

Sagit Mor

Editorial Considerations for Halakhic Aggregates: A Literary-Jurisprudential Study of the ‘On Account of the Ways of Peace’ Aggregate in the Mishnah (*Gittin* 5, 9–10)

An examination of the literary considerations and means underlying the editing of textual units in rabbinic literature as a key to revealing layers of meaning – religious, conceptual, ideological, or political – has been the focus of much research during recent decades. When discussing the editing of a halakhic text, a number of additional questions arise. The latter stem from the normative meanings and ramifications of the halakhah as a jurisprudential system.

Research has not as yet devoted sufficient attention to the following: How does the literary structure of the textual unit influence the understanding of the jurisprudential-halakhic status of the halakhot? Specifically, how does it influence their classification within the halakhic system in reference to other halakhic rules and halakhic principles?

These questions are at the center of this article. Answers are based on a test case from the ‘On account of the ways of peace’ aggregate (*Mishnah Gittin*), using the methodology of literary-textual analysis, combined with concepts whose source is jurisprudence. The halakhot that will be presented are such that possible considerations can be suggested for their preparation vis-à-vis other legal options available to the Sages.

My analysis of this aggregate is based on Duncan Kennedy’s theoretical model. The latter relates to the place, structure, and function of jurisprudential categories – subsystems, in Duncan’s usage – within the judicial system. Moreover, I make use of Joseph Raz’s model of judicial rules and principles. The latter serve to critique certain of Kennedy’s conclusions, to the extent that they are reflected in the construction of the category ‘On account of the ways of peace.’

I conclude that the attempt to illuminate various aspects of a halakhic aggregate in the Mishnah with the help of these models, as well as certain issues dealing with the role and function of jurisprudential arguments within the judicial system, produce new insights into the intentions of the mishnaic redactor in the latter’s creation of the ‘On account of the ways of peace’ halakhic aggregate. Moreover, this examination may contribute to our understanding of a variety of phenomena connected to the editing of halakhic aggregates in general.