Introduction

Defining the Problem

This study examines how the idea of intention functions in the system of the Mishnah. By intention, I refer to two separate but closely related concepts. First, this term designates the capacity of human beings to formulate plans. That is to say, we can speak about a person formulating an intention to act in a particular way at some future time. For example, we say that a person intends to take a trip. When the term intention bears this meaning, it denotes the answer a person would give to the question, "What do you plan to do?" Second, the term intention also designates the purpose with which a person acts. We say, for example, that a person performs a given action with a specific intention. In this case, the word intention refers to the answer a person would give to the question, "Why did you do that?" Obviously, the two meanings of intention are closely related to one another. Both rest on the more basic assumption that people are purposive beings who formulate goals and execute actions which are designed to achieve those goals.

The concept of intention plays a critical role in the mishnaic system. The importance of intention is evident from the fact that this concept appears with great frequency in all six divisions of mishnaic law, namely, laws of agriculture, laws of festivals, laws of women, civil law, laws of holy things, and laws of purity. The even distribution of the concept throughout the Mishnah's law indicates that intention is an idea which draws the interest of the Mishnah's framers regardless of the general topic they are discussing. Intention, therefore, is a concept which is central to the Mishnah's message.

As this study seeks to show, intention is important because it is intimately connected to the Mishnah's theological concerns, including the concept of God and the nature of the divine-human relationship. In exploring the role of intention in the Mishnah, therefore, we expose the fundamental theological conceptions of its framers. In addition, we shall see that the concept of intention plays a prominent role in the Mishnah's reformulation of the biblical heritage. On the one hand, the authors of the Mishnah are preoccupied with the same range of issues that intrigued the writers of the priestly strand of Scripture (P), such as issues of purity, sacrifices, and classification. On the other hand, the Mishnah substantially revises the priestly world view. It turns out that the concept of intention serves as the point of departure for the Mishnah's critique of the priestly conception of reality. For example, the Mishnah reworks the priestly system of purity by making human intention an important factor in determining
whether something can or cannot absorb impurity. This idea is foreign to the biblical authors and constitutes a mishnaic innovation.

This study, then, takes as its point of departure the statements which the Mishnah makes about intention. But the larger goal is to use intention as a key for understanding the character of the mishnaic system and its relationship to prior forms of Judaism. By determining where intention is an important conception in the Mishnah, and by discovering why this concept surfaces in certain laws within the Mishnah and not in others, we grasp the philosophical and theological premises which underlie the system as a whole. At the same time, the study of intention will indicate how the Mishnah reworks and thereby critiques conceptions embedded in the priestly strand of Scripture. Describing and interpreting the Mishnah's reformation of Scripture constitutes one of the central tasks of this study.

Three specific questions provide the focus of our inquiry. First, we wish to know how intention functions. In other words, what role does intention play in those rules in which the concept of intention makes its appearance? Second, we want to determine when and why the Mishnah appeals to intention. As we shall see, in some rules the Mishnah takes account of a person's intention, whereas in other rules it treats intention as irrelevant. We wish to know, therefore, the factors that determine when the Mishnah will consider intention an important topic. Third, we need to examine the larger theological and philosophical assumptions which serve as the foundation for the Mishnah's theory of intention. Only by understanding how the framers of the Mishnah conceive of the divine-human relationship can we grasp when and why they consider intention important. In what follows, we take up each of these questions in more detail.

The Function of Intention in the Mishnah

Intention plays two separate roles in the Mishnah, one quite familiar to us, and the other completely alien to our way of thinking. First, intention serves a function in the Mishnah which corresponds to the role that it plays in our everyday lives. We often appeal to a person's intention when deciding whether to hold that person responsible for what occurred. Generally, we consider a person responsible for anything he or she does intentionally. By contrast, we typically do not blame a person for what happens inadvertently.

The Mishnah also takes account of a person's intention in evaluating human actions. To determine whether a given act violates divine law, the Mishnah appeals to the intention with which that person acted. Suppose, for example, that a merchant mixes produce of two different qualities with the intention of deceiving his customers as to the true value of the merchandise. In this case, the action constitutes a transgression because the merchant intends to cheat another person. By contrast, if he combines produce of different grades simply because he needs to accumulate enough for a bulk sale, the act does not fall into the
category of a violation because he had no intention of committing fraud (M. B.M. 4:12).

