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Response to Misfortune:
Birkat Dayan HaEmet

David Adelson

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion
Graduate Rabbinic Program
New York, New York

March 8, 1999

Advisor: Dr. Eugene B. Borowitz

Response to Misfortune:
Birkat Dayan HaEmet
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One-page Summary

The thesis consists of six chapters, plus introduction, conclusion and bibliography. The goal of the thesis was to see how Jews have traditionally understood the role of misfortune in our lives and God's role in that misfortune. The method I used was to examine the blessing "Blessed are You, Adonai our God, ruler of the world, Judge of Truth," which is said on hearing bad news, in all of its appearances from earliest to modern times. The contribution of the thesis is an exhaustive analysis of the appearances of the blessing in all major Jewish texts, with attention paid to theological implications is describing the relationship between God and misfortune.

The thesis is basically divided by time period and source. I began by examining three mishnayot of the Mishnah which first instruct us to say the blessing. From there I examined the blessing in Tosefta, Yerushalmi and early midrashim. I then examined all appearances of the blessing in the Bavli. Next was a study of the blessing in medieval halachic codes, including Abudraham, Mishneh Torah, Tur and Shulchan Aruch. I then discussed the commentary of medieval rabbis to the pertinent sections of Mishnah, and finally I discussed the relationship between rending clothes and the blessing in modern times, as well as whether the blessing should be said with or without Name and Kingship.

Materials used were nearly all primary: Mishnah, Tosefta, Yerushalmi, midrash, Bavli, Abudraham, Mishneh Torah, Tur, Shulchan Aruch, commentary to the Mishnah, responsa literature and contemporary mourning manuals.

I wish to thank my advisor, Dr. Eugene Borowitz, for his encouragement of this project and for all he has taught me in several courses at the College. It has been he who, more than any other teacher, has helped me pursue life's greatest questions in a serious theological framework.

I wish also to thank Dr. Stanley Dreyfus for his help on this project with translation and resources. Dr. Dreyfus distinguishes himself for his generosity in all matters. In the delightful combination of translating text and chatting about the state of things, I am honored by his eager assistance, his time and his attention. He is a model for me of a scholar and a teacher.

Table of Contents

Introduction: God and Misfortune 1

I Just as You Bless on the Good:
Birkat Dayan HaEmet in the Mishnah 4

II Birkat Dayan HaEmet in the Tosefta,
Palestinian Talmud and Early Midrashim 11

III The Blessing Applied Broadly in the Babylonian Talmud 17

IV The Blessing in Medieval Halachic Codes 38

V Medieval Commentary to the Mishnah 57

VI The Focus on Death:
Responsa Literature and Mourning Manuals 66

Conclusion 71

Bibliography 73

Introduction

God and Misfortune

"I form the light and create darkness: I make peace, and create misfortune; I, Adonai, do all of these things."[1]

In every age, and perhaps never more so than in modern times, Jews have struggled to reconcile belief in God and the persistence of seemingly random misfortune in our lives. We are usually quite ready to acknowledge the involvement of God in abundance and blessing. It is much more difficult to ascribe to God involvement in trouble which touches us. Does God, who we pray works to bring good to the world, cause disease and disaster, the deaths of our loved ones and all human suffering? If so, why does God act this way?

Elliot Dorff points out that the challenge to our collective, and individual, theology is that we really have two potential definitions in mind when we say the word "God." From the Bible through modern times, we have equated God either with power, or goodness, but cannot reconcile the two in one conception of God. Either God is powerful, and is the force behind all of nature and human action, but causes harm as easily as benefit; or, God is good, and therefore not involved in evil in the world or any misfortune in our lives. The former position presents God as omnipotent but uncaring, the latter renders God clean of harmfulness but paints a limited and less than compelling deity.[2]

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[1] Isaiah 45:7.

[2] Dorff, Elliot, Knowing God: Jewish Journeys to the Unknowable. Northvale, New Jersey: Jason Aronson Inc., 1992. see ch. 5.

It is fascination with the record of Jewish attempts to reconcile God's omnipotence on the one hand, and the presence of pain and trouble on the other, that drew me to study the Birkat Dayan HaEmet. This blessing reads, "Blessed are You, Adonai our God, ruler of the world, the Judge of Truth." With the rabbinic period, the recitation of blessings became central to the practice of worship and daily life. Blessings were to be uttered to acknowledge God's role in providing food, creating nature, instructing commandments, and sustaining every part of life. One blessing pointed to the early rabbis' requirement to recognize God's role in misfortune, as much as in benefit. This is Birkat Dayan HaEmet.

Study of attitudes toward this blessing reveals the developing sense of the role of misfortune in our lives, and the role of God in delivering misfortune to us. In the Mishnah, we shall see instruction to recite the blessing for the first time, and rationale for saying it. We will examine how the blessing's role expanded in early rabbinic literature. In the Babylonian Talmud we will read of varied occasions on which the blessing is to be said, often accompanied by instructive aggadic material which illuminates both the blessing and the function of misfortune generally. From there, we will study the way in which material about the blessing was narrowed in the medieval codes, and how alteration of language reflected a shift in theology. Then we will see how prominent medieval commentators explained the Mishnah material on the blessing. Finally, we will read about the central questions surrounding the recitation of the blessing in the modern period. I will then offer some conclusions.

My goal in this study will be to use discussion of the Birkat Dayan HaEmet as a lens through which to determine how various rabbis at different times saw misfortune functioning in our lives. If God is the Judge of Truth, then is all trouble a punishment for sin? Or are there other ways for the rabbis, and for us, to imagine the relationship between God and misfortune?

Chapter One

Just as You Bless on the Good:

Birkat Dayan HaEmet in the Mishnah

By the time the Mishnah was codified by Judah HaNasi in about 220 C.E., a system of blessings was advocated by the rabbis as a structure for Jewish life. These blessings were in many ways the essence of rabbinic Judaism, making worship not centralized, as it had been at the Temple, but brought into every moment of individuals' daily life. The Mishnah is the earliest document to compile and discuss the system of blessings, which was probably in a state of development at that time. The Mishnah is therefore the earliest source for the Birkat Dayan HaEmet.

The blessing appears only once in the Mishnah. It is then followed closely behind by two other lines which expand on its subject of blessing on misfortune. These three brief sections are in chapter nine of Masechet Berakhot, contained within mishnayot two, three, and five. I will first offer some brief analysis of my own. In later sections, we will see how the Tosefta, Palestinian Talmud, midrash, and Babylonian Talmud dealt with the material, how it was handled in medieval legal codes, and finally how medieval commentators interpreted the Mishnah material.

Common to all three mishnayot is the contrast of good and bad, benefit and misfortune. Then too, all three instruct us how to respond to benefit and to misfortune, and how those two sets of responses relate to one another. The first mishnah reads:

> ... For rain, and for the good tidings - say "Blessed is the One who is good and does good"; and for bad news say "Blessed is the Judge of Truth."[3]

First, a word about my translation of Dayan HaEmet as "Judge of Truth," in capital letters. I believe this English, with both "judge" and "truth" as nouns, is more true to the Hebrew's use of the construct state than is "the true judge," as "dayan ha-emet" is often translated in published versions. One can understand the end of many blessings to be descriptive, as in "who gives the Torah" or "who creates the fruit of the vine." I think it is appropriate to think of "dayan ha-emet" this way, as the one who judges truth. However, I prefer to read those endings as appellations for God, as in "the Giver of the Torah" or "Creator of the fruit of the vine." Therefore I will translate as "the Judge of Truth."

A starting point for analyzing the first mishnah is the two elements which render the contrast an imperfect parallel. The first is that good tidings are equated with rain in the text. Rain seems to be a very concrete benefit, whereas both good tidings and bad news are not events or experiences themselves, but rather the moment when one is made aware of such events.

Perhaps this combination of the concrete and the as yet unsubstantiated is a lesson in how to respond to all things. No actual event or acquisition or loss is in and of itself good or bad. It all depends on its context in one's life. Rain bodes well for one's crops, but does not insure a good harvest. Similar is news of something good or ill. The news may be borne out to fulfill its promise of tragedy or

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[3] Berakhot 9:2

delight. It may not, or may in fact be something in between. We can respond to any piece of news only for what it seems to be, only for how it affects us when we hear it. In the same way, we are to respond to something as concrete as the rain, making a determination as to what its effect will be.

The second imbalance in the first mishnah is the Hebrew for bad news, *shemu'ot ra'ot*, contrasted with rain and good tidings, *besorot tovot*. The root of *besorot* appears only in verb form in the Bible, and has the sense of a sending a deliberate message. It seems to connote a dispatch, a transmission. *Shemu'ot* seems more loose, in that it is any news transmitted orally. In the Bible, *shemu'ah* can have a positive or negative connotation, most often being news from far off, but occasionally is the word of God. The term *shemu'ah ra'ah* appears twice in the Bible, both times with the power to make the hearer afraid.[4] The rabbis of the Mishnah surely intended us to understand a difference in nuance in the way people transmit and receive good and bad news. I leave this distinction for the later commentators, and move to the next section from the Mishnah. It reads:

> ... Say a blessing on the bad similar to that which is said on the good, and say a blessing on the good similar to that which is said on the bad... [5]
>
> (or alternatively) ... Bless on the bad which entails good (consequence) and bless on the good which entails bad (consequence).[6]

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[4] Jer. 49:23 and Ps. 112:7. In the second case, the hearer is not made afraid, because of faith in God.

[5] Berakhot 9:3

[6] Based on a translation in Avner Tomaschoff, ed., Berakhot: With a Commentary by Rabbi Pinhas Kehati. Jerusalem: Department for Torah Education and Culture in the Diaspora of the World Zionist Organization, 1977. p. 150.

Issues of translation figure prominently into discussion of this mishnah. Alternative understandings of the line will render its content quite differently. Is the formulation of the blessing itself to be similar in both cases of good and misfortune? Is it the attitude of the person reciting the blessing which is to remain similar? Or is the quality of the good or the bad itself the issue in question, as in a reading like the second one listed above?

These issues hinge on the word *mei'ein*, which is connected to the Hebrew word for eye. A literal translation might yield a sense of good which appears bad, and vice versa. But it might also carry the sense of a blessing for the one which appears as the blessing said over the other. Another issue is to determine the distinction between this line and that of our third mishnah, which reads:

> A person is required to bless on the bad as he blesses on the good, as it is written, "And you shall love Adonai your God with all your heart, with all your soul and with all your strength." "With all your heart" - with both of your inclinations, the good inclination and the bad inclination; "with all your soul" - even if He takes your soul; "with all your strength" - with all your money. An additional interpretation: "With all your strength" - with each and every measure that He measures you, acknowledge Him greatly.[7]

Understanding the second line we analyzed requires comparison with this third selection. "As he blesses on the good" is clearer, from the Hebrew *k'shem sh'hu m'varech*. I find that the sense of this, third, section is an obligation to bless at all on the bad, for we have already established that one blesses in a few ways for different types of good fortune. Therefore, while certainty as to meaning is impossible, we can ascribe to that one the sense of "in a similar fashion" or "with similar

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[7] Berakhot 9:5

intention," while the sense of the third would be that one is obligated at all, in the first place.

While surely we want to discern separate meanings for the two mishnayot, I cannot escape the feeling that they both have been written intentionally broadly. First, the categories of good and bad are about as wide and open to interpretation as is possible. Second, the characteristically terse language of the Mishnah also leaves plenty of room for possible meaning. One can ascribe the intent of the author(s) of this material to its broad nature, or one can suggest a post-modern literary understanding of how we read text. Either way, based on the considerable attention these concise lines receive in later rabbinic literature and then in medieval commentary, let it suffice us to say that these are some quite pregnant lines of text.

In this third section of text, we find a turn for the prescriptive. Now we read that "one is obligated" to bless on the bad, as opposed to our second section, which described the way one ought to go about doing so. The assumption that a person requires instruction to bless on misfortune more readily than on good fortune is quite natural. We can readily recognize that it is not instinctive, and perhaps even counterintuitive, to praise God for the deliverance of misfortune. And this line is unidirectional; we have only the instruction to bless on the misfortune as on the good, but not the other way around also, as we had read before. We may take this as further understanding of human nature, that it is far more difficult to accept the role of God in our tragedies than in receiving grace.

