly, in the talmudic treatment of a *mishnah* prescribing a law "for the sake of peace" that seems to match the Torah law, Abaye objects to Rav Joseph: "Is this rule only [a rabbinic one] in the interests of peace? It derives from the Torah?!" (B. Gittin 59b, trans. Maurice Simon [London: Soncino Press, 1960]).

[65] Another important collection appears in the fourth chapter of M. Rosh Hashanah. For more on the institution of *takannah* and its source of authority, see Menachem Elon, *Jewish Law: History, Sources, Principles,* trans. Bernard Auerbach and Melvin Sykes (Philadelphia: Jewish Publication Society 1994), vol. 2, pp. 477–677.

[66] Bereishit Rabbah 1:1.

[67] Pirkei Avot 5:22; the word "Torah" here could be understood in the broadest sense, including even rabbinic decrees.

[68] I have already discussed the case of prozbol, which the Talmud recognizes explicitly as apparently overriding biblical law (see B. Gittin 34b). A number of other laws seem to override biblically prescribed property rights; see, for example, M. Gittin 4:4–5; 5:3, 5–6. Note especially B. Gittin 33a, which states that according to Rabbi Shimon son of Gamaliel (as cited at M. Gittin 4:2), a writ of divorce that is disqualified according to biblical law is accepted by the rabbis.

[69] B. Gittin 36a and B. Yevamot 90b.

[70] See, for example, B. Berakhot 32a.

[71] In traditional Jewish law, the power of divorce lies exclusively in the hands

of the husband. Thus as bride in the rabbinic imagination, any action the Jews take to "save the marriage" is daring and perhaps even brazen. For more explicit sources portraying the Jewish people and God as bride and groom, see for example M. Yadayim 2:5 and Shir Hashirim Rabbah 2:1. Saul Lieberman traces this motif through the eyes of several different sages in his "Mishnat Shir Hashirim," in Gershom G. Scholem, *Jewish Gnosticism, Merkabah Mysticism, and Talmudic Tradition* (New York: Jewish Theological Seminary of America, 1965), pp. 118–126.

[72] The decrees are presented as for the benefit of the woman, but they would naturally also protect any future children as well as the second husband. Thanks to my *ḥevruta*, Raḥel Berkovits, with whom I first began exploring some of these issues.

[73] The image of "hiding God's face" first appears in Deuteronomy 31:18.

[74] For examples of the mishnaic use of chiastic structure, which point to the centrality of the middle point, see the first and third chapters of M. Rosh HaShannah and Avraham Walfish, *Shittat Ha-arikhah Ha-sifrutit Ba-mishnah Al Pi Massekhet Rosh Hashanah* (Ph.D. dissertation, Hebrew University 2001), pp. 262–263; Yosef Tabori, Pesaḥ Dorot (Tel Aviv: Kibbutz HaMeuḥad, 1996), pp. 361–362, Moshe Vilinger, "Mivneh U-mashma·ut B'ferek Ha-rishon B'bava batra," online at www.etzion.org.il/dk/5767/1098mamar.html. Even though identifying the middle is an inexact science, Gittin is near the middle counting either tractates or orders of the Mishnah.

[75] The "envelope structure" or "inclusion" is a very common literary feature in the Mishnah. See Avraham Walfish, "The Poetics of the Mishnah," in Alan Avery-Peck and Jacob Neusner, eds., *The Mishnah in Contemporary Perspective* (Leiden: Brill, 2002), vol. 2, pp. 165–178. This particular occurrence should be identified as later than the original compilation of the Mishnah, since the final *mishnah* in Uktzin is actually a later addition that does not appear in all manuscripts; see the commentary of Hanokh Albeck and his appendices there.

[76] M. Berakhot 9:5.

[77] See B. Yevamot 89b–90b, where the words "uproot" (from the root *ayin-kof-resh*) and "violate" (from the root ayin-vav-resh) are used by the rabbis themselves; and cf. B. Sanhedrin 46a, where the word "violate" is used in this sense.

[78] I think this is literarily significant, despite the fact that the combination of the words *olam* and *shalom* appears in other places in the Mishnah.

[79] Using a technique called by the name *gematria*, each letter in a word was traditionally assigned a numerical value. This kind of number-play was a feature of rabbinic exegesis and a kind of artistic way of suggesting the validity of truths they wished to assert.

[80] M. Uktzin 3:12.

[81] See his *d'var torah* to *parashat Mikkeitz*, available online at www.rabbisacks.org/mikketz-5774-power-dreams.

[82] Yossi Klein Halevi, *Like Dreamers: The Story of the Israeli Paratroopers Who*

Reunited Jerusalem and Divided a Nation (New York: HarperCollins, 2013), pp. xxiv–xxvi.

[83] The expression *tikkun olam* predates the Roman conquest. But the centrality of the concept in the Mishnah may be understood in no small part as a reaction to it.

[84] Pirkei Avot 2:15.