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HEBREW UNION COLLEGE - JEWISH INSTITUTE OF RELIGION
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Report on the Rabbinic Dissertation Submitted

by

Harry Levin

in Partial Fulfillment of the Requirements for Ordination

A MIDRASHIC GUIDE TO BLOOD AVENGING

This thesis is a close analysis of the biblical and rabbinic material dealing with the concept of the blood avenger. The author's intent is to focus on the biblical passages dealing with this concept, to understand all the key terms associated with it so as to provide the widest fabric of discussion and then to add the most important midrashim and commentary traditions which deal with them. In this manner, he hopes to trace the development of the concept of *שׂוֹרֵף* through the layers of biblical history and rabbinic tradition.

Though the thesis lacks an Introduction which would assist the reader in understanding the author's methodology and purpose prior to the onset of the textual analysis, the thesis is logically divided into three chapters. In Chapter One, the concept of the *שׂוֹרֵף*, the redeemer, is closely traced through its key biblical loci and the attendant rabbinic interpretation. Focussing on Leviticus 25 in particular, with secondary associated terms such as *מִשְׁפָּחָה* and *פִּדְיוֹן*, Mr. Levin begins to understand that *שׂוֹרֵף* has something to do with preventing or remedying action which

causes the crossing over the boundaries of the irretrievable, e.g., not allowing a kinsman to be sold in perpetuity into slavery. The concept of כֶּד is found outside the Pentateuch, too, and the author deals with key passages in Jeremiah and the Book of Ruth. In the latter, he forcefully argues that the Book of Ruth focusses on נִשְׁכָּח , as Boaz serves as כֶּד for Ruth and for the land of Elimelech. In his view, it has little to do with the idea of conversion, which is the main concern of most Jewish outreach programs. God, too, is pictured as a כֶּד and in passages dealing with this notion, verbs such as נִשְׁכָּח and שָׁח bear a crucial valance. The author notes, too, another usage for the root כֶּד , which is diametrically opposed to the first - defiling. The two usages, of course, have everything to do with each other, i.e., the need for כֶּד when in fact something is defiled.

In Chapter Two, the author turns to the symbolic power of blood, דָּם , starting with the notion of the blood avenger having to put a murderer to death (Numbers 35) since spilt blood pollutes the land and only the death of the murderer will expiate it. Key passages in the Book of II Kings (famine due to the shedding of Saul's and Jonathan's blood in battle and the need to remedy their status) and Deut. 21 (a corpse is found in an open field and therefore the inhabitants of the closest town must go through a ritual of absolution.) are studied alongside of Numb. 35, together with interpretations of these passages in midrashic tradition. Several comments broaden the discussion to include both idolatry and sexual immorality in addition to murder which destroy the parameters of

family and community, and therefore also need remediation. This is also the case in the treatment of Cain and Abel, and the midrashic discussion of Cain's act. Though the rabbinic treatment of the classic text in Genesis 9:6 ("Whoever sheds the blood of a human being, by a human being should his blood be shed") rarely deals with the taking of the life of a murderer, some comments on the ensuing phrase ("In the image of God, [God] made the human being") focus on the demand of blood for blood. The possible play is on $\rho 3 = \text{AWB}$, indicating that the spilling of blood reduces the divine image. This fits the concept of God's presence being removed from the place in which blood is spilled. Blood in fact is seen in the later commentaries to symbolize the very creative power of life, the soul itself.

The third and final chapter then integrates the two previous treatments of $\sqrt{6}1d$ and $\rho 3$, and deals directly with the concept of the blood avenger. Focussing at first on the interpretation of Deut. 32:43, the author shows that the shedding of blood avenges blood, but also expiates sin as well. The sins of the Jewish people are expiated by their suffering at the hands of God's agents. But the key question is whether blood avenging actually took place when an Israelite killed another Israelite. In reality, it seems that blood avengers probably didn't fulfill their responsibilities as defined in the Pentateuch. The great emphasis on cities of refuge seems to indicate that this was the case, as does the difficulty of distinguishing between the intentional and unintentional murder.

As time went on, it seems less and less likely that the blood avenger actually existed. The author creatively traces then the development of the concept from its inception, at a time when the notion of a blood avenger was necessary to remedy the blood shed of one's kinsman. The blood avenger concept was rooted in a societal framework of the kinship group and played out against the backdrop of the early sacrificial system. Once the monarchy was established, the king had to find ways to control the disruptive acts of individuals. The intercession of the king and the prevention of "private executions" is seen in passages like II Samuel 14:10. Finally, the rabbis, as they interpret the biblical material, attempt to understand the notion of blood avenging outside of a cultic context and consistently stress the need for court trials prior to execution. They, for example, go to great lengths to protect the fugitive killer in order to strengthen the authority of their own court system.

Although it is always very difficult to gain a clear understanding of such a complicated and fragmented collection of biblical and rabbinic material, the author has handled it in a very creative and insightful manner. He not only presents the reader with a plethora of rich individual textual insights as he analyzes individual passages and terms, but is most creative in bridging disparate texts from a variety of sources. He creates a fairly unified fabric of understanding of the concept of the blood avenger as presented in the Bible and interpreted by the rabbis. The author demonstrates clearly that the blood avenger was to act when the

boundary between life and death was crossed,⁴ by providing the people with a sufficient means of remediation. Such a concept of remediation has significant implications since it bespeaks the rabbis' belief that atonement, even through death if necessary, is always achievable.

Mr. Levin is to be highly commended for his research and insightful analysis. He has shown his ability to analyze text as well as to integrate diverse material. His wonderful feel for language allows him to sensitively juxtapose texts which brings the reader added illumination of the primary material. At times, he should provide the reader with even more road signs so as to enable the reader to follow his rapid journey through the myriad of texts he covers. Similarly, as the author moves back and forth between biblical material and rabbinic interpretation, it is occasionally difficult to distinguish between the two. Nevertheless, this thesis provides us with an excellent prism through which to view the rabbis' treatment of a key biblical concept as well as a means of gaining insight into their overall world view. Even if one could argue with some of his points of analysis, the overview of the concept of blood avenging is most insightful and convincing.

Respectfully submitted,

Dr. Norman J. Cohen
Professor of Midrash

April 15th, 1991

A MIDRASHIC GUIDE TO BLOOD AVENGING

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Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

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Dedicated with deep gratitude to

DAVID and BETTE KAPLAN

יצדיק חונן ורחן

A MIDRASHIC GUIDE TO BLOOD AVENGING

CHAPTER ONE:

In the semantic field and the family field

A blood avenger, נוֹאֵל הָרֵם, might have other experiences as נוֹאֵל which do not involve spilled blood. נוֹאֵל הָרֵם moves to act after a boundary, between life and death, has been irretrievably (though perhaps not irremediably) crossed. In other moments of commanded responsibilities, a נוֹאֵל must move to preempt crossings into the realm of the irretrievable.

1. לצמחת

Usages of two key terms, לצמחת and מִיךְ shape a biblical constellation of the root נֹאֵל, whose forms cluster from Vayikra 25:24 through 25:54. The word לצמחת in Vayikra 25:23 defines the territory on the other side of a limit, beyond which the נוֹאֵל must not let the family's interests stray, or be forced:

והארץ לא תמכר לצמחת כי לי הארץ נרים וחושבים אתם עמרי:

ובכל ארץ אחוזתכם נאולה תתנו לארץ:

-- [Vayikra 25:23-24]: "But the land must not be sold לצמחת, for the land is Mine. You are only strangers residing with me. Throughout the land you hold, you must provide נאולה for the land."

The land belongs to יהוה אלהים, this signature punctuating a list of vital ethics (in Vayikra 25:17), promulgated in a jubilee-focused language, and meant to govern land transactions.

Vayikra 25:17 sums the ethical mandate:

ולא תונו איש את עמיתו

meaning, "Do not wrong one another," paralleled by the phrase

אל תוט איש את אחיו in Vayikra 25:14.

The land belongs to יהוה, and a responsibility of a נוֹאֵל is to be a buffer against any imminent possibility that a family member, someone joined with him to a piece of that land in a chain of inheritance rights, could sell that land לצמחה, beyond reclaim, beyond control of those to whom God had promised, and delivered, the land.

The word לצמחה appears twice in the Tanakh, both times in Vayikra 25 (in verses twenty-five and thirty). With no biblical attestation of לצמחה beyond the clustering of the root נוֹאֵל bordered by Vayikra 25:24 and 25:54 -- and with no attestation at all, in the Tanakh, of the word צמחה -- efforts to substantiate an understanding of לצמחה in Vayikra 25 become (more) problematic. The root צמח does not appear in the Humash, but is attested once in II Samuel (22:41), once in Job (6:17), twice in Lamentations (3:53 and 23:17), and eleven times (out of the total fifteen) in Psalms.

In II Samuel 22:38, in David's song to יהוה, celebrating his deliverance מכף כל איביו ומכף שאול, "from the hands of all his enemies and from the hands of Saul," (-- Saul was a man from whom even his allies needed deliverance --) we read:

אֲרִפֶּה אִיבֵי וְאֲשְׁמִדֶם וְלֹא אֲשׁוּב עוֹד כְּלוֹתָם

-- "I pursued my enemies and wiped them out, and did not turn away until I had destroyed them." Then we find a parallel in verse forty-one:

מִשְׁנֵאֵי וְאֲצַמִּיחֶם:

meaning, "My enemies -- I wiped them out." Then, in a

subsequent parallel with verse forty-one comes verse forty-three, a link in what amounts to a chain of parallels continuing through II Samuel 22:49:

ואשחקם כעפר ארץ כשיט חוצות ארקם ארקם

-- "I pounded them like the dust of the earth, reduced them to muck in the streets; I stomped them." In II Samuel 22:41, the root צמח expresses action which pushes beyond the boundaries of the retrievable.

In Lamentations 3:52-4, the narrator is not the celebrant but the victim:

צור צדוני כצפור איבי חנם: צמחו כבוד חיי וירו אבן בי:

צפו מים על ראשי אמרתי נזרחי:

-- "For no reason, my enemies have snared me like a bird. In a pit they were ending my life, throwing stones at me. Water covered my head; I said, 'I have been doomed.'"

Again in the context of confrontation with enemies, the root צמח expresses action which has crossed beyond (or threatens to cross beyond) the boundaries of the retrievable.

In Job 6:15, we read: אחי בגרו -- "My brethren have proven unreliable," says Job. Verse seventeen expands on that statement, and also presents the root צמח in a parallel:

כעת יזרבו נצמחו בחמו נדעכו ממקומם

-- "As [or, Once] they thaw [or, flow], they vanish; in the heat, they fade where they are."

For Job, something that existed has changed, and no longer exists, is no longer accessible, in that once-discernible form, or way. Here again, the root צמח expresses

disappearance across a border, into the realm of the irretrievable.

Rashi seems to disagree, at least in part, with this view of the word לצמחה, and thus approaches Vayikra 25:23 from a different angle. Rashi reads the phrase והארץ לא תמכר in Vayikra 25:23 as addressing not a נואל, but a purchaser outside the family or tribe, outside the spectrum of rightful (potential) inheritors. The word לצמחה, then, in verse 23, according to Rashi, does not contribute directly to defining the responsibilities of a נואל, an insider with intimate (commanded) connection to a piece of land, but would serve as a caution to any outsider who might contract (or wish) to ignore the imperatives of a jubilee and fail to return the land. Influenced by B.T. Kiddushin 21a and by Sifra 4:9 to Behar Sinai, which perceive houses and Hebrew servants to be included in the command נאולה חתנו לארץ, Rashi asserts that this command addresses those who have purchased and who would hold these possessions in a jubilee year, not anyone who would have to act as נואל on behalf of the family. Thus, for Rashi, the phrase נאולה חתנו לארץ apprises the purchaser that he must grant נאולה, that he has no right to prevent the seller or his relative from reclaiming the land.

לצמחה, as Rashi defines the word in his commentary to verse twenty-three, means: לפסיקה, למכירה פסוקה עולמית, "as an act of severance, as a sale which severs forever (the right of the original landholder or his kinship group to reclaim and hold that land)." Thus, if Vayikra 25:23-24 teach that the

land cannot be forever severed from the control of its rightful inheritors, beyond return in a jubilee, then, for Rashi, the specific responsibilities of a נוֹאֵל are not directly at issue. The one who is being instructed about limits here is, for Rashi, the purchaser.

Rambam reads Vayikra 25:23 differently. In the Mishneh Torah: Sefer Zeraim 11:1, Rambam declares both the purchaser and the seller responsible:

ארץ ישראל המתחלקה לשבטים אינה נמכרת לצמיחת שנאמר

והארץ לא תמכר לצמחה ואם מכר לצמיחת שהניהם עוברין בלא תעשה

ואין מעשיהן מועילין אלא תחזור השרה לבעליה ביוכל

-- "The land of Israel, which has been divided among the tribes, cannot be sold beyond reclaim, as it is written [Vayikra 25:23]: 'The land must not be sold beyond reclaim.' If anyone sold (the land) [with a clause stipulating, or with implicit intent, that the land was now] beyond reclaim -- both (seller and purchaser) have violated a negative commandment. Their actions had no legal validity. The land would (definitely) revert to the (original) owner in the jubilee year."

Rashi does explicitly define לצמחה in Vayikra 25:30 as יצא מכחו של מוכר ועומר בכחו של קונה, meaning that the property in question had moved outside the limits of the seller's power to regain that property. But in that case, delineated in Vayikra 25:29-30, the buyer, the seller and any נוֹאֵל are all addressed and made aware of the transaction's specific terms. There, a house -- not land -- and a house within a walled

city only, is at issue. That house would move beyond the power of the seller and into the realm of control of the buyer, beyond the scope of a jubilee year's commanded returns. The walled-city house would move beyond the reach of a נוֹאֵל, if a נוֹאֵל did not redeem the house within a year after his kinsman had sold that house to someone outside the family or tribe.

Rashi does affirm, then, that the word לצמחת, within the context of Vayikra 25:30, does express a crossing into the realm of the irretrievable, beyond the powers of a נוֹאֵל to redeem. In Vayikra 25:29-30, the Torah text has explicitly granted a window of opportunity, a timeframe, within which נִאוּלָה can be accomplished. Beyond the boundaries of that timeframe, a נוֹאֵל will be powerless. In Vayikra 25:23, however, in Rashi's broad view of the land's status, no limited timeframe compels the prompt action of a נוֹאֵל, because there God states that the land can never be sold לצמחת, beyond נִאוּלָה, beyond the right of a נוֹאֵל to reacquire the land of his family and tribe, כִּי לִי הָאָרֶץ, "for the land is Mine." Rashi incorporates Sifra's language (underlined below) in his explanation of the phrase כִּי לִי הָאָרֶץ:

אל תרע עיניך בה שאינה שלך

-- "Do not perceive it [the land, and these restrictions upon it] as evil, for (the land) is not yours." Thus, if the land can never truly be sold לצמחת, "beyond reclaim," Vayikra 25:23-24 serve to prepare a purchaser, who could be disinclined to release the land when the legally appropriate moment would come. Vayikra 25:23-24, in Rashi's reading,

soften the discomforting transaction commanded of the purchaser, by comparing that purchaser's commanded obligations to the infinite rights of the true Owner.

2. מוֹךְ

The root מוֹךְ appears four times within the same small constellation of forms of the root נָאֵל (bounded by Vayikra 25:23 and 25:55), once in another constellation of נָאֵל looming in Vayikra 27 -- and nowhere else in the whole Tanakh. The root מוֹךְ also serves to define an extreme which, when reached, demands the response of a (capable) נוֹאֵל.

After Vayikra 25:24 commands redemption of the land with the abstract language נְאוּלָה תַּחֲנוּ, "you will provide for redemption," verse twenty-five begins to flesh out the people who will be responsible for that נְאוּלָה in daily life, who will respond to the needs of the family:

כִּי יִמְכַּר אֲחִיךָ וּמָכַר מֵאֲחֻזָּתוֹ וּבָא נֹאֵלִי

וְנָאֵל אֶת מִמְכַּר אֲחִיךָ

-- "If your kinsman יִמְכַּר and has to sell part of his (land)holding, his נֹאֵל will come and redeem what his kinsman has sold."

Why would a kinsman be selling off part of his landholdings? Sifra to Vayikra 25:25 says:

וּמִנִּין שְׂאִין אֲדָם רֶשֶׁאִי לְמִכּוֹר אֶת שְׂדֵהוּ וּלְהַנִּיחַ בְּאַפְיֻנְתּוֹ

וְלִיקַח לוֹ בְּתִמָּה וְלִיקַח לוֹ כִּלִּים וְלִיקַח לוֹ בֵּית אֵלָא אִם כֵּן הָעִנִּי

תּוֹרָה לֹאֵמֵר כִּי יִמְכַּר אֲחִיךָ הֵא אֵינוּ מֹכֵר אֵלָא אִם כֵּן הָעִנִּי

-- "How do we know that a person does not have the right to sell his field and to put (the proceeds) in his moneybelt, and acquire an ox, and acquire tool, and acquire a house, except for the poor man? (Because) the Torah says: **כִּי יִמֹךְ אֲחִיךָ**. So no one (has the right) to sell (his landholding) except for the poor man."¹

יִמֹךְ means that the kinsman is "in financial straits." We could say that he is short on cash. A secondary root, **נָמַךְ**, conveying diminution of stature, is established in the language by the time of the Mishna (Kelayim 4:7), and appears in the Gemara (B.T. Berakhot 10b) and in midrashic literature (Vayikra Rabbah 36), and in Sifre (to parashat Naso):

הַנָּבוֹה מִנְמִיכּוֹ וְהַנְּמוּךְ מִנְבִּיחוֹ

-- "Cut the tall man down to size, and give height to the short."²

If a man has sold off a part of his landholding, his nearest kinsman who has the resources to reacquire the land must move to reacquire it. In other words, a **גֹּאֵל** must act when an **אִמ**, a kinsman, has evidenced his diminished financial situation by the extreme act of selling a piece of his land to someone outside the family.³

The responsibilities of a **גֹּאֵל** to help a kinsman in financial straits involve more than land redemption. Both Vayikra 25:35 and 25:39 begin with the phrase **כִּי יִמֹךְ אֲחִיךָ**, and proceed to describe situations in which a kinsman could come under another kinsman's authority. Generosity and tact are required there, not any formal **גְּאוּלָּה**. But Vayikra 25:47 raises

a case in which a kinsman comes under the authority of someone (far) beyond the borders of the family:

וכי תשיג יד נר ותושב עמך ומך אחיך עמו...

If, financially straitened, your kinsman comes under the authority of a prosperous resident alien, נאולה תהיה לו (25:48), that kinsman will still retain the right of redemption. In the context of this extreme situation, the language of Vayikra 25:48-49 comes to specify exactly who a נואל might be:

...אחר מאחיו ינאלנו: או דרו או בן דרו ינאלנו או משאר בשרו ממשפחתו

ינאלנו או השיגה ידו וננאל

-- "...one of his kinsmen (brothers) will redeem him, or his uncle or his uncle's son will redeem him, or anyone of his own flesh from his own family will redeem him, or, should he prosper, he will redeem himself."

We have seen that in Vayikra 25:23 God has declared that the land cannot be sold לצמתה. Why?: כי לי הארץ -- "because the land is Mine." Vayikra 25 ends with the assertion that if a man (and his children) have not been redeemed from the authority of others, by any of a number of means, then they will go free in the jubilee year. Why?:

כי לי בני ישראל עבדים עבדי הם אשר הוצאתי אותם מארץ מצרים

-- "For the children of Israel are My servants, they are My servants whom I freed from the land of Egypt." Shemot 1:13-14 state that the Egyptians worked the Israelites בפרך, "ruthlessly," that "they made life bitter for (the Israelites) with harsh labor." Following the example of God, a נואל acts to release his kinsmen from any situation which might even

distantly approximate a life embittered **בפך**, a life suffered at the harsh extreme, back across the borders of Egypt, of **מצרים**, "the narrow place," "the land of limitations."

3. **נאול** Beyond The Humash: Jeremiah

In Jeremiah 32, the traditional haftarah for the Torah portion Behar Sinai, which includes Vayikra 25, Jeremiah acts as **נאול** for the land of Hanamel, son of his uncle, Shallum. This act of **נאולה**, a land redemption, delineated in Jeremiah 32:8-14 in its mundane legal details, proves a potent symbolic gesture motivated by deep faith. At the beginning of chapter 32, the armies of Babylon's king are besieging Jerusalem and Jeremiah sits in jail. Yet Jeremiah, when approached, chooses to fulfill the responsibilities of **משפט נאולה**, of the laws of (land) redemption.

Hanamel comes to Jeremiah, whom we have known since the outset of the book to be the son of Hilkiah, a priest at Anathoth in the territory of Benjamin, and, in 32:8, says:

קנה נא את שדי אשר בענתות אשר בארץ בנימין
כי לך משפט הירשה ולך הנאולה

-- "Please buy my land in Anathoth, in the territory of Benjamin; for the right of inheritance is yours, and yours is the responsibility of redemption."

The field, within the territory of Benjamin, belongs to Jeremiah's uncle's son. The right of inheritance (or succession) is Jeremiah's, and thus, the responsibility of a

נאֹל is Jeremiah's.

With this act of נאֹלָה, Jeremiah fulfills his legal responsibility to his uncle's son, a bold act, reaffirming the bonds of family and the continuing vitality of the Torah, though he could have fairly avoided this purchase in times even less bleak. Through this נאֹלָה, Jeremiah acts out his נבואָה, his prophetic responsibility, a transcendent act in less dire circumstances, but a moment of genius when locked up in jail:

כִּי כֹה אָמַר יְהוָה צְבָאוֹת אֱלֹהֵי יִשְׂרָאֵל

עוֹר יִקְנוּ בָתִּים וּשְׂדוֹת כְּרִמִּים בָּאָרֶץ הַזֹּאת

-- [Jeremiah 32:15]: "For thus said the Lord of Hosts, the God of Israel: 'House, fields and vineyards will again be purchased in this land.'"

Jeremiah's נאֹלָה of his family's land in his tribal territory also prefigures, and perhaps incites, God's redemption of the land of his children. In one act, under siege, in jail, Jeremiah might both fulfill a mundane legal responsibility and inspire God.

4. נאֹל Beyond The Humash: Book of Ruth

In the brief book of Ruth, the root נאֹל appears twenty-three times in telling the story of Naomi's widowed daughter-in-law and of Boaz, their kinsman. Boaz is presented (in 2:1) as אִישׁ נָבוֹר חַיִל מִמִּשְׁפַּחַת אֱלִימֶלֶךְ, as "a man of substance from the family of Elimelekh," a subjective (literary) assessment, and

as a נואל (in 2:20), a formal legal status.⁴

In parallel with Jeremiah, Boaz seems to fulfill his technical legal responsibilities while simultaneously expressing a transcendent love. But the parallel has its convolutions. Jeremiah is an imprisoned prophet in a land besieged, formally approached by a close kinsman in duress, who offers a well-known field back in home territory. By contrast, Boaz is a comfortable farmer in a prosperous land, approached by a foreign woman, in need of נואלה, who had never formally converted while her husband was alive, and who seemed moved to conversion only in a moment of sharp duress. Did Ruth know about the laws of נואלה in her husband's home culture? Did the remote possibilities of levirate marriage, to a נואל of her husband, outstrip the realities of widowhood in Moab? (And she not even the widow of a Moabite.)

Would Jeremiah have purchased the land from Hanamel, a purchase he could have avoided, if Jeremiah had not had (or perceived that he had) a prophet's status and responsibilities? Would Boaz have acquired Elimelekh's possessions, an acquisition he could have avoided, were he not aware of being perceived as (or if he did not perceive of himself as) איש נביר חיל?

In Ruth 4 we find the negotiations, or the encounter at the gate, between Boaz and the unnamed נואל, of whom Boaz says in 3:12-13:

...נואל אנכי וגם יש נאל קרוב ממני:

...אם ינאלך טוב ינאל ואם לא יחפץ לנאלך ונאלהיך אנכי...

-- "...I am a נואל, but there is a נואל closer than I am...If he will act as נואל for you, then good; if he does not want to act as your נואל, then I surely will..."

At the gate in Ruth 4, Boaz enters into terse negotiations, during which the root נאל appears fifteen times. In 4:3, Boaz introduces the situation as one of land redemption. The unnamed נואל responds positively to the proposition of acquiring Elimelekh's land. Then Boaz adds that along with the land, the unnamed נואל must also acquire

רוח המואבית אשרת המת...להקים שם המת על נחלתו

-- "Ruth the Moabite, wife of the deceased, in order to perpetuate the dead man's name on his estate."

The unnamed נואל immediately changes his mind. Is he responding to the projected financial drain of "expending capital for property which will go to the son legally regarded as that of Ruth's late husband Mahlon?"⁵ Or is the unnamed נואל reacting to the news that the widow is a Moabite?

For substantive evidence, we can look to the language of the unnamed kinsman's response. When he changes his mind, upon learning that this is more than a land deal, at least the way he hears Boaz frame it, the unnamed נואל then says (in Ruth 4:6):

לא אוכל לנאול ליפן אשחית את נחלתי

-- "'I cannot redeem this for myself lest אשחית את נחלתי."

What does אשחית את נחלתי mean? JPS translates the phrase as "...lest I impair my own estate." Is אשחית that mild a verb?⁶ שחח is prominent in the negotiations between God and

Abraham over the fate of Sodom:

לא אשחית אם אמצא שם... לא אשחית בעבור העשרים

-- which JPS translates as, "'I will not destroy if I find...: I will not destroy for the sake of twenty.'" In Bereshit 6:11-13, the root שחח also clusters:

ותשחת הארץ לפני האלהים ותמלא הארץ חמס:

וירא אלהים את הארץ והנה נשחתה כי השחית כל בשר את דרכו על הארץ:

ויאמר אלהים לנח קין כל בשר בא לפני כי מלאה הארץ חמס מפניהם

והנני משחיתם את הארץ:

-- which JPS translates as: "The earth became corrupt before God; the earth was filled with lawlessness. When God saw how corrupt the earth was, for all flesh had corrupted its ways on earth, God said to Noah, 'I have decided to put an end to all flesh, for the earth is filled with lawlessness because of them. I am about to destroy them with the earth.'" (Note the clear parallel between תשחת הארץ and חמס הארץ, recalling the parallel in Psalm 11:5: חמס ואוהב חמס, "the wicked one, the one who loves injustice.")

Here the root שחח surely bears more force than "impair." In Jeremiah 49:9, we read: אם ננכים בלילה השחיתו דים -- which JPS translates as, "Even thieves in the night would destroy only for their needs." In Malachi 3:11:

ונערתי לכם באכל ולא ישחת לכם את פרי הארמה...

-- which JPS translates as: "I will banish the locusts from you so that they will not destroy the yield of your soil."

This phrase of the unnamed נוֹאֵל, נחלתי, is

closely voiced one other time in the Tanakh -- by Moses. In Devarim 9:25-26, Moses is remembering the forty days and nights he fasted and prayed after the incident of the golden calf, when God was determined להשמיד אתכם, "to destroy you":

ואחפלה אל יהוה ואמר אדני יהוה אל תשחת עמך ונחלתך...

-- which JPS translates as: "I prayed to the Lord and said, 'O Lord God, do not annihilate Your very own people...'"

Here, JPS has translated תשחת as "annihilate," a long way from "impair." Perhaps more intriguing is that JPS chose to read עמך ונחלתך as a hendiadys -- not: "Do not annihilate Your people and Your estate," but instead: "Do not annihilate Your very own people." "Your people" and "your estate" intensify each other; "your people" and "your estate," עמך ונחלתך, are one and the same.

So, when the unnamed נואל says פן אשחית נחלתי, we might, in consonance with JPS, read him as saying that he won't act as נואל "lest I impair my estate" through an imprudent expenditure of capital. Or, if this is a story of conversion, we can read him as declaring that he won't act as נואל in this case "lest I corrupt my people," lest I corrupt the tradition I have received, the tradition which I'll pass on to my own (fullblooded) progeny. I can't act as נואל because, in this case, to redeem is to corrupt.⁷

Should we perceive of the unnamed נואל as a variant voice of Moses, whose language he shares? Moses prays to God, intervening to protect his admittedly corrupt people, who

violate their tradition in the moment it is being received. The unnamed נואל refuses to intervene, wishing not to corrupt his people, whose purity he sees as shielded by a received tradition.

Boaz, then, might be hearing the resonance of Moses, of Mosaic legal traditionalism, in the words of the unnamed נואל; but Boaz could, simply, hold a differing view of the tradition. After all, Moses did marry a Midianite, (and) a Cushite woman.