In this mishnah, a prooftext is offered, and then an interpretation of that prooftext follows. The line from Deuteronomy

"And you shall love Adonai your God with all your heart, with all your soul and with all your strength" is enigmatic. My sense is that an equation is being made between all of the parts of one's self and all of that which is given to us from God. We are required to bless on the bad as on the good, and we in fact are understood to receive these opposing emanations from God with different parts of ourselves. If we can be truly diversified in the parts of ourselves with which we attempt to love God, then we will be better in position to receive all that God gives us. All of God, and all of ourselves, must be brought to the cosmic relationship.

That the word *levavcha* is interpreted by the Mishnah to mean your good and evil inclinations can support this understanding. These two inclinations are understood to be parts which comprise the whole self. "One's soul" meaning even to the extent of giving up one's life indicates further the totality with which one offers one's self to the relationship with God. "With all of one's money" extends the understanding further; one is obligated with all one is and all one has access to.

The *davar acher* offers an interesting interpretation of what it means to offer a blessing on the misfortune as on the good. This is a very simple and straightforward statement that we are meant to acknowledge God's involvement in all that befalls us. One can understand *modeh* as thank, but I prefer it as acknowledge. This is a more readily accessible logic for our innate human nature. Ultimately, every believer in God must decide whether we feel God gives only the good in our lives, or gives all that is in our lives. The latter position was the one more commonly held by the rabbis, and I would speculate,

also more commonly held today. One way to relate to this command to bless on misfortune is to consider such a blessing an acknowledgment of God's part in giving both good and bad, but not necessarily thanking God for the bad.

We have inspected the kernel which is at the origin of the Birkat Dayan HaEmet and all the theological implication that it entails. The mishnah contains only one, and the earliest, citation of the blessing. Together with the other two mishnayot which deal with its topic, the beginning of a rationale is established. We see that we are obligated to address God for misfortune in our lives with the same degree of requirement, and it is to be done in a similar fashion. The obligation is to respond to misfortune in general and equally to the first news of benefit or misfortune. Remaining very broad after our investigation of the Mishnah is what is meant by "bad" or misfortune. For that nuance, we must investigate further. We turn first to the Tosefta, Yerushalmi and early midrashim.

Chapter Two

Birkat Dayan HaEmet in the Tosefta, Palestinian Talmud and Early Midrashim

The only appearance of Birkat Dayan HaEmet in the Tosefta will appear again in the Babylonian Talmud, with the addition of the layer of the stam, or redactor's voice. This section offers a contrast between two categories of people, those with congenital conditions and those with conditions they acquired during the course of life. The section reads:

> Upon seeing a black person, an albino or a very red or very white person, a hunchback or a dwarf, one says "Blessed be the One who makes all types of creation." If one sees an amputee, lame or blind person, or one afflicted with boils, one says "Blessed be the Judge of Truth."

We shall see that in the Bavli, the contrast of these two blessings is framed by the stam to answer the question of which category is the correct one for a pock-marked person. While the listing of types will change a bit in the Bavli, the two categories are consistent. We will examine the section in greater depth in the context of its appearance in the Babylonian Talmud.

There is only one section of the Palestinian Talmud which discusses the Birkat Dayan HaEmet, but interestingly, it is rather unlike any of those we will read in the Babylonian Talmud. This is Yerushalmi Brachot 6:3, which is in a larger section discussing the appropriate blessings to say over foods. We again sense the process by which the whole blessing system is coming into being. The text of the section reads:

> Over something that does not grow in the earth, one says, "For all came into being by his word." Over vinegar, and unripe fruit, and over edible [i.e., permitted] locusts, one says, "For all came into being by his word." R. Judah says, "Over anything which is accursed, one does not recite a blessing." If one's wine turned to vinegar, he says, "Blessed be the Judge of Truth." If he goes on to drink it, he says, "For all came into being by His word." If one saw locusts, he says, "Blessed be the Judge of Truth." If he goes to eat them he says, "For all came into being by his word." If one saw fruit that did not ripen, he says, "Blessed be the Judge of Truth." If he goes to eat them he says, "For all came into being by his word."[8]

On the surface this section seems to be a simple halachic determination of the appropriate blessing for a few foods. However, I believe that in the repeated shift from Birkat Dayan HaEmet to "For all came into being by his word" we can read broader implications.

First we read the general rule for the blessing "For all came into being by his word" as anything that did not grow out of the ground, and then we have the seemingly benign example of three such categories, vinegar, unripe fruit and locusts. Then we learn that these three products have more in common.

First, however, we must contend with the statement by R. Judah that "Over anything which is accursed, one does not recite a blessing." It seems to me that his statement serves as a prelude to all that follows, but that he is not the author of what follows. Exactly what is accursed is unclear, whether one of our listed items or otherwise. And furthermore, what exactly distinguishes something which is accursed, which is to receive no blessing, as against that which receives Dayan HaEmet? I read here a limiting of the negative quality of judgment. That which is altered or unfulfilled, that which receives Birkat Dayan

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[8] Yerushalmi 6:4.

HaEmet, is not cursed in its entirety, but only the recipient of judgment. Judgment, even a negative one, is not a total condemnation, but only an accepted part of a larger picture.

Returning to the three items, we recognize that each of them is an appropriate referent for Birkat Dayan HaEmet based on categories we have already seen in the Babylonian Talmud. Both wine which turns to vinegar and fruit which does not ripen seem to fall into the grouping of people with acquired physical conditions. In this case, they are foods instead of people which have been deterred from being or becoming as they might more ideally have been. From the human perspective, these are foods that could not be eaten as they might have. In the case of locusts, the immediate condition is of an insect that destroys crops, making it similar to the other two in that it ruins otherwise perfect foods and has a decidedly negative connotation.

However, we see that all three of these cases can be converted to something over which "For all came into being by His word" should be said. Although they are not perfect, they are still edible. I believe an insight into the Birkat Dayan HaEmet can be read here. Very often, it is hard to know what news is bad and what is good. Later, we will read in Maimonides' commentary to the Mishnah an interpretation that what is initially bad can contain potential for good. But in this case, the locust, for example, is not essentially one or the other. If it is seen in a field, it is bad. If it is to be eaten, it is worthy of praising God for its creation. And in the cases of vinegar and unripe fruit, even that which seems to have been rendered imperfect may still be a source of sustenance to us. The world is full of much more which is complex in essence than simple. Things in and of themselves are not

good or bad, but have influence on our lives for positive or for negative depending on context and our relationship to them.

This section of the Palestinian Talmud leads us directly to the first of three citations in early midrashim of the Birkat Dayan HaEmet. In Leviticus Rabbah we read a similar reference with broad theological implication. It reads:

> As the vine contains grapes as well as raisins, so Israel; they have among them masters of Scripture, of Mishnah, of Talmud, and of Haggadah. As the vine yields wine as well as vinegar, the one requiring a benediction and the other too requiring a benediction, so Israel; they are under obligation of saying a blessing for good as well as for misfortune. For good: 'Blessed is the One who is good and does good,' and for misfortune: 'Blessed be the Judge of Truth.'[9]

Once again we see that wine and vinegar are held as parallel for good and ill which can exist. It is a natural process that either can be produced from the same natural source, and so too can our lives, or God, produce either good or bad. I find it interesting that after the comparison between the vine and Israel, we read that "so Israel" is obligated to bless over good and bad. I almost expected to read that "so Israel" was capable of producing misfortune as well as good. However, it seems more significant in describing a human being, and more particularly a Jew, as one who recognizes ill with good and acknowledges the creator of that misfortune.

It is also worthy to note that the same vine, the natural symbol for a source of good and bad, at first is the symbol for the source of diversity. As we saw in our analysis of Birkat Dayan HaEmet in the Tosefta and will examine more closely in the Bavli, the blessings "Who makes all types of creatures" and "Blessed is the Judge of Truth" can

[9] Midrash Rabbah to Leviticus 36:2.

be very closely related. It is far easier to distinguish between different types than to evaluate them as absolutely good or bad.

The focus of this midrash is different from that of the section of Yerushalmi we investigated. In the Yerushalmi piece, we saw how the same item, food or living thing, could be considered positive or negative depending on the context. This midrash is related, but one step removed. Now complexity is contained in the vine. The vine, a metaphor for the source of all things, can produce a diversity of types of people. It can also produce both items which receive the blessings "Who is good and does good," and "the Judge of Truth." The vine, that is, life, or even God, can and does produce all things. Neutral diversity, as well as good and misfortune, are all a part of the natural order.

The only references to Birkat Dayan HaEmet in early midrashim are in Sifrei to Deuteronomy and Midrash Tannaim, the corresponding halachic midrashim to Deuteronomy of the schools of Ishmael and Akiva, respectively. They are to the same verse of Deuteronomy.[10] Both pieces are similar at the beginning. They follow the verse "And Adonai said to Moses: Behold, your days approach that you must die"[11] with a statement by Rabbi Shimon Bar Yochai, starting with the blessing Dayan HaEmet. Each piece then moves in a different direction, and does not illuminate the blessing further.

It seems that the arrival of Moses' death warranted the blessing, before the midrash advances. We sense an acceptance of this blessing as appropriate for responding to a death. Based on the lack of

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[10] Sifrei Deut., Piska 304 and Midrash Tannaim, Parashat Vayelech, 31:14.
[11] Deut. 31:14.

discussion about the blessing, its usage for such an occasion seems taken for granted.

In the references in Tosefta, Yerushalmi and Midrash to the Birkat Dayan HaEmet, we see again some of the themes that we will again encounter in the Bavli. We see the issue of distinguishing between when something, or someone, is created with problems as opposed to conditions which are acquired in the course of living. We see that context matters in determining if something is beneficial or harmful. We see a plain use of the blessing to respond to death. We shall now move to the Bavli for a much broader and deeper look at the various possible applications of Birkat Dayan HaEmet.

Chapter Three

The Blessing Applied Broadly in the Babylonian Talmud

Discussion in the Babylonian Talmud of Birkat Dayan HaEmet greatly expands our opportunity for understanding the rabbinic attitude to saying the blessing, and to misfortune in general. We can tell by the extensive discussion of each blessing that the system was still one in process of development and of acceptance. It is our task to determine how various rabbis and the stam, the redactor's voice, saw the blessing functioning.

Reference to Birkat Dayan HaEmet is made in eight places in the Babylonian Talmud. Some reference is concerned with identifying the appropriate times and places to say this blessing, often as opposed to or even in addition to the blessing "Who is good and does good." Some sections offer aggadic account of the rabbis saying the blessing or variants on its theme. Taken all together, I see an ongoing consideration of a few balancing issues. The first is when the blessing is applied to occasions of death as against other bad news. Another is to what degree is death or other bad news considered punishment. Yet another is the balance between acceptance of God's judgment and recognition of human suffering.

I will analyze each section which includes reference to the blessing, often in the context of broader discussion which surrounds the reference itself. I will examine first those sections which refer directly to the three sections of the Mishnah we identified as our basis for the issue of blessing on misfortune. I will then identify and discuss those references which relate to death or mourning an

individual. From there, I will look at those references which deal more broadly with tragedy of various kinds.

We turn first to a section of gemara which does not cite the blessing itself, but certainly illuminates the issues behind saying it. We read in the gemara to our second mishnah, "Say a blessing on the bad similar to that which is said on the good, and say a blessing on the good similar to that which is said on the good.":

> "On the bad..." How do we understand this? For example, if his land is flooded. Although it will eventually be to his benefit, for his land is covered in minerals and will be even more fertile, for the time being it is misfortune.
>
> "And on the good..." How do we understand this? If, for example, he finds something valuable. Although this may eventually be bad for him, for if the king hears of it he will take it from him, for the time being it is good.[12]

This section raises one of the great questions which will be followed throughout our study of traditional texts. That is, how does one determine what is to one's ultimate benefit and what to one's harm. Things are not always as they initially seem to be. In this section of gemara, we are advised to respond with a blessing appropriate to the immediate appearance of the situation. One is not to worry about potential outcome. This section of Talmud will be cited often in medieval codes and commentary to argue the case of responding with more immediate awareness, as opposed to the more subtle look at an event's influence over the long term.

