

## “Will the judge of all the earth not do justice?” A note on Genesis, Protagoras, and theodicy

*J. R. Russell*

California State University (Fresno),  
5241 N Maple Ave, Fresno, CA 93740

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This article argues that the introduction of the Hebrew words for judge and justice, which occurs only late in the text of Genesis is not fortuitous. Abraham introduces these terms in the context of his argument with God that He spare Sodom and Gomorrah if a number of righteous men can be found there. This happens long after the invention of human arts and institutions including the city and the execution by God of several notable and severe judgments against individuals and indeed all the living world. The words *shophet* and *mishpat*, one proposes, adumbrates a new and different kind of justice than what existed before one based on equality under law and on a procedure of advocacy and argument rather than mere Divine fiat. Since God accepts unquestioningly Abraham's unprecedented definition of Him as “Judge of the world,” one might further suggest that the Master of the Universe in the course of the evolving covenantal relationship with mankind is allowing His creatures to discover aspects of Him that were hitherto unknown to them and unknowable till they developed further. In both its character and the sequence of the events that unfold, the Biblical narrative is in some respects closely parallel to the myth of human genesis and cultural development, followed by the introduction of justice, in the *Protagoras* of Plato. Since the latter myth is connected to the progeny of Iapetos, who may be identical with Biblical Japheth, it is possible that the two narratives, Hebrew and Hellenic, may share common, possibly Semitic, roots.

*Keywords:* Abraham, Moses, *shophet*, *mishpat*, theodicy, Marina Tsvetaeva, Zoroastrianism, *Mi'raj*, the Berdichever Rebbe, Plato, *Protagoras*, Athens.

When God informs Abraham that He is about to obliterate the Cities of the Plain, the Patriarch retorts, *Ha-shophet kol ha-arets lo ya'aseh mishpat*, “Will the judge of all the earth not do justice?” (Gen. 18.25), God agrees to relent if fifty righteous people can be found there; our forefather argues Him down to ten, but is still unsuccessful. Rashi notes that Abraham seeks *mishpat emet*, “true justice”<sup>1</sup>, and notes that in the days of Noah only eight righteous people were in the

<sup>1</sup> Justice “in truth” would distinguish God's bench from kangaroo courts and Star Chamber proceedings. H. Shapira (*Shapira H.* For the judgment is God's: human judgment and divine

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world *ve-lo hitsilu 'al doram*, “and they did not save their generation”. The situation did not improve since then: there were not enough just men in the cities of Sodom and Gomorrah to save the proverbially corrupt cities from destruction. Evidently the Divine bottom line was established then to endure as the minimum of ten adult Jewish men needed for the prayer *minyān* — the quorum. The number needed to save the whole world was relaxed, though: a mystical Jewish belief that became particularly well-known after the Holocaust with the publication of a novel by André Schwarz-Bart, *The Last of the Just*, holds that the world endures only because there are thirty-six just men alive in it at any one time — the *lamedvovniks*. The contention of the novel is that the last of these righteous ones was murdered in Hitler’s death camps. Nothing holds back, or should hold back, the sword of the Angel of Death from the human world. It is an invitation to oblivion, a suicidal ideation. Even before the war, as the Nazis overwhelmed Czechoslovakia, Marina Tsvetaeva had given voice to a similarly despairing condemnation of the fallen world: “О слезы на глазах! / Плач гнева и любви! / О Чехия в слезах! / Испания в крови! // О черная гора, / Затмившая — весь свет! / Пора — пора — пора / Творцу вернуть билет. // Отказываюсь — быть. / В Бедламе нелюдей / Отказываюсь — жить. // С волками площадей // Отказываюсь — выть. / С акулами равнин / Отказываюсь плыть — / Вниз — по теченью спин. // Не надо мне ни дыр / Ушных, ни вещей глаз. / На твой безумный мир / Ответ один — отказ”. “O tears in my eyes, / Crying anger, crying love! / The Czech lands all in tears, / And Spain all drenched in blood! // Mountain of darkness / Eclipsing this luminous world — / It’s time, it’s long past time, / To return the entry pass to God. // I refuse to thrive, / In this madhouse of unhumans / I decline to survive. // I refuse to howl / With the wolves of the public squares, / And with the sharks of the plains / I refuse to swim / With their current, down. / I need no ears to hear, / Nor knowing eyes: / To Your insane world / Refusal is the sole reply”. She returned to the Soviet Union from emigration, there to enjoy the malign hospitality of the state bureaucracy, and handed in her ticket: Tsvetaeva committed suicide in 1942. With Abraham’s challenge, Justice — Hebrew *mishpat*, Greek *dikē* — formally entered the world; but since then the injustice of mankind, the abominable suffering to which flesh is heir, and the silence of Heaven — the seeming absence of God’s justice, theo-