Or Boaz could hold the same view as his kinsman on the corrupting influences of intermarriage, or of marriage to women who convert under duress. But Boaz may see the commandments of נאולה, the tradition's enduring commitment to the health and welfare of the entire family, as overriding his misgivings about a converted Moabite who had already established within the community a firm reputation for exalted character. The unnamed נואל could be the voice of עם ישראל, living a steady life within the Law, within the parameters of the received tradition, always conscious -- perhaps wary -- of what belongs inside and what should be out. Boaz's voice is the solitary voice: Boaz is איש נבון חיל, a qualitatively different man, a man of superior substance. Zealous to fulfill the commanded responsibilities of a נואל, Boaz insists חי יהוה -- "as the Lord lives!" -- that he will redeem Ruth if the other will not. His impatient desire is apparent in 4:4:

אם תנאל נאל ואם לא ינאל הנדה לי ואך
כי אין זולתך לנאול ואנכי אחריך

-- "If you will act as נואל, then act! But if you will not act as נואל, then tell me and I will know. For there is no one to act as נואל but you, and after you, I come."

We can read the unnamed נואל as a pragmatic man attuned to his own established interests, centered on the immediate family and not willing to respond, in this case, to the needs of the broader kinship group. In this framework, we might then see Boaz simply as a man who thinks that his own needs would be served by acquiring Elimelekh's land and widow, and who is anxious to make the deal.

Or we could posit Boaz to be a man who understands, as does the unnamed נואל, that his own established interests could suffer from this transaction -- but who is willing (or wealthy) enough to absorb the potential damage in order to fulfill the responsibilities of a נואל, and the needs of the extended family.

In a situation demanding compassion, the man of superior substance passionately acts out a broader vision of the halakhic imperative of נאולה, as opposed to the unnamed נואל, the common man, who, with uncontested propriety, defines his legal responsibilities according to a more diminutively-scaled sense of familial need. Boaz is able to express his highest moral self by fulfilling the demanding halakhic responsibilities of נאולה.

Potentially troublesome for liberal Jews would be the idea that the highest moral self can find rich expression by yielding to the Law, by fulfilling the commandments of the

Other (an idea especially problematic here since it is expressed within a text which liberal Jews prefer to perceive as an aggadic endorsement of conversion more potent than any reality based in הלכות גרות.) Understanding the book of Ruth through the root נאול, through נאולה, a major structural element at many levels within the text, means framing the story in its own halakhic language which, here, has little or nothing to do with conversion.

Or with the accomodation of romance. If one wishes to interpret Boaz's evident zeal as a romantic passion for Ruth, one thus would devalue the halakhic component of his surprised statement to her in 3:10 that "you have not gone after younger men, whether poor or rich," לכלתי לכת אחרי הבחורים אם רל ואם עשיר. Interpreted from a stringently legalistic perspective, this could have meant that Boaz is warmed, on the cold granary floor, by Ruth's sensitivity in proceeding within the jurisprudential strictures of נאולה. Yet if we are not saying that Boaz is, primarily, warmed by Ruth's seeking out a redeemer from within the kinship group, but that Boaz is warmed by Ruth, then what we are left with here is nothing more transcendent than a marvelous May-to-December love story.

Those who wish to portray Boaz as, foremost, a man of compassion and not a man of halakha would be undermining their own Boaz. And then the joining of Ruth and Boaz becomes just a pleasant marriage of convenience, warming to both partners, kosher enough to be endorsed by the elders at the gate.

But with the root נאֵל as a center, the book of Ruth can also be read as the story of two heroes of halakha. Both Ruth and Orpah, Naomi's other widowed daughter-in-law, begin to accompany Naomi to her people. Orpah, perhaps, is choosing willfully to leave Moab, perhaps feeling (or, somehow, formally) bound to travel with her mother-in-law, until her mother-in-law would formally offer her an option to turn back. Orpah's position would parallel that of the unnamed נאֵל, the kinsman first in line to redeem the land. At first, he indicates his intention to act as נאֵל, to redeem the land. Then, when told that Ruth the Moabite would come as part of the deal, the unnamed נאֵל backs out.

Perhaps this, too, as in the case of Orpah's initial accompaniment of her mother-in-law down the first stretch of the road back to Judea, is just a formal moment, structured to allow the unnamed נאֵל to show his positive intentions toward the family and toward the system of commanded responsibilities, though he never has any real intention to act as נאֵל in this matter. Does the unnamed נאֵל know from the start that he is going to stay put with his current holdings? Perhaps Orpah knows all along that she will be staying in comfortable Moab.

Does this formal moment at the gate in Ruth 4 (parallel to Orpah's moment at the edge of town in Ruth 1) when the unnamed נאֵל says that he'll take the land, knowing that he won't take the woman, and that the deal will never go through, allow the unnamed נאֵל to sidestep his commanded

responsibilities in a face-saving way? Or is this just the customary remnant of a ritual which did not commonly serve, or which was not commonly expected to serve, participants' active needs to express solidarity with family and legal system? Did Orpah and the unnamed נואל each first truly intend to help, to redeem, only to turn back from such demanding actions at the threshold, at the gate of commitment?

Any way you might frame the indisputably parallel decisions of Orpah and the unnamed נואל, those decisions leave Ruth and Boaz with the opportunities participate to in נואלה, in redemption.

If the book of Ruth structures in parallel the decisions of Orpah and the unnamed נואל, then the decisions of Ruth and Boaz can be construed as parallel in motivation. We have already seen that Boaz, this איש נכבד חיל, would measure up to this attributed status by fulfilling commanded responsibilities, perhaps against his own best interests, but not because he was attending, in legalistic fashion, to what might seem kindest to his mortality. The qualitatively superior man does not choose the comfortable way out. Thus, Ruth, though by birth a Moabite, can be perceived as a selfless champion of the system of commanded responsibilities (by which her husband had perhaps lived) -- a system, which Ruth now perceived, did not provide a meaningful safety net for her widowed and sonless mother-in-law.

When Orpah turns back, only Ruth remains to play out the possibilities of נואלה within the context of the legal system.

Perhaps Ruth would prefer to stay in her homeland. But she sees that now only she can fulfill the formal systemic role of childless widow. By saying that your people will be my people, your God my God, Ruth is saying that she accepts the yoke of the commandments, the ways of Naomi's people in their relationship with God. For by choosing to participate in the legal system, to fulfill a specific role structured by her dead husband's legal system to perpetuate his future line, she will also be able, by participating in a marriage commanded by that system, to take care of her mother-in-law.

This reading assumes that before she commits to accompanying her mother-in-law, Ruth has been educated in levirate marriage. Mahlon and Chilion, two Judean brothers, had died childless. One would expect that the legal principles of levirate marriage had been the subject of discussion after the first brother unexpectedly died. One would also presume that Ruth participated in those discussions, and probably in the ritual of *חליצה*, the formal release of the brother-in-law from the responsibilities of levirate marriage.

Ruth's moment of choice to accompany her mother-in-law is a moment exhibiting the genius of the system of commandments. The story shows that even a born outsider can choose to accept the commandments' yoke, and, by so doing so, can positively influence the present and future -- and the past -- of other people who live within that system.

Ruth's greatness, then, is that she is a selfless woman

who, against the immediate option of comfortable self-interest, accepts the structured responsibilities of another society's system of commandments, and so serves family, in that other society's context, and so serves another God, whom, through formidable action -- through a free-will decision to yield to the structures of a foreign legal system -- Ruth accepts as her own.

Then the benefits begin to emerge for Ruth. Her union with Boaz is unexpectedly fertile: She has a child, and eventually becomes the grandmother of a great king.

5. God is a נוֹאֵל

In Bereshit 48:15-16, as Jacob blesses Ephraim and Menashe, we find this parallel:

הָאֱלֹהִים אֲשֶׁר הִתְחַלְכּוּ אֲבוֹתִי לִפְנֵי אֲבוֹתָם וַיִּצְחַק הָאֱלֹהִים הָרַעָה אֹתִי...

הַמֶּלֶאךָ הַנּוֹאֵל אֹתִי מִכָּל רָע יְבָרֵךְ אֶת הַנְּעָרִים...

-- "The God in whose ways my fathers Abraham and Isaac walked, the God who has been my shepherd...The angel who has redeemed me from all harm -- bless the youths." The shepherding אֱלֹהִים has been נוֹאֵל for Abraham, Isaac and Jacob.

Jacob's perception of הָאֱלֹהִים/הַמֶּלֶאךָ, of God/angel as נוֹאֵל, is matched by the promising self-definition of יְהוָה (which will not impress the Israelites) in Shemot 6:6 and following:

אֲנִי יְהוָה וְהוֹצֵאתִי אֶתְכֶם מִתַּחַת סִבְלַח מִצְרַיִם...

וְהִצַּלְתִּי אֶתְכֶם מֵעֲבָרָתָם וְנֹאֲלֵתִי אֶתְכֶם...

-- "I am Yahweh. I will free you from the labors of the

Egyptians and deliver you from their bondage. I will redeem you..."

God has heard נאקה בני ישראל, the moaning of the Israelites, and has been moved to remember His covenant, ואזכר את בריתי. Remembering the covenant leads God to promise that he will act as נוֹאֵל.

In Shemot 15:13, on the Sinai side of the sea, the Israelites sing in praise of their נוֹאֵל, stating directly, within the doxologic poetry: "עם זוֹ נֹאֵלַת", "...these people you redeemed." In Isaiah 48:20-21 the imperative is to declare בקול רנה, in joyful voice, that:

נוֹאֵל יְהוָה עֲבָדוֹ יַעֲקֹב:

וְלֹא צִמְאוּ בַּחֲרֻבוֹת הוֹלִיכֵם מִיַּם מִצּוֹר הוֹיֵל לָמוֹ...

-- "God has acted as נוֹאֵל for his servant Jacob. They have not thirsted though He led them through wasteland; He made water flow for them from the rock." Again, loud celebratory praise is due God for his actions as נוֹאֵל, redemption again linked to water. Isaiah 44:23 also demands shouted praise for God's acts as נוֹאֵל, yet those urged to honor the redeemer of Jacob are not the Israelites, but elements of the natural world:

רְנוּ שָׁמַיִם כִּי עָשָׂה יְהוָה הֲרִיעוּ תַּחְתִּיּוֹת אֶרֶץ פָּצְחוּ הָרִים רְנוּ יַעַר וְכָל עֵץ בּוֹ

כִּי נֹאֵל יְהוָה יַעֲקֹב וּבִישְׂרָאֵל יִתְפָּאֵר:

-- "Shout, you heavens, for Yahweh has acted. Shout loud, you depths of the earth. Shout joyously, mountains, and forests with all your trees. For Yahweh has acted as Jacob's נוֹאֵל, and has glorified himself through Israel."

Through Israel -- through His actions as Israel's נוֹאֵל,

God has brought glory to Himself. In the book of Isaiah, God is not perceived as a נאל -- and the root נאל is not attested -- until chapter thirty-five. From Isaiah 35:9 on, נאל is found twenty-four times in the book, and God is the central נאל.

In Isaiah 43:1, God, through Isaiah, promises again that נאלתיך, I will act as your נאל, which 43:2 defines as affirming protection ובנהרות במים..., in water and streams, and from אש... ולהבה, from fire and flame. But then verses three and four state, repeatedly, that God's acts as Jacob's נאל will involve not only protection, but also an exchange:

...נחתי כפרך מצרים כוש וסבא תחתיך:

...ואתן אדם תחתיך ולאומים תחת נפשיך:

-- "I give Egypt as ransom for you, Ethiopia and Saba in exchange for you: ...I give men in exchange for you and nations instead of you." Why is God prepared to make such exchanges?: מאשר יקרה בעיני נכברת ואני אהבתיך, "because in my eyes you are precious, honored, and I love you" [Isaiah 43:4], and because, in 43:1, אתה לי, "you are Mine."

In Isaiah 52:9, נאל and נחם are paralleled:

...כי נחם יהוה עמו נאל ירושלם:

-- "...For Yahweh will comfort His people, and will act as נאל for Jerusalem." An atmosphere of tranquility-to-come also rules Isaiah 35, where נאולים [35:6] "crowned with joy everlasting," שמחת עולם על ראשם, will walk דרך הקדש, the Sacred Way, a path free of lions.

But this tranquility will come, according to Isaiah 35:4,

not because God will comfort His people, but because:

...הנה אלהיכם נקם יבוא...

-- "God is here; vengeance will come."

Through נקם (vengeance) comes נחם (comfort); this is the way of God, the נוֹאֵל in Isaiah.

Isaiah 47 reinforces this sense. Babylon, as God (through Isaiah) admits, followed the lead of God Himself, after חללתי נחלתי, after "I defiled My estate [or, heritage]" (-- language evocative of Moses's ונחלתך חשחת עמך and, in Ruth, פן אשחית את נחלתי, phrase of the unnamed נוֹאֵל --) when Babylon "showed (My people) no mercy,

לא שמח להם רחמים על זקן הכבדת עלך

and even upon the aged imposed a heavy yoke" [Isaiah 47:6]. What will be God's response to Babylon's oppression of His exiled people?:

נקם אקח ולא אפנע אמר נאלנו יהוה צבאות שמו...

-- "'I will take vengeance, and not be appeased,' says our נוֹאֵל, Lord of Hosts is His name" [Isaiah 47:4]. God will be acting as נוֹאֵל when He brings שכול ואלמן, "loss of children and widowhood" [Isaiah 47:9], upon Babylon.

For Babylon, concludes Isaiah 47:15, אין מושיעך, "there is no one to save you," no one to forestall widowhood and the loss of children in Babylon. But in Isaiah 49:25, יהוה declares to Israel אני אנוכי אושיע -- "I will save your children." God concludes in Isaiah 49:26:

והאכלתי את מוניך את בשרם וכעסו דמם ישכרן

וידעו כל בשר כי אני יהוה מושיעך ונאלך אביר יעקב:

-- "I will make your oppressors eat their own flesh; they will be drunk on their own blood, as if wine. And all flesh will know that I am Yahweh, your Savior who acts as your נואל, the Mighty One of Jacob."

נואל and מושיע are parallel here; יהוה promises to fulfill the responsibilities of a נואל, in this verse, by killing the oppressors of Jacob, by spilling דם, their blood. In Isaiah 60:16, the same pairing occurs, but the context -- and the liquid -- are quite different:

וּיִנָּק חֶלֶב נְיִים וְשֵׁר מַלְכִּים חִינְקִי

יִדְעַתְּ כִּי אֲנִי יְהוָה מוֹשִׁיעַךְ וְנֹאֶלְךָ אֲבִיר יַעֲקֹב:

-- "You will suck milk of the nations, suckle at royal breasts. And you will know that I am Yahweh your Savior who acts as your נואל, the Mighty One of Jacob."

In Isaiah 44:24, the parallel is structured between נואל and יהוה נאֶלְךָ וַיֵּצֶרְךָ מִבֶּטֶן; the נואל is the same One who created you in the womb. In Isaiah 44:6, it is יהוה מֶלֶךְ יִשְׂרָאֵל וְנֹאֶלְךָ, "Yahweh king of Israel and its נואל," who says:

אֲנִי רִאשׁוֹן וְאֲנִי אַחֲרֹן וּמִבְלַעֲרֵי אֵין אֱלֹהִים

-- "I am the first and I am the last, and there is no god but Me."

What else does this one and only one God do in the role of נואל? In Isaiah 44:22:

מִחִיתִי כַעַב פֶּשַׁעֶיךָ וְכַעַן חַטֹּאתֶיךָ

שׁוֹבָה אֵלַי כִּי נֹאֲלַחֲךָ

-- "I erase your sins like a mist, your transgressions like a cloud. Return to me, for I act as your נואל." As נואל, God

cleanses His people of sin. This is gentler language than we find in Isaiah 41:14, where יהוה addresses the "men" (or "maggot") of Israel:

אל חיראי תולעת יעקב...

אני עוזרתך נאם יהוה ונאלך קדוש ישראל:

-- "'Don't be afraid, Jacob, you worm. I will help you,' declares Yahweh, who acts as your נוֹאֵל, Israel's Holy One."

In verses seventeen and following, this help is specified: God will provide water where there is none, turning the desert into ponds, planting trees in a parched wilderness where they ordinarily would not be expected to survive.

The phrase קדוש ישראל in connection with God as נוֹאֵל is repeated in Isaiah 43:14, and then again in chapter fifty-four, where God (as will Boaz) promises to act as נוֹאֵל for a widow. In Isaiah 54:4-5:

...וחרפת אלמנותיך לא תזכרי עוד:

כי בעליך עשיך יהוה צבאות שמו ונאלך קדוש ישראל

-- "...and remember no longer the disgrace of your widowhood.

For the One who made you will marry you, Lord of Hosts is His name, who acts as your נוֹאֵל, the Holy One of Israel." And, as stated in verse eight, this marriage is inspired by more than a jurisprudential approach to covenantal responsibilities:

...ובחסד עולם רחמתיך אמר נאלך יהוה:

-- "'But with everlasting kindness, I will take you back with merciful love,' said Yahweh, who acts as your נוֹאֵל."

Isaiah 49:7 and following provide a fair summary of the

book's perception of the actions of God as נואל. First, יהוה נאל affirms to Israel, לעבד משלים, "to the slave of rulers," that He will be faithful in responding to calls for help. In 49:8, Isaiah reports that יהוה has said:

...וביום ישועה עזרתך ואצרך ואחנך לברית עם

להקים ארץ להנחיל נחלות שממות:

-- "...and on a day of salvation I will help you, for I created you and made you a covenant people, to reestablish the land, to allocate [or, bequeath] again the depopulated landholdings [or, estates]." In Isaiah 49:9-10, יהוה נאל ישראל "says to the prisoners, 'Go free.'...They shall not hunger or thirst כי מרחמם ינהם ועל מבועי מים ינהלם, for the One who loves them will lead them, will guide them to springs of water." Isaiah 49:13 ends the summary by declaring:

...כי נחם יהוה עמו ועניו ירחם:

-- "...for Yahweh comforts His people and takes back His afflicted with merciful love."

6. Harmonies of נאל and פרה

We have observed the root נאל in its parallels and connections to other roots, such as נשע (or נצל), נקם and נחם. The Tanakh also attests to close connections between נאל and פרה. In Isaiah 35:8, as observed earlier,⁸ we are told that "a highway will appear which will be called הקודש, the Sacred Way." At the end of verse nine and the beginning of ten, we learn that:

...והלכו נאולים:

ופדוי יהוה ישכון...

-- "...those on whose behalf the נואל has acted will walk (there); and the פדויים of Yahweh will return." A survey of usages of the root פדה will help fur out our understanding of the root נאל.

Verse two of Shemot 21, the first in a series of משפטים, of "rules," deals with the freeing of a Hebrew slave:

כי תקנה עבד עברי שש שנים יעבד

ובשבעה יצא לחפשי חנם:

-- "If you acquire a Hebrew slave, he will work for six years, and in the seventh he will go free, חנם." Shemot 21:11 defines חנם (לחפשי) יצא. When the Hebrew slave in verse two (or the neglected wife in verse eleven) יצא (ה) חנם, he or she goes free "without payment." In these cases, no (financial) exchange, and no third-party intervention, should, ideally, be necessary. Here, then, the word חנם helps to define other spheres of responsibility which might have required the participation of a נואל, or other potential involvements, as being beyond the range of a נואל. When land is sold לצמחת, that land is beyond the powers of a נואל to redeem.⁹ When a Hebrew slave is liberated חנם, that slave goes free without the need for a נואל to intervene. In Isaiah 52:2-3, יהוה says of שביה בת ציון, of "the captive Zion":

...חנם נמכרתם ולא בכסף תנאלו:

-- "...You were sold without payment [or, for no price], and you will be redeemed without money [or, you will not need a

נֹאֵל who has to pay cash for your release].

A different case is described in Shemot 21:7-8:

וְכִי יִמְכֹר אִישׁ אֶת בְּתוּלָתוֹ לְאִמָּה לֹא חֲצֵא כֶּסֶף עֲבָדִים:

אִם רָעָה בְּעֵינֵי אֲדֹנֶיהָ אֲשֶׁר לוֹ יַעֲרָה וְהִפְרָה...

-- "If a man sells his daughter as a slave, she cannot be freed as male slaves are freed. If she proves unpleasant to her master, who has designated her for himself, he must let her be redeemed" -- that is, he must let her be released in exchange for some tangible compensation. The root פִּדָּה in this case describes a redemption, a release, in exchange for some payment; פִּדָּה might be defined as "ransom." In the case of this daughter sold into slavery, a woman without assets, a third party (perhaps her father) would assumedly have to intervene to pay her ransom.

Fair market value is demanded as the ransom, as the price of redemption, for the firstborn of unclean animals, in Vayikra 27:27, a verse in which פִּדָּה and נֹאֵל appear in parallel:

וְאִם בְּכֹרֶתָ הַטְּמֵאָה וּפְדָהּ בְּעֶרְכָּהּ וּכְסֵף חֲמִשָּׁתָהּ עָלֶיהָ

וְאִם לֹא יִנָּאֵל וְנִמְכַּר בְּעֶרְכָּהּ:

-- "And if it (the firstborn) is of an unclean animal, it can be ransomed at its fair market value plus one-fifth. If it is not redeemed [or, If no one acts as נֹאֵל, and pays the ransom for this firstborn], it will be sold at its fair market value." This cash ransoming expressed by the root פִּדָּה can be seen as a subcategory of נֹאֵל.

In Jeremiah 31:10, a verse familiar from the liturgy, this relationship of the two roots might be observed:

כי פרה יהיה את יעקב ונאלו מיד חזק ממנו:

-- "For Yahweh will ransom Jacob, redeeming him from a power too strong for him." The act of ransoming is one tactic, one of a variety of available strategies which the נאל will test, in attempting to fulfill the covenantal responsibility of securing the release of Jacob, who, in the language of Vayikra 25:47, is מך עמו, who is in straits under the authority of a dominating foreigner.

That sense of פרה as a subcategory of נאל, as one specific strategy available to a נאל, or as one locus of responsibility within a broad spectrum of kinship-group troubles to which a נאל is commanded to respond, is more difficult to sustain in other verses where the two roots are found together. In Psalm 69, which ends with a call to "rebuild the cities of Judah," the two roots again are attested as a pair, here with the word-order reversed. We read in Psalm 69:19:

קרבה אל נפשי נאלה למען אבי פרני:

-- "Come near and act as my נאל. Ransom me from my enemies." The suggested form of this payoff is made clear in Psalm 69:29:

ימחו מספר חיים:

-- "May they be erased from the book of life."

The pair appears again in Hosea 13:14:

מיד שאול אפרם ממות אנאלם

-- JPS offers the translation: "From Sheol itself I will save them, redeem them from very Death." A plausible alternative: "I will ransom them from Sheol, I will act as their נאל in the

realm of death." Does this mean that God will save them, one way or another, at the brink of death? Or, in this verse, are **אפרם** and **אנאלם** completely identical in meaning? Is this a statement of the monolithic responsibility of **נאל הרם** to avenge the murder of a kinsman, to act as **נאל** for a blood relative now irretrievably, though not irremediably, beyond the brink of physical death?

7. A Second Root **נאל**: Defiling

Darkening, or defiling, not redeeming, proves the central action conveyed by a second root **נאל**. Abraham Even-Shoshan's concordance lists Job 3:5 under two separate headings for roots **נאל**. Unsure of the verse's most accurate plain sense, the concordance itself labels each listing with a question mark. By identifying parallels within the first hemistich of Job 3:5, we might best be able to approach this elusive plain sense:

ינאלהו חשך בצלמות

חשכן עליו עננה

-- "May darkness and deep shadow ינאלהו, may a dark cloud loom over it." This is Job cursing the day he was born.

Syntactically we might expect the verb ינאלהו to parallel the verb חשכן. Thus, **נאל**, a root of "redemption," and its inherent (transmuting) energy, would be seen as being stretched by the writer to parallel the root **שכן**, and its sense of a living presence. Job's curse would then be framed as a retaking, by

a dark transmuting force, of territory which had once been fertile, territory to which that darkness had some preexisting and ineradicable right.

"At a command of Yahweh the Israelites broke camp, and at a command of Yahweh they made camp" [Bamidbar 9:18]. What phenomenon expressed this timing?:

... כל ימי אשר ישכן הענן על המשכן יחנו:

ענן is a presence capable of issuing commands. With the same verb in the same construction, in Job 3:5, עננה conveys a curse. A plausible literary translation of חשכן עליו עננה could be, "May a cloud shroud it." חשך וצלמות could be read as a hendiadys: "May a deathly murk [or, May death's murk] reclaim it."

In Ezra 2:62, missing genealogical records cloud the bloodlines of certain priests' sons and וינאלו מן הכהונה, "they were disqualified from the priesthood," denied the right to eat מקדש הקדשים, of the most holy things. The root נאל here describes a degrading of their status.

In Malachi 1:7, not only priests but the food offerings themselves come into the expressive range of this root נאל. In 1:6, God, through Malachi, addresses הכהנים בוי שמי, "the priests who abuse My name." A parallel emerges from the last half of 1:6 and the first half of 1:7:

... הכהנים בוי שמי ואמרתם במה בוינו שמך:

מנישים על מזבחי לחם מנאל ואמרתם במה נאלנוך...

-- "...you priests who abuse My name and then say, 'How have we abused Your name?' On My altar you offer defiled food and

then say, 'How have we defiled You?'"

In Zephaniah 3:1, Jerusalem, the central city of the priesthood, is perceived as מראה ונאלה, "polluted and defiled." The city's judges are voracious wolves, her prophets are labeled אנשי בוגדות, traitorous types, and as for the priests:

כהניה חללו קדש חמסו תורה:

-- "...her priests profane the holy, degrade Torah."

Are there links between this second root נאל, and its sense of defilement, its appearance in atmospheres of cursing and angered disappointment, and the sense of the root נעל, in its ten Tanakh attestations? Within David's dirge for Saul and Jonathan in II Samuel 1:21, נעל evokes the scene at גלבוע:

...כי שם נעל מנן נבזרים מנן שאול בלי משיח בשמן:

-- "...for there the shield of warriors נעל, the shield of Saul no more polished with oil." Here נעל conveys a sense of disuse, of desertion. Verse twenty-one asks that there be no dew or rain on the hills of Gilboa, as if the desertion of the shields on those hills equaled a rejection of God's commandments by those who farmed there, and demanded the same punishment. In Vayikra 26:3-4, the Torah portion Bekhukotai begins with God's assertion that "if you follow My laws and faithfully observe my commandments, I will grant your rains in their season, so that the earth shall yield its produce and the trees of the field their fruit." But then Vayikra 26:14-16 warn:

ואם לא תשמעו לי ולא תעשו את כל המצוות האלה:

ואם בחקתי תמאסו ואם את משפטי תנעל...

אף אני אעשה זאת לכם...

...וזרעתם לריק זרעכם ואכלהו איביכם:

-- "But if you do not obey Me and if you do not observe all these commandments, and if you reject My laws and let my rules lie unused, then I will do this to you...You will sow your seed with empty benefit, for your enemies will eat it."

Here זרעכם might also convey "your offspring," a sense of Saul's son Jonathan, lying dead in a field in Gilboa.

The dirge continues in II Samuel 1:22:

מדם חללים מחלב נבורים קשת יהונתן לא נשוג אחור

וחרב שאול לא חשוב ריקם:

-- "From the blood of slain men, from the fat of warriors, Jonathan's bow never retreated; the sword of Saul did not withdraw empty." In the poet's sense, the now-deserted weapons defile the Gilboan hills by their disuse; when sword and bow and shield served in battle, they were not defiled but exalted by blood and fat, signs of a warrior's success, and of God's support.

Lamentations 4 tells of God's fury damaging Jerusalem. Verse thirteen says that "it was for the sins of her prophets, for עונות כהניה the iniquities of her priests who in her midst spilled the blood of the righteous צדיקים דם בקרבה דם." Lamentations 4:14 continues:

נעו עורים בחוצות ננאלו בדם

בלא יוכלו ינעו בלבשיהם:

-- "They wandered, blind, through the streets, defiled by blood, and no one could touch their garments."

In Isaiah 59:2-3, the language is significantly similar to that of Lamentations. In verse two, Isaiah asserts:

כי אם עוונותיכם מברילים בינכם לבין אלהיכם

-- "But your iniquities have separated you from your God."
Verse three continues:

כי כפיהם ונאלי ברם ואצבעותיכם בעון

-- "For your palms [or, your hands] are defiled with blood, and your fingers with iniquity."

God's garments are bloodstained in Isaiah 63. "Why is Your clothing so red, Your garments like those of one who presses grapes?" is the question in 63:2, and verse three brings the response:

...וארצם באפי וארמסם בחמתי

ויו נצחם על בגדי וכל מלבושי אנאלי

-- "I stomped them in My anger and trampled them in My rage. And נצחם on my clothing; I had stained all my garments." The word נצחם is, apparently, a variant of נצח, bearing its sense of "endurance," blood the essential force of enduring human life. The word נ comes from the root נזה, a root frequently attested in connection with דם. In Vayikra 6:20 we find the phrase זיה מרמה על הבגד, "its blood is spattered on the garment." In Shemot 29:21:

ולקחת מן הדם אשר על המזבח... והזית על אהרן ועל בגדיו

-- "Take from the blood that is on the altar...and sprinkle it on Aaron and on his garments."