A bit further on, we read the gemara which responds directly to the mishnah "It is incumbent on a person to bless on the misfortune just as one blesses on the good." We read right away that we should

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[12] B. Brachot 60a

not confuse this for a conflation of blessings, for we have also have in the Mishnah that "for good tidings one says Who is good and bestows good: on bad tidings one says Blessed is the Judge of Truth." A baraita from Rava solves the dilemma: "What it really means is that one must receive misfortune with gladness."[13] This attitude will be cited over and over in later legal codes as the goal in receiving bad news. A negative interpretation would be that the rabbis suggest we live lives which are emotionally false and that we ought not cry out in pain or in joy, but this is an attitude certainly not borne out by many of our accounts of the rabbis. I prefer to believe that the rabbis are counseling the advantage of taking a long view to calm any situation. We are reminded that tragedies can be endured in a life, and joys are to be celebrated exactly because they are indeed fleeting. Most important is that God is acknowledged as the giver of it all.

Additionally, we do a disservice to ourselves and the rabbis when we apply our own literary and emotional standards to the Talmud. The rabbis relied on hyperbolic language to communicate a point. The extreme case is often employed to indicate that any position up to that extreme is to be similarly considered. We may be well advised to read the statement "that one must receive misfortune with gladness" not literally, that one experiences pleasure at bad news. Rather, we might understand this as an admonition not to despair entirely, for meaning is not lost even at moments of tragedy. We shall read later how the medieval legal codes understood the phrase "receive misfortune with gladness" and altered its language.

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[13] B. Brachot 60b

Four biblical citations follow, suggesting the source of this profound theology. All four reflect the inherent duality of God's nature and ring of the human attempt to reconcile the paradox. The first is from Psalm 101, in which the speaker's voice sings of both God's mercy and God's justice.[14] The next, from Psalm 56, hearkens to the two names of God as YHWH and *elohim*, which the gemara interprets, respectively, as "good dispensation" and then as "the dispensation of suffering"[15], that is, as punishment. The third, from Psalm 116, has the speaker calling on the name of God despite having found trouble and sorrow.[16] The fourth, from Job, has also become common to funeral and memorial services, "Adonai has given and Adonai has taken away; blessed be the name of the Adonai."[17]

I believe that we can sense in this collection of prooftexts both an acknowledgment of the inherent difficulty of relating to both of these central aspects of God, and the desire to accept them with a full heart. This is precisely the challenge made to us in uttering the Birkat Dayan HaEmet. It is important to note that none of the references tell us to "be glad" in receiving misfortune. Rather, they remind us of the balance of good and bad in our lives, and that God is equally involved in giving both.

These biblical citations are followed by a superb aggadic passage of R. Akiva, headed by this statement by R. Akiva: "Whatever the All-Merciful does is for good."[18] As before, when we read aggadah such as

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[14] Ps. 101:1
[15] B. Brachot 60b on Ps. 56:11
[16] Ps. 116:13
[17] Job 1:21
[18] B. Brachot 60b

this, we do so without the need to ascribe historical truth to the story. We do not read the piece to learn the biography of R. Akiva, but rather to learn the lessons of the Talmud. That the great tannaitic era R. Akiva is the cited original source of the story lends it even greater power and legitimacy.

In this case, the story is a teaching tool, this time to illuminate the maxim "Whatever the All-Merciful does is for the good." Although the aggadic passage does not include Birkat Dayan HaEmet itself, it fills out with a living account the sense of "that one must receive misfortune with gladness," and why it may be prudent to do so. Once again, we ought not be put off by fantastical details. The hyperbolic language of the rabbis offers an extreme case, so that our comprehension is more easily facilitated. The account reads:

> R. Huna said in the name of Rav, citing R. Meir, that it was taught in the name of R. Akiva: A person should be always be accustomed to saying "Whatever the Merciful One does is for good," as we see in this case. R. Akiva was once traveling along the road, and he came to a certain town. He looked for lodging but was refused everywhere. He said "Whatever the Merciful One does is for good," and went and spent the night in the open field. He had with him a rooster, an ass and a lamp. A wind came and blew out the lamp, a weasel came and ate the rooster, and a lion came and ate the ass. He said, "Whatever the Merciful One does is for good." That night, bandits came and kidnapped the inhabitants of the town. He said to them, did I not say to you "Whatever the Holy One, Blessed be He, does is for good?"[19]

Two issues of note present themselves immediately, and I am sure many others await uncovering. First we see the inherent duality in God reflected in the name Merciful One, *rachmana* in Hebrew. The God who seems to be the source of trouble is called merciful.

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[19] Ibid.

However, I do not know why in the final utterance of the line, the language for God is switched to "the Holy One, blessed be He." Perhaps this is a mark of more powerful and final judgment to the story, or a reminder that God is ultimately mysterious and beyond our comprehension.

Second, the extremely perplexing but important question is raised, do we always know which news is bad news? I am reminded of the section of gemara we read earlier, about a field which is flooded or a valuable which is found. We cannot always know the outcome of events. Death sometimes ends suffering and long illness. Being fired from a job can send us on our more appropriate path. Pain can sometimes give us the keys to important and cherished connection later on. We will later see how Maimonides describes this dilemma in his commentary to the Mishnah, when he states that we should greet what seems to be bad news without undo commotion, for we do not know what result it will bring us ultimately. This is the human challenge of retaining a long perspective and also feeling fully the emotions of the moment.

Further, I think it is not coincidence that the gemara then moves on, after a brief interlude, to a discussion of God's creating humanity with two inclinations, good and evil. We read:

> R. Nachman b. R. Hisda explained: What is meant by the text, *Then the Lord God formed (vayitzer) man* (Gen. 2:7) The word *vayitzer* is written with two *yuds*, to show that God created two inclinations, one good and the other evil.[20]

I understand this reference as underscoring the struggle in seeing all, even conflicting, parts of ourselves as operating in the

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[20] B. Brachot 61a

service of God. This in a sense parallels the conflict inherent in God of attributes of mercy and justice, which we trust also combine to guide humanity for good. In this sense, we have an important reminder that we may have cause to trust that even misfortune which is given to us, for whatever reason, can be to our good ultimately. We can feel this more instinctively when we remember that we too have conflicting impulses, and yet we hope that our interaction with the world is, on the balance, in the service of good.

We turn now to a section which shifts our focus to responding to death. We read a discussion which is imbedded in a broader section on the formulation of the grace after meals. The discussion appears to have two parts. In the first part is the question of whether to say "Who is good and does good" or "Blessed is the Judge of Truth" or both when saying grace in a house of mourning. The second part is an account of how Mar Zutra handled this issue when visiting R. Ashi, who was in mourning.

In the first half, we read different opinions on what to say in a house of mourning. This uncertainty is just one example of how the blessing system was still in a state of development. R. Nachman b. Isaac says that in a house of mourning "Who is good and does good" is not said, as it would be at other times . Then an unattributed opinion, still from a baraita and not the stam, says that "Who is good and does good" is said. Then R. Akiva says that "Blessed is the Judge of Truth" is said. The stam then asks the question of how to read the unattributed opinion, and provides a typical stamaitic resolution, that is, shows an effort to reconcile positions of all rabbis. The stam

decides that both blessings are to be included. The text of the section reads:

> R. Nachman bar Isaac said: You know that "Who is good and does good" is not from the Bible because it is omitted in the house of the mourner, as it is taught, What is said in the house of the mourner? "Blessed is the One who is good and does good." R. Akiva says "Blessed is the Judge of Truth. Does one say "Who is good and does good" and not "Judge of Truth"? No, instead read that he says *also* "Blessed is the One who is good and does good."
> Mar Zutra visited the house of Rav Ashi when the latter was mourning a death, and (in reciting the grace after meals) he began "Blessed is the One is good and does good, God of Truth and Judge of Truth, who judges in righteousness and takes with justice, and who rules over His world to do with it as He desires, for all His ways are justice, for everything is His and we are His people and his servants, and in everything we are obligated to acknowledge Him and bless Him, the One who closes the breaches of Israel will close this breach in Israel, for life.[21]

There are multiple layers functioning here. The simplest is establishing correct custom for a particular grace after meals. On a deeper level we have a truly theological discussion and consideration of human feeling. God has caused death and revealed God's side of judgment, but God is still the one who continues to provide food to the living. We see those contrasting ideas in the retention, at the end of the first paragraph, of "Who is good and does good" alongside recognition of the death. Conversely, we see that the needs of the mourner must be considered even as we acknowledge God for the gift of food.

The issue of recognizing both of these aspects at once are addressed eloquently in the second half of the section, in the record of Mar Zutra's formulation of this part of the grace after meals while

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[21] B. Brachot 46b

visiting R. Ashi, who is in mourning. We see some of the freedom the rabbis felt in a time prior to strict adherence to formulas for ritual, for he does not recite either "Who is good and does good" or "Judge of Truth," but rather includes the concepts of both.

Mar Zutra's prayer is a powerful affirmation of God as both good and as judge; and acceptance of God's will. It is especially distinguished for its concluding line, "He who closes up the breaches of Israel will close up this breach in Israel, for life." It seems Mar Zutra had the pastoral insight to know that whatever the theological position he espouses in regard to death, one cannot sit in the home of a mourner and pray without acknowledgment of the human need for healing. Perhaps he sensed, as we easily can, that Birkat Dayan HaEmet, or something like it, on its own will not provoke much immediate comfort. Instead, after the acknowledgment of God's power and judgment we are told that God will heal. His formulation will be cited in later codes and responsa literature.

In another section we are told to respond to a particular death with Birkat Dayan HaEmet. But this death is representative of more than just the demise of one person. On Brachot 54b we read of a contrast between the aspect of God which delivers us wonders and the aspect which delivers punishment. But so too do we see difficulty in readily identifying which events emanate from which aspect, despite our desire to easily categorize and proclaim the categorization with the appropriate blessing formula.

The section falls within the gemara which immediately follows the Mishnah which discusses Birkat Dayan HaEmet. This is not yet the gemara which deals with the blessing directly. Rather, it is part of

a listing of events which fall into the rubric of miracles which have been wrought for Israel. Lot's wife is mentioned, and then the walls of Jericho falling. There is confusion over whether the transformation of Lot's wife into a pillar of salt warrants the same blessing. We read:

> We understand [why this blessing should be said over] all other miracles, but the case of Lot's wife was a punishment. One seeing it one should say, Blessed is the Judge of Truth, yet the baraita says "Thanks and praise."[22]

Neither the material from the beginning of this gemara, nor the mishnah to which it refers, includes mention of Lot's wife or what blessing is to be said over her, or in what context such a blessing would be required. The baraita referred to in this section, instructing "Thanks and praise" is a mystery. However, more interesting to the investigation of Birkat Dayan HaEmet is what distinguishes this event from miracles. Apparently, miracles, in this context, need to be to the benefit of people. An occurrence of tragedy, no matter how remarkable, is understood as punishment.

Moreover, we are left to question why the blessing is to be applied to Lot's wife. Is its appropriateness based on the fact that she dies, and is not saved from destruction as is Lot, or is the unusual form of her demise what warrants saying the blessing. The thrust of my inquiry here is whether at this stage of rabbinic development Birkat Dayan HaEmet is associated with all death, or is an event of particularly tragic proportion required? This is not clear from this section alone.

The confusion of whether the blessing Dayan HaEmet is appropriate here for whatever reason, as we saw above in the question

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[22] B. Brachot 54b

"Yet [the baraita] says: 'Thanksgiving and Praise'" is again smoothed over by the stam:

> Read: For Lot and his wife two blessings are said. For his wife we say "Blessed be the Judge of Truth" and for Lot we say "Blessed be He who remembers the righteous."[23]

As is often the case, we are left to debate the relationship between earlier rabbinic voices and that of the stam and redactor of Talmud. We do not know whether or not an earlier voice was to include Lot's wife's death in the blessing for miracles, and that only later would the Birkat Dayan HaEmet been found appropriate for her, or if she was merely overlooked earlier on and the stamaitic role here is truly to clarify and not advance a later agenda.

Ultimately, how we read this material depends on the weight we give to each of the two elements, that is, of both Lot and his wife. If we take the view that this is a salvation story about the rescue of Lot and some of his family, then a posture of thanksgiving is appropriate. In that event, we might accept a minority dose of tragedy, the demise of Lot's wife, as part of a whole story which is understood as a rescue rewarding righteousness. On the other hand, if we give equal import to the death of Lot's wife that we do to Lot's salvation, then this is not a positive story but one of mixed, even equal doses. That seems to be the latter, stamaitic position. But we must also remember that for the earliest baraita the issue was Lot's wife, and not both Lot and his wife. This was a story of punishment.

