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HUTZPA K'LAPEI SHAMAYA:

The Tradition of Arguing with God

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Thesis submitted in partial fulfillment of the
requirements for Ordination

Hebrew Union College- Jewish Institute of Religion
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Referee, Professor Jakob J. Petuchowski

DIGEST

This thesis examines the law-court pattern of prayer in both Biblical and Rabbinic literature. After establishing a common pattern and setting down the major features of the outlook underlying the use of the law-court pattern (ch. 1), we then proceed to study the law-court pattern in the Bible (ch. 2). The law-court pattern is used on those occasions when Biblical figures petition for divine intervention in their lives, or appeal to God to alter His decree. In the third chapter, we turn to study the use of the law-court pattern in the rabbinic aggada. Paralleling every law-court usage, or hint of usage, in the Torah, stands a rabbinic law-court argument set in the mouth of the Biblical figure. The rabbis broaden the scope of the arguments of Abraham, Moses, and others, to address, in addition to their original subjects, the issues of the rabbis' own day. This function of the law-court pattern was also observed in the Bible. In both the Biblical and Rabbinic law-court arguments, the pattern serves a polemical and didactic function, refuting the claims of an opponent religion (be it Zoroastrianism, Gnosticism, or Christianity) while advancing its own doctrines and teachings. We trace this two-fold function primarily through the law-court arguments of Abraham and Moses. The rabbis also use law-court arguments set in the mouths of Biblical figures -- Cain, Moses, Hannah -- to protest against the human condition. In the fourth chapter, we consider the law-court arguments against the Exile. Here we observe the pattern in all its glory as it responds to the Christian and Gnostic attacks on Judaism while teaching the "true" meaning of the Exile and/or offering

the people a message of consolation. In the fifth chapter we examine the personal use of the law-court pattern by the "charismatics," Honi for example, and the rabbis, when they intercede with God on behalf of the people in times of emergency. We observe the tendency of the rabbis to discourage the use of the law-court pattern by non-rabbinic individuals, which we attribute to the rabbis' conflict with Christianity and Gnosticism. The sixth chapter deals with the mishnaic prohibition against praying a law-court "bird's nest" prayer in the Amidah, and suggests that a possible reason for the prohibition may have its origins in the legends concerning Aher. However, beyond this hypothesis, there exists the clear opposition of the rabbis to the use of the law-court pattern in statutory public worship. We observe in the mishnaic prohibition, the slow triumph of Akiba's teachings on the subjects of divine providence and the "proper" "Jewish" attitude towards suffering. The concluding chapter summarizes our observations regarding the use of the law-court pattern in the Biblical and Rabbinic periods, as well as briefly surveying the use and development of the law-court pattern (and the motif of arguing with God) through the centuries to the present day.

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CHAPTER I

THE LAW-COURT PATTERN OF PRAYER

"There are ten expressions for prayer (תפלה), " according to Sifré Deuteronomy, "cry out, cry for help, groan, distress, lamentation, intercession, falling down, praying, entreaty, standing up, placate, and beseech."[1] However, as the text suggests, the most common term for prayer, at least by the time of the Tannaim, was תפלה. Yet to translate תפלה simply as "prayer," is to impart to the word a very different connotation from that which it seems to have originally held. Before we can begin to examine the concept of prayer in its various Biblical and Rabbinic forms, we must first understand the original meaning of the words for "prayer," and the concepts upon which they, in turn, are based.

In the Bible, the root פלל (from which תפלה is derived) serves as a major term for "prayer" along with the hifil form of the root ערר and, less frequently, the Aramaic root כלל. All three words originally were associated with the concept of sacrifice. ערר referred to the offering of a sacrifice to God, התגלל meant to cut oneself, i.e., as a form of self-sacrifice, and כלל expressed roasting. All three meant "prayer" in the sense of one's offering something to God in exchange for which God would grant one's request -- an arrangement based on the principle of quid pro quo, what Ullendorf called "the bargaining spirit of early oriental prayer."[2]

But the root פלל also had a second sense of meaning which is more

significant for this study. Interestingly enough, it too manifests "a bargaining spirit," this time however in a legal, or law-court, context. According to S. Blank, the root פלל also meant "to adjudicate," and its derivatives התפלל and תפילה meant "to defend oneself (or another) before a judge" and "a defense plea" respectively.[3] B. Gemser sees a similar meaning in the root פלל, which according to him means "to arbitrate," while the derivatives of פלל represent judicial activity in general.[4] This second understanding of פלל corresponds to the application of a number of other legal terms to describe various aspects of the divine-human relationship generally subsumed under the category of "prayer." Chief among these is the term "ריב," a legal case or controversy. The imagery of the law-court in fact has had a significant role in the development of the concept of Jewish prayer, for it has given rise to a form of prayer called "the rîb pattern" by Gemser, and "the law-court pattern" by Blank.[5] Not only was this form widely used in the Bible, it was also utilized throughout the tannaitic and amoraic periods in certain private, non-statutory and midrashic prayers of the rabbis. J. Heinemann also has categorized this form of rabbinic prayer as "the law-court pattern" of prayer.[6] Common to both the Biblical and Rabbinic forms of the law-court pattern is the imagery of the courtroom, "in which the petitioner-worshipper addresses God as a judge before whom he presents his case, stating all of the 'facts' in order to 'defend' himself, and concluding with a plea that the Divine Judge may uphold his cause and

vindicate him in judgement."[7] Before proceeding with a more detailed examination of the law-court pattern of prayer, we must briefly consider the source of this form in the ancient Near East, and the adaptation of this form in the Bible.

Biblical prayer shared similarities both in form and concept in common with its pagan neighbours. Gemser, Ullendorf, Heinemann, and Blank, all see in Biblical prayer, specifically in its law-court form or in its use of שדק, common "Semitic" or "early oriental" or "ancient Babylonian" religious notions.[8] But if the Jewish law-court pattern of prayer, as found in the Bible, did derive its form and basic concept from those of its pagan neighbours, it also represented a marked departure from the older pagan models. Gemser and Heinemann have pointed out a number of these crucial differences:

a) that only in the Israelite version of the law-court pattern were complaints and charges able to be brought against God Himself.

b) that the use of the law-court pattern indicates a certain frame of mind which manifests a highly personalized approach to the problem of the individual's and the nation's fate.

c) that the legal controversy between man and God has its basis in an active and personalistic I-Thou relationship between the two, which in turn is based upon a radically monotheistic faith. (In polytheism, objections to one's fate could easily be rationalized by attributing one's misfortune to the power of another god.)

d) that the use of the law-court pattern reveals a decidedly ethical,

normative conception of God and His relationship with humankind based upon the assumption of a divinely-instituted moral order in the world. צדקה, justice, is the name given to this order, and it is the fundamental concept of the Jewish ethico-religious world-view. Only in this context can the individual appeal to God to set things right. That is, it presupposes that there is an order of things to which even God must adhere in His relationship with the individual, the nation, and the world.

e) that the law-court pattern of prayer reveals the non-dogmatic, unsystematic way of thinking in both Biblical and Rabbinic "theology." Everything is ultimately in the hands of God, the Supreme Judge and Ruler, whose judgments are righteous, but unpredictable and inscrutable. God is a "person," not a "system" or an "order," hence an appeal, even an irrational, undeserved and unjustifiable appeal, to God's mercy and righteousness is possible and often even efficacious.[9]

Let us now focus on the law-court pattern of prayer as found in the Bible and in the Rabbinic literature. The law-court pattern is found in three situations: in the human court, in the heavenly court, and in human-divine controversies. The first is straightforward enough not to warrant explanation. The second describes controversies either between God and the angels or, as is often the case in the prophets, controversies between God and Israel, where God summons and accuses Israel of faithlessness and then issues a verdict.[10] The third situation, however, is the concern of this paper. The third usage depicts situations in which an individual (or at times Israel) brings a charge

against God Himself. The appeal is simultaneously against God yet also to God. Thus God, paradoxically, is both judge and defendant. These lawsuits ask God to judge the particular situation, for which He as God is ultimately responsible, on the basis of His own justice.

A number of scholars have seen in this motif a Promethean element.[11] Rarely is such the case. Certainly there is no similarity between the Hebrew stories and Hesiod's story of Prometheus. In the latter, Prometheus is the emissary of mankind to the gods, while the gods, and Zeus in particular, are malevolent figures who harbour hostile intentions towards mankind. The Hebrew stories, on the other hand, begin with the presupposition that God is good and that creation (and the creation of man) is good. Even AEschylus' version of the Prometheus myth does not approach the Hebrew view of the relationship between man and God. Zeus remains a hostile and malevolent force, vehemently opposed to the advancement of humankind. Perhaps the only thread of similarity between AEschylus' Prometheus and the Hebrew heroes lies in Prometheus' unbounded love and devotion to mankind, which leads him to risk everything for their sake. This vaguely corresponds to the righteousness and selflessness of the Hebrew heroes who are also willing to risk their very lives in order to call God to account. But there remains a significant difference though between the Greek and Hebrew figures. Though the Hebrew heroes do confront and challenge God, they do so knowing that God is good, that He is benevolent. Whatever their complaint, the basis of their complaint rests upon

the assumption that God is just and that He rules the world with משפט, with justice. Each story begins with the presupposition of God's justice and concludes with an affirmation of God's justice. The purpose, then, of each story is "that it is a didactic device, designed to spread the truth that God cannot be unjust."[12] This, as we shall see, was a lesson as necessary to affirm in the Rabbinic period as it was in the Biblical period.

Let us now turn to a comparative analysis of the law-court pattern of prayer as found in the Bible and Rabbinic literature. On superficial examination, there seems little agreement amongst scholars as to the components of the law-court pattern of prayer, even though they do agree that such a pattern does exist. However, if each scholar sees in the law-court pattern a different "pattern," then what case can be actually made for the existence of a common form known as the law-court pattern of prayer? If a case for the existence of the law-court pattern of prayer is to be made, then the "patterns" proposed by the various scholars will have to be reconciled.

Gemser and Huffmon focus their studies on the proceedings of the heavenly court rather than on the controversies between man and God. Both develop such detailed analyses of this form that their application to our subject seems all but precluded. The broad outlines of their analyses will, nonetheless, be noted. The law-court pattern, according to Huffmon, is as follows:

1) description of the scene of judgment

1a) summons of heaven and earth as witnesses

2) speech by judge or plaintiff (God)

a) summons to defendant (Israel), reproach and accusation

b) address to defendant, accusation by interrogation, refutation of defendant's arguments, or statement to the effect that defendant has no defense.

c) indictment or pronouncement of guilt

d) sentence [13]

Gemser proposes several variant models which, when synthesized, yield the following pattern:

1) complaint by judge or plaintiff (God)

1a) summons and address to witnesses (heaven and earth)

2) address of accusation to defendant (Israel)

3) Interrogation of Accused

a) accusations

b) refutations of Israel's arguments in its defense

c) justification of God's own activities as being warranted by Israel's behaviour

4) appeal by judge to defendant for a change of conduct in exchange for the mercy of the court

5) final complaint (indictment)

5a) admission of guilt by defendant

6) final verdict [14]

With a glance, we can see a common pattern emerging from the studies

of Huffmon and Gemser involving:

a) address to defendant

b) case of the prosecution (interrogation and presentation of the facts of the case)

c) summary statement by the prosecution

1) indictment

2) verdict

Examining now the law-court pattern of prayer developed by the two scholars who have focused their studies on the realm of the human-divine controversies, we observe more workable patterns and a closer correspondence between their proposed patterns. In an early essay, Blank sees in the "confessions" of Jeremiah a threefold structure to the law-court pattern:

1) a narrative (a recitation of the facts of the case)

2) a plea by the petitioner

3) God's answer and/or an expression of confidence by petitioner [15]

In a later essay, Blank revises his pattern as follows:

1) address to God using His name יהוה, and use of the second person singular pronoun "You"

2) recitation of story, facts, or plight

3) plea in the imperative or by rhetorical questions

3a) expression of confidence in God and in God's justice

4) divine response (not always present) [16]

Heinemann, in his analysis of the rabbinic model of the law-court pattern of prayer, likewise proposes a threefold division:

1) direct address to God as "Master of the Universe" or "Lord of all Worlds"

2) defense or justification of petitioner involving a plea and/or a statement of the facts of the case

3) petition or request

He also suggests two supplementary components:

4) divine acceptance of the petition

5) acknowledgement of divine justice in confessional prayers[17]

The correlation of Blank's and Heinemann's patterns is evident at a glance. But what is the relation of their model to the models of Huffmon and Gemser? Firstly, all see their patterns as part of the law-court pattern of prayer. Secondly, there is a direct correspondence between the two sub-groups, though they describe the court setting from opposite angles. Huffmon and Gemser deal with cases in which God is the judge and plaintiff and prosecuting attorney, while Blank and Heinemann are involved with the description of those cases in which an individual (or Israel) is the plaintiff and God the judge and the accused. With this fact in mind, one can see that the two models are virtually the same. Thus, the uniform pattern for all of them is the following:

a) an address to either God the judge (in human-divine controversies) or to Israel the accused (in the divine court controversies)

b) a presentation of the facts of the case. Either the complaint and petition brought to God in the human-divine controversies, or the complaint and accusations against Israel in the divine court controversies

c) a concluding petition or request made by the individual (or Israel) in the human-divine controversies, or a summarizing statement by God containing (in some cases) an appeal for change of conduct, a specific indictment and/or a verdict

In certain cases a supplementary feature may be present:

d) a divine response to the petition in the human-divine controversies. This element is implicit in the divine-human (i. e., divine court controversies)since God is the final speaker. However,Israel's response to the divine charge may be seen as the parallel of the divine response in the human-divine controversies. Israel responds to the verdict either with repentance or by continuing in its sinful ways.

Throughout this essay, we shall delineate the components of the law-court pattern of prayer according to the format proposed above.

In conclusion, it may be stated that there is such a thing as a law-court pattern of prayer. Furthermore, this pattern , whether used to describe the proceedings of God's controversies with Israel or man's controversies with God, has a single form common to both situations. Having established these two important facts, let us proceed to examine the specific instances where the law-court pattern is used in the

Bible and in Rabbinic literature to describe man's controversies with God.

NOTES TO CHAPTER I

[1] Sifré Devarim, Va'ethannan 3, piska 26, ed. Finkelstein, pp. 39-40. Our text actually provides twelve expressions for "prayer."

[2] Edward Ullendorf, "Thought Categories in the Hebrew Bible," Studies in Rationalism, Judaism and Universalism, ed. R. Loewe, (London: Routledge & Kegan Paul, 1966), p. 279.

[3] Sheldon H. Blank, "The Confessions of Jeremiah and The Meaning of Prayer," HUCA 21 (1948): 337-338, n. 12. See also his work, Jeremiah, Man and Prophet, (Cincinnati: Hebrew Union College Press, 1961), p. 95, pp. 236-239.

[4] Berend Gemser, "The Rîb -- or Controversy -- Pattern in Hebrew Mentality," Vetus Testamentum 3, supplement (1955): 124.

[5] Ibid., 128; Blank, Confessions, 331.

[6] Joseph Heinemann, Prayer in the Talmud: Forms and Patterns, (Berlin &New York: Walter de Gruyter, 1977), p. 193.

[7] Ibid., 193.

[8] Gemser, Rîb Pattern, 126; Ullendorf, Thought Patterns, 279; Heinemann, Prayer in the Talmud, 207; Blank, "The Prophet as Paradigm," Prophetic Thought, (Cincinnati: Hebrew Union College Press, 1977), p. 25.

[9] Gemser, Rîb Pattern, 136-137; Heinemann, Prayer in the Talmud, 208. See also Joseph Heinemann with Jakob J. Petuchowski, eds., Literature of the Synagogue, (New York: Behrman House, Inc., 1975), pp. 1-2, for a more general comparison between ancient Hebrew and ancient Babylonian and Egyptian worship.

[10] For a fuller treatment of God's controversies with Israel, see Gemser, Rîb Pattern, 128-133; and Herbert H. Huffmon, "The Covenant Lawsuit in the Prophets," Journal of Biblical Literature 78, pt. 4 (December 1959): 285-295.

[11] See, for example, Sheldon H. Blank, "Men Against God: The Promethean Element in Biblical Prayer," reprinted from the Journal of Biblical Literature 72, pt. 1 (March 1953), and the sources mentioned therein. Although the designation of Biblical figures is wrong, and this colours the whole development of the article, Blank's work remains a valuable article, which, by its collection of primary sources, pioneered the way for later studies.

[12]Herbert Chanan Brichto, "Images of Man in the Bible," CCAR Journal 17, #4, issue 71 (October 1970): 7. For a development of his opinion that "there are no Promethean utterances in the Bible" see pp. 2-9 of the same article. His assertion is supported, as we have already seen, by Gemser, Rîb Pattern, 136; and Heinemann, Prayer in the Talmud, 208. Although Blank advocates the existence of a Promethean element in Jewish prayer, he nonetheless also confirms the fundamental importance of God's justice, at least with regards to Jeremiah's "confessions," see his Confessions, 331-354; and Men Against God, 8-9.

[13]Huffmon, Covenant Lawsuit, 286.

[14]Gemser is quite unsystematic in establishing the law-court pattern in the prophetic oracles. If anything, it seems more a motif than a formal pattern. See Gemser, Rîb Pattern, 128-133 for his various models of the law-court pattern. One can, however, develop a single pattern from a closer analysis of his examples and a cross-application of his various patterns. Take for example his treatment of Jer. 2:4-4:4; Is. 1:2-31; and Is. 57:3-13. Each oracle has a similar, but not identical, pattern. If synthesized, we see the following pattern:

1) complaint -- Jer. 2:4-8; Is. 1:2b-4; _____.
1a) summons and address to witnesses -- Jer. 2:12-13; Is. 1:2a-4; _____.
2) address of accusation --Jer. 2:9-11; Is. 1:5-9;) Is. 57:3-13a.
3) interrogation -- Jer. 2:14-3:10; Is. 1:10-15;)
4) appeal by judge -- Jer. 3:11-18; Is. 1:16-20; Is. 57:13b-16.
5) final complaint -- Jer. 3:19-22a; Is. 1:21-23; Is. 57:17.
5a) admission of guilt -- Jer. 3:22b-25; _____; _____.
6) final verdict -- Jer. 4:1-4; Is. 1:24-31; Is. 57:18-21.

[15]Blank, Confessions, 372.

[16]Blank, Prophet as Paradigm, 24-25.

[17]Heinemann, Prayer in the Talmud, 193-194.

CHAPTER II

THE LAW-COURT PATTERN IN THE BIBLE

In the Bible, the law-court pattern of prayer serves primarily as a form of address in a time of crisis. It is used by certain outstanding individuals, Abraham or Moses for example, in behalf of a third party under the cloud of divine judgment; it is used by other outstanding individuals, a Jeremiah or a Job, in arguing their own personal cases before God; and it is used by the anonymous authors of the Psalms of Petition and the Book of Lamentations when pleading for the salvation and redemption of the nation Israel (or in certain psalms, for the deliverance of the individual). We shall notice a dramatic increase in the usage of the law-court pattern, for what appears as an occasional form of address in the story of Abraham, becomes more frequent in Moses' addresses, and quite prevalent in the works written around the time of the Babylonian Exile. The Book of Job, both in content and structure, represents the climax of the Bible's use and development of the law-court pattern of prayer. Let us now examine selected examples of the Biblical form.

I Abraham

There are a number of examples of the law-court pattern of prayer found in the Book of Genesis, [1] but perhaps the most dramatic usage of the pattern is found in the story of Abraham's argument with God over the fate of the people of Sodom and Gomorrah (Gen. 18:23-32). This

is how Abraham argues his case before God:

23 Abraham came forward and said, "Will You sweep away the
24 innocent along with the guilty? What if there should be fifty
innocent within the city; will You then wipe out the place and
not forgive it for the sake of the innocent fifty who are in it?
25 Far be it from You to do such a thing, to bring death upon the
innocent as well as the guilty, so that innocent and guilty fare
alike. Far be it from You! Shall not the Judge of all the earth
26 deal justly?" And the Lord answered, "If I find within the city
of Sodom fifty innocent ones, I will forgive the whole place for
27 their sake." Abraham spoke up, saying, "Here I venture to
28 speak to my Lord, I who am but dust and ashes: What if the
fifty innocent should lack five? Will You destroy the whole
city for want of the five?" And He answered, "I will not de-
29 stroy if I find forty-five there." But he spoke to Him again,
and said, "What if forty should be found there?" And He
30 answered, "I will not do it, for the sake of the forty." And
he said, "Let not my Lord be angry if I go on: What if thirty
should be found there?" And He answered, "I will not do it
31 if I find thirty there." And he said, "I venture again to speak
to my Lord: What if twenty should be found there?" And He
answered, "I will not destroy, for the sake of the twenty."
32 And he said, "Let not my Lord be angry if I speak but this
last time: What if ten should be found there?" And He
answered, "I will not destroy, for the sake of the ten."

Structurally, this is an incomplete form of the law-court pattern. Furthermore, the structure is unclear because the address has the form of a dialogue. Nonetheless, the pattern does exist here. The address is not given, although it is suggested by the words "Abraham remained standing before the Lord," (v. 22) and by the use of "You" in verses 23-25. The defense argument and plea are intertwined, the plea being explicitly stated in v. 23 but implicit each time Abraham asks God to spare the city for a lesser number of righteous men. Being a dialogue, there is a divine response to each of Abraham's petitions.

Abraham builds his case upon two important premises. He appeals to both God's (presumed) moral nature and a universal moral order by which even God is expected to abide (v. 25). Having received God's acknowledgment of these premises, Abraham is then able to bargain with God as to what constitutes a saving remnant.

But what is the intent of this dialogue? The text itself suggests two apparently contradictory possibilities. Either the dialogue shows that God may, on occasion, be unjust and therefore in need of human direction and instruction, or -- the alternative -- the dialogue teaches, by means of Abraham's questioning, that God is truly just and that all His deeds are likewise just.

According to proponents of the first interpretation,[2] Abraham boldly sets out to challenge, and ultimately to reverse, God's intended plan. In the ensuing dialogue, Abraham shrewdly argues his case, cleverly catching God with the question "Shall not the Judge of all the earth deal justly?" and then proceeding to win concession after concession until they reach the number ten. Abraham's argument is compelling; God is forced to agree to Abraham's demands. This is the view of the first interpretation -- that God may be coerced by man into acting justly.

Proponents of the second interpretation,[3] however, take God's justice as their point of departure. They understand the function of Abraham's argument to be a didactic one, affirming the Biblical teaching that God is just. The dialogue fulfills a specific role within the context of the larger story and must so be understood. In verses 20-21,

God Himself decides to investigate whether Sodom and Gomorrah are indeed as sinful as the outcry (צעקת סדם ועמרה) against them suggests. Here God is acting as a judge investigating the justice of a complaint that has reached his court.[4] In v. 17, God decides to share His judgment of the cities with Abraham "since Abraham is to become a great and populous nation and all the nations of the earth are to bless themselves by him. For I have singled him out, that he may instruct his children ... to keep the way of the Lord by doing what is just and right" (v. 17-19). The reason is clear: God has chosen Abraham and his line and charged them with keeping "the way of the Lord" therefore God wishes to show Abraham that what He intends to do to the cities is, in fact, totally warranted and justified. Abraham is to serve as the witness of God's justice to later generations, giving testimony through his argument that God is truly just. God all but invites Abraham to question His justice. Abraham asks the basic questions that any member of the faith-community would ask were he in Abraham's place: "Is God just if He destroys the righteous with the wicked so that the end of the righteous is as that of the wicked?" Abraham's questions are meant to affirm rather than cast doubt upon God's justice; they are rhetorical questions. This point is confirmed by the conclusion of the story. First of all, by accepting Abraham's argument, God implicitly confirms Abraham's belief that God should act justly. Second, there is the matter of Abraham's choice of the number ten. Why does Abraham settle on the saving number of ten righteous men? Why does he not bargain still

further? Abraham's choice of numbers is yet another means to teach about God's justice. God agrees to spare the cities if ten righteous men can be found in their midst. But ten righteous men cannot be found there. Moreover, God's messengers, His "detectives," receive first-hand experience of the inhabitants' sinfulness (19:1-11). God now knows the truth of the complaint that has been brought to His court and He passes sentence against them. But even as this verdict is reached, God's messengers simultaneously act to save the lives of the few comparatively righteous people who dwell there, namely Lot and his family (v. 12-13). In the end, justice is meted out in full measure against the wicked (v. 24-25), but towards the righteous, even the partially righteous (Lot and his family), God shows abundant mercy and spares them (v. 16 and 29). Thus the story as a whole stresses the completeness of God's justice, while Abraham's dialogue with God serves as a didactic device within the story heightening the impact of this fundamental doctrine. This is the second interpretation of Abraham's argument.

These two interpretations need not be mutually exclusive. If the Biblical narrative is meant to relate both history and theology then the two interpretations, in fact, complement each other. The first interpretation provides the drama of the historical encounter (i.e., the human perspective), while the second interpretation provides the "true facts" of the story, its theology, by placing the dialogue within a wider context (i.e., the perspective of the author(s) or God). To Abraham, and to the hearers of the tale, it would appear that God stood on the

brink of acting unjustly and that therefore God had to be brought around to acting in a more becoming (and godly) manner -- an awesome and terrifying task for anyone to undertake (hence v. 27). But in the author's (and God's) mind, there was never any doubt about the veracity of God's justice. This double perspective invests the Biblical account with its dramatic tension even as it presents its theological message. Both interpretations are necessary for a complete understanding of the story.

While serving to instruct the people in history and theology, the story also continues the Biblical struggle against the influence of the neighbouring pagan religions. One of the chief functions of the law-court pattern of prayer is, as we shall see, to serve as an anti-pagan polemic, refuting fundamental pagan religious concepts and advancing alternative monotheistic religious concepts. In broad terms, the story sets the belief in a single, universal God against the belief in a pantheon of gods. It advances the belief in God's justice and mercy, and in a divinely ordained moral order, over either the belief in the powers of a multitude of competing gods or the possibility that the one God could be capricious in the exercise of His power. It affirms the role of justice as the key relational concept between God and the world, as something which is expected of and received from God, as well as something which is obligatory upon humankind (and upon Israel especially) under a divinely ordained system of reward and punishment (the moral order). Lastly, the story teaches that God is personally involved in the affairs of the world and that God may be engaged in dialogue and appealed

to, by an Abraham at least, on the basis of the presumed moral order and the presumed divine nature. One final point, of great importance for later arguments, should be noted. Lot is saved because he acted righteously towards the angels (v. 1-3, 4-9) and because God is merciful (v. 12-16). But at the conclusion of the story, we are offered a third reason for Lot's salvation. God spares Lot because "God remembered Abraham" (v. 29). Here we see the beginnings of the concept of the doctrine of merit. Abraham's righteousness (his merit) not only enables him to challenge God, it also has a protecting and redeeming quality for those associated with him. While, in succeeding generations, less emphasis was placed on personal merit and more emphasis was placed on the merit of the fathers, the זכות אבות, both forms of the concept played a significant role in later law-court arguments.[5]

But what gives Abraham the right to question God's judgment? It is the covenant which bestows this privilege. The covenant, that contract into which Abraham entered at God's behest, unites Abraham and his seed in a unique relationship with God. Abraham's line is bound to keep the commandments of the Lord (the first of which is circumcision), but it is also understood that God has His obligations to uphold. (Gen. 17:1-14). Furthermore, both parties are bound to pursue justice and righteousness, these things being both the God-given charge to Abraham and his descendants and "the way of the Lord" by which God Himself is obligated. This concept of covenant has a number of implications which set the ground-rules for the law-court pattern of prayer. The covenant,

in that it sets forth the concrete and the moral responsibilities of both parties, gives Abraham and his descendants the right to dissent and even protest against any apparent abrogation of its terms by God. And God has a similar right to protest against Israel's failure to observe its side of the covenant -- something which, in the Bible, God has greater occasion to do than does Israel! The contractual nature of the covenant accounts for the prevalence of a legalistic form of address -- the law-court pattern -- which both God (as judge) or Israel (as plaintiff) use to call the transgressing party to accounts. By means of the covenant, Israel becomes a partner with God; by means of the law-court pattern of prayer, Israel asserts not only its moral equality with God, but also its "revolutionary faith in God's responsiveness to the call of justice."[6]

Let us consider these observations in greater detail as we examine several of Moses' arguments with God.

II Moses

Of all the Biblical figures, Moses stood the closest to God (Deut. 34: 10). Interestingly enough, no other Biblical character makes as much use of the law-court pattern of prayer as did Moses. The rule seems to be: The greater the degree of intimacy, the more frequent the use of the pattern. Moses makes such use of this mode of address that we must limit our present study to the detailed examination of but a few examples. Suffice it to say that in almost every crisis situation Moses utilizes the law-court pattern of prayer to confront and challenge God,

or to intercede with God on Israel's behalf.[7]

One of Moses' most crucial arguments on behalf of the Children of Israel followed Israel's worshipping of the Golden Calf. On that occasion Moses sought to turn God from His decision to destroy the Israelites by arguing as follows (Ex. 32:9-14):

> 9 The Lord further said to Moses, "I see that this is a stiff-
> 10 necked people. Now, let Me be, that My anger may blaze forth
> against them and that I may destroy them, and make of you a
> 11 great nation." But Moses implored the Lord his God, saying,
> "Let not Your anger, O Lord, blaze forth against Your people,
> whom You delivered from the land of Egypt with great power
> 12 and with a mighty hand. Let not the Egyptians say, 'It was
> with evil intent that He delivered them, only to kill them off in
> the mountains and annihilate them from the face of the earth.'
> Turn from Your blazing anger, and renounce the plan to
> 13 punish Your people. Remember Your servants, Abraham,
> Isaac, and Jacob, how You swore to them by Your Self and
> said to them: 'I will make your offspring as numerous as the
> stars of heaven, and I will give to your offspring this whole
> 14 land of which I spoke, to possess forever.'" And the Lord
> renounced the punishment He had planned to bring upon His
> people.

Here we see manifest the clear and complete law-court pattern of prayer, with an opening address (v. 11), a defense argument (v. 12a, 13), a plea (or petition) (v. 12b), and a divine response (indirect) (v. 14). But the threat of destruction is not ended. Although God relents of His plan (v. 14), He still requires further appeasement if Israel's annihilation is to be avoided. Moses, therefore, intercedes a second time:(Ex. 32:30-35):

> 30 The next day Moses said to the people, "You have been
> guilty of a great sin. Yet I will now go up to the Lord; per-
> 31 haps I may win forgiveness for your sin." Moses went back
> to the Lord and said, "Alas, this people is guilty of a great
> 32 sin in making for themselves a god of gold. Now, if You will

forgive their sin (well and good); but if not, erase me from the
33 record which You have written!" But the Lord said to Moses,
"He who has sinned against Me, him only will I erase from My
34 record. Go now, lead the people where I told you. See, My
angel shall go before you. But when I make an accounting, I
will bring them to account for their sins."
35 Then the Lord sent a plague upon the people, for what they
did with the calf that Aaron made.

Here too we see a rather complete form of the law-court pattern. The address is implicit in verses 30-31a ("Moses went back to the Lord"), the defense argument includes a confession of wrongdoing (v. 31b) and an ultimatum (v. 32). The petition (included in the ultimatum) is a plea for mercy (v. 32a), and God answers Moses directly (v. 33-34).

This second argument should be considered as a continuation of the first, although structurally each can stand alone. First of all, it pursues the same line of argumentation as does the first. Second, it provides the real conclusion to the story (i.e., God's actual sentence and its execution). Third, Moses' argument "erase me" seems to be a direct response to God's offer in v. 10 to make of Moses a great nation. Fourth, Moses' recounting of the event, in Deut. 9:26-29, blends the two arguments of the Exodus story into a single unit.[8] Lastly, both arguments are needed to fully save the people. Taken together, Moses advances five reasons in order to convince God to spare the Israelites. First, he alludes to God's great activities during the Exodus, and indirectly questions God's intention to destroy the very people He has just saved (v. 11-12b). Second, Moses strengthens this argument by stating that God's own name would be besmirched (God would be con-

sidered malicious) were He to destroy His people (12a). Third, such an act would contradict and deny God's promise to the Patriarchs and make of God a liar. Moses asks God not only to recall the eternal promise made to those three (which Moses quotes), but also to remember them -- as though to say "Let the memory of their merit and the recollection of the promise made to them be entered into the records." Continuing now with the second argument, Moses fourthly acknowledges the sin (crime) committed by the people (v. 31). Such a confession alone would have left Israel at the mercy of the judge (God). Moses, however, now offers his final and most dramatic argument, linking his personal fate with the fate of the people (v. 32). In order to understand the strength and daring of Moses' fifth argument, one must realize that it has the form of an oath. Moses, in fact, is saying something on the order of "If I am truly Your chosen prophet, then You will forgive their sin and I too shall live; but if You don't pardon them then You must kill me as well." Were Moses not entirely sure of his merit in the eyes of God, such an oath could have ended in total disaster both for Israel and for himself. The oath, in its complete form (which this is not), is an open and direct invitation for divine intervention into human affairs. We shall examine the oath in greater detail when we examine the Book of Job. Let us note here that the oath is also part of the law-court procedure and is frequently used by Biblical characters in situations where they are dependent on the mercy of divine help.[9] Turning once again to the examples at hand, we see that a combination of Moses' two prayers

results in a near-perfect law-court structure and a very powerful argument:

a) address and introductory petition - v. 11a

b) defense arguments - a) v. 11b - recitation of God's acts
b) v. 12 - for Your name's sake
(v. 12b - intermediate petition)
c) v. 13 - the Covenant and Merit of the Fathers
d) v. 31 - confession of guilt
e) v. 32b - Moses' personal merit (the oath)

c) petition - v. 32 - a combined oath and petition

d) divine response/verdict - v. 33-34 - only the sinners will be punished

[e) execution of sentence - v. 35 - a plague]

While the evidence suggests that the two prayers were originally one, our text has not reached us as such and therefore we must consider possible reasons for its division into two parts. I would suggest that the primary reason lies in the didactic intent of the story. As in the case of the story of Sodom and Gomorrah, here too we must consider the wider context of the story.[10] The episode of the Golden Calf is a nearly disasterous event for the Israelites yet its importance lies in its leading to another, even greater, event -- the revelation of "God's glory" to Moses. Moses, the chosen one of Israel, asks for and receives a divine

revelation of incomparable quality (Ex. 33:13, 17-23; Ex. 34:5-8), following which he again petitions God to remain in Israel's midst (Ex. 34:8-9). God then reaffirms His covenant with Israel and issues its new terms (Ex. 34:10-27) which Moses, in turn, relates to all Israel (Ex. 34:29-35). God's revelation to Moses, in which God revealed the nature and the exercise of the divine justice (Ex. 33:13, 19-23; Ex. 34:5-7), also provides the theological underpinning to the story of the Golden Calf. On one level it would seem that Moses convinces God to change His mind; on a deeper level, the story teaches that God is truly merciful and gracious in over-abundance. No sooner had God established the first covenant with Israel at Sinai, then Israel abrogated its primary clause by worshipping the Golden Calf. God would have been justified in destroying them for this alone. Yet He pardoned them then as well as on many other occasions. Thus the story of the Golden Calf teaches us something further about the nature of God -- that His justice is tempered with a great abundance of mercy, as it says (Ex. 34:6-7):

> The Lord! The Lord! a God compassionate and gracious, slow to anger, abounding in kindness and faithfulness, extending kindness to the thousandth generation, forgiving iniquity, transgression and sin; yet He does not remit all punishment, but visits the iniquity of fathers upon children and children's children, upon the third and fourth generations.

Moses' original argument is divided to emphasize this teaching. Although God repents of the evil which He had planned, Moses nonetheless attempts to purge the sin from the midst of Israel (Ex. 32:25-29). Having done so, he acknowledges the guilt of the people and pleads for

their pardon (Ex. 32:30-32). But God knows who has sinned and, in His own time, sends a plague to punish whatever guilty ones remain (Ex. 32:33-35).[11] In His exercise of justice, God is wholly just, merciful beyond bounds to those even remotely deserving, yet duly punishing those guilty of sin.