Thus, the phrase ויו נצחם על בגדי וכל מלבושי אנאלי, in Isaiah 63:3, can be translated as: "Their lifeblood spattered my

clothing; I had stained all my garments." The word אִנְאִלְתִּי, of the second root נָאֵל, in Isaiah 63:3, is followed immediately by an appearance of the first root נָאֵל, in Isaiah 63:4. Why were God's garments stained with human blood?:

כִּי יוֹם נִקְם בְּלִבִּי

וְשָׁנָה נִאֲוִלִי בָאֵה:

-- "For a day of avenging had been in my heart [JPS: For I had planned a day of vengeance] and My time of acting as נִאֲלִי had come."

NOTES TO CHAPTER ONE

- 1 Sifra, parashat Behar Sinai 5:1
- 2 Sifre Bamidbar, parashat Naso, Piska 22
- 3 The one who sold the land, should he again become prosperous, can later reacquire the land, if no נואל has acted in the interim.
- 4 Boaz refers to himself as נואל in Ruth 3:12.
- 5 From Tanakh, Jewish Publication Society, page 1423, footnote c.
- 6 The root נחל appears one hundred forty times in the Tanakh, ninety-three times in the hifil.
- 7 If the unnamed נואל had intended to express concern over the impairing of his estate, over the diminution of his holdings, he could have used language well-attested in the Humash. In Ruth 4:6, the unnamed נואל says that he will not redeem Mahlon's estate מִן־אֲשֻׁחִית נַחֲלִי. In Bamidbar 26:53-54, God is apportioning the same land of which the unnamed נואל controls a share. In Bamidbar 26:54, God instructs Moses:

לִרְבֹּת חֲרֻבָּה נַחֲלֹתִי וּלְמַעַט תְּמַעִיט נַחֲלֹתִי

-- "With larger groups increase the share, with smaller groups reduce the share." If the unnamed נואל actually intended to express his concern over the diminution of his holdings, he could have said: מִן־אֲמַעִיט נַחֲלִי. His choice of words, as reflected in the significant parallel attestations already cited on pages 14-15 of this essay, and as highlighted by language the unnamed נואל might have used (but did not), substantiates the interpretation that the unnamed נואל, in Ruth 4:6, was not expressing concern about the impairing of his landholdings and cash position. The man was worried about the corruption of his received tradition by intermarriage.

- 8 See page 24.
- 9 See pages 1-7.

Dear Norman,

Thanks for every
detail, for each day of
support, and especially
for your friendship

Sincerely,

Robin

A MIDRASHIC GUIDE TO BLOOD AVENGING

CHAPTER TWO:

This blood's for you

The blood avenger's singular commanded responsibility is established in Bamidbar 35:19:

נֹאֵל הָרֵם הוּא יָמִית אֶת הַרָצָח

-- "The blood avenger, נֹאֵל הָרֵם himself, will put the murderer to death."

The end of that verse expresses the potential immediacy with which that commandment can, legally, be fulfilled:

בִּפְגֻעוֹ בּוֹ הוּא יִמָּוֶט:

-- "On encounter, נֹאֵל הָרֵם will put the murderer to death." The closing half of Bamidbar 35:21 reprises the commandment in distilled form:

נֹאֵל הָרֵם יָמִית אֶת הַרָצָח בִּפְגֻעוֹ בּוֹ:

-- "The blood avenger will put the murderer to death upon encounter."

From Bamidbar 35:12 through 35:27, the blood avenger is named seven times, six times as נֹאֵל הָרֵם, once simply as נֹאֵל. The Torah's commandment and detail concerning נֹאֵל הָרֵם are centered in that chapter. In Bamidbar 35:33, the Torah text offers language which might be probed to derive understanding of the blood-deep and land-centered imperative which fuels the commandment to a נֹאֵל to kill his kin's killer:

וְלֹא תַחְנִיפוּ אֶת הָאָרֶץ אֲשֶׁר אַתֶּם בָּהּ כִּי הָרֵם הוּא יַחְנִיף אֶת הָאָרֶץ

וְלֹאֲרֶץ לֹא יִסּוּפָּר לָרֵם אֲשֶׁר שׁוֹפֵךְ בָּהּ כִּי אִם בְּדָם שִׁפְכוּ:

-- "You must not pollute [חָנֵף] the land in which you live, for blood pollutes [חָנֵף] the land; and the land can have no expiation for blood which is shed upon it, except by the blood of the one who shed it."

The root חנף appears nowhere else in the Humash. In Isaiah 9:16, we read that God will not spare the lives of Israel's youths:

ואת יתמיו ואח אלמנותיו לא ירחם כי כלו חנף ומרע

-- "and will not show compassion to their orphans and widows, for all are חנף and wicked." Here, being חנף cancels protection, for even the most pathetically vulnerable of Israelite society, from the ravages of death. In Job 36:13-14, חנף and an early death are again linked:

וחנפיו לב ישימו אף... חמת בנער נפשם

-- "The חנפיו in heart become enraged: They die in their youth." But the חנף himself can be lethal. In Proverbs 11:9:

בפה חנף ישחת רעהו...

-- "Through a spoken word the חנף can destroy his neighbor." In Daniel 11:31-32, forces of an invasive king

...וחללו המקדש המעוז והסירו התמיד ונתנו השקין משמם:

-- "will desecrate the temple, the fortress, and will abolish the regular offering and establish the appalling abomination." In strategic tandem with their activities, the king

ומרשיעי בריח יחניף בחלקות...

-- "with smooth words יחניף those who act with wickedness toward the covenant."

In Job 15:34, a חנף is paralleled with a שחור, with one who gives bribes, whose tents will be consumed by fire. Why such destruction? In Job 15:35:

היה עמל וילד און ובשנם חכין מרמה:

-- "They have conceived mischief, given birth to evil, and

their womb produces deceit." The fertility of evil must be obliterated.

In Psalm 106:38-39, we find Israelites destroying evidence of their own fertility:

וַיִּשְׁפְּכוּ דָם נָקִי דָם בְּנוֹתָיהֶם וּבְנוֹתֵיהֶם אֲשֶׁר חָבְרוּ לַעֲצָבִי כְנָעַן

וַתְּחַנֵּף הָאֲרֶץ בְּרַמִּים: וַיִּשְׁמְעוּ בַּמַּעֲשִׂיהֶם...

-- "They shed innocent blood, the blood of their sons and their daughters, whom they sacrificed to the idols of Canaan. The land חנפה by blood: They were defiled by their acts."

Isaiah 24:5-7 reports a state of pollution, and defines the causes of that defilement, and its repercussions:

וְהָאֲרֶץ חֲנֹפָה תַּחַת יְשֻׁבֶיהָ כִּי עָבְרוּ תוֹרַת חֻלְפּוֹ חֵק הַפָּרוּ בְּרִית עוֹלָם:

-- "The earth חנפה under its inhabitants, because they transgressed teachings, violated laws, broke the covenant."

עַל כֵּן אֱלֹהִים אֹכֵלָה אֶרֶץ וַיִּאֲשְׁמוּ יֹשְׁבֵי בָהּ

עַל כֵּן חָרוּ יֹשְׁבֵי אֶרֶץ וְנִשְׁאָר אִישׁ מִזֵּמֶר:

-- "That is why a curse consumes the land and its inhabitants pay the penalty. That is why the land's settlers have diminished and but few men are left."

אֲבָל חֵירוֹשׁ אִמְלָלָה גֶּפֶן...

-- "The new wine fails, the vine is feeble."

The root חנף expresses a pollution loosed by violation of the Torah's laws, destroying the land's fertility, and forcing the land's inhabitants to depart. Bamidbar 35:33 moves from the general to the specific, first declaring that "you shall not pollute the land in which you live," then specifying that blood pollutes the land," and that pollution

caused by blood shed in an act of purposeful murder can only be expiated -- remedied -- "by the blood of the one who shed it."

How have midrashic commentaries come to understand this apparently inflexible demand for a balance of blood purposely shed? How have midrashim heard a murdered man's blood צעקים מן האדמה, "crying out from the ground?" How have midrashim interpreted the vital force, the life of the flesh, the life of the blood? How does blood, that vital human force, influence the land's fertility?

1. Pirkei de Rabbi Eliezer and Two Kings

Saul and his sons had been killed. The Epstein Vienna manuscript of Pirkei de Rabbi Eliezer says that they had been dead thirty years when a famine struck in the days of David. Earlier editions say that the famine began in the year after their deaths.¹

David sends the people to scout for idolatry in the land; idolatry is one potential cause for the paucity of rain. They find no idolatry. Next, David senses that immorality could be causing the continued lack of rain. Why?:

ותחניף ארץ בזנותך

-- Jeremiah 3:2: "You polluted the land with your whoring." What are the consequences of that pollution? The next verse, Jeremiah 3:3, tells us immediately:

וימנעו רבבים ומלקוש הוא היה ...

-- "The showers were withheld, and the late rains never came."
 The root חנק again expresses "pollution", and the midrashic redactor doesn't even have to sew in an intersecting verse from elsewhere in order to link the pollution of חנק to infertility.

In the third year of the famine, David tells the people to search in the land for people who shed blood; on account of murder the rain is withheld. How do we know this? The midrash cites Bamidbar 35:33:

ולא תחניפו את הארץ אשר אתם בה כי הדם הוא יחניף את הארץ

-- "You will not pollute the land in which you live for blood pollutes the land." This verse, sharing the root חנק with Jeremiah 3:2, substitutes for 3:2 -- not physically in the midrashic text, but in the minds of the redactor and the reader. Thus Bamidbar 35:33, the statement of blood's power to defile the land, is positioned to precede, immediately, the mention in Jeremiah 3:3 of rain withheld. Blood shed in an act of murder, if unavenged, will cause denigration of the land's fertility.

But David's people locate no such unavenged murder. David says to them: "From now on, the matter only depends on me." This statement of individual responsibility echoes words attributed to God, words which sum the thematic content of (and which literally end) the midrash immediately preceding our lengthy section on the famine, in the text of Pirkei de Rabbi Eliezer: God says, after mentioning Moab and Edom and Philistia, that "it is up to Me to search for merit on their

behalf."

As the famine midrash in Pirkei de Rabbi Eliezer approaches its culmination, David now prays before God, to ascertain how his own failure to search had led to this three-year famine. God responds to David by listing Saul's merits, and David rises to search for Saul's bones. Once the bones of Saul and Jonathan are properly buried (as narrated in II Samuel 21:14) and once God sees that the people of Israel have expressed lovingkindness to these dead men of merit, then God releases the rain and restores the land's fertility.

Saul and Jonathan died in war, themselves armed with sword and shield. They were not murdered. David's responsibility here was not to avenge their blood, but to remedy their disrespectful burial. In both cases, though the physical status of the dead is surely beyond human powers of retrieval, the human responsibility is to remedy that status. If there is no action to redeem murdered blood, shed on the land, beyond physical restoration, or to honor bones of those who merit honor, bones improperly buried on the other side of the Jordan, then fertility will fail.

2. Sifre Bamidbar Piska 161

The initial reaction recorded in Sifre (and Midrash Lekakh Tov and Yalkut Shimoni) to the phrase ולא החניפו את הארץ is:

הרי זה אזהרה לחימים

-- "This is surely a warning to the deceitful [or, to practitioners of deceit, to sycophants]." ² Whether this reaction to the sacred text serves as a generic warning against deceit, or whether the midrash perceives that the land (and its fertility) will be damaged specifically by deceit, seems unclear. But the next midrashic reaction, introduced as דבר אחר, works to clarify that hazy drash:

לא תנמנו לארץ שתהא מחנפת לכם

-- "Don't cause the land to respond deceitfully to you." That is, engage in no behaviors which could lead to infertility.

Sifre then deals with the phrase כי הרם הוא יחניף את הארץ by citing R. Yasia, who was known to say that יחניף was לשון נשדיוקין, a codified shorthand for יחון אף -- God's anger would be loosed upon the land by blood shed in an act of purposeful murder.

To deal with the phrase ולארץ לא יכופר לדם אשר שפך בה, "the land can have no expiation for blood that is shed on it (except by the blood of the one who shed it)," Sifre Bamidbar Piska 161 brings Devarim 21:4, which deals with the case of a murder victim, found in open country, whose killer is unknown. The elders of the nearest town are to take a heifer which has never worked under a yoke, and, in a wadi where water regularly flows but which is not tilled (a seemingly unlikely combination in a region where irrigable farm land would be at a premium), they are commanded to break the heifer's neck. Then, as Devarim 21:5-8 develop the ritual, in the presence of priests the elders are to wash their hands -- ירחצו יריהם -- over the heifer whose neck they have broken.

Sifre, in this instance, brings only Deuteronomy 21:4, the breaking of the heifer's neck, not the language of 21:7, not the oath ידנו לא שפכו את הדם הזה, "Our hands did not shed this blood," and thus we find no play here between the roots רחץ, "to wash," and רצח, "to murder." As the ritual absolution proceeds, the elders are to state that oath: "Our hands did not shed this blood, nor did our eyes see it done.

כפר לעמך ישראל אשר פדית יהוה

ואל חתן דם נשי בקרב עמך ישראל

ונכפר לדם הרם

--...Absolve, Yahweh, Your people Israel, whom you have [in the past] ransomed, and do not allow (guilt for) innocent blood among your people Israel, and they will be absolved of the blood(guilt)."

Sifre's juxtaposition of Bamidbar 35:33 and Devarim 21:4 frames an apparent disharmony: How can a murdered person's blood be balanced by the blood of a heifer if the land can have no benefit from expiation for blood shed upon it except by the blood of the one who shed it?

The language with which Sifre expresses its specific concern with this disharmony between Bamidbar 35:33 and Devarim 21:4 seems not entirely effective in resolving the conflict between the two verses. What happens, asks Sifre, if the heifer's neck has been ritually broken,

ואחר כך נמצא החורג

-- "and then afterwards the murderer is found?" Sifre answers to its own question:

שומע אני יחכפר להם

תורה לומר לא יכופר

-- "I might have thought that (the death of the heifer) would absolve them; (but) the Torah says 'there will be no expiation (for blood shed on the land except by the blood of the one who shed it).'"

To whom does the word להם, "them," refer here? If Sifre is asking whether the murderer who is discovered after the heifer's absolving death is still liable for murder, then why don't we find the word לו, "him," rather than להם? Does Sifre intend to include the murderer in the absolved group described by להם? Is it the midrashist's true sense that the belatedly-arrested murderer has been absolved and should be freed?

Or does the final line of this midrash, restating the Torah text against a (rhetorically employed) perception of the midrashist, intend to show the halakhic primacy of the demand for the killer's blood over the ritual breaking of the heifer's neck?

Sifre's citing of the specific case of the belatedly-arrested killer draws attention to a loophole, a significant flaw in the Deuteronomic absolution ritual. Thus Sifre asserts the halakhic primacy of the demand for expiation for murdered blood by the murderer's blood, and devalues any other ritual.

What would be the danger to the community if an inadequate ritual were employed to cleanse guilt for the blood of a murder victim? Sifre now cites Bamidbar 35:34, whose first words parallel the first part of Bamidbar 35:33:

ולא תטמא את הארץ אשר אתם יושבים בה

אשר אני שכן בה

-- "You will not defile the land in which you live, in which I Myself live." Sifre comments:

שפיכות דמים מטמא את הארץ ומסלקת את השכינה

ומפני שפיכות דמים חרב בית המקדש

-- "Bloodshed defiles the land and causes the Shekhina (God's presence) to depart. And because of bloodshed the (First) Temple was destroyed." Now Sifre brings a story about two priests who were racing up the steps to the Temple altar to deliver an offering. (Were they expressing their zeal to fulfill the commanded sacrifice? Or were they competing man against man?) One of the priests reaches his destination four cubits ahead of the other. This outrun priest buries his knife in the chest of his swifter colleague, who falls dying. Rabbi Zaddok arrives on the scene.

This does not seem a case of an unknown murderer. But Rabbi Zaddok, addressing אהינו בית ישראל, invokes Devarim 21. Why wouldn't the slow priest be tried for murder? Were there no witnesses to actions on the altar steps? Is Zaddok covering up a crime within his priestly caste? Who else would have had access to the area near the altar to have committed such a crime?

Or is Zaddok not questioning who actually committed the crime, but rather whose impurity caused the crime? Was the murderous priest acting out the dark violent subconscious of his priestly group, whose daily slaughtering, meant to

serve a cultic purpose, perhaps had come to satisfy a destructive bloodlust? Or was the priest, as he conveyed an offering from the people to the altar, overcome by the virulent corruption of the people's common soul? Was the priest, asks the high priest, poisoned by a falsely-intentioned offering, by a lamb whose blood could not have begun to cleanse the defiled group character of אחינו בני ישראל? Is this the scenario which the high priest Zaddok is offering to the people?: Rather than slaughter the lamb, the priest, defiled emissary of the deeply corrupt people, kills his fellow priest, expressing the violent disrespect which the people harbored for the priesthood and the sacrificial cult?

As Zaddok asks the assembled group to participate in this metaphorical measuring of distance, to ascertain to whose domain the cause of this murder was more proximate, the father of the fallen priest, himself presumably a כהן, arrives on the scene, ומצאנו מפרפר, and finds that his son is still breathing. The father addresses the assembled masses, calling to them as אחינו, with the same diction used by Zaddok:

אחינו הריני כפרתכם

-- literally, "Our brothers, may I be your absolution," apparently a standard idiom of address, which here takes on a different resonance as two distinct groups measure each other's responsibility, and assess blame.

The father bends to his son on the altar steps, and then rises to address the people:

עדיין בני מפרפר וסבין לא נשמעת

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-- "My son is still breathing, and so the knife has not been defiled." The father/priest expresses great concern for the ritual purity of the sacrificial instrument -- for an unshaken and continuing community perception of the priesthood as guiltless, as pure. You might also say that the priest, in this strangely public moment of intimate horror, uses the language of his public voice both to convey and deflect, with a shielding grace, his surging emotions.

How can we understand Sifre here? The knife could be the symbolic tool of institutional mechanics (and machinations) exalted over human life, expressive of a theocratic elite which celebrates its own inviolability even in a moment on the altar steps when its own child, the institution's future, lies mortally wounded by the sacrificial knife. Sifre might be saying that the knife, the priestly institution, had become more important than the blood, more important than the life force with the expiating power, which the knife itself merely served to release.

Sifre might also be offering an empathetic reading of a priest's inner life in the most demanding moments of serving as a ritual functionary. But Zaddok's brisk initiating of those procedures established in Devarim 21, which are meant to lead to the sacrifice of a substitute (heifer) if the actual killer's identity is unknown, cannot easily be reasoned away as appropriate legal formalism applied in a case of unresolved bloodguilt, the case for which the law was designed. The actual killer seems easily identifiable in this

case. The midrash might express empathy for the dying youth's torn father, who must deal, on a moment's notice, with his son's ebbing life and with the priesthood's wounded public persona, all in the Temple's formal setting. But Zaddok's quick formalistic recourse to an arguably inapplicable law serves, as Sifre Bamidbar presents the case, a brute agenda of (personal and) institutional self-interest.

Sifre's perception seems to be that the institutional self-involvement of the Zaddokite priesthood had defiled the Temple and corrupted the people's relationship with the God of the sacrificial cult, to whom the corrupt priests were preventing the people true access for their offerings of atonement. Thus the midrash manages to serve its own agenda, linking שפיכות דמים, bloodshed, to חרבן המקדש, to the destruction of the Temple.

Sifre Bamidbar Piska 161 now appends II Kings 21:16 to the priestly murder midrash to further substantiate the link between bloodshed and Temple destruction:

וְגַם דָּם נָקִי שֶׁפָּר מְנַשֶּׁה הָרַבָּה מְאֹד עַד אֲשֶׁר מָלֵא אֶת יְרוּשָׁלַיִם כֹּה לִפְנֵי

-- "And also Menashe shed so much innocent blood that he filled Jerusalem from end to end." Sifre's reaffirming tag-line commentary:

מִיָּכָן אָמְרוּ בְּעוֹן שְׁפִיכַת דָּמִים שְׂכִינָה מִסְתַּלַּקֶת וּמִקְדָּשׁ מִשְׁמָא

-- "From this (textual evidence) it has been said that by the transgression of bloodshed was God's presence distanced and the Temple defiled." Sifre has now shown that a king contributed to the desecration of the First Temple, and that

the actions of priests led to the desecration of the Second Temple. By their own actions, as Sifre frames the past, monarchs and priests had disqualified themselves, and perhaps their descendants, from positions of holiest responsibility. Who now would be the sole rightful heirs to traditional theocratic authority? The rabbis.

But Sifre will not end its comments on this verse, which are its final comments on parashat Masei, and thus its last words on the entire book of Numbers, by (subtextually) affirming its authority over a world disconnected from God's hovering presence. What force would there be in authority not only severed from Jerusalem, but declared in the absence of the Shekhina? A government in exile from Jerusalem and its destroyed Temple must be able to communicate to the people that God, merciful and forgiving, has restored His Presence, which had been distanced by the transgressions of a corrupt priesthood, a priesthood which tried to lay the blame exclusively on the people. The restoration of the exiled Shekhina among a people in exile means a thorough endorsement, by God, of a restored theocratic authority now invested in (--meaning, claimed by) the rabbis.

So Sifre now brings God's phrase from Bamidbar 35:34, אשר אני שוכן בה, "the land in which I dwell," and comments:

חביבים ישראל שאף אל פי שהם טמאים שכנה ביניהם

-- "(the people of) Israel are worthy of love, for even though they might be other than pure, God's presence dwells amongst them." Thus the thrust of Bamidbar 35:34, instead of

threatening that if you defile the land in which I currently dwell, then I will leave, becomes a statement of tolerance: Try not to pollute this land, too much, please, because I live here. Or because I live with you. Wherever you go. Wherever you might pollute. Sifre now brings words of Rabbi Nathan, who announces:

שבכל מקום שנלו שכינה עמהם

-- "Wherever (the people of Israel) have gone into exile, the Shekhina has been with them." Citations from I Samuel 2:27, Isaiah 43:14, Jeremiah 49:38, Isaiah 63:1, Dvarim 30:3 and Song of Songs 4:7 support statements that God has been present with the people in Egypt, Babylonia, Elam (with no play on the root עלם, and its sense of disappearance), and Edom, and will return with the people to Jerusalem.

Sifre to the book of Bamidbar then concludes with a statement by Rabbi, by Yehuda ha-Nasi himself, the archetypal embodiment of rabbinic authority. Rabbi compares the situation to one in which a king says to his servant, "If you're looking for me, I'll be with my son. Any time you look for me, you'll find me with my son." Citing השוכן אתם בחור טומאותם (Vayikra 16:16), "abiding with them amidst their uncleanness" (Vayikra 16:16), as well other Torah texts which substantiate that theme, from Vaikra 15:31 and Bamidbar 5:3, Sifre Bamidbar then concludes by returning to the original verse under examination, Bamidbar 35:34, with Rabbi's presence intimately looming: "You will not pollute the land in which you live, in which I myself live, for I, Yahweh, live among the people of Israel."

3. Ramban on Bamidbar 35:34

Ramban interprets ולא תטמא את הארץ as meaning that "the land will become defiled, and then the Shekhina will not dwell in the land, if there is innocent blood shed (in the land) which has not been expiated ברם שפכו, by the blood of the one who shed it."³ Ramban then links the command to shed the blood of the murderer to the first reaction of Sifre Bamidbar concerning ולא תחניפו את הארץ, that this is "a warning to practitioners of deceit." Ramban says that "God warned us against taking a bribe from murderers," this his reading of Bamidbar 35:31, which says:

ולא תקחו כפר לנפש רצח... כי מות יומת:

-- and which JPS translates as: "You may not accept a ransom for the life of a murderer...he must be put to death." Ramban thus reads Bamidbar 35:33 as "warning us against flattering (murderers) because of their high position or their power, or the honor of their family, even without taking a bribe,

כי ים אנחנו נחניף להם הנה נחניף את הארץ והיא תנפח תחת ישביה for if we flatter them, we will be deceiving the land, and (the land) will betray its inhabitants." In Ramban's comments about a murderous elite we hear resonances of Sifre's story about the murderous priesthood.

Ramban thinks that the jurisdiction of ולא תחניפו את הארץ as commanded in Bamidbar 35:33 is broadened beyond the land of Israel by Bamidbar 35:29:

והיו אלה לכם לחק משפט לרדתיכם בכל מושבתיכם

-- "And this will be your law of procedure throughout your generations, in all your settlements," meaning, says Ramban, "that these judgments apply also outside the land (of Israel)." Why then does the text make special mention of the land of Israel? Says Ramban:

וְחֹרֶר וְהִחְמִיר בְּיוֹשְׁבֵי הָאָרֶץ יוֹתֵר לְכַבֹּד הַשְׁכִּינָה אֲשֶׁר שָׁם

וְהִזְהִיר שֶׁלֹא נִחְנֵף אוֹתָהּ וְשֶׁלֹא נִשְׁמָא אוֹתָהּ

וְעִנִּין הַחֲנֻפָּה הִיא הַנֶּאֱמָרָה בְּקִלְלוֹת זֶרַע

-- "God demanded even stricter observance by the residents of the land (of Israel) in honor of the Shekhina which is present there. And he warned that we must not pollute it and not defile it. The substantive impact of חֲנֻפָּה is expressed in (the Torah's) cursings of fertility."

4. Midrashic Comparison:

Pirkei de Rabbi Eliezer and Midrash Hagadol Bamidbar⁴

Midrash Hagadol to Bamidbar 35:34 approaches the phrase וְלֹא תִשְׁמָא אֶת הָאָרֶץ, "you shall not defile the land," by offering a smooth digest of material we have already begun to review:

מִלְמַד שֶׁבַע עֶשְׂרֵן שְׁפִיכוֹת דָּמִים בֵּית הַמִּקְדָּשׁ חָרַב וְשִׁכִּינָה מִסְתַּלַּקֶת מִיִּשְׂרָאֵל

-- "Teaches that by the transgression of bloodshed was the Temple destroyed and the Shekhina distanced from Israel."

Midrash Hagadol Bamidbar responds to אֲשֶׁר אֲנִי שׁוֹכֵן בְּתוֹכָהּ, "(the land) in which I Myself live," with a matter-of-fact statement of causality:

הָאֵם אִתָּם מִשְׁמָאִין אוֹתָהּ אֵין אֲנִי שׁוֹכֵן בְּתוֹכָהּ

-- "So if you pollute it, I'm not going to live there."

Midrash Hagadol also includes a variant of the midrash of David and the famine. At the crucial moment after David finally asks God about the cause of the famine -- when God responds -- Midrash Hagadol differs markedly from Pirkei de Rabbi Eliezer. After citing the initial words of God's response to David in II Samuel 21:1, **אל שאול**, "because of Saul," Pirkei de Rabbi Eliezer interrupts the biblical text and inserts a rhetorically interrogative list affirming Saul's significant merits, and thus substantiating David's purpose in traveling to Jabesh Gilead (as told in II Samuel 21:12): to recover the bones of Saul and Jonathan for proper burial.

Within Pirkei de Rabbi Eliezer, this midrash appears in a chapter meant to teach appropriate tones and style to "one who tenders the service of lovingkindness to mourners." Part of the art, apparently, is to reframe a man's transgressions as if they were to his benefit; here, as if positing what could have been had Saul done teshuva. Pirkei de Rabbi Eliezer, therefore, reads

אמר לו הקדוש ברוך הוא דוד

אינו שאול שנמשח בשמן המשחה

אינו שאול שבימיו לא נעשתה עבודה זרה בישראל

as, "The Holy One Blessed Be He said to David, [or, "The Holy One Blessed Be He said, 'David...'] 'Isn't it Saul who was anointed with the anointing oil? Isn't it Saul in whose days there was no false worship in Israel?'"

Two variant readings seem possible. To agree with the

reading just offered, and thus to fit into the lesson on handling mourners gently, Pirkei de Rabbi Eliezer would have to read **דוד אינו שאול** as, "The Holy One Blessed Be He said to him, 'David is not Saul, who was anointed with the anointing oil. (David) is not Saul, in whose days [meaning, in Saul's days] there was no false worship in Israel.'"

But the opposite reading seems possible: "'David is not Saul, for in his'" -- in David's time -- "'there was no false worship in Israel.'" And the earliest editions of Pirkei de Rabbi Eliezer have David addressing God: "I am not Saul, for in my days..."

The distinction must be made between two reasons for the famine which God offers to David. Midrash Hagadol Bamidbar is telling us that **אל שאול ואל בית** is not a singular cause. The famine came both because, **אל שאול**, Saul had not yet been offered a proper ritual burial, and also because, **אל בית**, earlier on, some of Saul's people had gotten out of hand and butchered some Gibeonites.

Midrash Hagadol tersely assesses the impact of Saul's improper burial:

אל שאול שלא נפסד כהלכה

The famine came "because Saul had not been offered burial rites according to the law." But Midrash Hagadol does not then turn to the language of **דוד אינו שאול**.