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[23] Ibid.

An additional unresolvable question is what might a practical application of this usage of the blessing be. What did it mean to the rabbis of the Talmud to "see Lot's wife"?

From this unusual usage of Birkat Dayan HaEmet we move to a seemingly more likely one. This is a more practical instruction on what blessing to say after the death of a family member, in this case one's father. In the midst of a longer section on when it is appropriate to say the blessing "who is good and does good," and we read:

> "Come and hear: If a man's father dies and he is his heir, first he says: Blessed is the Judge of Truth, and afterwards he says: Blessed is He who is good and does good? - There, too, it is a case where there are brothers who inherit him."[24]

The focus of this small piece is the larger discussion that in order to say "who is good and does good" the benefit must accrue to others as well as one's self. In this piece the stam tries to eliminate the problem of one saying "who is good and does good" on inheriting by showing how it would indeed be correct to say if one is sharing in the inheritance.

What is of note for our investigation is the use here of Birkat Dayan HaEmet. With little ado, we read a very straightforward case in which it seems that the first liturgical response to hearing of the death of one's father is Dayan HaEmet. No matter the extent to which we are able to suggest this blessing was considered appropriate by the rabbis of the Talmud, hearing of a death was definitely among them, and in fact, seems central.

Another occasion for the recitation of the blessing will show a widening from the response to the death of one person to tragedy in a

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[24] B. Brachot 59b

broader context. The section begins with the instruction to say a blessing upon seeing uninhabited houses of Jews:

> On seeing the houses of Israel, when inhabited, one says: Blessed be He who restores the boundary of the widow; when uninhabited, Blessed be the Judge of Truth. On seeing the houses of non-Jews, when inhabited, one says: *Adonai will tear down the house of the proud (but He will establish the boundary of the widow)* (Prov. 15:25), when uninhabited one says: *God of retribution, Adonai, God of retribution, appear!* (Ps. 94:1)[25]

Seeing an empty house connotes is surely bad news. Our minds leap to the reason for abandonment, and the most likely is death. But an ominous quality remains; we know that misfortune has struck, but cannot be sure exactly what. Taken to an extreme, many empty houses together might connote the economic hardship of the community, or, as we shall soon note, the expulsion of the community.

The language "Blessed is He who establishes the boundary of the widow" is curious. This is a usage of language from Proverbs 15:25, where the text provides opposition between the proud, whom he will make low, and the widow, whom he will raise up. In this context, Birkat Dayan HaEmet carries a connotation of punishment.

The use of "boundary of the widow" in rabbinic literature occurs in three other places. In Seder Eliyahu Rabbah it is used as a metaphor for Ovadia as against the proud Esau.[26] In two appearances in Yalkut Shimoni we see "boundary of the widow" again contrasted with Birkat Dayan HaEmet, in the first of which God's judgment is clearly invoked as punishment.[27] While there is ready comparison between the destroyed Temple and the widow, especially in light of

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[25] B. Brachot 58b

[26] Eliyahu Rabbah, ch. 24

[27] Yalkut Shimoni paragraphs 849 and 953 to Psalm 94 and Proverbs 15.

reference to the Temple in the following aggadah, nowhere else in rabbinic literature are the Temple and the phrase "boundary of the widow" from Proverbs connected.

Lamentations 1:1, however, makes plain that the "widow" is Zion, whose restoration is awaited. The reference to the Temple which we shall see works as a symbol for Zion. The ruined house of God is the captured land of Israel. With the lament for a single empty house comes a broader lament for the Temple and, in turn, for the abandoned land.

We are fortunate again in this citation of the blessing to have its nuance illuminated by an aggadic account of Ulla and R. Hisda, as they pass by such an abandoned house. As always when we read such aggadah, we have no way of ascertaining what historical accuracy the event represents. However, we certainly must take the interlude as one through which the rabbis hoped to illuminate both the legal and philosophical issues under discussion. With this in mind, we read:

> Once when Ulla and R. Hisda were walking along the road, they came to the door of the house of R. Hana b. Hanilai. R. Hisda broke down and sighed. Ulla said to him, why are you sighing, in light of the fact that Rav said that a sigh breaks half of a man's body, as it is written, *And you, o mortal, sigh; with tottering limbs and bitter grief, sigh before their eyes.* etc (Ezek 21:11). R. Yochanan said [it breaks] even the whole of a man's body, as it is written, *And when they ask you, "why do you sigh?" answer, "Because of the news that has come." Every heart shall sink,* etc . (Ezek. 21:8). He replied, how can I refrain from sighing on seeing a house in which there used to be sixty cooks by day and sixty cooks by night, who cooked for everyone who was in need? Nor did he [R. Hana] ever remove his hand from his wallet, in case a poor person of good standing should come and be shamed while he was getting his wallet. Moreover, [the house] had four doors, opening on different sides, and all who entered hungry exited full. They would also put wheat and barley outside in years of scarcity, so that anyone who was ashamed to take by day could

take at night. Now it has fallen into ruin, and shall I not sigh? He replied to him: Thus said R. Yochanan: Since the day of the destruction of the Temple, there has been a decree on the houses of the righteous, that they too should be destroyed, as it is said, *To my ears, [says] Adonai of Hosts, Surely great houses shall lie forlorn, spacious and splendid ones without occupants* (Isa. 5:9). R. Yochanan said further, in the future the Holy One, blessed be He, will return them to their inhabited state, as it is said, *A Song of Ascents, Those who trust in Adonai are like Mount Zion.* Just as the Holy One, blessed be He will restore Mount Zion to its inhabited state, so too will He restore the houses of the righteous to their inhabited state. He saw that he was still not put at ease, and he said to him, it should be enough for the servant that he should be like his master.[28]

This interlude is ripe. It raises the question of how we are to respond to trouble to the highest example our tradition offers, that of the destruction of the Temple. The usual rabbinic understanding of the destruction of the Temple is as a punishment for our sins. One can take this analogy to support the understanding of Birkat Dayan HaEmet as one which recognizes punishment. In fact, in this case the punishment is indicated specifically; because of the destruction of the Temple so too will righteous houses in Israel be left desolate.

But the wisdom of the Talmud here is abundantly evident. We have the opposition of two tradents, Ulla and R. Chisda. While R. Chisda is offering the characteristic view of God's judgment, Ulla is not satisfied. He understands the argument but remains aggrieved over the loss of R. Chana b. Chanilai and his charity. We see a balance portrayed between official theology and human need, and how the two often are not reconciled and yet must co-exist, neither pushing the other out of the picture entirely. And there seems in fact to be understanding of the need for some reconciliation in R. Chisda's final

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[28] Ibid.

comment "Enough for the servant that he should be like the master" which is understood by the commentary to the Soncino translation as "that R. Chana's house should be like the house of God."[29] Just as God's house, the Temple, is left ruined, so too is the house of R. Chana. The simple level is that they are both similarly ruined, but on a deeper level, R. Chana's goodness is called divine. Conversely, Ulla had been aware of the breakdown of the system of reward for the righteous, and R. Chisda sought to comfort him by indicating that the suffering of R. Chana only mirrors the suffering of God.

Immediately following this aggadah is the instruction to another blessing. It works, with the blessing for uninhabited houses of Israel, as something of a bookend. It is not the formulation of Birkat Dayan HaEmet, but certainly refers to God's sided of judgment. It reads:

> Our rabbis taught: On seeing Jewish graves, one should say: Blessed is the One who made you in judgment, who fed you in judgment and sustained you in judgment, who gathered you in judgment, and who will one day raise you up again in judgment.[30]

This blessing seems to offer a longer perspective than that invoked in Birkat Dayan HaEmet. Not only is God the only one who can judge at the moment of death or tragedy, but God is the judge at all times. This view puts the harshness of judgment at death seeming like punishment in perspective, for God is only doing what God does at all moments in our lives. If moments like our formation, feeding and maintenance, which we might otherwise have more quickly associated with God's side of mercy and compassion, also contain God's judgment, then perhaps the converse is also true. Perhaps at moments of

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[29] Soncino commentary to B. Brachot 58b

[30] B. Brachot 58b

seeming judgment, such as death, God's merciful side may also be involved.

This whole section, both the beginning and ending instructions to blessing and the aggadah in between, has a distinct inclination to death. Early, even the inhabited house in Israel blessed as "Blessed be He who sets the boundary of the widow." Even referring to the living, we are called to think of death, for the presence of a widow means that she has lost a husband. The conclusion refers to seeing graves, which again focuses on death. Nonetheless, tragedy beyond death is alluded to. I discussed earlier the open possibilities implied by the empty house, and the aggadic passage compares all loss to that of the destruction of the Temple, our grandest tragedy. And in the last part I addressed, the blessing upon seeing graves, by invoking all the moments in a life as connected to death under one rubric, we see a way in which God's judgment transcends death to encompass anything that may transpire in a life.

We now turn to a reference which calls for Birkat Dayan HaEmet in response to tragedy of a more personal and bodily kind. It offers a different angle of approach and helps to illuminate the parameters of the blessing. This is the section which offers two different blessings to say on seeing categories of people:

> R. Joshua b. Levi said: On seeing pock-marked persons one says: Blessed be He who makes different types of creatures. An objection was raised: If one sees a black person, a very red or very white person, a hunchback, a dwarf or dropsical person, he says: Blessed be He who makes different types of creatures. If he sees one with an amputated limb, or blind, or flatheaded, or lame, or smitten with boils, or pock-marked, he says: Blessed be the Judge of Truth.- There is no contradiction; one blessing is said if he is so from birth, the other if he became so afterwards.

A proof of this is that he (the pock-marked) is placed in the same category as one with an amputated limb; this proves it.[31]

This section, a kernel of which we saw in the Tosefta, provides a helpfully direct description of at least one nuance of Birkat Dayan HaEmet. This understanding refers not to death, but to many unfortunate occurrences which can befall people during the course of their lives. A clear statement by the stam assesses that the blessing is intended to be said for acquired conditions, describing a rubric which encompasses just about any type of physical misfortune. One is left to speculate on the outer boundary of conditions about which the Birkat Dayan HaEmet might be said. Is permanence required? Must the condition be readily identifiable to others? Or is the only criteria that the misfortune be significant? Might emotional or mental conditions also be included? While we must deliberate to answer these questions, we do have ready evidence that so much more in life than the death of those we love is considered by the Talmud to be important for us to acknowledge as emanating from God, part of God's judgment.

No less theologically fraught are the only two references to Birkat Dayan HaEmet in tractates other than Brachot. These two references help to reveal the general rubric of what we may call the parameters of misfortune. In Tractate Pesachim, the oneness of God is discussed. In response to the section from Zecharia which is in our Aleynu liturgy, "...in that day shall the Lord be One and His name One,"[32] the question is asked, is then God not now One? This question is answered in indirect fashion with:

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[31] Ibid.

[32] Zech. 14:9

> "Said R. Aha b. Chanina: The future world is not like this world. In this world, for good tidings one says, The One who is good and does good, while for bad tidings one says, Blessed be the Judge of Truth; [whereas] in the future world it shall be only the One who is good and does good."[33]

The baraita implies that in the future world there will be no bad news, that it will be all "The One who is good and does good." We do not know what will transpire there, but we know that our response to all will be positive. In the meantime, it seems that we have an inherent need for Birkat Dayan HaEmet and for situations which call for it here in this world. The system of life in this world requires it. But we also have a statement that we are promised an experience without the same suffering in the world to come. While this section of gemara does not resolve whether or not the suffering of this world is punishment or not, it is called necessary. Moreover, the life without suffering in the world to come seems to be the time when full unity of God will happen. Now, because God is not yet whole, our lives contain misfortune. Our suffering is in some way necessary.

The final occurrence of the blessing provides perhaps the most mild situation wherein it is considered for recitation, and is in fact rejected. However, the discussion still contributes to our overall picture of the use of the blessing.