It will be helpful for our understanding of the law-court pattern of prayer if we examine one final example of the form, drawn from Moses' repetoire. It is significant in that it builds upon several of the motifs used by Moses at the time of the Golden Calf. The episode now under scrutiny describes the crisis that followed the report of the spies. Upon hearing the disheartening report of the spies, the people rebel against God, and God judges them harshly (Nu. 14:11-12). Moses then intercedes in fine fashion (Nu. 14:13-19):

11 And the Lord said to Moses, "How long will this people
spurn Me, and how long will they have no faith in Me despite
12 all the signs that I have performed in their midst? I will strike
them with pestilence and disown them, and I will make of you a
13 nation far more numerous than they!" But Moses said to the
Lord, "When the Egyptians, from whose midst You brought up
14 this people in Your might, hear the news, they will tell it to
the inhabitants of that land. Now they have heard that You,
O Lord, are in the midst of this people; that You, O Lord,
appear in plain sight when Your cloud rests over them and
when You go before them in a pillar of cloud by day and in a
15 pillar of fire by night. If then You slay this people to a man,
16 the nations who have heard Your fame will say, 'It must be
because the Lord was powerless to bring that people into the
land which He had promised them on oath that He slaughtered
17 them in the wilderness.' Therefore, I pray, let my Lord's
18 forbearance be great, as You have declared, saying, 'The
Lord! slow to anger and abounding in kindness; forgiving in-
iquity of fathers upon children, upon the third and fourth
19 generations.' Pardon, I pray, the iniquity of this people ac-
cording to Your great kindness, as You have forgiven this
people ever since Egypt."

The law-court pattern should now be immediately evident. The address is implicit in v. 13a. Verses 13b-16 constitute one argument containing several motifs centering around the theme of "for His name's sake," that is, that God should not do as He has considered doing because of the implications such a deed would have on His name -- His "international reputation."[12] Verses 17-18 provide Moses' second argument. Moses here quotes God's own words back to Him, "forcing" God to remain constant. Verse 19 concludes the prayer with a petition for mercy based upon an appeal to God's nature and to His merciful decisions in the past. Verses 20-35 represent the divine response and the subsequent execution of God's verdict.

This prayer builds upon several of the motifs used at the time of Moses' intercession with God over the Golden Calf. First there is the argument "for His name's sake." The two passages (Ex. 32:11-12 and Nu. 14:13-16) are quite similar, but in the story of the spies, Moses brings in not only the Egyptians, but also the Canaanites who by then had also heard of God's great deeds on behalf of Israel. Here God is not threatened by being considered as an evil god by His witnesses, the Egyptians, but by being "universally" considered as a weak or limited God, who must destroy His people because He cannot fulfill His promise made to them.[13] Second, there is the argument based on God's own word. In the context of the Golden Calf, Moses used the same technique, referring in that instance to the promise made to the Patriarchs. Here, Moses quotes the words of God's own panegyric uttered on Mt.

Sinai back to God, and asks God to be true to His own word and pardon them. The prayer as a whole sums up the character of the God of the ancient Hebrews. God is considered to be greatly concerned with His reputation in the world, because it is through the knowledge (and the experience) of God's deeds that all people will learn of His powers and come to acknowledge that the Lord is God. Furthermore, God is considered wholly just. But God's justness does not denote severity. God's justice implies consistency and constancy -- in His love and, as repeated examples illustrate, in His mercy.

Let us now turn to the study of the law-court pattern of prayer as used in the prophets, specifically, in the Book of Jeremiah.

III Jeremiah

Although the prophets make much use of the law-court pattern of prayer, they do so usually to represent God's lawsuit with Israel or the nations. There are however certain occasions when a prophet challenges God either for his own sake or on behalf of the people.[14] Jeremiah, in particular, is celebrated for his personal dialogues with God, commonly known as his "confessions." In fact, they represent nothing startlingly new. Their source lies in the law-court prayers of Moses. Moses, like Jeremiah, was an unwilling prophet, he too cried out under the burden of his office demanding relief, he too "took God to task" for acting (or planning to act) in an unworthy manner. However, what characterizes Jeremiah's "confessions" is that Jeremiah argues pri-

marily for his own benefit. In tone and content, the "confessions" prefigure the personalistic outlook and problems of Job and the Psalms of Petition.

While scholars disagree on the exact verses comprising Jeremiah's "confessions," they are in general agreement that the form of the "confessions" is that of the law-court pattern of prayer.[15] The following chart outlines the components in the various "confessions."

	Jer. 11:18-23	Jer. 12:1-6	Jer. 15:15-21
Address	v. 20a. "O Lord of Hosts who...	v. 1 "Righteous are You, O Lord ..."	v. 15a "O Lord, You know..."
Object of Address	Against the wicked; God as judge	God (and wicked) as defendants; God as judge	God (and wicked) as defendants; God as judge
Argument	1) v. 18 "The Lord has given me knowledge of it ... You showed me their doings." 2) v. 19 accusation against his enemies "I was like a gentle lamb brought to the slaughter..."	1) v. 1b "Why does the way of the wicked prosper? ..." 2) v. 21 accusation "You have planted them..." 3) v. 2b the hypocrosy of the wicked. 4. v. 3a Jeremiah's integrity (his innocence). 5) v. 4 "How long..."	1) v. 15b "Know that for Your sake I have suffered insult." 2) v. 16 "I served You willingly..." 3) v. 17 more self-justification and accusation "You have filled me with indignation" 4) v. 18 "Why?..." accusation "Will You be to me like a deceitful stream..."

Continued:

	Jer. 11:18-23	Jer. 12:1-6	Jer. 15:15-21
Petition/ Plea	v. 20 "But, O Lord hosts, who judges righteously... let me see Your vengeance on them..."	v. 3b "But You, O Lord, know me... pull them out..."	v. 15a "O Lord... remember me... and revenge me of my persecutors"
Divine Response	v. 21-23 "Behold, I will punish them ..."	v. 5-6 "Why aren't you stronger? Don't believe your enemies' deceiving words"	v. 19-21 "If you make an effort, I will strengthen you and deliver you"

	Jer. 17:14-18	Jer. 18:19-23	Jer. 20:7-12
Address	v. 14 "Heal me, O Lord..."	v. 19 "Give heed to me, O Lord ..."	v. 7 "O Lord..."
Object of Address	Wicked (and God) as defendants; God as judge (with emphasis on latter)	Against the wicked; God as judge	God (and wicked) as defendants, with a transition to God as true and faithful judge
Argument	1) v. 15 mockery of the wicked 2) v. 16 self-justification 3) v. 17 indirect accusation against God and confession of trust "Be not a terror to me: You are my hope in the day of evil."	1) v. 20 accusation against the wicked and self-justification "Shall evil be recompensed for good? Remember that I stood before them to speak good for them ..." 2) v. 22b evil deeds of Jeremiah's persecutors	1) v. 7a accusations against God "You have deceived me and I was deceived, You are stronger than I, and You have prevailed" 2) v. 7b-8 depiction of Jeremiah's misery 3) v. 9 self-justification (with implication that Jeremiah is in the right because he is com-

Continued:

	Jer. 17:14-18	Jer. 18:19-23	Jer. 20:7-12
			pelled to speak God's word) 3) v. 10 Jeremiah's plight and the plotting of his enemies 4) v. 11 Expression of trust in the Lord
Petition/ Plea	v. 18 two-fold petition "Let them be... but let me not be..."	v. 21, 22a "Therefore, deliver up... pour out their blood... let..." v. 23 "Yet, O Lord, You know... forgive not their iniquity... let them be... deal thus with them"	v. 12 "But, O Lord of hosts... let me see Your vengeance on them"
Divine Response	none	none	(expression of trust v. 11 replace divine response) possibly v. 13 follows divine response

Let us now focus on some of the finer points regarding Jeremiah's use of the law-court pattern of prayer. In his use of the law-court pattern, Jeremiah frequently resorts to legal terminology: God is a שופט צדק (Jer. 11:20) before whom Jeremiah appeals his case (ריב) (Jer. 11:20, 20:12). Elsewhere Jeremiah disputes with God, laying certain cases before Him as would a lawyer "אך משפטים אדבר אתך

(Jer. 12:1), and in another instance he appears as a plaintiff "הקשיבה יהוה אלי ושמע לקול ריבי. הישלם תחת טובה רעה?" (Jer. 18:19-20). In two of the "confessions" God is clearly the judge to whom Jeremiah appeals for justice, i.e., the punishment of his enemies (Jer. 11:18-23; Jer. 18: 19-23). In the other four, God still serves as judge, but also is indicted as a co-defendant along with Jeremiah's enemies. It is in these cases that Jeremiah saves his harshest words for God -- "You are (no doubt) right, O Lord, when I enter suit against You" (Jer. 12:1), "Will You be to me like a deceitful brook, like waters that fail?" (Jer. 15:18), "Be not a terror to me" (Jer. 17:17), "O Lord, You have deceived me and I was deceived; You are stronger than I and You have prevailed." (Jer. 20:7). Yet even as Jeremiah accuses God of complicity, he appeals to God for justice. God knows the truth of each situation, Jeremiah merely recites the facts to call them to God's attention. The questions and accusations Jeremiah makes are rhetorical. In each case the anticipated answer implies a refutation of Jeremiah's words. God is expected to confirm the justice of Jeremiah's cases (although Jeremiah does not always receive the answer for which he had hoped). The dual role ascribed to God is especially pronounced in the sixth "confession" in which God is suddenly switched from the role of co-defendant to that of judge. In the sixth confession, Jeremiah begins with accusations against God, but suddenly switches to an expression of trust "But the Lord is with me as a dread warrior; therefore my persecutors will stumble, they will not overcome me."

(Jer. 20:11). This sudden switch is nothing more than a giving-voice to the answer of the rhetorical questions and accusations found in the other examples. God is just, He knows the truth of the matter at hand, He will not forget His servant nor let the wicked go unpunished. In form and content, the sixth confession is very much like the psalms of individual lament.

The problem of theodicy lies at the heart of Jeremiah's complaints. While he knows God to be a just judge, and expects to see a just and favourable verdict handed down -- why else would he even bother to appeal to God? -- he is, nonetheless, impatient. God may be just, but His justice is too long in coming for Jeremiah to wait in silent expectation. Thus his urgent and repeated complaint "Why does the way of the wicked prosper? Why do all who are treacherous thrive?" (Jer. 12:1). While God tarries (or deliberates), Jeremiah suffers physical and psychological abuse at the hands of his enemies. This makes Jeremiah's "confessions" remarkably similar to the Book of Job. Like Job, Jeremiah appeals to God for a just judgment of his case. Like Job, Jeremiah is absolutely convinced of his innocence. The confessions are replete with statements of self-justification and appeals to God as the One who knows the heart and mind of His creatures. Like Job, and like Moses when confronted by Korah, Jeremiah asserts his innocence by inviting God to judge his case. If Jeremiah has not sinned, if he is blameless, then his suffering is unwarranted, hence there must be some other reason for his having to endure such tribulations. This

brings us to ask some fundamental questions regarding Jeremiah's "confessions": Why are these personal prayers included amongst his prophecies? Are they intended to serve some larger purpose beyond that of merely recording Jeremiah's individual anguish?

Unlike the Book of Job, Jeremiah is clearly a real person forced to endure real suffering. That which is a theological problem for the Book of Job is, for Jeremiah, something very real. Does Jeremiah's example have something in it that makes it of benefit to others? Sheldon Blank, in his article The Prophet as Paradigm, follows Buber's thinking in positing that the "confessions" were included amongst Jeremiah's prophecies to make the prophet serve as a paradigm for the people.[16] Many prophets, Hosea, Jeremiah, Ezekial and Deutero-Isaiah, to name a few, engaged in symbolic activities in order to instruct the people. Blank sees Jeremiah's "confessions" serving a similar function. Because many of Jeremiah's prayers (the "confessions") were met with a divine response, they therefore had a supra-personal significance. Blank sees Jeremiah's experience of suffering as a step in the development of the concept of the "personification of the people Israel, as a prophet after the manner of Jeremiah," i.e., the people of Israel personified as the "suffering servant" of God. Jeremiah's experience, like that of Hosea before him and Ezekiel after him, becomes paradigmatic of the people's experience.[17]

The central problem with this view, it seems to me, goes right to the heart of the nature of prophecy itself. Did Jeremiah (or Baruch)

record these "confessions" with the knowledge (which was surely prophetic) that they would, in the not too distant future, hold a profound message for the soon-to-be-conquered Israel? Or, were Jeremiah's words ignored, as his message had been during his active mission, their worth recognized only later, once Israel had indeed suffered what Jeremiah had prophecied would befall it? For who knew whether Jeremiah was a true prophet except after the event -- "if the prophet speaks in the name of the Lord and the oracle does not come true, that oracle was not spoken by the Lord; the prophet has uttered it presumptously; do not stand in dread of him." (Deut. 18:22). Jeremiah's teachings, the message he obtained through his sufferings, only acquired meaning in the succeeding period of the Babylonian exile; perhaps it was only then that his words were collected and written down. Jeremiah was a prophet, not for his own age, but for the later generations. What then is the message of Jeremiah's confessions? They teach that:

> (God's) growing incomprehensibility is mitigated and even compensated by His becoming the God of the sufferers and by suffering becoming a door of approach to Him, as is already clear from the life of Jeremiah where the way of martyrdom leads to an ever purer and deeper fellowship with YHVH. Between God and suffering a mysterious connection is opened. In every generation God's emissaries not only worked and fought by His order, they also bore suffering in the course of their work and fighting. But hitherto these sufferings were only something incidental, having no intrinsic import of their own. Henceforward the sufferings themselves began to rise into prominence.[18]

Blank would add to this, and rightly so I think, that Jeremiah's "confessions" gain supra-personal meaning because they were actually met

with a divine response.[19] In other words, Jeremiah's suffering did not go unnoticed by God -- an important message for the generation of the Babylonian exile.[20] Jeremiah's words help Israel to cope with the national disaster and to interpret its implications for their covenantal world-view.

Speaking as they do about the undeserved suffering of the righteous and the prosperity and success of the wicked, the "confessions" voice the concerns of the generation of the Babylonian exile. Though written before the exile, Jeremiah's teaching about the meaning of suffering gains currency about the same period as the Psalms of national lament, the Book of Lamentations, and the Book of Job were written. All deal with one crucial problem: how to reconcile the belief in the God of justice and history with the fact of undeserved (or disproportionate) suffering on the part of His chosen people (or His servant, in the case of Job). Let us now continue with an examination of the Psalms of Petition and the Book of Lamentations.

IV Psalms of Petition and the Book of Lamentations

Scholars advocating the form-critical method of Bible study have divided the Book of Psalms into a number of different types. One major category is identified as the Psalms of Petition (or Lament), which in turn breaks down into two sub-categories, the lament of the individual and the lament of the nation. Blank has gone further linking the lament of the individual with the "confessions" of Jeremiah, both of which, he

claims, are based on the lament forms of Babylon and Ugarit, and which also share in their frequent application of legal terminology.[21] It is our contention here that the form of the Psalms of Petition is but a variation of the law-court pattern of prayer, and closely follows the form and tone of the law-court pattern as expressed in the "confessions" of Jeremiah. The Book of Lamentations, being a collection of laments, also follows the same pattern and echoes many of the same themes found in the petitionary Psalms and the "confessions" of Jeremiah. Let us proceed first with a structural analysis of two national laments, and second, with a similar analysis of an individual lament.[22]

Our two examples of the national lament will be Ps. 44 and Ps. 80.[23] Their form is as follows:

	Psalm 44	Psalm 80
a) Address and/or Introductory Petition	v. 2 "O God" and use of second person singular to address God throughout	v. 2-4 "Give ear, O Shepherd of Israel, Stir up and save us... Restore us... that we may be saved."
b) Argument 1) Lament/ Complaint/ Accusations	v. 10-17 "Yet You have rejected us... You made us retreat... You let them... You scattered us... You sold Your people... You have made us a laughingstock..."	v. 5-8 "O Lord... how long will You be wrathful?... You have fed (Your people) tears.... our enemies mock us"
2) Recollection of God's Past Deeds	v. 2-4 "We have heard ... our fathers have told us the deeds You performed in their time, in days of old. With Your hand You planted them, displacing nations...	v. 9-12 "You plucked up a vine from Egypt; You expelled nations and planted it... Its branches reached the the sea, its shoots the river."

Continued:

	Psalm 44	Psalm 80
	It was not by their sword that they took the land... You favoured them"	
3) Assertion of Innocence	v. 18-23 "All this has come upon us, yet we have not forgotten You, or been false to Your covenant... If we forgot the name of our God and spread forth our hands to a foreign god, God would surely search it out... It is for Your sake that we are slain all day long..."	v. 13-14 "Why did You breach its wall so that every passer-by plucks its fruit...?" (assertion of innocence by accusatory question.)
c) Expression of Trust and Faithfulness	v. 5-9 "You are my King, O God... I do not trust in my bow... You give us victory... In God we glory... and praise Your name..."	v. 19 "We will never turn away from You; give us life and we will invoke Your name."
d) Petition/ Supplication	v. 24-27 "Rouse Yourself, why do You sleep? Awaken, do not reject us! ... Why do You hide Your face?... We lie prostrate ... Arise and help us, redeem us, for the sake of Your faithfulness (חסד)."	v. 4, 8, 20 "O God of hosts, restore us; show Your favour that we may be delivered." (a refrain) v. 15-20 "O God of hosts, turn again, look down from heaven and see... that vine... it is burned by fire and cut down... Grant Your help to... the one You have taken as Your own... restore us..."

There are numerous examples of the individual lament in Psalms,[24] of which Ps. 22 is typical. This is its structure:

a) Address and/or Introductory Petition

v. 2-4 "My God, my God, why have You abandoned me?... My God, I cry by day -- You answer not..."

b) Argument

1) Lament/ Complaint/ Accusations

v. 7-9 "I am a worm, less than human; scorned by men... All who see me mock me... 'Let him commit himself to the Lord; Let Him rescue him, let Him save him...'"

v. 13-19 "Many bulls surround me... they open their mouths at me like tearing, roaring lions. I am poured out like water.... You commit me to the dust of the death... Dogs surround me; a pack of evil ones... I take the count of all my bones while they look on and gloat..."

2) Recollection of God's Past Deeds

v. 4-6 "But You are the Holy One... In you our fathers trusted, they trusted and You rescued them... In You they trusted and were not disappointed."

c) Expression of Trust

v. 10-12 "You drew me from the womb,... I became Your charge at birth; from my mother's womb You have been my God. Do not be far from me, for trouble is near, and there is none to help."

d) Petition/Supplication

v. 20-22 "But You, O Lord, be not far off; my strength, hasten to my aid ... save my life... deliver me... answer me."

e) Vow of Praise

v. 23-32 "Then I will proclaim Your fame to my brethren, praise You in the congregation. You who fear the Lord, praise Him!... For He did not scorn, He did not spurn the plea of the lowly; He did not hide His face from him... Let the lowly eat and be satisfied;... Let all the ends of the earth pay heed and turn to the Lord... for kingship is

Continued:

> the Lord's... they shall tell of His beneficence to people yet to be born, for He has acted."

As in the "confessions" of Jeremiah, God in both kinds of the lament figures sometimes as judge and sometimes as both judge and defendant. This was not the case in the Torah where God was appealed to solely as judge. However, what differentiates the structure of the laments from that of Jeremiah's "confessions" is "the expression of trust." Conversely -- and herein lies the solution -- what differentiates Jeremiah's "confessions" from the laments is the divine response which follows most of his complaints. Jeremiah, as God's chosen prophet, is in direct communication with God, just as Abraham and Moses were before him. Jeremiah knows that his petition is heard because he receives an immediate (although not always favourable) response. In the case of the individual or the community, however, the situation is quite different. They are not on the same level of chosenness as is God's prophet. Thus, in the lament, the confession of trust that God will hear and answer their petition replaces the actual divine response granted the prophet. This expectation is not unwarranted. Just as the prophet is God's chosen messenger, so too Israel is God's chosen people, something about which God is reminded in almost every lament. The role of faith is central to the laments. Faith -- the expectation that God will respond -- provides the laments with that quality which we usually associate with prayer. Faith, of course, speaks of nothing other than the trust and hope in God's

justice. God can be asked to regard the plight of His afflicted, He can be admonished to change His attitude, if and only if there exists the expectation that He is a just and compassionate judge.

This expectation has its roots in the great deeds ascribed to God in ages past, primarily in the accounts of the Exodus and the Conquest of the Land. This appeal to/protest against God is, as we have already noted with regard to Abraham, possible only within the context of the concept of the covenant established between God and His people Israel. The lament functions as an appeal to God because it occurs within "the context of the account of deliverance which became the basis of Israel's relationship with God; it is thus related to the saving acts of God."[25] This explains why so many of the laments include among their arguments specific mention of God's former acts of salvation and contrasts these with the present state of misery. The hope is that God will recognize the justice of the people's complaint and intervene on their behalf.

The lament of the individual includes a vow of praise in addition to the "expression of trust." This may be either in response to a favourable oracle (if indeed the individual laments are cultic ceremonies), or in response to a sudden inner perception that the individual's petition has been heard and accepted on high.[26] In either case, the vow is but a further expression of trust, it represents an abiding faith that God will indeed deliver the afflicted. "The cry to God is never one-dimensional, without tension. It is always somewhere in the middle

between petition and praise. By nature it cannot be mere petition or lament, but is always underway from supplication to praise."[27]

Let us now examine some of the common motifs found in the Psalms of Petition. Common to all, of course, is the appeal for justice. And concommitant with this appeal for justice is some allusion to the recollection of God's mighty deeds of old, in creation or in history, to His steadfast love (חֶסֶד) (Ps. 6, 13, 22, 25, 26, 44, 51, 69, 80), to the covenant (Ps. 74, 89), or to His righteousness (Ps. 31, 35). Often the appeal has a two-fold thrust -- "give us our due and give our enemies' theirs." This vindictive element frequently occupies a significant portion of the petition. The petitioner has two ways, either of which, or sometimes both of which, are used to form the basis of his argument. The lament can be penitential in tone (Ps. 25, 38, 51, 106, 130, 143; Lam. 1:20-22), or it can be a protestation of one's innocence (Ps. 7, 17, 26, 44, 74, 83). In many cases, the protestation of innocence contains an admission of guilt along with the demurral that the punishment received is greatly out of proportion to the sin committed (Ps. 38, 60, 79, 85, 89, 90; Lam. 3:42-45, 4:6, chap. 5; Is. 64). In both of the latter cases, this in turn leads to harsh accusations against God (Ps. 44, 74, 79, 80, 89; Lam. 2:20-22; Is. 63:15-17). God's self-interest is appealed to in a number of ways. First there are those reminders of His past promises and acts of salvation -- the implication being that God must remain true to His word and constant in His behaviour. Second, the descriptions of His ruined city and/or the sacked

Temple are meant to reflect upon God's glory and prestige here on earth. By allowing these calamities to happen God gives the nations cause to mock Israel's faith in God and, by implication, God Himself. Third, explicit reference is made urging God to act "for His name's sake" (Ps. 25:11, 79:9; Jer. 14:7; and in many places), an argument Moses had used with great effectiveness (Ex. 32:12; Nu. 14:15). Fourth, appeal is made to God because He needs the praise of the living "Will the dust praise You? Will it tell of Your faithfulness?" (Ps. 30:10; also Ps. 6:6, 88:11-13). A similar sentiment is voiced when God is urged to rebuild Zion and the Temple so that Israel may offer praise and sacrifices once again. Fifth, questions such as "Why?", and "How long?" are hurled at God in almost every lament. God is accused of being unheeding or rejecting, of sleeping or hiding His face. Similarly, God is commanded "Arise!", "Awake!", "Rouse Yourself!", "Behold!" Such appeals, uttered in the conviction that God will indeed do as requested, directly parallel Elijah's mocking comments addressed to the priests of Baal on Mount Carmel (I K. 18:27).[28] But when God is estranged from Israel, it becomes a most urgent matter. Thus in Is. 62 (and paralleled in Hab. 2:1 and Lam. 3:49-50), a desperate task is undertaken:

> For Zion's sake I will not hold my peace,
> And for the sake of Jerusalem I will not be still,
> Until her righteousness goes forth like radiance,
> And her salvation like a burning torch...
>
> I have set watchmen upon your walls, O Jerusalem,
> Who shall never hold their peace day or night:

You that make mention of the Lord, take no rest,
And give Him no rest till He establishes,
And till He makes Jerusalem a praise in the earth.

(Is. 62:1-7)

It is hoped that persistence will be rewarded -- a concept that leads us directly into the Book of Job. But before turning to Job, we must briefly examine the Book of Lamentations.

The Book of Lamentations is a collection of laments, partial laments, and laments within laments, parts of which are addressed to a general audience (Lam. 1:1-19, 2:1-19, chap. 4) while other parts are addressed to God (Lam. 1:20-22, 2:20-22, 3:41-66, chap. 5). The origin and compilation of the book is beyond the range of this present study. What is of concern, however, is the relation of Lamentations to the Psalms of Petition, and the relation of both these works to the Book of Job. Structurally, the laments in Lamentations (Lam. 1:20-22, 2:20-22, chap. 5) follow the law-court pattern of prayer in the same manner as do the Psalms of Petition. Lamentations, as a single work, includes both individual and national laments (Lam. 1:20-22, chap. 3; and Lam. 2:20-22, 3:42-47, chap. 5, respectively). How are the two intended to blend? The answer lies in the central chapter, chapter 3, which very nearly functions as "the expression of trust" for the whole book when considered as a single lament.[29] Chapter 3 provides the message of the book, a message which teaches the proper attitude one should have towards suffering. But it instructs by means of an ingenious technique, moving the listener/reader from the experience of one individual's

suffering to the suffering of the nation. Certain psalms of lament, psalms 51, 94, 123, and 130 for example, similarly run the individual and national laments together. This merging is also evident in Lam. 1:9b-11. Chapter 3 continues and amplifies this motif. It begins with an individual's recitation of the suffering he has endured under the wrath of God (v. 1-17). His suffering is such that he despairs of God (v. 18-20). But then, in the depths of despair, hope is born (v. 21-24) and understanding gained (v. 25-27). Suffering comes as divine chastizement for sins committed. But with repentance there is an end to suffering and God will turn in forgiveness to save the afflicted. This understanding is then passed on to the people (v. 28-40) and a "new" posture of prayer is proposed (v. 41-45). Then precipitously, the individual returns with a renewed lament (v. 46-48, 51, 52-54) yet with a certain defiance similar to the passage in Isaiah cited above (Is. 62: 1-7): "My eye runs down with rivers of water for the breach of the daughter of my people. My eye trickles down, and ceases not, without any intermission, till the Lord looks down, and beholds from heaven." (Lam. 3:48-50). The individual concludes with a praise of God that closely parallels the form of an actual lament, except that here God has answered each and every complaint (v. 55-63). His case having been heard and his cause championed by God, the individual closes confidently predicting the downfall of his enemies at the hand of God (v. 64-66).

Is there something new in all this? While at first glance it appears to

confirm the Deuteronomic view of retributive justice, that suffering is divine punishment for sins committed, there is something here that marks a significant departure from this older attitude. This something is the "new" posture of prayer -- "Let us lift up our heart with our hands to God in the heavens. We have transgressed and rebelled; but You have not pardoned. You have covered with anger, and pursued us; You have slain, You have not pitied. You have covered Yourself with a cloud, so that prayer should not pass through." (Lam. 3:41-44). This is echoed elsewhere as accusations against the enormity of the punishment (2:20-22, 4:6), protestations of innocence (5:7), and a defiant persistence to force God back into action (3:48-50). The similarity in tone of Lamentations, the petitionary Psalms and portions of Deutero-Isaiah is striking. All are attempting to cope with a changed reality -- the reality of the destruction of the Temple and the exile to Babylon. The answer these works suggest is also similar. All are based in the imagery of the law-court and make use of the law-court pattern. All affirm Israel's case against God through a variety of similar arguments. All hurl the question to God: "How long will You hide Your face? How long will You withhold Your justice?"

It is also not surprising to find in each of these the presence of a mysterious individual whose fate is intimately linked with that of the nation. Who is this person? He is the speaker of Lamentation 3, he is the petitioner of those psalms which combine the individual and national laments, he is Isaiah's suffering servant. He is the Jeremiah

of the "confessions," he is the prophet as paradigm, he is Job. Let us now attempt to discover who is Job...

V The Book of Job

Job continues the development of the law-court pattern and builds upon it with such intensity that Job is regarded as the apex of the law-court form.[30] The legal dispute is the basic image of Job (chap. 9, 13, 23, 31) and legal terms and allusions abound throughout the book. The central problem in the Book of Job is the suffering of the innocent. In other words it is the question of God's justice.[31]

The story begins with a heavenly wager between God and the satan concerning the nature of Job's faithfulness (1:6-12, 2:1-6). Job then is put to two tests in which he suffers loss of his wealth, children and health (1:13-22; 2:7-10). Job's friends come to "comfort" him and, after sitting together in silence for seven days, Job begins to lament bitterly (chap. 3). His friends each respond in turn, urging Job to live according to the convictions which he had formerly espoused, namely that Job should rely on God because sufferings are, in one way or another, instruction from the Lord (chap. 4f). Job however refuses to admit the justice of his sufferings, his friends repeat their arguments with increasing harshness, and Job likewise responds vehemently (chapters 6-7; 9-10; 12-14; 16-17; 19; 21; 23-24; 26-31) against the traditionalist views his friends espouse. The friends urge Job to search his deeds for the cause of his suffering and to repent before God. Job

does not deny that he has sinned, only that his sins were small and that the punishment is out of all proportion to his sins (7:21; 13:23, 26). Gradually, Job asserts his complete innocence (9:15, 20-21; 12:4; 23: 10-17; 29:12-17; chap. 31) and couples strong denunciations of his friends' views (12:2-12; 13:2-12; 16:2-5; 19:2-5, 21-22; 21:23; 26:2-4) with fierce accusations against God (9:17-24; 10:3; 13:24-28; 16:11-17; 19:6-22; 21:7-18; 24:1-25; 30:19-23). The controversy has slowly been shifting from being a dispute between Job and his friends to being a controversy between Job and his God. Job is now the plaintiff and God the defendant from whom Job demands an accounting (9:14-19, 32-35; 13:3, 15-28; 24:1; 31:35-37). But, even while He is a party to Job's lawsuit, God is also the judge to whom Job is appealing for justice (9:32-35; 10:2; 13:13-19; 16:18-22; 19:23-29; 27:1-6; 31:35-37). In chapters 29-30, Job contrasts his righteous past with his present misery for one last time. This final recitation of the facts of his case leads him to take drastic action. Job has already expressed the desire to "take God to court" a number of times. Only in the highest court (God's court) could God the defendant be confronted; only there would Job receive the vindication of his innocence by God the Judge. This is what Job seeks to accomplish in chapter 31. Chapter 31 represents Job's closing argument before the Heavenly Judge. Without Elihu's address (chapters 32-37), which is generally considered to be a later addition,[32] Job's last words are immediately followed by the theopany of chapter 38. In chapter 31, Job swears a series of oaths designed to ascertain his innocence (31:

1-4, 5-8, 9-10, 13-17, 19-23, 24-28, 29-34, 38-40).[33] In this series of oaths (which are remarkable in that they are full oaths complete with conditional curses),[34] Job ceases to accuse God; he now takes steps to compel God to act (v. 35-37). Yehezkel Kaufmann describes Job's situation thusly:

> Job is portrayed as righteous out of love of God alone. He challenges God only because he considers it a moral duty to speak truth before Him... His final word is this great oath. Though his world has collapsed, he clings to the one value that is left him, his righteousness. That has become an intrinsic value, without hope of any reward.[35]

The oath is a direct challenge to God to intervene in the case at hand. If Job has perjured himself, then God is invited to punish him more. If Job is innocent, the oath proves it and he should be restored. If neither results, God must personally intervene -- which is what Job wants above all else -- to have the opportunity to confront his accuser and judge. And this is what occurs immediately following the oaths.

The answer to the central problem of the book (the issue of God's justice) lies in God's revelation to Job and Job's response (38:1-42:6). But God's revelation, while it ends doubts about God's remoteness and inattentiveness, does not seem to offer a direct answer to Job's charge "Why do the innocent suffer?" Instead, God overwhelms Job with questions about the functioning of the universe and nature. The theme of the theophany is the magnitude and scope of divine knowledge contrasted with the minuteness and presumption of human knowledge.[36] Job only knows a fraction of the whole. This is the point of God's con-

cluding argument (40:2, 7-14). How dare a man presume to contend with the all-knowing God whose concern extends over everything? Job's response is a confession of humility. Like Abraham, Job realizes that he is as naught before God (Gen. 18:27; Job 40:4) and without true knowledge (Job 42:2-3). Therefore Job repudiates his earlier stand (40:4b-5; 42:3b, 6). The direct experience of "seeing" God and the content of the revelation change Job's outlook. Now Job knows that God indeed does exercise divine providence and that, in the end, God is just (because He has answered Job).

What then is the specific answer to Job's charge? There is none explicitly given. God's appearance, the revelation, is Job's vindication.[37] Moreover, God confirms Job's stand and condemns the views of his friends who had sought to justify God's ways to Job.(42:7-8). God, it would seem, is expressing approval of Job's vociferous insistence on his innocence and on his right for justice at the hand of God, all of which, let it be remembered, is very close in outlook to the psalms of national lament and the Book of Lamentations. This is more than coincidence, for like these works, Job is generally considered to be an exilic or post-exilic work. As such, it is attempting, no doubt, to address the same problem which these, and other works (such as Ezekiel) do, namely, to reconcile the new reality of the destruction of the Temple and the misery of the exile with the inherited covenantal view of God. Job's suffering, like that of the mysterious individual of Lamentations 3, has supra-personal significance.[38]

Who is Job? It is significant that Job was "blameless and upright, one who feared God, and turned away from evil." (Job 1:1, 8; 2:3). It is also significant that he lives in a foreign land, but even so is "God's servant" (1:8; 2:3; 42:7, 8). Job, like Jeremiah, like the individual in Lamentations 3 and Isaiah 62, like the individual in the Psalms who links his misery with that of the nation, is the prophet as paradigm, he is Israel personified as an individual. Job symbolizes Israel in exile. More specifically, he represents the generation after the Destruction, the generation innocent of the sin which brought on God's wrath. Job's anguish is paralleled by the anguish found in the national laments found in Psalms and Lamentations. Both Job and the nation are bent in suffering; both appeal to God to see His justice.

For this generation, the possibility of a loss of faith and/or a renunciation of the God of Israel was all too real. The threat was twofold. The people might begin by despairingin their God but could end by forsaking their God (Lam. 3:18; Is. 40:27, 49:14, 59:13, 63:11-15; Ez. 9:9), for the lament, left unanswered, can just as easily swing from hope to denial. The crisis in faith produced by the exile also made possible the denial of God's omnipotence and/or His justice. This second threat was given concrete form by the beliefs of the religion under whose influence the Jewish people now fell. The religion was Zoroastrianism, the religion of the rising Persian empire, and it advocated a dualistic theology with the god of the moral and natural order, Ahura Mazda (Wise Lord) on the one hand, opposed by the forces of evil

(Angra Mainyu and Shaitin) on the other. This theological system surely offered the downcast and despairing amongst the Jewish exiles a sound explanation for what had befallen their nation. This two-fold threat, the denying of God His omnipotence and the denying of God in toto, was the challenge that Job, Lamentations, Deutero-Isaiah, and Ezekiel attempted, by various means, to meet.

The Book of Job is a drama, but it is also a work of didactic theology, offering a message of hope and instruction in the understanding of God's justice to the exiled people of Israel. Job's understanding of divine justice, hence his teaching on the subject, thrusts as much against the Sinaitic view of divine justice (Ex. 34:7) and the Deuteronomic view of suffering (see Deut. 31:16-21 for example) still current in the faith of Israel, as it does against the nations of the world who pass judgment on Israel, as did Job's friends upon him. This two-fold attack is common to many of the exilic and post-exilic Biblical works. To counter the traditional views of divine justice and suffering, Job couples a devastating critique of a God whose justice allows the wicked to prosper and the righteous to perish (Job 21 and 24) with a protestation of innocence (see also the petitionary Psalms and Lamentations) and argues instead for a system wherein each is rewarded or punished according to his deeds (Job 21:19-20, and also the references to his own case; compare with Ez. 18). To counter the judgement passed on Israel by the nations of the world (Job's friends correspond to the enemies in the laments), Job teaches Israel that although God's presence and/or

God's providence may not be discernable at the moment, even so Israel should not despair. God has no doubt of Israel's (Job's) integrity (faithfulness) as the prologue and epilogue of Job make clear.[39] Eventually God will manifest His justice and restore them. Just as Job's friends changed from being Job's judges to being witnesses of his innocence, for whom he must intercede before God, so too will the nations eventually bear witness to God's true plan and stand in need themselves of Israel's help (compare Job 42:7-8 with Is. 53 and Zech. 8:14-17, 20-23).