The method of Midrash Hagadol to Bamidbar is to comment on (most) verses in the Torah text, in sequential order of their appearance. The Pirkei de Rabbi Eliezer chapter,

however, is not keyed to one particular textual locus, but to a developing theme. There we learn that one who would comfort mourners must be able to develop words of praise for a person as brutal and sinful as Saul.

The agenda in Midrash Hagadol to Bamidbar 35:34 is markedly different:

בוא וראה כמה קשה שפיכת דמים

-- "Come and see how difficult [how serious a transgression] bloodshed is."

שהרי אין לה כפרה אלא רציחה

שנאמר ולא ירץ לאיכפר כי אם בדם שפכו

-- "...for there is no expiation for (the transgression of bloodshed) except (by) killing, as it is written: 'The land can have no expiation (for bloodshed) except by the blood of the one who shed it.'"

Then the midrash's specific intention is clearly stated:

ולא סוף דבר למי שהרג אזרחי אלא אפילו הרג את הגר

-- "And the matter is not only restricted to one who killed a citizen, but includes even one who killed the stranger."

Now Midrash Hagadol Bamidbar begins to tell the story of the famine, and of the three years in which David sent his people out to search for transgressions, instead of inquiring himself. Pirkei de Rabbi Eliezer depicts the people as searching out (in the first year) idol worship as the cause for the withheld rain, then sexual immorality, and in the third year, bloodshed. Midrash Hagadol also shows the people searching out idol worship in the first year, and sexual

immorality in the second year. But in the third year:

פוסקי צדקה ברכים ואין ותנין

-- "...people who, publicly, pledge tzedaka and then don't give" were sought as the reason for the withheld rain.

Pirkei de Rabbi Eliezer shows that David hypothesized that bloodshed could lead to a withholding of rain. But no evidence of unavenged bloodshed is found, and Pirkei de Rabbi Eliezer eventually presents the determination that Saul's improper burial had caused the famine. But Midrash Hagadol Bamidbar tells us that

אתה מוצא אפילו שור וחמור הרג שאול

-- "you will find that Saul even killed cattle and donkeys," and then proceeds in the tone of a careful homicide investigator to offer details of the deaths of the Gibeonites at the hands of Saul's close relatives and associates. Midrash Hagadol Bamidbar tells us not only who killed the Gibeonites, but also deduces where and when and how. Thus, the same midrashic text which had stated bluntly that bloodshed causes the Shekhina to depart, now makes a thorough case to show that bloodshed, even the murder of foreigners, causes rain to be withheld. In Midrash Hagadol Bamidbar, bloodshed causes infertility.

But still Midrash Hagadol Bamidbar does not rank bloodshed as the most serious transgression. Commenting on Bamidbar 35:33, ולא תחניפו את הארץ, Ramban says that "all expressions of חנפה (in the Tanakh) involve doing the opposite of what is seen or appears to the eyes. This is the

punishment upon the land because of idolatry, bloodshed and sexual immorality." Ramban is saying that because of any of these transgressions, earth's expected fertility will be reversed. Midrash Hagadol Bamidbar, responding to the same verse, concurs, but distinguishes between transgressions:

אין לך רבר שהקפירה עליו תורה כשפיכות דמים

-- "You will find nothing about which the Torah is more strict than about bloodshed."

Yet, Midrash Hagadol goes on to say:

שאף על פי שיש שם עבירות המורות משפיכות דמים

כגון עבודה זרה ועריות אין בהן השחתת ישובי של עולם

-- "For although there are transgressions more severe than bloodshed, such as idolatry and sexual immorality, in those transgressions there is no destruction of the human community."

Don't idolatry and sexual immorality destroy families and communities? What is the special status of bloodshed, that it is a transgression less severe yet more destructive than these other transgressions, which also ruin earth's fertility?:

לפי ששפיכות דמים מעבירות שבין אדם לחבירו

ועבודה זרה ועריות מעבירות שבין אדם למקום

-- "For bloodshed is of those transgressions which are between a man and his fellow man, while idolatry and sexual immorality are transgressions between man and God." Transgressions between human beings can only be righted by action involving both people. The murdered one is no longer accessible, now

beyond his fellow's communications. Only his blood cries out, and only the murderer's blood can respond.

וכל מי שיש בידו עון שפיכות דמים הרי הוא רשע נמור

ואין כל הזכויות שעשה כל ימיו שקולין כנגד עון זה

-- "And anyone who is guilty of the sin of bloodshed is totally evil. Not even all the merits which might have accrued to him in his life can balance against this sin."

5. Blood, Sex and Strange Gods

Pirkei de Rabbi Eliezer incorporates all three transgressions named in Midrash Hagadol Bamidbar into a chapter on Cain and Abel, substantiating a view that idolatry and sexual immorality culminated in Cain's shedding the blood of his brother.⁵ First, Pirkei de Rabbi Eliezer insists that Cain was not Adam's son:

בא עליה רוכב הנחש ועברה את קין

ואחר כך בעלה אדם ועברה את הבל

-- "The rider of the serpent came to her and she conceived Cain. And afterwards, Adam had sex with her and she conceived Abel." The Palestinian Targum to Bereshit 4:1 says: "And Adam knew his wife Eve, who was pregnant by the angel Sammael; she had conceived, and gave birth to Cain." In response to Bereshit 5:3, telling of the birth of Seth:

ויחי אדם שלשים ומאת שנה ויולד ברמותו כצלמו

-- "Adam lived a hundred thirty years and fathered in his own likeness and in his image," Pirkei de Rabbi Eliezer says:

"Thus you learn that Cain was not of Adam's seed, and not in his likeness or in his image."⁶ This reading frees us of the thought that the firstborn human was a murderer. Cain was the son of Sammael, the angel of death. The firstborn human was a murder victim.

In the name of Rabbi Meir, Pirkei de Rabbi Eliezer says that "the generations of Cain went around naked, men and women, like beasts, and they polluted themselves through all kinds of sexual immorality: a man with his mother or daughter, or the wife of his brother, or with the wife of his neighbor, in the streets."

The descendants of Cain, says Pirkei de Rabbi Eliezer, are "all the generations of the wicked, who rebel and sin, who rebelled against their Creator, and said, 'We do not need Your drops of rain,' as it is written (in Job 21:14):

וַיֹּאמְרוּ לֹאֵל סֹד מִמֶּנּוּ

-- "They said to God, 'Leave us alone.'" The descendants of Cain would pray to other gods to insure fertility.

Earlier, in beginning its treatise on Cain and Abel, Pirkei de Rabbi Eliezer comments on (human) fertility in the voice of the appropriately-named Rabbi Zera, who cites Bereshit 3:3, וּמִפְרִי הָעֵץ אֲשֶׁר בְּתוֹךְ הַגָּן, "of the fruit of the tree which is in the midst of 'the garden,'" and links that verse to Devarim 20:19: כִּי הָאָדָם עֵץ הַשָּׂדֶה, "for man is the tree of the field." Says Rabbi Zera: "Here 'tree' means 'man' and 'in the midst of the garden' is a euphemism, because 'garden' here is woman, as it is written (in Song of Songs 4:12):

גן נעול אחתי כלה

-- 'A garden locked is my sister, a bride.'" Pirkei de Rabbi Eliezer concludes: "Just as with this garden, within which (the seed which) is sown produces and emerges in fertility, so it is with a woman who, with the seed she receives through sexual intercourse, conceives and gives birth."

Then Pirkei de Rabbi Eliezer says of Cain:

והיה קין אוהב לעבוד ארמה לזרע

-- "Cain was a man who loved to work [or, worship] the ground (in order to) sow seed." Adam appears on the scene, and, says Pirkei de Rabbi Eliezer, אמר להם אדם לבניו, "Adam said to his sons:

בליל זה עתידין ישראל להקריב כרבעות פסחים

הקריבו גם אתם לפני בוראכם

-- 'In the future, on this night, Israel will bring Passover offerings. You must also bring to your Creator.'

Adam's presumption is that Cain is his son. Adam also presumes that Cain, and Abel, worship the same God as he does. Whom did Cain, son of the one who rides the serpent, lover of the earth, believe to be his Creator? (Did the God who accepted Abel's offering perceive that Cain's offering was intended for Him?) The God to whom Adam had instructed "his sons" to make offerings now rejects Cain's leftover roasted grain and his flax seed -- offerings Cain intended for the earth -- and accepts Abel's prime sheep. Abel's God knew that Cain was not addressing Him. And sheep have blood.

Midrash Hahefetz reads צעקים אלי from Bereshit 4:10:⁷

קול דמי אחיך צעקים אלי מן האדמה

-- "Your brother's blood screams to Me from the ground," as: זה כלשון בני אדם, meaning that the midrash recognizes the biblical writer's use of metaphor. Yet in offering this comment the midrash might not be focusing most particularly on the phrase קול דמי אחיך צעקים, but on the words אלי מן האדמה, "to Me from the ground." The phrase לשון בני אדם might show that the midrash was reading אדמה not as "ground" but as "humanness." The blood of Abel was crying to God in a moment of horrific suffering, in the vocabulary of human pain.

Here קול does not mean "voice." But, as God uses it, the word קול itself does express a generic human shout, hoping to attract, or direct, (Cain's) attention. Cain had not communicated well in the language of sacrifice appropriate to Abel's God. God's rejection of Cain's offering proved another malfunctioning communication in that sacrificial language. If Cain's murdering of Abel was meant by Cain as an attempt to communicate with Abel's God in what Cain had observed to be the effective sacrificial language -- blood -- now God perhaps was realizing that He had to communicate with Cain in ways which Cain could more surely comprehend, in human ways, זה כלשון בני אדם, before any more human bloodshed occurred. It's not that God had failed to teach Cain about murder. God had not seen to it that Cain had had sufficient instruction in the languages of cultic sacrifice.

The phrase לשון בני אדם appears in Sifra to parashat Kedoshim, Vayikra 20:2. The phrase in question there is:

ואל בני ישראל תאמר

-- "Say to the children of Israel," an introductory phrase of a type common to any storytelling in which the listeners or readers must be told that one character was addressing another. Sifra then lists similar phrases:

ואל בני ישראל תדבר. אמור אל בני ישראל. דבר אל בני ישראל.

צו את בני ישראל. ואתה תחזה אל בני ישראל.

Then Sifra cites Rabbi Yosi, who makes a generic statement about the language of Torah:

דברה תורה כלשון בני אדם בלשונות הרבה וכולם צריכים להידרש

-- "The Torah has spoken as humans communicate, in many languages, and all of them need to be explained." The purpose of Vayikra 20:2 is to instruct in the languages of sacrifice:

איש איש מבני ישראל ומן הגר הגר בישראל

אשר יתן מזרעו למולך מות יומת

-- "Anyone among the Israelites, or among the strangers residing in Israel, who gives any of his (legitimate) offspring to Molech, shall be put to death." Note that those who might have already received some instruction in the boundaries of the sacrificial cult of Yahweh are being addressed, but so also are those who conceivably had never received any Yahwist education.⁸

What does Vayikra 20:2. prescribe as the method of execution for one who would make human sacrifice to Molech?:

עם הארץ ירנמהו באבן:

-- which JPS translates as "the people of the land shall pelt him with stones," but which would also be an accurate

paraphrasing of Pirkei de Rabbi Eliezer's version of how Cain actually killed Abel:

לקח אבן ושבעה במצחו של הבל

-- "He took a stone and sank it into Abel's forehead."

In the voice of Rabbi Zadok, Pirkei De Rabbi Eliezer now combines the three transgressions in a narrative depiction of the motive and the murder:

רבי צדוק אומר נכנסה קנאה ושנאה גדולה בלבו של קין על שנרצית מנחתו של הבל ולא עוד אלא שהיתה אשתו תאומתו יפה בנשים אמר אני אהרנ את הבל אחי ואקח אשתו שנאמר ויאמר קין אל הבל אחי ויהי בהיותם בשדה ואין בשדה אלא האשה שנמשלה כשדה שנאמר כי האדם עין השדה

-- "Rabbi Zadok said: 'A jealous hatred for his brother Abel entered Cain's heart, because his offering had been accepted [-- a repercussion of idolatry, of Cain's misdirected sacrifice]. Not only this, but also because Abel's twin-sister [whom Abel had married] was the most beautiful of women, and Cain desired her in his heart. And moreover, Cain said: I will take his twin sister from him, as it is written: ויהי בהיותם בשדה, and it happened when they were in the field. 'In the field' means 'woman', as it is written, 'Man is the tree of the field [-- immorality linked to sexual lust].'"

Can it be that ויקם קין אל הבל means that Abel caught Cain having sex with his (Abel's) twin-sister/wife, in the field, and that Cain had to stand up to confront his brother? The midrash has already described Cain as "a man who loved the ground in order to sow seed" and whose descendants "went around naked like beasts, polluting themselves with sexual

immorality...with the wife of his brother...in public."

* Bereshit Rabbah⁹ explains the plural רמי אחיך in this way:

שהיה רמו מושלך על העצים ועל האבנים

The Torah text uses the plural, literally "your brother's bloods," because "(Abel's) blood was splashed on the trees and on the stones."

B.T. Yebamot 64a says that one who desists from having sexual intercourse, and is therefore not attempting to fulfill the commandment to be fruitful and multiply, "causes the Shekhina to leave Israel. For it is written (in Bereshit 17:7):

להיות לך לאלהים ולזרעך אחריך

-- 'To be God to you and to your (legitimate) offspring after you.' Where there exist 'offspring after you,' the Shekhina dwells (among them). But where no 'offspring after you' exist, among whom should (the Shekhina) dwell? Among the trees or among the stones?"

6. Blood and A Curse

A curse comes now, but whom is God cursing? And what seems the projected effect of that curse? Bereshit 4:11 states the curse:

ועתה ארור אתה מן האדמה אשר פצתה את פיה

לקחת את רמי אחיך מידך

-- "And now you are ארור מן האדמה which opened its mouth to receive your brother's blood from your hand." What does the

phrase אָרֵר מִן הָאֲדָמָה mean? Is Cain cursed "from the land," meaning that Cain's efforts to grow anything will prove infertile? In Bereshit Rabbah, Rabbi Eleazar says: "To you (to Cain) it (the land) will not yield its strength, but to another it will."¹⁰ Immediately, Rabbi Yose bar Haninah says: "Not to you, not to anyone else." Rabbi Eleazar's comment seems based on a sense that the earth here is a neutral body, by its nature absorptive of blood, and all fluids. Rabbi Yose's comment implicitly observes that, even at a pshat level, the earth (goddess), הָאֲדָמָה, with its hungry mouth, responsive to Cain's blood offering, was an active participant in this act of bloodshed.

Midrash Hagadol Bereshit, responding to the question of whom is actually being cursed, says:

קִלְלוֹ שֶׁלֹּא לִיהְנוֹת מִן הָאֲדָמָה

-- "He cursed him, so that he would not derive benefit from the earth." The midrash continues:

שֶׁלֹּא תֵרָא מִצְמַחַת לוֹ כָּלֹם וְנִחְקֻלָּהּ הִיא בְּשִׁבְלֹהּ

-- "...so that (the earth) would not let anything at all blossom for him, and thus she (the earth) was cursed because of him." Now Midrash Hagadol brings the language of Bamidbar 35:33, כִּי הָרֶם הוּא יַחֲנִיף אֶת הָאָרֶץ, and inserts Rabbi Yasia's comment that יַחֲנִיף is actually shorthand for יַחֲנִיף אֶף:

כִּי הָרֶם הוּא יַחֲנִיף אֶף עַל הָאָרֶץ

-- "for blood brings God's anger down on the land." Here "the land" does not refer generally to the territory and the people who live within its boundaries, but to the earth itself.

Resonant in Midrash Hagadol Bereshit's comment that the earth was cursed because of Cain, נחללה בשבילו, is the pshat of Bereshit 3:17: ארורה האדמה בעבורך, "cursed be the earth because of you (Adam)." Of Bereshit 3:17, Midrash Hagadol says:

אם אדם חטא ארץ מה חטאת

-- "If Adam sinned, how did the land sin?"

לפי שלא נבראת אלא בשבילו של אדם

חטא אדם ונתקלל נחללה עמו

כרי שלא ימצא בה נחת רוח

-- "Since the land was created solely for the needs of Adam (of man), when Adam sinned and was cursed, the land was cursed with him, so that he would find no satisfaction [or, no pleasure] in her [or, in it, in what fertile land might otherwise provide]." And, says Midrash Hagadol Bereshit, that's not all; there is a general principle to be drawn from this particular curse:

כשבני אדם חוטאין בעבירות חמורות הן נרונים בנופן

חטאי בעבירות קלות הארץ מתקללת ופירותיה מתמעטין

כרי להצריכין לשאת עיניהן לאביהם שבשמים

-- "When people commit severe transgressions, they pay a penalty with their (own) bodies. If they have committed light transgressions, then the land is cursed, and its fruits are diminished, so that the people will have to raise their eyes to their Father who is in Heaven."

Remember that Midrash Hagadol Bamidbar, in commenting on Bamidbar 35:33, offers the view that bloodshed, although more

destructive to the human community, is technically a less severe transgression than sexual immorality or idolatry, which are transgressions between humans and God. Thus, in contrast to Pirkei De Rabbi Eliezer (observed above on page 60), Midrash Hagadol Bamidbar does not perceive Cain's murdering Abel as an act which amalgamates all three transgressions. Both Cain and earth are cursed, but not because of any idolatrous or sexually immoral relationship.

Rashi's sense is that the earth initially earned a curse when it sinned by improperly fulfilling the commandment, in Bereshit 1:11, to bring forth עץ פרי, a fruit tree. Rashi's interpretation is that God had commanded the production of a tree which would taste exactly the same as its fruit. But the earth responded not with עץ פרי, but, in Bereshit 1:12, with עץ עשה פרי, a tree yielding fruit. When Adam was cursed because of his sin involving fruit, the earth was cursed for its sin. Thus, for Rashi, the phrase ארור אתה מן הארמה means that the earth is being cursed, more than it already has been cursed, for the earth has sinned again by opening its mouth to absorb Abel's blood. According to Rashi, God is imposing an additional curse on the earth, and Cain will experience the repercussions of that curse, in diminished fertility, because the earth will no longer yield its strength to Cain.

Rashi's interpretation seems to imply that God was acting to disrupt a relationship between Cain and the earth he worshipped. Rashi's reading of ארור אתה מן הארמה means that this curse on the land precedes the sentencing of Cain to a life

of wandering, of further disconnection from the earth. By declaring punishment first for the earth, God implicitly declares that the idolatrous relationship between Cain and the earth is the most significant transgression here. By sentencing Cain to exile, the penalty reserved not for purposeful murder but for unintentional manslaughter, God implicitly admits His failure to instruct Cain in the distinctions between not only different categories of killing, but different modes of ritual sacrifice.

Ramban disagrees with Rashi's reading of ... ארור "because here God did not curse the ground כעבורי, because of Cain, as He did in the case of his father. Instead, He said that Cain would be cursed ממנה, "through the ground." The ground would be a vehicle for God's curse, but the ground itself would not be cursed. The curse was meant to do damage to אימנותו, to Cain's craft, to his occupation as עבר ארמה, a worker (not, in Ramban's reading, "a worshipper") of the earth; והנה ארר מעשיו, says Ramban, "and thus God cursed his particular efforts" to make the earth bear fruit.

This, as Ramban notes, is actually Abraham Ibn Ezra's reading. But now Ramban moves beyond his agreement with Ibn Ezra, and his opposition to Rashi, to explore the meaning of פתחה את פיה, "(the earth) has opened its mouth (to take your brother's blood)":

אתה הרגת את אחיך יכסית את דמו בארמה ואני אגזור עליה

שתגלה את דמיה ולא חכסה עוד על חרוניה [Isaiah 26:21]

כי תענש בה ובכל אשר חכסה בה כגון הזריעה והנשיעה

-- "פצתה את פיה" means: You have killed your brother and covered his blood with the earth, and I will decree upon (the earth) that it uncover its blood(s), 'and she will no longer cover her slain,' [Isaiah 26:21] for it -- the earth -- will be punished (for the covered blood) along with all else that is covered within (the earth), such as seeds and plantings."

Now Ramban brings Bamidbar 35:33:

וזה עונש כל שפיכות דם בארץ

כענין שכתוב כי הדם הוא יחניף את הארץ

וחנפת הארץ מארה בפירותיה

-- "And this is the punishment for all bloodshed in the land, as it is written, 'For blood pollutes the land,' and pollution of the land means a curse on its fruits [or, on its fertility]."

The diminution in the earth's fertility will match the diminution in human fertility. Our midrashic sources are virtually unanimous in observing, through the unusual plural אחיך, literally "your brother's bloods" (Genesis 4:10), that murder cuts off the births of future generations. In Breshit Rabbah, Rabbi Yudan says that רמי אחיך "means his blood and the blood of his seed."¹¹ Rabbi Huna offers a parallel use of the plural in II Kings 9:26, involving the "bloods" of Nabot and the "bloods" of his sons, substantiating that the plural expresses "his blood and the blood of his seed."¹² Another citation, in II Chronicles 24:25, "the bloods of the sons of Yehoyada," reconfirms the point that murder not only ends one life but prevents the lives of those who would have

been born.

Midrash Hagadol says that רמי אחיך צעקים אלי means:

רמי ורם זרעיו

לכך נאמר רמי מלמד שכל תולדות שעתידין לצאת ממנו כולן עמרו וצעקו לפניו -- "His blood and the blood of his seed. That's why it says רמי. This teaches that all of the generations which were to come from him (Abel), all of them, stood and screamed to [at?] (God)." After insisting, through repetition of כולן/כל, that all of the descendants of Abel, all of whom would never be born, screamed to God, Midrash Hagadol Breshit immediately inverts the perspective and says:

לומר לך שכל אחד ואחד שקול כנגד כל העולם כולו

-- "This is to say to you that each and every (life) balances evenly against the whole world." Midrash Hahefetz phrases this in different words:

לפיכך נברא האדם יחיד בעולם

שכל המאבד נפש אחת כאלו אבד עולם מלא

--"Thus was a singular man created in the world, for anyone who destroys one life has in a sense destroyed a full world."

Yalkut Shimoni presents this in a legal language:

שלא כריני ממונות דיני נפשות

-- "Cases involving possessions [or, money] are not comparable to [or, are not dealt with in the same ways as are] cases involving capital crimes."¹³ Yalkut Shimoni continues:

דיני ממונות אדם נותן ממון מתכפר לו

-- "In a case involving possessions [or, money], a man gives something of [appropriate] tangible value and it expiates for

him [or, for his transgression].

דיני נפשות דמו ודם זרעיותיו תלויין בו עד סוף העולם

-- "In cases of capital crimes [In murder cases], his blood and the [fate of the] blood of his seed depend upon [his veracity] until the end of the world."

Yalkut Shimoni has actually appropriated the language of Mishna Sanhedrin 4:5, which focuses on the proper admonishing of witnesses in capital cases. In the Mishna, witnesses are being told that the blood of the one wrongfully convicted and executed on the basis of false testimony, and the blood of all those who would have been born in his line, will be held against that false witness until the end of time.

Yalkut Shimoni uses the Mishna's language to teach distinctions between what can be reclaimed and what cannot be reclaimed. In cases of possessions of tangible value, if the original items cannot be retrieved, then appropriate tangible compensation will be demanded. In cases involving money, the money can be reclaimed. From beyond the boundaries of death, no human life can be retrieved.

But fatal bloodshed can be remedied. In connection with Cain's circumstances, Yalkut Shimoni brings the words of Rabbi Hiyya:

גלות מכפרת מחצה

מעיקרא כתיב נע ונוד ולבסוף כתיב וישב בארץ נוד

-- "Exile can partially atone, for at first it is written, 'He will be a wanderer,' and in the end it is written, 'And he settled in the land of Nod.'"¹⁴

But one midrash intimates that the blood of Abel was, in a sense, cursed, by Cain's violence, to a future of unsettled wandering:

לעלות למעלה לא היתה יכולה שהרי עדיין לא עלתה לשם נשמה

ולמטה לא היתה יכולה לעמוד שעדיין לא נקבר שם אדם

-- "It could not ascend above, for no soul had yet ascended there, and it couldn't settle into position below [or, establish position underneath] because no person had as yet been buried there."

This midrash frames Cain's curses of wandering and of being disconnected from the earth: a sentence of exile indicating that the first act of fatal bloodshed had been ruled unintentional manslaughter, as parallel to the status of the first shed blood, which knew no established paths or procedures to follow in order to reach a place of rest, either in the afterlife or in this earth. As Cain, by killing, had in extreme fashion evidenced a need for instruction in the rituals of sacrifice, so the blood of Abel screamed for instruction in the rituals of death.

What agenda might this midrash have served?¹⁵ On one hand, the image of a soul wailing, left directionless by violent death, could move people to perceive of Cain's action -- or of actions similar to Cain's -- as intentional murder.

The image could support a call for literal fulfillment of the measure commanded to cleanse murder's bloody pollution: The murderer must be put to death. In Bereshit Rabbh and Yalkut Shimoni,¹⁶ this midrash is immediately linked to the gruesome

image of

דמו מושלך על העצים ועל האבנים

-- "his blood splashed on the trees and on the stones."

The image of brutality, and the compounding horror of an unresolved afterlife, might move one who heard the midrash to insist on the strictest sentence in murder cases.

On the other hand, since this midrash structures the blood's sufferings as being balanced in specific detail by the punishment designed for Cain, and since one might also be influenced by the (equally) frequent midrashic statement that each and every life destroyed is a full world destroyed, one might be moved, by this same grouping of midrashim, to oppose the exacting of a murderer's blood. Remember that we have yet to find any statements, in biblical or midrashic texts, which assert that, when a murderer is executed, the murderer's blood itself somehow releases the victim's blood from an unresolved status to some settled afterlife. What we have been encountering is the sense that the shedding of the murderer's blood will remedy the pollution of the land, will permit continued fertility, and will erase from the earth people of completely evil character.

7. Balancing Bloodshed

What sentence, what action of the community, will properly balance the shedding of blood? And what sentence will only compound an action of evil?

אמר הקדוש ברוך הוא קול רמי אחיך צועקים אלי

ביון ששמע קין התחיל עשות תשובה של רמאות

-- "The Holy One Blessed Be He said, 'Hark, your brother's blood screams to me.' When Cain heard [the voice of God? the screaming blood?] he began feigning teshuva [or, he began a false atonement]."¹⁷

Here Midrash Tanhuma has summoned the inner conflicts of a tradition which would protect this life's fertility with its own most resolute energies, which would build severe barriers against death, the negation of creative power, and yet wishes to be merciful to those who cause death, who might be people of completely evil character (and who, possibly, can change).

The reflexive language of Breshit 9:6 would seem to leave no doubt as to the Torah's prescribed response to bloodshed:

שפך דם האדם באדם רמו ישפך

כי בצלם אלהים עשה את האדם

-- "Whoever sheds a man's blood, by man will his blood be shed; for in His image God made man."

Bereshit Rabbah uses this clear commanded response to bloodshed, set in parashat Noah, to state the ground rules for the murder trials of בני נח, of non-Israelites, non-Jews: "Rabbi Haninah said: 'All of these are according to the laws

(which govern murder trials) of בני נח:

בער אחד ברין אחד בלא התנה על ידי שליח על ידי עברים

-- "(A non-Israelite can be condemned) on testimony of one witness, by a single judge, without warning (in advance of the crime), (for murder) by a killer whom he hired (or sent), for (murder of) the unborn [or, of fetuses]."

Bereshit Rabbah understands באדם דמו ישפך, "by man will his blood be spilled" to mean "by a man will his blood be spilled,"¹⁸ thus indicating, because the phrase occurs in connection with the story of Noah, that the Noahide community, non-Israelites, can be witnessed against and judged guilty by a single witness (rather than two), and by a solitary judge (rather than a court of three).

The terse, square language of Bereshit 9:6, establishing the action of murder and the demanded response, using the same words in each hemistich and the same number of words, is perceived by the midrash as requiring no additional language -- no admonition before the crime to insure that the potential criminal knows the law he is about to transgress. B.T. Sanhedrin 72b notes the recognized procedure of a formal admonition by an observer who sees a man pursuing his fellow in order to kill him, and states the established formula:

ראה שישראל הוא וכן ברית הוא

-- "See, he is an Israelite, and a son of the covenant."

But there the possibility is raised of interpreting Bereshit 9:6 as saying, "He who would shed the blood of a man, to save that man (who is being pursued) will his (the pursuer's) blood

be shed." Says B.T. Sanhedrin 72b: "For it has been taught (that) Rabbi Yose, Rabbi Yehuda's son, said: A חָכָם (meaning an educated person) need not be warned, for a warning is essential only to distinguish between ignorance and premeditation." Thus, neither a נֶבִּיךָ nor a חָכָם, neither a non-Israelite nor a scholarly Israelite, must be admonished if observed on the verge of committing murder.