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justice in the Hebrew Bible and in Jewish tradition // Journal of Law and Religion. 2011–2012. Vol. 27, no. 2. P.308) notes, citing b. Sanhedrin 7a, that every judge who judges a *true* judgment causes the Divine Presence (*Shekhinah*) to rest in Israel; in b. Berakhot 6a (on Ps. 82:1) God is likewise understood as sitting with the judges through His *Shekhinah* (ibid., p.295). This would resonate with the Christian identification of the Holy Spirit in the Trinity as the Paraclete — one’s defense attorney in court (with Satan retaining his office, most visibly evoked in the book of Job, as *diabolos*). A Yiddish saying, *Es iz a kulikover mishpat* “It’s a Kulikov trial!” enshrines the proverbial opposite of true justice, a miscarriage careening wildly into absurdity indeed. Kulikov, a little town near Lvov, had one shoemaker and two tailors. The shoemaker committed murder, and was tried and sentenced to hang, but since he was the only shoemaker in town one of the tailors was hanged instead (*Kumove* S. Words Like Arrows: A Collection of Yiddish Folk Sayings. New York: Schocken, 1985. P. 144).

dicy — has provoked many of us to turn in our own tickets and leave life's stage before the countdown to cataclysm ends: thirty-six, ten, zero.

Abraham employs a particular root in his tautly sarcastic challenge to the Almighty, and it is precisely here that it, *špt-*, makes its own entry into a prominent career throughout the remainder of Scripture and into Jewish and world history. The verb and its nominal derivatives no problem in the oldest Semitic: Ugaritic *tpt* “judge, rule” (an epithet of Yamm); Akkadian *šapātu*. Closer to the home of Biblical Israel the usage is well-nigh identical: Punic *š-p-t* means “adjudge” in the expression *špt brh* “adjudge the intent (of someone)” or “condemn” and is used in monitory formulas warning thieves of steles of divine judgment. The noun *špt*, loaned into Latin as *su(f)fes*, pl. *su(f)fetes*, is “the civil magistrate of a Western Phoenician republic”. As a plural it corresponds to the Hebrew *shophetim*, Judges (both the office, parallel to the Phoenician institution, and of course the Biblical book)<sup>2</sup>. The Hebrew title, like the Punic one, can have more to do with a ruler than specifically a magistrate: one of the Judges in the Hebrew Bible, Samson, is an epic hero, unremarkable in a Hellenic context, but atypical in Israel. He has an Apollonian-like solar name, engages in Heracleian combat with a lion, sulks in a cave when his strength is sapped, and, Oedipus-like, comes ironically to true insight only after his physical eyes have been put out. But one imagines that in a Sanhedrin, not to mention any later *beth din*, Rabbinical court, the shaggy warrior would stick out like the proverbial sore thumb. Genesis is, as its geography and other features indicate, historically a late book. One might for instance argue that the seven-day Creation, with each creation deemed “good” till man, who is “very good”, bears the imprint of the Zoroastrian cosmology, in which each of the seven *Amesha Spentas*, or Holy Immortal hypostases of the Creator God Ahura Mazda, the Wise Lord, presides over one *good* creation (as opposed to the subsequent, parallel, *bad* counter-creations of the evil spirit Angra Mainyu, Ahriman); whilst man, made through the Holy Spirit, *Spenta Mainyu*, is the crown of the rest and very good indeed. The Creation story stands out in this respect with its possibly Iranian cosmic optimism as incongruous: the succeeding sections assembled to patch together this florilegium of Ancient Near Eastern mythology accord with the more widespread view of the race succinctly stated in the Greek fragment *hoi men pleistoi kakoï* “most people are bad”. And the lost apodosis of this *men-de* construction suggests a blacker translation, such as “not only are most people bad, but furthermore...” When might the Zoroastrian concept of the good Creation become current west of the Zagros? The earliest time at which Zoroastrian ideas might have entered Israelite thinking would be around the time of the rise of the Medes and the eclipse of the Neo-Assyrian empire in the mid-late 7<sup>th</sup> century BC, with the greatest early diffusion of Zoroastrian doctrines after the following century — in the Achaemenian period after Cyrus the Great (559 BC and later). To return to the question of *mishpat*, the biblical Judges themselves long predated the earliest contacts with Iranians — in short, the institution of the judges, the use of the same root for judgment, etc.,