But Job is not the only work to deal with the problems arising out of the exile. The period between the sixth and third centuries "represented that one period in the history of biblical religion which is not covered, or, at best, very scantily covered, by one or the other form of this idea of divine justice."[40] Yet it was just in this period when the problem of the suffering of the innocent was probably the greatest. Lamentations, Deutero-Isaiah, and Ezekiel also attempt new alternative theological interpretations. Although each work presents a different point of view, some larger themes emerge. First, against the threat of Persian dualistic theology, we find the assertion that the Lord is the sole author of all, both light and dark, good and evil (Job 2:10; Lam. 3:38; Is. 42:18-25, 44:6-8, 45:5-8, 18-23). But beyond this, there exists a division, often within the individual works themselves. Job's vigorous protestation of his innocence, like the protestations found in Jeremiah's "confessions," Lamentations, the Psalms of Petition, and Is. 63:11b-19, is given divine sanction. But this approval of the argu-

mentative stand must be balanced by the assertion of God's greatness and by the inability and presumption of man to know God's plan in its entirety (the view of Elihu and God in Job; Lam. 3:37-39; Ez. 18:25, 29; Is. 40:12-31, 42:18-25, 45:9-13, 55:8-9). Second, Job (Job 21:19-20) and Ezekiel (Ez. 18, 33:10-19) propose a system wherein each individual, each generation, is rewarded or punished according to their deeds (compare with Deut. 24:16). This is also advocated, by implication, in the national laments of Psalms and Lamentations, in Deutero-Isaiah (Is. 63-64) and in Job, where God is asked to behold the plight of His people, to see their innocence, and requite the wicked "according to the work of their hands" (Lam. 3:64). But while Job himself, and the laments, do this via protest (Job; Lam. 3:41-45, 49-50; Is. 62:1-7 and in many psalms), others do it via "faith." Ezekiel (Ez. 18:25, 29), Malachi (2:17, 3:13-15), Deutero-Isaiah (Is. 65:11-12), and Elihu affirm that God is in the right. They side with God and not with those who would argue and complain against God. Third, all works hold out to Israel the hope of redemption. Job, like Jeremiah in the "confessions," like the individuals of Lamentations 3 and Is. 62 and Psalms, offers Israel the hope of obtaining a hearing in God's court with the expectation that God will grant them a favourable verdict and vindicate them. These individuals are paradigmatic figures; their revelations teach that God will answer and restore Israel. On the other hand, however, are the views of Ezekiel, Zechariah, Malachi, Deutero-Isaiah, and Elihu. While they too look for a redemption, they state that it was Israel's

sins which led God to withdraw, and that it is for the people to repent and for God to pardon. Deutero-Isaiah, in particular, has God answering all the charges that Israel (or Job) raise against Him.[41] As opposed to the protest and argument of Job and company, these works advocate trust in the Lord, an attitude given its fullest expression in Psalm 73.[42] This brings us to the very threshold of the rabbinic point of view which ultimately resolves the problem of theodicy along the lines developed by the post-exilic prophets and Psalm 73, i.e., through the belief in the Messianic Redemption, the retribution in the Other World, the resurrection of the dead to eternal life, and the acceptance of suffering as chastizements of divine love. I stress "ultimately" because such a view was adopted not without opposition. The law-court pattern of prayer, as developed in Prophets and Writings, marked those occasions when protest and argument were advocated as a response to individual and national suffering. This same pattern continued to have its advocates in the rabbinic period, for it remained a viable response to the experience of suffering which the Jewish people endured throughout their subjugation at the hands of Rome.

VI Summary

The law-court pattern in Prophets and Writings builds upon the law-court pattern as formulated by the final redactors of the Torah. Both utilize many of the same motifs in their arguments: the appeal to God's justice, to His name's sake, to God's past acts and promises,

to the inequity and injustice of the punishment vis à vis the sin(s) committed, or with reference to their own innocence. Both appeal to God as judge, but in Torah, God is appealed to solely as judge; in Prophets and Writings, He is both judge and defendant. Both believe in the efficacy of prayers of intercession by the righteous, but in Torah, only God's chosen representatives use the law-court pattern of prayer. Prophets and Writings follow this line but add something as well. Jeremiah and Isaiah are, of course, prophets. Job, while not a prophet, is God's servant and, like the individual of Lamentations 3 does receive a revelation. But Prophets and Writings suggest a wider application of the law-court pattern stretching to the common people perhaps, but at least to the people as represented and/or personified by some holy and righteous individual. In the Torah, Abraham and Moses generally stand as third parties, lawyers, to disputes between God and the world (Sodom and Gommorrah, Israel). In Prophets and Writings, less emphasis is placed upon this intercessory type of role. The people, or the people as represented by the individual, speak and argue on their own. Finally, both forms of the law-court pattern are meant to be understood on a dramatic-historical and a didactic-theological level. Both have but one intention -- to affirm God's justice. Yehezkel Kaufmann has already noted this important fact:

> Complaints about the evil in the world, especially about moral evil, are voiced by pagan thinkers as well... Only in Israel, however, does this question touch the very essence of God... On the one hand, there was no evil principle; good and evil came from YHWH. On the other hand, Israelite religion

tolerated no fault or blame in God. He was altogether good and just. When harsh reality challenged the conventional view of divine justice, concern for the honor of God violently disturbed the devout. They could not break out in insults or surrender to despair; they could only complain and question and go on seeking an answer. At bottom, it is not so much the human side of undeserved suffering that agitates the Bible as the threat it poses to faith in God's justice.[43]

NOTES TO CHAPTER TWO

[1] Other examples of the law-court pattern in Genesis include: Cain's appeal of his sentence (Gen. 4:13-15); Abimelech's prayer (Gen. 20:4-6); and Jacob's prayer (Gen. 32:9-12). See also the examples cited in n. 9 below.

[2] Blank, Men Against God, p. 8; Erich Fromm, You Shall be As Gods, (N. Y.: Fawcett Premier Books, 1966), pp. 24-25.

[3] Brichto, Images of Man, p. 7; Nahum M. Sarna, Understanding Genesis, (N. Y.: Schocken Books, 1970), pp. 146-148.

[4] See Sarna, Understanding Genesis, pp. 144-145, for the meanings of צדק, and צדקה, and their relation to justice and the existence of the moral order.

[5] See below, p. 8 for the use of this motif in a later Biblical example. For a full treatment of the development of the concept of the doctrine of merit and זכות אבות in particular, consult Arthur Marmorstein, The Doctrine of Merits in Old Rabbinical Literature, (London: Jew's College Publications, 1920); Solomon Schechter, Some Aspects of Rabbinic Theology, (N. Y.: MacMillan Co., 1909), pp. 170-198; and Sarna, Understanding Genesis, pp. 149-151.

[6] Harold M. Schulweis, "Suffering and Evil," Great Jewish Ideas, ed. Abraham E. Millgram, (B'nai B'rith Department of Adult Jewish Education, 1964), p. 202. For an explication of the tradition of arguing with God and its relation to the covenant see pp. 197-202.

[7] The following are other instances of Moses' use of the law-court pattern:

a) The running argument/dialogue of Moses' first encounter with God: (Ex. 3:11, 13, Ex. 4:1, 10 & 13, and God's response -- Ex. 4:14-17). Compare Gideon's case (Ju. 6:13-18, 36-40).

b) After Moses' first attempt to help Israel and his rejection by the people: (Ex. 5:22-23; 22b-address and complaint, 23a - argument and complaint, 23b-implicit petition-"Act!").

c) Following the story of the Golden Calf, when God decides to withdraw His presence from the midst of the people: (Ex. 33:12-16; 12a-implicit address, 12b-argument, 13-petition, 13b-argument, 15-ultimatum, 16-argument, 17-23-divine response and Ex. 34:9; "O Lord"-address, "If now..." and "stiffnecked"-argument based on personal merit and confession on behalf of

people, "go in our midst," "pardon our sin," "take us for Your inheritance"-a threefold petition).

d) When Israel craved for meat: (Nu. 11:11-15; 11a-implicit address, 11b-complaint and petition to God, 12-argument, 13-petition for meat, 14-complaint, 15-ultimatum, 16-20-divine response).

e) Korah's rebellion forces Moses to take an oath before God: (Nu. 16:15-17), but God judges Korah and Israel in advance, so Moses must intercede (Nu. 16:21-23). At the time of the actual contest, Moses takes another oath and asks God for a sign (Nu. 16:28-30, and God's answer -- v. 31-35).

f) Moses' plea to enter the Land of Israel just prior to his death: (Deut. 3:23-28; 24-address, 24b-praise and argument, 25-petition, 26-28-divine response).

[8]The parallel argument in Deut. 9:26-29 has the following structure: 26-address, 27-29-argument, stressing God's deeds during the Exodus, His international prestige, confession of sins, and זכור אבות, 26-petition. On the whole it is more conciliatory and confessional in tone, and emphasizes the concepts of the chosen people and God's saving acts in the past, presumably later concepts. No mention is made of personal merit.

[9]Oaths, vows, and signs all function along similar lines; all are related to the motif of the law-court. Eleazar asks God to show (him) His steadfast love for Abraham by doing what he asks of Him; he asks God for a sign (Gen. 24:12-14). Moses (Ex. 3-4) and Gideon (Ju. 6:13-18, 36-40) also ask God for signs before venturing to undertake their missions. While these requests are not usually cast in the law-court pattern, there is an element of argument and <u>ḥutzpa</u> in asking God to prove His reliability. Jacob (Gen. 28:20-22), Jephthah (Ju. 11:30-31), and Hannah (I Sam. 1:11) all take vows to obtain what they desire at the hand of God. Unlike the oath, the vow is an exchange. One asks God for something and promises Him something in return -- a legal, i.e., punishable, proposition. Moses takes two oaths, one at the time of the Golden Calf (Ex. 32:32), the second when confronted by Korah (Nu. 16:15-30). In the latter case, Moses combines his oath (v. 15) with another oath and a request for a sign (v. 29-30). Elijah likewise combines oaths with requests for signs (I K. 18:20-40, verses 36-37 in particular; 2K. 1:10, 12). Job rests his case on an oath (Job 31). For more on Job see pp. 49-50 above. With regards to all of these, it is fitting to raise the question of whether such oaths, vows, and requests for signs were proper. In Ex. 17:7, the Israelites are castigated by Moses for "testing the Lord," though what they demand is much the

same as these other figures demand themselves. It would seem that in the earlier stories, only God's chosen representatives are allowed to exercise this privilege. In Prophets and Writings, however, this privilege will be taken over by the people, at least insofar as the people are given voice by their spokespersons in Job, Lamentations, Psalms and Deutero-Isaiah.

[10]For further examples of the law-court pattern in this story see above note 7, example "c."

[11]The whole section noticeably resembles the Deuteronomic process for the purging of evil from the midst of the people. See, for example, Deut. 21:7-9.

[12]Compare Moses' words here with his words to the people on the same occasion (Deut. 1:29-33). He uses the same arguments with both God and Israel-- a clear indication of his intermediary role.

[13]See Joshua's use of this same motif in his law-court prayer (Josh. 7:7-9).

[14]For other examples of the law-court pattern in Prophets see Elijah (I K. 17:20-21), Hezekiah (2 K. 19:15-19, 20:3-6), Habakkuk (Hab. 1:2-4, 12-17, 2:1-4), Deutero-Isaiah (Is. 62:1-7, 63:11b-chap. 64), and Jonah (Jo. 3:10-4:4). God is not always appreciative of their arguments, or those of the people (Ez. 18:25-29; Mal. 2:17, 3:13-15; and compare with Ex. 17:7).

[15]See articles by Blank, Prophet as Paradigm, and Confessions; Gemser, Rîb Pattern, pp. 128-133; and William L. Holladay, "Jeremiah's Lawsuit with God," Interpretation 17:3 (July 963): 280-287.

[16]Blank, Prophet as Paradigm, p. 31; Martin Buber, The Prophetic Faith, (N. Y.: Harper and Row, Publishers, 1960), p. 180.

[17]Blank, Prophet as Paradigm, p. 31. For the development of Blank's argument see pp. 23, 29-33.

[18]Buber, The Prophetic Faith, p. 183.

[19]Blank, Prophet as Paradigm, p. 29.

[20]This theory is supported by another example of Jeremiah's use of the law-court pattern, which followed his purchasing some ancestral land just before Jerusalem fell. Jeremiah questions God's purpose in commanding him to purchase the lands, and he is given an important divine message in return -- a message of hope for an eventual restora-

tion of Israel to its land (Jer. 32:17-25, and God's response -- verses 42-44 in particular). Here Jeremiah's anxiety clearly serves as a paradigm for the anxiety of the people, and God's response addresses both Jeremiah as an individual, and through him, the people as a whole. The structure of this prayer is as follows: v. 17-address, v. 17-25-argument (17-23a-recitation of praise and past deeds of God, 23b-24-confession of sins/justification of God's judgments), v. 25-complaint with implied petition "Please explain why You asked me to purchase those lands?", v. 26-44 (42-44 in particular)-divine response to Jeremiah's question.

[21]Blank, Prophet as Paradigm, pp. 25-26.

[22]In this essay we have relied primarily on the works of Claus Westermann. See his article, "The Role of the Lament in the Theology of the Old Testament," Interpretation 28:1 (January 1974): 20-21; and his book, The Praise of God in the Psalms, tr. Keith R. Crim, (Richmond: John Knox Press, 1965), pp. 52-81; in which he proposes a five-fold division to the lament consisting of a) address and introductory petition, b) lament and complaint, c) expression of trust, d) petition or supplication, e) vow of praise (in individual laments). Hermann Gunkel, The Psalms: A Form-Critical Introduction, tr. Thomas H. Horner, (Philadelphia: Fortress Press, 1967), pp. 13-15, 19-22, 32-36, advocates a three-fold division: a) lament, b) prayer and argument, c) certainty of a hearing. Artur Weiser, The Psalms: A Commentary, (Philadelphia: Westminster Press, 1976), suggests a five-fold division in his introduction consisting of a) invocation, b) lament, c) supplication, d) motivation, e) vow.

[23]Other examples of the National Lament include: Psalms 60, 74, 79, 83, 85, 89, 90, 106; Lam. 2:20-22, 3:40-51, chap. 5; Jer. 14:7-9, Is. 63:7-64:12, Hab. 1:2-2:4. Psalms 4, 10, 51, 82, 94, 102, 115, 123, 130, 131, 137; Lam. 1:20-22, chap. 3 as a whole, all combine the lament of the individual with that of the nation.

[24]Other examples of the Individual Lament include: Psalms 3, 5, 6, 7, 12, 13, 17, 25, 26, 27, 28, 31, 35, 38, 39, 42-43, 55, 57, 59, 64, 69, 70, 71, 77, 86, 88, 109, 140, 141, 142, 143; Lam. 3:1-39, 52-66.

[25]Westermann, Role of the Lament, p. 21.

[26]On the lament of the individual and the vow of praise, see Westermann, The Praise of God in the Psalms, pp. 75-78; and Gunkel, Psalms: A Form-Critical Introduction, pp. 13-15, 19-22, 32-36.

[27]Westermann, The Praise of God in the Psalms, p. 75.

[28]Blank, Men Against God, pp. 95-99, examines this and other motifs of the Psalms of Petition in detail. I direct the reader to the references made there and to the copious examples found in his notes.

[29]The following is the law-court pattern applied to the Book of Lamentations as a whole: a) address 1:20-22; b) argument 1:1-19, 2:1-19 (complaint), 2:20-22 (accusations); c) expression of trust chap. 3; b) argument 4:1-10 (complaint and accusations), 4:12-20 (confession of wrongdoing); d) petition and complaint 5:1-18 (complaint), 5:19-22 (petition); e) certainty of having been heard (instead of a vow of praise) 4:21-22. Note, however, that many of these units can stand structurally on their own as full laments.

[30]Gemser, Rîb Pattern, p. 135; Westermann, Role of the Lament, p. 32.

[31]Matitiahu Tsevat, "The Meaning of the Book of Job," HUCA 37 (1966): 73-106. In our study of the Book of Job, we have relied heavily on Tsevat's excellent analysis of (but not his solution to) Job. Tsevat sees the central issue being that of justice, and surveys other secondary sources for their understanding of the central issue as well. See pp. 92-96 for a review of these other scholarly views.

[32]On the meaning of Elihu's speeches, see Robert H. Goldsmith, "The Healing Scourge," Interpretation 17:3 (July 1963): 271-279. He links Elihu's speeches with the content of Job's theophany and also with the views of Job's friends (and Deuteronomy). Buber, The Prophetic Faith, p. 196 sees Elihu's words paralleling those of the friends, while Yehezkel Kaufmann, The Religion of Israel, tr. and abr. Moshe Greenberg, (N. Y.: Schocken Books, 1972), pp. 336-337, sees Elihu's address corresponding to the content of Job's theophany. It would seem that Elihu's words do link up with the content of both the friends' speeches and God's speeches. Even so, the former's outlook alone is insufficient (and indeed provokes divine displeasure); the former's outlook must be brought in as part of latter. In other words, Job's friends are right to a certain degree, but at a certain point their understanding becomes dogmatic. Only when integrated into the context of the theophany do they regain their proper function (as generally operable principles of divine justice). Elihu's words attempt to combine both the friends' and God's outlooks. The best analysis of Elihu's address (and hence of the theophany) is, in our opinion, Nahum N. Glatzer, "Knowest Thou...? Notes on the Book of Job," Essays in Jewish Thought, (University, Alabama: University of Alabama Press, 1978), pp. 82-92. Glatzer points out the underlying theme of true knowledge which unites Elihu's and God's addresses. This theme of true knowledge is second only to the theme of divine justice in Job, for it is only Job's glimpse of true knowledge that makes him aware of the nature of divine justice.

[33]Sheldon H. Blank, "An Effective Literary Device in Job 31," Prophetic Thought, (Cincinnati: Hebrew Union College Press, 1977), pp. 65-67, analyses Job's oath in detail. He draws a parallel between Job's oath and the oaths taken by the suspected adulteress (Nu. 5) and the suspected thief (Ex. 22:9-10).

[34]Only rarely does the Bible set down full oaths, i.e., with their conditional curses intact. Two other occasions are Psalms 7 and 137. Both Moses and Elijah make use of negative oaths (ultimatums) when confronted by Korah and the contest on Mount Carmel, respectively -- "Unless such and such happens, the Lord has not sent me." Moses also uses a partial oath in the episode of the Golden Calf (Ex. 32:32). See above note 7, example "e," and note 9, on oaths, vows and signs.

[35]Kaufmann, The Religion of Israel, p. 335.

[36]This is the theme developed by Glatzer, Knowest Thou...?, pp. 82-92.

[37]The question seems to be: Does God's revelation constitute a show of divine justice, and if so, what is its meaning? Buber, The Prophetic Faith, pp. 194-196, and Kaufmann, The Religion of Israel, p. 337, say the revelation is a manifestation of divine justice in which God links Himself with the sufferer. Tsevat, The Meaning of the Book of Job, pp. 97-106, proposes that God and justice must be separated. He believes that Job advocates an end to the principle of exact (quid pro quo) retributive justice. But there seems little in Job to clearly support such an interpretation. As Tsevat notes, the revelation, in that it avoids the issue of justice (i.e., Job's case), does lead one to questions about its intended meaning. Ultimately, the question becomes: Does the revelation contain some "hidden" or "veiled" teaching, or is it itself the teaching i.e., that God, beyond all His other great concerns, upholds the innocent and champions the right? Tsevat believes the former, we advocate the latter. Tsevat's thesis is weakened because he dismisses the "revelation as the message" theory without giving it due consideration. "Irrational" is a value judgment on his part. For the Israelites, the belief in, and hope for, revelations was very real. Tsevat's answer seems too extreme, too disconnected from anything else written before, during, or after, the time of the exile. True Job does advocate a change in the people's attitude towards suffering and divine justice, but it is not what Tsevat proposes. If Job were truly meant as a "secret" teaching, then there should be some evidence that someone before Dr. Tsevat also knew of its existence.

[38]Buber, The Prophetic Faith, pp. 188-189.

[39]See Tsevat, The Meaning of the Book of Job, pp. 74-5, 100,

for a full treatment of this view of the prologue and epilogue.

[40]Tsevat, The Meaning of the Book of Job, p. 101.

[41]God addresses Israel's despair: Is. 40:28-31; 41; 42:14-17; 43; 44:21-28; 46:3-13; 49:15-50:3; 51-52; 54; 57; 65:8-25. God justifies what He has done to Israel: Is. 43:22-28; 48; 57:16-21; 65:1-7. Israel confesses after a prophetic accusation and God responds by acting: Is. 59-61. Israel is told not to doubt God's plans but to trust in the Lord: Is. 42:18-25; 45:9-13; 55:8-9; 40:12-31.

[42]Buber, The Prophetic Faith, pp. 196-217, 229-230, links Job in a line of "faithful rebels," leading to Deutero-Isaiah's "servant of YHVH." He attempts to reconcile the diverse views represented in each work, and amongst the various works, by fitting each work into a conceptual chain. His rationale is that we have received the Bible as a single work and so that is how we should attempt to explain it. While I accept his premise, I see no reason why everything must be reconciled. I would suggest that the dialectics set forth above (pp. 29-30) can remain unresolved in the Bible, for they remain in tension throughout the rabbinic period.

[43]Kaufmann, The Religion of Israel, pp. 332-333.

CHAPTER III

THE LAW-COURT PATTERN IN THE RABBINIC PERIOD

I Introduction

Throughout the rabbinic period, the law-court pattern of prayer remained in constant use, and in fact, its application was greatly broadened.[1] Heinemann has determined three categories of rabbinic usage of the law-court pattern: in the aggadic prayers set in the mouths of Biblical figures, in the private prayers of the Talmudic sages themselves, and in certain prayers found today in the various liturgical rites. Furthermore, Heinemann has determined three types on the basis of their content and form: petitionary prayers made in times of distress, and two subsidiary types -- confessional prayers and prayers of thanksgiving (acknowledgement).[2] In keeping with the theme of this paper, we shall focus upon the first type only -- the forceful use of the law-court pattern in times of emergency. The law-court pattern in its rabbinic form serves three primary functions: to expound certain Biblical passages, to help explain the problem of the Exile, and to act as the personal mode of prayer when certain sages (or the people in behalf of whom they prayed) found themselves in dire straits. Of necessity we shall have to limit our study to but a few examples of each function.

Let us note at the outset, supported by Heinemann's previous study of the materials, that all three functions are tied together by their use of a common form of address -- the law-court pattern. Unlike the

Biblical use of the pattern, the rabbinic application of the law-court pattern evinces a much higher degree of uniformity in the appellations used to address God (רבונו של עולם and variations), and in the overall structure of the prayers themselves. Whether cast in the mouths of Biblical characters or expressed contemporaneously, the law-court prayers remain cast in one mould -- they are thoroughly rabbinic in form and content. All law-court prayers dating from the rabbinic period partake in common theological and methodological concepts which serve as the point of departure for the rabbis. These concepts include the belief in the existence of an on-going Covenant between Israel and God, and the belief that the Torah includes both the Written and the Oral law. It includes the belief in a God who, while endowed with omnipresence, omnipotence and omniscience, remains nonetheless a God of justice and mercy, a God with whom prayer is efficacious, a God who is linked to the world, and especially to Israel, through bonds of love and concern, as Creator and Judge, and, in the case of Israel, as its husband/lover as well. Methodologically, the law-court prayers are grounded in the rabbinic concept of "אין מוקדם ואין מאוחר בתורה" as well as in the basic principles of hermeneutic exposition.

One final point before commencing our examination of the law-court pattern in the rabbinic period: The theological outlook of those rabbis who make use of the law-court pattern of prayer is but one of a number of differing rabbinic theological outlooks. It might be added that the theological outlook that lies beneath the law-court pattern was by no

means dominant -- it remained in tension with other competing rabbinic theological points of view. Julius Guttmann has had the following to say on this matter:

> All the most important ideas in connection with the problem of theodicy can be found in the Talmud; yet it is impossible to construct from them a systematic doctrine... What the Talmud has produced is not theology, but scattered theological reflections. This accounts for the sometimes strange coexistence of ideas... The ideas of providence, retribution, and miracles were firmly established as elements of the Jewish faith through their connection with belief in revelation. Their factual truth was beyond doubt; only in regard to their precise understanding was there freedom for philosophical interpretation... The whole complex of religious convictions that had grown up in the Talmudic period served as an incontestable, valid norm of faith for future Jewish generations and for their philosophies.[3]

II The Law-Court Pattern of Prayer in the Aggada

With regards to the vast number of aggadic law-court prayers attributed to Biblical characters, it is significant to realize, both for the purpose of confirming the existence of the pattern and for making a case for its continuity, that, in general, the rabbis employed the law-court pattern in exactly those situations where the pattern had been used in the Biblical narrative.[4] This suggests that the rabbis themselves were conscious of the existence of the pattern and that they used the pattern for a similar purpose -- to address problems current in their own day. The prime purpose of the law-court pattern in the aggada seems to have been: a) to clarify certain difficult Biblical passages that cast doubt upon fundamental rabbinic beliefs, and b) to expand upon and defend their own teachings. One problem which arises as a result of the

ages-long process of compilation is that few of the midrashim have retained their original form. Many stories are repeated in variant forms by different sages. With regards to the law-court prayers, this means that few examples have retained their full law-court pattern. Many partial examples have, however, been preserved -- primarily the "b," or defense argument, section -- and we shall have to make much use of these in addition to citing examples of the full law-court pattern.

In some cases, the law-court pattern in the aggada merely expands existing Biblical arguments, in other cases the law-court pattern serves to complete an argument only hinted at in the Bible. In still other cases the rabbis' use of the law-court pattern had a much more explicit purpose, serving as a counter-attack against the teachings of Gnosticism and Christianity, both major threats to Judaism in the late tannaitic and early amoraic periods (2nd-4th centuries C. E.).[5] Gnosticism, given its "finest" formulation in the teachings of Marcion, espoused a dualistic theology, opposing "the Demiurgos, the god of the Jews, the god of this world, the known god, on the one side, and the highest god, the great unknown god, on the other side."[6] According to the Clementine Homilies (ii. 48 f.), Marcion, supporting his case with appropriate Biblical proof-texts, taught that the God of the Jews and of the Bible was a god who:

> lies, makes experiments as in ignorance, deliberates and changes his purpose, envies, hardens hearts, makes blind and deaf, commits pilfering, mocks, is weak, unjust, makes evil things, does evil, desires the fruitful hill, is false, dwells in a tabernacle, is fond of fat, sacrifices, offerings,

> &c., is pleased with candles and candlesticks, dwells in shadow, darkness, storms and smoke, comes with trumpets, shoutings, darts and arrows, loves war, is without affection, is not faithful to his promises, loves the wicked and adulterers and murderers, changes his mind, chooses evil men.[7]

As much of a threat as he was for the Christian Church (which declared his teachings heretical), Marcion represented an even greater threat for the Jewish people whose faith remained intimately linked to its sources in the Bible. It was therefore incumbent upon the rabbis to meet the Gnostic challenge head-on and to counter Marcion's attacks on their God directly, lest his views influence and infect the beliefs of a Jewish people still attempting to cope with the national disasters of 70, 115, and 135-138 C. E. The threat posed by the Gnostics was compounded by the polemics of the emerging Christian Church which sought to undermine and repudiate rabbinic Judaism even as it advanced its own beliefs and its claim to be the "True Israel" and holders of a "New Covenant."[8] Here too, it was crucial for the rabbis to launch a defensive and offensive war of words.

Arthur Marmorstein has proposed a connection between the dialogues of the aggada and the classical diatribe-form of the Cynics and Stoics.[9] In these aggadic accounts, Biblical figures (corresponding to the heroes of classical mythology in the diatribe) engage God in dialogue, to defend Israel and to uphold certain fundamental beliefs concerning the nature of God and His relationship with Israel and the world. In the context of the dialogue, God's true nature and Israel's unique status in the world are affirmed through the arguments and admonishments these figures hurl

towards God. It should not be surprising to find that these same dialogues have the form of the law-court pattern of prayer. Thus, in the first use of the law-court pattern in the rabbinic period, we find a parallel with its Biblical antecedent in that both are polemical in nature. Let us examine several episodes which exhibit this polemical function.

III Abraham

Our first example is drawn from those arguments which the rabbis created to complement the arguments Abraham uses in the Bible when he intercedes in behalf of Sodom and Gomorrah:

> a) Master of the Universe!
>
> b-c) You swore that You would not bring a flood upon the world (again), as it is written: 'For this is as the waters of Noah to Me; for I have sworn that the waters of Noah shall never again go over the earth (Is. 54:9).' A flood of water You won't bring, but a deluge of fire You would bring!? Would You with subtlety evade Your (the) oath? If so, You shall not have fulfilled the oath. As it is written: 'Far be it from You -- shall not the Judge of all the earth do justly (Gen. 18:25)?' If You seek (absolute) justice, there can be no world here. If it is a world You seek here, there can be no (absolute) justice. You would grab a rope by both its ends: You would have a world and You would have absolute justice. If You don't let up a bit Your world cannot endure.[10]

First let us note the structure of the prayer. Two of the three parts of the law-court pattern are present. The petition, "c," is implicit in the last line of the argument section, and Abraham's address is followed in the text by a divine response, "d." This argument, presented here in its fullest form, functions in exactly the same way as did its Biblical counter-part, dramatizing the historical moment and simultaneously

teaching, explaining, and clarifying the theological significance of the event. Through the rabbis' words, Abraham's argument becomes more explicit and more daring. Consider other snatches of argument attributed to Abraham on this same occasion: "In this world one has recourse to appeals in a higher court; but You, because no appeals (to a higher court) can be made, 'Will You not do justly?'"[11] "The anger (חֵמָה) which You bring to Your world, would You destroy the righteous with the wicked? It's not enough that You do not suspend the judgment of the wicked for the sake of the righteous, but You would destroy the righteous with the wicked!" "Is Your anger like a she-bear on the rampage -- if it can't find another beast to kill, it kills its own young?"[12] Here, "Abraham's" remarks verge on the blasphemous, yet are very far removed from blasphemy. The rabbis contrast Abraham's charge (Gen. 18:25) with a similar accusation leveled at God by Job (Job 9:22), and find that Abraham is of a much superior mettle than Job.[13] Job spoke out in rebuke, whereas Abraham spoke in a tone of love and intercession; Job's accusations were statements of fact, Abraham's accusations were rhetorical. As in the Biblical story, each of Abraham's charges is to be answered with a resounding "No!"

God's proposed destruction of Sodom and Gomorrah, like His judgment of the Flood and the Tower of Babel, represented a serious challenge to the rabbinic belief in a just and benevolent God. Stories such as these three were seized upon by Marcion and other Gnostics to prove the "true nature" of the Jewish God. That Abraham's law-court

pattern prayer (cited above) is meant to counter the Gnostic view is made clear by other comments made by the rabbis "in discussion of" the episode. Rabbi said: "A human being is conquered by anger, but The Holy One Blessed Be He conquers (His) anger -- 'The Lord is vengeful, but masters anger (Nahum 1:2).'"[14] R. Yudan and R. Aha remark that the judgment which God intends to hand down is a profanation (חילול) of His name and foreign to His nature.[15] Elsewhere it is said that God knew there were no righteous men in Sodom, but allowed Abraham to say his piece anyway.[16] More to the point are a series of midrashim wherein God submits His judgment of Sodom and Gomorrah to Abraham's scrutiny. In Genesis Rabba 49:10, God says to Abraham: "They (people) cast aspersions upon Me and say 'He does not judge correctly.' ... Go and examine My judgment and if I have erred, 'you teach Me' (Job 34:32)." The charge of these "people" becomes more clear as expressed in the prayer/argument offered by Abimelech, who, it is significant to note, is a non-Jew: "'Will You slay even a righteous nation' (Gen. 20:4) -- If this was the way You judged the Generations of the Flood and the Tower, they were righteous!"[17] In Tanḥuma (Buber), God submits not only His judgment of Sodom and Gomorrah, but also His past judgments as well, to Abraham's scrutiny, in order to be cleared of the "charges" made against Him.[18] In the aggadic accounts of the return of the Spies (Nu. 14), God faces similar accusations, but this time it is Moses who accuses Him! Actually Moses employs these accusations as part of his defense of Israel, saying that if God does in-

deed destroy Israel in the Wilderness, He will only be adding fuel to the fire. He will give the nations cause to say that God is weak and cruel and destructive.[19] In both the case of Sodom and Gomorrah and the case of the Spies, God does not want to provide this provocation and so relents. In both episodes, God is, of course, cleared of all charges made against Him.[20] In "gratitude" God praises Abraham and rewards him by choosing (or rather, by having chosen) to address him alone from amongst all preceding generations with "לך לך" (Gen. 12:1, but quite possibly Gen. 22:2 is intended as well). In Moses' case, God says "הטבת פנים בדבריך" -- "You have revived Me with your words" -- you have preserved My esteem amongst the nations.[21] In these midrashim we see affirmed two fundamental beliefs. In response to the Gnostic charge that God is evil, we see affirmed the belief in God's justice. And, in response to the Christian denial of the unique station of Israel in the world, we see affirmed God's choice of Abraham as His witness and as father of His people.

These same two beliefs also play an important role in the rabbinic understanding of the Akedah. In the story of the Akedah, Abraham again expresses some of the very questions raised by the Gnostics. "Why must God test Abraham?" "What kind of God would propose such a test?" However, in the case of the Akedah, unlike the case of Sodom and Gomorrah, Abraham's charge is not meant rhetorically:

a) Master of the Universe!

b) It is revealed and known to You that when You told me to

> offer up my son Isaac, there was something I could have said to You: Yesterday You said to me 'for it is through Isaac that offspring shall be called to you (Gen. 21:12)' and now You say 'offer him there as a sacrifice.' Heaven forbid, I did not do so (offer such a retort), but I conquered my inclination and did Your will.
>
> c) Thus may it be Your will, O Lord my God, that when the children of Isaac, my son, enter into sorrow and there is no one to plead their defense, You plead their defense. 'The Lord will see' -- You remember for their sake (for them) the binding of Isaac their father and be filled with compassion for them.[22]

Abraham in this passage is launching a fierce accusation against God -- that God all but went back on His own word.[23] As judge, God has no choice but to acknowledge the justice of Abraham's complaint and grant him his request. God may have been forced into admitting His "error" in testing Abraham as He did, but such an admission must be balanced by the compensation awarded Abraham and his descendants.

What is meant, perhaps, by Abraham's request that God act as Israel's advocate when they have no one else to plead their case is made clearer in one of the parallel texts to this prayer. In Leviticus Rabba 29:9, Abraham tells God that in remembrance of the Akedah He should pardon Israel's sins and convert His Attribute of Justice into the Attribute of Mercy in the seventh month (on Rosh HaShannah). It would seem that the rabbis are less concerned with clearing God's good name than in establishing the centrality of the Akedah as the redemptive act par excellence. In his argument, Abraham is doing nothing less than laying the foundations for (or rather, reinforcing) the centrality of the Akedah both for the Exodus from Egypt and, still later, for the yearly

High Holy Day ritual of atonement.[24] Marmorstein states that Abraham's argument actually was used in the Rosh HaShannah liturgy of 3rd century C. E. Palestine, and in Genesis Rabba 49:11 the fast ritual is described in which the Ark is brought out into the public square and ashes are sprinkled before it in reminder of the merit of Abraham ("I am but dust and ashes") and the Isaac (the Akedah).[25] If the rabbis allow Abraham to actually impune God's reputation, they do so only to have him combat another hostile enemy -- the Christian Church. Abraham's argument, therefore, must be understood as the attempt by the rabbis to emphasize the central redemptive role of the Akedah both in Jewish history and in the religious life of their times as well as their attempt to polemicize against the redemptive qualities ascribed to the crucifixion of Jesus.[26]

IV Moses

The aggadic accounts of Moses' arguments with God at the time of the Golden Calf likewise occupy a very significant place in the rabbis' attempts to answer the charges brought against Judaism by Gnosticism and Christianity. According to the Gnostics, the episode of the Golden Calf showed yet another example of the Hebrew God's destructiveness, changeability, jealousy, and anger. According to the Christian Church, the episode of the Golden Calf marked Israel's (first) rejection of God, and consequently, God's ultimate rejection of Israel.[27] Thus, in their aggadic interpretation of the Golden Calf story, the rabbis had to respond

to both these attacks.