Bereshit Rabbah also appends the word בְּאִדָּם to the first clause of Bereshit 9:6, and translates the preposition בְּ as conveying agency: "He who sheds the blood of a man by a man, his blood shall be shed." Thus, the non-Israelite who hires or sends an emissary to commit a murder will be guilty of murder himself.

Finally, Bereshit Rabbah reads the preposition בְּ in the word בְּאִדָּם to mean "within": "He who sheds the blood of a person within a person, his blood shall be shed." Abortion, at least by a non-Israelite, is, for Bereshit Rabbah, murder. In the same section of B.T. Sanhedrin 72b cited above, we are apprised of a situation in which abortion is acceptable:

"R. Huna said: 'A minor in pursuit may be slain to save the pursued.' Therefore he maintains that a pursuer, whether an adult or a minor, does not need to be formally admonished. R. Hisda asked R. Huna: 'Haven't we learned that once his head (the head of a baby being born) had come forth, he may not be harmed, because one life may not be taken to save another? But how so? Is he (that baby being born) not a pursuer?'

'There the situation is different, for she is pursued by heaven.'

B.T. Sanhedrin 57b records the reading of Bereshit 9:6 by a tanna of the school of Menashe, who comes to deny that abortion is a capital crime. That tanna's understanding of the phrase באדם דמו ישפך is that the preposition ב here does mean "within," but that "within" does not refer to damage being done to a life within, that is, to a fetus. Instead, the tanna reads this phrase as describing the appropriate method of execution for non-Israelites. That tanna's translation of Bereshit 9:6 would be: "He who sheds a man's blood, within him shall his blood be shed." As B.T. Sanhedrin 57b states:

איזו שפיכות דמים של אדם שהוא כנופי של אדם הוי אומר זה חנק

-- "How can a man's blood be shed, and yet be contained within him? By strangulation."

In Bereshit Rabbah, Rabbi Yehuda bar Simon translates all the words as does the tanna of the school of Menashe, but Rabbi Yehuda would structure the clauses differently: "He who sheds a man's blood within him, shall his blood be shed." Rabbi Yehuda's has deduced that a person who kills another by strangulation deserves the death penalty, even though death was not caused by the spilling of any blood from the body.

We have looked to שפך דם האדם באדם דמו ישפך, that symmetrically constructed statement of the demand for the blood of the killer to balance the blood of the killed, with

the hope that such apparently deliberate wording would have triggered clear midrashic reaffirmation of the necessity of balancing Israelite blood with Israelite blood, in order to cleanse the land of the Israelites of blood's pollution. Instead we have found a broad range of inventive readings, of creative and supportive midrashim, which are, for the most part, angling away from dealing with the hard reality of execution.

But, in response to the language of the second half of Bereshit 9:6, **כִּי בַצֶּלֶם אֱלֹהִים עָשָׂה אֶת הָאָדָם**, we find one (reasoned) position for the theoretical demand of blood for blood. In Bereshit Rabbah,¹⁹ Rabbi Akiva says:

כָּל מִי שֶׁהוּא שׁוֹפֵךְ דָּמִים מַעֲלִים עָלָיו הַכְּתוּב כְּאִילוֹ הוּא מִמַּעַט אֶת הַדְּמוּת

Here the play is between דָּם and דְּמוּת, from the root דָּמָה, expressing "resemblance": "Anyone who sheds blood is regarded by the Torah text as though he had diminished the image of God." To Akiva's comment, Bereshit Rabbah immediately appends the words of R. Eleazar ben Azariah, who says:

כָּל מִי שֶׁהוּא בָּטֵל מִפְּרִיָּה וּרְבִיָּה מַעֲלָה עָלָיו הַכְּתוּב כְּאִילוֹ הוּא מִמַּעַט אֶת הַדְּמוּת

-- "Anyone who ceases attempting to procreate is regarded by the Torah text as if he is diminishing the image of God." R. Eleazar substantiates this comment by noting that the statement in Bereshit 9:6, "for God made men in His image," is followed immediately in 9:7 by the command to "be fruitful and multiply."

Now, to tie all these elements together, Bereshit Rabbah brings the words of Ben Azzai:

כל מי שהוא בשל מפריה ורביה מעלה עליו הכתוב

כאלו שופך דמים וממעט את הרמוח

-- "Anyone who ceases attempting to procreate is regarded by the Torah text as if he had shed blood and diminished the image of God."

For Ben Azzai, the textual basis for this statement is the contiguity of the three statements in Bereshit 9:6-7, ...ואתם פרו ורבו and כי בצלם אלהים and שפך דם האדם. In (Bereshit and in) Bereshit Rabbah, bloodshed and infertility are intimately linked.

Variants of the same midrash can be found in Tosefta Yebamot 8:4, in B.T. Yebamot 63b, in Yalkut Shimoni I:61, and in Midrash Hagadol to Bereshit 9:6. The Talmud's variation in B.T. Yebamot 63b, which begins with Rabbi Eliezer's statement connecting a stoppage in attempt to procreate with shedding blood, is immediately preceded by words from Rav Asi, concerning the Messiah: "Rav Asi said: 'The son of David will not come before all the souls in טף [that is, all the yet unborn souls] are used up.'" To the statement כאלו ממעט ברמוח, "as if he had diminished the image of God," Midrash Hagadol Bereshit appends a piece from Mishna Sanhedrin 4:5, which, in its mishnaic context, is part of a midrashic expansion on Bereshit 4:10:

שכל אחד ואחד יש לו לומר בשבילי נברא העולם

-- "...for each and every person is obligated to insist, 'On my account the world was created.'"

While other interpretations of Bereshit 9:6 look to

connect 9:6 and 9:7, Ramban looks back to 9:5 to find context for interpretation. Ramban says that it is possible that the meaning of the phrase שפך דם האדם could be linked to the phrase מיר כל חיה in 9:5:

ייתכן שיהיה טעם מיר כל חיה שחתיה הנקמה בשופך הדם מיר כל חיה

-- "It is possible that the meaning of מיר כל חיה could be that the vengeance upon one who sheds (human) blood will be exacted by animals."

Therefore, says Ramban, "God is saying, 'I will require (a reckoning) and will avenge (bloodshed) through the power of any beast, for I will send against the murderer all beasts of the earth, and I will send man against him also, and he (the murderer) will not escape from their powers (to avenge blood).'"

8. Blood: Life of the Flesh

Ramban finds less difficulty with the the blood language of Bereshit 9:6 than he does with the phrase in 9:5:

ואך רמכם לנפשתיכם אדרש

-- "But for רמכם לנפשתיכם I will require (a reckoning)."
Ramban defines the phrase as הרם שהוא לנפש בכם אדרש, "for the blood which is the life in you I will require (a reckoning):

הניד כי הדם הוא הנפש ורמז כי על שופך הנפש הוא מחייב מיתה

לא על דם האיברים שאין הנשמה תלויה בהם

-- God is telling that the blood is the life, and hinting that one who sheds the lifeblood incurs the death penalty, but

(that there is no death penalty for shedding) blood of the limbs upon which physical life is not dependent."

Ramban derives this interpretation in part by reading the phrase רַמְכֶם בְּנַפְשֵׁיכֶם as meaning רַמְכֶם לְנַפְשֵׁיכֶם, "the blood in which is your life," or "the blood which is your lifeblood," an interpretation made possible by the verse which Ramban cites here, Vayikra 17:14:

כִּי נַפֶּשׁ כָּל בָּשָׂר דָּמוֹ בְּנַפְשׁוֹ הוּא...

-- "For the life of all flesh -- its blood is its life."

Sifra's response to Vayikra 17:14,²⁰ to this statement specifically locating the life of the flesh in the blood, is other than explicit, and invites speculation: לְהַגִּיד מֵה נִרָם might mean "to tell what it caused" (or "what it causes") or "to tell what caused ---."

"To tell us what the blood causes"? -- meaning, what the blood's power might be? If נִרָם is a verb, we are without any evident object, direct or indirect. If we read נִרָם as a noun, thus, "To tell what the cause is," then: The phenomenon could be life (itself). Yes, Vayikra 17:14 seems to be affirming that blood, physically, powers life. Does Sifra mean to say that a physical reality -- that blood physically powers life -- is the root cause of blood's effectiveness for expiation? Should we read לְהַגִּיד מֵה נִרָם as: "To tell us what the essence is?"

Clarifying language might be expected as the midrash continues. The next sentence begins with וְאָמַר, which could be translated as, "And it also says," and which should indicate

that the midrash now does intend to enhance the unclear point, and is not digressing at a different angle:

ואומר לבני ישראל דם כל בשר לא תאכלו להזהיר גדולים על קטנים

יכול יהו נכרחים על ידיהם תלמוד לומר כל אוכליו יכרת

-- "And it says to the children of Israel that the adults should caution the children about the prohibition against consuming all blood. They (the adults) could be cut off by them (by the actions of the children). Talmud says that anyone who consumes (blood) will be cut off."

If there is a thematic connection between this statement and להניד מה נדם, then perhaps Sifra means to say that Vayikra 17:14 tells us that the life of the flesh is in the blood in order to educate us as to the root cause of the commandment not to eat blood. Commenting on Devarim 12:23, a verse which states הדרם הוא הנפש, "the blood is the life," in particular linkage with the commandment "not to partake of the blood... ..not to consume the life with the flesh," Midrash Tannaim says: להניד מה נדם. There the phrase seems clearly to say that we are told that the blood is the life for the purpose of teaching us the root cause of the prohibition against eating blood.

Sifre Devarim Piska 76 (and the later Midrash Tannaim)²¹ both cite the opinion of Rabbi Shimon ben Azzai concerning the prohibition against eating blood:

שאין בכל המצוות קל ממנו

-- "Among all the commandments there is none which is more קל than (the prohibition against eating blood)." In this

context, קל could mean "light," meaning that in R. Shimon's view there is no commandment which is less crucial. But here the word קל could also mean "simple," meaning that for Rabbi Shimon there is no commandment which is more simply (and easily) fulfilled than the prohibition against eating blood.

In commenting on Vayikra 17:11, Ramban cites Maimonides' statement in Moreh Nebukhim (III:46) that the Chaldeans loathed blood, and considered blood impure. Only those who wanted to establish contact with demons and to predict the future would eat blood. Ramban says:

אין ראוי לבעל נפש שיאכל נפש כי הנפשות כלן לאל

-- "It is not fitting that a creature with a soul should eat (another creature with) a soul, for all souls belong to God."

Ramban uses the word נפש here to mean "soul." Also crucial to Ramban is the sense that if one were to eat what Vayikra 17:11 calls נפש כל בשד, that is, blood, then:

והוא התחבר ברמו והיו לאחדים בלב

-- "it would join itself to his own blood and they [animal blood and human blood? both souls?] would become united in the (human) heart."

תהיה עובי ונסות בנפש האדם ותשוב קרוב לשבע הנפש הבהמית אשר בנאכל

כי הדם לא יצטרך עכול כשאר הנאכלים שישתנו בעכולים

ויחלה בו נפש האדם בדם בהמה

-- "The result would be a serious coarsening of the human soul; it would more closely approach the nature of the animal soul (borne) within what had been eaten. For blood does not require digestion as do the rest of the foods, which are

altered by digestion. The human soul would be combined with [or, dependent upon] animal blood."

Ramban comes to distill his extensive commentary on Vayikra 17:11 to the following words:

כי לכל בשר באדם ובבהמה נפש בדם

ואין ראוי לערב הנפש הנכרתת בנפש הקיימת

-- "For all flesh, human and animal, has a soul in the blood, and it is not fitting to mix the soul destined for destruction with the soul which will endure (in the world to come)."

Not until Vayikra 17:14, and the phrase *דמו בנפשו הוא*, does Ramban directly confront the nature of blood, as life force. Ramban disagrees with Rashi's view, and so brings Rashi first:

דמו הוא לו במקום נפש כי הנפש תלויה בו

-- "Its blood represents its life, since life is dependent upon (blood)." Rashi also says (although Ramban doesn't cite this language) that *הנפש היא הדם*, "the life is the blood."

First, then, in the language of Rashi which Ramban cites, and of which Ramban says *ואיננו נכון*, "and it is not correct," there comes a clear statement that life is dependent on the blood. But Ramban himself says that it is possible to read the word *בנפשו* in Vayikra 17:14 as meaning *בגופו*, "in its body". Thus, the verse would be saying that the life of all flesh *דמו בנפשו*, "is the blood in its body." Ramban's comment would seem to agree with Rashi's sense that *הנפש תלויה בו*, that "the life is dependent on the blood."

If Rashi, in going on to say *הנפש היא הדם*, means to declare that *נפש* and blood are identical, then he would seem to be

contradicting himself, for how could blood be identical with life and also be נפש במקום נפש, representative of the living elements within a creature's body? And if Ramban is going to announce that Rashi is wrong about blood and life being identical, then he seems to have picked the wrong words from his predecessor's commentary to exemplify the grounds for that disagreement.

But the mumbling and mangling of opinions may stem less from the conflicts between (and within) Rashi and Ramban than, as Ramban himself point out, from the apparent changes of nuance within the Torah verses themselves. First, in Vayikra 17:11, we find נפש הבשר בדם היא, "the life of the flesh is in the blood." Ramban says: אחר כך הפך, "Then it changed," and, in the first half of Vayikra 17:14, the Torah said:

כי נפש כל בשר דמו בנפשו היא

-- "For the life of all flesh -- its blood is (in) its life," meaning, says Ramban:

כי הדם בנפש והנפש היא בדם ששניהם מעורבין יחד

יהיה זה כענין יין המזוג במים שהמים ביין והיין במים כל אחד בחבירו

-- "...that the blood is within the life and the life is in the blood and the two of them are mixed, as when wine is diluted with water: The water is in the wine and the wine is in the water and each one is in the other." But, observes Ramban, afterward, in the second half of Vayikra 17:14, where we read נפש כל בשר דמו היא, "the life of all flesh is its blood," then:

פירש כי הדם הוא הנפש עצמו

לומר היו לבשר אחד לא יתפרדו

-- " (the verse) explained that the blood is the life itself, meaning that both had become one inseparable substance."

לא ימצא דם בלא נפש ולא נפש בלא דם

-- "Blood will never be found without life nor life without blood."

To unify the apparent nuances of Vayikra 17, Ramban now turns to a Greek idea concerning the nature of matter, which he first invoked in Bereshit 1:1, in the context of creation מאפסה מוחלטת, "from absolute nothingness." There Ramban says:

הוציא מן האפס הגמור המוחלט יסוד דק מאד

אין בו ממש אבל הוא כח ממציא מוכן לקבל הצורה ולצאת מן הכח אל הפועל

והוא החומר הראשון נקרא ליונים היולי ואחר ההיולי לא ברא רב

אבל יצר ועשה ממנו כי ממנו המציא הכל והלביש הצורות ותקן אותם

-- "God brought forth from total and absolute nothing(ness) a very thin fundamental material, devoid of substantive corporeal existence, but being a power [or, an energy] of potentiality, ready to accept form and to emerge from potentiality into real existence. This was the primary matter which was called by the Greeks ὕλη [hyle, hylic material]; and, after the ὕλη, God did not create anything, but God formed and made from (the hylic material). For from it (from ὕλη) God brought forth everything (into existence) and clothed the forms and honed them."

Ramban sums up his theory of creation with these words:

ודע כי השמים וכל אשר בהם חומר אחד והארץ וכל אשר בה חומר אחד

והקדוש ברוך הוא ברא אלו שניהם מאין ושניהם לברם נבראים

והכל נעשים מהם והחומר הזה שנקרא היולי נקרא בלשון הקדש תהו

-- "Know that the heavens and all that is in them are of one material, and the land and all that is in it is of one material. The Holy One Blessed Be He created the two of these (substances) from nothing, and the two of them, alone, were created. Everything (else) was made from them. And the (fundamental noncorporeal) potentiality which is called $\psi\lambda\eta$, is known by the Hebrew word תהו."

In his commentary to Vayikra 17:14, Ramban applies the theoretical language of creation which he established at Bereshit 1:1 in order to elucidate the relationship of inseparability between blood and life:

לא ימצא דם בלא נפש ולא נפש בלא דם

כי ידוע ברוח אשר תחלתו מן הלב שהוא היולי לרוחות כולן

וממנו יבא הזן שעושה מדם והדם הוא מולידו והמקיימו

-- "Blood will not be found without life nor life without blood. It is known of the spirit whose origin is in the heart -- that this is $\psi\lambda\eta$, for all spirits; and from this רוח will come the nutritive material which makes the blood, and the blood gives [in its turn within this inseparable relationship] life and sustains it."

Ramban finally comes to frame the relationship between blood and life as being

כענין הגולם והצורה בכל בעלי הנפש שלא ימצא האחד בלתי האחר

-- "...like that of matter and form in all physical creatures. You can't find one without the other."

Blood has powered life in unexpected ways. The stamaitic voice in B.T. Pesahim 22a notes that the bloody runoff of sacrificial offerings "was sold to gardeners as fertilizer." Knowing that Vayikra 17:12 prohibits the eating of blood, the stam wonders whether the use of blood fertilizer involves potential transgression, implying that one who ate a vegetable grown in blood-enriched soil might be seen to be eating blood. The stam seems to answer his own question:

שאי רם דאיתקש למים דכתיב לא תאכלנו על הארץ תשפכנו כמים
מה מים מותרין אף רם מותר

-- "Blood is different, because it is deemed similar to water, for it is written, 'You shall not eat it. You shall pour it out upon the earth, as water.' [Devarim 12:24] Just as water is permitted, so is blood permitted."

At the beginning of Pesahim 22b, the stam returns to this line of questioning:

למאי הלכתא איתקש רם למים

-- "In regard to what law is blood likened to water?" The question is reframed by R. Hiyya bar Abba in R. Yohanan's name:

מנין לרם שאינו מכשיר שנאמר לא תאכלנו על הארץ תשפכנו כמים
רם שנשפך כמים מכשיר שאינו נשפך כמים אינו מכשיר

-- "How do we know that the blood of sacrifices does not make [anything] susceptible [to being rendered unclean]? Because it is said, 'You shall pour it out upon the earth, as water.' Blood which is poured out as water creates susceptibility to uncleanness. Blood which is not poured out as water does not create that susceptibility."

In the proper conditions, the earth's fertility may benefit from blood as it benefits from water. Midrash Lekakh Tov to Vayikra 17:13 asserts שכל רמו חייב לכסות, that the one who hunts down an animal or a bird that may be eaten is obligated to cover all blood which he sheds:

דם הניתן ושעל הסכין חייב לכסות

-- "He is (even) obligated to cover blood which might have sprayed or (blood) which is on the knife."

With what must one cover the blood? Vayikra 17:13 says:

ושפך את דמו וכסהו בעפר

-- "He shall pour out its blood and cover it with עפר." What qualifies as עפר? Mishna Hullin 6:6 says: "With anything that grows plants." Midrash Lekakh Tov to Vayikra 17:13 says:

כלל של דבר בכל דבר שסופו להיות עפר מכסה

ובל דק חול דק ובסיד ולבינה ובנסורת של חרשין דקה

אבל לא בקמח ובסיבין ובמורסן

-- "The general rule in this matter is that one covers (the blood) with anything which will end up being עפר -- dust [or, earth]: fine manure, fine sand, and with lime, and with craftsmen's fine sawdust; but not with flour, bran or crushed grain [or, coarse bran]."

Then Midrash Lekakh Tov echoes Mishna Hullin 6:6:

מה עפר שמגדל צמחין אף כל שמגדל צמחין מכסין בו

-- "What is עפר? Anything that grows plants. One covers (the blood) with anything that grows plants."

Bereshit Rabbah 46:2, discussing Abraham's belated circumcision (in Bereshit 17:26), attributes to Resh Lakish

a midrash which also links זבל and דם:

אמר ריש לקיש קנמון אני מעמיר בעולם מה כנמון הזה

כל זמן שאתה מזבלו ומעדרו הוא עושה פירות

כך משנצרך דמי משבטל יצרו משבטלה תאותו

-- "Resh Lakish said: (God said:) I will plant a cinnamon tree in the world. Just as with is the case with this cinnamon tree, as long as you fertilize it with manure and hoe it, (the cinnamon tree) will bear fruit. So (will it be in Abraham's case), when his blood will coagulate and his desire and passion will have waned --" Abraham will still be potent. Just as manure restores the cinnamon tree's creative strength, so the blood of Abraham's circumcision (and not the act itself of removing his foreskin) revived Abraham's fertility.

Yalkut Shimoni I:883 says:

היה מהלך במדבר ואין לו עפר לכסות שוחק דינר זהב ומכסה

מהלך בספינה ואין לו עפר לכסות שורף טליתו ומכסה

-- "If one is traveling in the wilderness and has no עפר [!] to cover (the blood), one should grind a gold dinar to dust and use that to cover. If one is traveling on a boat and has no עפר to cover the blood, one should burn his tallis and use (the ashes) [-- note the link between עפר and אפר] to cover (the blood)."

NOTES TO CHAPTER TWO

- 1 Pirkei de Rabbi Eliezer, Chapter 17.
- 2 Sifre Bamidbar Piska 161; Midrash Lekakh Tov to parashat Masei; Yalkut Shimoni 788 to Bamidbar 35.
- 3 Ramban to Bamidbar 35:34.
- 4 Pirkei de Rabbi Eliezer, Chapter 17, and Midrash Hagadol to Bamidbar 35:34.
- 5 Pirkei de Rabbi Eliezer, Chapter 21.
- 6 Pirkei de Rabbi Eliezer, Chapter 21.
- 7 Midrash Hahefetz to Bereshit 4:10.
- 8 Here the word זרע means "(legitimate) offspring," but one wonders why the phrase was not אשר יתן מדמו. Cain had offered זרע, and the offering had been rejected. Why would God be concerned over a category of offering already labeled as unacceptable?
- 9 Bereshit Rabbah 22:9.
- 10 Bereshit Rabbah 22:10.
- 11 Bereshit Rabbah 22:9.
- 12 Some pure speculation: In I Kings 21:19, God sends Elijah to confront Ahab in the matter of Nabot's vineyard. Elijah is instructed to ask Ahab: הרצחת וגם ירשת, "Have you killed and also taken possession?" This rhetorical question, dark and threatening in the context of the murdered Nabot, sounds as if it could also have served as a practical question asked of a blood avenger, seeking to determine if the blood avenger had as yet fulfilled his responsibility; or, this might have served as a formulaic question, once blood had been avenged, ritually confirming that the responsibility had been fulfilled.
- 13 Yalkut Shimoni I:38.
- 14 Yalkut Shimoni I:38.
- 15 Yalkut Shimoni drew this midrash from Bereshit Rabbah 22:9.
- 16 Bereshit Rabbah 22:9 and Yalkut Shimoni I:38.

17 Midrash Tanhuma, Bereshit 25.

18 Bereshit Rabbah 34:14.

19 Bereshit Rabbah 34:14. Similar language is found in Midrash Hagadol to Bereshit 9:6 and in Midrash Hahefetz to Bereshit 9:6.

20 Sifra, parashat Akharei Mot, 11:12.

21 Midrash Tannaim to Devarim 12:23.

A MIDRASHIC GUIDE TO BLOOD AVENGING

CHAPTER THREE:

נואל הרם: Blood Avenger

1. Haazinu and Blood Avenging

When Moses has finished reciting the poem of parashat Haazinu, he says to the people שימו לבבכם, "take to heart" all the words of this poem, all the terms of this Torah [Devarim 32:46]

כי הוא חייכם וברכר הזה תאריכו ימים על האדמה

-- "for this is your very life. Through this (teaching) you will be able to endure on the land" [Devarim 32:47].

That poem ends in Devarim 32:43, a verse whose first hemistich offers these words:

כי דם עבריו יקום

-- "For (God) will avenge the blood of His servants."

Sifre Devarim says that "there will be two acts of avenging:

נקם על הדם ונקם על החמס

-- Avenging for the blood and avenging for the violence."¹

Bamidbar 35:16-18 (begin to) define the intentional character of that violence through the inanimate materials which might be the tools of murder:

ואם בכלי ברזל הכהו וימת רצח הוא מות יומת הרצח:

ואם באבן יד אשר ימות בה הכהו וימת רצח הוא מות יומת הרצח:

או בכלי עץ יד אשר ימות בו הכהו וימת רצח הוא מות יומת הרצח:

-- "Anyone who strikes another with an iron object, so that death results, is a murderer [an intentional murderer as opposed to a manslayer without intent]. The murderer must be put to death. If he struck him with a stone tool which could

cause death, and death resulted, he is a murderer. The murderer must be put to death. Or (similarly) if he struck him with an wooden tool which could cause death, and death resulted, he is a murderer. The murderer must be put to death."

Midrash Hagadol recognizes that the text distinguishes stone and wooden tools which might cause death from those which might not be presumed a priori to cause fatal damage. But iron demands no such subtle qualification:

גלוי וידוע לפני מי שאמר והיה העולם שהברזל ממית בכל שהוא

לפי כך לא נחנה בו תורה שיעור

-- "The One who created the world surely knows that iron can kill in any circumstance. Therefore the Torah did not offer qualification (in the case of a blow struck with iron)."²

Sifre Bamidbar Piska 160 says:

אפילו מחט ואפילו בצנורא אין לי-אלא שהרע בכלי ברזל

-- "Whether with a needle or with a pipe, he clearly killed him with an iron object."

Midrash Hagadol says:

כלומר שיש לו חר כמו מחט ושפוד וסכין ורומח ורומה להן

אבל אם הכהו בעשת ברזל ורומה לה אומדין אותה כדרך שאומדין האבן או העץ

-- "Meaning that if (the implement) which he had was sharp, like a needle or a roasting spit [or, knitting needle] or a knife or a spear, or (some object) similar to these. But if he struck him with a bar of iron, or a similar object, you should assess (the situation) in the same way as you would assess (the object of) stone or wood."³

Sifre Bamidbar disagrees:

שִׁירָא חֵיב הַשְּׁלִיךְ עָלָיו עֲשָׂחוֹת וְנִלְמִים

מִנֵּין תּוֹרָה לֹמֵר רוֹצֵחַ הוּא מוֹת יוֹמָת הַרוֹצֵחַ מִכָּל מָקוֹם

-- "One who struck him with (iron) bars or chunks would also be sentenced (to death). How do we know this? The Torah says, 'He is a murderer. The murderer must be killed' in any case."⁴ Sifre prefers to read the Torah here most literally. Qualifications for implements of stone and wood are evident in Bamidbar 35:17-18. But no clause exists in Bamidbar 35:18 to distinguish among implements of iron. Iron kills. One who strikes and kills another with iron is a murderer who intended to kill when he grasped that iron and acted violently. And each murderer must be executed.

In the Haazinu poem, one of God's weapons of avenging is the arrow, which could be made of combinations of iron, wood and stone, although often in the Tanakh, God's arrows are attested in parallel with lightning. The poem's penultimate verse, Devarim 32:42, says:

אֲשַׁכֵּיז חֲצֵי מָרָם ... מָרָם חָלַל וְשָׁכַח מִרְאֵשׁ פִּרְעוֹת אֵיבִיב

-- "I will make my arrows drunk with blood.... -- blood of the slain and the captive from the long-haired enemy chiefs."

Midrash Tanna'im asks:

וְכִי אֲפָשֶׁר לַחֲצִים לְהִשְׁכָּר מָרָם

אֵלָא אֲמַר הַקְּדוֹשׁ בְּרוּךְ הוּא הִרִינִי מִשְׁכִּיר אֶת אַחֲרִים מִמֶּה שֶׁחֲצֵי עוֹשׂוֹת

-- "Is it (actually) possible for arrows to become drunk with blood? Rather the Holy One Blessed Be He said, 'Look, I make others drunk with what my arrows do.'" ⁵

Who are אחרים? If the midrash had used the definite article, האחרים, "the others" would have been seen as the vanquished, drinking intoxicants in order to numb the pain of mourning violent defeat. When arrows fly, "the others" are the enemy. But without the definite article, אחרים might mean "different people" who get drunk in the aftermath of God's avenging. Both losers and winners would have cause to imbibe, and others of more objective perspective might drink to dampen the tormenting realities of a world of violent humans and their violent God(s).

Midrash Lekakh Tov does not think that humans, no matter what their purposes might be, are the ones who would be drunk: וכי החצים משתכרים אלא הריני משכיר את החיות ואת העופות ממה שחצי עושה -- "Can arrows (actually) get drunk with blood? Rather: 'Look, I will make the animals and the birds drunk with what my arrows do.'"⁶ Those intoxicated will be the birds and beasts drinking the human blood shed by God's assault. Midrash Lekakh Tov fortifies this interpretation through the parallel imagery of the second half of the first hemistich of Devarim 32:42:

וחרבי תאכל בשר: וכי החרב תאכל בשר אלא אמר הקדוש ברוך הוא

הריני מאכיל את החיות ואת העופות ממה שחרבי עושה

-- "'As my sword devours flesh': Can the sword (actually) eat flesh? Rather, The Holy One Blessed Be He said: 'Look, I will feed the animals and the birds with what my sword does.' Wild animals and birds will be the ones nourished, scavenging on human corpses.