Just as the Mishnah's framers appeal to intention to determine whether a given act falls under the rubric of a transgression, they also appeal to an actor's intention to determine whether the act in question discharges a religious duty. For example, mishnaic law requires Israelites to recite a prayer called the Shema. Now if an Israelite recites the words of this prayer for the express purpose of praying, he has discharged his obligation. But if he recites the words of the prayer for some other purpose, for example, in order to learn the prayer by heart, he does not receive credit for having fulfilled his duty. Since he did not intend to pray to God, the recitation of the prayer does not discharge his obligation (M. Ber. 2:1). So in the Mishnah, as in our daily lives, intention serves as a criterion for evaluating human action.

Intention plays a second role in the Mishnah, which finds no precise equivalent in our frame of reference. According to the Mishnah, the mere formulation of an intention has the effect of classifying objects. That is, when an Israelite forms the intention to use an object for a specific purpose, that object falls into one of the categories which the framers of the Mishnah consider important. To understand this rather strange idea, it is essential to know several facts which the sages take for granted.

The Mishnah devotes a great deal of attention to placing objects into categories. We shall see, for example, that distinguishing between "useful" and "useless" things and between "food" and "waste" is a central preoccupation of the Mishnah's framers. Adopting the perspective of Leviticus, the sages of the Mishnah believe that God has divided the various objects in the world into different categories and specified a set of laws to govern each category of object. For example, in the mishnaic system, all useful objects can contract impurity and therefore must be protected from contamination, while useless objects cannot become contaminated under any conditions. Consequently, once an object falls into a given classification it becomes subject to a given class of rules. In the sages' judgment, moreover, the failure to observe those rules governing a given category of object results in an infraction of divine law. In the Mishnah, therefore, an Israelite can carry out the divine will only by determining the classification of each household object and by observing the rules which govern that category of thing.

How are issues of classification related to intention? In the Mishnah, intention has a kind of "magical" power which determines the classification of various objects. When a person formulates an intention to use an object in a particular way, that object falls into the category designated by his intention. For example, if he intends to eat a given substance, that substance immediately falls under the rubric of food, and thereby becomes subject to the the mishnaic rules governing food. But if instead of planning to eat a substance, he intends to discard it, that substance is then classified as waste, and hence becomes subject
to a different set of laws. Intention therefore has the power to alter the basic properties of an object by changing the category into which that object falls. One of the central problems of this study is to explain why intention plays this rather unusual role of classifying objects.

On the surface, it would seem that the two roles of intention just described are unrelated to one another. In one case, intention serves as a criterion for evaluating actions, while in the other, intention functions to classify objects. However, as this study will show, the two roles of intention in the Mishnah are intimately connected to each other. Both rest on similar theological notions about the character of God and the nature of the divine-human relationship.

When and Why Intention Matters in the Mishnah

In investigating the role of intention in the Mishnah, we need to determine when intention matters in the Mishnah and why it is important in those contexts and not in others. The first task, therefore, is purely descriptive. We begin by noting that the concept of intention appears in certain kinds of cases rather than others. This leads to the central interpretive problem, namely, isolating the factors that determine why intention appears in one context but not in another. In carrying out this exercise, we need to work at two different levels of generalization. At the most general level, we wish to know when and why intention figures more prominently in some areas of mishnaic law than in others. For example, the category of intention is generally irrelevant in tort cases, namely, situations where an individual has caused harm to a person or property. When determining liability for damages or injury, the sages ignore the actor's intention. The offender must pay compensation to the victim, even if the injury or damage occurred by accident. By contrast, intention plays a central role in cases involving the cult or religious law. In this context, the intention with which a person performs an act determines the severity of the penalty. For example, one who intentionally writes during the day of rest incurs the divine penalty of a premature death. But one who unintentionally writes during the Sabbath day incurs only the minor penalty of a sin-offering (M. Shab. 12:5).

Here, in a case involving religious law, the actor's intention determines the severity of the transgression. The critical problem, therefore, is to discover why intention plays a prominent role in cultic and religious law, and no role at all in torts.