In a number of midrashim, God wants Moses to intercede with Him on Israel's behalf. In one case, God deliberately says " אנכי " -- " מה אנכי " -- "Tell me what I did to deserve this of them?", as opposed to " ואדעה, " in order to provide Moses with the opportunity to intercede.[28] In another instance, God is compared to a king who is on the verge of beating his son and, anxious over what he might do, says within hearing of his adviser, "Were it not for my adviser here I would kill you!", by which the adviser (Moses) realizes that he must act to defuse the situation.[29] Elsewhere, Moses feigns such anger with Israel that God tells Moses that they both cannot be angry and that therefore he had better pray in Israel's behalf.[30] In yet another midrash, Moses, like Abraham before him, tells God that such an act as He contemplates would be a profanation of His name.[31] This sort of exposition effectively clears God of those accusations of wanting to destroy Israel.

Moses then attempts to plead in Israel's behalf. He begins with arguments based on Israel's own merit:

> I have something to say in their (Israel's) defense.
>
> a) Master of the Universe!
>
> b) Be reminded, for their sake, that when You sought to give the Torah to the Children of Esau, they rejected it, but Israel accepted it (Ex. 19:8).
> d) God replied, "They have transgressed against the deed (of taking the Torah) (Ex. 32:8)."
>
> b) Be reminded, for their sake, that when I went on Your mission to Egypt and I said Your name to them, immediately they believed and worshipped You (Ex. 4:31).

> d) God replied: "They have transgressed against (their) worship (of Me) (Ex. 32:8)."
>
> b) Be reminded of their first-born whom they sent to offer sacrifices before You (Ex. 24:5).
> d) God replied, "They have transgressed against that sacrifice (Ex. 32:8)."
>
> b) Be reminded, for their sake, of that which You said at Sinai -- "I am the Lord your God" (Ex. 20:2).
> d) God replied, "They have transgressed against that too -- 'And they said: These are your gods (Ex. 32;8)."[32]

Israel has no merits of its own with which to protect itself and Moses calls upon the merit of the patriarchs to bolster Israel's case.

With regards to the merit of the patriarchs, the זכות אבות, we must take note of a fact to which Marmorstein has already drawn attention, namely, the ambivalent attitude towards the זכות אבות in the sayings of the rabbis. Generally speaking, the rabbis placed great emphasis on the redemptive and atoning powers of the זכות אבות.[33] With reference to the story of the Golden Calf, we see both tendencies at work. In a number of midrashim, Moses obtains no forgiveness for Israel's sins until he makes mention of the זכות אבות.[34] In one example, Moses uses examples drawn from the trials of the patriarchs to prevent Israel's destruction at the hands of God. Moses argues:

> b) If they (Israel) warrant burning, remember Abraham who was ready to be burnt in the furnace for the sake of Your name, let his burning stand (go forth) for the burning of his children. And if it is death (by the sword) they warrant, remember Isaac, their father, who stretched his neck upon the altar for Your name, let his slaughter take the place of the slaughter of his children. And if it is banishment that they deserve, remember Jacob, their father, who was exiled from his father's house to Haran; let these stand for theirs... [and spare them.][35]

In another midrash, Moses prays:

> Master of the Universe! Were the Patriarchs righteous or wicked? Distinguish between the two. If they were wicked then it is fitting what You plan to do to their children. Why? Because their fathers have no deeds (stored up) with You. But if they were righteous, give them (Israel) the deeds of their fathers... [and spare them.][36]

Moses also uses the patriarchs to refute God's expressed wish to make of Moses a second Abraham: a) "Sovereign of the Universe! b) If a three-legged stool cannot stand before You when You are angry, how much less a one-legged stool? I would be ashamed to face my ancestors who would say: 'See what a leader He has set over them! He sought greatness for himself and not mercy for them (Israel).'"[37]

In other instances, however, the זכות אבות does not accomplish all that is expected of it. In Ecclesiastes Rabbati 4:5, Moses calls upon the patriarchs to battle the angels of God's anger, but God discredits the merit of each. Abraham because he lacked faith (Gen. 15:8); Isaac because he loved Esau, whom God hated (Gen. 25:28 and Mal. 1:3); and Jacob because he intended to deceive God (Is. 40:27). But then Moses adds "to whom You swore by Your own self" and God immediately repents.[38] In another case, Moses reminds God that He had sworn to the patriarchs not by transitory objects like heaven and earth, but by His own name, saying: a) "Master of the Universe! b) Did You not swear by Yourself to their fathers that You would not destroy their children?!" God responds, d) "Just as I live and exist for all eternity, even so does My oath stand for ever and ever."[39] This is the crucial

concern of the matter, a concern brought home by a dialogue between God and Zion in T. B. Berachot 32b. Israel accuses God: "When a man takes a second wife, he remembers the deeds of the first! You have both forsaken and forgotten me!" (Is. 49:14) God responds: "My daughter, I made the whole universe for your sake. 'Can a woman forget her suckling child?' (Is. 49:15) Can I forget the burnt offerings... in the Wilderness?!" Israel then asks anxiously: "Since there is no forgetfulness with You, will You not forget the Golden Calf?" God: "I've forgotten it." Israel: "But will You forget Sinai?" And God reassures Israel: "I will not forget You."

In the main then, the rabbis did place great trust in the powers of the עקדת יצחק, citing its redemptive power at the time of the Golden Calf and on many other occasions. This was both an attempt to affirm their own faith and a counter-polemic against the Christian Church which inveighed against the עקדת יצחק even as it asserted the redemptive power -- the יצחק, if you will,-- of Jesus.[40] And even for those rabbis who placed less of an emphasis on the עקדת יצחק, God's promise to the patriarchs still remained intact, for Israel's Covenant with God was an eternal Covenant, a Covenant never to be repealed and never to be superceded.

The rabbis by no means discounted the seriousness of Israel's worship of the Golden Calf and of its implications for the Covenant. Israel, in these cases, has no merit upon which to base its defense, and Moses must defend them himself even to the point of risking his life. Moses'

breaking of the Tablets, according to several midrashim, was an act of desperation, by which Moses sought to lessen Israel's punishment and prevent its annihilation, similar to the tearing of a ketubah to prevent an unchaste woman from being punished as an adulteress. Yet in daring to do such an act, Moses risks his life. As in Ex. 32:32, Moses links his fate with Israel saying: b) "They have sinned, and I have sinned for I have broken the Tablets." c) "If You pardon them, You must also pardon me."[41] The Covenant at Sinai is thus temporarily but purposefully suspended in order to prevent a stricter punishment from befalling Israel. In another midrash, Moses does incur God's wrath for breaking the tablets, yet saves himself by juxtaposing the merit of Abraham's ten trials with the ten broken Words.[42] In another group of midrashim, Moses attempts to save Israel by pointing out that God addressed the Commandments to him alone (i.e., in the singular) and hence Israel had not broken its pledge, since it was not party to the agreement.[43] Moses attempts a similar semantic defence by answering God's command "Go down! Your people have sinned." with: b) "If You say they are my people (and not Your people), then my people have sinned and not Your people. So 'Why are You angry against Your people?'" (Ex. 32:11)[44] Moses also urges God to be realistic and patient -- had not Israel just left a land steeped in idolatry? How could they not but be influenced by the Egyptians' practices?[45] Some midrashim also continue the anti-idolatry polemic of the Bible -- but with a twist of intention and a touch of humour. Moses proposes: a) "Sovereign of the Universe! b) They

made an assistant for You and You are angry with them?! This Calf which they made will be Your assistant. You make the sun rise, and it -- the moon..." God replies in astonishment: d) "Moses! Are you going astray just like them? Surely there is nothing to it!" And thereupon Moses retorts: c) "If so, why are You angry with Your children?"[46] A variation on this theme has God admitting: "I must be angry to show that I am against idol worship -- but there's nothing to it really," and Moses responding as before.[47] In still other midrashim, Moses uses God's past or future behaviour to press for Israel's acquittal. Here is one example:

> a) Master of the Universe!
>
> b) (When You sent me to Pharaoh I asked about the merit of Israel for they were idolaters) but You said to me, "You see them now as idolaters, but I see... when I shall give them the Torah"... But if before You redeemed them, You told me that they would worship the Golden Calf, now that they have made it, why do You seek to kill them?![48]

Israel's on-going relationship with God, the Covenant, must be affirmed and defended above all. In the rabbis' eyes, Moses was Israel's greatest defense attorney, marshalling so many arguments that he literally wearies God with their multitude.[49] But in a number of midrashim, Moses exceeds himself and becomes a Prometheus-like figure standing against God in protection of Israel.

In several midrashim Moses confronts God directly. In Numbers Rabba 16:25 a) "Master of all worlds! b) 'You have been seen eye to eye'... the scales are balanced. You say 'I will smite them (Nu. 14:22),'

but I say 'Pardon I pray (Nu. 14:19).' c) Let us see whose words stand (take affect)!" In another midrash, Moses charges:

> a) Master of the Universe!
>
> b) They broke the beginning of the Commandment "You shall have no other gods" ... but You seek to break its end "showing חסד for thousands of My beloved" (Israel)... And how many generations (have there been) from Abraham until now? Seven ... And if You cannot show חסד to seven (generations), how are You going to show חסד for two thousand (generations)? Thus, they have nullified the first clause of the Commandment, and You seek to nullify its second clause![50]

But Moses does not rely only of the power of argument. R. Abbahu, while "apologizing" for the extreme anthropomorphism of his teaching, says that the text (Ex. 32:10) teaches that Moses took hold of God like a man who seizes his fellow by his garment and said: a) "Sovereign of the Universe!" b-c) "I will not let You go until You forgive and pardon them!"[51] Raba, in this same midrash, also plays on the verb and, based upon its occurrence in Ex. 32:11 and Nu. 22:19, says that Moses remitted God's vow for Him. A parallel, but perhaps earlier text explains that God had previously vowed that those who sacrificed to other gods would have to die (Ex. 22:19). God regretted it, but He, of all "people," could not possibly break His vow. Thereupon Moses declared:

> a) Master of the Universe!
>
> b) Have You not given me the power to nullify oaths? (Nu. 30:3) Such a person cannot absolve himself, but a sage can absolve his oath for him when requested. Any elder who gives instruction, if he wishes that others will receive (accept) his teachings, must himself observe (establish) it first, and You have commanded me regarding the annulment of vows. It follows that You must per-

> mit Your vow (to be absolved) as You have commanded me regarding others.

Thereupon Moses wrapped himself in his tallit and sat like a sage while God stood before him like one asking about his vow. Said Moses, "Do You regret Your vow?" "I regret (repent) the evil which I thought to do to My people," replied God. And Moses then declared: "You are absolved. There is no vow here, and there is no oath here."[52]

God is pleased that Moses has dissuaded Him. In several midrashim God admits that had He won, he actually would have lost.[53] In other midrashim Moses is confirmed in his role, complimented or thanked.[54] Moses' argument was, in some cases, so valid that the rabbis say that God actually learned from Moses.[55] Lastly, God rewards Moses by giving him the second set of Tablets -- the Tablets containing both the Written and the Oral Law.[56]

In the episode of the Golden Calf, as in many other instances, Moses appears as a master lawyer, using every technique he (and the rabbis) know to defend Israel. But it is not just ancient Israel whom Moses is defending. His words, not surprisingly since they were set in his mouth by the rabbis, were also very timely with regards to the problems of the 2nd through the 4th centuries C. E. The same is true for Abraham and his arguments with God. Taken together, Moses and Abraham both defend and polemicize for rabbinic Judaism. In answer to the Gnostics, the aggadic law-court prayers of Moses and Abraham show that God is by nature just and good, and that God desires not the destruction of the

sinner but his repentance. In response to the Christian Church, the aggadic prayers of Abraham and Moses defend God's choice of Israel as His people, and affirm the continuity of, and continued efficacy of, God's Covenant with Israel.

V Arguments Against the Human Condition

In certain Biblical stories, the rabbis seem to have had an aim beyond that of expounding the story in a polemic and counter-polemic manner. This does not mean that the issue of God's justice, or the attacks made on God's justice by the Gnostics, were ignored. That remained the primary impetus for these midrashim, but their concern centers on God's justice as it applies to the human condition. We shall examine two examples of this sort of midrash: Cain's appeal of his sentence, and Moses' arguments just prior to his death.[57]

VI Arguments Against the Evil Inclination

In the Torah, Cain's argument consists of an appeal and a protest: "My punishment is too great to bear! Since You have banished me this day from the soil, and I must avoid Your presence and become a restless wanderer on earth -- anyone who meets me may kill me!" (Gen. 4:14). Yet this was enough of a beginning upon which the rabbis could build an elaborate defense argument for Cain. When confronted by God, and asked "Where is your brother Abel?", Cain retorted:

> You are He who is the guardian of all creatures and You ask of

> him from me?! This is like a thief who steals utensils and is not caught. In the morning the gatekeeper catches him and says: "Why did you steal the utensils?", to which the thief replies: "I stole but I did not forsake my craft. Your craft is to stand guard by the gate, why did you forsake your craft? And yet now you inquire of me?!" Thus said Cain: "I have killed him. But You created the Evil Inclination in me. You are the guardian of everything, and You allowed me to kill him. You are the one who killed him... for if You had accepted my sacrifice as You did his, I would not have grown jealous."
>
> (The rabbis explain:) This resembles the case of two who quarreled and one is killed. But a third fellow was there who did nothing to intervene between them. Upon whom does the blame rest if not the third fellow? Thus it is written: "(His blood) cries out to Me ('אלי) -- it cries out against Me ('עלי)."
>
> Cain said to Him: "Master of the Universe! I have not known about, or ever seen a slain person in my life. How was I to know that if I smote him with a stone that he would die?" (God curses Cain and Cain asks:) "Master of the Universe!... My father and my mother dwell on earth and they did not know that I had killed him. You however are in Heaven, how did You know?" God replies: "I roam the entire earth and I bear everything, as it says: 'I have made, and I will carry; I will bear, and I will save.'" (Is. 46:44). Thereupon Cain retorts, "You bear all the world in its entirety, but my sin You cannot bear?! My sin is too great to bear!" And God says: "Since you have repented, you are (only) exiled from this place."[58]

Cain's complaint, set in his mouth by the rabbis, becomes a strong critique of the nature of things -- of the imperfection of human nature, of the lack of divine providence, and of the whole problem of the interrelationship between human and divine moral responsibility.

But the question must be asked: To whom are Cain's remarks addressed? On the one hand, they could well be the arguments uttered by the Gnostics against the God of Israel. On the other hand, the rabbis themselves often inveighed against the Evil Inclination.[59] The above argument from Midrash Tanḥuma, and other related midrashim, provide answers for

both these groups.

Cain's accusations against God do present a powerful condemnation of the nature of God's justice regarding the human condition. But Cain, like Esau, was generally considered a רשע, one who approached God with devious intent by demanding God's forgiveness rather than confessing his sin.[60] In light of this, certain rabbis took Cain to task. Another midrash states that God asked Cain his brother's whereabouts only to offer Cain the chance to repent as He had with Adam. But Cain was one of several men who answered God wrongly, saying: "Am I my brother's keeper?", rather than acknowledging that God knows and sees all.[61] (In the Midrash Tanḥuma passage cited above, Cain answers God properly, i.e., by acknowledging God's omniscience.) Job too, according to Raba, sought to excuse himself by placing all responsibility for sin in the hands of God (Job 10:7). For this, Raba said, "Dust should be stuffed in the mouth of Job."[62] But even if for Cain or for Job, the charge was blasphemous, it still had to be answered nonetheless. This the rabbis do in a number of ways. First, as in the Midrash Tanḥuma passage, God acknowledges His responsibility.[63] In other midrashim, God regrets having created the יצר הרע in man and creating him from earthly parts.[64] But the deed is done, and man is what he is. Does this leave God standing accused of creating an imperfect world or of being malicious? This brings us to a second rabbinic response -- that creation is good. The rabbis, commenting on "הנה טוב מאד," see in the phrase a reference to the positive value of the יצר הרע as the

source of all productivity.[65] The יצר הרע then does have a positive side to it. Beyond this, the rabbis assert that all of God's work is perfect, that all His ways are just:

> His work is perfect in regard to all who come into the world, and one must not criticize His ways... He is a God of justice: He judges each one justly and gives him his due. A God of faithfulness: He had faith in the world and so He created it; for He did not create men that they should be wicked, but that they should be righteous.[66]

That God was perfect, just, and faithful, was an assertion the rabbis made both to counter the tenets of Gnostic dualistic theology and in response to their own theological world-view. But, with regards to the latter, if God has created in us a יצר הרע, then we cannot be wholly responsible if we do sin. This is Cain's argument. If God were to judge us as if we were wholly to blame, then He would be a malicious and unjust God. But God is not so, say the rabbis. God has intended mankind to be righteous, but has also endowed them with the יצר הרע. This is intentional for it leaves human beings free to choose whether to follow the Good Inclination or the Evil Inclination. This is the third response -- that free will exists. But God does not leave mankind to founder on the rocks of temptation. In His mercy, He has provided an antidote to the influence of the יצר הרע. "I have created the Evil Inclination," says God, "but I have also created the Torah as a remedy against it. As long as you busy yourselves with Torah, sin will not master you."[67] If Cain has sinned, God too has erred, and both atone for their wrong-doing -- God by creating the Torah, and

Cain by doing תשובה (repentance). This leads us to the fourth response -- the important role ascribed to repentance by the rabbis. Unlike several other midrashim, a midrash in Deuteronomy Rabba sees Cain's repentance as genuine and his confession sincere.[68] By repenting, Cain, the prototype of the sinner, appeals to God's mercy. The repentance of the sinner was seen by the rabbis as God's chief joy, for it allowed Him to be merciful.[69] Cain repented and his sentence was lightened. Adam, upon hearing this, struck himself, and wondered: "Is the power of repentance as great as this? I did not know it was so."[70] God desires repentance even from the most sinful. Thus Manasseh repented after a fashion, and God forgave even him: "You deserve not to be answered, for you have angered Me, but so as not to shut the door upon the repentant, lest they say 'Manasseh sought to repent but he was not received,' therefore I will answer You." God proceeds to pardon Manasseh even though His decision meant going against the wishes and actions of his Angels.[71]

Israel stood in great need of these teachings regarding the nature of God, the value of observing the Torah, and the role of repentance, in order to survive the traumas of the national disasters of the Roman era. But Israel also made use of Cain's argument on occasion. Thus Israel says to God:

> a) Master of the Universe!
>
> b) You have said, "Behold, like clay in the hand of the potter, so are you in My hand O House of Israel." (Jer. 18:6). Therefore, even though we sin and anger You, do not withdraw from

us. Why? Because we are the clay, and You are our potter. (Come and see: If a potter makes a jar and leaves a pebble in it, when it is taken forth from the kiln, if a man puts a draught in it, it will leak from the place of the pebble, and will lose the draught inside of it. Who caused the jar to drip and to lose what was inside of it? The potter who left the pebble in it!) Thus Israel said to God:

a) Master of the Universe!

b) You created the evil inclination in us from our youth (as it says in Gen. 8:21), and it causes us to sin against You but You do not remove cause of sin (תליא) from us.

c) We beg of You, remove it from us in order that we may do Your will.

d) God said to them: So shall I do in the future (to come) as it is said: "On that day, says the Lord, I will assemble the lame and gather those whom have been driven away and those whom I have wronged (afflicted)." (Micah 4:6)[72]

The rabbis recognized that even someone like Elijah made use of this argument, when he said to God on Mt. Carmel, "You have turned their heart backwards." (I Kings 18:37). While one rabbi states that such a statement was insolence -- a hurling of words against Heaven (הטחת דברים כלפי מעלה), another rabbi states that God acknowledged the truth of Elijah's words in Micah's prophecy " ואשר הרעתי" (Micah 4:6). R. Ḥama (in the name of R. Ḥanina) and R. Papa (elsewhere R. Joḥanan and R. Papa) go on to say that had God not said these words through His prophets, Israel would have had no excuses, no basis for pleading for mercy. But since God has acknowledged His responsibility for our condition, we have a loop-hole (פתחון פה) upon which we can build our defense. God, in His justice, may be forced to recognize the justice of Israel's complaint.[73] Thus, Israel can argue as it did

above, gaining a promise from God that in the future He will make their hearts whole by removing the Evil Inclination from them. In other midrashim the demand is more immediate. In Tanna de be Eliyahu 14, God compensates for the damage He had done by creating the Evil Inclination by opening the gate of mercy to receive the sinners of Israel (when they repent). And Israel prays: "Master of the Universe! It is revealed and known to You that the Evil Inclination incites us. In Your abundant mercies, receive us in complete repentance (i.e., receive us who repent in complete forgiveness)."[74] And R. Alexandri prays:

> a) Master of the Universe!
>
> b) You know it is our will to do Your will. But the leaven in the dough (the יצר הרע) and the servitude to the kingdoms prevent it.
>
> c) May it be Your will to save us from their hand, so that we may return to do the statutes of Your will with a perfect heart.[75]

R. Alexandri suggests that if God wants Israel to return and observe His laws, then He will first have to remove the stumbling blocks from their path. Not only is this an appeal to God's self-interest,[76] but it also implies that Israel cannot completely effect תשובה on its own. God must turn and aid Israel against the impediments of the Exile and the Evil Inclination if Israel is to rise above its present sinful state and return to do God's will.[77]

To summarize: God has created all things for a good purpose. God has created the יצר הרע but He has also created the Torah to help Israel learn to overcome the Evil Inclination. The temptation to sin is

strong, but God's mercy is infinitely more so, for the possibility of repentance is always available. The act of תשובה represents a turning of the sinner to God and of God to the sinner.[78]

VII Arguments Against Death

Just as the rabbis told stories of Israel's attempts to destroy the Evil Inclination, so too they told of a similar antipathy towards the Angel of Death.[79] An early tradition has Israel receiving the Torah only upon the condition that the Angel of Death will no longer have power over them, although they lost this unique privilege by worshipping the Golden Calf.[80] Furthermore, various heroes and sages, David and Joshua b. Levi, for example, attempt, in vain, to triumph over the Angel of Death.[81] But the one who protested the most vociferously was Moses.

In the Torah, there is but one argument near the time of Moses' death, that being Moses' appeal to enter the Land.[82] But the rabbis understood Moses' protest on that occasion to include both an argument to enter the Land and an argument against his impending death, since in the Torah, Moses' death follows directly upon the heels of his viewing of the Land. Many of Moses' arguments mirror this fact by raising similar points in each case. We shall focus, however, on Moses' protest against death since it represents an issue of great importance to the rabbinic world-view.

As with the concept of the יצר הרע and the story of Cain's sin,

Moses' death raised questions not only about the justice of the event itself, but also questions about the justice (or goodness) of death in general. If these questions were put to the rabbis by the Gnostics, it was not because there were lacking rabbis to ask them themselves. Moses' death, and death in general, were issues which the rabbis pondered over themselves.

The rabbis had to develop answers to refute the charge that God was wronging Moses by taking his life just as Israel was about to enter the Land of Canaan. This they did in a number of ways. As with regards to the יצר הרע, the rabbis assert that death too is good -- it represents punishment for the wicked who, by dying, cease to anger God, but it is a reward for the righteous who gain a deserved rest. But death comes to one and all lest the wicked fake repentance in order to continue living.[83] Death, together with suffering, Gehinnom, and punishment are good because they are part of God's system of justice by which He rewards the righteous and punishes the wicked.[84] Furthermore, although in the future God intends to abolish death, for the present death is an established decree, a fact of life, something which God Himself refuses to abolish either for Israel, or for Moses.[85] Secondly, the rabbis seek to determine specific reasons why Moses should be punished. The Torah gives one reason -- Moses' and Aaron's inappropriate action at Meribah -- to which the rabbis also refer saying that this represented a public exhibition of Moses' lack of faith.[86] But the rabbis also saw Moses' previous arguments as due cause for his being punished.[87]

Moses' death is also conceived as being part of the overall working-out of divine justice. Thus, just as the sin of Adam brought death into the world with a " ה " (Gen. 3:22), so too Moses must die with a " ה " (Deut. 31:14), this in addition to Moses himself having first sinned with a " ה " (Ex. 4:1).[88] But Moses was God's chosen servant, and though he must die, God will in the future reward him and all Israel by bringing the Messiah with a " כ ."[89] In another midrash, God tells Moses that he must die in the Wilderness lest people think that the generation of Israelites who died there had no share in the World to Come. Moses must remain with them until God summons him to bring them in (up?) to the World to Come.[90]

All this proves, in response to the Gnostics, that God is just and His decrees are just. But however much the rabbis justify Moses' fate and theorize about death's "redeeming" qualities, in the midrash, Moses still argues his case. When all was said that could be said about death, it still remained a source of anxiety -- if not to the rabbis then to the people. Thus Moses' arguments over his impending death are replete with all the human emotions connected with death: fear of the unknown, regret at what is to be left behind and what still remains to be accomplished, and a defiance coupled with a sense of betrayal for having been created, given a mission to fulfill, and then, in the end, to be removed from life's activities while life continues, oblivious to the change.

To annul the decree of death, Moses draws a magic circle about himself and hurls his prayers to the Heavens. God orders the Gates of

Heaven shut but Moses' prayers batter against the gates and set all the angels atremble.[91] To no avail. Thereupon Moses prayed:

a) Master of the Universe!

b) The labours and pains which I devoted to making Israel believe in Your name are manifest and known to You, to what trouble I have gone with them in connection with the precepts in order to fix for them Torah and precepts. I thought: Just as I have witnessed their woe, so too I would behold their reward. But now that the reward of Israel has come, You say to me, "You shall not go over this Jordan (Deut. 31:2)." Behold You make a fraud of Your own Torah, as it is written: "In the same day you shall give him his hire, neither shall the sun go down upon it, for he is poor, and sets his heart upon it; lest he cry against you to the Lord, and it becomes a sin in you (Deut. 24:15)." Is this the reward (I get) for the forty years labour that I went through in order that (Israel) should become a holy and faithful people?[92]

Moses and God engage in a duel of words and proof-texts. Moses complains: "In all Your acts (one sees) measure for measure; (will You now repay me with) a bad measure for a good measure, a short measure for a full measure, a grudging measure for an ample measure?"[93] God replies that Moses will be well-rewarded in the World to Come. Moses pleads: "Master of the Universe! If You will not bring me into the Land of Israel, leave me in this world so that I may live and not die." God replies that Moses must die in order to reach the World to Come. To deny death to Moses would likewise render God's Torah untrue and thereby make of God a liar. God uses the same type of argument here as does Moses. Moses entreats God: "If You will not bring me into the Land of Israel, let me become like the beasts of the field that eat grass and drink water and live and enjoy the world; likewise let my soul be as one of them." God replies: "Let it suffice you." "Master of the Uni-

verse! Let me become like the bird." "You have spoken sufficiently."[94] But Moses clings to life. Defiantly, he takes up writing a Torah scroll and the Angel of Death fears to approach him to take his soul. When ordered to return a second time, the Angel of Death receives a beating from Moses' staff.[95] Finally, God resolves to act, and calms Moses' fears directly. God Himself will attend to Moses' burial, not the Angel of Death nor human beings. With sweet words God calls forth the soul, and weeping, gives Moses the kiss of death.[96] When Moses died, his body was laid on the wings of the Shechinah, and the ministering angels lamented over him saying: "He executed the justice of the Lord and His judgments with Israel." (Deut. 33:21). And God declared: "Who will rise up for Me against the wicked? Who will stand up for Me against evil-doers?" (Ps. 94:16).[97]

In the aggada, Moses' death becomes an opportunity for the rabbis to calm people's apprehensions regarding death. Thus God attempts to reassure Moses saying "לך לא" -- "You will have much in the next world... don't embarrass Me by further pleading."[98] "לא לך" -- Let it suffice you, lest people say how severe is the Master and how persistent is the student."[99] Moses must cease protesting lest people question God's nature, and begin to doubt in the reality of the World to Come. Moses may have lost the argument, but he was comforted by learning and personally experiencing what every human being longs to know -- that death is not the end, that God does care, and that He has provided a future beyond the grave in the World to Come. This is

one of the major points of the entire dialogue/argument. On one level, it is meant to quell anxieties over death by having Moses give expression to these feelings and by having God reassure him. On another level, the didactic level, the dialogue serves to instruct about the rabbinic concept of the World to Come and its place and role in the system of divine justice.

VIII Summary

With regards to both the evil inclination and death, as with regards to the aggadic development of Biblical events, we have observed two divergent, but not unrelated, attitudes amongst the rabbis. On the one hand, these problematic aspects of human existence were held to be good, necessary parts of the divine plan. God is just, faithful, and perfect in all His works, therefore "one must not at all criticize or ponder."[100] On the other hand, the rabbis do voice strong criticism about, and grave anxiety over, the human condition by placing law-court arguments in the mouths of various Biblical characters. These two views are not contradictory, rather they exist in tension with each other as parts within a larger whole. The first view affirms in a positive way the teachings of the rabbis; the second affirms the rabbinical world-view indirectly as it combats the attacks of Gnosticism and Christianity and the doubts of the people themselves. As we shall see, this dual approach exists towards the suffering of the Exile as well.

NOTES TO CHAPTER THREE

[1]In contrast with the work presented here and by Heinemann, Prayer in the Talmud, pp. 193-217, Solomon Zeitlin, "The Temple and Worship," JQR 51 #3 (January 1961): 231-236, states that although the argument-form (and vow-form) of prayer were known and used in ancient Israel, they were abandoned in post-exilic times, and ceased completely in the time of the early Second Temple. In the light of so many examples of the law-court pattern in the midrash and talmud, one wonders how Zeitlin could have ever uttered such a statement. Perhaps he is privy to some sources unavailable to everyone else?! However, his expositions of the tefillah and neder forms of prayer in the above mentioned article and in "An Historical Study of the First Canonization of the Hebrew Liturgy," JQR (N. S.) 36 #3 (January 1946): 211-229, are quite solid pieces of work.

One wonders whether the rabbis' use of the law-court pattern is actually a continuation of the form or rather a revival of the form. The problem arises as a result of that grey area of Jewish history between the return of the first exile and the start of the rabbinic period. Barton G. Lee, The Private Prayers of the Rabbis: Aspects of Their Form and Content, (Cincinnati: unpublished rabbinic thesis, 1970), pp. 163-168, basing his work on Heinemann's study of the law-court pattern, has noted a strong connection between the prayers of the apocryphal books and the "servant before his master" pattern of prayer. Was this form more prevalent in the Hellenistic period? Was the law-court pattern only revived at a later date (during the period of Roman persecution)? Or did both patterns co-exist in tension as they did in the rabbinic period?

[2]Heinemann, Prayer in the Talmud, p. 194.

[3]Julius Guttmann, Philosophies of Judaism, tr. D. W. Silverman, (N. Y.: Schocken Books, 1973), p. 44, pp. 48-49.

[4]The following are examples of midrashic law-court prayers which parallel Biblical law-court prayers:

Hagar - Gen. 21:15-18 and Gen. R. 53:13, Tan. כי תצא :5, ed. Lewin-Epstein, p. 39a.

Abimelech - Gen. 20:4-6 and Gen. R. 52:6.

Jacob - Gen. 32:9-12 and Gen. R. 75:13.

Moses - Ex. 3-4 and Ex. R. 3:9, 12, 13, 16; 15:14; T. B. Zev. 102a.
- Ex. 5:22-23 and Ex. R. 5:22, 23; 6:1, 4; Tan. כי תשא :1, p. 71b; T. B. San. 111a; Ecc. R. 7:17, ed. Lewin-Epstein, p. 125a.
- Ex. 32 - see pp. 76-85, above.
- Nu. 12:13 and ARN A:9, p. 41; Sifré Nu., בהעלותך, piska 105, ed. Horovitz, pp. 103-104.

- Nu. 14:13-19 and Nu. R. 16:22, 25, 28.
- Nu. 18:11-12, 20 and Nu. R. 18:11, 12, 20; T.B. San. 110a.
- Deut. 3:23-28 see above pp. 95-96.

Phineas - Ps. 106:3, Nu. 25:9 and T.B. San. 44a, 82b; Tan. בלק : 21, pp. 89a-b.

Joshua - Josh. 7:21-23 and Nu. R. 23:6; T.B. San. 44a.

Hannah - I Sam. 1:11 and T.B. Ber. 31b; P.R. 43, pp. 179-180.

Elijah - I Kings 18:20-40 and Nu. R. 18:12; T.B. Ber. 9b, 31b-32a.

Hezekiah - II Kings 19:15-19, 20:3-6 and T.B. Ber. 10b; Ecc. R. 5:4, ed. Lewin-Epstein, p. 120b.

Jeremiah - Jer. 14:19 and Ex. R. 31:10; P.R. 31, pp. 143b-144a.
Jer. 20:7 and P.R. 26, pp. 131a-b.

Job - Job's speeches and T.B. B.B. 16a-b.

Manasseh - II Chr. 33:10-13, Apocryphal Prayer of Manasseh and T.B. San. 103a-b; Ruth R. 5:6, p. 71b.

Esther - Est. 4:16, Apocryphal Addition to Esther 14:3-19 and T.B. Ber. 32a; M. Teh. 22:6, 16, 18, 19, 27.

Mordechai - Est. 4:1-16, Apocryphal Addition to Esther 13:9-17 and Est. R. 8:7, p. 17b.

Psalms of Lament - P.R. 31, p. 143b.

The following references are to midrashim with no Biblical parallels. In each case, however, God is called upon to judge or to intervene. This might explain why the midrashim were created, i.e., to provide God with a reason for intervening.

Sarai - Gen. 20:2-3 and Gen. R. 41:2, 52:13.

Midwives - Ex. 1:17-21 and Ex. R. 1:15.

(See also the arguments of Cain, and of Abraham following the Akedah, pp. 85-87, and pp. 74-76, respectively.)

[5]Arthur Marmorstein, "The Background of the Haggadah," Studies in Jewish Theology, (London: Oxford University Press, 1950), pp. 1-71. Adolf Buechler, Studies in Sin and Atonement, (London: Oxford Uni-

versity Press, 1928), p. 130, also briefly mentions the Gnostic threat to Judaism. For the conflict between Christianity and Judaism, see Rosemary R. Reuther, Faith and Fratricide, (N. Y.: Seabury Press, 1974).

[6]Marmorstein, Background, p. 5.

[7]Cited in Marmorstein, Background, p. 6.

[8]Consult Arthur Marmorstein, The Doctrine of Merits in Old Rabbinical Literature, (London: Jew's College Publications, 1920), p. 27, 97. For an analysis of the adversos Judaeos literature of the Christian Church with regards to their polemicizing against Judaism, consult Reuther, Faith and Fratricide.

[9]Marmorstein, Merits, pp. 48-71, and pp. 53-54 in particular.

[10]Lev. R. 10:1 (also Gen. R. 39:6, 49:9).

[11]Gen. R. 49:9.

[12]Gen. R. 49:8.

[13]Gen. R. 49:9. This view was by no means acceptable to everyone. In T. B. B. B. 15b, Job is said to have been greater than Abraham, while in T. B. Sotah 31a, the two are said to be equals. There is a strong ambivalence towards Job in the midrash, with some rabbis praising him, other rabbis condemning him, but generally all attempting to tone down the rebelliousness of his speeches. For a good analysis of these various attitudes towards Job, see Adolf Buechler, Studies in Sin and Atonement, pp. 119-189; Nahum N. Glatzer, "The God of Job and the God of Abraham: Some Talmudic-Midrashic Interpretations of the Book of Job," Essays in Jewish Thought, (University, Alabama: University of Alabama Press, 1978), pp. 93-108; and Edward D. Kiner, Views of Job in the Midrash, (Cincinnati: unpublished rabbinic thesis, 1965).

A similar comparison is made between Noah and Abraham (Gen. R. 39:10), and between Noah and Moses and Samuel (with the latter two proving superior) (Gen. R. 39:9). Moses takes Abraham, Isaac, Jacob, and Noah to task in order to show the superiority of his merit to theirs (Deut. R. 11:3).

