

THE TANNAITIC LAWS OF BATTERY: SCRIPTURE AND HALAKHAH

Amit Gvaryahu

Four laws in the Pentateuch discuss fights between people. The arrangement of these laws and their relationship to one another were debated in the Tannaitic academies. The school of Rabbi Ishmael read these laws as a single entity, each law “coming to teach things omitted” in the other law. Other sources, associated with the school of Rabbi Akiva, did not seek to connect these laws to each other or, necessarily, to injury.

Simultaneously, a careful reading of Mishnah Bava Kamma chapter 8, which discusses bodily injuries, reveals gaps and contradictions in the fabric of the text. This article shows that understanding the connection between homiletics and law in the Tannaitic schools enables us to uncover the various sources embedded in Mishnah and Tosefta, and explains the manner in which redaction subordinated them to later developments. The various midrashic readings of the verses which undergird the chapter ground a source-critical reading of the chapter as composed of three distinct sources. I also locate the fingerprints of named individuals in the redaction of this chapter of Mishnah, and discuss the uses of Midrash Halakhah in the source-critical study of the Mishnah.

In Appendix A I offer a reading of a Qumranic fragment on injuries; In Appendix B I discuss the outlying Tannaitic opinion of Rabbi Eliezer, ‘An eye for an eye – actually’ (משמש).