What will be the purpose of all this avenging bloodshed? The final hemistich of the Haazinu poem, the last half of Devarim 32:43, offers an answer (and an ending) unclear in syntax:

וְנָקַם יְיָ לְעַדּוֹ וּכְפַר אֲדֻמָּתוֹ עַמּוֹ

-- "(God) will wreak vengeance on His enemies, וכפר אדמתו עמו." JPS translates this last phrase as: "And [will] cleanse the land of His people," by which I think the committee of translators meant, foremost, to convey, "And (God) will cleanse His people's land" -- of evil evidenced through intentional bloodshed, whether the violence is committed by remnant population, outsiders, or by Israelites themselves in violation of Torah. The committee perhaps was not displeased by the possibility that their translation might also express a (subtextual) threat, not to the longhaired chiefs and their groups, but to עמו, to "His people" themselves, that God's vengeance would wipe out any residual settlement of His people, should they prove (as one might expect from past form) disobedient. To end the Haazinu poem in the tone of a threat, that God would evict the long-wandering group from the land they now verged on controlling, might cross some custom which prefers to end recitations on a positive note. But more substantively, such a threat would resonate in harmony with a consistent theme of the Torah's consequentialist legal philosophy, exemplified by the second paragraph of the Shma. The JPS English syntax would seem to leave the door open to that interpretation. To insure the land's fertility, all

those who shed blood intentionally must be cleansed from the land. The continuing settlement of Israelites in that territory would appear a lesser priority.

The JPS translation of וּכְפַר אֶרְמוֹתָיו עָמוֹ is footnoted: "Meaning of Hebrew uncertain. Ugaritic 'udm't 'tears' [instead of אֶרְמוֹתָיו, land] suggests the rendering 'And wipe away His people's tears.'" Isaiah 25:8 offers diction similar to that of Devarim 32:43:

בלע המות לנצח ומחה ארני יהוה רמעה מעל כל פנים

-- "He will swallow [or, destroy] death forever. My Lord Yahweh will wipe tear(s) from all faces." Other attestations of רמעה offer a sense of wiping away, or preventing, tears (such as Psalm 116:8: כי הצלחת... את עיני מן רמעה, "You delivered... my eyes from tears"), but Isaiah 25:8 is the only instance when a biblical writer has not found a preposition necessary (in Psalm 116, מן, "from," is used) in connection with the cleansing of רמעה. For this reading suggested by JPS, the Isaiah passage would be the only proper parallel to our problematic final hemistich in Devarim 32:43.

No midrash found in the course of this study makes the connection between אֶרְמוֹתָיו and רמעותיו in the context of Devarim 32:43 (or elsewhere). Interpretations remain fixed on the earth. Drawing from Ketubot 111a, Midrash Tannaim to Devarim 32:43 says:

מיכן אמרו כל נקבר בארץ ישראל כאלו קבור תחת המזבח

כתוב תתם מזבח אדמה תעשה לי וכתוב הכא וכפר אֶרְמוֹתָיו עָמוֹ

-- "Thus they said that anyone who is buried in the land of

Israel -- it is as if he were buried underneath the altar, as is written there [Shemot 20:21]: 'Make for me an altar of earth,' and as is written here: 'His earth atones for His people.'"

Responding to *וכפר ארמתו עמו*, Sifre Devarim connects another territory with death and expiation:

מנין אתה אומר שירידתם של רשעים בניהגם כפרה היא להם לישראל
בעולם הבא שנאמר ונתתי כפרך מצרים

-- "How do you support the statement that the descent of the wicked into Gehinom brings expiation for (the people of) Israel in the world to come? It is written [Isaiah 43:3]: 'I gave Egypt as expiation [or, ransom] for you.'"⁷

Sifre cites R. Meir to affirm that the land of Israel makes expiation for the living:

היה ר' מאיר אומר כל היושב בארץ ישראל ארץ ישראל מכפרת עלי
שנאמר כל העם היושב בה נשוא עון

-- "Rabbi Meir used to say: For anyone who lives in the land of Israel, the land of Israel provides expiation, as it is written [Isaiah 33:24]: '(The land) will be inhabited by people whose sin is forgiven.'"

But Sifre then professes to remain unconvinced as to the most accurate reading of *וכפר ארמתו עמו*:

ועדיין דבר תלי בדלא תלי ועדיין אין אנו יודעים
אם פורקים עונותיהם עליה ואם נושאים עונותיהם עליה

-- "And yet the matter is still in doubt, for we still do not know whether they are able to free themselves of their iniquities upon (the land), or whether they are liable to

punishment for their iniquities [or, perhaps more accurately than the grammar here allows, for the land's iniquities] (through their living) on (the land)."

In a midrashic tautology, the problematic phrase itself solves the problem of interpretation, to Sifre's apparent satisfaction:

כשהוא אומר וכפר ארמתו עמו הרי פורקים עונותיהם עליה

ואין נשאים אונותיהם עליה

-- "But when (Devarim 32:43) says וכפר ארמתו עמו, there (we learn) that they are able to free themselves of their iniquities upon the land [that is, the land itself seems to provide expiation, or ample opportunity for expiation] and they are not (especially) liable to punishment for their iniquities [or, for the land's iniquities] (through their living) on (the land)."

Rashi tries to solve the syntactical problem by declaring וכפר and עמו to be equivalent objects of the verb אֶרְמֶתוֹ:

ויפס ארמתו ועמו על הצרות שעברו עליהם ושעשה להם האויב

...ומה היא ארמתו עמו כשעמו מתנחמים ארצו מתנחמת

-- "וכפר ארמתו עמו" (means that God) will soothe His land and his people after the miseries which they experienced and which the enemy caused them...And what is אֶרְמֶתוֹ (His land)? עמו (His people). For when His people are comforted, His land is comforted."

Midrash Lekakh Tov⁸ deals more provocatively with the difficult syntax of the phrase וכפר ארמתו עמו in Devarim 32:43:

מלמד ששמיכות רמם היא כפרתם

-- "Teaches that the shedding of their blood is their expiation." Whose blood? Whose expiation? The supportive verses brought by Midrash Lekakh Tov answer these questions:

שפכו דמם כמים סביבות ירושלים

-- "Their blood was spilled like water around Jerusalem." This first supportive verse brought by Midrash Lekakh Tov is Psalm 79:3. Whose blood? Psalm 79:2, the previous verse, tells us without doubt:

נתנו את נבלת עבדיך מאכל לעוף השמים

בשר חסידריך לחיתו ארץ:

-- "(Heathens) have left Your servants' [worshippers'] corpses as food for heaven's fowl, and the flesh of your faithful for wild animals." This first supportive verse shows that when Midrash Lekakh Tov is responding to וכפר ארמתי עמו with the observation that מלמד ששפיכות דמם היא כפרתם, that "this teaches that the shedding of their blood is their expiation," the blood in question, "their blood," is the blood of עמו, of "God's people," the children of Israel.⁹

To answer the second question -- Whose expiation? -- instigated by the personal pronouns in Midrash Lekakh Tov's phrase מלמד ששפיכות דמם היא כפרתם, "teaches that the shedding of their blood is their expiation," Midrash Lekakh Tov brings a second supporting verse, Psalm 79:9. Through the language of Psalm 79, Midrash Lekakh Tov has already stated that "their blood" is the blood of the children of Israel. Now, through the language of Psalm 79, Midrash Lekakh Tov seeks to affirm that the shedding of the blood of the children of Israel, the

shedding of the blood of God's people, brings expiation for the sins of God's people:

עזרנו אלהי ישענו על דבר כבוד שמך

והצילנו וכפר על חטאתינו למען שמך:

-- "Help us, God, our deliverer, for the sake of the glory of Your name. Save us and cleanse our sins for the sake of your reputation."

Thus, Midrash Lekakh Tov understands עמו וכפר ארמחו to be "teaching that the shedding of the blood of the children of Israel serves as expiation for (the sins of) the children of Israel." Human blood atones for human sin.

Sifre Devarim Piska 333 shares this understanding, and offers the same source to affirm it. Commenting on the same phrase in Devarim 32:43, וכפר ארמחו עמו, Sifre Devarim also brings Psalm 79:1-3, in this case to serve as a substantive response to the following (declarative) question:

מנין אתה אומר שהריגתן של ישראל ביד אומות העולם

כפרה היא להם לעולם הבא

-- "How do you (support) saying that the killing of Israelites by the nations of the world surely serves as expiation for (the Israelites) in the world to come?" Sifre now brings Psalm 79:1 to provide the answer:

מזמור לאסף אלהים באו גוים בנחלתך... בשר חסידך לחיתו ארץ:

שפכו דמם כמים

-- "A Psalm of Asaph: God, heathens have entered Your domain...[they have left] the flesh of Your faithful for the wild beasts. Their blood was shed like water..."

The blood of חסידך, of God's faithful among Israel, is the blood which expiates the sins of Israel. Vayikra 17:11 says:

כי נפש הבשר בדם הוא ואני נתתי לכם על המזבח לכפר על נפשתיכם

כי דם הוא בנפש יכפר:

-- "For the life of the flesh is in the blood, and I have assigned (the blood) to you for making expiation for your lives upon the altar. It is the blood, as life, that effects expiation."

Midrash Lekakh Tov and Sifre Devarim both state that the shedding of human blood effects expiation for the sins of human life.

Yalkut Mekhiri to Psalms endorses the sense that God's death sentence for His own people, fulfilled by heathen executioners, qualitatively changes God's perception of the character of the slaughtered. Yalkut Mekhiri to Psalm 79:1 says:

רבנו של עולם בניך שנהרגו מה תהא עליהם

שנאמר נתנו את נבלת עבדיך מאכל לעוף השמים בשר חסידך לחיתו ארץ

וכי חסידים היו והרי הוא אומר סוסים מיוזנים משכים היו

אלא כיון שנעשה בהן דין חסידים היו

-- "Master of the Universe, what will become of your children who have been killed? -- as it is written [Psalm 79:1]: 'They have left your servants' [worshippers'] corpses as food for heaven's fowl and the flesh of Your faithful for the wild beasts.' And were they really חסידים?" And behold He said: [Jeremiah 5:8] "'They were well-fed lusting stallions,' but

when judgment was executed upon them they became saints."

We have now observed a chain of commentaries which express ideas about blood and violent death that might have been perceived as foreign to Jewish tradition: Martyrdom at the hands of heathen murderers cleanses sins and elevates status for the world to come. The shedding of human blood not only balances human sin, but, for the world-to-come, can fundamentally alter the perceived character of one whose blood was shed.

2. When Israelites Shed Israelite Blood

What happens when blood is shed not by outsiders but by one's own? What cleansing, what נאולה, is involved then? Midrash Hagadol to Bamidbar 35:19 brings one specific case, an absolute negation of a man's power to participate in creation:

האב שהרג את בנו

אם היה לנהרג בן הרי זה הורג אבי אביו מפני שהוא נואל

-- "The father who has killed his son: If the slain man had a son, then he is to kill his father's father, for he (the son) is (the father's) נואל."

What if the slain man had no son?

ואם אין לו בן אין אחד מן האחים נעשה נואל הרוג להמית את אביו

אלא בית דין ממיתין אותו

-- "And if (the slain man) had no son, one of his brothers is not made נואל, blood avenger, to execute his (own) father.

Instead, the bet din executes him." The father's blood will balance the shed blood of his son. But the scene of a son killing his own father to achieve that balance is more than the community wants to endure. Here the bet din interposes itself effectively as a neutral functionary, fulfilling the commandment linked to insuring the land's fertility, and obviating a moment when a son, to redeem his brother's blood and protect the earth's fertility, must kill the man whose fertility contributed to that son's own creation. The bet din thus limits metaphors of tragedy, which might be most threatening to mythic structures most crucial to communal stability, from being transformed into real experience, in ritual performance on the stage of communal life, as observance of God's Torah.

Mishnat Rabbi Eliezer (also known as Midrash of the 32 Middot) disagrees:

איזה הוא נוֹאֵל הָרֶם: אב שִׁהַרְגָה אֶת בְּנוֹ הַשֵּׁנִי נִמְשָׁה נוֹאֵל הָרֶם

-- "Who is to be הָרֶם, the blood avenger? (If) a father has killed his son, the second (son) becomes the blood avenger."¹⁰

Devarim 32:39, within the Haazinu poem, says:

...אֲנִי אֵמִית וְאֵחִיהָ מִחַצְתִּי וְאֲנִי אֶרְפָּא וְאֵין מִצִּיל:

-- "I deal death and I give life. I wounded and I will heal, and none can deliver from My power." Midrash Tannaim,¹¹ responding to this verse, says:

אֵין אֲבוֹת מְצִילִין אֶת הַבָּנִים

-- "Fathers [Patriarchs] don't save the sons."

לא אברהם מציל את ישמעאל ולא יצחק מציל את עשו

-- "Abraham didn't save Ishmael and Isaac didn't save Esau."

Midrash Tannaim seems to be reading מירי as "immediate relative." The midrash also chooses to read the word אח, (in Psalm 49:8), which could arguably be an interjection (Ah!), as "a brother." Midrash Tannaim says:

מירי אין לי אלא אבות את בנים אחים את אחיהם

מנין לא יצחק מציל את ישמעאל ולא יעקב מציל את עשו

שנאמר אח לא פדה יפדה איש מפני מה ויקר פריון נפשם

-- "מירי must refer to fathers (who might save) sons, brothers (saving) brothers. From where do we derive this? Isaac did not save Ishmael, and Jacob did not save Esau, as it is written [Psalm 49:8]: 'A brother surely cannot redeem a man.' Why? [Psalm 49:9]: 'The price of life's redemption is too high.'"

Yet the Torah commands נוֹאֵל הָדָם to redeem the life(blood) of a murdered kinsman. Sifre Bamidbar Piska 160 asks:

נוֹאֵל הָדָם הוּא יְמִית אֶת הַרוֹצֵחַ לָמָּה נֹאמַר

-- "Why does (Bamidbar 35:19) say, 'The blood avenger himself will execute the murderer?'" Sifre looks back in linear fashion to the definitions of lethal violence in Bamidbar 35:16-18, and comments:

לפי שהוא אומר ואם בכלי ברזל הכהו וימת ואם באבן יד אשר ימות בה הכהו וימת

או בכלי עץ יד אשר ימות בו הכהו וימת אין לי אלא שהרגו באלו שהוא חייב

-- "Since (the Torah text says, 'Anyone who strikes another with an iron object and death results,' 'if he struck him with a stone tool that could cause death and death resulted,' 'or

if he struck him with a wooden tool which could cause death and death resulted,' -- one can only conclude that he should be killed with the same (implements) for he is liable (to a death sentence)."

Sifre's strict literal approach to commanded blood avenging, reaching nowhere beyond the explicit material concerning נואל הרם which clusters in Bamidbar 35, offers clues beneath the level of tone, to a fundamental method rooted in a consequentialist empiricism:

בשאר כל דבר הרי אחת דין בנין אם מבין שלשתם

-- "In any other matter you would discern a principle fundamental to the three of them (-- to the implements of iron, stone and wood)."

לא ראי אבן כראי העץ ולא ראי העץ כראי אבן ולא ראי זה וזה כראי כלי ברזל

ולא ראי ברזל כראי שניהם הצד השווה שבשלשתן שהוא כרי להמית

-- "The appearance of stone is not similar to the appearance of the wood(en tool), and the appearance of the wood(en tool) is not similar to the appearance of the stone, and the appearance of neither one of these is similar to the appearance of an iron object. And the appearance of an iron object is not similar to the appearance of the other two. The common factor among the three of them is that each (can be used) in order to cause death."

If an object with the potential to cause death is used in an action which does result in death, then what does this fatal result cause next? (Is Sifre's exaggerated objectivity here chosen as a method which might be particularly effective

in counterbalancing the chaos of violent bloodshed, the hothearted passion of a blood avenger in pursuit, the court's anguish at participating in a death sentence?):

ואם המית מצוה ביד נוֹאֵל הָרֵם לְהַמִּיתוֹ

-- "And if he caused death, the commandment empowers the blood avenger to cause his death [-- to execute the killer]."

The summary force of this statement seems limited to death caused by iron, stone or wood implements. But in concluding its assessment of Bamidbar 35:19, Sifre Bamidbar now extends to state a general rule:

אִם כָּל שֶׁהוּא כָרִי לְהַמִּית וְהַמִּית מְצוּה בִּיד נוֹאֵל הָרֵם לְהַמִּית

לִכְךָ נֹאמַר נוֹאֵל הָרֵם הוּא יָמִית

-- "Thus, anything [or, anyone who uses anything] which has the potential to cause death, and does cause death, the commandment empowers the blood avenger [or, the commanded responsibility of the blood avenger is] to execute (the one who transformed that potential for causing death into an empirical reality). That is why it is written (that) "the blood avenger will execute."

3. Blood Avenging In Action

The hyperobjective legal empiricism of Sifre's method here, which seems to imply that the commanded responsibility to execute the murderer will be fulfilled by the blood avenger according to a method informed by an equivalent objectivity, and that such a method will lead, immutably, to the right

result, is not shared by Bereshit Rabbah. The language of R. Levi, brought to elucidate Bereshit 9:6, intimates that Bereshit Rabbah is not so sanguine about the success rates of blood avengers in this world:¹²

אמר ר' לוי הרי שהרג ולא נהרג אימתי הוא נהרג

לכשיבוא אדם

-- "R. Levi said: 'Say, if someone murdered (someone) but was not (himself) killed, when will he be put to death? When a man will come" -- that is, when the time of the final judgment will come, and the man of that era, acting as a blood avenger for murders unavenged in this world, will fulfill the commanded responsibility to execute the murderer, as it is written in Bereshit 9:6: שֶׁכֶּךָ דָּם הָאָדָם בָּאָדָם רֵמִי יִשְׁפֹּךְ, "One who sheds the blood of man, by the man [of the time of the last judgment] will his blood be shed."

Even in approaching this most serious confluence of subjects, murder and eventual judgment, R. Levi's rhythmic language, הרי שהרג ולא נהרג, is expressive of an imaginative playfulness. Midrash Tannaim to the Haazinu poem,¹³ perhaps sparked by the imaginative messianism of the tradition ascribed to R. Levi, (although no specific reference is made), says that שֶׁכֶּךָ דָּם הָאָדָם בָּאָדָם רֵמִי יִשְׁפֹּךְ is one of ten phrases in the Tanakh לַחַיִּית הַמֵּתִים, "that harbor within (their language) clues to the revival of the dead."

Bereshit Rabbah's implicit doubt that blood avengers frequently managed to fulfill their commanded responsibilities (another pragmatic assessment of a Jewish reality which then

moves the observer to focus on the world to come) finds its (common) sense in a network of conditions, some clearly established in the Torah text, which serve to impede the avenger from shedding the murderer's blood. Sifre Devarim Piska 187, commenting on Devarim 19:11, amid the second of the two loci in the Humash where נואל הרם appears, and where the blood avenger's singular task is framed, describes one of the barriers in the avenger's way: the boundaries of the cities of refuge:

היה רבי יוסי ברבי יהודה אומר ההורג את הנפש

בין בשוגג בין במזיד מקרימים לערי מקלט

-- "Rabbi Yose ben Rabbi Yehuda said: Those who kill a human being, whether unintentionally or with premeditation, proceed first to the cities of refuge."

This tells us that it was not the responsibility of the blood avenger to make distinctions במזיד בין בשוגג, between the unintentional manslayer and the premeditated murderer. When someone caused a death, that person would have sped to the nearest city of refuge, one of six that were to be established, three west of the Jordan, three east of the Jordan,¹⁴ or to one of the other (planned) forty-two Levitical cities which were to have been built, as designated in Bamidbar 35:6-15. The second hemistich of Bamidbar 35:8 says:

...איש כפי נחלתו אשר ינחלו יתן מעריו ללויים:

-- "... (E)ach (group of Israelites) will assign cities [or, towns] to the Levites in proportion to its share [or, inheritance]." Midrash Bamidbar Rabbah observes the phrase

נחלתו אשר ינחלו, literally "its [each group's] share of what [the whole Israelite population] will inherit," and comments on the sense that the Israelites would be inheriting the land from the resident population of נָחִים:

אמר הקדוש ברוך הוא לישראל יכול הייתי לבראות לכם ארץ חדשה
אלא בשביל להראות לכם את כחי אני הורג את שונאכם מפניכם ונותן לכם את ארצם
-- "The Holy One Blessed Be He said to Israel, 'I could have
created a new land for you, but in order to display my power
to you I (will) kill your enemies in front of you and am
giving you their land.'"¹⁵

God defines His own role here as One who will kill במזיד, with (avowed) premeditation. Bamidbar Rabbah then pictures David, who was involved in plenty of killing in his time, as questioning God as to why Adam was exiled from the Garden:

ולמה נחנש על שהביא מיתה על הרודות והיה חייב למות מיד
אלא שרחמת עליו ונרשחו כדרך הרוצח בשגגה שגולה ממקומו לערי מקלט
-- "Why did you expel the one who brought murder to the
generations, and who deserved to die immediately? Instead you
showed mercy on him and expelled him in the manner of an
unintentional manslayer who is sent into exile from his place
to the cities of refuge."¹⁶ For Adam (and, here, not Eve, who
frequently is assessed the blame for extinguishing man's
light) the entire world outside of the Garden of Eden would
serve as his place of refuge.

After portraying David, a killer seriously concerned about the scope of mercy for killers, as a man probing God about the eventual balancing of Adam's case, Bamidbar Rabbah

now shows us Moses (who spent forty years figuring out the road from here to there) as one concerned with the road to refuge:

כיון שעמר משה ואמר לו הקדוש ברוך הוא והקדושים לכם ערים אמר משה
רבונו של עולם זה שהרגנו נפש בשגגה כצפון או בדרום
מנין יודע היכן ערי מקלט שיהא בורח לשם

-- "When Moses stood (on Mt. Sinai) and The Holy One Blessed Be He said to him, 'Provide yourselves with cities (of refuge)' [Bamidbar 35:11], Moses said, 'Master of the Universe, how will one who killed, unintentionally, in the north or in the south, know where the cities of refuge are to which he is to flee?'"¹⁷

God's response in Bamidbar Rabbah 23:12 draws from the other locus of נוֹאֵל הָרֵם, in Devarim 19:

חֲכִין לְךָ הַדֶּרֶךְ חֲכִין לְךָ הַדֶּרֶךְ שֶׁלֹא יִהְיֶה טוֹעִים

וַיִּמְצֵא אוֹתוֹ נוֹאֵל הָרֵם וַיַּהַרְגֵהוּ וְלוֹ אֵין מִשְׁפַּט מוֹת

-- "'Survey the road [or, the distances]' [Devarim 19:3] (means to say): 'Give directions on the road' so that there will be no mistakes [or, no wrong turns] [or, 'make the road direct,' so that there will not be any curves] and so that the blood avenger will not find (the killer) and kill him, should (the killer) not be deserving of a death sentence."

Intrigued by the notion of road markers, which he rarely (if ever) enjoyed in the desert, Moses now asks God הֵיאֵךְ, "How (should we go about doing this)?" God replies:

הַעֲמֹד לָהֶם אִיסְטִלִיּוֹת מִכּוּוֹנוֹת לַעֲרֵי מִקְלָט שִׁיהָא יוֹדֵעַ לִילָךְ לָשֵׁם

וּבְכָל אִיסְטִלִיּוֹת רְשׁוּם עֲלֵיהֶם רֹצֵחַ לַעֲרֵי מִקְלָט

-- "Set up signposts [from the Greek *σηλ*] pointing the way to the cities of refuge so that (the killer) will know how to get there. And on all of the signposts write: 'Killer! (This way) to the cities of refuge!'"

Midrash Lekakh Tov does not invoke Moses as a man intrigued by highways. But, in the same syntactic position in which Bamidbar Rabbah 23:12 uses the word *איסטליות*, Midrash Lekakh Tov does find need for a Greek loanword to state what precisely it is that should be set up on the road to guide the fleeing killer:

חבין לך סטרטיוואח שיהיו מפולשות לחוכן

-- "Station a soldier [from the Greek *στρατιωτης*, soldier] so that the (roads) will stay open in both directions." Lekakh Tov's version endorses a more succinct message for the signposts:

רבי אליעזר בן יעקב אומר מקלט-מקלט כתוב על פרשת דרכים

כדי שיכיר הרוצח ויפנה לשם

-- "Rabbi Eliezer ben Yakov says, 'Refuge! Refuge!' should be written at the crossroads, so that the killer will recognize (the right way) and will turn in that direction." A killer, who has strayed significantly from the right paths (of halakha?), now receives intently clear directions as to the way to go.

Whether the killer had acted intentionally or unintentionally, the blood avenger ~~had the right~~, if he had the passion, to pursue the fleeing killer and, as Bamidbar 35:19 asserts, could kill him *בפגועו* *ב*, "on encounter."

Therefore, Devarim 19:6, concerned about the needed proximity of a city of refuge, says:

פן ירדוף גואל הרוצח אחריו הרוצח כי יחם לבבו והשיטו כי ירבה הדרך והכהו נפש
 -- "Otherwise, if the way is long, the blood avenger, pursuing in hot anger [literally: because, (or, when) his heart heats], will catch him and kill him." In commenting on the phrase כי יחם לבבו, Lekakh Tov and Sifre Devarim share the same initial language:

אין לי אלא מי שיש לו חמות לב

-- "This must refer to a person who has a hot temper." Lekakh Tov adds:

האב את הבן הבן את האב מנין תורה לומר רוצח הוא מכל מקום

-- "The father (who has killed, or, who pursues in order to kill) the son, the son (who has killed, or, who pursues in order to kill) the father [must, in both cases, be men with hot tempers]. How (do we make this connection)? Torah says: 'He is a killer' [meaning] in every case." Killing one's own father or son is (again) established as the most extreme case of homicide. Only the most hot-tempered man could kill a father or son. Premeditated murder by a father of a son, or vice versa, would seem, to the rabbinic mind, unthinkable.

Midrash Lekakh Tov to Bamidbar 35:11 cites the language of B.T. Makkot 8a, which explores this same unthinkable crime, and links it to another:

ונס שמה הרוצח יכול כל רוצח תורה לומר מכה נפש בשגגה

יצא האב המכה את בנו והרב המכה את תלמידו

ושליח בית דין המלקה את המחוייב מלקות שאם מת תחת ידו פטור

-- "'And the killer will flee there (to a city of refuge)': Can any killer (gain entry)? Torah says, 'an unintentional manslayer.' Exceptions (though, to this rule of the Torah, would be) a father who struck (and killed) his son and a rav who struck (and killed) his student. As for a representative of the rabbinic court who is flogging a person who has been sentenced to be flogged, and that person dies by his hand -- he is exempt (from punishment)."

The rabbinic preference is not to extend protection to a father who has even unintentionally killed his son, although no mention is made here of the case in which the son would have unintentionally killed the father. And we see that the relationship between rav and student is perceived as being of the same character as the relationship between father and son. The rabbinic literature also takes the opportunity here to establish protective language to shield its functionaries invested with violent responsibilities from the potential consequences of their work.

As we have previously observed (see page 104 above), in Midrash Hagadol Bamidbar, a surviving son is prohibited from acting as נאָל דרם for his slain brother, if his father was the killer. Midrash Hagadol Bamidbar comes once again to insist on this point:

כדחניא רבי ד'שמעאל לכל אין הבן נעשה שליח לאביו להכותו ולקללו

חזין מן המסית

-- "As Rabbi Ishmael taught: The son is never made an emissary to his father (in order) to strike him or to curse

him, except for the (habitual) troublemaker."¹⁸ Does this mean if the father is the troublemaker? Apparently, if the father keeps asking for it, the son can respond to the chronic provocation. But, otherwise, a society rooted in a Torah whose first commandment is to be fruitful and multiply is elementally horrified by violence between parent and child.

4. Monarchs, Rabbis and Blood Avengers

Understood subtextually from this comment, that a hot tempered individual would chase down the road after the fleeing killer, is the strong belief (or the calculated intent to instill a strong belief) that the legal system would, with virtual inevitability, bring the killer to trial, and that the right sentence would be carried out, be it death or exile. But the responsibility of the blood avenger to balance the shed blood of his kinsman is rooted in a time when the kinship group was the primary (if not only) organized force which could pursue and execute a killer. The midrashic material we have been observing had been organized in contexts of rabbinic Judaism. Rabbinic authorities were attempting, for themselves and for their communities, to redefine an understanding of blood outside of the no-longer extant ritual demands of the sacrificial cult, and were interposing the bet din within the processes of the commandment to the blood avenger, between the pursuer and the pursued.

The Interpreter's Dictionary of the Bible says that "(i)n

biblical Israel the sovereignty of the kinship group over matters affecting its private interest was just beginning to be superseded by communal authority. Biblical law never replaced the private prosecutor with a public one."¹⁹

Monarchs and then rabbinic authorities had to develop ways to control the potentially disruptive forces of private prosecution while respecting the integrity of the Torah's commandment to the blood avenger.