[14]Gen. R. 49:8.

[15]Gen. R. 49:9 and T. B. A. Z. 4a. See also those cases where God is not permitted to kill many people for the sins of a few, (or single), individuals; Phineas and Joshua - T. B. San. 44a; Phineas - T. B. San. 44a, 82b, Nu. R. 18:11; Moses and Aaron - Nu. R. 18:11.

[16] ARN A:37 (given as part of addition 1 to version 1, ed. Schechter, p. 149).

[17] Gen. R. 52:6.

[18] Tan. B. כי תשא, Vol. I, p. 91. God's justice in these and other cases is affirmed in Sifré Deut. האזינו, piska 307, ed. Finkelstein, pp. 344-345.

[19] Nu. R. 16:25, and also Nu. R. 16:22 and T. B. Ber. 32a, where God's judgments of Sodom and Gomorrah, the Flood, and the Tower, are questioned regarding their cruelty. Also relevant is the following: "Woe to the wicked who make the Attribute of Justice appear as if it were merciless!" (Nu. R. 17:3). God is frequently urged to permit His attribute of Mercy to prevail over His attribute of Justice (Lev. R. 29:9; T. B. Ber. 7a; Sifré Nu. Pinchus, 134, p. 180, Nu. R. 16:22, 16:28 (by implication); T. B. A. Z. 4b).

[20] Sifré Deut. האזינו, piska 311, ed. Finkelstein, p. 351-2 expresses a view that would have been unthinkable in the later period, namely, that previous to Abraham's argument with God, God, as it were, did judge the world with cruelty!

[21] Gen. R. 49:9, also T. B. Ber. 32a.

[22] Y. Ta'anit 2, 65d, also Lev. R. 29:9 and Gen. R. 56:10. The presence of this law-court prayer in a place with no Biblical parallel may be explained by two addresses by God's angel with no intervening response by Abraham (Gen. 22:11-12, 15-18).

[23] Gen. R. 56:8.

[24] See T. B. R. H. 16a; Mechilta, Pisḥa, ed. Lauterbach, p. I:57, 88, and Beshallaḥ, I:221-223.

[25] Marmorstein, Merits, pp. 76, 148-149.

[26] Consult Shalom Spiegel, The Last Trial, tr. J. Goldin, (N. Y.: Schocken Books, 1967), for a study of the role of the Akedah in the midrashim and piyyutim. Also Jakob J. Petuchowski, Heirs of the Pharisees, (N. Y.: Basic Books, 1970), pp. 68-75.

[27] See Marmorstein, Merits, pp. 27-28, 151-152.

[28] Ex. R. 42:12.

[29] T. B. Ber. 32a; Ex. R. 42:9.

[30]Deut. R. 3:15, Ex. R. 45:2. Also T. B. Ber. 63b regarding God's ultimatum to Moses regarding the Tent.

[31]T. B. Ber. 32a.

[32]Ex. R. 42:1.

[33]For a discussion of this ambivalent attitude regarding the מדת הדין on the part of the rabbis, consult Marmorstein, Merits, pp. 71, 89, 92, 100-104, 107-149-154, 164-167, and the references made therein.

[34]Ex. R. 44:1, 2; and Deut. R. 3:15.

[35]Ex. R. 44:5.

[36]Ex. R. 44:9.

[37]T. B. Ber. 32a. In Ex. R. 44:9, Moses uses a קל וחומר argument to make the same point: "If You can't keep a promise made to three, how much the less a promise made to one (me)!"

[38]Ecc. R. 4:5, p. 118b, also Ex. R. 41:7, 44:3, 4, 8; Deut. R. 3:11, 15; for full accounts of the battles between the angels of God's anger and Moses, God, and the patriarchs. Moses, in another case, seizes the Throne of God to prevent the angels from attacking him (Ex. R. 41:7, 42:4). There is an interesting dynamic involved here. In certain instances, as above, and at the giving of the Torah, God sides with Moses to protect him from His over-zealous angels. See Ex. R. 28:1, T. B. Shabb. 88b-89a, P. R. 20, pp. 96b-98b, for stories concerning Moses' struggle to receive the Torah in Heaven. God's angels are divided in their attitude towards humankind and Israel. There are many stories about the angels' opposition to God's favourable judgments to human beings, usually from the Attribute of Justice and like-minded angels. These angels opposed man's creation (Gen. R. 8:4, 5; T. B. San. 38b), they opposed God's providing Ishmael with water (Gen. R. 53:14), they opposed the Exodus (Lev. R. 23:2) and delay the coming of the Messiah (T. B. San. 94a, 97b). Satan (perhaps the testing angel in the Attribute of Justice department) obstructs Abraham during the Akedah - (T. B. San. 89b), and the Attribute of Justice seeks to kill Moses when he insults God's honour (Ex. R. 5:22, 23; 6:1, Ecc. R. 7:17, p. 125a), and to condemn Israel at the Judgment (T. B. Meg. 15b). Almost all these cases represent the attempt on the part of the angels to preserve the integrity of God's justice, hence their opposition to any sin of lese-majesté on the part of mankind and any sign of mercy (i. e., deviation from justice) on the part of God. But just as God has an Attribute of Mercy, so too there are angels of mercy who support and

defend Israel and the world. These angels favour man's creation (see references above), they cry out against the Akedah (Gen. R. 56:5, 8), they support Moses and Aaron against Korah (Nu. R. 18:20; T. B. San. 110a), and protest against God's destruction of the Temple (P. R. 27-28, pp. 134a-135b). One angel in particular has the function of arguing with God, and is called סנגוריא, also known as Gabriel (T. B. San. 44b).

With regards to the law-court pattern, it is significant to note that, just as in the divine-court proceedings in the Bible, so too in the heavenly proceedings of the midrash many of the addresses use the law-court pattern.

[39]Ex. R. 44:10. See also Ex. R. 44:6; Lev. R. 23:2; Deut. R. 3:5; T. B. Ber. 32a.

[40]See Marmorstein, Merits, pp. 168-171, for Christian views on the מעשה אבות.

[41]Ex. R. 46:1. The order in the text seems wrong. It makes more sense if Moses says: "If You forgive me, then You must forgive them."

[42]Ex. R. 44:4. According to Deut. R. 7:10, Moses is punished for arguing with God at the time of the Golden Calf by being refused entry into the Land of Israel.

[43]Ex. R. 43:5, 47:9, Deut. R. 3:11.

[44]Ex. R. 43:7. In Ex. R. 41:7 Moses forces God to acknowledge that Israel is still His people. See also P. R. K. ed. Buber, 128b. Jacob uses the same argument in T. B. Shabb. 89b. See, however, Ex. R. 42:6 where God has an answer to this argument of Moses.

[45]Ex. R. 43:7, 8, 9; Lev. R. 23:2.

[46]Ex. R. 43:6, 7; Deut. R. 1:2. A similar humorous story depicts God as a king, Israel as the queen who is caught kissing a eunuch (the Calf), and Moses as the adviser who cleverly defends the queen by pointing out the impotence of the eunuch to really do anything that the king could be concerned about regarding the queen (Nu. R. 2:15; P. R. 11, pp. 55b-56a).

[47]Ex. R. 43:7.

[48]Ex. R. 43:8. Moses also uses God's words which had been addressed to him at Marah to urge God "to make Israel's bitterness sweet" (Ex. R. 43:3). But in T. B. San. 111a-b, God and Moses argue over

God's forgiveness, with Moses wanting God to be strict with the wicked. God warns Moses he will regret his words, which Moses does (one chapter earlier) at the time of the Golden Calf. Yet even here, God may be proved right regarding Moses' words, but Moses wins the argument!

[49] T. B. Ber. 32a.

[50] Ex. R. 44:9.

[51] T. B. Ber. 32a. In Ex. R. 43:1, Moses shoves Satan aside, snatches the Tablets and breaks them, all in order to save Israel. In J. T. Ta'anit 4, 68c, Moses and God engage in a tug-of-war over the Tablets in which Moses wins.

[52] Ex. R. 43:4. See also the complex exegesis made here to prove that Moses did not really sit before God. He was really standing and God was sitting, all in such a way that it appeared as just the reverse. This section on the annulment of God's vow follows the procedures of T. B. Ned. 21b, 77b. For other almost-Promethean stories see above, n. 38.

[53] P. R. 40, p. 168b, M. Teh. 103:12.

[54] Ex. R. 44:9; T. B. Ber. 32a.

[55] Nu. R. 19:33.

[56] Ex. R. 46:1, 47:9; Deut. R. 3:11.

[57] Hannah also protests about the human condition, specifically about her inability to have a child. See her many arguments in T. B. Ber. 31b and also P. R. 43, ed. Friedmann, pp. 179a-180a. In each case she is criticized for "hurling words against Heaven." See R. Eleazar's words, T. B. Ber. 31b, and also P. R. 46, p. 186b.

[58] Tan. בראשית:9.

[59] See, in addition to the examples cited in text, T. B. San. 64a, T. B. Yoma 69a, and T. B. Shabb. 55a, where Israel seizes the Evil Inclination, imprisons it, and tries to put it to death.

[60] T. B. San. 101b.

[61] Gen. R. 19:11; Nu. R. 20:6, 9.

[62] T. B. B. B. 16a. According to Raba, Job said: "Master of the Universe! You have created the ox with cloven hoofs, and You have

created the ass with whole hoofs; You have created Paradise, and You have created Gehinnom; You have created righteous men, and You have (also) created wicked men, and who can prevent You?" (Job 10:7).

[63]See also Gen. R. 22:9.

[64]Gen. R. 27:4, Tan. נח, ed. Buber, p. 15b.

[65]Gen. R. 9:7, see also references in note 59, above.

[66]Sifré Deut. האזינו, piska 307, ed. Finkelstein, p. 344.

[67]Sifré Deut. עקב, piska 45, p. 103-104; T.B. Kid. 30b, T.B. B.B. 16a.

[68]Deut. R. 8:1. Cain said: "Master of the Universe! You bear with the whole world, yet You will not bear my sin? But you have written: 'Who is a God like You, pardoning iniquity and passing over transgression?' (Micah 7:18). Pardon my iniquity for it is great."

[69]See note 19, above, for references pertaining to God's justice and His mercy, and note 38 regarding God's struggle with His attribute of Justice.

[70]Lev. R. 10:5.

[71]Deut. R. 2:20, T.B. San. 103a, also note 38, above, regarding God's conflict with His attribute of Justice. See also Tan. כי תצא, 8, 10, p. 27 a-b, 28a; and Tanna de be Eliyahu 14, ed. Friedmann, p. 62.

[72]Ex. R. 46:4, T.B. San. 96b.

[73]T.B. Ber. 31b-32a; T.B. Sukk. 52b.

[74]Tanna de be Eliyahu 14, ed. Friedmann, p. 62.

[75]T.B. Ber. 17a.

[76]This motif is common in the Psalms especially. See also Esther's prayers, T.B. Ber. 32a, M. Teh. 22:19 ed. Buber, p. 189; and Israel's prayer regarding sacrifices and the rebuilding of the Temple, Lev. R. 7:2.

[77]See Lam. R. 5:21, but also M. Teh. 70:1 ed. Buber, p. 321. Also M. Teh. 85:3, ed. Buber, p. 372.

[78]For a complete discussion of the concepts of sin and repentance consult: Adolph Buechler, Studies in Sin and Atonement, and Jakob J.

Petuchowski, "The Concept of 'Teshuvah' in the Bible and the Talmud," Judaism 17 #2 (Spring 1968): 175-185.

[79] See above, note 59.

[80] Mechilta, פרשה ב, ed. Lauterbach, 2:271-272; T. B. A. Z. 5a; Ex. R. 32:1, 51:8; Lev. R. 18:3. God plans it this way, see Ex. R. 41:7, 51:8.

[81] David's death -- T. B. Shabb. 30b. Joshua b. Levi tricks the Angel of Death only to be made to accept death by God -- T. B. Ket. 77b. See also the stories of R. Eleazar, R. Sheshet, R. Ashi, R. Ḥisda, and R. Ḥiyya -- T. B. M. K. 28a, and R. Naḥman -- T. B. B. M. 86a.

[82] Deut. 3:24-28; also Nu. 27:12-14, Deut. 32:48-52.

[83] Gen. R. 9:5.

[84] Gen. R. 9:8-11.

[85] Mechilta, פרשה ב, ed. Lauterbach, 2:271-272; T. B. A. Z. 5a; T. B. Ket. 77b, T. B. Shabb. 55b; Ex. R. 38:2; Nu. R. 19:11; Sifré Deut. האזינו, piska 339, ed. Finkelstein, p. 388.

[86] See above, note 82, and Nu. R. 19:10; T. B. Shabb. 55b.

[87] At the Burning Bush -- Lev. R. 11:6; Nu. R. 21:15; Deut. R. 9: 6-7; M. Teh. 18:22, ed. Buber, p. 150. After Moses' first rejection by the Israelites -- Ex. R. 5:23, T. B. San. 111a, Tan. כי תשא 1, pp. 71b-72a. At the Golden Calf -- Deut. R. 7:10.

[88] Deut. R. 9:6, 8.

[89] Deut. R. 11:9. This sort of exegesis is frequently used to prove God's justice in the long run. Jacob vows with "אם יהיה" and God vows to bring the redemption with "אם יהיה" -- Gen. R. 70:6. Judah saves Tamar from burning as a harlot, and God vows to save Judah's descendants from Nebuchadnezzar's furnace -- T. B. Sotah 10b. God expels Adam with "איכה" and later He expels Israel with "איכה" -- Gen. R. 19:9. God utters "How long?" twice and Israel will utter it under each of the four kingdoms -- Nu. R. 16:22; M. Teh. 13:1, p. 109. Israel wept without cause at the report of the spies, God will give them something real to weep about on that same date in the future (the 9th of Av) -- Nu. R. 16:20; T. B. Sotah 35a.

[90] Nu. R. 19:13.

[91]The angels protest in favour of Moses: Sifré Deut. וזאת הברכה, piska 339, ed. Finkelstein, p. 388; T. B. Shabb. 55b.

[92]Deut. R. 11:10.

[93]Deut. R. 11:9.

[94]Deut. R. 11:10. Compare Moses' arguments here with those he uses in his attempt to gain entry into the Land. He argues based on God's mercy and graciousness -- Deut. R. 2:1, 7. He argues based on God's breaking His oath and by His double standard towards Joseph and Moses -- Deut. R. 2:8. He argues that not to enter the Land is a very great degradation for him -- Deut. R. 2:8, 9:4; Nu. R. 19:33; Sifré Deut. וזאת הברכה, piska 339, ed. Finkelstein, p. 388. He argues based on the precedent of the Golden Calf, using a קל וחומר argument -- Sifré Deut. עתה ראו, piska 27, ed. Finkelstein, pp. 41-42. He argues based on the precedent of his having already set foot on Gad's and Reuben's share of the Land (and by God's nature) -- Sifré Nu. פסקא טו, piska 134-135, ed. Horovitz, pp. 179-182. He appeals to enter as a private person, by an alternative route, in death if not in life -- Mechilta, פתחא יתרו, ed. Lauterbach, 2:151-154; Sifré Nu. פסקא כז, piska 135, ed. Horovitz, pp. 181-182; Sifré Deut. וזאת הברכה, piska 341, ed. Finkelstein, p. 390.

[95]Deut. R. 11:10; Sifré Deut. פרשת וילך, piska 305, ed. Finkelstein, pp. 326-327. Moses wants an honourable death like Aaron -- ARN A:12, ed. Schechter, pp. 49-50; he does not wish to be taken by death as a beast (see R. Sheshet -- T. B. M. K. 28a). Compare Moses' struggle with those of the other characters mentioned in note 81, above.

[96]Deut. R. 11:10.

[97]T. B. Sotah 13b. Compare this entire account with that of midrash Petirat Moshe, see Peter S. Knobel, Petirat Moshe: A Critical Edition and Translation, (Cincinnati: unpublished rabbinic thesis, 1969).

[98]Sifré Deut. עתה ראו, piska 29, ed. Finkelstein, p. 46.

[99]T. B. Sotah 13b.

[100]Sifré Deut. וזאת הברכה, piska 307, ed. Finkelstein, p. 344.

CHAPTER IV

ARGUMENTS AGAINST THE EXILE

I Introduction

"For a brief moment I forsook you, but with great mercy I will gather you," said God through Isaiah to comfort and buoy up the people of the First Exile, "In overflowing wrath I hid my face from you for a moment, but with eternal חסד I will have mercy upon you."[1] Such was the consolation which Israel longed to hear after the national disasters of the late first and early second centuries of the common era. However, as the Psalmist said, "a thousand years in Your sight are but as yesterday when it is past,"[2] and the longer Israel suffered in Exile, the more pronounced their anguish became. The destruction of the Second Temple and the resultant persecutions represented a serious problem which the rabbis and the people had to confront, namely, the problem of the justice of the suffering of the innocent vis à vis the traditional belief in a just, omnipotent, and long-suffering God. In its own right, the national disaster would probably have prompted a re-interpretation and a revision of the God-concepts, explanations for suffering, and world-views of the pre-Destruction era. This need was exacerbated, however, by the polemic attacks of the Christians and the Gnostics. To the Gnostics, the catastrophe which befell the Jewish people was proof of the weakness and maliciousness of the Hebrew God. To the Christians, the national calamity testified to the

sinfulness of Israel in rejecting Jesus, and it confirmed the divine rejection of the Jewish people and the election of the "New Israel." The rabbis, therefore, had manifold reasons for rejecting the full implications of the concept of divine retributive justice, at least temporarily, because it implied that the Jewish people had sinned a great sin. The latter thought ran against both common sense and the shared experience; moreover, it would have fed the fires of Christian polemics. If, on the other hand, the rabbis asserted that the suffering of the Exile was not a manifestation of God's will, they would have compromised God's omnipotence and lent credence to the Gnostic position. Additionally, if the rabbis affirmed God's omnipotence alone, this would have implied that God, either willingly or capriciously, had inflicted suffering upon Israel. And from this the conclusion could be drawn that either God was neither all-just nor all-merciful -- a teaching sure to delight the Gnostics; or, that Israel's Covenant with God had been terminated -- one of the "rocks" upon which the Christian Church was built. The rabbis were in a dilemma. On the one hand, they had to develop a positive message with which to inspire themselves and the people, and on the other hand, they had to counter the Christian and Gnostic polemics.[3] The rabbis met these challenges in several ways. First, under R. Akiba's leadership, they drew upon Biblical sources and developed a "new" rationale for the meaning of suffering and an alternative to the concept of quid pro quo divine justice. National and/or individual suffering were seen as gifts from a loving God who tries

the righteous in order to cleanse them of sin and to reward them in full later on. In the case of Israel, suffering was conceived of as a badge of honour, a sign of Israel's chosenness, and the means by which Israel attains its divine rewards.[4] Second, but connected with the first, the rabbis transposed the arena for the ultimate execution of divine justice from this world to the World-to-Come. Third, they emphasized the role of study, prayer, and repentance in place of the Temple service and sacrificial cult. Fourth, they utilized the law-court pattern of prayer to give voice to the complaints of Israel and to counter the anti-Jewish polemicizing of their time.[5] And fifth, concomitant with the fourth, the rabbis built upon the anthropopathetic God-imagery of the Prophets and Psalms to envision an empathetic God who could be simultaneously just and merciful, wrathful and grief-stricken, omnipotent and self-limiting. In this essay, we shall focus upon the two latter responses.

The recitation of the tribulations of the Babylonian Exile was, for the rabbis, an opportunity to recount the sufferings endured during the Second Exile. For them, the Book of Lamentations not only depicted the horrors of the Babylonian conquest of Jerusalem, it also spoke prophetically of the persecutions and suffering endured under Rome. The two events merged together and, in many instances when the rabbis refer to the events of the First Exile, they are actually addressing the situation of their own time. One motivation for this blending together of the two events may well have been as an act of political prudence, designed

to avoid incurring the wrath of the government. Another motivation was, no doubt, the rabbis' own belief in the redemptive aspect of Jewish history which led them to see their future through the events of the past.

In a number of midrashim, Job becomes a paradigmatic figure for the Jewish people, and his story mirrors Israel's tragic history. Thus, the sack of Jerusalem by the Babylonians, and therefore by implication the Romans, is reflected in the story of Job. Both suffer at the hands of the Chaldeans who are but emissaries of God's will. Both Job and Jerusalem sat on the ground, clothed in sackcloth and dust, both receive no comfort in their grief. But, just as Job was first afflicted by God and was later given a double reward, so too will Jerusalem eventually be granted a double measure of comfort by God.[6] With the final comparison the rabbis have turned to speak directly to their contemporaries. But the analogy between Job and Jerusalem (Israel) actually goes much deeper than is discussed in the midrash. Just as Job suffered and protested, so too Israel, in many midrashim, suffered and was not hesitant in protesting. These protests, cast in the form of the law-court pattern and set in the mouths of Knesset Yisrael, Zion, or the Ancestors in Heaven, occur primarily in the books of Lamentations Rabba, Pesikta de Rav Kahanna, Pesikta Rabbati, and Midrash Tehillim. Of our sources, only one, Lamentations Rabba, is early (400-500 C. E.), the others were all compiled in the latter half of the millennium. This suggests, perhaps, that the problem of the Exile continued to plague Israel well beyond the period of the Tannaim

and Amoraim, and furthermore, that the solutions to the problem of suffering and exile proposed by the rabbis was never wholly satisfactory. Let us turn now to examine a number of these protest-arguments against the Exile.

II The Arguments of Knesset Yisrael

Building upon the imagery of the prophets, the rabbis portrayed the events surrounding the covenant-making at Sinai as the betrothal and marriage of Israel to God. But this analogy did not end there. From the first moment in Jewish history when it became apparent that God had ceased to act as He had in the past, Israel was depicted as a widow (Lam. 1:1). The rabbis likewise describe Israel's situation in terms of widowhood, or as compared to a rejected first wife, or most apt of all, as an agunah, an abandoned wife. Israel is likened to a woman whose husband has left her; no one knows whether he lives or has died, or if he shall ever return. And so Israel waits. She can neither remarry nor get a divorce nor live in peace with her Mate, for He has abandoned her and left her without support. In an early midrash, Israel doubts that God will ever take His "wife" back, and she cites Jer. 3:1 as proof of this. But God responds: "That is written only with regards to a man. 'I am God and not a man.' (Hos. 11:9). If I have divorced you, where's your bill of divorce? Have I not already said: 'Where is your mother's bill of divorce with which I sent her away?'" (Is. 50:1).[7] Rabban Gamaliel must answer precisely this same charge, though it is directed

at him by a hostile pagan philosopher: "Is it possible that you still say 'We wait for the Lord to deliver us.'?" Rabban Gamaliel responded in the affirmative. "Then you are uttering a lie. God will never return to you, for does not Scriptures say 'He has drawn off from them' (Hos. 5:6)?" But Gamaliel answers that according to the laws of halitzah the woman, not the man, draws off the shoe, and although God has drawn Israel off, Israel has not drawn off from God (proof-text: Song of Songs 5:6). Therefore, God's action is an invalid halitzah and the bond between Israel and God remains. Israel can only cry out against her abandonment.[8] And so Israel protests:

> a) Sovereign of the Universe!
>
> b) When a man takes a second wife he remembers the deeds of the first! You have both "forgotten me and forsaken me!" (Is. 49:14)
>
> d) God replies: "My daughter, I have made... (the entire universe)... for your sake. Yet you say 'You have forgotten and forsaken me.'? Can a woman forget her suckling child? (Is. 49:15). Can I forget the burnt offerings... you offered to Me in the Wilderness?..."
>
> a-c) Sovereign of the Universe! Will You forget my conduct at Sinai?
>
> d) I will not forget you.[9]

Similarly, when Jeremiah saw what God had wrought against Jerusalem, he cried out: "Master of the Universe! If You intend to return (to her), why have You struck us without healing?" (Jer. 14:19). God replies: "I will say to you what I have said to Moses: 'I will not reject or abhor them'" (Lev. 26:44). But God did not answer Jeremiah's

earlier protest regarding "forsaking and forgetting," (Lam. 5:20, 22) so Zion herself accuses God, saying: "The Lord has forsaken me, my Lord has forgotten me." (Is. 49:14).[10] The existential dilemma remains -- Israel suffers in Exile and God remains silent and aloof.

Israel takes it upon herself to remind God:

> a) Master of the Universe!
>
> b) You told us "Remember" (Deut. 25:17), but of us forgetfulness is to be expected. You must remember, however. There can be no forgetfulness before the Throne of Your Glory, "Remember, O Lord, the day of Jerusalem against the children of Edom" (Rome) (Ps. 137:7).[11]

And, impatient to see God manifest His justice, Israel complains:

> a) Master of the Universe!
>
> b) You had a House from which You had pleasure, but enemies rose up and destroyed it. But they still stand while it lies waste. There were righteous men from whom You had pleasure, but the wicked rose up and slew a great number of them and so despised Your name. Yet still the wicked stand! (proof-text Ps. 10:3).[12]

But when God reproaches Israel for impudence in addressing Him in such a manner, Knesset Yisrael replies:

> a) Master of the Universe!
>
> b) It is seemly and right and proper for us to do so, seeing that no other nation except us accepted Your Torah.
>
> d) God retorts: It was I who disqualified all the other nations for your sake.
>
> b) They said to Him: If that is so, why did You carry Your Torah around to the nations for them to reject it?[13]

The Covenant gives Israel the right to argue with God. It also provides Israel with a precedent and a strong basis upon which to dispute with God.[14]

The rehearsal of God's saving acts in the past brought to mind with each reading from the Torah and each holiday celebration, roused Israel's bitterness at her present lot. Recognizing the timeless quality of the Psalms of national lament, the rabbis said:

> (The B'nai Korah) prophesied concerning the present generations who say to the Holy One Blessed Be He:
>
> a) Master of the Universe!
>
> b) You did wonders for our fathers, will You not do them for us?... What a work You performed in bringing them forth out of Egypt and dividing the sea for them! But You have not done anything like that for us!... You did it for them, but not for us. What does it profit us what You did for our ancestors? When shall the profit be ours? When will You work a good sign for us as it is said: "Work a sign for good in my behalf." (Ps. 86:17). You did a great work for the former generations in the days of Abraham... You did a great work for Abraham's children also. You showed favour to them, but You show no favour to us.
>
> c) As Scriptures says: "Lord, You have been favourable to Your land... Show us Your mercy, O Lord, and grant us Your salvation." (Ps. 85:2, 8) ... You were favourable to them, but You are not favourable to us.
>
> d) God replies: Indeed, I shall be favourable to you also. And of this the B'nai Korah were to say: "Lord, You have been favourable to Your land, You have brought back the captivity of Jacob." (Ps. 85:2).[15]

The specific laws of the Covenant are also used in arguments. In a number of midrashim, Israel, supported by the Holy Spirit on occasion, points out that their enemies act both against them and against God's Torah by killing the mother together with the child (see Deut. 22:6; Lev. 22:28), by committing sexual offenses (see Lev. 18:13), and by abandoned bloodshed (see Lev. 17:13).[16] While, in these cases, God is expected to take note of these transgressions for eventual judgment, in other

midrashim God Himself is in violation of His Law. Israel declared:

> a) Sovereign of the Universe!
>
> b) How long will the Temple remain in ashes? Haven't You written in Your Torah: "He that kindled the fire shall make restitution." (Ex. 22:5).
>
> c) You kindled the fire -- You are obliged to rebuild it and to comfort us -- You, not an angel.
>
> d) And God said: I will do it (proof-text Ps. 147:2).[17]

Israel challenges God to realize that His apparent rejection of Israel and of the Covenant also damages sanctity of His name:

> a) Master of the Universe!
>
> b) Is one a king without a throne? Is one a king without a crown? Is one a king without a palace? "How long O Lord? Will You forget me, O Eternal One?" (Ps. 13:2) Do You forget that You said to the prophet Samuel: "The Eternal One of Israel will not lie nor change His mind." (I Sam. 15:29)? Surely in the Covenant made between You and the patriarchs, You who are the Eternal One of Israel did not act the liar. Surely You do not repent or (change Your mind regarding) Your gifts that You will not bring them to us. For Scripture says: "God is not a man that He should lie; neither the son of man that He should repent." (Nu. 23:19).[18]

Out of a similar "concern for God's name" the women of Jerusalem pray: "Master of the Universe! If You have no pity on us, why have You no pity on the sanctity of Your name?"[19] And from another source, Israel chimes in: "If we have good works, redeem us. But if we have no good works, redeem us for Your name's sake."[20]

It is also out of respect for God's attribute of truth, and in the knowledge that God would not want false things said about Him, that Jeremiah and Daniel delete key words from the phrase which Moses had

set down in praise of God (הגדול הגבור והנורא).

Jeremiah said: "Aliens are demolishing His sanctuary -- where are His awful deeds?" So he refused to say " הנורא " (proof-text Jer. 32:17). Daniel came and said: "Aliens are enslaving His children -- where are His mighty deeds?" And Daniel refused to utter " הגבור " (proof-text Dan. 9:4).[21] As daring as this midrash is, its impact becomes even greater when one realizes that Moses' words form part of the first blessing in the Amidah. Speaking through Jeremiah and Daniel, the anonymous author, at least in his midrash, presumes to repudiate Moses' praise of God. The midrash, therefore, has a strong, contemporaneous note of protest to it.[22]

Israel clings to her God in faith and in hope, even though, as we have seen, these qualities are often expressed as protests and accusations rather than as confessions of trust or acknowledgments of dependence. It is the hope for redemption that comforts Israel -- the expectation that God will act for the present generation as He had for earlier generations. "Only when I am delivered," says Israel, "can I open my mouth to speak and answer those who taunt me, even though I cannot answer them now -- I am dumb, I open not my mouth because You did it" (Ps. 39:10)... But it is Your will that I am to answer them, and so "Remove Your stroke from me; I am consumed by the blow of Your hand" (Ps. 39:11).[23] It is this faith that gives Israel the strength to persevere and the courage to answer her foes.

III The Arguments of the Ancestors in Heaven

But Israel does not stand alone. The protests of Knesset Yisrael on earth are strengthened by the protests of the patriarchs, matriarchs, and prophets in Heaven, all of whom attempt to use their influence, their זכות, in the attempt to intercede with God in behalf of Israel. Often the Angels, and even the Holy Spirit, join in the tumult. In perhaps the most famous of these midrashim, the twenty-fourth proem of Lamentations Rabba, Jeremiah, at God's behest, rouses the patriarchs and Moses from their graves to weep and lament over Israel's destruction for (and with) God. But the occasion for lamenting soon turns into a confrontation between Israel's ancestors and God in which the patriarchs and Moses accuse God of great injustice. When Abraham comes weeping and mourning before the Lord, the Ministering Angels join in his lamentation and cry out:

> a) Sovereign of the Universe!
>
> b) Broken is the Covenant which You made with Abraham their father, through which the order of the world was established and through which men recognized You as the most high God, creator of Heaven and earth. You have despised Jerusalem and Zion which previously You had chosen.

Soon after Abraham speaks:

> a) Sovereign of the Universe!
>
> b) Why have You exiled my children and delivered them over into the hands of the nations who have killed them with unnatural deaths? And why have You laid waste to the Temple, the place where I offered up my son Isaac as an offering before You?

d) God replies: Your children have sinned and transgressed against the whole Torah, all the twenty-two letters that are in it.

a-b) Sovereign of the Universe! Who testifies against Israel that they have transgressed against Your Law?

God calls first the Torah and then each letter of the alphabet to testify against Israel. But Abraham, with the finesse of an expert defense attorney, convinces all the witnesses for the prosecution not to testify against Israel. Then he commences Israel's defense:

a) Sovereign of the Universe!

b) When I was one hundred years old You gave me a son, and when he had acquired intelligence and was thirty-seven years old, You ordered me "Offer him as a sacrifice before Me." I steeled my heart against him and I had no compassion on him; I myself bound him.

c) Will You not remember this on my behalf and have mercy upon my children?

Then Isaac began and said:

a) Sovereign of the Universe!

b) When my father said to me: "God will provide the lamb for the burnt offering, my son," I raised no objection to the carrying out of Your words, and I willingly let myself be bound upon the altar and I stretched out my neck beneath the knife.

c) Will You not remember this on my behalf and have mercy upon my children?

Then Jacob began and said:

a) Sovereign of the Universe!

b) Did I not stay twenty years in Laban's house? And when I left his house, the wicked Esau met me and sought to kill my children, and I delivered myself (to him) to die in their stead. Now they are delivered into the hands of their enemies like sheep to the slaughter, after I had raised them with as much

difficulty as a hen has raising her chicks. I have experienced great trouble for their sakes.

c) Now will You not remember this for me and have compassion upon my children?

Then Moses began and said:

a) Sovereign of the Universe!

b) Was I not a faithful shepherd for Israel during the forty years? I ran before them in the Wilderness like a horse. And when the time came that they should enter the Land, You decreed that my bones should remain in the Wilderness. Now that they are exiled, You have sent for me to lament and weep over them. (My case is) like the proverb which people use: "Of my Lord's good I do not partake; but of His evil (or misfortune) I do!"

Moses and Jeremiah then journey to Babylon to redeem Israel only to be thwarted in their attempt by the decree of the Bat Kol. Moses and Jeremiah return to Heaven and describe all the horrors of the Exile to the patriarchs. Together they weep and lament. Moses then proceeds with his defense of Israel:

a) Sovereign of the Universe!

b) You have written in Your Torah: "Whether it be a cow or a ewe, you shall not kill it and its young in one day" (Lev. 22:28), but now they (the Chaldeans) have slaughtered a great many mothers and children together. And yet You are silent?!

Then Rachel, our mother, leapt up before God and said:

a) Sovereign of the Universe!

b) It is known to You that Jacob, Your servant, loved me with a special love and that he served my father because of me for seven years. But when the seven years were over and the time of my marriage had arrived, my father determined to give my sister to my husband instead of me. And it was hard for me because I knew of the plot. I disclosed it to my husband and I gave him a sign so that he could distinguish between me and my sister... But afterwards I repented and I overcame my desire

> and I had pity on my sister that she should not be put to shame... And I gave my sister all the signs that I had given to my husband, so that he might think that it was I. Not only that, I crept under the bed in which he lay with my sister and when he spoke with her, she was silent and I spoke for her so that he would not recognize my sister by her voice. I acted lovingly towards her and I was not jealous and I did not put her to shame.
>
> c) Now if I, who am but flesh and blood, dust and ashes, was not jealous of my rival and did not put her to shame and reproach, why should You, O Eternal King, the loving and merciful One, be jealous of idols who have no reality in them, so that You have sent my children into Exile and let them be slain by the sword and suffered their enemies to do what they wished to them?
>
> Then the mercy of God was aroused, and He said:
>
> d) For your sake, Rachel, I will restore Israel to their land, as it is said, "Thus says the Lord, A voice is heard in Ramah, (on high), lamentation and bitter weeping; Rachel weeping for her children refuses to be comforted, because they are not. Thus says the Lord, Refrain your voice from weeping, and your eyes from tears, for your work shall be rewarded, and they shall come again from the land of the enemy" (Jer. 31:15-16).[24]

Note that after God the prosecutor has presented His witnesses, God does not speak again until the very end when He appears as God the judge. Also significant is the fact that the use of זכות by the patriarchs and Moses is of no effect, nor is Moses' use of the "they go against Your Law" argument. Only Rachel's argument moves God to compassion -- an argument in which she compares her own qualities of patience, understanding, and compassion with those of God. But unlike the other pleaders, she does not ask directly that Israel be forgiven for her sake (her זכות). She only points out that it would seem that she, a mere woman, is more compassionate than God and that God is angry over an inconsequential matter. It is the combination of these two factors that

causes God to change His mind. Rachel does not make her petition depend directly on her own merit (see T. B. Ber. 10b) and her petition pointedly contrasts God's attributes with His apparent behaviour -- behaviour very reminiscent of the Gnostic polemics against Him.