The context, here in Tractate Sanhedrin, is of the blessing of the new moon. We read:

> R. Aha of Difti said to Ravina: Yet should not one say the benediction, 'Blessed who is good and does good' He replied: But when it is waning, do we say 'Blessed be the Judge of Truth,' that we should say: "Blessed who is good and does good?' But

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[33] B. Pesachim 50a

why should both not be recited? Since as a regular phenomenon, no benediction at all is required.[34]

Apparently, the waning of the moon to Ravina is not bad news. Nor for that matter is it good news, but rather to be treated neutrally. It seems that anything which is a regular phenomenon is not to be judged as positive or negative. I would then ask, is death therefore not a regular phenomenon? One might make a case that there is hardly a cycle more regular than birth and death. But this is only the view of an outsider to the loss. The death of one's beloved is surely a unique experience in life.

I have the sense that the very instruction to bless on the bad as one blesses on the good is in itself an instruction to view bad news as part of the cycle of life. Perhaps this section of gemara here reminds to maintain the balance of long and short perspective by not taking the long view exclusively. One needs to recognize that in the short term, there truly is bad news, as opposed to the waning of the moon, which naturally begs to be considered in the fullness of its cycle.

Taking all of the discussion of Birkat Dayan HaEmet from the Talmud together, we find a wide range of potential use and theological underpinning. It is meant to be recited when hearing of death, but certainly not exclusively. The bad news it responds to should be somewhat irregular, even dramatic. Although the blessing is associated with God's attribute of justice, it is not clearly understood as punishment. More often it refers to human suffering explicitly, while judgment is at best implicit and perhaps not clearly intended at all. Above all, it counsels taking a view of life which sees God as

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[34] B. Sanhedrin 42a

involved in all things. The discussion surrounding the blessing recognized the precariousness of human comprehension of the source of misfortune in our lives. To be sure, the God who is invoked in this blessing is extremely complex.

Chapter Four

The Blessing in Medieval Halachic Codes

We are well acquainted with the development in Jewish texts toward a focus on law, as opposed to lore and debate, as we arrive in the medieval period. We have read how discussions of the Birkat Dayan HaEmet in Mishnah, Tosefta, Bavli, Yerushalmi, and Midrash include debate in determining when the blessing is appropriate. We also read aggadic material which lends itself to filling out our understanding of the blessing and what it means. The theology of the blessing and the attitude we are intended to take toward misfortune is often derived from analyzing that material which goes beyond legal instruction.

It is against the background of that previous rabbinic material, especially the Mishnah and Bavli, that we now approach the codes. After a brief section from Abudraham, we will focus on Maimonides' Mishneh Torah, the Tur of Jacob ben Asher, and Joseph Caro's Shulchan Aruch. These three legal codes represent a progression, as each depends on its predecessor. I will determine how much material is included from the Babylonian Talmud, and what has been omitted. I will also examine how change in language from the Bavli indicates a change in theological nuance. Ultimately, my goal will be to identify how much the meaning of the blessing remained consistent to what we have read in rabbinic literature, and how much streamlining occurred for the sake of legal clarity.

I Abudraham

In the section of Abudraham Shalem, written in 1340 by David ben Joseph Abudraham, on the laws of the blessing Who is good and does good, Abudraham uses a reference to the Palestinian Talmud to offer what is one of the clearest definitions of when to say Birkat Dayan HaEmet that we have. It reads:

> If his wine turns to vinegar, it says in the Yerushalmi (Brachot 6:3) that one says Blessed is the Judge of Truth, but on grass in his grain or on a female among his children he does not say Blessed is the Judge of Truth in its entirety. It he had important wine and it turned to vinegar, he says on this loss of his, Blessed is the Judge of Truth. But if he finds grass in his grain or a female among his children, the wheat did not turn to grass and the son did not turn into a daughter. For if the Creator did not want to give him all wheat or all males, then he has no reason to say Blessed is the Judge of Truth on that which the Creator did not give him. Rather, (it is said) on that which was given to him and subsequently spoiled or was lost or died.[35]

This final sentence is a fine definition for the blessing. We have seen this sense of the blessing's usage most similarly in the instruction to say Birkat Dayan HaEmet on seeing a person who has acquired a physical condition during the course of their lifetime. The person or thing must have been whole and alive, and then changed status either by altering condition or ending altogether.

II Mishneh Torah

All but one of the instances of Birkat Dayan HaEmet in the Mishneh Torah appear in the Bavli, but often in slightly different form. However, not every instance from the Bavli has been addressed in the

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[35] Abudraham Shalem, p. 347

Mishneh Torah. The one new reference, which I will discuss last, is not a citation of the blessing itself but rather an invocation of God by the appellation Dayan HaEmet.

Reference to the blessing occurs in five halachot of perek ten of Hilchot Brachot. The first is halachah three. It reads:

> On hearing good news, one blesses Blessed are You, Adonai our God, ruler of the world, who is good and does good. On hearing bad news, one blesses Blessed is the Judge of Truth. One is obligated to bless on the bad with goodness of spirit in the manner that one blesses on the good with joy, as it is written, *and you shall love Adonai your God, etc., and with all your strength.* And in this general rule is the additional love in which we are commanded that even at the time the one is given trouble, one acknowledges and praises with joy.[36]

We see quickly that much of the material of the Mishnah has been conflated into this halachah. However, the language of the Mishnah has been altered to significant shift in nuance. Also, Maimonides makes rather explicit his interpretation of the meaning of the Mishnah.

In the statement of the two blessings, Who is good and does good and Blessed is the Judge of Truth, we see two changes from the Mishnah which are worthy of note. First, our problem of difference in language from *besorot* to *shemu'ot* is eliminated. Now both good news and bad news are called *shemu'ah*. If there was a sense in the Mishnah that the way in which one hears good and bad news is different, or that the each type of news is qualitatively different, that sense is gone in Mishneh Torah. The two are now more clearly balanced.

Second, I cannot help but notice that Who is good and does good is printed fully, with Name and Kingship. Blessed is the Judge of

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[36] Mishneh Torah, Hilchot Brachot 10:3.

Truth is printed in its abbreviated form. There may be little significance to this fact, and it may be simply a manuscript or printing issue. In the Mishnah, both were abbreviated. And indeed, further on in this chapter of Mishneh Torah, in one instance the blessing is written our fully, with Name and Kingship. I prefer not to impute any significance to when the blessing appears abbreviated and when written fully. However, we will see that in much of the responsa literature concerning Birkat Dayan HaEmet one of the questions which arises is whether or not the blessing is to be said with or without Name and Kingship.

In the line "One is obligated to bless..." we see a similar text to that which is in Mishnah Brachot 9:5, including the reference to Deuteronomy, with two additions. The language *b'tov nefesh* is the first. I have translated this as "with goodness of spirit." This is new to our discussion. It seems to be an extension of the baraita we read of Rava: "What it really means is that one must receive misfortune with joy."[37] The line continues "...as one blesses on the good, with joy." Maimonides has clearly accepted the suggestion of Rava, and made the commentary part of the instruction itself. I believe this conflation speaks to the inherent question of what it means to say the blessing for misfortune in the same way as the blessing for good fortune. That "same way" is with joy.

But Maimonides has not only included Rava's interpretation as to the attitude one must take when saying Birkat Dayan HaEmet. He has also inserted his own sense that the proper posture is one of "goodness of spirit," which might be taken figuratively, in contemporary

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[37] B. Brachot 60b.

parlance, as fullness of heart. This "goodness of spirit" seems to me to have the sense of "being performed with commitment." This would render Maimonides' instruction as closer to the probable meaning of the Mishnah. One is commanded to bless on that which is bad not with false joy, but with full acceptance of responsibility to do so.

Maimonides also clarifies an ambiguity of the Mishnah, and makes a strong theological statement in halachah four. The text reads:

> If one is reached by (something) good, or if one hears good news, even if it appears that this good will cause him misfortune, he blesses Who is good and does good. So too if he is touched by (something) bad or hears bad news, even though it appears that this bad will cause him good, he blesses Blessed is the Judge of Truth. For one does not bless on what the future will bring, rather on what is happening now.[38]

Maimonides states explicitly the two ways in which misfortune reaches a person, that is, either the misfortune itself of news of it. In the Mishnah, we read both that bad news warranted the Birkat Dayan HaEmet, and also that one was obligated to bless on the bad. Maimonides has placed these two causes in the same sentence and essentially equated them. Additionally, the use of *naga*, touched, in describing the effect of contact with misfortune is interesting. It truly connotes the pervasive power of misfortune to arrive from any direction, and to reach one either by news, direct contact, or by occurrence to another person with whom one has a relationship.

Rambam then states succinctly a profound attitude that we will later see he has expounded upon in his commentary to the Mishnah. One responds to a situation with the blessing most clearly appropriate

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[38] Mishneh Torah, Hilchot Brachot 10:4

to the immediate circumstance. The whole discussion of how we respond to good and bad in our lives rests very heavily on knowing what is good or bad for us in the first place. We have all experienced the unfolding of life, that our most profound provocation to change for good came from a source not inherently good in itself. And of course, the converse can as readily obtain. In the balance to react in the moment or to place events in a longer perspective, Rambam advocates a response which is true to the immediate reality, as well as we can determine what that is. Underneath this declaration is the example from the Bavli of the flood which eventually will bring productivity, but is initially destructive, and that of money which is found but will later be revoked.[39]

From a statement that being touched by misfortune warrants saying the blessing, we come to a prime example of such misfortune:

> They said to him, his father dies and he inherits him. If he has brothers, he blesses first the Judge of Truth and afterwards Who is good and does good. If he has no brothers, he blesses Who sustains us (*sh'hechianu*). The essence of the matter is that for everything which is beneficial to him and to others, he blesses Who is good and does good. And for that which benefits him alone, he blesses Who sustains us.[40]

This is essentially a retelling of the section from the Bavli, without any change in nuance. It is worthy no note that in the list of references to the Birkat Dayan HaEmet in Mishneh Torah, which does not include all of those which appeared in the Bavli, we have at least one example of the blessing being said on hearing of a death.

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39 B. Brachot 60a.

40 Mishneh Torah, Hilchot Brachot 10:7

Of those references to Birkat Dayan HaEmet in the Babylonian Talmud, one of the most enigmatic is carried forward into the Mishneh Torah. We read:

> One who sees the Jewish houses inhabited blesses Blessed are You Adonai our God, ruler of the world, who establishes the boundary of the widow. Uninhabited, one says Blessed is the Judge of Truth. One who sees Jewish graves blesses Blessed are You Adonai our God, ruler of the world who formed you in judgment and judged you in judgment, supported you in judgment and caused you to die in judgment, and who in the future will raise you in judgment to life in the world to come. Blessed are You Adonai, who restores the dead.

Whereas in the Babylonian Talmud we also read Biblical verses to recite on seeing non-Jewish houses inhabited or empty, here we are concerned only with Jewish houses. The blessings and instructions to them are essentially the same as that which we saw in the Bavli. I am interested in two issues which leave these parallel instructions imbalanced. The first again returns us the question of Name and Kingship. While it is certainly typical in rabbinic and halachic literature for a shortened form to stand for the formal text, here we see the first blessing written fully and the second shortened.

The second issue is the different language used to instruct each. For the full blessing formula, on seeing inhabited houses, one is instructed "to bless." On seeing an empty house, one is told to "say" Blessed is the Judge of Truth. Based on these two distinctions taken together, I have the sense of some development toward the utterance of "Blessed is the Judge of Truth" as a personal reaction but perhaps not a full blessing. We will discuss this issue again when investigating responsa literature.

The second half of this halachah, the blessing on seeing Jewish graves, provides an excellent example of the streamlining of the legal codes from the Talmud. In the Babylonian Talmud, between the instructions to blessing on occupied and empty houses and the blessing for Jewish graves, we read a lengthy aggadic passage which enlivened the issue of abandoned Jewish houses and raised their significance by metaphoric comparison to the destroyed Temple. Now the cosmic resonance is gone. The sense of the widow either as the Temple or in any other connotation is not addressed.