We need to carry out the same exercise at a less general level as well. We want to determine why within a given area of law intention plays a role in some cases but not in others. The following two rules illustrate this problem. Both rules take up the case of an Israelite who combines grain of different qualities. Here, the problem is to determine whether the act of combining the produce constitutes a transgression of the law. If the individual's purpose in mixing the grain is to deceive the customers as to the true value of the produce, the act constitutes a violation. If his goal is merely to accumulate enough for a bulk
sale, the act does not fall under the rubric of a violation. For the present purposes, the important point is to note that the sages appeal to the actor's intention in only one of these two cases:

I. A. A merchant [who sells produce in bulk amount] may buy [grain] from five [different] threshing floors and put [it] into a single storehouse [even though the grain is of different qualities].

B. [And he may buy wine] from five [different] wine presses and put [the wine] into a single vat [even though the various types of wine are of different qualities].

C. [He may do so] provided that he does not intend to mix [the produce for fraudulent purposes]. That is to say, if he mixes the grain so as to accumulate enough for a bulk sale, his action does not constitute a transgression. But if his purpose in combining the produce is to deceive his customers as to the true value of the merchandise, his act constitutes a violation.

M. B.M. 4:12

II. A. [By contrast, a householder who sells produce] may not mix produce [from one field] with produce [from another field] even if [both types of produce] are recently [picked, and presumably of the same quality].

M. B.M. 4:11

The two cases at hand are nearly identical. Both discuss whether a person who mixes produce of different qualities is guilty of committing fraud. Yet, only in the case of the merchant does the Mishnah appeal to intention. If the merchant intends to commit fraud, his act transgresses the law (I B). But if he simply intended to accumulate enough produce for a bulk sale, the act of combining the grain or fruit does not constitute a violation (I A-B). However, in the case of a householder, intention is irrelevant. No matter what he intended, the sages consider the householder guilty of having transgressed (II A). These cases illustrate the larger problem we wish to address in this study, namely, determining when and why intention matters in a given case.

Law and Theology in the Mishnah

In seeking to understand the role of intention, we need to explore the underlying theological and philosophical assumptions which inform the mishnaic system. This study, therefore, draws attention to the integral relationship between law and theology in the system of the Mishnah. I will argue that the sages' conception of God and their understanding of the divine-human relationship inform what they say about intention. Consider, for example, the fact that intention matters in cases involving religious law but not in torts. We can understand why intention is important in the one context and not the other only by appealing to the sages' theological conceptions. As I will argue in Chapter One, the sages of the Mishnah believe that the responsibility of
human beings to each other differs from their responsibility towards God. Consequently, the sages distinguish tort cases, where the injured party is another human being, from cases involving the transgression of religious law, where the offense is committed against God.

In looking for the connections between the Mishnah's theory of intention, on the one hand, and its theology, on the other, we are attempting to reach beneath the sages' formulation of their rules to the underlying assumptions of their thought. This is true in two different respects. First, the sages themselves do not explicitly link their statements about intention to either their views of God or the divine-human relationship. In searching for the links between mishnaic theology and law, therefore, we look for connections to which the framers themselves did not explicitly call attention.

Second, the sages do not present their theological views in a systematic fashion. To be sure, the Mishnah contains a variety of statements about God and the responsibility of humanity to God. But the sages do not systematize these statements into sustained essays on various aspects of theology, and consequently, their theological presumptions remain largely implicit in their statements. An important part of this study, therefore, is to use the mishnaic statements on intention to uncover the underlying theological assumptions that inform the Mishnah as a whole.

This search for the interplay between law and theology distinguishes the present study of intention from other studies of the same topic. While others have examined the concept of intention in rabbinic literature, they generally have approached the topic strictly as a problem in jurisprudence. In other words, they have treated the Mishnah exclusively as a legal system without paying attention to the theological and philosophical ideas which inform the sages' conception of intention. In this study, by contrast, we treat the Mishnah not only as a legal document, but also as a religious system which takes as its point of departure certain ideas about what it means to live a life in accordance with the divine will. Consequently, this study seeks to explain when and why intention matters in the Mishnah by appealing to the theological conceptions upon which the system of the Mishnah rests.