But this cosmic court case has still further dimensions. The generation of Israel that suffers on earth can also appeal to the court on high. In a midrash very similar to the story of Hannah and her seven sons in 2 Maccabees, a mother (Miriam) urges her seven sons to martyrdom at Roman hands rather than have them commit idolatry by worshipping the emperor. And to her last child she says: "Tell Abraham: You bound one son upon the altar, I have bound seven. Yours was but a test, mine a real deed." Soon after she kills herself too.[25] Miriam and her seven sons are more righteous than Abraham or Isaac, and Miriam calls upon Abraham to acknowledge the truth of her words. This is one reason why she directs her words not to God, but to Abraham. But there is a second reason as well. As in the twenty-fourth proem, Abraham serves as Israel's defender in Heaven. Miriam's pointed comparison between her deed and his mere test is expected to urge Abraham on to further and more forceful pleading. If, based on the test of the Akedah, Abraham could win concessions for his children from God, how much the more so should he be able to win concessions from God based upon the actual sacrifice of seven sons and the martyrdom of a mother.

Many other accounts of martyrdom are recounted in Lamentations

Rabba and we might well ask why these horror stories should be repeated four or five hundred years after the fact. Why are the stories of the martyrdom of tannaitic sages also recited in the Yom Kippur musaf service? The patriarchs are Israel's defenders; like Moses in the twenty-fourth proem, they are witnesses to Israel's suffering and act as advocates in Israel's behalf. Each act of martyrdom adds to Israel's זכות and further bolsters the arguments of the patriarchs on high. Ultimately, God will turn in compassion towards Israel. He too will witness and testify to Israel's faithfulness in suffering and will reverse His decree against them.[26]

But when God does indeed do so, Israel will not be so quick to forget and to forgive Him the long and painful delay. In a number of midrashim God sends Abraham, Isaac, Jacob, Moses, and following them, all of the prophets, to comfort Zion with words of consolation. But Zion refuses each and every one of them.[27] God then realizes that He Himself must lead the procession of comforters since He Himself is personally responsible for their plight. Even with this realization on God's part, it will not be easy to comfort Jerusalem. According to one midrash, Jerusalem will refuse God's comfort until she can utter תוכחות (reproaches).

> Let me show You the nations of the world whom You lavish with all kinds of good things, yet they deny You nonetheless.
>
> Why didn't You act like Joseph to us? He forgave the evil done to him and did good to his brothers. (Song of Songs 8:1; Gen. 50:21)

No other nation would take Your Torah. Is this how You reward us who took it?

And God accepts Israel's rebukes, saying: I have acted foolishly with you.

Jerusalem responds:

a) Master of the Universe!

b) This has been a private conversation between You and me. Who will let the nations know that we have been doing Your will? They oppress and persecute us saying, 'You rebelled against your God and sinned (acted treacherously) against Him.'

God: I will let them know of the deed of your righteousness, as it says: "I will declare your righteousness" (Is. 57:12).

Then Israel and Michael acknowledge God's deeds, saying: "The Lord has brought forth our vindication: come let us declare in Zion the work of the Lord our God" (Jer. 51:10).[28]

Israel demands nothing less than total vindication by God before all the nations for all the suffering she has endured since the destruction of the Temple. And God, in His justice, acknowledges the justness of Israel's complaint and acts accordingly.

IV Rabbinic Responses to the Exile

But the rabbis were, above all, teachers with responsibilities to the people. Hence, though in the midrash they could contend with God, they also had the obligation to respond on behalf of God to the people who attended the synagogues and houses of study. This two-fold task reflects the dialogic functioning of the law-court pattern of prayer as it defuses Jewish despair and refutes anti-Jewish attacks by having Biblical characters raise the issues and then having God respond to them. Let

us now briefly examine how the rabbis depicted God's role in, and His reaction to, the national cataclysm.

First, the "Deuteronomic" view of retributive divine justice was never wholly relinquished. It still served as (at least) a partial explanation for what had befallen Israel. Thus the rabbis sought to determine the specific sins for which Israel was punished by God.[29] This was coupled with a renewed emphasis on the acceptance of the divine decree and by having God answer Israel's charges with counter-accusations. "Is it I who have forgotten you? Is it not you who have forgotten me?" (Ps. 106:21). "Have I hid My face from you? Is it not you who have hid your faces from Me?" (2 Chr. 29:6; Jer. 2:27).[30] But, while this may affirm the justice of God's decrees, it does not represent God's (or the rabbis') final word on the subject, which was always one of נחמה, of consolation. This message of comfort occured primarily at the conclusion of law-court arguments uttered by the patriarchs, prophets, a personified Zion, or Knesset Yisrael. God states: "I will not forget you"[31]; "I have not rejected nor abhorred"[32]; "I will comfort you"[33]; "I am not like man who cannot take back a rejected wife. I have not divorced you"[34]; "I will act as a compassionate father and mother to you"[35]; "I have not lied regarding the Covenant or the redemption"[36]; "Israel shall flourish again"[37]; "You will be rewarded for your suffering"[38]; "I will do great deeds for you too"[39]; "I was silent for the three kingdoms, but for Edom (Rome) I shall cry out"[40].

Words of future consolation, however, cannot wholly soothe the pains

of the present, nor do they totally acquit God of the charge of injustice. Several early sources depict God, or His Shechinah, as suffering when Israel suffers, as being enslaved when Israel is enslaved, and as being redeemed when Israel is redeemed.[41] In one case this connection is proposed linking God's activity to Israel's observance of the Torah.[42]

With regards to the destruction of the Temple, the rabbis further develop the anthropopathetic God-imagery of the Bible, making it even more explicit. In one instance, God wants to punish Israel because He is angry, but He does not want to destroy her totally, nor can He, as Israel's God, permit Israel's destruction without damaging His good name. Therefore, God, as it were, closes His eyes to what is about to happen.[43] God empathizes with Israel in their suffering. He feels pain when they feel pain,[44] He weeps and mourns for Jerusalem like a king of flesh and blood.[45] Indeed, as one midrash states, it only appears that God is asleep, in fact, He weeps over Jerusalem together with His prophets.[46] Other images include depicting God as being ill,[47] or being led into exile,[48] or as having bound His right hand.[49]

But if God has truly not abandoned Israel, if He is grief-stricken for their sake, if He writhes with them in suffering, if the Covenant still exists, and if God really intends to deliver Israel in due time, then what remains as Israel's task until their redemption? One midrash, reminiscent of an early tannaitic teaching in the Mechilta, has God say to Israel:

> My Torah is in your hands and the End is in My hands. We need each other. Just as you need Me to bring the End, so too I need you to observe My Torah to bring closer the children of My

> House, My House, and Jerusalem. As I cannot bring Myself to forget the time of redemption (which is as likely as My forgetting My right hand), so too you are not free to forget My Torah.[50]

But this too needed clarification by the rabbis, for with the Temple in ruins and with entry often forbidden into Jerusalem let alone near the Temple Mount, how could Israel still serve God? This prompts Israel to ask of God:

> a) Master of the Universe!
>
> b) If the princes sin, they bring a sacrifice and it atones for them. If the anointed (priest) sins, he brings a sacrifice and it atones for him. But we have no sacrifices.
>
> d) God replies that if they sin they too should offer up a sacrifice (Lev. 4:13).
>
> b) Israel repeats itself: We are poor and we have nothing to bring for sacrifices.
>
> d) And God says: I desire words as it is said: "Take with you words and return to the Lord" (Hos. 14:3), and I will wipe out your transgressions. (By) words (I mean) words of Torah as it is written: "These are the words which Moses spoke." (Deut. 1:1)
>
> b) But Israel said: We do not know (its words).
>
> d) So God said to them: Cry and pray to Me and I will receive (it). Didn't I redeem your ancestors from their servitude in Egypt because of (their) prayers? (proof-text Ex. 2:23). Didn't I do miracles in the days of Joshua on account of prayer? (proof-text Josh. 7:6; 8:18). (And in the days of the Judges I hearkened to their cries, and likewise I heard the prayers of Israel in the days of Samuel.) And so too with the people of Jerusalem. Even though they angered Me; because they wept before Me, I had pity upon them (proof-text Jer. 31:6). Therefore: I desire neither offerings nor sacrifices from you, only words.[51]

In a law-court petition similar to God's response above, Israel asks that God accept their fasts of repentance:

a) Master of the Universe!

b) When the Temple existed, we used to burn the fat and portions for atonement. Now behold our own fat, blood, and souls.

c) May it be Your will that they atone for us.[52]

This multi-faceted adaptation of Pharisaic Judaism by the rabbis enabled the Jewish people to survive the traumas that befell the nation in the late first and early second centuries of the common era. Rabbinic Judaism consisted of a series of complex and intertwined dialectics. To mention but a few: an increasingly "philosophical" God-concept coupled with a heavy reliance on anthropomorphism; the encouragement of an attitude of submission to God's will when confronted by inexplicable suffering opposed by the continued use of the law-court argument to protest against such unwarranted suffering; the desire for divine retribution in this world balanced by the transference of divine retribution to the World-to-Come; the frequent use of the זכות אבות and the attempt to limit the role of the זכות אבות; the belief that God alone will bring the redemption and the belief that Israel can affect the redemption by righteous behaviour and observance of the Torah. These, and other, dialectical opposites remain in Jewish theology to this very day.

These arguments between Israel and God regarding the Exile would appear to mark the climax of the rabbinic usage of the law-court pattern of prayer. No other event, except perhaps Israel's worship of the Golden Calf, sparked so many law-court arguments as did the suffering of the Exile. Encapsulated in these <u>midrashim</u> we have seen virtually

all of the themes and motifs found in the Biblical and aggadic law-court arguments: that God must be true to His nature, that He must not act contrary to His Torah, that He must be merciful as well as just. We see reference to the inviolability of the Covenant, to the עקידת יצחק, and to God's great deeds in the past in the expectation that He will act in a similar fashion in the near future. We see that Israel alludes to her own meritorious behaviour in the past, primarily to her acceptance of the Torah, to her continued faithfulness, and to the fact that she suffers for the sake of God. But in the law-court arguments which protest against the Exile, the rabbis are directly addressing the problems of their day -- the despair and anguish of the Jewish people and the attacks leveled against Judaism by Gnosticism and Christianity. Only in these midrashim do the rabbis have the freedom to give vent to the full expression of their feelings; only here, when speaking through some other figure, do they have the license to contend vociferously with God, demanding to know why Israel continues to suffer and why God delays the execution of His justice for so long. Some rabbis and sages, however, primarily in the tannaitic period, did make personal use of the law-court pattern. Let us now examine some examples of the rabbis' own law-court prayers.

NOTES TO CHAPTER FOUR

[1]Is. 54:7-8.

[2]Ps. 90:4.

[3]For a full development of this, and many of the other issues raised in this chapter, particularly with regards to Lamentations Rabba, consult Charles A. Kroloff, The Effect of Suffering on the Concept of God in Lamentations Rabba, (Cincinnati: unpublished rabbinic thesis, 1960).

[4]See the classic discussion on this view of suffering in Sifré Deut. האזינו, piska 32, ed. Finkelstein, pp. 55-58; also Mechilta, בשלח, ed. Lauterbach, 2:277-282. Akiba learned this teaching from Nahum of Gamzu. Compare their two teachings: T. B. Ta'anit 21a and T. B. Ber. 60b. This view of suffering is repeated in many places in the Talmud and Midrash. For the relationship of this submissive attitude towards suffering and its attitude towards protest consult Sifré Deut. וזאת הברכה, piska 307, ed. Finkelstein, pp. 344-346. However, the connection between the two is by no means constant or even uniformly applied by the same teachers. See discussion of this view in Adolf Buechler, Studies in Sin and Atonement, pp. 150-211; and Arthur Marmorstein, The Old Rabbinic Doctrine of God, (London: Oxford University Press, 1927), pp. 185-196.

[5]Consult Jakob J. Petuchowski, Theology and Poetry, (London: Routledge and Kegan Paul, 1978), p. 73.

[6]Lam. R. 3:11; M. Teh. 102:8; P. R. K., piska 16, ed. Buber, p. 126b; P. R., piska 26, ed. Friedman, pp. 131b-132a.

[7]Sifré Deut. וזאת הברכה, piska 306, ed. Finkelstein, p. 330.

[8]M. Teh. 10:8.

[9]T. B. Ber. 32b. See also other arguments on similar motifs: Lam. R. 1:3; M. Teh. 10:8, 13:1, 68:3, 146:9; P. R. K. 17, ed. Buber, p. 134b, P. R. 31, ed. Friedmann, pp. 143b-144a.

[10]P. R. 31, ed. Friedmann, pp. 143b-144a; also p. 142b; Ex. R. 31:10.

[11]M. Teh. 137:8; Lam. R. 5:1.

[12]M. Teh. 10:4; Lam. R. 5:1.

[13]Lam. R. 3:1. See T. B. A. Z. 2b for the legend to which Israel refers.

[14]See Gen. R. 49:10, where God rewards Abraham by allowing his descendants to question Him, too.

[15]M. Teh. 44:1. See also M. Teh. 13:2, 42:8, 71:2, 3, 4; Lam. R. Proem 24; Mechilta, שירתא, ed. Lauterbach, 2:66.

[16]M. Teh. 22:17, 119:32; Lam. R. 1:37.

[17]P. R. 33, ed. Friedmann, p. 149b. See also Israel's argument based upon Ex. 22:21 and Ps. 9:19, in which she expects God to protect her as one of His wards, M. Teh. 13:1.

[18]M. Teh. 13:1; Lam R. 5:19. See also Samuel b. Naḥmani's teaching in M. Teh. 13:1 on God's justice and His mercy, and the view in Lam. R. 2:21 that God must compromise His justice -- both similar to Abraham's aggadic argument with God at Sodom and Gomorrah. Similarly Israel asks that God be compassionate to them like Abraham and Jacob were, P. R. K. 19, ed. Buber, p. 139a.

[19]T. B. Gittin 58a.

[20]M. Teh. 44:2.

[21]T. B. Yoma 69b; M. Teh. 19:2.

[22]Another equally daring "liturgical" midrash is that of the school of R. Ishmael in which the word "באלים" in the phrase "מי כמכה ה׳ באלים?" is rendered as "מי כמכה באלמים? (among the dumb?)." See Mechilta, שירתא, ed. Lauterbach, 2:60; T. B. Gittin 56b; and the discussion of this passage in Petuchowski, Theology and Poetry, pp. 71-73. The Mechilta passage would seem to support both interpretations suggested by Petuchowski, i. e., that God does willfully keep silent but that He will not remain so forever.

[23]M. Teh. 119:17.

[24]Lam. R. Proem 24. The patriarchs are not always so inclined to defend Israel. While in T. B. Men. 53b Abraham defends Israel, and in T. B. B. M. 85b Elijah wakes the three patriarchs separately lest they pray together and bring the Messiah, in another case, only Moses will defend Israel, Esther Rabbati, 7:18, ed. Lewin-Epstein, pp. 15b-16a; or in another case, only Isaac will defend them, T. B. Shabb. 89b. In the latter passage, Israel also prefers to be rebuked by God Himself rather than entrust that task to their Fathers. This reflects the often contradictory attitude of the rabbis to the זכות אבות. See

Marmorstein, Doctrine of Merits. David, Daniel, Jeremiah and others also intervene on behalf of Israel in a number of midrashim, M. Teh. 98:1, 109:1, 1 9:30, 31, 137:7; P. R. 31, ed. Friedmann, pp. 144b-146a, to cite but a few examples.

[25]Lam. R. 1:50; T. B. Gittin 57b.

[26]It is this attitude, I believe, that inspired R. Akiba's teaching of submission to God's judgment. Like so many of the rabbis, Akiba was forced to admit that God had done the deed, which could only lead him, like it or not, to assert that God was just in all that He did. No rabbi seems to deny God this, only some, in their midrashim, do protest against the severity of the sentence.

[27]P. R. 29-30, ed. Friedmann, pp. 138-141b; P. R. K. piska 16, ed. Buber, pp. 127b-128a.

[28]P. R. 30, ed. Friedmann, p. 142a.

[29]For more detail on Israel's sins, consult Kroloff, Effect of Suffering, pp. 7-18.

[30]M. Teh. 10:1, 2; 13:1, 2. See also T. B. R. H. 31a-b.

[31]T. B. Ber. 32b; P. R. 31, ed. Friedmann, pp. 144b-145a; P. R. K. piska 17, ed. Buber, p. 133b.

[32]M. Teh. 13:2; P. R. 31, ed. Friedmann, pp. 143b-144a.

[33]P. R. 29-30, ed. Friedmann, pp. 138-141b; P. R. K. 16, ed. Buber, p. 126b.

[34]Sifre Deut. ואתחנן, piska 306, ed. Finkelstein, p. 330; M. Teh. 10:8; P. R. 31, ed. Friedmann, pp. 143b-144a.

[35]Lam. R., proem 24; P. R. K. 17, ed. Buber, p. 134b, 19, p. 139a.

[36]M. Teh. 13:1.

[37]T. B. Men. 53b.

[38]M. Teh. 119:17, also the references to Job and Jerusalem, note 6 above.

[39]Mechilta, בשלח, ed. Lauterbach, 2:66; M. Teh. 44:1, 71:2, 3, 4.

[40] Mechilta, בשלח, ed. Lauterbach, 2:60-61; Ex. R. 15:17, 30:1; Nu. R. 11:1; M. Teh. 109:1.

[41] Mechilta, עמלק, ed. Lauterbach, 1:113-115; בשלח, 2:27; שירתא, 2:159-160; Sifré Nu. בהעלתך, piska 84, ed. Horovitz, pp. 81-83. Later references to this same motif include: Ex. R. 2:5, 7, 15:12; Nu. R. 2:2; M. Teh. 20:1, 3.

[42] Mechilta, בשלח, ed. Lauterbach, 2:41-42.

[43] Lam. R. proem 24. See Kroloff, Effect of Suffering, pp. 49-66, for more detail on the limiting of God through empathy and anthropomorphism.

[44] M. Teh. 20:1; Ex. R. 2:5.

[45] Lam. R. proem 8, proem 24, 1:1, 1:45; P. R. 29, ed. Friedmann, pp. 136b-137a; M. Teh. 121:3; P. R. K. 15, ed. Buber, pp. 119b-120a.

[46] M. Teh. 121:3.

[47] M. Teh. 121:3.

[48] P. R. K. 13, ed. Buber, p. 113b; Lam. R. proem 34, 1:32.

[49] Lam. R. proem 24, 2:3; P. R. K. 17, ed. Buber, p. 132a; M. Teh. 98:1, 137:7; P. R. 31, ed. Friedmann, pp. 144b-145a.

[50] P. R. 31, ed. Friedmann, p. 144b. Compare with the Mechilta passage cited in note 42 above. See also M. Teh. 59:5.

[51] Ex. R. 38:4. Also Lev. R. 7:3, T. B. Men. 110a, and Abraham's law-court argument with God in T. B. Ta'anit 27b and Megillah 31b, in which God says that if one studies about the sacrifices, He will account it as if one had offered a sacrifice. The destruction of the Temple constituted a serious break in Israel's relationship with God. In the rabbis' own words a barrier between Israel and God came into being following the destruction of the Temple, and only the Gate of Prayer (elsewhere, of Weeping, or of Mercy) remained open to Israel -- Lam. R. 3:35; Deut. R. 2:12; T. B. Ber. 32a-b, B. M. 59a; M. Teh. 4:3, 65:4. See David's intercession on behalf of the generation which has no king, prophet, priest, urim or thumim, only prayer -- Lev. R. 30:3. See also the assertion that God still hears prayer in the post-Temple era -- M. Teh. 3:7, 4:1.

[52] Nu. R. 18:21, also M. Teh. 25:3. Compare with the prayer of R. Sheshet, T. B. Ber. 17a.

CHAPTER V

PERSONAL LAW-COURT PRAYERS IN THE RABBINIC PERIOD

Heinemann and Lee have done extensive work on the rabbis' personal use of the law-court pattern of prayer.[1] Lee, in particular, has contributed to the substantiation of Heinemann's claim that many of the rabbis' thanksgiving and confessional prayers (some of which are found in the liturgy) have the form of the law-court pattern.[2] The rabbis' use of the pattern, as Heinemann says, "belongs primarily to the area of the private and non-obligatory prayers; for although such a prayer may frequently be recited by an individual on behalf of the congregation, it is never found in its pure form in statutory public worship."[3] As we would by now expect, the rabbis, in the main, resort to the law-court pattern in times of personal or communal distress. Thus R. Tsadok uses it when he enters the ruins on the Temple Mount,[4] Levi b. Sisi and R. Eleazar of Modi'im use it to thwart enemy troops,[5] Rabban Gamaliel uses it to save himself and his companions from drowning,[6] and R. Judah HaNasi uses it on his death-bed.[7] But by far the most common situation in which the rabbis and sages utilized the law-court pattern of prayer was the time of drought.

As in the Bible, so too in the rabbinic period, drought was considered as a sign of divine displeasure.[8] Several midrashim even attempt to delineate for what sins rain is withheld, while other midrashim stress the magnanimity of divine love and mercy which the bestowal of rain signifies.[9] God's mercy could also be appealed to to end a drought. In

both the Biblical and rabbinic periods the divine decree of drought was never sealed; the decree could be averted by a confession of guilt, acts of repentance and an appeal for divine mercy on the part of the sinful people. According to the Book of Joel, the standard Biblical procedure for averting a decree of drought seems to have been one which included a communal (or national) assembly and fast, coupled with special prayers and laments spoken by the priest accompanied by the blowing of shofarot.[10] It was not always the priest who interceded with God. Certain prophets also appealed to God to bring rain. Elijah successfully and dramatically brought on the rain with a law-court argument consisting of an oath and accusations during the contest on Mount Carmel.[11] And Jeremiah too attempted to intercede for the people but God forbade him to do so.[12] All these elements are found in the rabbinic discussions on the subject. First of all, the established procedures to end droughts, as set down in tractate Ta'anit, included a fast, an assembly in the market-place, the donning of sackcloth (and other signs of mourning and repentance), the blowing of shofarot, the recitation of special prayers and a call to repentance by an elder or a scholar.[13] Adolph Buechler has noted that underlying both the Biblical and rabbinic procedures was the essential concept of תשובה (repentance).[14]

Buechler has also drawn attention to an omission in the rabbinic fast procedure which is of some importance to our discussion. He states that while the benedictions which accompany the blowing of the shofar are recorded, the actual prayer for rain is not.[15] If the commentary

of the later Amoraim is any clue to what had been done in the earlier period, or in their own time, then we may postulate that these prayers took the form of the law-court pattern. In many cases only fragments of the complete prayers have been transmitted. Thus, regarding the transporting of the ark into the market-place, R. Hiyya b. Abba said: b) "We have prayed in private but we have not been answered, (therefore) we will humiliate ourselves in public"; while Resh Lakish said: b) "We have exiled ourselves (from the synagogue, c) may our exile atone for us"; and Joshua b. Levi said: b) "We had a vessel (כלי) which we kept hidden, and now because of our sins it has become despised." Regarding the donning of ashes, Levi b. Hama said: b) "We are considered before You like ashes" while R. Hanina said: b) "That God may remember for our sake the ashes of Isaac." (See also the latter couple's dispute and prayers concerning the procession to the cemetary.) The repentant people of Nineveh are held up as an example of how a repentant Israel should behave, and here too the Amoraim provide us with law-court prayers set in the mouths of the inhabitants of Nineveh. According to the Amoraim, the people of Nineveh separated the animals from their young and said: a) "Master of the Universe!" b-c) "If You will not have mercy upon us, we will not show mercy to these," thereby implying that they would "be forced to" transgress God's Torah (Lev. 22:28). Moreover, they would cry to God saying: a) "Master of the Universe!" b-c) "If one is humbled (pitiful) and one is not, if one is righteous and one is wicked, who should yield to whom?"[16]

However, the strongest proof for postulating that the actual prayer for rain in the rabbinic period (as it was in the Biblical period) was a law-court prayer are the stories of those rabbis and other righteous individuals who interceded on behalf of the people to pray for rain. In doing so, these figures served a function parallel to the intercession of other prominent and righteous individuals in the Biblical and aggadic tales.[17]

Let us begin our study of the rabbis' and sages' prayers for rain with perhaps the best-known example of its kind, the stories about Ḥoni HaMe'agel (the Circledrawer):

> It happened that (the people) said to Ḥoni HaMe'agel, "Pray that rain should fall." He said to them: "Go and bring in the ovens (in which you have roasted) the paschal offerings so that they do not dissolve." He prayed, but no rain fell. What did he do? He drew a circle and stood within it and said:
>
> a) Master of the Universe!
>
> b) Your children have turned to me for I am like a member of Your household (literally: a child of Your house).
>
> c) I swear by Your great name that I shall not move from here until You show mercy to Your children.[18]

The rain came grudgingly at first, Ḥoni retorted with another prayer; the rain then descended in torrents such that Ḥoni had to respond with yet another prayer said over a bull prepared as a sin-offering.[19]

> a) Master of the Universe!
>
> b) Your people Israel, whom You have brought out of Egypt can stand neither too much goodness nor too much punishment. When You are angry (and withhold the rains) they cannot stand it; when You pour out Your goodness upon them they cannot

stand it.

c) May it be Your will that the rains stop and that there be ease (rest) in the world. [20]

Let us note some of the major motifs in these two prayers. Prior to his first law-court prayer, Honi confidently tells the people to take in their ovens -- a sign that he had no doubts whatsoever about his abilities to intercede with God. But perhaps because of this lack of modesty, or on account of the people's sin, no rain was forthcoming. Honi then resorts to forcing God's hand by means of an oath based on his personal merit. [21] But the oath is softened by the preceding sentence in which Honi explains that he is interceding on behalf of the people. He calls himself a "בן בניך" (more on this later on), and asks that God have mercy upon His children. This allusion to Israel's chosenness and God's mercy is reinforced in the second law-court prayer in which Honi refers to Israel as God's people, to God's deeds at the time of the Exodus, and to the need for God to be temperate in His dealings with humankind (a request similar to that of Abraham in several midrashim on Sodom and Gomorrah). Also significant is the fact that while, in the first prayer, Honi relies on his personal merit and obtains less than satisfactory results, in the second prayer Honi refers only to the merits of Israel and the nature of God and thereby achieves the desired result.

The ability to bring rain runs in Honi's family. Two of his grandsons, Abba Hilkiah and Hanan HaNehba, were also appealed to by the rabbis to intercede with God on the people's behalf and to pray for rain. On one

occasion, the rabbis sent school children to beseech Ḥanan HaNeḥba to pray for rain, which he did saying:

> a) Master of the Universe!
>
> b-c) Act for the sake of those who cannot distinguish between the Father who gives rain and the father who does not give rain.[22]

Two other righteous individuals who also manage to bring rain with their prayers were Nakdimon b. Gurion and Ḥanina b. Dosa. Nakdimon b. Gurion, a wealthy and prominent citizen of Jerusalem, borrowed twelve cisterns of water from a heathen nobleman to provide for the needs of the Jewish pilgrims in a time of drought upon the condition that he would repay the loan in kind or in cash by a certain date. But the due-date arrived and the drought remained unbroken, thereupon Nakdimon wrapped himself in his cloak and prayed:

> a) Master of the Universe!
>
> b) It is revealed and known to You that I acted not for my honour, nor for the glory of my father's house, but for Your honour alone, that the pilgrims for the festival might have water.
>
> d) (Immediately it began to rain in abundance.)[23]

However, the heathen lord claimed that the time-limit had already passed since the sun had set and that therefore Nakdimon still owed him the twelve talents of silver. Nakdimon turned once again to God and prayed:

> a) Master of the Universe!
>
> b-c) Make it known that You have beloved ones (אוהבים) in Your world.[24]
>
> b-c) Perform a miracle for me now as You did before.[25]

d) Immediately the clouds dispersed and the sun broke through (thereby showing that Nakdimon had repaid his loan within the time-limit).

Ḥanina b. Dosa, the last of the "men of deeds," "a man of rank for whose sake favour is shown to the entire generation," also could bring on rain with but a simple prayer.[26] Once, while on a journey, rain began to fall, and Ḥanina b. Dosa uttered the following, somewhat frivolous prayer, overriding the prayers of the High Priest said in behalf of the entire nation:[27]

a) Master of the Universe!

b-c) The whole world is at ease while Hanina is in distress?!

d) The rain stopped.

Upon reaching his home, Ḥanina b. Dosa prayed:

a) Master of the Universe!

b-c) The whole world is in distress while Hanina is at ease?!

d) And it began to rain again.[28]

The rabbis themselves often assumed, or were invited to assume, the role of intercessor. Thus we find that R. Eliezer b. Hyrcanus and R. Akiba led prayers for rain; as did R. Judah HaNasi, R. Ḥama b. Ḥanina, and Joshua b. Levi; and also Raba, R. Judah, Levi, Naḥman, Ḥuna and Ḥisda, among others.[29] Few of these prayers have been transmitted, but those which have been all have the form of the law-court pattern. Thus, following R. Eliezer's ineffective attempt to procure rain, R. Akiba, in his own mild style, prayed:

a) Our Father our King,

b) We have no king but You.

a) Our Father our King,

c) For Your own sake, have mercy upon us.

d) And the rain fell.[30]

Others, however, like Honi, were more forceful in their approach. After he had proclaimed a fast which failed to bring rain, Levi prayed: a) "Master of the Universe!" b-c) "You have ascended and taken Your seat on high and You do not have mercy upon Your children?!"[31]

R. Tanhuma also proclaimed a fast which proved ineffective in ending a drought. He then advised the people to be compassionate to each other in the hope that this would inspire God in turn to be compassionate with them. Soon after R. Tanhuma received a report that a certain man was seen giving his ex-wife money -- clearly a sign that the two were engaging in something illicit. When the man was brought before him and the situation explained, R. Tanhuma turned in prayer to God:

a) Master of the Universe!

b-c) If this man, upon whom the woman has no claim for sustenance, saw her in distress and was filled with mercy (compassion) for her, how much the more so must You be compassionate upon us, for it is written about You: "gracious and merciful" (Ps. 103:8), for we are the children of Your beloved ones, the children of Abraham, Isaac, and Jacob.

d) Immediately the rain fell.[32]

In this brief prayer, R. Tanhuma utilizes a number of by now well-known motifs: the expectation that God should be more merciful than a mere mortal, that God should act according to His revealed nature,

that God should be merciful to His children Israel, and that God should bring to mind the merit of the Patriarchs for the sake of their children.

R. Ḥiyya b. Luliani uses Israel's merit which it gained in accepting the Torah, to bring the rain clouds from Moab and Ammon to cover the land of Israel instead: a) "Master of the Universe!" b) "When You were about to give the Torah to Your people Israel, You (first) offered it around amongst all the nations of the world, but they would not accept it. And now You would give them rain?!" c) "Let them (the clouds) empty their waters here." And it rained.[33]

Lastly, Raba prays a prayer that appears to be both a prayer for rain and a prayer to be saved from the persecution of King Shapur, by whom he was threatened with punishment unless he could make it rain. Thereupon Raba prayed: a) "Master of the Universe!" b-c) "'O God, we have heard with our ears, our fathers have told us, a work You did in their days, in the days of old' (Ps. 44:2) -- but as for us, with our own eyes, we have not seen (it)."[34] Rain fell, but Raba's life was saved only by a rebuke and a warning from his Father in Heaven in a dream. What makes this prayer still more audacious is its paraphrasing of Job's words following his controversy with God (Job 42:5), implying perhaps that Raba was demanding a similar accounting from God in addition to expecting to see God manifest His justice against his persecutor.

Having examined a number of examples of the rabbis' and sages' personal use of the law-court pattern, let us turn to a weightier issue --

whether such prayers were considered appropriate by their contemporaries and acceptable to God. With regards to the latter, there is little question that such prayers were generally acceptable to God since so many of them were answered immediately. Much, however, depended upon the merit of the individual uttering the prayer.[35] Thus, in the one clear instance of divine displeasure at such a prayer by an inappropriate individual, Levi b. Sisi's disciple attempted to ward off enemy troops with a law-court oath based upon his observance of the Torah as his master had done; the troops left but his hand withered. This disciple's pupil also tried the same technique but neither his hand withered nor did the troops leave.[36] In another case, Levi becomes lame subsequent to his uttering a rather harsh law-court prayer, and R. Eleazar sees in this a sign of divine displeasure -- "A man should never hurl words against Heaven (לעולם אל יטיח אדם דברים כלפי מעלה), since a great man did so and became lame."[37] His conclusion is questionable for two reasons. First, because R. Eleazar was offended even by the Biblical characters' "hurling of words"[38] and second, because Levi's lameness was also seen as the result of his having done a קידה (a kind of prostration) before Rabbi.[39] Raba receives a rebuke from his Father in Heaven for his having troubled Heaven so much with his prayer (מי איכא דמיטרדה קמי שמיא כולי האי?) and is warned to change his sleeping place to avoid being murdered. This may be considered as a sign of divine displeasure, but Raba's prayer had been answered and he

was forewarned that his life was endangered.[40] It would seem then that, according to our sources, God is not opposed to the personal use of the law-court pattern of prayer.

Much more evidence is available regarding the rabbis' own views of such prayers. Moreover a number of secondary sources have attempted to analyze various aspects of this subject from a number of points of view.[41] The primary problem to be dealt with here regards the deprecatory remarks made by certain important rabbinic figures primarily in response to the law-court prayers of non-rabbinic characters like Ḥoni and Ḥanina b. Dosa. At first glance, these statements would seem to condemn both the usage of the law-court pattern of address and those individuals who made use of it. One scholar, David Daube, has attempted to show that such condemnations evince a conflict between the "adult core" of Judaism and the immature, childish faith of a Ḥoni in which "mainstream Judaism" held "a deep, general mistrust of such methods" without adopting a position "so dogmatic so as to preclude the admission of exceptions."[42] Daube's work, however, is marred by an incomplete analysis of the materials and an inadequate analysis of the pertinent issues. First, Daube bases his argument on too narrow a basis in that he fails to perceive that the "charismatics'" prayers, both in content and in structure, are examples of the widely-used law-court pattern of address. Had he realized this, he would have seen that the "charismatics'" prayers are not isolated examples of impertinent prayer, but rather the continuation of a form and style found throughout

the Biblical and rabbinic periods. As we have seen, the use of the law-court pattern was not confined to a Ḥoni or a Ḥanina b. Dosa, but was also widely used by some of the most prominent rabbis. Second, Daube fails to deal adequately with the righteous character of the "charismatics" claiming only that later, traditional exegetes attempted to bolster and defend the reputations of such figures when in fact they had been severely criticized and their qualifications deprecated by the rabbis. However, an examination of the primary sources shows that Ḥoni and Ḥanina b. Dosa were considered extremely righteous men in their day and that their righteousness (their צדקה) gained them the influence they had with God.[43] As Buechler has stated with regards to both Ḥoni and Nakdimon b. Gurion:

> The whole account rests on the prevailing conviction that in a calamity God accepts the interceding prayer of worthy individuals, and even more readily than that of the whole community or the congregation; for their supplication is supported before God by their piety.[44]

In light of this, the stories concerning these exceptional "rain-makers" are introduced into the Talmudic discussion precisely because the extraordinary piety of these individuals, like that of certain rabbis, exemplify the necessary qualifications for the type of person needed to lead the community's desperate prayers.[45] Ḥoni and men of his ilk are not exceptional for the type of prayer they uttered; they are exceptional because of their merit.[46] Ḥoni and Ḥanina b. Dosa are two individuals of whom it is said: "The righteous decree and God fulfills (הצדיק גוזר והקב"ה מקיים)," a phrase which is also said of

Jacob, Amram, Moses, Elijah and Micaiah, Judah HaNasi, and of the righteous in general.[47]

Daube is, nonetheless, correct in asserting that the prayers of Ḥoni and Ḥanina b. Dosa were depreciated and deprecated by certain rabbinic figures. Other scholars have likewise noted the existence of this conflict but have arrived at conclusions different from those of Daube.[48] Daube attempts to force the primary sources into support of his twofold thesis regarding the conflict between the institutional (rabbinic) and charismatic religion of the epoch, and a mature faith on the one hand as opposed to an immature faith on the other. Buechler, in contrast to Daube, has based his conclusions not only upon more primary sources, but also upon a more legitimate (i.e., accurate) understanding of these sources. Let us evaluate their conclusions by examining the relevant primary sources.