The text of the blessing for seeing Jewish graves itself has changed a bit from its Bavli formula. "Fed you in judgment" has become "judged you in judgment," based on what seems to me an easy scribal error changing a *zayin* to a *dalet* and therefore making *zan* into *dan*. The "gathered you in" has become "caused you to die," which carries the same meaning but loses some of the Bavli's gentler quality in the face of death. Restoration to life was alluded to in the Babylonian Talmud, but now is made explicit and we are told that this will take place in the world to come. Finally, Maimonides has formed a proper *chatimah* for the blessing, whereas in the Bavli, the phrase Blessed are You, Who restores the dead appeared in another baraita a bit further on, not adjacent to the longer blessing formula.

We see the final appearance of Birkat Dayan HaEmet in Mishneh Torah in the context of how to respond to people with acquired physical conditions. Here, significant change has been made from the language of the Talmud:

> The one who sees a black person or one with a startling type of face or of limbs, blesses Blessed are You, Adonai our God, ruler of the world, who creates different types of creation. One who

> sees a blind person or an amputee or one afflicted with boils or people with white spots coming out of them blesses Blessed are You, Adonai our God, ruler of the world, the Judge of Truth. If they were born thus from out of their mothers, one blesses Who creates different types of creation. The one who sees the elephant or the monkey says Blessed is the One who creates different types of creation.[41]

We see that for the most part the individual listing of conditions which fall into either category, congenital or acquired, is omitted. "Type of face or of limbs" stands in as a rubric for several particular conditions of which we read in the Talmud. We see that the Bavli formulation of the argument of which category the pock-marked person is in is not carried forward. Also, Maimonides here establishes a general rule which we were previously compelled to determine for ourselves when reading the Bavli. That rule is that when one's condition is from birth, Who creates different types of creation is appropriate.

In contrast, Maimonides does not make a similar general ruling for Birkat Dayan HaEmet. Such a statement might have contributed to our investigation of how misfortune can be understood as God's judgment on us. Why is a limiting condition from birth thought of as diversity, but a similar acquired condition considered God's judgment? It seems that change is essential. It is far more likely for people to lament that which changed course for the worse than for limits to have been built in from the inception. We will read more definitive statement of this theology by Abudraham later. A fully developed image of the future usually must be abandoned when misfortune creates a new limitation.

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[41] Ibid., 10:12

This halachah also provides the only appearance in Mishneh Torah of Birkat Dayan HaEmet written out fully. While I do believe that in other instances the abbreviated form is intended to be understood as the full blessing itself, the appearance of the blessing in full at least this one time provides defense of this position. I cannot speculate on why the blessing appears in full here and not elsewhere in Mishneh Torah. The decision may have been Rambam's, but more likely this is a printing issue.

Finally, the only other appearance of the phrase "Dayan HaEmet" is not as part of a blessing formula, but rather an appellation for God when acting in the role of judge of the sins of humanity. We read:

> It is possible that a person may commit a great sin, or many sins, so that he is given judgment before the Judge of Truth, so that punishment for this is given to the sinner for these sins which he did willingly and with knowledge...[42]

We have not seen, until now, the phrase Judge of Truth used as an appellation for God outside of occurrences of the blessing. It seems that the blessing had, by this time, become sufficiently familiar as to be used in providing an appellation for God outside the context of the blessing itself. God here is clearly the one who weighs our sins and punishes accordingly. In our discussion of the Talmud and elsewhere we noted that our misfortune is only occasionally called punishment. There is certainly more ambiguity as to the source of bad news and misfortune in our lives in rabbinic theology. However, there is a dominant sense of God as both judging us and acting in response. Reward and punishment does not occur in the next world alone, and in

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42 Mishneh Torah, Hilchot Tshuvah 6:3

this statement in Mishneh Torah we see the Judge of Truth judging quite actively in a human life.

Nearly all of the references to Birkat Dayan HaEmet from the Babylonian Talmud have been dealt with in the Mishneh Torah, some to significant alteration and some only minimally. The debate over whether to replace Who is good and does good with the Judge of Truth in the grace after meals at the home of mourner is not dealt with in Mishneh Torah. The debate over saying Birkat Dayan HaEmet on the waning moon is also absent. Also absent is the statement that there will be no Birkat Dayan HaEmet in the next world.

What we see overall is a reduction to the legal essentials. All debates in the Bavli which provided deep sense of the context for the blessing but did not result in law as when to say it are not conveyed into the Mishneh Torah. Also missing, of course, is all of the aggadic material which so fleshed out the meaning of the limited statements of law.

The most significant innovation in the Mishneh Torah for our purposes is calling God the Judge of Truth as God judges the sins of people and punishes them. We also have instruction to bless on misfortune with a "goodness of spirit," and a clearer sense that both bad news and actual misfortune warrant the blessing. The possibility has emerged that some situations call for the formula to be said without Name and Kingship, but I do not think this is the correct analysis. As in the Bavli, only a minority of occurrences of the Birkat Dayan HaEmet make reference to death. Maimonides' attitude presents itself most directly in his instruction to bless on things as

they appear initially, helping us in our determination of how we can tell if something is for the good or for the bad.

III Tur and Shulchan Aruch

The Tur has more references to Birkat Dayan HaEmet than does the Shulchan Aruch, and the Shulchan Aruch provides only minimal change from the Tur. Therefore, I will focus in this section mainly on citation from the Tur, and describe either overlap with or distinction from the Shulchan Aruch. I will be comparing the Tur and Shulchan Aruch material with the Talmud and Mishneh Torah, again to determine how much development of ideas has transpired.

Proceeding through Orach Chaim, the first reference to the blessing in the Tur returns us to a debate and a long blessing formula from the Bavli which was omitted in the Mishneh Torah and also will not appear in the Shulchan Aruch. This is the debate over whether to replace Who is good and does good with Blessed is the Judge of Truth in the grace after meals at the home of a mourner. We read:

> What is said at the house of a mourner? Who is good and does good. Rabbi Akiva says to add to it the Judge of Truth. Mar Zutra visited the house of Rav Ashi who had suffered a loss. He began, Blessed are You Adonai, the living God who is good and does good, God of truth and judge of truth, who judges righteousness, takes souls with justice and rules His world to do with it as he wills for all his ways are justice and we are his servants and his people, and in everything we are obligated to acknowledge Him and bless Him. He who closes the breaches will close this breach from upon us and upon this mourner for life and peace, etc. And the Master of Laws and therefore Rav Alfasi wrote that one does not say 'takes souls in justice' because it says in perek "in what animal" there is death without sin.[43]

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[43] Tur, Orach Chaim, siman 189

A debate from the Talmud, addressed by the stam, is resolved fully here. In the Bavli, Rabbi Akiva had advocated saying Birkat Dayan HaEmet in what appeared to be replacement of Who is good and does good. The stam indicated that both should be said, and then Mar Zutra's formulation included both elements. Here, we find the language that Rabbi Akiva says "to add," meaning that even Akiva understood that Who is good and does good would still be included. Mar Zutra, the stam of the Bavli, and Jacob ben Asher all seem to prefer to straddle the complexity of this situation, in which we thank God for food but do so under the shadow of loss. The compromise solution is one which recognizes all possible responses.

The text of the blessing is essentially the same, with a few alterations. God is now also the living God; what God takes is now made explicit, that is, souls; the specific mourner is referred to; and the prayer for closing the breach is now for peace as well as life. The only change in nuance seems more specific reference to the mourning which is going on.

The most interesting addition to our discussion is the citation of a position of Alfasi. To say that God takes life with justice would be incorrect, for there is death without sin. This would imply that taking life with justice means that death is a punishment for sin. While previously, in the Talmud and elsewhere, we saw that sometimes misfortune is understood as punishment, here Alfasi takes a firm position against that understanding. Searching for sin worthy of the death of a child, or by extension one million children, is a cruel and futile exercise.

Both the Tur and Shulchan Aruch list the instruction from the Bavli, which was left out of the Mishneh Torah, to say Birkat Dayan HaEmet for Lot's wife:

> The one who sees Lot's wife blesses twice. On his wife one says Blessed are You Adonai our God, ruler of the world, the Judge of Truth, and on Lot one says Blessed are You Adonai our God, ruler of the world, who remembers the righteous.[44]

This is an example of paring down to the halachic minimum. This section provides the legal bottom line and eliminates discussion which made the Bavli version of this material fruitful for understanding the ideas involved.

In one lengthy section of both the Tur and Shulchan Aruch, all of the original material from the Mishnah is incorporated along with some interpretation of the Bavli. It reads:

> On bad news, he says Blessed are You Adonai our God, ruler of the world, Judge of Truth. One is obligated to bless on the misfortune with a complete mind and a willing spirit in the way that one blesses with joy on the good, for the misfortune to servants of God is for their good and their joy, meaning that he receives with love that which God decrees on him. It is found that in accepting this misfortune he worships God and it is a joy for him. Bless on the good, Who is good and does good, even though he fears lest some bad will come of it, as in if he finds something and fears lest the king hear and take all he has, and on misfortune Blessed is the Judge of Truth, even though good may come of it, for example if a flood comes to his field even though after the flood leaves it is good for him to have had his field watered, in any event, now it is bad for him.[45]

While much of this material is familiar, there is some which is new. We now see an effort to prescribe attitude, with the added language that one should bless with a "complete mind and willing spirit." Now we have the sense that the degree to which we can accept

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[44] Tur, Shulchan Aruch, Orach Chaim, siman 218:8

[45] Ibid., siman 222:2

misfortune in our lives with a positive attitude, the more we please God. We are now told that to accept misfortune is to worship God. This is new to our discussion. In the Talmud the extent of clearly positive language in describing how one should receive misfortune was limited to the statement of Rava that we should "receive misfortune with joy."[46] The measure of piety determined by positive attitude now seems to have expanded greatly. This section is a compendium and expansion of all previous material on this concept.

Both Tur and Shulchan Aruch include the instruction to say the blessing when one's father dies:

> One's father dies, bless: The Judge of Truth. If he had money which he is to inherit, if he has brothers who inherit with him, bless Who is good and does good. If he has no brothers and he inherits him, bless Who sustains us.[47]

This is the text of the Tur; the Shulchan Aruch is nearly identical. The only new element of note is that now the Birkat Dayan HaEmet is separated out to be said for a death. Previously, it was attached to the blessing for inheritance. Now, we have the most explicit statement we have seen that when a person dies one says Birkat Dayan HaEmet.

Both Tur and Shulchan Aruch instruct us to say the blessing the Border of the Widow for inhabited Jewish houses and Judge of Truth for abandoned houses. They also include the appropriate statements for non-Jewish houses in equivalent states. A noteworthy point is in the language of the version in the Shulchan Aruch, which makes an inclusion not in the Tur:

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[46] B. Brachot 60b

[47] Tur, Shulchan Aruch, Orach Chaim, siman 223:2

> On seeing the houses of Israel inhabited, *for example the inhabited Second Temple*, one says...[48]

The understanding of an inhabited Jewish house as the reestablished Temple is certainly new. However, as we recall, the broader section in the Bavli included an aggadic passage which alluded to the destruction of the Temple. We also discussed the potential metaphor of the widow applying to the Temple.

The essence of the section we have seen distinguishing congenital and acquired conditions remains the same, but we have a new statement of definition. After a long list of conditions, reinstated from the Talmud after having been summarized by Rambam in the Mishneh Torah, we read:

> If he is that way from his mother, bless Who makes different types of creation. And if he changed afterward, bless Blessed it the Judge of Truth. And the Rabad wrote; the one on whom it is painful to look is similar to good creations on whom it is pleasing to look, and wrote further that one only blesses the first time after he has undergone a great change, according to what I wrote earlier, bless once every thirty days.[49]

The understanding which was implied in the Talmud and Mishneh Torah, that for those who have changed during the course of life one is to say to the Birkat Dayan HaEmet, is here stated. Moreover, the Tur and Shulchan Aruch include the comment of the Rabad, who raises an interesting issue. On seeing one who has suffered an accident or the onset of disease and been permanently affected, does one say Birkat Dayan HaEmet only once? Is the judgment ongoing? Rabad seems to believe that repetition is appropriate. I understand this to mean that as the affliction

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[48] Ibid., siman 224:10

[49] Ibid., siman 225:9

continues, so to do we continue to recognize the ongoing force of the judgment made on such a person by God. This is the sense of repeatedly blessing up to once every thirty days.