**Intention as a Philosophical Problem**

In using the concept of intention as a means of exploring the underlying ideas of the mishnaic system, our study also dovetails with certain developments in contemporary philosophy. During the past thirty years, intention has become an important topic in analytic philosophy, particularly in philosophical psychology. There are a variety of reasons why contemporary philosophers have taken an interest in intention, most of which need not concern us in the present context. Nonetheless, certain conclusions reached by these philosophers are relevant for this study. Some thinkers, beginning with Strawson, claim that intention and other concepts related to human action (e.g. goals, motives,
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desires) constitute the most basic concepts in which we carry on our thinking. According to this account, the aim of philosophy is to identify, classify, and find the interconnections between the categories and concepts we use in thinking about the world. In so doing, we arrive at an understanding of the basic intellectual equipment which governs our thinking. According to Strawson, we achieve this goal by understanding how the concepts related to human action (i.e., concepts such as intention, motives, desires) work in ordinary language. Some philosophers refer to this type of analysis as "descriptive metaphysics," because by describing how our concepts work in ordinary language, one arrives at the metaphysical assumptions which inform our everyday life.

In one respect, the study at hand constitutes an exercise in descriptive metaphysics. By understanding how intention works in the Mishnah, we seek to expose the fundamental categories which the framers of the Mishnah use in thinking about their world. In another respect, however, this study rejects some of Strawson's assumptions. Strawson and his followers regard intention as a basic category of the human mind, and thus conceive of intention as a category that operates independently of a given cultural or religious tradition. By contrast, we treat intention as an idea which is shaped by other conceptions which people hold. We attempt to show that the way intention operates in the Mishnah depends upon the particular world view and theological assumptions of the group which formulated this system.

Method of Inquiry

To investigate the Mishnah's concept of intention, we trace through the mishnaic system two Hebrew terms which designate the concept of intention, namely, the terms kavanah and mahshabah. The term kavanah (and its related verbal forms) generally refers to the intention with which a person performs an action. To provide an example in the sages' own language, "An Israelite may break a jar on the Sabbath day provided that he does not intend (ykwnw) to use the bottom half of the jar for a pot (M. Shab. 22:3)." Here, the word ykwn (a verbal form of kawwanah) refers to the intention with which the Israelite breaks the jar. By contrast, the word mahshabah (and its related verbal forms) refers to the intention an individual formulates before he or she actually begins to act. Thus if a man is planning to use an object, the framers say that "he hsb (planned) to put it to use" (M. Oh. 13:1).

The two types of intention designated by the words kavanah and mahshabah play different roles in the Mishnah. The Mishnah appeals to a person's kavanah (i.e., the intention that accompanies an action) in order to determine whether one's action constitutes a transgression or fulfillment of divine law. Mahshabah (i.e., plan), by contrast, serves to determine the classification of an object in a person's possession. When an Israelite formulates a plan to use an object for a particular purpose, he in effect places that object into a given category.
For two reasons, our study of intention proceeds inductively through an analysis of the Hebrew terms for intention. First, the sages themselves do not present a theory of intention in abstract form. Although the sages frequently invoke the concept of intention, they rarely rise above the details of their rules to formulate abstract propositions about when and why intention matters. Consequently, we must proceed inductively by contrasting those cases in which the sages appeal to intention with similar cases in which intention is irrelevant. By isolating the differences between these two sets of cases, we discover the factors that determine why intention appears in one context and not another.

There is a second equally important reason why we focus on the Hebrew words which designate intention. In general, the way people use words tells us a great deal about the concepts which those words denote. This is because understanding a concept by definition involves knowing when and why that concept can be used in certain contexts and not in others. We can elucidate the Mishnah's concept of intention, therefore, by determining why the Mishnah uses the terms for intention when it does.

In tracing the Hebrew terms for intention through the Mishnah, we by no means exhaust all the cases in which the sages invoke the concept of intention. In many passages the framers take up the problem of intention without specifically using the terms which denote or even suggest that concept. This is true in the following case, for example, in which the sages discuss the Scriptural prohibition against cultivating the land during the Sabbatical year (M. Sheb. 3:6). According to Scripture, every seventh year Israelites must allow their land to lie fallow as a sign that the land belongs to God (Lev. 25:1-7). In the rule at hand, the sages want to know whether clearing stones from a field during the Sabbatical year transgresses the law against preparing the land for cultivation. In mishnaic law, if an Israelite clears the stones of his field for the purpose of cultivating the land, he has committed a transgression. But if he collects stones from the field in order to build something, he has not violated the law, because he did not intend to prepare the land for growing crops. In turning to the rule itself, we note that the word for intention does not appear in the Mishnah's rule but only in the bracketed language which I have supplied to clarify the meaning of this passage:

A. [As regards] a wall consisting of ten stones, [each of which is so large that it can] be carried only by two men--

B. these [stones] may be removed [from the field during the Sabbatical year. The fact that they remove large stones indicates that their intention is to use the stones for the purpose of construction. Consequently, this act does not violate the law against cultivating the field during the Sabbatical year.]