Following Ḥoni's successful prayers for rain Simeon b. Shetaḥ sent Ḥoni this message:

> Were you not Ḥoni I would have decreed excommunication for you, for if these years were like the years of Elijah, in whose hands were the keys of rain, would not the name of Heaven have been profaned at your hand? But what can I do to you since you ask petulently (מתחטא) of God and He does your will, as a child who importunes (מתחטא) his father and he does his (the child's) desires... Of you Scripture says: "Let your father and your mother be glad, and let her that bore you rejoice." (Prov. 23:25).[49]

With regards to the first point of criticism, raised by Simeon b. Shetaḥ, Daube and Buechler are in agreement -- Ḥoni's use of an oath could have led to a public profanation of God's name. But Daube fails to take

cognizance of the fact that Simeon b. Shetaḥ qualifies his remarks by saying "were you not Ḥoni" and "were these years like the years of Elijah" -- when Elijah proclaimed that there would be no rain for years (I Kings 17:1). Under different circumstances, an oath such as Ḥoni had taken might have led to a profanation of God's name; under the circumstances of Ḥoni's time, and with Ḥoni being who he was, there was no such danger -- Simeon b. Shetaḥ's objection is purely hypothetical. Buechler, with a better understanding of the Talmudic passage, relates that God sent a drizzle to annul Ḥoni's oath, further proof of Ḥoni's special merit. And this is supported by the text itself in which Ḥoni's disciples say "We look to you to save us from death; we believe that this rain descends only to absolve you of your oath."[50] Furthermore, as Buechler has observed, even Simeon b. Shetaḥ acknowledged Ḥoni's righteousness. In the Talmud Yerushalmi, Simeon b. Shetaḥ and Ḥoni engage in the following dialogue:

> You deserve excommunication, for had it been decreed (now) as it was in the days of Elijah, would you not have brought the people (עמך בני ישראל) to a profanation of the Name? And he who brings the multitude to a profanation of God's name deserves excommunication.
>
> Ḥoni replied: Does not God annul His decree in favour of the decree of the righteous (צדיקים)?
>
> Simeon b. Setaḥ replied: Yes, God does (so), but God does not annul the decree of one righteous man in favour of the decree of another righteous man (who is) his colleague. (But) So what can I do to you since you importune (מתחננין) God like a child who petulently asks (things) of his father, and he does his desires.[51]

Ḥoni's reputation was impeccable, even if his conduct was question-

able to some. But if Simeon b. Shetaḥ saw Ḥoni as deserving of punishment for potentially leading the people into sin, even so he also realized that Ḥoni's special merit with God protected him from both divine and rabbinic punishment. But not all of Simeon's contemporaries shared his estimation of Ḥoni's act. Another <u>baraitha</u> states that the בית דין supported and even praised Ḥoni for his successful intercession on behalf of the people:

> "You decreed a thing and it was established for you. And upon your path light will shine..." (Job 22:28-30). You have decreed a thing -- you have decreed on earth and God has established your word from Heaven... You have illumined with your prayer a generation in darkness... You have raised with your prayer a generation sunk low... You have saved by your prayer a generation bent in sin... You have delivered by your prayer a generation that is not innocent... You have delivered it through the work of your clean hands.[52]

As Buechler has related, Ḥoni's first (and unrecorded) prayer may have been ignored by God perhaps because of his presumptuousness; Ḥoni's second prayer succeeded because of his special merit.[53] Furthermore, the difficulties Ḥoni had in procuring the sort of rain he desired were due, not to misbehaviour on his part, but rather, as the above <u>baraitha</u> suggests, to the sinfulness of his generation, on account of whom the rain was originally withheld and on behalf of whom Ḥoni had been asked to intercede.[54]

Simeon b. Shetaḥ also characterizes Ḥoni's behaviour as resembling that of a spoiled child. Daube seizes upon this to build his case against Ḥoni and Ḥanina b. Dosa -- "Ḥoni and his likes are freaks. They stay children even when, by rights, they ought to have grown up."[55] In

Daube's opinion being called a child is a pejorative term and connotes, in Ḥoni's case, his contemptability before Simeon b. Shetaḥ's "adult Judaism." His is not the only opinion which sees Ḥoni's sort as an inferior type. Louis Jacobs also observes that the way of the "חוני" was often at variance with the way of the teachers of the halacha, and that the scholars were held in higher esteem (at least in their own statements on the subject!).[56] Dov Noy also believes that the nation saw in the "hurling of words" type of prayer the expression of innocence of a boy who plays like a spoiled child before his father. The "חוני" prays as an innocent or as a fool, as one who is not fully responsible for all his acts. But, far from condemning such prayers as Daube does, Noy states that such prayers were tolerated and accepted by both God and the nation. In noting the common motif in the rain-making tales of the conflict between the "חוני" and the established leaders, Noy is led to support the case of the "חוני," saying that the "חוני" was always proved, in the end, to have had the right approach with God.[57] It would seem that Buechler once again provides us with the most accurate understanding of the materials at hand and the themes contained therein. First of all, Honi is not only called a child, he calls himself a child, a גן גיות of God, who is interceding on behalf of God's own children, Israel. Thus the appellation "child" in this case is hardly pejorative; it parallels Honi's reputation as a חסיד. Just as the חסיד has a special status and influence with God, so too does a child with his own father. The חסיד is a child of God in every sense of the word;

he is God's beloved and is listened to and indulged by God.[58] Similarly, R. Joḥanan b. Zakkai said of Ḥanina b. Dosa, who had just successfully prayed for the recovery of R. Joḥanan's son: "He is like a slave before the king, while I am like a noble (high official) before the king."[59] Both Ḥoni, like a "בן בית," and Ḥaninah b. Dosa, like an "עבד," are able to intercede with God because their זכות (righteous merit) has gained them the status of God's familiaris, which entitles them to come and go in God's presence (in prayer) without having to ask God's permission.[60] Akiba, too, uses a similar metaphor to describe the success of his own prayer for rain after that of his master had failed. He told a parable of a king who had two daughters, one of whom was impertinent and the other modest. The king took long delight in beholding the presence of the modest daughter, but the brash one got what she wanted. When the latter would petition the king, he would say "Give her what she wants so that she will go away!"[61] In Song of Songs Rabbati, the prophets are compared to women in that they are unafraid to demand the requirements for Israel, like women who ask their husband for their household needs.[62] If according to a world-view in which Israel herself is compared to a slave (or servant) when it comes to petitioning God,[63] having the designation "בן בית" or "עבד" applied to oneself could only be considered a compliment.

It is obvious, however, that Simeon b. Sheṭaḥ and Joḥanan b. Zakkai did not intend their words as compliments. At least a few rabbis saw something unacceptable in the prayers of these צדיקים. In Ḥoni's

case it was the possibility that he might have led the people to a profanation of God's name; in Ḥanina b. Dosa's case it was the fact that his frivolous and selfish prayers for rain were uttered in opposition to the prayer of the High Priest and contrary to the welfare of the entire nation.[64] But such contemporaneous criticism was more than balanced by their reputations and their deeds. Criticism was also voiced after their lifetimes, and it is this criticism that is, perhaps, the more telling. Ḥoni, Nakdimon, and Ḥanina b. Dosa were all individuals who lived primarily before the destruction of the Second Temple. The destruction of the Temple, the resultant persecutions and uprisings, and the growing inroads made by Christianity and Gnosticism all led to a profound revamping of the rabbinic outlook. One notices this in the teaching of Naḥum of Gamzu and R. Akiba regarding the rewards of suffering and the absolute justice of the divine decree. One notices it also in the changing attitude of many of the rabbis towards contemporary miracles and miracle-workers. Thus R. Johanan b. Zakkai declares that Ḥanina b. Dosa, the last of the "men of deeds," may be likened to a slave in the king's court, but he, R. Johanan, is of a higher status -- he is like a noble before the king. The slave may have freer recourse to the king, but the noble has the loftier and more important position. This represents an attempt to change (or to channel) the lines of authority in Judaism. It is in the post-70 C. E. era that one finds the rabbis acting as prayer-leaders or intercessors in times of calamity. Buechler suggests that either the age of the "men of deeds" had passed, or that the

rabbis no longer countenanced their special brand of piety.[65] Both points are relevant. Such a claim is supported by the fact that Honi's grandsons, Ḥanan HaNeḥba and Abba Ḥilkiah, were both reluctant to put their skills of intercession to work, and Abba Ḥilkiah in particular was loathe to have others (especially scholars?) dependent upon him. In the mid-third century, Eleazer b. Pedat, expounding the types of individuals who deserve excommunication by the גזרת דין, singles out Ḥoni as one who made himself too familiar towards Heaven -- something which is equated with the insulting of a rabbi.[66] All the clues point to a growing disfavour, in rabbinic circles at least, with such heterodox individuals. Thus, in the long run, Daube's thesis becomes valid. Eleazer's remarks clearly indicate a defense of the rabbinic authority against any individuals who might arise to challenge this authority.[67] The reason for this change in attitude can only be as a result of the Christian and Gnostic challenges to Judaism which developed in the post-Temple era. Alexander Guttmann, in his study of the changing rabbinic attitudes towards miracles, has shown that the rabbis grew increasingly opposed to the use of miracles (including the Bat Kol) by their contemporaries, primarily as a result of the polemical and theological war being waged between Judaism and Christianity. As a result, the rabbis emphasized the Biblical miracles, made them into public events, and provided them with prayers, while at the same time they downgraded the value of contemporary miracles, all but outlawed the reliance on the Bat Kol, and declared: "אין מעמידין מעשה נסים."[68] Thus, while many

rabbis, well into the Amoraic period, continued to act in the role of intercessor in times of calamity and continued to utilize the law-court pattern of prayer, non-rabbinic characters were certainly discouraged from doing so. The rabbis were most wary both about fostering belief in post-Biblical miracles and trust in miracle-working individuals, since both threatened the established authority of the rabbis and Judaism as a whole, while lending credence to the counter-claims of Christianity and Gnosticism.

To summarize: The law-court pattern remained in constant use throughout the rabbinic period not only in the aggada, but also in the prayers uttered in times of distress. With regards to the rituals for the ending of a drought, the forceful law-court pattern may well have had an actual liturgical function. This, however, was a last resort, to be used only in times of grave crisis, after regular prayers and acts of repentance had failed, and only by righteous individuals, who by their special merit or rabbinic status, were worthy to act as intercessors with God in behalf of the community.

NOTES TO CHAPTER FIVE

[1]Heinemann, Prayer in the Talmud, pp. 193-208; Lee, Private Prayers of the Rabbis, pp. 38-69, 159-163.

[2]Lee, Private Prayers of the Rabbis, pp. 53-69. I would suggest that there is a strong similarity between the thanksgiving (or acknowledgment) and confessional prayers, in which Israel (or the individual) is the defendant and no plea is possible, and the "servant before-the master" pattern as described by Heinemann and Lee.

[3]Heinemann, Prayer in the Talmud, p. 193.

[4]R. Tsadok prayed: "My Father in Heaven! You have destroyed Your city and burned Your Temple. Now shall You sit and be calm and quiet?!" Tanna de be Eliahu, 28, ed. Friedmann, p. 149.

[5]See Levi b. Sisi's prayer in P. R. K. 25, ed. Buber, p. 165b, J. T. Ta'an. III, 66d and R. Eleazar's prayer in J. T. Ta'an. IV, 68d.

[6]Gamaliel's prayer -- T. B. B. M. 59b.

[7]Judah HaNasi's prayer -- T. B. Ket. 104a. Other examples include R. Sheshet's prayer on the occasion of his fast -- T. B. Ber. 17a, and R. Alexandri's prayer against the evil inclination and the exile -- T. B. Ber. 17a. For additional sources see Lee, Private Prayers of the Rabbis, pp. 38-69.

[8]Lev. 26:18-20; Deut. 11:13-17, 28:22-24; Jer. 14:1-7, 20; Amos 4:7-8; I Kings 8:35. Mishnah Ta'anit 1:1, 7.

[9]The list of sins is quite inclusive, see T. B. Ta'an. 7b, 8b; Nu. R. 8:4. For references regarding the gift of rain, see T. B. Ta'an. 7a, 8b; Gen. R. 13:4, 5, 6; M. Teh. 117:1.

[10]Joel 1:14, 2:12-17. Also Jer. 14:7-9, 12, 19-22; and I Kings 8: 35-38. Compare these with the psalms of lament -- they are one of a kind. See also I Sam. 7:5, 12:19-23; Ju. 20:26 regarding fasts and assemblies.

[11]I Kings 18:36-37.

[12]Jer. 14:11-12, 15:1 and also Jeremiah's complaint regarding his inability to intercede -- Jer. 15:10-12. The lament-prayer for rain found in Jer. 14:7-9, 19-22 may either be Jeremiah's own words or the recorded words of the prayers of the priests. I would suggest the latter, while Jeremiah's words are the intervening section, verses 10-18.

[13]Consult Adolph Buechler, Types of Jewish-Palestinian Piety, (London: Jews' College Publications, 1922), pp. 213-221 regarding the fast rituals and prayers of repentance; pp. 221-230 regarding the fast liturgies and doxologies; pp. 231-241 regarding the use of the shofar; and pp. 241-246 regarding the liturgy for the granting of rain. Consult also Heinemann, Prayer in the Talmud, pp. 108-111 regarding the fast liturgy and the use of the shofar; and pp. 144-155 regarding the use of litanies in the Hallel, Hoshannot and Selichot.

[14]Buechler, Types, pp. 214-216, 219-221.

[15]Buechler, Types, pp. 241-246.

[16]T. B. Ta'an. 16a. Two other occasions where the use of the forceful law-court pattern is sanctioned in the liturgy are the prayer of the High Priest -- T. B. Sota 39a-b; Nu. R. 11:4; and the prayer of the people following their giving of the tithes -- Ex. R. 41:1. Of course the law-court patterned confessional prayers, such as the mourner's prayer in T. B. Ber. 19a, also were incorporated into the liturgy.

[17]See the qualifications for such a person -- T. B. Ta'an. 16a. Also Buechler, Types, pp. 200-201, 212-213, 255, 260-264.

[18]T. B. Ta'an. 23a.

[19]See Rashi on מעגל חוג, and Buechler, Types, pp. 250-252.

[20]T. B. Ta'an. 23a.

[21]Other figures make use of the circle as well. Habakkuk is cited in the T. B. Ta'an. 23a account; see also Targum on Hab. 2:1 and M. Teh. 7:17. Moses uses it in praying for Miriam's recovery, A. R. N. A:9, ed. Schechter, p. 41; and to delay his own death, Deut. R. 11:10. The oath is also used in conjunction with a Torah scroll. Thus Levi B. Sisi, took hold of a Torah scroll, ascended the roof of a house and exclaimed: "Master of the Universe! If I ever neglected a single word of this Torah, let the enemy enter, but if not, have them go." And they vanished. -- P. R. K. 25, ed. Buber, p. 165b.

In Jewish sources it is the oath, and not the circle that gives the power, and the oath's power derives from the individual's merit with God. Consult Buechler, Types, note 2, pp. 246-247; and Heinemann, Prayer in the Talmud, note 11, pp. 206-207, for more on the use of the oath, the circle, and other devices to end a drought. Consult Sir James George Frazer, The New Golden Bough, ed. Theodor H. Gaster, (New York: Criterion Books, 1959), pp. 38-53, for rain-making techniques in other cultures and ages. While Buechler, in the reference cited immediately above, is correct in stating that Honi's act is unlike any

other Frazer notes, there are great similarities in Israel's communal actions to end a drought and those done in other cultures. These include: special dress, fasting, special acts, threatening prayers by the rain-maker, special processions, and the invoking (or use) of the dead.

[22] T. B. Ta'an. 23b. Regarding Abba Ḥilkiah see T. B. Ta'an. 23a-b.

[23] T. B. Ta'an. 20a. See also Rabban Gamaliel's prayer in T. B. B. M. 59b: "Master of the Universe! It is known to You that I did not act for my own honour nor for the honour of my father's house, but for Your honour that dissension not multiply in Israel" -- and the storm abated.

[24] T. B. Ta'an. 20a.

[25] A. R. N. A:6, ed. Schechter, p. 32.

[26] See the praise accorded to Ḥanina b. Dosa -- T. B. Ber. 17b, 61a; T. B. Hag. 14a; T. B. Sota 49b; T. B. Ta'an. 24a; T. B. Suk. 51a, 53a.

[27] T. B. Yoma 53b; T. B. Ta'an. 24b; T. B. Sota 39a-b; Nu. R. 11:4.

[28] T. B. Ta'an. 24b; T. B. Yoma 53b. For other examples of Ḥanina b. Dosa's great deeds, see T. B. Ta'an. 24b-25a; T. B. Ber. 34b.

[29] Judah HaNasi, Naḥman, Rabbah, Rab -- T. B. Ta'an. 24a; Raba, Judah, Papa -- T. B. Ta'an. 24b; Ḥama b. Ḥanina, Joshua b. Levi, Levi, Ḥiyya b. Luliani -- T. B. Ta'an. 25a; Eliezar, Akiba, Judah HaNasi, Samuel HaKatan -- T. B. Ta'an. 25b. Tanḥuma -- Lev. R. 34:14; Gen. R. 33:3. For equally forceful use of the law-court pattern, though in other circumstances, see above, notes 4-7.

[30] T. B. Ta'an. 25b.

[31] T. B. Ta'an. 25a.

[32] Lev. R. 34:14; Gen. R. 33:3.

[33] T. B. Ta'an. 25a.

[34] T. B. Ta'an. 24b.

[35] See T. B. Ta'an. 16a for the qualifications of the prayer-leader. The rabbis accepted the concept of special merit and recognized the ability of such an individual to bring rain, see R. Ammi's statement -- T. B. Ta'an. 8a; also the success of R. Ilfa (Ilfi) over Rabbi, and the success

of the unnamed reader over Rab -- T.B. Ta'an. 24a; also the success of Ḥoni and Ḥanina b. Dosa regarding the bringing of rain. See also note 47 below regarding the special abilities of the צדיק. However, much depended upon the repentance of the people -- see the story of Joshua b. Levi and the people of Ḥanina's town J.T. Ta'an. III, 66c; the remarks of Eliezar and Samuel HaKatan T.B. Ta'an. 25b. In other instances, the humbling of the intercessor brought on rain after all fasts and prayers had failed -- see Judah HaNasi and R. Naḥman, T.B. Ta'an. 24a; R. Papa, T.B. Ta'an. 24b.

36 P.R.K. 25, ed. Buber, p. 165b.

37 T.B. Ta'an. 25a; T.B. Meg. 22b.

38 T.B. Ber. 31b-32a.

39 T.B. Sukk. 53a; T.B. Ta'an. 25a; T.B. Meg. 22b.

40 T.B. Ta'an. 24b. R. Jose also criticizes his son for troubling Heaven with a minor request and prays that his son die an early death. However, the stories which follow show R. Jose to be a harsh and heartless individual, see T.B. Ta'an. 24b.

41 Buechler, Types, pp. 196-264; Heinemann, Prayer in the Talmud, pp. 200-202; David Daube, "Enfant Terrible," Harvard Theological Review 68:3-4 (July - October 1975): 371-376; Dov Noy, "גבילת התמים מורידה בשמים," מחנ"ים 51 (1960: 34-45; Louis Jacobs, "The Concept of Hasid in the Biblical and Rabbinic Literature," Journal of Jewish Studies 8:3-4 (1957): 143-154; Alexander Guttmann, "The Significance of Miracles for Talmudic Judaism," Studies in Rabbinic Judaism, (New York: Ktav Publishing House, 1976), pp. 47-90.

Daube alone is highly critical of Ḥoni and Ḥanina b. Dosa and disregards all references to their righteousness. The others do take note of their piety while recognizing the ambivalent attitude of the rabbis to such prayers. Guttmann attempts to place the rabbinic reliance on miracles into the historical context of the rabbis' struggle against Christianity.

42 Daube, Enfant Terrible, p. 375, also pp. 373-374.

43 Buechler, Types, pp. 199-201, 255. See the praise accorded Ḥoni -- T.B. Ta'an. 23a; Gen. R. 13:7; J.T. Ta'an. III, 67a; and the praise according Ḥanina b. Dosa -- notes 26 and 28 above.

44 Buechler, Types, pp. 200-201.

45 See T.B. Ta'an. 16a.

[46]Buechler, Types, pp. 199-201. Jacobs, Concept, p. 151, and Noy, תפילת הגשמים, pp. 34-35, have designated Ḥoni and Ḥanina b. Dosa as חסידים, as men reknowned for their saintliness. The word צדיק is the more traditional term.

[47]Ḥoni -- T. B. Ta'an. 23a; Ḥanina b. Dosa -- T. B. B. M. 106a; Jacob -- Gen. R. 79:3; Nu. R. 14:4; P. R. 3, ed. Friedmann, p. 7b; P. R. 17, p. 85b; Amram -- T. B. Sota 12a; Moses -- Ex. R. 21:2, 43:1; Deut. R. 2:3; Nu. R. 18:12; Sifrē Nu. בהעלותך 105, ed. Horovitz, p. 104; P. R. 17, p. 85b; Elijah and Miciah -- Nu. R. 18:12; Judah HaNasi -- T. B. Ket. 103b; T. B. Shabb. 59b; the righteous in general -- T. B. M. K. 16b; T. B. Sukk. 14a.

[48]Buechler, Types, pp. 252-254; Noy, תפילת הגשמים, pp. 34-36; Jacobs, Concept, p. 153; Heinemann, Prayer in the Talmud, pp. 200-201.

[49]T. B. Ta'an. 19a, 23a; T. B. Ber. 19a.

[50]T. B. Ta'an. 23a. Buechler, Types, pp. 249, 252-254.

[51]J. T. Ta'an. III, 67a.

[52]T. B. Ta'an. 23a.

[53]Buechler, Types, pp. 246-247, 249.

[54]Buechler, Types, pp. 249-252.

[55]Daube, Enfant Terrible, p. 374.

[56]Jacobs, Concept, pp. 151-153.

[57]Noy, תפילת הגשמים, pp. 34-36, 40. This article also contains several good examples of law-court prayers for rain in later centuries, see in particular the prayer of the villager as told by the Lubavitcher Rebbe, p. 44, and the prayer of the man who threatens God that he will tear his tzitzit unless God sends rain, p. 45.

[58]Buechler, Types, pp. 199-201, 203-204, 247-249.

[59]T. B. Ber. 34b.

[60]See Buechler, Types, note 1, pp. 203-204.

[61]J. T. Ta'an. III, 66c-d.

[62]Song of Songs Rabbati, 1:44, p. 29a.

[63]See Samuel HaKatan's parable in T. B. Ta'an. 25b, also Sifré Deut. פיסקא שכג, 343, ed. Finkelstein, pp. 394-395 for the example of "proper prayer" provided by Moses, David, Solomon and the prophets. See Heinemann's analysis, and source references for, the servant-before-the master pattern, Prayer in the Talmud, pp. 202-204.

[64]T. B. Yoma 53b; T. B. Ta'an. 24b.

[65]Buechler, Types, p. 217.

[66]T. B. Ber. 19a, and Rashi ad. loc.

[67]Daube, Enfant Terrible, p. 372.

[68]See Guttmann, Significance of Miracles, p. 76 and references cited there; see also pp. 70, 87-90.

CHAPTER VI

EXCURSUS ON A BIRD'S NEST

In T.B. Ber. 33b and T.B. Meg. 25a, we read: "If one (in praying the Amidah) says: 'Your mercies extend to a bird's nest,' 'Your name will be mentioned for the good,' or 'We give thanks, we give thanks,' he is silenced." The gemara clearly understands the reason for prohibiting the latter two phrases -- both express heretical concepts popular in the rabbinic period, i.e., the belief that there were two powers in Heaven and/or that man must bless God only for the good, thereby denying that both good and evil come from a single divine source. However, "Your mercies extend to a bird's nest" is not so readily understood, and various Amoraim offer differing rationales for its inclusion.[1] This confusion in the amoraic period is further suggested by the contradictory reactions of Rabbah and Abaye to the prayer of one who prayed: "You have shown mercy upon the bird's nest, (so too) show compassion and mercy to us," (or, as is added in T.B. Meg. 25a, "You have shown pity to an animal and its young, (so too) have compassion and mercy upon us)." Rabbah declares: "How well this student (this rabbi) knows how to placate (כובסו) his Master," to which Abaye retorts: "But we have learnt 'he is silenced'." According to Heinemann, the final line of the story, which states that Rabbah was only testing Abaye's knowledge of the halacha, is a later editorial emendation, designed to harmonize the two conflicting views.[2]

The singling out of this prayer for condemnation is indeed mysterious. The mystery is heightened by the fact that the Mishnah condemns a pattern of prayer and a prayer motif found elsewhere in a number of places. Thus Jacob prayed:

> a) Sovereign of the Universe!
>
> b) You have written in Your Torah: "do not kill a cow or ewe and its young on the same day" (Lev. 22:28). If this wicked one (Esau) comes and destroys all at once, what will happen to Your Torah which in the future You will give on Mount Sinai. Who will read it?
>
> c) I entreat You: 'Deliver me from his hand, that he will not come and kill both mother and children (together).[3]

A similar argument fragment found in Genesis Rabba 76:6 refers to the complementary commandment of Deut. 22:6 prohibiting the complete emptying of a bird's nest. Knesset Yisrael uses the identical motif in complaining that her enemies, by their slaughter, are going against God and His Torah.[4] Another midrash sees Lev. 22:28 interpreted in the light of Prov. 12:10, "The צדיק regards the life of his beast" as referring to God, while "the mercies of the wicked are cruel" refers to Sennacherib and Haman who killed (or sought to kill) mothers and their children together.[5] Furthermore we have noted that other Amoraim put a very similar law-court prayer into the mouths of the repentant inhabitants of Nineveh.[6] Clearly the Mishnah had a reason for forbidding the use of "Your mercies extend to the bird's nest" prayer, but whatever reason it had was lost to later generations who actually did make use of it. Let us try to determine what possibly

motivated this mishnaic prohibition.

Two parallel accounts in the Babylonian and Jerusalem Talmuds relate the story of four rabbis who entered Pardes -- ben Azzai died in the process, ben Zoma looked and was stricken, Aher (Elisha b. Abuyah) became an apostate, and only Akiba emerged unscathed.[7] The term פרדס itself is a code word for the study of esoteric philosophy,[8] although the exact subject matter remains in question to this day. Thus, the experience of the four who entered Pardes has been given various interpretations. Rashi and Tosafot, respectively, have described it as the rabbis' ascent, or seeming ascent, to Heaven. Gershom Scholem believes that the account in Hagigah shows the dangers inherent in delving into the mysteries (the experience of the ascent) of Merkabah (Throne of God) mysticism.[9] Samson R. Levey has suggested that Pardes refers to the teachings and doctrines of the early Church and that the Hagigah accounts describe "the probing study of Christian origins and beliefs" by the four.[10] Other scholars have linked ben Zoma and Aher with Gnostic and various other kinds of heresy.[11]

The T. B. Hagigah account relates that Aher saw Metatron acting in such a way as to suggest that Metatron and God were both gods. This experience led Aher to embrace some form of Gnosticism, and to act in a manner destructive to rabbinic Judaism.[12] In other sources, however, the cause of Aher's apostasy is made more explicit. According to one story, Aher was once studying when he saw a man climb a palm tree on Shabbat, take both the dam and its young from the nest and

descend unharmed, thereby transgressing both the Shabbat laws and Deut. 22:6 with impunity. After the Shabbat, he saw a second man ascend a tree and take only the young from the nest, while allowing the dam to remain, in accordance with all the laws. But when this man descended, a snake bit him and he died. Thereupon Aher exclaimed: "It is written: 'Let the mother go, and take only the young, in order that you may fare well and have a long life' (Deut. 22:7) -- where is the goodness and length of days for this man?" Another story relates that when Aher saw the tongue of R. Judah HaNahtom in the mouth of a dog, he declared: "If this is the reward of a tongue which toiled all its days in the Torah, how much the more so a tongue which did not! Since this is so, there is no reward for the righteous nor any resurrection for the dead."[13] In a variant on this latter story, Aher's apostasy was due to his seeing the tongue of Hutzpit HaMeturgaman cast upon a dungheap.[14] In all these stories, Aher's belief-shattering experience was his encounter with the problem of theodicy, which led him to doubt the reality of divine providence, and following the story in Hagigah, to doubt the unity of God. Nor was his experience unique. The problem of suffering in general, and the tribulations of Israel in particular, were problems which plagued the rabbis throughout that epoch.[15] Considering the cataclysmic times in which Aher lived, it is probable that Aher was one, but not the only one, of many who lost their faith. Whatever the exact nature of Aher's experience, his was but an early example of what became a serious threat to the continued survival of rabbinic Judaism.

It is our contention that the story of the four who entered Pardes represents the rabbis' attempts to grapple with the problem of theodicy and to comprehend (and make comprehensible) the nature of God's justice. Like Aḥer, Moses, in a number of aggadic sources, seeks to understand this fundamental problem of existence. In Ex. 33:13 and 18, Moses asks to be granted knowledge of God's ways and to behold God's presence. This request God grants only in part, saying: "You cannot see My face, for man may not see Me and live... I will take My hand away and you will see My back; but My face must not be seen" (Ex. 33: 18-23). The midrashim develop this ambivalent divine response, and opinion remains divided as to whether Moses gained a full understanding of God's ways, whether he was granted a partial understanding, or whether he was refused any understanding at all.[16] In T. B. Menachot, Moses, like Aḥer, also questions the nature of divine providence, for, when he is shown Akiba's grisly fate, he cries out: "Lord of the Universe! Such Torah and such a reward!" This earns him a sharp rebuke from God.[17] It may be, therefore, that the ascent to Pardes represents, not so much the delving into mysticism, but rather, more the delving into the more concrete problems of theodicy, in much the same manner as Moses' request had included both elements together. This hypothesis, however, remains, for the time being, purely conjectural, since it relies upon analogy rather than upon actual texts. But in support of our contention, we have seen that a great deal of energy was expended by the rabbis to counter the attacks launched

against rabbinic Judaism by Gnosticism and Christianity. It is not unreasonable, therefore, to suggest that certain sages, like the four in the Ḥagigah account, did attempt to fathom the mystery of divine justice, particularly in light of the severe suffering which occured in their lifetimes. It is also plausible to suggest that certain sages, like Aḥer and ben Zoma, were unable to arrive at an answer capable of reconciling the traditional God-concept of rabbinic Judaism with the suffering of Israel to which they bore witness. Their inability to comprehend the mystery of divine justice then led them to embrace one or another kind of heretical position as part of their attempt to explain the events of their day.

Against this hypothesis, it must be noted, stands recent scholarship which has shown that Aḥer's actual "sin" was not "theological" at all, but rather was "political" in nature. These activities, and not "heresy" were what led Aḥer into direct conflict with Akiba and his disciples.[18] It was this conflict that led later generations of rabbis to attribute to Aḥer the controversies of their own day, specifically, the heresy of Gnosticism. Thus in a number of amoraic accounts, Aḥer founders on the rock of the incomprehensibility of divine justice and becomes an anti-nomian heretic, while in the T. B. Ḥagigah legend, Aḥer is described as having fallen under the Gnostic delusion of divine dualism.

In keeping with modern scholarship, it is indeed unlikely that Aḥer did actually become a Gnostic heretic. The amoraic ascription of Gnosticism to Aḥer testifies more to the issues of their day than to Aḥer's times. The mishnaic prohibition mentions the "bird's nest"

in context with two other prayers clearly recognized as dualistic in amoraic times. However, only the rationale for prohibiting the "bird's nest" prayer was in doubt. The existence of a legend which attributes Aḥer's apostasy to his having seen the commandment regarding the bird's nest (Deut. 22:6-7) broken with impunity, may have helped the Amoraim to clarify what they considered to be the mishnaic rationale for prohibiting a law-court prayer based on this same commandment. Given the existence of a tradition which alluded to Aḥer's apostasy in a most vague manner, the Amoraim, evincing the concerns of their own day, readily attributed to Aḥer the sin of Gnostic heresy. Depending upon the dating of those legends which depict Aḥer's apostasy as being the direct result of his having doubted the reality of divine justice, it is possible to suggest that the mishnaic prohibition may itself have had its origins in an oral legend which attributed Aḥer's apostasy to his failing to have seen the exercise of divine justice in the observance of Deut. 22:6-7. Alternatively, we might suggest that the mishnaic prohibition understood the "bird's nest" prayer to be dualistic in some way, without providing any explanation on the subject. Since, both in structure and in content, the "bird's nest" prayer was no different from other law-court prayers, the Amoraim might well have been puzzled as to its inclusion in the mishnaic prohibition. The legend of Aḥer and the observance of the commandment regarding the bird's nest might then have been created to help explain why a law-court prayer based upon Deut. 22:6 had dualistic overtones, the answer being that one prominent

tannaitic sage was led to Gnosticism as a result of his doubting divine justice in this matter. The mishnaic prohibition against the "bird's nest" prayer thereby acquires a historical rationale for its existence. This conclusion is also most tentative and is suggested here only as hypothesis.

There is a broader and more obvious objection to the use of the "bird's nest" prayer which adequately explains the mishnaic prohibition against it. It should be noted that the mishnah itself offers no explanation as to why the three prayers should be prohibited. It is possible that they were originally prohibited for reasons other than those which were perceived by the later Amoraim (i.e., dualism). The mishnaic prohibition may simply reflect the growing acceptance of Akiba's view regarding the exercise of divine justice and its incorporation into the halachic system.

It is related that Akiba alone entered Pardes in peace and that he alone left in peace. What peace? Peace of mind. Only Akiba arrived at an understanding of divine providence capable of withstanding the tribulations of his day. Armed with the teaching of חביבין יסורין (precious are sufferings) and an indefatigable faith in God's justice in all matters, Akiba was able to transcend the many national and personal tragedies of his age.[19] The lot of succeeding generations was hardly better than that of Akiba's day, therefore, his teaching on the subjects of theodicy, divine justice and providence remained extremely relevant to those later generations. Moreover, his teachings were much more

applicable to the real-life problems facing these generations in a way in which the law-court type of response could not be. Protest and argument are fine in the aggada or in times of emergency, but because of the basically immediate nature of the law-court pattern (i. e., the demand that God intervene and/or respond directly to the complaint brought before Him), the law-court pattern was incapable of sustaining hope or fostering a positive expression of faith and observance on a day-to-day basis. Akiba's teachings, on the other hand, based on submission to, and acceptance of, the divine decree, promoted continued adherence to rabbinic Judaism without sacrificing the hope of beholding the ultimate triumph of God's justice. Thus Akiba's understanding of the problem of divine justice became the more normative Jewish view on the subject, blending smoothly with the general tone of the statutory liturgy as it developed.

This view is supported by the fact that though later rabbis did use this law-court prayer, they did not use it during the Amidah in which its use was prohibited. (Only Rabbah, and then only conjecturally, considered it a fitting prayer in the Amidah.) It may be then, that the tone of the law-court prayer was considered out of keeping with the general tone of the Amidah which, according to Heinemann has the form of "a servant before the master" pattern of prayer.[20] Such an attitude is suggested in Yerushalmi Ber. in which one who utters a "bird's nest" prayer is equated with one who complains (קורא תיגר) about God's ways (His attributes).[21] That this sort or prayer could be considered

as rebellion against God is not to be unexpected -- we have seen the general opposition of Akiba and his followers to those who would argue against, and complain about, God's justice.[22] Such a prayer may have been acceptable in the aggada and in the personal, non-statutory prayers offered in times of emergency, but certainly not in the Amidah.[23]

The law-court pattern remained an effective polemical and didactic device, utilized in rabbinic sermons and the aggada, to refute the attacks of Gnosticism and Christianity while responding to the ultimate questions and doubts of the Jewish people. But the law-court pattern never acquired the stamp of legitimacy, nor gained the currency in normative Jewish practice, that Akiba's teachings did, nor could it, for it was unsuited to the task of sustaining the people over an indefinite length of time such as the Exile represented. When cast as actual petitionary prayer, the law-court pattern created a forced confrontation between God and the people which could only result in either a revelatory action (in deed or word) on the part of God, or produce despair on the part of the people if the prayer were not directly answered by God. The longer the Exile became, the more anxious the rabbis grew to avoid any situation which could potentially lead the people to despair of God's justice and to turn elsewhere for consolation. The law-court pattern, although suited to controlled usage in the aggada, or even by a bona fide דין (although its usage by the latter was, as we have seen, discouraged by the rabbis), was inadmissible in the realm of public, statutory prayer since, as Simeon b. Shetah is re-

puted to have observed, it could lead the people to a profanation of the name of God.