These references conclude the appearance of Birkat Dayan HaEmet in the Shulchan Aruch, but two more are found in the Tur. The first pertains to reading on Tisha B'Av. I suspect the reading is Lamentations, but it may be the Torah:

> ...and the reader on Tisha B'Av says Blessed is the Judge of Truth.[50]

Whether for reading Torah or Lamentations, this use of Birkat Dayan HaEmet is profound. On the day which symbolizes the total of our worst tragedies, how appropriate to offer the blessing which acknowledges God as the force behind tragedy as well as benefit. While God's volition in our national suffering certainly presents serious theological challenge, saying Birkat Dayan HaEmet on Tisha B'Av compels us to face that challenge. Moreover, Tisha B'Av is not a day which represents simply death, but tragedy, despair, and for some, punishment. If one is of the theology to believe that "for our sins were we expelled from our land" then Birkat Dayan HaEmet on Tisha B'Av acknowledges God's making the judgment to expel, and acting on it. Even if one holds a less fundamentalist theology, to believe that God has some hand in misfortune requires confronting how this disturbing reality holds, especially on such days as Tisha B'Av.

The final mention of the blessing in the Tur offers that the Birkat Dayan HaEmet may be said at the cemetery in place of the longer formula of Justification of the Decree (*tziduk hadin*). The shortened

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50 Tur, Orach Chaim, siman 559

form will relieve one of duty of saying the longer version. This is an example of the move to practical use of the blessing in connection with death.

We see a return in the Tur to some issues of the Talmud which were neglected in the Mishneh Torah, including the formula for inclusion of Dayan HaEmet in the grace after meals at the home of a mourner and the instruction to the blessing on seeing Lot's wife. We see continued movement in the codes to encouraging a positive attitude when recognizing God's decisions for us. The language "one is obligated to bless on misfortune with a complete mind and willing spirit as one blesses with joy on the good..." goes further still than the Mishneh Torah in the direction of prescribing attitude to blessing on misfortune.

The insertion of a comment by Rav Alfasi that "there is death without sin" is certainly an innovation for our discussion of Birkat Dayan HaEmet. While misfortune is not always understood as God's punishment, it is certainly a position found in the sources. Perhaps Rav Alfasi's comment can help the liberal reader understand God as the one who takes souls but whose decision does not necessarily indicate punishment.

Ultimately, the Tur and Shulchan Aruch are more similar to than different from the Mishneh Torah. The Mishneh Torah offered more explicit statement of philosophy of its material. All three codes represent a streamlining from the lengthy discussion, debate and aggadah of the Talmud. They maintain a balance between death and other tragedy as a provocation to saying the Birkat Dayan HaEmet.

These, our main halachic sources, encourage saying the blessing for the same broad scope of experiences as did the Talmud.

Chapter Five

Medieval Commentary to the Mishnah

As we saw in the first chapter, the beginning of our investigation into Birkat Dayan HaEmet begins with the Mishnah. The three mishnayot which are relevant to our discussion are from chapter 9 of Masechet Brachot. I offered some preliminary analysis of these three sections earlier, but we are fortunate to have more extensive interpretation by medieval commentators to the Mishnah. The primary commentators are Maimonides, writing in the twelfth century; Ovadia Bartinora, writing in the late fifteenth and early sixteenth centuries; and Yom Tov Lipmann Heller, writing in the seventeenth century. Other commentators I will cite are Shlomo Adeni, the Malechet Shlomo, who wrote in the early seventeenth century; Chaim Ibn Atar, the Rishon L'tzion, who wrote in the early eighteenth century; Elijah ben Solomon Zalman, the Vilna Gaon, who wrote in the late eighteenth century; and Tosefot Anshei Shem, who I was unable to identify. I will first list the three mishnayot again here, and then provide and discuss the opinions of the commentators.

1. From Brachot 9:2, at its end:

> ... For rain, and for the good tidings - say "Blessed is the Good and Doer of good"; and for bad news say "Blessed is the Judge of Truth."

2. From Brachot 9:3, in the middle:

> ... Say a blessing on the bad similar to that which is said on the good, and say a blessing on the good similar to that which is said on the bad...

(or alternatively) ... Bless on the evil which entails good (consequence) and bless on the good which entails evil (consequence).[51]

3. From Brachot 9:5, from the beginning:

A person is required to bless on the bad as he blesses on the good, as it is written, "And you shall love Adonai your God with all your heart, with all your soul and with all your strength." "With all your heart" - with both of your inclinations, the good inclination and the bad inclination; "with all your soul" - even if He takes your soul; "with all your strength" - with all your money. An additional interpretation: "With all your strength" - with each and every measure that He measures you, acknowledge Him greatly.

Interestingly enough, the first of these three mishnayot is the least commented upon by the classical commentators. Neither Bartinora, Yom Tov Lipmann Heller, nor Maimonides offers explanation of the very line which includes the only formulation of the blessing itself in the Mishnah. However, all three sections are linked by the commentators. All three are understood to be dealing with the same concept and the use of the Birkat Dayan HaEmet.

One of very few comments made on the first mishnah deals with the change in language from *besorot* for good to *shemu'ot* for bad. The Vilna Gaon explains that:

Bad news is not told - the recipient 'hears' incidentally, hence the word *shemu'ah* is used. *Besorot* on the other hand has the connotation of 'giving over' - transmitting. This is used for good tidings, since it is mandatory to transmit good tidings to the person involved.[52]

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[51] Avner Tomaschoff, ed., Berakhot: With a Commentary by Rabbi Pinhas Kehati. Jerusalem: Department for Torah Education and Culture in the Diaspora of the World Zionist Organization, 1977. p. 150.

[52] Ibid., p. 148.

Surely there is significance to the different language used for good and bad news. They are not to be considered equivalent, and the Vilna Gaon detects this. Both mishnayot seem to require responding to both good and bad with equal attention. By the use of different words, we must presume the Mishnah implies different nuance. Perhaps the more human side is indicated, that one is loathe either to bear or receive bad news and does so only grudgingly, as opposed to good news, which it is mandatory to transmit. I do not think a clear hierarchy of importance of the role of good and bad in our lives or theology is indicated.

For the second mishnah of the three, the issue of translation is significant. The word *mei'ein* may mean from the perspective of, or it may be taken as either of the two translations I listed above. One position is indicated in the comments of Bartinora, Tosafot Yom Tov (Lipmann Heller) and Maimonides. Bartinora offers the understanding of good which contains within it the potential for bad, and vice versa. He cites the latter half of this gemara:

> Over evil a blessing is said, etc. How is this to be understood? - For instance, if his land is flooded. Although it is [eventually] a good thing for him, because his land is covered with minerals and becomes fertile, nevertheless for the time being it is bad.
> And over good, etc. How can we understand this? - If for instance he found something valuable. Although this may [eventually] be bad for him, because if the king hears of it he will take it from him, nevertheless for the time being it is good.[53]

Bartinora in fact intensifies the extremes of good and bad in his retelling of this parable, saying that when the king hears of the found item he will beat and punish the one who has found and withheld it.

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[53] B. Brachot 60a

Tosafot Yom Tov then cites Bartinora's reference to the Talmudic passage. Yom Tov Heller then attributes an understanding of the passage to Maimonides, which is that because it is often impossible to be without doubt as to the outcome of something one finds, one should respond appropriately for the initial moment. On finding something, one should rejoice. There is no event which has an absolutely assured outcome. This is a position which advocates a shorter-term, present moment outlook on life. We inhabit only the moment in which we find ourselves, and it is impossible to know the future. If we are concerned with saying blessings to sanctify all news which reaches us and all events which involve us, we must be concerned only with what we experience at the moment. This is the text of Rambam's commentary:

> As it is said, On the bad in the same fashion as the good, and on the good in the same fashion as the bad:
> That is to say that if trouble came upon him, even if in the end it is good, bless Blessed is the Judge of Truth, for that is "in the same fashion as the bad." So too if good comes upon him, even if in the end it is bad, bless Blessed is the Good who does Good, for that is "in the same fashion as the good." An example of the first case, it is like a flood which covers his field, indeed this is bad, even though in the end it is good, for it soaks (fertilizes) his land, and maybe even this same flood will make his land profitable. An example of the second case is like one who finds money, and is seen after he takes it, indeed this is good, even if in the end it is bad because the same man who saw him reports him to the king and the king oppresses him by demanding of him more money than he found. The reason for the ruling is that things as they are cannot have their existence in doubt, and therefore one should bless on what exists now and not look to the end because that same end is possible, and it is enough for him to leave that eventuality in the realm of possibility.[54]

This attitude, of addressing things as they are at the moment one experiences them, offers a different perspective than that which

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54. Maimonides' Commentary to the Mishnah, Brachot 9:3.

Maimonides himself writes in his commentary on the third mishnah we deal with. I will include the text of his commentary to the third mishnah here, and then examine the potential difference and overlap between the two sections of commentary. The commentary reads:

> It says: "Just as he blesses on the good," that is to say that he will receive them with joy and subdue his feelings and settle his mind as he blesses Blessed is the Judge of Truth, until he appears as at the time when he blesses Blessed is the Good who Does Good, as the sages say in many of their matters, "All that which is sent from Heaven is for the good."
> This is a rational thing for the intelligent, even though it was not indicated in the Torah, for many things are thought of for ill at their beginnings and their end brings great good, and many things are thought of at first for good, and their end is very bad. Therefore, it is not fitting for the prudent to grieve at the onset of great ill and a decree engendering danger, for one does not know the outcome.
> Also, he should not be seduced and make a great celebration when what seems to him to be good arrives, for one does not know the outcome. Therefore the Peace (God) forbade them to make much celebration and laughter, unless this was celebrating an exalted matter, like the doing of good and its way.
> But the caution from disappointment and despair is very well known in the words of the prophets, such that there is no need to speak about it. With all this, if the person was not immersed in good from beginning to end and the observer would think that he is very rich, and that very seeming happiness becomes the reason to withhold from him the true happiness and will be the reason to deny him life in the world to come. For this reason it is said there is a straight path before a man and its end is the ways of death.
> Therefore, one inclines his thoughts and requests from God that all that which happens to him in this world, both that which is to his good and this which is to his ill, is the cause for obtaining the true happiness. And it is said "with the good inclination and the evil inclination," which is to say, that he shall place in his heart love of God and faith in Him even at the moment of rebellion, anger and rage, for all of this is the evil inclination, as they said "in all your ways acknowledge Him" even in a sinful thing. The explanation of "measure", a path, is to say from which position will come his praise and his thanks.[55]

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[55] Ibid., Brachot 9:5.

The two sections of Maimonides' commentary seem to deal with the same issue from two distinct angles. In the first, it seemed that Rambam's agenda was to not be distracted by the limitless possibility of life when considering the significance of events. One can only know what one experiences now. A shorter perspective is advocated. In the second section, it seems a longer perspective is now recommended. One is advised to keep in mind at all times that one cannot know the outcome of events. In advocating a longer view of life unfolding, one is not to as fully embrace the emotions or responses of the moment. One ought not celebrate too vigorously or lament too much.

This longer perspective does not negate the determination he made earlier of when to say Blessed is the Judge of Truth and when to say Blessed is the Good who does Good. But it certainly takes the theological sting off of each blessing. Rambam's determination of when to say each blessing now seems quite pragmatic. The theology which emerges as most persuasive is that of "All that which is sent from Heaven is for the good." With all that happens to a person, both good and bad, and all that a person does, both from good and evil inclinations, can be a method of achieving insight and, ultimately, reward.

This theology seems to encourage maintaining an attitude of equanimity in all things. Anything good is only part of a larger picture, as is anything bad. One is not to become too involved in a response to any event, for it is minimal when approached with the longer view of life. This is certainly one of our repeating issues which arise in analyzing the Birkat Dayan HaEmet: whether to respond to ill which befalls us fully for its meaning when it occurs, or whether to

immediately place it in the long context of a whole life and beyond. Maimonides examines both positions, but ultimately advocates the latter.