<sup>2</sup> *Krahmalkov C. R. Phoenician-Punic Dictionary. Leuven: Peeters, 2000. P.477–478.*

existed in abundance long before the Book of Genesis was compiled. But the use of the root is held back till the colloquy between God and Abraham on the eve of the destruction of the Dead Sea *metropoleis*.

And this leads one to a curious observation: Abraham's asseveration that God is the Judge of all the world and should therefore really (Rashi) act justly<sup>3</sup> is, as noted above, the *first time* that the ever-so-common root *špt*, "to judge", is employed in the canonical text of the Hebrew Bible<sup>4</sup>. That being so, is it really the case that there is no judgment or justice? Is one's isolation of a key word just semantic quibbling? The act of judgment itself occurs, to be sure, from the start of the Genesis story, and it is arbitrary, tinged with disappointment and exasperation, with dramatically and with increasingly dire effects: after the creation of man and woman and their sin, God sentences them to expulsion from Eden and to a life of hard labor (though He has presciently created the Sabbath to mitigate the consequences of their foreseen Fall). Cain kills his brother Abel and the first murderer is condemned by the Lord to wander the earth — though again God softens the sentence by promising the terrified Cain protection from arbitrary vengeance. Things only get worse, the world is full of violence and chaos (the latter, the Rabbis teach, exemplified by the miscegenate production of the exotic winged lions and other *Mischwesen* that colorfully animate Ancient Near Eastern art), and God regrets that He has made mankind at all: He brings on the Flood. But throughout all, this the word *shofet* is not used once, is never applied to the divinity Whom we now call at the darkest times *Dayyan ha-emet*, the True Judge (and here it's plain Rashi meant not just actual but fair) we must bless upon learning of bereavement (for death is *middat ha-din*, the existential application of the severe side of law). The novelty of Abraham's words, and their taut, rhetorical sharpness underscore, I think, the idea that the concept of judgment as adumbrated by the first of the three Patriarchs of Israel is something we are meant to see as setting a precedent, as not just lexically but qualitatively *new*.

It is new in the sense that justice is now perceived, not as the execution of a peremptory and one-sided decree, as hitherto, but as an established process in which a magistrate arrives at a decision based upon laws that constrain him, following the due and orderly presentation of arguments *pro et contra* to the officials of a duly appointed court. The parents of humanity departed Eden in abject misery and contrition; Cain cried out that his punishment was too much to bear; and Noah just followed orders, building his Ark with fixed indifference while

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<sup>3</sup> Appealing to the supernatural, Jewish texts assert that judges who act inattentively or even corruptly face a Divine sanction themselves that is far worse than any punishment they can mete out. The Talmud and subsequent Jewish medieval philosophers, notably Maimonides, address in detail and with concern the problem of justice that is slipshod or false, and the ethical standards to which judges must strive to adhere: see: *Shapira H.* For the judgment is God's... P. 273–328.

<sup>4</sup> *Ibid.* P. 273 — begins with this very passage from Genesis his long and magisterial survey of human and Divine justice in the Hebrew Bible and successive monuments of Jewish law and thought. But even he does not take note of the intriguing fact we have stressed, of the concept of justice appearing at the end, not the beginning, of the formation of human cultural and social institutions in Genesis.