The case of the woman from Tekoa, in II Samuel 14, whose fictional parameters and legally sophisticated language were designed by Joab, a man who himself (as we will soon see) dies by avengers' violence, offers clues to the king's interposed role. First, in II Samuel 14:6-7, we find textual evidence that the responsibility of נוֹאֵל הָרֵם was fulfilled within the family group itself. In the case where one brother has murdered another, the mother is confronted, in verse seven, by כל המשפחה -- by the whole clan -- who say to her:

תני את מכה אחיו ונמתנו בנפש אחיו אשר הרג

-- "Hand over the one who killed his brother, so we can put him to death for the killing of his brother."

Yet there we also see, in verse eight, that the king apparently had developed the power to intercede, for David says that he will issue a restraining order on the behalf of the mother:

וַיֹּאמֶר הַמֶּלֶךְ אֶל הָאִשָּׁה לֵךְ בֵּיתְךָ וְאֵנִי אֶצְוֶה עֲלֶיךָ

-- "The king said to the woman, 'Go home, I will issue an order in your behalf.'"

But then, in verse nine, the woman of Tekoa, as scripted by Joab (in combination with her reputed cleverness), seems compelled to say:

עלי אדוני המלך העון ועל בתי אבי והמלך כסאו נקי

-- "May the guilt be on me and on my ancestral house. Your Majesty and his throne are guiltless."

As the IDB indicates, the sense that David's intervention in this case might incur guilt "shows that the right of blood redemption was yet regarded as so sacred that no abridgement of it could be held guiltless."²⁰

In II Samuel 14:10, David then reiterates his firm intention to intercede:

המרבר אליך והבאתו אלי ולא יסיף עוד לנעת בך

-- "If anyone says anything more to you, have him brought to me, and he will never trouble you again."

To seal the deal, in verse eleven, the woman of Tekoa now frames David's intervention in a language which links that intervention to God's will:

יזכר נא המלך את יהוה אלהיך מהרבת נאל הרם לשחת ולא ישמידו את בני

-- "Let Your Majesty be mindful of Yahweh your God and restrain the blood avenger bent on destruction, so that my son may not be killed."

The monarch, who must be searching for ways, across the broadest spectrum of legal issues, to interpose his authority in the context of Torah legislation, is bolstered in his intention, in this case, by a sense from the woman of Tekoa that his intervention could be perceived among the people at

large as consistent with God's commandment.

The monarch had solid reason to be concerned that his interceding in blood avenging could be perceived as a deep attack on the systemic structure of tribal authority, and could invite rebellion. W. Robertson Smith, in his book The Religion of the Semites,²¹ which is a major source for the IDB article, writes that "there is no principle so levelling as the law of blood-revenge, which is the basis of the tribal system, for here the law is a man for a man, whether in defense or offense, without respect of persons." Smith comes to clarify this point: Although, in the case of a killing of a kinsman by someone outside of the kinship group, no effort is made to discover the specific identity of the individual slayer -- the kin of the dead man hold the slayer's "whole kin responsible for his act, and take vengeance on the first of them on whom they can lay hands" -- in the case of the killing within the kinship group, "the point is to rid the kin of an impious person, who has violated the sanctity of the tribal blood, and here therefore it is important to discover and punish the criminal himself."

Smith says that in such a tribal society, a king is not an imperial power, but rather "a guiding and moderating force." Smith writes: "The kingship, and therefore the godhead, is not a principle of absolute order and justice, but it is a principle of higher order and more impartial justice than can be realized where there is no other law than the obligation of the blood." As the king becomes a stronger and

more secure force as moderator of a tribal society -- meaning, as the king's powers of active intervention become more substantial -- then "the standard of right is gradually raised above the consideration of which disputant has the strongest kin to back him."²² So in the case of David's intervention on behalf of the woman of Tekoa, the sense which she voices (probably as devised by Joab) that some guilt is being incurred by short-circuiting the principle of blood avenging, proves less of a consideration to the king than the idea that "it is the glory of the sovereign to vindicate the cause of the weak, if only because by so doing he shows himself to be stronger than the strong."

In his Studies in Biblical Law, David Daube reports "ancient Oriental laws [including the first paragraphs of the Hittite code] according to which all that a man who had killed another man had to do was to supply the latter's family with one or more persons." For the modern consciousness which feels uncomfortable with this principle of substitution, Daube offers this observation: "The fact that we speak of it as an extraordinary thing if a person is irreplaceable only proves that most people are not so considered."²³ In Bereshit 4:25, Seth comes תחת הבל כי הרגו קין, "in place of Abel, because Cain has killed him." A Hittite murderer had to replace his victim. In Bereshit, God does the replacing.

In two places in the books of Kings, נפש תחת נפש involves not a living replacement, who will continue to live, but a live body which will be executed in place of the man who got

away. In I Kings 20:35 and following, the scene involves a prophet's parable, which becomes a prophetic condemnation of Ahab. In verse forty-two, we read:

כֹּה אָמַר יְהוָה יֵעָן שָׁלַחְתָּ אֶת אִישׁ חֲרָמִי מִיָּד

וְהָיָה נַפְשְׁךָ תַּחַת נַפְשׁוֹ וְעַמְּךָ תַּחַת עַמּוֹ:

-- "Thus said the Lord: 'Because you have set free the man whom I doomed, your life shall be forfeit for his life and your people for his people.'" In verse thirty-nine, the prophet had offered a financial out for the incompetent guard: "If he is missing, it will be your life for his, or you will have to pay a talent of silver." Daube reads this option of a financial release from obligation in this case as "most probably an interpolation...added in a time when arrangements of the kind described by the prophet were deemed ruthless and immoral."²⁴

The second instance of a living replacement who will not continue to live but who will be executed in place of the man who got away occurs in II Kings 10:24:

...הָאִישׁ אֲשֶׁר יִמְלֹךְ מִן הָאֲנָשִׁים אֲשֶׁר אֲנִי מֵבִיא עַל יְדֵיכֶם נַפְשׁוֹ תַּחַת נַפְשׁוֹ:

-- "Whoever permits the escape of a single one of the men I commit to your charge -- he will forfeit life for life." These two cases in Kings are not cases of a blood avenger responding to a kinsman's death. But Daube speculates that substitution as seen in Kings "gives us a clue as to how that early rule concerning homicide developed into the law of the Pentateuch."²⁵

Daube theorizes that "the original stage, when the

killer had to replace the victim by one or more persons, was followed by a second stage, when the penal element began to overshadow mere compensation, and the killer himself had to enter his victim's family." In the third stage, expressed in the Torah's legislation, a killer would be pursued by נואל הרם, by a representative of the dead person's family, with no intention to receive the killer as a substitute for the killed.

In a rabbinic approach defined by Sifre Devarim Piska 187, to Devarim 19:11-13, the בית דין, the rabbinic court plays the decisive intermediary's role in the question of whether the killer is executed or exiled. Once the killer has managed to outrun the נואל and has reached a city of refuge:

בית דין שולחים ומביאים אותם משם משנחייב מיתה הרגוהו
 שנאמר ושלחו זקני עירו ולקחו אותו משם מי שלא נתחייב מיתה פטרוהו
 שנאמר ותצילו הערה את הרוצח

-- "The court sends (messengers) and brings them [killers] from (the city of refuge). He who is liable to a death sentence [or, He who is found guilty of murder], execute him [or, he is condemned to death], as it is written [in Devarim 19:12]: 'The elders of his town shall have him brought back from there (and shall hand him over to the blood avenger, to be put to death).' One who is not found liable to a death sentence -- acquit him, as it is written [in Bamidbar 35:25]: 'The assembly shall protect the killer (from the blood avenger).'"

Note that Sifre Devarim prefers not to cite explicitly

the language of Devarim 19:12 which clearly ascribes to the blood avenger the right to execute the (convicted) murderer. The rabbinic court might prefer to control the fulfillment of the death sentence, intending to preclude not only private prosecution but also private execution. Midrash Hagadol to Bamidbar 35:12 expresses its strict intention that the killer not be executed until standing trial before the rabbinic court. Bamidbar 35:12 says that "the cities shall serve you as a refuge from the נוֹאֵל

ולא ימות ימות הרצח עד עמרו לפני העדה למשפט

-- "so that the killer will not die until [or, unless] he has stood trial before the assembly." One could read ולא ימות as intending to mean that the cities of refuge provide a place to which the killer might escape "so that he might not die" before his day in court. The intent of the Bamidbar passage seems to be to create the possibility that the killer could escape the (hot-tempered) pursuer in his initial flight, but does not seem to limit (or erase) the blood avenger's right to kill the killer if he catches him on the road to refuge. Here is the passage from Midrash Hagadol which seems intent on establishing a different rule for procedure:

יכול שיהרגו אותו משהרג או משנאף תורה לומר ולא ימות הרוצח עד עמרו

ר עקיבה אומר מניין לסנהדרין שראו אחד שהרג את הנפש

שאין ממיתין אותו עד שיעמוד בבית דין אחד

-- "How do you go about executing one who has murdered or committed adultery? [or, It is possible to execute one who has murdered or committed adultery. Torah says: 'He should

not die until he stands (trial).' Rabbi Akiva says, 'How do we know this? From (the actions of the members of) a Sanhedrin, who (themselves) saw a person committing murder and did not execute him until he had stood (trial) before a different court." Even if the members of the most exalted court had witnessed the murder, the killer must have his moment before a(nother) rabbinic court. The rabbis insist on interposing a rabbinic court between a Sanhedrin and a killer; all the more intent, therefore, are the rabbis on interposing a rabbinic court between the killer and a potentially hot-tempered blood avenger.

Sifre Bamidbar Piska 160 to Bamidbar 35:12 chooses a more understated approach to convey this same intent:

והי לכם הערים למקלט מנאל הדם למה נאמר לפי שהוא אומר ורצח נאל הדם

את הרצח אין לו דם שומע אני יחרגנו כינו לבין עצמו

חורה לומר ולא ימות הרצח עד עמרו לפני העדה למשפט

-- "The cities shall serve you as refuge from the blood avenger.' Why is this written? Because the Torah also says [Bamidbar 35:27] that 'if the blood avenger kills the murderer, there is no bloodguilt on his account.' I might have thought that (the blood-avenger) could kill (the murderer) on his own. (But) the Torah says: 'The killer will not die until he has stood trial before the assembly.'"

Rav Huna, as cited in Midrash Hagadol to Devarim 19:6, is not one of those rabbis who is ready to increase the protections for the fugitive killer as a pretext for strengthening the interposed authority of rabbinic courts.

Rav Huna even seems to force a reading against the pshat of Devarim 19:6 in order to voice his opposition to an overly invasive rabbinic presence in the relationship between the murderer and נוֹאֵל הָרֵם. Devarim 19:6 says that "when the distance is great, the blood avenger, pursuing the killer in hot anger, may overtake him and kill him

ולו אין משפט מות כי לא שנה הוא לו מתמול שלשום:

-- "yet he did not incur the death penalty since he had never been the other's enemy." The pshat seems clearly to refer to the unintentional manslayer, who had not been the enemy of the victim, who would be entitled to refuge, yet who (tragically) would be killed by a blood avenger who managed to catch up to the fleeing manslayer on the overly long road to a city of refuge. But Rav Huna reads מות משפט מות, "he does not incur the death penalty," as referring to the blood avenger who would kill the fleeing killer:

אמר רב הונא רוצח שנלה לעיר מקלט ומצאו נוֹאֵל הָרֵם והרנו פטור

-- "Rav Huna said: 'A murderer who has fled to a city of refuge and the blood avenger finds him and kills him -- (the blood avenger) is exempt (from any punishment).'" Standing alone, this statement might make us wonder if Rav Huna was endorsing blood avenger activity even within the city of refuge. Midrash Hagadol now appends the language of the Rambam from Hilkhot Rozeakh 5:10, to clarify the scope of Rav Huna's affirmation of the blood avenger's right to kill without the involvement of a rabbinic court:

בין שהרנו בדרך קדם שיכנס לעיר מקלטו

בין שהרגו בחזירתו עם השנים ששומרים אותו

-- (Rav Huna said: 'A murderer who has fled to a city of refuge and the blood avenger finds him and kills him -- the blood avenger is exempt from any punishment,') whether he killed him before he entered his city of refuge, or whether he killed him on (the killer's) return (to stand trial) with the two who are guarding him."

Midrash Lekakh Tov to Bamidbar 35:12, however, cites the clear and direct language of B.T. Makkot 12a to explain the phrase לפני העדה למשפט, "(unless he has stood) trial before the assembly":

שלא יהרגנו ביתו לבין עצמו

-- "So (the blood avenger) won't execute (the killer) independently," meaning, without the involvement of a rabbinic court.

The rabbinic expectation is that not every potential blood avenger will be of the hot-tempered variety, charging after the fleeing killer. Some victims may not have any kinsman to act as נוֹאֵל. Midrash Hagadol to Devarim 19:12, citing the language of Rambam in Hilkhoh Rozeakh 1:2, again affirms the commanded responsibility of a blood avenger, but recognizes a range of possible cases in which a slain person could go unrepresented:

ונתנו אותו ביד נוֹאֵל הָרֵם מצוה ביד נוֹאֵל הָרֵם וכל הראוי לירושה הוא נוֹאֵל הָרֵם

אין לוֹ נוֹאֵל הָרֵם אוֹ שלא רצה אוֹ שלא היה יכול בית דין ממיתין אותו

-- "'And (the elders of the town) shall hand (the killer) over to the blood avenger': The commanded responsibility is in the

power of the blood avenger (to fulfill), and anyone who is a proper heir (to the slain one) can be the blood avenger. If (the slain one) has no blood avenger, or if (the qualified blood avenger) does not want to (act as blood avenger) or if he cannot, the rabbinic court will execute (the murderer)." Here we learn that once the town's elders, זקני העיר in Devarim 19:12, a synonym in the rabbinic mind for בית דין -- once the town's elders, or the members of the rabbinic court, have determined that the killer in question killed with premeditated intent, then the convicted murderer will be turned over to the blood avenger for execution. If no appropriate blood avenger exists, or will not or cannot execute the murderer, then the rabbinic court will see to it that the death sentence is carried out.

Sifre Devarim Piska 187, interpreting Devarim 19:12 asks:

מנין לא מת ביד נוֹאֵל הָרֵם יְמוּת בֵּיד כָּל אָדָם

תּוֹרָה לֹאֵמֵר וְנָתַנוּ אוֹתוֹ בֵּיד נוֹאֵל הָרֵם וְנָתַן

-- "How do we learn that if (the murderer) does not die at the hand of the blood avenger that he may die at the hand of any person? Torah says: 'They will turn him over to the blood avenger and he will die.'"

Sifre reads the word וְנָתַן, "he will die," as disconnected from the blood avenger, as 'not extending the potential field of executioners without limit (within the community). For Sifre, וְנָתַן here means that the murderer will be executed, no matter what the extenuating circumstances within the victim's kinship group.

Why would just any member of the community want to become involved in such bloody business? Sifre Devarim Piska 187 foresees that reticence:

שמה תאמר הואיל ונהרג זה למה אנו באים לחוב ברמזו של זה

תורה לומר לא תחוס עינך עליו

-- "You might say, 'Since this person has already been killed, why should we come to be responsible for the blood of this one [meaning, the murderer]?' Torah says: [Devarim 19:13] 'You must show him no pity.'"

What is the fundamental purpose of this pitiless blood avenging? Sifre Devarim Piska 187 ends with this clear statement of purpose:

בער עושי הרעות מישראל

-- "(You must) uproot evildoers from Israel." Midrash Hagadol to Devarim 19:13 elaborates more emphatically:

כשאתה מבער שופכי דמים מן הארץ אתה גורם לשוכה לבוא לעולם

-- "When you uproot those who shed blood from the land you cause goodness to come into the world."

5. Determining the Intentional and the Unintentional

Midrash Hagadol to Bamidbar 35:21-23 recognizes that the sure definition of these evildoers is not always the simplest task. Not all killings are accomplished with implements of iron, stone and wood. Borderlines between intentional and unintentional killing can be other than sharply drawn, and midrashic clues to establishing proper criteria or categories

which will lead to accurate definitions of intentional and unintentional killing might seem, on occasion, to have been extirpated torturously from the text.

Bamidbar 35:21 restates, in nearly identical language, the initial declaration of Bamidbar 35:19:

...נֹאֵל הָרֵם יָמִית אֶת הַרוֹצֵחַ כַּפְּגֵעוֹ בּוֹ:

-- "The blood avenger will execute the killer on encounter."

Midrash Hagadol to Bamidbar 35:21, apparently attempting to understand the need for repeating the phrase twice within three verses, comments:

זֶה הַהוֹרֵג בְּשִׁנְיָה וְהַיֹּחֵת שְׁנֵנָתוֹ קְרוּבָה לְזֶרֶן שְׁאִין עֲרִי מְקַלֵּט קִלְטוֹת אִתּוֹ

אִם מִצָּא נֹאֵל הָרֵם וְהִרְגוֹ פְּטוֹר עָלָיו

-- "This (refers to) the unintentional manslayer whose (degree of) unintentionality seemed close enough to intentionality that the cities of refuge do not absorb [or, accept] him. If the blood avenger finds him and kills him, (the blood avenger) is exempt from bloodguilt (for having slain the killer whose true intention was not clearly defined)."

Midrash Hagadol here offers a sense that Bamidbar 35:19, the first statement that "the blood avenger (himself) will execute the killer on encounter," pertained to a killer who was clearly an intentional murderer. The restatement in Bamidbar 35:21, in the (apparent) perception of the midrash, is intended to express a substantive recognition of the real difficulty in defining true intent, especially when the stakes of that definition are life and death. But the restatement, the midrash seems to say, comes with the sure purpose of

affirming that, in the (probably not uncommon) case of unclear intent, if the blood avenger does execute the killer of undefined intent, the blood avenger will incur no bloodguilt. To Midrash Hagadol Bamidbar, then, the repetition of the command to execute is not just a reinforcement of the command to a kinsman to avenge the blood of another kinsman murdered intentionally, but a purposeful broadening of that commandment beyond the border of clearly-defined intent.

What option is open to the killer of unclear intent who has been refused entrance to cities of refuge? Midrash Hagadol Bamidbar, to Bamidbar 35:21 offers this terse view of the possibilities:

ומה יעשה זה ישב וישמור עצמו מנאל הרם

-- "And what can this (vulnerable killer) do? Sit (tight) and protect himself from the blood avenger."

Midrash Hagadol Bamidbar now approaches the verses which follow the restatement in Bamidbar 35:21 with the purpose of deducing clearer lines between intentional and unintentional killing. In response to the phrases which create the first hemistich of Bamidbar 35:22:

ואם בפתע בלא איבה הרפו

-- "But if suddenly without malice he pushed him [JPS: But if he pushed him without malice aforethought]" -- Midrash Hagadol comments:

בפתע פרט לקרן זויה בלא איבה פרט לשונא הרפו שרחפו בנופו

כל אלו קרובין למזיד ואינן נקלשין

-- "'Suddenly' -- except for on a dark streetcorner. 'Without

malice' -- except for an (established) enemy. 'He pushed him' -- meaning that he shoved him with his (whole) body. All of these (killers) come close to being clearly intentional murderers and would not be absorbed (by the cities of refuge)." Midrash Hagadol to the second hemistich of Bamidbar 35:23 defines שוֹנֵא, "an (established) enemy," as:

זֶה שֶׁלֹּא דִּבֶּר עִמּוֹ שְׁלֹשָׁה יָמִים בְּאִיבָה

-- "One who did not speak with him [meaning, with the slain person] for three days, out of malice."

From language intended to offer challenges to the assembly's ability to define the unintentional manslayer, the midrash has differentiated those killers who, because of the circumstances of what might otherwise be generically perceived as unintentional killing, could be classified as intentional murderers.

The first hemistich of Bamidbar 35:23 says:

אִי בְּכָל אֶבֶן אֲשֶׁר יִמּוֹחַ בּוֹ בְּלֹא רְאוּת וַיִּפֹּל עָלָיו וַיָּמוּת

-- "Or without seeing [JPS: inadvertently] dropped upon him any deadly object of stone and death resulted" [then the assembly must decide between the killer and the blood avenger]. Midrash Hagadol reads בְּלֹא רְאוּת with a method which refuses to ignore the most literal interpretation:

בְּלֹא רְאוּת פֶּרֶט לְסוּמָה כָּל אֵלּוּ פְּטוּרִין מִן הַנִּלְוֹת מִפְּנֵי שֶׁהֵן קְרֹבִין לְאוֹנֵס

-- "'Without seeing' -- except for a blind person, all of those (who fall under this description) are exempt [or, ineligible] for exile (in the cities of refuge) because they are (too) close to intentional violence."

Concerning the phrase יָפַל עָלָיו, "dropped upon him," Midrash Hagadol Bamidbar comments:

יָפַל עָלָיו עַר שִׁפּוֹל דֶּרֶךְ נִפְּלָה אֲבָל שְׁלֹא דֶּרֶךְ נִפְּלָה אֵינוֹ נוֹלָה מִפְּנֵי הוּא אָנוּס
-- "Dropped upon him" -- if it should fall according to (legal definitions of) falling. But if not according to (legal definitions of) falling, he does not go into exile (in a city of refuge) because this (act) is intentional violence."

The sense of B.T. Makkot 7a/b is that falling objects frequently cause damage but objects that are being raised up infrequently cause damage. Thus, death caused by a falling object -- that is, by an object that has already been established in a stationary, though elevated, position -- can be ruled to be an accidental killing: The frequency with which objects fall and hurt people would tend to substantiate a claim of unintentional action in those cases. But because the rabbis perceive that objects in the act of being raised only infrequently fall and do damage, those rabbinic legalists presuppose premeditated intent in the case of a death caused by an object which plummets while in the process of being elevated. Citing (the Mishna as cited in) B.T. Makkot 7a, Midrash Hagadol says:

תָּנן הֵחָם אֱלֹו הַנּוֹלִין הַהוּרֵג נֶפֶשׁ בְּשִׁגְגָה הִיא מַעֲנֵל בְּמַעֲנָלָה וְנִפְּלָה עָלָיו וְהָרְגוּ
הִיא מִשְׁלָשׁל בַּחֲבִית וְנִפְּלָה עָלָיו וְהָרְגוּ הִיא יוֹרֵד בְּסוּלָם וְנִפְּלָה עָלָיו וְהָרְגוּ
הָרִי זֶה נוֹלָה

-- "There it teaches that these go into exile (in the cities of refuge): One who kills unintentionally, (for example) one who was pushing a roller²⁶ and it fell on someone and killed

him, (or) one who was lowering a barrel and it fell on someone and killed him, (or) one who was coming down a ladder and fell on someone and killed him -- this man goes into exile."

Having differentiated the unintentional, Midrash Hagadol now seeks to define the level of intent which would render the killer liable to execution by a blood avenger:

אבל אם היה מושך במעולה ונפלה עליו והרגתו היה רולה בחבית ונפסק החבל
ונפלה עליו והרגתו היה עולה בסולם ונפל עליו והרגתו הרי זה אינו גולה

-- "But if he was pulling the roller (up a hill? on the roof?) and it fell on someone [meaning, it careened downhill? fell off the roof in the act of pulling as opposed to pushing?] and killed him, (or) if he was hauling up the barrel and the rope broke and it fell on him and killed him, or if he was ascending the ladder and fell on someone and killed him -- this person does not go into exile" -- and therefore is vulnerable to execution by a blood avenger. Now, from these specific cases, Midrash Hagadol to Bamidbar 35:23, basing itself on B.T. Makkot 7a/b, offers the general rule:

זה הכלל כל שדרך הורדתו גולה שלא דרך הורדתו אינו גולה

מנא הני מילי אמר שמואל דאמר קרא ויפל עליו וימת עד שיפיל דרך נפילה

-- "This is the general rule: Any (death which is caused) in the process of lowering (or falling when not being hoisted): exile. If not in the process of lowering: no exile. How do we derive this? Shmuel said: Because the Torah says, 'Dropped on him and death resulted,' means if something would fall in the (empirical/legal) way of (defining) falling (as opposed to falling in the process of being raised or hauled up)."

6. Fate of the Unintentional Killer

Citing Bamidbar 35:25, Sifre Devarim Piska 187 says:

מי שלא נתחייב מיתה פשרתו שנאמר והצילו הערה את הרוצח

מי שנתחייב גלות מחזירים אותו למקומו שנאמר והשיבו אותו הערה

-- "One is found not guilty [or, not liable to a death sentence, and , implicitly here, to exile] -- you shall acquit him, as it is written [Bamidbar 35:25]: 'The assembly shall protect the killer (from the blood avenger). If he is found to be liable to exile, you should return him to his place (of refuge, where he was found by the assembly's representatives) as it is written [Bamidbar 35:25]: 'The assembly shall restore him (to the city of refuge to which he had fled).'"

Joshua 20 also discusses the fate of the unintentional killer who is sent into exile in a city of refuge. References to נואל הרם cluster in Joshua 20:2-9. In the absence of any major collection of midrashic material connected to the book of Joshua, observations from modern commentators might serve to offer insights. N.M. Nicolsky [ZAW 48 (1930) 146-75] considers Joshua 20 to be a literary composition thoroughly dependent on Bamidbar 35 and on Devarim 19. M. David [OTS 9 (1951) 30-48] sees Joshua 20 as post-exilic, based on Bamidbar 35, later changed under the influence of Devarim 19.

One element shared by Bamidbar 35 and by Joshua, though absent from Devarim 19, is the law of release, the idea that after the death of the high priest, the unintentional killer's

sentence is complete, and he may safely leave the city of refuge. But the language is different in each book.

Bamidbar 35:32, the verse which precedes the phrase וְלֹא תַחֲנִיפוּ אֶת הָאָרֶץ, "You shall not pollute the land," would hold the unintentional manslayer עַד מוֹת הַכֹּהֵן, "until the death of the high priest," and then would release that unintentional manslayer to return to his own land:

...לָשׁוּב לִשְׁבַח בְּאֶרֶץ...

-- "...to return to live on his land..."

Joshua 20:6 does not mention the land:

אִז יָשׁוּב הָרוֹצֵחַ וְכֹא אֶל עִירוֹ וְאֶל בֵּיתוֹ אֶל הָעִיר אֲשֶׁר נָס מִשָּׁם

-- "Then [after the death of the high priest] the killer may come back to his town and to his home in the town from which he had fled." Trent Butler says that the Bamidbar passage, focused on הָאָרֶץ, on the land, "apparently stems from a society in which farming and agriculture were still predominant. Joshua 20 has changed this to 'his town,' where now an urban society is presupposed."²⁷ In the earlier discussion of the word לִצְמַתָּהּ (see pages 5-6), we observed that Vayikra 25:29-30 permit a house within a walled city to be sold beyond the power of the seller to reclaim, beyond the scope of a jubilee year's commanded returns, if a גֹּאֵל does not redeem the house within a year after his kinsman had sold that house to someone outside the family or tribe. A shift to an urban environment diminishes the power of a גֹּאֵל in cases of property transactions. The Bamidbar 35 passage is evidence of the continuing vitality of the kinship group's pursuit of justice

for the family, in the context of an agricultural world.

John Gray sees the textual agreement between Bamidbar 35:32 and Joshua 20:6 (both passages linking the release of the exiled killer to the high priest's death) as a redaction of the P source material of Bamidbar, blending the sensibility of the earlier priest-centered text with the realities of a post-exilic environment. The choice of the Joshua redactor "reflects the unique status of the high priest on whom many of the functions of the king devolved after the Exile."²⁸

L. Delekat, who thinks that Joshua 20:6 was edited into the text in the time of John Hyrkanos, theorizes that the linking of the release of the exiled killer to the death of the high priest has substantive connection to adoption and slave regulations. The exiled killer, living in a Levitical city, earned a living as a low-level functionary of the sacrificial cult. When the high priest died, an exiled killer would be released because the new high priest would want to develop his own support staff, and an unemployed exile would prove an unnecessary drain on the city's resources.²⁹

The perceptions expressed in Midrash Lekakh Tov to Bamidbar 35:25 concerning the death of the high priest and the killer's release from refuge are connected to the language of B.T. Makkot 11a. The midrash begins with the power of anointing oil:

אשר משח אותו בשמן הקדש זה כהן גדול שנמשח בימיו שהרוצח חוזר במיתתו
מאי תעמא היה לו לכהן גדול לבקש רחמים על רורו ולא בקש
לפיכך היה הרוצח חוזר במיתתו ולפיכך אמותיהן של כהנים היו מספקין להם

מחיה לרוצחנין כרי שיחפלו על בניהם שלא ימותו

-- "'...who was anointed with the sacred oil' [Bamidbar 35:25]: This is the high priest who had been anointed in (the killer's) lifetime, upon whose death the killer would return. What is the reason? It was the high priest's responsibility to seek mercy for his generation and but he did not seek (this mercy). Therefore, the killer would return upon his death, and therefore the mothers of the priests were supplying sustenance for the killers (in exile) so that they (the killers) would pray that their sons would not die."