This perhaps is the reason underlying the mishnaic prohibition against the use of the prayer "Your mercies extend to the bird's nest." And in light of this, the Amoraim stated that had Aher known (i.e., accepted) Akiba's exposition of Deut. 22:7 which shifted the reward of the righteous and observant to the World to Come, Aher might not have been led to despair.[24] Had Aher accepted Akiba's understanding of the nature and exercise of divine justice, he would not have become an apostate. In other words, addressing the people of their own day, the Amoraim were advancing Akiba's teachings as an efficacious means of countering the attacks of Gnosticism and Christianity which represented a very real threat to the day-to-day survival of Judaism and the Jewish people.

NOTES TO CHAPTER SIX

[1]See T. B. Ber. 33b and T. B. Meg. 25a for these amoraic interpretations. See Arthur Marmorstein, The Old Rabbinic Doctrine of God, (London: Oxford University Press, 1927) Vol. I, pp. 205-206 for an interpretation of these amoraic statements.

[2]Heinemann, Prayer in the Talmud, p. 201.

[3]Gen. R. 75:13.

[4]Lam. R. Proem 24 (used by Moses), 1:37; M. Teh. 22:17.

[5]Lev. R. 27:11.

[6]T. B. Ta'an. 16a.

[7]T. B. Hag. 14b-15a; T. J. Hag. II:1, 77b. Also Song of Songs Rabbati 1:4.

[8]Marcus Jastrow, A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature, (New York: The Judaica Press, 1971), s.v. "פרדס."

[9]Gershom G. Scholem, Major Trends in Jewish Mysticism, (New York: Schocken Books, 1961), pp. 52-53; also his Jewish Gnosticism, Merkabah Mysticism and Talmudic Tradition, (New York: Jewish Theological Seminary, 1965), p. 14. For more on Pardes, see his Jewish Gnosticism, p. 16.

[10]Samson R. Levy, "The Best Kept Secret of the Rabbinic Tradition," Judaism, 21:4, (Fall 1972): 468.

[11]Consult Levey, The Best Kept Secret, pp. 458-462 for a summary of scholarly views regarding ben Zoma. Regarding Aḥer, consult The Jewish Encyclopedia, 1901 ed., s.v. "Elisha Ben Abuyah" by Louis Ginzberg.

[12]See Scholem, Major Trends, p. 68; and Jewish Gnosticism, pp. 41, 43-55, for more on Metatron and his place in the Heavenly court. See T. B. San. 38b, where a Jew and a heretic argue about the worship of Metatron. See Scholem, Major Trends, pp. 65-66, and note 24 to lecture II; also Marmorstein, Background of the Haggadah, pp. 6-7, for more on the Jewish form of Gnosticism. See Scholem, Jewish Gnosticism, addenda, p. 127 and note 6, for the meaning of Aḥer's cutting the saplings.

[13]Ruth R. 6:6, p. 73; Ecc. R. 7:18, p. 125.

[14] T. B. Hullin 142a; T. B. Kidd. 39b.

[15] See Marmorstein, Old Rabbinic Doctrine of God, Vol. I, pp. 181-208.

[16] Sifré Nu. בהעלותך 103, ed. Horovitz, pp. 101-102; Ex. R. 45:5, 6; T. B. Ber. 7a; M. Teh. 25:6; A. R. N. A:25, ed. Schechter, p. 79; Tan. כי תשא, p. 124; Tan. Buber, כי תשא, p. 116; Tan. ואתחנן, p. 101.

[17] T. B. Men. 29b.

[18] For some of Aḥer's "political" crimes see T. J. Hag. II:1, 77b. Dr. Petuchowski has drawn my attention to a work in German which analyzes this question in some detail, Johann Maier, Geschichte der Jüdischen Religion, (Berlin: Walter de Gruyter, 1972), pp. 209-211. Regarding the contradictory traditions about Aḥer, consult Encyclopaedia Judaica, 1972 ed., s. v. "Elisha Ben Avuyah" by Shmuel Safrai.

[19] See Akiba's responses in the following situations:

To the sick Eliezer -- Mech. בחדש, ed. Lauterbach, 2:277-282; Sifré Deut. ואתחנן 32, ed. Finkelstein, pp. 57-58; T. B. San. 101b.

Upon seeing the Temple ruins -- Sifré Deut. עקב 43, pp. 94-95.

Regarding the "suffering of the Torah" -- T. B. San. 101a.

Regarding suffering in general -- Sifré Deut. ואתחנן 32, pp. 55-56.

Regarding divine justice in his own life -- T. B. Ber. 60b, 61b; J. T. Ber. IX, 14b.

For more detailed information regarding the views of Akiba, consult Buechler, Studies in Sin and Atonement, pp. 150-189; and Marmorstein, Old Rabbinic Doctrine of God, Vol. I, pp. 185-208; and the many references contained in both. On another aspect of Akiba's thought, his use of anthropomorphisms to describe God, see Arthur Marmorstein, Essays in Anthropomorphism, (London: Jews' College Publications, 1937).

[20] Heinemann, Prayer in the Talmud, pp. 203-204, and sources quoted there.

[21] J. T. Ber. V, 9c.

[22] See Buechler, Studies in Sin and Atonement, pp. 163-189.

[23]See Heinemann, Prayer in the Talmud, p. 205. The view that sufferings should be borne in love and patience does gain legitimacy and is incorporated into the liturgy, see for example T. B. Ber. 19a, 33b, 54a, 60b; Meg. 25a; Pes. 50a and the mourner's prayer. קדיש יתום

[24]Ruth R. 6:6, p. 73; Ecc. R. 7:18, p. 125; T. B. Hullin 142a; T. B. Kidd. 39b.

CHAPTER VII

CONCLUSION

We have traced the law-court pattern of prayer through Biblical and Rabbinic literature and have found a consistency in pattern, motif, and usage. The tripartite law-court pattern of prayer was used mainly by righteous individuals (or a figure personifying the nation), primarily in times of personal or national emergency, to intercede with God and avert the divine decree. Among the many motifs used in the Biblical and Rabbinic law-court arguments are included: the mention of personal merit or of the זכות אבות; the swearing of an oath; arguments based on the Covenant or a specific commandment, on God's character (His attributes of justice, mercy, truth, etc.), on God's prestige (His name's sake), on the universal moral order, and by inference from God's past deeds to some anticipated comparable deeds in the future. In addition to this, the Rabbis employed many of their hermeneutic principles, particularly קל וחומר reasoning and the גזרה שוה, as the basis of many of their aggadic arguments.

The law-court pattern served a single function in both the Biblical and Rabbinic literature. In the Bible, the law-court pattern served as a polemical and didactic device, on the one hand refuting the doctrines and beliefs of paganism, and on the other hand, promoting the Biblical teachings of a single, just, and merciful God who is linked by the Covenant to His people Israel. In the period of the final redaction of

the Torah, this polemicizing was directed particularly against the influence of Zoroastrianism while reinforcing and developing a message to provide support and comfort to Israel during the First Exile. In the Rabbinic period, the law-court polemicizing was designed to counter the attacks launched against Judaism by Christianity, Gnosticism, and pagan philosophies, while simultaneously affirming the justice, mercy, and unity of God, the continued existence of the Covenant between Israel and God, and the ultimate triumph and reward of Israel by her God.

The law-court pattern constituted one part of the dialectic of faith that remained constant for both Biblical and Rabbinic Judaism. In both views, faith encompassed the principles of argument with, and absolute trust in God. Although on the surface, these two principles stood in opposition to each other (and in a number of instances polemicized against each other), in fact they were part of the single dialectic that constituted Jewish faith. Both principles were necessary for the continued survival of Judaism and the Jewish people.

In the Bible, God frequently uses punishment (suffering) as an instrument to effect Israel's repentance and her return to the observance of the Covenant. God tries the righteous and punishes the wicked; suffering, therefore, has a purpose -- a divinely ordained purpose. Espousing an attitude of trust in God and accepting one's lot is the means to directly affirm and acknowledge the reality of the exercise of divine justice in the world.[1] But, as we have seen, God's justice may also be affirmed indirectly, through questioning, doubting, and argument. This

attitude finds expression in the law-court arguments of Abraham, Moses, Jeremiah, Job, and the authors of Lamentations and the psalms of lament. By disputing with God, these figures nonetheless affirm God's justice, in that they expect God to rectify any apparent cases of divine injustice.

This same dialectical tension exists in Rabbinic literature, where again, both attitudes of faith are present. On the one hand, we have noted on many occasions the attitude of submission to, and acceptance of, God's judgment, developed by Nahum of Gamzu, R. Akiba, and espoused by a great number of rabbinic figures. Their attitude towards Job's arguments is a case in point. According to Akiba, Job was wrong to question and rebel against his suffering. Job stood on the lowest level of those whom God had smitten.[2] Elsewhere Akiba praises the attitude of Job as expressed at the beginning and conclusion of the Book of Job.[3] A later source relates that had Job not questioned or rebelled against his sufferings, we today would begin the Amidah by addressing "the God of Abraham, Isaac, Jacob, and Job.[4] Job's rebellion is deemed the way of goyim and their prophets.[5] The proper Jewish attitude is one of patience and submission in affliction.[6] On the other hand, the vast numbers of Rabbinic law-court arguments testify to the fact that this passive stance was never wholly accepted. Marmorstein has noted that although the teachers of the second century had decided that suffering should be borne in love and patience, the scholars of the third century returned to address the heart of the issue themselves.[7] The problem posed by Israel's suffering was too great an issue to be answered once

and for all time.

The conflict between these two views carried over into the midrashim themselves. We have seen that Abraham and Moses, for example, were praised and rewarded by God for engaging Him in law-court argument.[8] But we have also seen instances when Moses, Jeremiah, David, and others were criticized and/or punished for arguing with God and questioning His judgment.[9] In some cases God (or a rabbi) criticizes certain figures for not arguing; while in other cases, those individuals who do question God, end up repenting their words and acknowledging God's justice.[10]

A. J. Heschel has suggested that these conflicting attitudes towards suffering have their roots in the dispute between the schools of Akiba and Ishmael on this subject.[11] However, an examination of the primary sources shows that no such clear-cut division existed. Indeed, as Buechler has noted, there seems to have been little actual difference in the responses of Akiba and Ishmael (and others of their generation) to suffering and martyrdom.[12] (What difference there was may centre on the question of suffering as punishment as opposed to suffering from love.) With the possible exception of R. Akiba and a few others, it is fairly safe to say that the use of the law-court pattern, and also the attitude of submission, transcended both schools of thought and generations of teachers.

Opposition did exist to the use of the law-court pattern for good reason. The law-court pattern was utilized by the Rabbis as a homilectic

and didactic device in their sermons and aggadic commentary, and as a personal and intercessory mode of prayer in times of emergency. In either case, the law-court pattern was confined exclusively to use by righteous individuals (Biblical, "charismatic," or Rabbinic), primarily on behalf of their community. But the use of the law-court pattern by the common people, or by unauthorized (i.e., non-rabbinic) individuals, was discouraged -- witness the Rabbinic opposition to the use of the law-court pattern by "charismatic" figures such as Honi, or their opposition to the use of the "bird's nest" prayer in the Amidah. In the proper hands, the law-court pattern served many valuable functions; but in the wrong hands, it could lead the people to despair and even heresy. Therefore, on the one hand, the Rabbis encouraged popular acceptance of Akiba's teachings on suffering, while, on the other hand, the Rabbis themselves utilized the law-court pattern to instruct the people, to defend their beliefs, to voice their doubts, and to comfort them with words of consolation.

This same logic led to the integration of Akiba's views with the statutory liturgy but to the exclusion of the law-court pattern. Heinemann has noted the basic difference in tone between the law-court pattern and the statutory liturgy:

> It should now be apparent why the "law-court" pattern is not to be found in any of the statutory public prayers. Jewish public worship (as well as the Biblical private prayer), is to be distinguished from pagan prayer by virtue of the sense of confidence and trust which prevails throughout, and for this reason it does not stress the element of humility quite as heavily; humility is compatible with confidence. Nonetheless, the ele-

> ment of reverence, the sense of basic dependence, and the longing for divine mercy and grace do remain. But according to the vast majority of the Talmudic Sages, the "forceful" prayer which "hurls accusations at heaven" and demands the rights of the petitioner is definitely considered to be out of place in the statutory public prayer. This pattern is strictly reserved for emergencies only, when all other means of petition have not availed, and is most appropriately used by pious men who are interceding for the community. This same community itself, however, would never allow itself to use such an aggressive, demanding style in its routine prayers (still less would an individual do so when petitioning for his own private needs).[13]

The fact that the law-court pattern was out of keeping in tone with the rest of the liturgy explains why it never assumed a more significant role in this area. Still its influence was felt, primarily in its milder form as confessional and thanksgiving prayers.[14] Traces of argument motifs also exist in the liturgy, for example in the line of the אחת version of the "אי כאלה" which reads: "צור ישראל קומה בעזרת ישראל ופדה כנאמך יהודה וישראל." ("Rock of Israel, arise in help of Israel, and redeem Judah and Israel according to Your word."),[15] in the תחנונים (supplicatory) prayers of the weekday service,[16] and in the "ומפני חטאינו" ("But on account of our sins") prayer of the Musaf Amidah for the festivals. In the latter, Israel argues that if she is to once again perform her sacrificial obligations in the Temple as God has commanded, then God will have to act first. Before Israel can do God's will, God must withdraw "the hand which is stretched out against" the Sanctuary, rebuild the Temple, cause His kingdom to come, gather Israel from the corners of the world, and lead them to the Sanctuary in Jerusalem. Then Israel will once again per-

form all her obligatory sacrifices in love, faithfulness, and devotion.[17] It should be noted that none of these prayers really echo the tone of the forceful law-court pattern of prayer -- they merely have adopted some of its argument motifs. The reading of Job and Lamentations on Tisha B'av may also represent a certain degree of argument, as may the litany-type prayers (Hoshannot, Kinot, and Slihot).[18] However, in the main, the forceful law-court pattern, and its various argument motifs, were excluded from statutory public worship.

The law-court pattern reached its apex with the rabbinic application of the form in their aggadic and personal prayers. It remained preserved in the Talmud and Midrash, while the Rabbis turned their attention to the more concrete issues of developing the halacha and the liturgy in consonance with the teachings and views of Akiba and his disciples. Even so, in later centuries, the motif of arguing with God, if not the law-court pattern, was revived time and again, primarily when historical events gave the Jewish people reason to protest against the severity of the divine judgment which they saw represented in the historical plane. Thus, the motif of argument found its way back into the liturgy through the piyyutim of such poets as Judah HaLevi and Isaac bar Shalom.[19] It was utilized by the victims of the Crusades to voice their outrage, grief, and impatience with God. The following piyyut fragments, reminiscent of similar stories in Book of Maccabees and Lamentations Rabba, express these feelings well:

O Lord, Mighty One, dwelling on high!

> Once, over one Akedah, Ariels cried out before Thee.
> But now how many are butchered and burned!
> Why over the blood of children did they not raise a cry?
>
> Before that patriarch could in his haste sacrifice his only one,
> It was heard from heaven: Do not put forth your hand to destroy!
> But now how many sons and daughters of Judah are slain --
> While yet He makes no haste to save those butchered nor those
> cast on the flames.
>
> On the merit of the Akedah at Moriah once we could lean,
> Safeguarded for the salvation of age after age --
> Now one Akedah follows another, they cannot be counted. [20]

The motif of argument also found expression as one of the many attempts made to explain the Expulsion from Spain, witness the prayer attributed to one Jew, who, having lost his entire family, turned to address God with the following words:

> O Lord of all the universe, you are doing a great deal that I might even desert my faith. But know you of a certainty that -- even against the will of heaven -- a Jew I am and a Jew I shall remain. And neither that which you have brought upon me nor that which you will yet bring upon me will be of any avail. [21]

The motif of arguing with God may also be said to exist in the longing of Israel to see the Coming of the Messiah, the Day of the Execution of Divine Justice. Thus the many messianic movements, and the attempts to "hasten the End," from Judah HaLevi's aliyah to the Holy Land to the kabbalistic legends of Joseph della Reyna's storming of Heaven to force the coming of the Messiah, may represent arguments by deed rather than by word of prayer.

The emergence of Hasidism and its cult of the Tzaddik saw an actual revival of both the argument motif and the law-court pattern. As champions of their people, the Hasidic masters frequently argued with

God, calling Him to account for His lapses in obligation. God is addressed from a sense of intimacy; He is praised and bullied, depending on Israel's needs. Many stories are told about the lawsuits (דין תובע) brought against God by various rebbes. Here is one example in which God is called upon to appear as a defendant in a rabbinical court:

> A terrible famine once occurred in the Ukraine and the poor could buy no bread. Ten rabbis assembled at the home of the "Spoler Grandfather" for a session of the Rabbinical Court. The Spoler said to them:
>
> "I have a case in judgment against the Lord. According to Rabbinical law, a master who buys a Jewish serf for a designated time (six years or up to the Jubilee year) must support not only him but also his family. Now the Lord bought us in Egypt as His serfs, since He says: 'For to Me are the sons of Israel serfs,' and the prophet Ezekiel declared that even in Exile, Israel is the slave of God. Therefore, O Lord, I ask that Thou abide by the Law and support Thy serfs with their families."
>
> The ten judges rendered judgment in favor of the Spoler Rabbi. In a few days a large shipment of grain arrived from Siberia, and bread could be bought by the poor.[22]

But the champion prosecuting attorney of the Hasidim was R. Levi Yitzhak of Berdichev. On one occasion, he turned to address God with the words of his now-famous "Kaddish:"

> Good morning to you, Lord of the world!
> I, Levi Isaac, son of Sarah of Berditshev, am coming to you in a legal matter (דין תובע) concerning your people of Israel.
> What do you want of Israel?
> It is always: Command the children of Israel!
> It is always: Speak unto the children of Israel!
> Merciful Father! How many peoples are there in the world?
> Persians, Babylonians, Edomites!
> The Russians -- what do they say?
> Our emperor is the emperor!
> The Germans -- what do they say?
> Our kingdom is the kingdom!
> The English -- what do they say?
> Our kingdom is the kingdom!

But I, Levi Isaac, son of Sarah of Berditshev, say:
"Glorified and sanctified be His great name!"
And I, Levi Isaac, son of Sarah of Berditshev, say:
I shall not go hence, nor budge from my place
until there be a finish
until there be an end of exile --
"Glorified and sanctified by His great name!"

Like the rabbinic law-court arguments, Levi Yitzhak's prayer stresses the themes of Israel's faithfulness and devotion to God, her present suffering, and the request (demand) that her misery end. Note also the motifs of "the attitudes of the nations," "the attitude of Israel," and the urging of God to act "for His name's sake" and vindicate Israel's trust in Him. Note as well Levi Yitzhak's role as intercessor -- one which combines his authority as a rabbi with his "charisma" as a Honi-like חוני המעגל. Another well-known, but still charming, story concerns Levi Yitzhak and the Yom Kippur prayer of a simple tailor:

The Berditschever called over a tailor and asked him to relate his argument with God on the day before. The tailor said:
"I declared to God: You wish me to repent of my sins, but I have committed only minor offenses: I may have kept left-over cloth, or I may have eaten in a non-Jewish home, where I worked, without washing my hands."
"But Thou, O Lord, hast committed grievous sins: Thou hast taken away babies from their mothers, and mothers from their babies. Let us be quits: mayest Thou forgive me, and I will forgive Thee."
Said the Berditschever: "Why did you let God off so easily? You might have forced Him to redeem all of Israel."[21]

Like the rabbis of old, the Hasidic masters often won concessions with their arguments, although they never managed to convince God to bring that which they most desired -- the coming of the Messiah. In fact, most of their arguments were in response to the problems of life

in the Exile.[25] But, for at least some branches of Hasidism, it was completely within his rights for a Jew to remind his partner, God, of His promises, and to admonish God to fulfill His obligations towards His people.

The events of modern Jewish history, and the Holocaust in particular, have led many Jews to a profound dissatisfaction with that attitude of faith once typified by an Akiba and raised to prominence by succeeding generations. Thus, in Bialik's poem, In the City of Slaughter, Bialik cries out both against the horrors perpetrated during the Kishinev pogrom and the attitude of the victims themselves. It is to the latter that Bialik has God say:

> And see them beating on their hearts confessing
> their iniquity
> By saying: 'We have sinned, betrayed!' Their heart
> believes not what they say.
> A shattered vessel, can it sin? Can potsherds
> have iniquity?
> Why, then, their praying unto Me? -- Speak unto them,
> and let them storm!
> Let them lift up their fist at Me, resent the insult
> done to them,
> Insult of ages, first and last;
> And let them smash the sky and My own throne
> with their raised fist.[26]

In commenting upon these lines, Petuchowski has identified one of the modern innovations in the argument motif. Bialik attacks the age-old "refrain about being exiled on account of our sins" and with it, the "passive submission to the recurring catastrophes of Jewish fate." Bialik's poem is "a call to rebellion against the exile mentality, against God Himself... one of the distinctive undertones of the modern Jewish

national revival." Petuchowski continues:

> We see, then, that, during the nineteenth and twentieth centuries, and for a variety of reasons, a doctrine which has held sway during the previous eighteen centuries was both challenged and, in some quarters, rejected. Perhaps this was not the least of the transformations which Judaism has undergone in the modern period. The fact, however, that we are able to associate the challenges so closely with the last two centuries only underlines the seemingly undisputed acceptance of that doctrine in earlier periods.[27]

However, as Petuchowski notes, the rebellion typified by Bialik is neither entirely unique nor wholly without precedent. Certain medieval piyyutim, in line with the dialectical nature of the classical rabbinic teachings and literature on the subject of suffering, also expressed a theology at odds with the "on account of our sins" doctrine. These stand, therefore, midway between the more dominant "on account of our sins" response common to their own epoch and the modern rejection of that doctrine. Such poems, as for example the poem חוּשָׁה דוֹדִי (Hasten, my Beloved) by Simeon bar Isaac bar Abun,[28] suggest that "some suffering.... undoubtedly is deserved; but not all suffering." A certain amount of suffering is warranted as due punishment for whatever sins Israel may have committed; Israel has paid its debt yet still she suffers! "Thus God is, as it were, obligated to bring about Israel's speedy redemption."[29] These piyyutim are "a part of that time-honored Jewish tradition which has found it possible to argue with God, and to hold Him to account by invoking that absolute justice by which God no less than man is bound."[30] Bialik, far from being an anomaly in the Jewish continuum, represents the modern link in an equally

ancient chain of tradition -- the tradition of arguing with God.

The problem of theodicy raised in our own day by the Holocaust, and coupled with the changes wrought in our world-view by modern science and philosophy, have demanded that changes be made in traditional Jewish theology, and in the traditional response to suffering in particular. Not surprisingly, the "arguing with God" tradition has found a renewed relevancy in our era, and has witnessed a resurgence in application, primarily in the works of our modern authors and poets.

Speaking perhaps for many modern Jews, the Yiddish poets of the last half-century have returned to argue with God over what has befallen His people. Here we notice a second innovation, also peculiar to the modern era. Irving Howe and Eliezer Greenberg have drawn our attention to the following:

> /The heart of the Yiddish poet/ was pledged neither to the world nor to God, but to the people who believed in God or had only yesterday believed, or for whom the vision of God was inseparable from the vision of peoplehood. This is one reason that a recurrent theme in Yiddish poetry is the quarrel with God (krign zich mit Got), a quarrel undertaken with intimacy, affection, and harshness. If God had lapsed in His obligation toward the Jews, the Yiddish writers would not lapse in their role as spokesmen for the Jews addressing God: and this role, it should be stressed, was assumed both by believers and skeptics...
>
> In the historical moment when Yiddish literature begins to flourish, the question of belief as a formulated problem seems barely to signify in the fiction and poetry themselves despite the ferocity with which it is discussed in the culture. God might be denied by many writers, yet He continued to inhabit their work, equally real to believers and disbelievers. For once mere opinions are left behind, the experience of the Jews in the last 150 years is so overwhelming, so beyond discussion or even comprehension, that for poets writing in Yiddish there can only be a return, again and again, to the crushing fact of that experience itself.[31]

For the Yiddish poet Jacob Glatstein, as for many others, the Holocaust is cause for an ever increasingly necessary quarrel with God, since both the Jewish people and the Jewish God are threatened with destruction. Thus, in one of his post-Holocaust prayers, Glatstein warns:

> Without Jews there is no Jewish God.
> If we leave this world
> The light will go out in your tent...
>
> Now the lifeless skulls
> Add up into millions...
> The memory of you is dimming,
> Your kingdom will soon be over.
> Jewish seed and flower
> Are embers.
> The dew cries in the dead grass!...
>
> Who will dream you?
> Who will remember you?
> Who deny you?
> Who yearn for you?
> Who, on a lonely bridge,
> Will leave you -- in order to return?
>
> The night is endless when a race is dead.
> Earth and heaven are wiped bare.
> The light is fading in your shabby tent.
> The Jewish hour is guttering.
> Jewish God!
> You are almost gone.[32]

And in a softer, more loving tone, Glatstein pleads:

> Shall we perhaps begin anew, small and toddling,
> with a small folk?
> We two, homeless wandering amont the nations...
> Shall we perhaps go home now, you and I,
> to begin again, small from the beginning?
>
> Begin once more! Be the small God of a small people!...
> Go back, beloved God, go back to a small people!...

You will become closer to us,
and together we shall spin new laws,
more suitable for you and for us...

Shall we perhaps go home, you and I?
Shall we perhaps, unconquering, go home?...

Save yourself! Together with the pilgrims, return,
return to a small land.
Become once more the small God
of a small people.[33]

But if Glatstein still has love in his heart for his ancient God, other poets have only hate and defiance to fling in God's face. Thus Kadia Molodowsky cries out:

O God of Mercy
For the time being
Choose another people.
We are tired of death, tired of corpses,
We have no more prayers.
For the time being
Choose another people.
We have run out of blood
For victims.
Our houses have been turned into desert,
The earth lacks space for tombstones,
There are no more lamentations
Nor songs of woe
In the ancient texts.

God of Mercy
Sanctify another land
Another Sinai.
We have covered every field and stone
With ashes and holiness.
With our crones
With our young
With our infants
We have paid for each letter in your Commandments.

God of Mercy
Lift up your fiery brow,
Look on the peoples of the world,
Let them have the prophecies and Holy Days

Who mumble your words in every tongue.
Teach them the Deeds
And the ways of temptation.

God of Mercy
To us give rough clothing
Of shepherds who tend sheep
Of blacksmiths at the hammer
Of washerwomen, cattle slaughterers
And lower still.
And O God of Mercy
Grant us one more blessing --
Take back the gift of our separateness.[34]

"We have no more prayers" -- and yet, despite its hostile tone, Molodowsky's poem is, in fact, one more prayer.

These post-Holocaust expressions may well set the tone for contemporary Jewish piety. Beaten down but defiant, loving yet bruised, believing still at little but growing increasingly skeptical, modern Jews may find "argument" to be the only type of prayer possible to express. And even the skeptics may pray thusly! Paradoxically, the prayer of the doubter or disbeliever becomes the more powerful, more intensely demanding, argument. Thus Itzik Manger asks the ultimate question of God and, with both threats and pleas, demands the ultimate consolation:

Like a murderer, with knife in hand
Ambushing his victim late at night,
I listen for your steps, O Lord, I wait;
I, from whom you hide your smiling light;
I, the grandson of Iscariot.

I'm ready to do penance with my blood --
Your prophets' blood still burns my fingertips...
Although a shepherd, in the midst of spring,
Is fluting silver magic with his lips
And no one calls me to account for anything.

To see you! Just to see you once.

To know with certainty there is a You;
To know you really crown a saint with light;
To know with certainty your sky is blue...
And then, to hide forever from your sight.

I'll fling the thirty silver coins
To be confounded with a careless wind;
And, barefoot, Lord, I'll make my way to you
To weep before you, like a child returned
Whose head is heavy with the crown of sin.

Like a murderer, with knife in hand
Ambushing his victim late at night,
I listen for your steps, O Lord, I wait;
I, from whom you hide your smiling light;
I, the grandson of Iscariot.[35]

Such is the tenor of our contemporary payyetanim, a mere taste since we have but grazed the surface of their many works. Other arguments, representing a variety of outlooks, are to be found in the works of a number of authors -- Elie Wiesel, Zvi Kolitz, Aaron Zeitlin, and Nelly Sachs, to mention but a few. In one of those ironies of history, our spokespersons today are once again primarily "charismatics" -- poets and authors, to whom the modern rabbi has taken a subordinate position, being encumbered with the task of defending and justifying the God-concept of the traditional liturgy and theology.

I believe that the "arguing with God" approach can, potentially, help to heal the breach that exists between Israel and God today. First, it links the present generation of sufferers with the previous generations of sufferers who also agonized over God's absence from the historical scene. In this way our current dilemma ceases to be so unique. Second, the "arguing with God" approach provides modern Jewry with

a rich theological and liturgical vocabulary drawn from the law-court pattern prayers, with which to express itself. Unlike the more submissive and dependent posture of the traditional statutory liturgy, the "arguing with God" approach bespeaks of interdependence and equality -- an attitude quite suited to the present generation's humanistic outlook. In time we may see, perhaps, the restoration of those prayers and piyyutim which dealt with the suffering of the Exile as well as the introduction into the liturgy of new prayers and piyyutim on this subject.

The "arguing with God" approach, perhaps alone, remains capable of addressing a generation which has rejected that posture of faith first suggested by R. Akiba. The suffering of the centuries, culminating in the Holocaust, has shattered the present generation's faith in the covenantal God. But because the "arguing with God" approach acknowledges and gives voice to the people's complaint, and because it surrenders nothing either to God or to modern empirical thinking, it may provide the necessary link between modern Jewry and their God. According to the Covenant, both God and Israel have obligations to fulfill. In the eyes of the present generation, God has been more negligent about fulfilling His part of the bargain than we ours. The "arguing with God" approach seeks to rectify this state of affairs by demanding that the God of the Bible and of the rabbis make His presence known in the same unequivocal manner as He had in the distant past. Nothing less will satisfy our complaint. The Jewish God cannot be removed from history for this would cut the ground out from under the very foundations of Jewish be-

lief; nor can God be left in silent control of history without justifiably harsh questions being asked about this God's justice and mercy, or even about the scope of His power or His reality. Like Itzik Manger, our generation yearns to see its ancient God with a longing that mixes both love and anger. Our prayer is no different than that which Raba uttered so long ago: "Master of the Universe! 'O God! We have heard with our ears; our fathers have told us what deeds You did perform in their days, in the days of old (Ps. 44:2),' but as for us, with our own eyes we have not seen (it)!"[36] And so we wait upon the brink -- ready to forsake the God who has too long forsaken us, yet ready, at a moment's notice, to return to His embrace should He return to us. The Talmud relates that following R. Joshua's rebuke of the Bat Kol which had dared to intervene on the side of R. Eliezer in a halachic debate, God, according to the report of Elijah to R. Nathan, laughed with joy and declared: "My children have triumphed over Me!"[37] We too would seek to triumph over our God. The Talmud also states: " חוצפא אפילו קמי שמיא מהני -- boldness is effective even against Heaven."[38] By refusing to be consoled by the silent passage of time, and by continually rehearsing our grief and anger through use of the law-court pattern, we may yet see the day which has so far eluded our ancestors' grasp -- the Day on which we will be able to say, as did Job:

I had heard of You by the hearing of the ear,

but now my eye sees You.[39]

NOTES TO CHAPTER SEVEN

[1]See, for example, Deut. 8:5; Ps. 94:11-12; Prov. 3:11-12; Job 5:17-18; ben Sirach 18:11-14.

[2]Semachot 8; M. Teh. 26:2.

[3]Ecc. R. 7:8; Mech. בשלח, ed. Lauterbach, 1:248, בחדש, 2:277-278; Sifré Deut. ואתחנן, piska 32, ed. Finkelstein, pp. 55-56.

[4]P. R. 47, ed. Friedmann, pp. 189b-190a.

[5]Mech. בחדש, 2:277-278; Deut. R. 2:4; M. Teh. 11:4.

[6]See Buechler, Studies in Sin and Atonement, pp. 163-189 and references cited there. See also note 13 to ch. 3 above.

[7]See, for example, the responses of Ḥiyya b. Abba, Johanan, and Eleazar in T. B. Ber. 5a. See also Marmorstein, The Old Rabbinic Doctrine of God, vol. I, pp. 188-190.

[8]See note 21 to ch. 3 above.

[9]See notes 86 and 87 to ch. 3 above.

[10]Hosea is punished for not disputing with God -- T. B. Pes. 87a-b, but Habakkuk argues and ends up repenting his rash words -- M. Teh. 7:17, M. Teh. 90:7.

[11]Abraham Joshua Heschel, Theology of Ancient Judaism, (London: Soncino Press, 1962), vol. I, pp. xlv-xlix, 93-110. Marmorstein was the first to propose the sharp division between the schools of Akiba and Ishmael, although he did so regarding their approaches to anthropomorphism. See his Essays in Anthropomorphism (vol. II of The Old Rabbinic Doctrine of God), pp. 29-47.

[12]See Buechler, Studies in Sin and Atonement, pp. 189-211.

[13]Heinemann, Prayer in the Talmud, p. 205.

[14]Heinemann, Prayer in the Talmud, pp. 205-206; Lee, Private Prayers, pp. 67-69.

[15]Shilo Prayer Book, (Hebrew), 6th ed., (New York: Shilo Publishing House, 1972), p. 63.

[16]Shilo Prayer Book, pp. 81-89.

[17] Shilo Prayer Book, pp. 364-365.

[18] For more information of these latter forms consult Heinemann, Prayer in the Talmud, pp. 139-155.

[19] See, for example, their poems in Petuchowski, Theology and Poetry, pp. 67-68 and pp. 74-80, respectively. See also the poems of Eleazar Kallir in the same volume, pp. 90-93, and pp. 128-130.

[20] Quoted in Spiegel, The Last Trial, pp. 20-21. Consult Elliot M. Strom, Theology in Crisis: Jewish Theodicy at the Time of the Crusades, (Cincinnati: unpublished rabbinic thesis, 1977), for a detailed study of contemporaneous Jewish response to the massacres of the Crusades, including their use of the "arguing with God" motif.

[21] Solomon ibn Verga, Shebet Yehudah, ed. M. Wiener, (Hanover: 1856), ch. 52, quoted in Nahum N. Glatzer, ed., A Jewish Reader, (New York: Schocken Books, 1961), p. 205.

[22] Judah Rosenberg, ed., Tifereth Maharal, (Warsaw: n.d.), p. 158, quoted in Louis Newman, Hasidic Anthology, (New York: Schocken Books, 1963), p. 56.

[23] I. Berger, ed., Esser Oroth, (Petrokov: 1907), XXIV, i. quoted in Glatzer, A Jewish Reader, pp. 94-95.

[24] I. Ashkenazy, ed., Otzroth Idisher Humor, (New York (?): 1929), p. 20, quoted in Newman, Hasidic Anthology, p. 57.

[25] See the examples offered in Newman, Hasidic Anthology, ch. 23, "Controversy with God," pp. 56-59.

[26] Hayyim Nahman Bialik, Kol Kithbhé Hayyim Nahman Bialik, (Tel Aviv: 1938), p. 84, translated by, and quoted in Petuchowski, Theology and Poetry, p. 51.

[27] Petuchowski, Theology and Poetry, pp. 52-53.

[28] Petuchowski, Theology and Poetry, pp. 58-61.

[29] Petuchowski, Theology and Poetry, p. 58.

[30] Petuchowski, Theology and Poetry, pp. 57-58. For a more complete discussion of the rabbinic and medieval piyyut views on God and the meaning of suffering, see his combined analyses, pp. 48-53, 63-65, 71-73, 84-90.

[31]Irving Howe and Eliezer Greenberg, ed., A Treasury of Yiddish Poetry, (New York: Holt, Rinehart and Winston, 1969), pp. 15-17.

[32]Jacob Glatstein, "Without Jews," in Howe and Greenberg, A Treasury of Yiddish Poetry, pp. 331-332.

[33]Jacob Glatstein, "The Beginning," in Howe and Greenberg, A Treasury of Yiddish Poetry, pp. 335-337.

[34]Kadia Molodowsky, "God of Mercy," in Howe and Greenberg, A Treasury of Yiddish Poetry, pp. 289-290.

[35]Itzik Manger, "Like a Murderer," in Howe and Greenberg, A Treasury of Yiddish Poetry, pp. 272-273.

[36]T. B. Ta'an. 24b.

[37]T. B. B. M. 59b.

[38]T. B. San. 105a.

[39]Job 42:5.

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