the world went to hell around him. In all these cases there might be protest or entreaty after a Divine decree, but it was still a one-way matter: nobody thought to argue back, much less hold God to His own rules. Perhaps humanity before Abraham had not yet developed to the point at which a system of justice and jurisprudence could even be adumbrated — they did not think it because it was not yet thinkable. The world before Abraham was no longer an Edenic garden, but it did not look like a jungle either. Yet it lived by the oxymoronic “law of the jungle”<sup>5</sup>. There were crafts and fire, metallurgy and music, and cities — but no framework of the give and take of human judicial systems that protect the weak from the arbitrary will of the strong. Forests, jungles, cities, cavemen with rocks, urban armies with bronze spears — all endured in the same violent chaos of arbitrary power. Or, perhaps even worse, there is also the intimation that there was a kind of social concord and harmony, but one of uniformity, of conformity, without the discourse, the “come let us reason together” of the prophet, that distinguishes an assembly of human beings from a uniformed horde marching in lockstep. The suggestion of such a state of affairs can be inferred from a reading of the story of the tower of Babel, before whose (thankfully) abortive erection *va-yehi kol ha-arets safah aḥat ve-devarim aḥadim*, “the whole world was of one language and of the same words” (Gen. 11:1). That is, everybody said the same thing and nobody thought differently from anybody else. In a modern, atheistic totalitarian society in Asia the term for such enforced conformism is “harmony”; and the neutralization of a dissident is called “harmonizing”. Thus, Abraham’s definition of justice includes the validation of dissident, minority opinions. In the portion of the book of Exodus called *Mishpaṭim*, “Judgments”, God warns the Children of Israel, *Lo tihyeh aḥarei rabim le-ra’ot ve-lo ta’aneh ‘al rov li-ntot aḥarei rabim le-haṭot* “Do not follow the crowd in doing wrong; when you give testimony in a lawsuit, do not pervert justice by siding with the crowd” (Ex. 23:2)<sup>6</sup>. There has never been, before or since, a clearer or more forceful affirmation of the legal principle, nay, imperative, of individual freedom of conscience and the absolute independence and impartiality of the machinery of justice from the dictatorship of the majority. One might also observe that, once God is recognized as Judge, He does not act alone even though He is supreme: He presides over a court in which there is both a prosecutor (*satan, diabolos*) and a defense attorney (*parakletes*) for the accused. Genesis Rabba 51:2 goes so far as to assert that the phrase “and God” always connotes “God and His court of law”. It is not only the Holy One, Blessed be He, Who is ubiquitous, but His entire tribunal<sup>7</sup>.

<sup>5</sup> The *New Yorker* magazine once published a cartoon showing bemused people at the edge of a thicket contemplating a neatly-printed sign: “You are about to enter the jungle. Please observe our laws”.

<sup>6</sup> Most translations agree on *rabbim* as “the many, the crowd”, though some prefer “great man”, i. e., the powerful.

<sup>7</sup> Cited in the sermon for the Torah portion *Be-shalah* for 20 January 1940 by the Piaszczner Rebbe (*Kalonymos Kalmish Shapira R.* Sacred Fire: Torah from the Years of Fury 1939–1942 / transl. by J. Hershey Worch; ed. by Deborah Miller. Lanham, MD: Rowman & Littlefield, 2004. P. 35–37).

Abraham, in the context of the Biblical narrative, not only voices this word, justice, that is without precedent in the book, but also employs it in order to define God in a way nobody has ever done before, and then to presume to constrain Him to act according to the proposed definition — to circumscribe, in effect, the powers of the Omnipotent. And the Master of the Universe — the divine fisherman, He who in the book of Job boasts about how He can catch Leviathan with a hook, who in the scornful, vividly imaginative rhetoric of the prophet Ezekiel fishes for Pharaoh, that fat crocodile in the Nile, and casts him into the desert to rot — He makes of himself a fish, as it were, and takes the bait! Abraham not only wins the point, but also argues Him from a minimum of fifty just men down to ten. It is the first plea bargain in the cosmic history of jurisprudence; and Abraham is the first of the many illustrious Jewish lawyers to come. But one might also observe that Abraham, as he enters into a closer relationship with God, discovers in God a feature of justice that nobody before had the wisdom or insight to discern. God's assent can thus be viewed also as approbation and recognition of the achievement of His chosen one. Like any proud father taking what is called in Yiddish *nakhes* — vicarious pleasure — in His sons besting him in Torah learning, God once declares openly *Nitshuni banai, nitshuni banai* “My children have defeated Me! My children have defeated Me!” (b. Baba Metsia 59b). This is a known Jewish theme: in the proto-kabbalistic *Sefer Yetsirah*, when Abraham beholds and understands the mysteries displayed before him, God embraces him in an affectionate hug. That emotional moment stands out against the starkly freezing scenes of cosmogony in the book — the generation of language from the spinning of two wheels, an unhuman, non-Euclidean universe in whose dimensions good and evil themselves are mere directions like up and down.