C. [The preceding rule applies only if] the height of the wall is ten handbreadths [or more].

D. Less than this, [that is, if the wall is less than ten handbreadths high],

E. he may chisel [stones from the wall]
We see here that the sages sometimes invoke the concept of intention even when they do not use the words that denote that idea. Consequently, our study of the Hebrew terms which designate intention provides only a representative sample of the cases in which the Mishnah discusses that topic. Additional studies will be necessary to determine whether the results of this investigation apply to all the mishnaic rules involving intention.

Having now spelled out the questions this study asks and the methods adopted to answer those questions, let me conclude with a broad outline of how this study unfolds. The investigation falls into two parts. Part I examines rules that treat intention as a criterion for evaluating human action. That is to say, in these rules, the sages appeal to an actor’s intention to determine whether his or her action constitutes a violation or fulfillment of divine law. I have further subdivided these rules into two chapters. Chapter One takes up cases in which a person’s action misfires. In other words, the actor sets out to do one thing but accidentally does something else. The issue here is whether the actor is responsible for what occurred. Chapter Two takes up cases in which the actor does precisely what he or she intended. At issue in these rules is the purpose of the action. Here, the sages want to know why the individual performed the act in question. The answer to this question, as we shall see, affects the legal outcome. If the act in question was performed for a purpose which the law prohibits, the actor has transgressed the law. But if the same act was performed for some other purpose, it does not represent a violation of the law.

Part II of our study examines the role of plans in the system of the Mishnah. As previously discussed, in the Mishnah a person’s plan has the power to classify objects and thus essentially change the properties of those objects. When a person intends to use an object for a specific purpose, he or she ipso facto places that object into a particular category. Thus, if a man intends to eat a given substance, that substance falls into the category of food and becomes subject to the mishnaic rules governing food. The cases in which intention serves this function fall into two groups. Chapter Three examines the role of plans in the Mishnah’s system of purity. Here, we see how an Israelite’s intention has the power to determine whether a given object belongs to the class of things that absorb cultic impurity. In Chapter Four, we turn to cases in which a priest’s intention defines the status of a sacrificial animal. Depending upon how the priest intends to use the animal in question, it either falls under the rubric of a properly slaughtered animal or an improperly slaughtered one. Finally, the concluding chapter draws together the various strands of our argument, looking for the underlying ideas that emerge from each part of the
Mishnah's system. In this context, I attempt to account for the Mishnah's theory of intention by relating what we find to the social characteristics of the group that produced this document.

With the larger picture in hand, let me explain the strategy of argument within each chapter. In what follows, I present rules of the Mishnah relevant to the problem of intention. In addition to translating these passages, I add in brackets extra language which is designed to clarify the meaning of the rules under discussion. Many of the passages we shall examine take up obscure points of law. Consequently, to facilitate understanding those rules, I provide a brief introduction to each passage, explaining the legal issues involved and the facts pertinent to that case. Immediately following the translation of each law, I discuss its implications for the present study of intention.

It is important to realize that no single tractate of the Mishnah is devoted exclusively to the issue of intention. Rather, as I said before, the idea of intention surfaces in the sages' discussions of other topics. For this reason, the Mishnah's principles of organization cannot dictate the logic of our argument. Instead, four specific issues will frame the discussion of those rules involving intention. We begin each chapter by examining rules which illustrate the role that that particular type of intention plays in the Mishnah. Second, we take up cases which enable us to determine why intention plays that role. Third, because Scripture provides the foundation for many mishnaic ideas, we ask how the Mishnah's conception of intention relates to Scripture's. Consequently, we need to determine which aspects of the Mishnah's theory of intention derive from Scripture, and which are innovations. Finally, we examine rules which illustrate why intention plays a more important role in certain contexts than others within the mishnaic system.

The four issues just enumerated define the program of inquiry in two respects. They serve as the larger structure which frames our discussion of the Mishnah's rules. In addition, they also provide an angle of vision from which to view individual cases. That is, these questions tell us what to look for and what to ignore when we read specific mishnaic rules. In sum, this study seeks to move from case to context to concept, from detail to principle, and from philology to theology.