Lekakh Tov now continues with a broadly-drawn theme of (evident) opposites:

ר מאיר אומר רוצח מקצר ימיו של אדם וכהן גדול מאריך ימיו של אדם
אינו דין שיהא מקצר עומד לפני מאריך לפיכך אינו יוצא עד מות כהן הגדול
-- "Rabbi Meir says that a killer shortens a person's lifespan, and a high priest lengthens a person's lifespan. It would not be just for one who diminishes to stand before one who enhances. Therefore, (the killer) does not leave (the city of refuge) until the death of the high priest."

Now, pursuing the same sense of the priority of the creative over the destructive, the midrash brings us to familiar territory:

רבי אומר רוצח משמא את הארץ ומסלק את השכינה וכהן גדול משרה שכינה בארץ
אינו דין שיעמוד מי שמסלק את השכינה לפני מי שגורם להשרות שכינה על ישראל
-- "Rabbi [Yehuda ha-Nasi] says: A killer defiles the land and distances the Shekhina, and a high priest induces the Shekhina to dwell in the land. It would not be just for one who

distances God's presence to stand before one who causes God's presence to rest upon Israel."

Once the high priest is dead, admits Rabbi Meir, then: *אף ישוב לשררותו*, "(the killer) can (even) return to his previous position of influence." But while the high priest still lives, if the exiled killer leaves the city of refuge, he is vulnerable to execution. Bamidbar 35:26-27 state this rule. Bamidbar 35:27 seems to limit the right to execute the adventurous exile to the blood avenger:

ומצא אותו נאל הדם מחוץ לנכול עיר מקלטו ורצח נאל הדם את הרצח אין לו דם
 -- "If the blood avenger finds him outside of the boundary of his city of refuge, and if the blood avenger kills the killer, he incurs no bloodguilt."

But Lekakh Tov, without textual substantiation, extends the right to anyone to kill that killer:

ומצאו נואל הדם ונומר אין לו דמים אפילו בכל אדם
 -- "'And the blood avenger finds him...": he incurs no blood guilt, and the same holds for anyone."

Midrash Lekakh Tov does not seem to make a distinction between the recently-arrived refugee who has yet to return for trial and the one already convicted as an unintentional manslayer, who had been returned to his city of refuge. Would one who had been ruled not liable to a death sentence be subsequently vulnerable to execution? Evidently, by leaving the city of refuge before the death of the high priest, the unintentional killer, who might have been classed, just as accurately, in some cases, as an intentional murderer,

apparently forfeited the luxury of exile if he himself chose to violate the parameters of that exile. How far outside the city of refuge did the exiled killer have to venture before he could be executed? Lekakh Tov says: אפילו פסיעה אחת, "even one step."

Yehuda ha-Nasi, cited in Sifre Devarim Piska 187, was concerned that an intentional killer would take even one step inside a city of refuge:

רבי אומר רוצח נולה לערי מקלט כסבור שקולטו כשם שקולט שונג כך קולט מזיח
זקני העיר שולחים ומביאים אותו משם שנאמר ושלחו זקני עירו ונומר ומח
-- "Rabbi (Yehuda ha-Nasi) says: A killer flees to cities of
refuge thinking the one will absorb an intentional murderer
as it would absorb an unintentional manslayer, the elders of
(his) city (must) send (messengers) and bring him (back) from
there, as it is written: 'Then the elders of his city shall
send, and so on, and he shall die.'"

Bamidbar Rabbah 23:13, commenting on Bamidbar 35:15, also expresses emphatic concern in this matter:

ונס שמה רוצח מכה נפש בשגגה ולא בזדון ואם יהרג בזדון ויאמר
בשגגה הרגתי ויהא בורח לערי מקלט אמר הקדוש ברוך הוא אפילו בורח
ונכנס במזבח שלי הרגו אותו שנאמר וכי יזיר איש אל רעהו ונומר
-- "...so that anyone who kills a person unintentionally may
flee there' [Bamidbar 35:15]: (Unintentionally) but not
intentionally. And as for a who person kills intentionally
and says, 'I killed unintentionally,' and would flee to the
cities of refuge, the Holy One Blessed Be He says, 'Even one
who (has killed intentionally and who) flees, and enters my

altar, kill him,' as it is written, 'When a man plots against another (and kills him treacherously, you shall take him from my very altar to be put to death.'"

7. רוצח מזיד: An Intentional Killer

Bamidbar Rabbah 23:13 singles out the paradigmatic instance of a man who kills with treacherous intent and then flees to God's altar:

ומי זה שברח למזבח ונהרג יואב

-- "And who was this man who fled to the altar and was killed? Joab." The Midrash of the 32 Middot, ninth parasha, best tells the story of Joab, David's general, who killed Abner, because Abner had killed Joab's brother Asahel, and who killed Amasa, apparently because Amasa had been appointed by David to assume Joab's position as David's top military man:

...ההורג מי שצורך הציבור בו יואב שהרג את אבנר

כתוב בו ישהו יואב אל תוך השער ומה היה ענשו של דבר וינס יואב אל אהל יהוה -- "(The laws concerning killers, execution and exile pertain even if) the killer is someone of whom the society has (serious) need, (such as) Joab, who killed Abner, as it is written [II Samuel 3:27]: '(When Abner returned to Hebron) Joab took him aside within the gate' (to talk to him privately. There he struck him in the belly. Thus Abner died for shedding the blood of Asahel, Joab's brother).' And what was his punishment for this thing? 'Joab fled to the altar of Yahweh'" [I Kings 2:28].

Midrash 32 Middot is not kind in assessing Joab's strategy:

וכי יואב טפש היה כל כך והלא כתוב וכי יזיר איש על רעהו
אלא מלמד שברח אצל הסנהדרין

-- "And Joab was enormously foolish. For is it not written [Shemot 21:14]: 'And if a man plots against another?' This teaches that (Joab) fled to the Sanhedrin." The midrash reads אהל יהוה, in its original context "the Tent of Yahweh," a cultic altar, to be, in the midrash's time and fitting its agenda, not a cultic site dominated by the priestly caste, but rather the place where the land's highest central court sat in judgment.

אמר להן הלכה רווחת בישראל

-- "(Joab) said to them: 'Halakha [and thus the Sanhedrin] has widespread authority throughout Israel.'" The midrash uses Joab, one of the highest functionaries of David's monarchy, as a spokesman to establish (its own sense of) the broad social influence which the central (rabbinic) court was developing as the reach of monarchic rule diminished.

Joab now proceeds to offer his reading of the jurisdictional dispute between the monarchy and the Sanhedrin which might erupt in his case:

הרוני מלכות נכסיהן למלכות הרוני בית דין נכסיהן ליורשיהן
מוטב יהרוני סנהדרין ויורשתי בני

-- "Those who are executed by the monarchy, their possessions go to the monarchy. Those who are executed by the rabbinic court, their possessions go to their (own) heirs. It is better

for the Sanhedrin to execute me, so that my sons might receive their inheritance." Implicit in Joab's comments is his admission that he has committed premeditated murder(s) and will be executed, that he does not merit the protections of exile. Unfortunately for Joab, according to the midrash, his halakhic analysis was both too compelling and too loudly spoken:

וכיון ששמע המלך כן אמר וכי לממונו של זה אני צריך

עשה כאשר אמר ופגע בו מיד שנאמר ויעל בניהו בן יהוידע ויקבר בביתו במדבר

-- "And when the king heard this, he said, 'I sure could use this man's wealth,' and he did as (Joab) had advised, and executed him immediately, as it is written [I Kings 2:34]: 'And Benaiah son of Jehoiada went up (and struck him down), and he was buried at his home in the wilderness.'"

Having called Joab a fool and used his death to its rhetorical advantage, the midrash now moves to balance its sense of Joab. The midrash has substantiated the mishnaic statement (which it had expropriated from B.T. Makkot 11b) concerning Joab: שצורך הציבור בו -- the society had need for him and the midrashic agenda had need for him. Now the midrash offers Joab a generous epitaph:

וכי היה ביתו במדבר אלא כיון שמח נעשו ישראל כמדבר

-- "And was (Joab's) house really in the wilderness? Rather, when he died, the (people of Israel) were desolate."

In B.T. Makkot 12a, sages offer their own views of Joab's strategic errors. Rab Judah says that Rab said that Joab committed two errors. First, because Shemot 21:14 says that

the intentional murderer should be taken מֵעַם מִזְבִּחִי, "from my altar," Joab should have known that:

...אֵינוֹ קוֹלֵט אֶלָּא גַּם וְהוּא חֶפֶס בְּקִרְוֹתָיו

-- "...only the roof (of the altar) offers refuge, and (Joab) had grasped (the altar's) horns."

Second, Joab made the mistake of seeking refuge at Shiloh, one of the outlying cultic altars. Here Joab was not so astute in comprehending jurisdictional subtleties. Since Shemot 21:14 says that the intentional murderer should be taken from God's altar לָמוּת, "to die," Joab should have known to run to מִזְבֵּחַ בֵּית עוֹלָמִים, to "the altar of the central [or, permanent] cultic installation," meaning, the seat of the central legal authority, the Sanhedrin, the body which could sentence a man לָמוּת, to die.

Abaye notes that Joab failed to understand that the cultic altar offered protection only to a כֹּהֵן וְעֹבֵדָה בְּיָדוֹ, "only to a priest in the act of ritual service." Again, the intentional murderer is to be taken מֵעַם מִזְבִּחִי, says Shemot 21:14, "from next to my altar." But the priest presenting an offering stood not next to the altar but, technically, on the altar. Since, says Abaye, וְיֵד הָיָה, Joab "was not a priest" in action [literally, "was a non-priest"], he was not eligible for refuge at a cultic altar.

Joab's David was a killer too, who more thoroughly understood the legal, political and other-than-rational intricacies of killing, and who, as king, was better positioned to manipulate others' deaths for his own benefit.

In II Samuel 21, a group of Gibeonites, non-Israelites who were sworn allies of Israel, negotiate with David for blood avenging in the case of Saul's murdering of Gibeonites. As we saw earlier in our discussion of Saul's improper burial as perceived by Pirkei de Rabbi Eliezer,³⁰ God has communicated to David, according to the pshat of II Samuel 21:1, that Saul's murdering of the Gibeonites has caused the three-year famine. David summons the Gibeonites in an effort to cleanse a perceived bloodguilt, although the Gibeonites have not sought to act as blood avengers. Nor, apparently, have the Gibeonites signaled to David that they have active intention to avenge their dead kinsmen's blood. Saul, of course, is already dead.

Is this an episode which evidences the practice of substitution? David wants to end the famine, and probably also wants to defuse any lingering Gibeonite animosities toward the monarchy. David structures this blood avenging in the only way left open to him, now that Saul is no longer alive to yield his own blood, the blood of the actual murderer, to balance the blood of the slain. As substitutes for Saul, David gives the Gibeonites seven of Saul's sons. We learn in II Samuel 21:9 that "they were put to death in the first days of the harvest, the beginning of the barley harvest." Then David gathers the bones of Saul and Jonathan, as well as the bones of the seven impaled sons. All receive a proper burial and the land's fertility returns. David has manipulated the system of blood avenging to his own best

advantage.

The IDB³¹ says that the case of the Gibeonites -- in which Saul was already dead and the Gibeonites expressly rejected compensation in silver or gold -- "is altogether too unusual to serve as a basis for generalization as to the procedure in ordinary times" -- here meaning the procedure of vicarious punishment. Devarim 24:16 prohibits vicarious punishment. But the IDB points out that "the observance of this prohibition is noted for the first and only time in the narrative of Amaziah's reign (beginning in the eighth century." The custom of executing the whole household for the treasonous acts of an individual offender was so common, says the IDB, "that Amaziah's restraint, in II Kings 14, deserved to be singled out for praise."

The Midrash of the 32 Middot, ninth parasha, praises David and the system of blood avenging:

ויתנם ביד הנבעונים והיו מושלכים כל ימות החמה מתחלת קציר שעורים
עד נתך מים עליהם מן השמים והיו העוברין והשבין אומרין מי הן ההרוגין
וישראל אומרין להן בני מלכים גדולים והן אומרין להן מה עשו
וישראל אומרין להן מפני שפשעו יריהן בנדים עשינו להן כך
מיד היו נותנין שבת והודייה לפני הקדוש ברוך הוא ואומרין
אין כאומה זו בעולם בשביל נרים הורגין בני מלכיהם
מיד נתניירו מאומות העולם כמה אלפים ורכבות

-- "David turned over (Saul's seven sons) to the Gibeonites, and they remained unburied during the whole summer, from the beginning of the barley harvest until rain (finally) poured down upon them from Heaven [thus signalling the end of the

famine]. Passersby would ask, 'Who are these slain men?' And (the people of) Israel would say to them, 'Sons of great kings.' And they would say to them, 'What did they do?' And (the people of Israel) would answer them, 'Because they did violence to strangers, we did this to them.' Immediately (the travelers) would offer great praise to The Holy One Blessed Be He, and say, 'There is no nation like this in the world, who for the sake of strangers kills the sons of their kings.' Immediately, myriads of the world's peoples converted."³²

Having cleansed the monarchy of (some variant of) bloodguilt in connection with Saul's murders, and having improvised forceful ways of manipulating (laws of) bloodshed to the monarchy's advantage, David must now teach Solomon, must open the next king's imagination to the possibilities of blood. I Kings 2 is a chapter of blood. In verse eight, the dying David instructs Solomon to deal with a man named Shimei. This Shimei, a partisan of Saul, had killed no one. As reported in II Samuel 16, he had, vociferously and repeatedly, insulted the king, and thrown stones at him. But in I Samuel 19:17, Shimei had apologized with great humility. There, in verse twenty-two, Abishai ben Zeruiah (Joab's brother) frames Shimei's crime as קלל את משיח יהוה, "insulting Yahweh's anointed," and, not for the first time, suggests aloud that Shimei should be executed for these insults. Then, in II Samuel 19:24, we find:

וַיֹּאמֶר הַמֶּלֶךְ אֶל שִׁמְעִי לֹא תָמוּת וְיִשְׁבַּע לִי הַמֶּלֶךְ

-- "The king said to Shimei, 'You shall not die.' And the

king gave him his oath."

Either David did not agree with Abishai's framing of the charges against Shimei and the intended punishment, or David preferred not to have Abishai serve him in the capacity of (insult) avenger. If, as the proverb says, death and life are in the power of the tongue, can David choose to perceive Shimei's insults as (attempted) intentional murder, a murder which the victim himself survived to avenge?

In I Kings 2:8, David is recounting to Solomon the specific language of the oath which is mentioned in II Samuel 19:24, but which is never voiced there in its specifics. David tells Solomon that he swore to Shimei by Yahweh: *ואם אמתך בחרב*, literally, "If I will put you to death by the sword" -- and evidently the formulaic first half of an oath, whose implicit conclusion would strike a balance that might sound like this: If I will put you to death by the sword, may God punish me with a worse death. So a fair translation here would be: "And I swore to him by Yahweh: 'I will not put you to death by sword'"; or, "'I will not execute you.'"

Now the question is whether by this David meant that he personally would not kill Shimei -- meaning, I will never kill you, but I'm going to leave the other options open -- or that, as king, David was swearing that he would never exercise the muscle of his royal option, never issue the order for Shimei's execution. Did David swear Shimei's safety -- or by swearing was the king confirming an ever-imminent threat? I won't kill you, but somebody on my staff just might.

If, in Shimei's perception, both interpretations were possible, then the menace of impending violence would disrupt the peace perhaps guaranteed by the other interpretation. Did David consciously structure his words to Shimei with a sure intent not to have Shimei harmed physically, while realizing that the way he was phrasing this guarantee would leave Shimei in torturous doubt? The deft poet was surely capable of that artistry, the fierce king of that design.

What does David mean in I Kings 2:9 when he instructs Solomon: **ועתה אל תנקרו**? In Shemot 34:7, Bamidbar 14:18 and Nahum 1:3 we find the phrase: **ונקה לא ינקו**, "(God) will not refrain from [or, remit] all punishment." In Jeremiah 30:11 and 46:28, we find a variant of that phrase: **ונקה לא אנקך**, "I will not leave you unpunished."

Just as the phrase **מות יומת** expresses, through duplication, the heightened certainty of a death, so in these verses the duplication, combined with the negative, **לא**, affirms with redoubled force that even though God is slow to anger and abundantly kind, God still does not cancel all punishment, does not refrain from inflicting punishment.

By saying **ועתה אל תנקרו** in I Kings 2:9, without duplication or infinitive absolute, is David telling Solomon: "Now (that I will be dead) don't refrain from inflicting punishment on (Shimei)," but in a tone of less emphatic command? Is David beginning to yield power to the man who, as king, would design the execution and, perhaps, have to endure any repercussions?

In Joel 4:21, we read: **ונקיתי דמם לא נקיתי**. Does this mean:

"I will refrain from inflicting punishment in blood (for transgressions for which, previously,) I have inflicted such punishment?" Or, even though the first element in the reduplication is not an infinitive absolute, does this mean: "I definitely will not refrain from inflicting punishment in blood?" A note in the JPS translation suggests that "emendation" -- to a nifal form? -- will yield: "Their unavenged blood will be avenged."

Is the lack of emphatic duplication in David's language evidence of duplicity? Is David issuing Solomon clear license to interpret David's oath as limiting only David himself from ever issuing the actual order to execute Shimei? As David comments to Solomon in I Kings 2:9:

כִּי אִישׁ חָכָם אַתָּה וְיָדַעְתָּ אֵת אֲשֶׁר תַּעֲשֶׂה לּוֹ

-- "You're a politic [or, street-smart] man, and you'll find a way to deal with him."

So Solomon must innovate a way to get rid of Shimei, with graceful recognition of the tension between his subtle mandate from David and the pshat meaning of David's vow to Shimei.

In I Kings 2:5, David had reminded Solomon of what Joab had done "to the two commanders of Israel's forces, Abner, son of Ner and Amasa son of Jether:

וַהֲרַגם וַיִּשֶׂם דָּמִי מִלְחָמָה בְּשָׁלֵם וַיִּתֵּן דָּמִי מִלְחָמָה בַּחֲגֻרָתוֹ אֲשֶׁר בְּמַחְזֵיוֹ וּבִנְעָלוֹ

אֲשֶׁר בְּרִגְלָיו: וַעֲשִׂיתָ כְּחֻמַּתָּךְ...

-- "He killed them, shedding blood of war in peacetime, staining the girdle of his loins and the sandals on his feet with blood of war. So do what seems wise..."

If Joab killed Abner because Abner had killed Joab's brother Asahel, and if blood avenging was the kinsman's prerogative which, as we saw in the case of the woman of Tekoa, not even the powerful King David could cancel without himself risking bloodguilt, then why does David instruct Solomon to execute Joab in the matter of Abner's death? David, evidently, did not consider Joab's killing of Abner a legitimate act of blood avenging, because Abner's killing of Asahel took place in combat. The IDB declares, "slaying in combat does not normally privilege blood redemption. This will account for David's failure to hold Joab guilty for killing Absalom."³³

Why, then, does David insist that Solomon execute Joab? This is the only case which the IDB offers as evidence that "persons in authority incur bloodguilt for murder committed by those for whom they are responsible." David seems to have convincing legal grounds for ordering Joab's execution only in the case of the jealous murder of Amasa; David must be disqualifying Joab's killing of Abner as having met the criteria of an execution by טאל הרם. Abner surely did not see himself as vulnerable to Joab as a blood avenger.

In David's perception, impressed upon Solomon, the execution of Joab would remove the bloodguilt from the House of David, the lingering bloodguilt incurred by Joab's actions while serving the king as a military commander. When Solomon learns in I Kings 2:29-30 that Joab is אצל המזבח, "by the altar," and that Joab has announced פה אמות, "I will die here,"

then, in I Kings 2:31-33, Solomon responds:

וַיֹּאמֶר לוֹ הַמֶּלֶךְ עֲשֵׂה כְּאֲשֶׁר דִּבֶּר וּפְנֵעַ בּוֹ וּקְבֹרְתוֹ וְהִסִּירְתָּ דָמִי חָנָם אֲשֶׁר שָׁפַךְ
 יוֹאָב מַעְלִי וּמַעַל בֵּית אָבִי: וְהָשִׁיב יְהוָה אֶחָד רָמוֹ עַל רֹאשׁוֹ אֲשֶׁר פָּנֵעַ בְּשָׁנִי
 אֲנָשִׁים צָרִיקִים וְטָבִים מִמֶּנּוּ וַיְהִרְגֵם בַּחֶרֶב וְאָבִי רוֹדֵל לֹא יָדַע...:
 וְשָׁבוּ דְמֵיהֶם בְּרֹאשׁ יוֹאָב וּבְרֹאשׁ זֵרֵעוֹ לַעֲלֹם וּלְרוֹד וּלְזַרְעוֹ וּלְבֵית וּלְכִסְאוֹ
 יִהְיֶה שְׁלוֹם עַד עוֹלָם מֵעַם יְהוָה

-- "(Solomon) said to (Benaiah): 'Do just as (Joab) said, strike him down and bury him, and remove guilt from me and from my father's house for the blood of innocent (men) which Joab has shed. Then Yahweh will bring his bloodguilt down upon his own head, because by the sword he killed two men more righteous and honorable than he. And my father David did not know...May the guilt for their blood come down upon the head of Joab and his legitimate offspring forever. And to David and his legitimate offspring, his house and his throne, may there always be good fortune [or, military victory, victory through violence] forever.'" Note that taking Joab מִזִּבְחִי, "from My altar," to kill him, will result, in Solomon's intention, in an unending blessing יְהוָה מֵעַם, "from Yahweh."

In Solomon's (hyperbolic) declaration, Joab's death is not perceived as putting a definitive end to the potential for blood avenging which surrounds the deaths of Abner and Amasa. Joab's death, at the order of Solomon, will transfer the guilt away from the House of David.

Joab is killed, and Solomon, now significantly experienced in overseeing executions, is prepared to move on to creating the circumstances which will lead seamlessly to

the death of Shimei. In I Kings 2:36-7, Solomon summons Shimei and tells him to build himself a house in Jerusalem. Shimei must never cross the Wadi Kidron:

כי מות חמות דמך יהיה בראשך

-- "...for (then) you will surely die. (The shedding of) your blood will be on your own head." Solomon structures the conditions so that they seem enormously agreeable, and, in I Kings 2:38, Shimei says to Solomon:

טוב הדבר כאשר דבר אדני המלך כן יעשה עבדך

-- "That's fair. Just as [or, That which my lord the king has spoken, your 'servant will do." Note the word כאשר, with the possible sense of temporality, "when," which Shimei uses, perhaps unconsciously, instead of אשר, whose meaning here would be limited to "which." The word כאשר here allows us to translate this part of verse thirty-eight as: "The thing (sounded) good when my lord the king said it."

Solomon sits back and waits. Three years later, in I Kings 2:39, three of Shimei's slaves (reportedly) run away. An unnamed source tells Shimei that his slaves are in Gat, across Wadi Kidron: הנה עבדריך בנת. Shimei had agreed to Solomon's conditions with the word עבדך, and is enticed to violate those conditions to pursue עבדריך. The set-up is elegant. David's instructions are fulfilled.

The last verse of I Kings 2 says:

ויצו המלך את בניהו בן יהוידע ויצא ויפגע בו וימת

והממלכה נכונה ביד שלמה

-- "The king gave orders to Benaiah son of Jehoiada, and he

went out and struck (Shimei) down [or, he encountered (Shimei)] and he died. Thus the kingdom was secured in Solomon's hands."

The formalities of blood revenge, once indicative of the primacy of the kinship group and the group's sovereignty over matters linked to private interest, had blended with a king's traditional techniques (and authority) in manipulating his subject's deaths for his own purposes, becoming a potent weapon in the Davidic monarchy's maturing art of statecraft.

Bamidbar Rabbah 21:3 says:

כל השופך דמן של רשעים כאילו הקריב קרבן

-- "When a man sheds the blood of the wicked, it is as if he had offered a sacrifice."

NOTES TO CHAPTER THREE

- 1 Sifre Devarim Piska 333.
- 2 Midrash Hagadol to Bamidbar 35:16.
- 3 Midrash Hagadol to Bamidbar 35:16.
- 4 Sifre Bamidbar Piska 160.
- 5 Midrash Tannaim to Devarim 32:42.
- 6 Midrash Lekakh Tov to Bamidbar 32:42.
- 7 Sifre Devarim Piska 333.
- 8 Midrash Lekakh Tov to Devarim 32:43.

9 This verse would also have served to support Midrash Lekakh Tov's earlier sense that those who would be drunk on the blood shed by God's arrows would be the wild animals and the birds. But there Midrash Lekakh Tov brought other similar language from Ezekiel 39:17. Here is that whole passage, with the particular elements used in Midrash Lekakh Tov underlined:

וַאֲתָהּ בֶּן אָדָם כֹּה אָמַר אֲדֹנִי יְהוָה אָמַר לְצִפּוֹר כָּל כָּנָף וּלְכָל חַיַּת הַשָּׂדֶה הַקְבִּצוּ
וּבָאוּ הָאֲסָפוּ מִסְכִּיב עַל זִבְחִי אֲשֶׁר אֲנִי זֹבֵחַ לָכֶם זֶבַח גְּדוֹל עַל הָרֵי יִשְׂרָאֵל
וְאָכַלְתֶּם בָּשָׂר וּשְׁתִּיתֶם דָּם:

-- "And you, human, say to each type of bird and to all the wild beasts: This is what the Lord God has said: Assemble, come and gather around for My sacrificial feast which I am offering for you, a great sacrificial feast on the mountains of Israel, and eat flesh and drink blood."

However, in the Ezekiel passage, God is addressing not the children of Israel, but Gog, chief prince of Meshech and Tubal. In responding to the drunken arrows, Midrash Lekakh Tov cites the beginning and the end of Ezekiel 39:17, with the word עַר set between to indicate that the whole passage is included in the redactor's thought.

10 Mishnat Rabbi Eliezer, or Mishna of the 32 Middot, ninth parasha.

- 11 Midrash Tannaim to Devarim 32:39.
- 12 Bereshit Rabbah 34:14.
- 13 Midrash Tannaim to Devarim 32:39.

14 As designated in Bamidbar 35:13-14. Devarim 19:7-10 mention six cities, to be set aside in two sets of three, but do not specifically designate sites or mention the Jordan River. In Joshua 20:7-8 we learn precisely which towns, on both sides of the Jordan, were set aside as "the towns designated for all the Israelites and for aliens residing among them, to which anyone who killed a person unintentionally might flee, and not die by the hand of the blood avenger before standing trial by the assembly" [Joshua 20:10]: On the west side of the Jordan: Kedesh, Shechem, Kiriath-arba. On the east side of the Jordan: Bezer, Ramoth, and Golan.

15 Bamidbar Rabbah 23:11.

16 Bamidbar Rabbah 23:12.

17 Bamidbar Rabbah 23:12.

18 Midrash Hagadol to Bamidbar 35:19.

19 The Interpreter's Dictionary of the Bible, New York: Abingdon Press, 1962, Volume I, page 321.

20 IDB, page 321.

21 Smith, William Robertson, Lectures on Religions of the Semites, London: A.C. Black, 1894, page 420.

22 Lectures, page 72.

23 Daube, David, Studies In Biblical Law, New York: Ktav, 1969, page 117.

24 Studies, page 117.

25 Studies, page 119.

26 In the edition of Makkot published by Traditional Press, New York, note e2 to Makkot 7a says: "Eastern roofs are flat; they are plastered to make them water-tight and give them the necessary slope. The levelling is done by a log (or smooth flat stone) to which a long handle attached, by which it is pushed backwards and forwards. Cf. M.K. 11a, and Vergil, Georgics, I, 178."

27 Butler, Trent C., World Biblical Commentary: Joshua, Waco, Texas: World Books, 1983, page 215.

28 Gray, John, New Century Bible: Joshua, Judges and Ruth, Greenwood, South Carolina: Attic Press, 1977, page 132. Gray also says there: "Modification within the sanction of blood revenge was also provided by Muhammad in Islam."

29 Delekat, L., Asylie und Schutorakel am Zionheiligtum, Leiden: E.J.Brill, 1967, as cited by Trent Butler. See note 27 above. Two other articles which I have used were made accessible by the translations of Trent Butler: David, M., "Die Bestimmungen uber die Asylstadte in Josua XX. Ein Beitrag sur Geschichte des biblischen Asylrechts." OTS 9 (1951) 30-48; also, Nicolsky, N.M., "Das Asylrecht in Israel." ZAW 48 (1930) 146-75.

30 See page 41 and following.

31 IDB, page 321.

32 In the book of Ruth (David's grandmother), the circumstances of נאכלה were surely different. But this is not the first time, then, that we have seen the genius of the legal system and the perceived sensitivity of a qualitatively superior man combine to open the door to spirited conversion.

33 IDB, page 321.

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