One can pause also to admire the laconism of our father Abraham's aggressive courtroom style, wit worth of the Temple Bar. He deploys the normal Semitic rhetorical flourish of repetition as a teasing gambit of irony — *shofet, mishpat* — to emphasize his point, of a kind that is particularly effective in languages that permit one a certain terseness of expression. I would compare Abraham's locution to that, presently to be considered, of Moses in Exodus. In this respect Hebrew is much like Russian: Сказать сказал, а прийти не пришел, literally “To say he said, but to come he didn't come”. But one has to expand considerably to get the point across in English, arriving at a longer, more unwieldy “His saying he was going to come was *one* thing, but when it came to actually *coming*, he didn't show”. While standard English needs prolixity, Ebonics employs multiple metaphors with shock value to achieve a brevity kindred to that of the effortless Hebrew and Russian. The above example might be rendered, then, by the nearly proverbial Ebonism “Don't let your mouth write a check that you're a — [*posterior mulieris*] can't cash”.

The precedent of insisting upon justice, once set, endures; and the ensuing rain of poundings of the gavels of *mishpat*, in heaven and on earth, floods the rest of Scripture (Psalm 82, for instance, is devoted in its entirety to the subject). The focus of Judaism throughout its history on law is so intense that Christian polemic invidiously misrepresents it as arid legalism shorn of human compassion,



or quiddity without faith. This is not the point, of course; the Divine command *Tsedeq, tsedeq tirdof!* “Justice, justice shall you pursue!” better captures the spirit and imperative of Torah. Moses, who stutters in embarrassment when addressing Pharaoh or the Children of Israel, uses every brazen rhetorical trick imaginable to argue eyeball to eyeball with God. At the end of the first weekly portion of Exodus, Moses chides, cajoles, and provokes: Since You sent me, things have only gotten worse! As far as saving is concerned, You have not saved Your people! (*Ve-hatsel lo hitsalta et 'amekha*: cf. the discussion of rhetorical repetitive irony, *supra*.) And God replies as the *parashah* ends with a thrilling cliffhanger (next Shabbat the cowboy rescues the kidnapped heroine from the horse-stealing varmints). If one may paraphrase in American — Oh yeah? Well now I'll show you what I'm gonna do! And there ensue precisely ten plagues, culminating with proper irony in the slaying of the Egyptian first-born even as Moses had been rescued from the decreed massacre of the first-born boy children of Israel (cliffhanger again Will she see the basket in the Nile and then be able to pluck it from the Nile? She does! A save!). Abraham and Moses are also parallel in that they seldom argue on their own behalf, only for their clients, as it were. When commanded to sacrifice Isaac, Abraham obeys without question. Indeed, in a long, shocking, and amply-documented midrashic tradition that goes against the *peshat*, the literal text, Abraham in an excess of obedience ignores the angel's command to stay his hand, plunges the knife into Isaac's breast and then burns the blood-besmeared corpse to a crisp; God's revivifying dew resurrects “your son, your only son, whom you love, Isaac” from the ashes<sup>8</sup>. Early in Deuteronomy, Moses relates to the Children of Israel how he pleaded (*ve-ethanan*) to be allowed to enter the Land of Israel, only for God to tell him: No, and don't bring it up again, either! And after this most crushing of refusals, he does not.

But in arguing on others' behalf, the prophets of Israel were fearless, however diffident they may have been in speaking up for themselves, and that reputation carried into the developed mythology of a later, kindred faith. The early medieval *Mi'raj-nameh*, a Dantesque narrative *avant la lettre* of the journey of the Prophet Muhammad, peace be upon him, to heaven and hell, conflates in its presentation of Moses the role of the advocate and guide through the desert with the lawyerly quiddity of the personality of Abraham. Muhammad, having ascended on the back of the miraculous steed Buraq beyond the seven heavens, approaches the Divine Throne. Angels play harps and sing. Then the Lord gets down to brass tacks and tells His Messenger that Muslims are to pray fifty times a day. Fortunately the Prophet has brought his counsel to what he must have known was to be an important business meeting: he consults Moses and the latter advises him to bargain Allah down to five. The two come away with success from the negotiations, with the promise of the bonus that those five (now the standard number, a borrowing from Zoroastrian practice) will be rewarded