The short version of such a theology is cited by several classical commentators. Their recommendation requires an even more positive attitude than that of Maimonides. Bartinora, Tosafot Yom Tov, Malechet Shlomo, Tosafot Anshei Shem and Rishon L'tzion all include an explanation of the line from Mishnah Brachot 9:5 "One is obligated to bless on the evil just as one blesses on the good" in a form similar to this:

> When one blesses "Blessed is the Judge of Truth" on the bad, one must bless with joy and a good heart just as one blesses with joy "The Good who does Good" on the good.[56]

Malechet Shlomo goes further and cites a passage from Talmud to substantiate this position. In the gemara which expands on the mishnah "One is obligated to bless..." we read:

> What is meant by being bound to bless for misfortune in the same way as for the good? Shall I say that, just as for good one says the benediction "Who is good and bestows good," so for misfortune one should say the benediction "Who is good and bestows good?" But we have learned: For good tidings one says Who is good and bestows good: For bad news one says, Blessed be the Judge of Truth? - Rava said: What it really means is that one must receive the misfortune with gladness.[57]

This section from gemara offers a slight difference in nuance from that which is often cited by the commentators to the Mishnah. Rava's statement that one must receive bad news with gladness is different from the full heart with which one must say the blessing

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[56] Rabbi Ovadia Bartinora's Commentary to the Mishnah, Brachot 9:5.

[57] B. Brachot 60b.

Birkat Dayan HaEmet. To accept something is different than to verbally acknowledge it.

Another position recurs in commentary to this line. Both Tosafot Yom Tov and Rishon L'tzion offer the understanding that one reason to receive bad news with joy is because all ill which befalls us in our lives will serve to atone for our sins. This is a common traditional attitude toward suffering. We receive credit for all we endure, and will be rewarded for it in the next world. This is certainly puts forward the position of "All that which is sent from Heaven is for the good." Any immediate sense we have of suffering, or even of punishment is eased by a longer perspective, wherein the bad is necessary to balance out the good, and we will be rewarded based on this balance. Bad things which befall us are in fact a fortunate corrective for sins for which we ourselves are responsible.

The Mishnah itself points to our individual responsibility by reminding us of our two inclinations. Not only does God give us both good and ill in our lives, so too do we generate good and bad for the world. We are reminded of the parallel between ourselves and God, and Maimonides highlights this parallel at the end of his commentary to our third mishnah.

Rambam concludes this parallel by commenting on the word "measure," and focusing on the degree to which one should acknowledge God as giver of misfortune. This focus also recurs in commentary to the line of the mishnah "With all your strength - with each and every measure that He measures you, acknowledge him greatly." Bartinora, commenting on "with all your strength" writes: "In every measure from those He measures to you, whether they be

measures of good or measures of punishment."[58] In this we read a deliberate sense that all misfortune which befalls us can be seen as punishment for our own deeds. This removes the randomness we often feel is behind trouble in our lives, and fits with the comments we read earlier suggesting that bad events atone for our sins.

The last part of our third mishnah, the end of 9:5, itself offers the theology of equanimity we discussed earlier. Whether we understand "each and every measure" as many of the commentators, that is, as either for good or for punishment, or simply as the range of experiences we have generally, we are to receive all of them with a similar attitude. That attitude is to "acknowledge Him greatly." The Mishnah here, however, does not require that we understand "everything that is sent to us from Heaven is for the good." Rather, in whichever way we evaluate what is sent to us, we must acknowledge God as the source. In this way, I think the Mishnah is entirely holistic in its understanding God as the source of all, but does not demand that we be necessarily positive in our even-handed response to all that befalls us.

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[58] Bartinora to the Mishnah, Brachot 9:5.

Chapter Six

The Focus on Death:

Responsa Literature and Mourning Manuals

As we move from commentary on Mishnah and legal codes to responsa literature and current manuals for mourning ritual, we see a focus on two issues concerning the recitation of Birkat Dayan HaEmet. First is the connection between the blessing and the rending of clothes upon hearing of a death. The second is when hearing of a death does one say the blessing with or without reference to Name and Kingship, that is, in the full formula of Blessed are You, Adonai our God, ruler of the world, the Judge of Truth, or in the abbreviated form to which it is often referred, Blessed is the Judge of Truth.

At some point in the medieval period, the practice arose of saying the Birkat Dayan HaEmet when rending clothes after a death. The practice of rending clothes on hearing of a death, cited in the Bible[59], has been coupled with the blessing for hearing of bad news, including death. Often, responsa literature of the late medieval period on Birkat Dayan HaEmet dealt with the appropriate time sequence and manner in which saying the blessing and rending one's clothes would occur. Such an example is this from Sefer Chaim Sha'al, the responsa of Chaim Ezekiel ben David Azulai, prominent Sephardi rabbi of Israel and Europe in the 18th century:

> After the ensuing confusion, he forgot to rend for his dead, and two or three days passed, and then he remembered... And it seems to me that he should not bless Dayan HaEmet with Name and Kingship, as indicated by the custom that if one doesn't rend

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[59] Gen. 37:34, I Sam. 31:13, and elsewhere.

at the (appropriate) time for rending, then it is abbreviated... If one hasn't rent at that particular time (right after learning of the death), then one should rend whenever one remembers to, even after burial, for a specific hour was not fixed (for rending).[60]

Two questions arise in this section of responsum which typify those asked elsewhere. The first is when can rending be performed, and the second is does the time when rending occurs affect whether Birkat Dayan HaEmet is said with Name and Kingship.

The range of questions also arise in manuals for following the laws of the mourning process. In one particularly comprehensive and authoritative volume written in Hebrew in the United States in this century, we find the following section:

> In Tractate Brachot 59, "His father dies and he inherits him, first he blesses The Judge of Truth. Wise teachers instructed to say this blessing at the moment of rending (Birkei Yosef, Yoreh Deah 340), and it indeed says there just "his father dies" and despite this one says the blessing for any of the relatives for whom one mourns, and for a great person of the generation (Yosef Ometz, siman 430) as they were determined in the rule of bad news upon which one blesses (Brachot 54). And from there we learn that on all the rest of the people to whom one is connected, one blesses, as was determined by Magen Avraham, siman 223, "And He is the Judge of all the rest of the people, and also the great one of the generation, in the rule of bad news. And the world is accustomed to saying it without Name and Kingship, and they are wrong." And in Turei Zahav to the same citation, "For anyone whose death causes one pain, and also for an important person who dies, of course one should bless with Name and Kingship." Also in Shiurei K'nesset HaG'dolah, "Most of the people are accustomed to saying Blessed is the Judge of Truth without Name and Kingship because they are in error, however, because this is their custom, there is (reason for) saying it without Name and Kingship." Based on this, for the seven relatives for whom one mourns one blesses with Name and Kingship, but not on the rest of those who die.[61]

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60 Sh'elot Utshuvot Chaim Sha'al, vol. 2, siman 38, dibur hamatchil: u'm"sh behagah'

61 Greenwald, Ezekiel Judah, Kol Bo Al Avelut. New York: Phillip Feldheim, Inc., 1965. p. 27.

We find the position here that originally, there was no intention of the blessing being said without Name and Kingship. However, because the custom became so prevalent to do so, this author has determined that such behavior is appropriate for people outside of the traditional category of seven relatives for whom one officially is a mourner. It would be just as easy, it seems to me, to interpret the sources cited by Rabbi Greenwald to a different end. At the very least, argumentation is found in the sources to say the full formula of the blessing for anyone whose death causes one pain. However, one must determine whether or not to apply the Mishnah instruction to saying Birkat Dayan HaEmet for bad news applies to the news of anyone's death, and whether one has fulfilled one's legal duty by saying only the abbreviated form of the blessing. Fortunately for liberal Jews, we can read the sources and make such a decision on an individual basis.

The modern authority who addresses the questions of attaching Birkat Dayan HaEmet to rending clothes and of whether to bless with Name and Kingship is the former Israeli Chief Sephardic rabbi Ovadiah Yosef, in his responsa Yabia Omer. He writes, in part:

> I was asked: Does the mourner bless Blessed is the Judge of Truth with Name and Kingship at the time of rending, or is it more correct to say it without Name and Kingship? And, can one delay rending until after burial?
> On bad news one says Blessed is the Judge of Truth. All the *tosafot* and all the *poskim* say one must bless with Name and Kingship.[62]

Here, has taken a firm stand on the use of Name and Kingship in the blessing. He also goes on to remind us that Rav and R. Yochanan are together recorded as requiring both Name and Kingship (Rav

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62 Yavi Omer, Yorei De'ah, siman 23

requiring the first, and R. Yochanan the latter) to make a blessing legitimate.[63]

Yosef goes on to cite earlier authorities who indicate that one does not say Birkat Dayan HaEmet just for one's father, but for all relatives and indeed, for anyone for whom one grieves. He also vigorously reminds us that the moment at which one rends clothes is not a determining factor in whether or not to say the blessing:

> It is apparent and clear that one blesses immediately the blessing "Blessed are You Adonai our God, ruler of the world, Judge of Truth" with Name and Kingship on the day of death, and if one didn't bless before burial, one blesses immediately after burial. And if the day of burial has passed and one hasn't blessed, one is not permitted to bless at the time of rending which is rent at the conclusion of a festival, for it is very simple that there is no real connection or relationship between this blessing and rending, and it is just a blessing on bad news, to receive God's judgment, blessed be He, in love.[64]

Yosef reminds us that the command to say Birkat Dayan HaEmet is based on bad news of the death, and not on rending one's clothes. Elsewhere in his responsa he indicates that the blessing was connected to rending simply to remind people to say it. My sense, based on the degree of different opinions, only accentuated in modern sources, is that this is a case of a custom developing from the ground up. That is, I suspect the custom simply arose to join the two practices of rending and Birkat Dayan HaEmet after a death, and the rabbinic authorities could only comment after the fact.

The prevalence of these issues in responsa literature and recurrence in guides to mourning practice indicates the special attachment Birkat Dayan HaEmet came to have to death. Surely in the

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[63] B. Brachot 40b

[64] Yavi Omer, vol. 4, Yorei De'ah, siman 25, dibur hamatchil 4. "L'inyan"

minds of most Jews familiar with the blessing, death is the appropriate time to say it. We saw that in earlier sources, death was only one among many misfortunes for which one should say the blessing. By the modern period, death has become the primary association with this blessing.

Conclusion

In our investigation of Birkat Dayan HaEmet, we have traced the usage of and commentary on a striking blessing. Its textual origin, in the Mishnah, established potentially wide application for the blessing. No less broad are the theological implications of recognizing God formally as the deliverer of misfortune and the ultimate judge. In rabbinic and medieval literature we saw the potential for broad application fulfilled. Misfortune was as minor as wine turned to vinegar and as cosmic as the desolation of Zion. In medieval and modern responsa the primary function of the blessing came to mark hearing of a death, and it came to be attached to the action of rending one's clothes.

In the Talmud, we see less unification of theology in responding to misfortune than in later literature. Aggadic material gives us the window onto the process of formulating a theological response. Tragedy and trouble might be understood as specific judgment for our sins, or as a natural part of an unfathomable but necessary system. We see the rabbi's awareness of our tension in responding to misfortune. We must acknowledge God as the source of both good and bad to be honest about God's unity. But the rabbis also recognize that the natural human response is usually not as quick or as clear as the prescribed instantaneous acknowledgment.

The medieval codes and commentaries show a move to a greater sense of misfortune as punishment for sin. They also demonstrate the sense that piety can be measured in willingness to accept God's judgment, which comes in the form of misfortune. This attitude had

been present in the Babylonian Talmud, but became central in the medieval literature.

Responsa literature from the medieval and modern periods, as well as manuals on mourning ritual, indicate the concern of whether to say Birkat Dayan HaEmet with Name and Kingship, and why it is said when rending clothes. It seems natural to me that a focus should present itself on the most practical application of the blessing. Jews, especially traditional ones, are usually more concerned with performing duties correctly than in seeking theological implication of those actions.

But this focus on a very practical aspect of the blessing does not mean that is the extent of its significance to Jews today. I would be fascinated by a study of usage of the blessing today by traditional and liberal Jews. Do Jews still find appropriate all of the occasions the blessing is called for in the Talmud and codes ? What are some new ones? For many liberal Jews the greatest question might be, in what ways can we still call God the ultimate Judge of our lives in light of the sense so many of us have that we are not punished directly in this life for our sins?

My own course is to struggle to live with a healthy dose of mystery and acceptance of that which I do not understand. I must hold God accountable for my own and the world's troubles and even respond with anger. I also sense that God provides ultimate meaning in my life, both to my accomplishments and my travail. God makes final determination on what is right and also on what has meaning. In this unspecific way, God can for me be the Judge of Truth.

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