<sup>8</sup> See: Spiegel S. *The Last Trial*. New York: Pantheon, 1967.

as though they were the original fifty — a good day in the Divine court!<sup>9</sup> And of course in ages to come Israel continued to approach the issue of theodicy, in new ironic hues that might have left the Patriarchs aghast in reverential horror (but inwardly smirking in admiration of a fellow shyster.) Thus we encounter the famous anecdote in the *Gemara* (b. Baba Metsia 59b: God’s admiring close of the passage is cited above) about Rabbis who reject the helpful offer of a Divine opinion on a case, because *hi lo ba-shamayim* “it [the Torah] is not in Heaven” (Deuteronomy 30:12). Among the many spin-offs in Jewish humor of the *sugya* is one about a dispute between three old rabbis and one young one. The latter enlists a vote in his favor by the Master of the Universe, to which the elders, unmoved, reply “So? It was three to one, now it’s three to two”. The Hasidic master R. Levi Yitzhak of Berdichev (1740–1810) famously indicted God for allowing the Jewish exile to continue, and convicted Him — even though the accused failed to appear in court to defend Himself. The ancient polity that Eric Nelson has called “The Hebrew Republic” appears to enshrine a principle that is one of the pillars of jurisprudence in an authentic democracy — that no one, including the One, is above the law. (The other, which thanks to the ideology of the anti-democratic “liberal” establishment, no longer exists in the United States, was the presumption of innocence.)

We have seen that in the chronology of Genesis the patriarch Abraham invented, discovered, and discerned the principle of justice, embodying fair procedure, only after the first stages of human cultural development had happened: the expulsion from Eden and the covering of the nakedness of the first human couple; agriculture and shepherding, and the first murder; the invention of crafts and metalwork; and urbanization. This is not the intuitive order to which the usual concept of social evolution might accustom one: man is Aristotle’s *logikon politikon zōon*, “a rational animal who lives in cities”, and surely the idea of justice must be a component of the *logos* of a city for it to be so called — a Greek *polis*. But there is a Greek myth that does correspond to the seemingly counter-intuitive order of Genesis, and that may have a connection to the Semitic-speaking world with which the Hellenes were associated intimately and *ab initio*.

Plato in the *Protagoras* 320c–323a introduces the Sophist after whom the Socratic dialogue is named, whose claim to be demolished in due course by Socrates is that he (and others of his profession) can teach others the virtues of wisdom, temperance, justice, holiness, and courage; Socrates gradually reduces this to the teaching of the single category of knowledge. Protagoras adorns his presentation with a myth, much as others, including Socrates, are wont to do. This is as much a mnemonic device as a component of argument, much in the way that in the *Gemara aggadah*, story-telling, accompanies *halakhah*, straightforward, detailed law. It is easier to remember a story, with its helpful armature of characters with familiar characters and roles and the linked stages in the progress of an archetypal narrative line, than it is to recall an abstract rational argument

<sup>9</sup> See: *Séguy M.-R.* The Miraculous Journey of Mahomet (Mirāj Nâmeḥ). New York: Braziller, 1977. Plate 35 (fol. 38v).



with its legal quiddities. In the Platonic corpus, as in Greek mythology generally, these Hellenized myth-narratives can be of Near Eastern origin. In the *Symposium*, for instance, the comic playwright Aristophanes in his rather humorous after-dinner speech bases his definition of love on a cosmological myth that is in most respects identical to that laid out in the Zoroastrian book of creation, the *Bundahishn* (“Creation”) or *Zand-agahih* (“Knowledge of the Avesta Commentary”), a Pahlavi text dating to the ninth century AD that forms, however, the translation and commentary upon a much earlier scripture in Avestan that is now lost. It is a very serious myth, even though Aristophanes, as a supporter of Athenian democracy and potent enemy of Socrates’ aristocratic, reactionary faction, is tendentiously presented as an entertaining intellectual lightweight. According to Protagoras, then, the early gods molded the creatures under the earth, and then commanded Prometheus and his brother Epimetheus to distribute powers to them. Epimetheus, whose name means “Afterthought”, used up his gifts on the animals before getting around to men, who were left naked and defenseless. Prometheus, “Forethought”, stole *tekhnē* — the various skills and crafts — and fire, neither of which the other animals had received, from the gods Hephaistos and Athena. But mankind, although warmly clothed, housed in cities, equipped with a full array of metal tools and weapons, and so on, still had no *dikē*, “justice” or *aidōs* “fear, reverence”. Zeus sent these to humanity through his messenger Hermes; but Prometheus was punished for theft<sup>10</sup>. The punishment, abundantly depicted in ancient art, seems to foreshadow the Crucifixion. Prometheus, the god who had sought to benefit man, is splayed naked on a rocky peak of the high Caucasus and suffers in agony as an eagle daily eats his resurrected, reconstituted liver. Aeschylus’ cycle dramatized for Athenians, for whom the nature of justice and the profession of the Sophists were lively issues, the passion of the very human god. And in the early Christian centuries, as one scholar has observed, Prometheus “plays the role of a sort of ‘*Genesis secundum Gentiles*’” and late antique Christian Bible illumination may bear the influence

<sup>10</sup> See the old compilation and study by J. A. Stewart (*Stewart J. A. The Myths of Plato*, reprint. Carbondale, IL: Southern Illinois University Press, 1960), still extremely useful, for a discussion of this myth and the others scattered through Plato. In *Prometheus Bound* the god conceals his stolen fire by filling a fennel stalk with it (*narthēkoplērōton*): this detail clearly refracts an Indo-European *topos*, for in the pre-Christian Armenian cosmogonic Song of Vahagn (Avestan Verethraghna, Commagenian Artagnēs-Heraklēs) the fire-god emerges from a reed (Armenian *elegn*, a word that has been adduced by some as the origin of the elegy), see: *Russell J. R. “Carmina Vahagni” // Acta Antiqua*. Vol. 32. Budapest, 1989. Fasc. 3–4. — If one regards the song as Promethean in intent, and thus peculiarly concerned with compassion for humanity, then it may add to our understanding of the way that Vahagn seems to have assumed in the Armenian Zoroastrian pantheon of the Arsacid period the place in the supreme triad as we know it from the inscriptions of the Achaemenids in Old Persian that was reserved for Mithra, the most human of the *yazatas* and the embodiment, relevantly, of justice: Arm. Aramazd, Anahit, Vahagn, vs. OP. Ahura Mazda, Anahita, Mithra. Old Persian *dāta*, “law” (New Persian *dādestān*), is borrowed as the only Hebrew equivalent of “religion”, *dat*.

of Promethean iconography<sup>11</sup>. The classicist and psychologist C. Kerényi has observed also that when Prometheus cries *adika paskhō*, “I suffer unjustly!” the god’s protest in *Prometheus Bound* is (in Greece at least) “the first denunciation of injustice before a court”<sup>12</sup>. The author further argues that it is only with Prometheus’ gifts of skills beyond the instincts that men are fully realized as human, but by virtue of that very realization they encounter the predicament of suffering universal to living beings with a sense of injustice that is particular to us, and of which other animals are free<sup>13</sup>.

The late arrival of justice on the scene in the cosmological myth propounded by Protagoras makes sense in the context of Periclean Athens in a way it never could at any stage of Jewish history. For Jewish cultural values do not embrace the idea of a city, beyond the sacredness of Jerusalem — and sacredness is not a definably urban characteristic. For the Hellenes, particularly those of the charmed time and space of Socrates, the *polis*, with its institutions, is not just the ultimate expression of human culture, it is the only way of life in which a man can become fully realized in his identity and potential. Laws and the administration of justice are the foundation of the Greek city, not an additional structure. The *Oresteia* trilogy of Aeschylus ends with a jury trial at Athens in which the city’s tutelary goddess, acting as Shekhinah, casts her vote to break the tie and acquit Orestes, with a court award to the Erinyes, the Furies of his murdered mother. In like manner, Euripides introduces Athens as a place of clemency and sanctuary for Oedipus from the new tyrant of Thebes. In both cases, we encounter the Athenian founding myth, and *isonomia*, equality under law, is at its very core. The introduction of justice only after creation and acculturation, technology and urbanization, makes sense if one is building towards a teleological statement of the superiority of the Greek city state, as opposed to the barbarian city. That order works otherwise, I should say less strongly, if the direction of the argument is towards Jerusalem, not Athens. The Sophists trained lawyers and the myth of Protagoras flatters the profession; but for Israel the reflex of the same myth in Genesis works differently, tending towards a concept of human justice irrespective of the urban aspect, based upon Divine law, with the presence of the Divine in legal proceedings — not to mention His participation in them — posing an enduring metaphysical problem. (It does not, for the Greeks: Athena’s ballot was unique, and I do not believe she has reported for jury duty since the fall of the House of Argos.)

As to a possible Semitic genetic source of the myth, beyond the thematic parallels, one notes that Prometheus and his short-sighted brother (whose poor judgment is reflected also in his taking to wife the first woman, Pandora<sup>14</sup>) are the sons of the titan Iapetos, an elder brother of Kronos — that is, in the genera-

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<sup>11</sup> See: *Raggio O.* The Myth of Prometheus // Journal of the Warburg and Courtauld Institutes. 1958. Vol. 21, no. 1–2. P. 47–48.

<sup>12</sup> *Kerényi C.* Prometheus: Archetypal Image of Human Existence. London: Thames & Hudson, 1963. P. 83, 87.

<sup>13</sup> *Ibid.* P. 88–89.

<sup>14</sup> *Ibid.* P. 35.

tion of divinities preceding the Olympian gods. Ion, the first Ionian, is a remote descendant of Iapetos and Prometheus, and Iapetos is also the grandfather of Deukalion, the human survivor of the Greek version of the myth of the Deluge. All this provides fair circumstantial evidence, beyond homonymic similarity, for the identification of Iapetos with the Biblical son of Noah *Yāfet*, Japheth, who helps to repopulate the world after the Flood with his brood of Indo-Europeans, amongst whom is Yavan (=Ion, and the Greeks in general)<sup>15</sup>. That is, the myth about the stages of culture and the introduction of Justice told by Sophist Protagoras may have shared a common origin, perhaps in a Semitic language, with the narrative in Genesis. At least this is possible if I am right in my argument that there is strong thematic significance to the late entry of the word for justice into the structured narrative of Genesis. And once more, the answer to Tertullian's question, What has Athens to do with Jerusalem? is, Everything<sup>16</sup>.

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### Author's information:

James R. Russell — PhD, Professor (Emeritus); russeldeep@gmail.com

<sup>15</sup> See: Brown J.P. *Israel and Hellas*. Berlin Walter de Gruyter Brown, 1995. P.42, 82.

<sup>16</sup> See: Russell J. R. *The Lyre of King David and the Greeks // Judaica Petropolitana*. 2017. No. 8. P.31.

## Судья всей земли поступит ли неправосудно? Заметки о книге Бытия, Протагоре и справедливости Божьей

Дж. Р. Рассел

Калифорнийский государственный университет (Фресно),  
5241 N Maple Ave, Фресно, Калифорния, 93740, США

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Древнееврейские слова *шофет* (судья) и *мишпат* (правосудие, справедливость), употребляются впервые в книге Бытия лишь на позднем этапе технического и общественного развития человечества, когда уже существуют ремесла и города и после того, как Господь уже судил и отдельных людей (например, первого убийцу, Каина), и живущий мир в целом (в эпизоде Потопа). Патриарх Авраам называет Бога судьей всей земли, как будто Ему навязывая это звание и, соответственно, ограничивая Божий произвол. Автор статьи полагает, что этот порядок событий в тексте неслучаен, он указывает на новую концепцию справедливости, опирающуюся на равноправие перед законом и процедуру изложения аргументов перед судьей (и судом). Поскольку Господь безоговорочно принимает такое самоопределение, есть основание полагать, что умственный и духовный характер человечества, олицетворенного Авраамом, развился до такой степени, что человек наконец сумел уловить эти доселе неизвестные Господние черты. Далее в статье выдвигается предположение, что библейская тема божественной справедливости близка к мифу о Прометее, Эпиметее и Зевсе, излагаемому в «Протагоре» Платона, у которых, быть может, общие, семитские корни, поскольку Прометей и его несчастный брат — потомки титана Иапета. Последний, вероятно, тождествен с библейским Иафетом.

**Ключевые слова:** Авраам, Моисей, *шофет*, *мишпат*, справедливость Божья, Марина Цветаева, зороастризм, *ми'радж*, хасидский Бердичевский раввин, Платон, *Протагор*, Афины.

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Информация об авторе:

*Рассел Джеймс Роберт* — д-р философии, проф.; [russelldeep@gmail.com](mailto:russelldeep@gmail.com)