

The Divine Covenant Lawsuit Motif in Canonical Perspective

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I. Survey of Research

Hermann Gunkel, father of OT form criticism in the early 20th century, is also the first scholar to have isolated and analyzed the literary form of “prophetic lawsuit” (*Gerichtsrede*).¹ He found the divine prophetic lawsuit in eight prophetic passages (Isa 1:18–20; 3:13–15; 41:1ff, 21ff; 43:9ff; Jer 2:4–9; Hos 2:4ff; and Mic 6:1ff.) as well as imitations of this form of speech in Ps 50:7–13 and Ps 82. For Gunkel the prophetic lawsuit contained the following basic structure:

- I. Depiction of the trial
- II. The Prosecutor’s speech:
 - A. Heaven and earth are summoned to appear as judges
 - B. Exhortation to the accused—or to the judges—to listen
 - C. Angry question phrased in the second person, directed at the defendant
 - D. Dismissal of the defendant’s possible grounds for excuse
 - E. The heart of the matter

¹ See Hermann Gunkel, “Propheten Israels seit Amos,” *RGG* (1909–13), 1553; idem, “Die Propheten als Schriftsteller und Dichter,” introductory to *Die grossen Propheten*, by Hans Schmidt; *Die Schriften des Alten Testaments*, part 2, vol. 2, 2nd ed. (Göttingen: Vandenhoeck & Ruprecht, 1926), lxiii.

III. The Judge's speech:

- A. Address to the accused
- B. An accusatory presentation of the substance of the case
- C. Declaration of the accused's lack of defense—phrased in the third person
- D. A declaration of the demonstrated guilt of the defendant
- E. Pronouncement of judgment—second person.²

According to Gunkel, the background (*Sitz im Leben*) of this form of address is the secular legal proceedings conducted in Israel at the city gates. This view was advanced by Gunkel's pupil Joachim Begrich, who carried forward the work of classifying prophetic lawsuit forms, particularly in Deutero-Isaiah.³ A thorough analysis of the lawsuit literary form (*Gattung*) and historical setting (*Sitz im Leben*) was conducted by Hans Jochen Boecker in his dissertation, with the conclusion, like Gunkel and Begrich, that the *Sitz im Leben* of the lawsuit is in Israelite secular law conducted at the city gates.⁴ Boecker, like Begrich, subdivides the elements of the lawsuit into three major individual elements: (1) addresses given prior to the beginning of the trial; (2) addresses given during the trial before the assembled court; and (3) addresses given at the conclusion of the case, i.e., the verdicts.

Ernst Würthwein rejected Gunkel's position that the *Sitz im Leben* of the lawsuit genre was the city gate, and instead proposed the cult as the proper background of this literary form.⁵ Würthwein compares the divine lawsuit passages in the prophets dealt with by Gunkel, Begrich, and Boecker, with a number of texts from the Psalms describing divine

² Hermann Gunkel, *Einleitung in die Psalmen*, completed by Joachim Begrich; supplementary volume to *Göttinger Handkommentar zum Alten Testament* (Göttingen: Vandenhoeck & Ruprecht, 1933), 364–5.

³ Joachim Begrich, *Studien zu Deuterocesaja*, BWANT 4 (Stuttgart, 1938); later published in *Theologische Bucherei*, 20 (Munich: Chr. Kaiser Verlag, 1963).

⁴ Hans Jochen Boecker, *Redeformen des Rechtslebens im Alten Testament*, *Wissenschaftliche Monographien zum Alten und Neuen Testament*, 14 (Neukirchen-Vluyn: Neukirchener Verlag, 1964); idem, *Law and Administration of Justice in the Old Testament and Ancient Near East* (trans. Jeremy Moiser; Minneapolis: Augsburg, 1980), 27–52.

⁵ Ernst Würthwein, "Der Ursprung der prophetischen Gerichtsrede," *Zeitschrift für Theologie und Kirche* 49 (1952): 1–16.

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judgment taking place in the context of the cult (Ps 50, 75, 68, 82, and the enthronement psalms of 96:11–13; 97:1–6; and 98:7–9). Würthwein suggests that the lawsuit form of address (both in the Prophets and Psalms) must have been a part of the oral reading of the Law when the people assembled in the cult for covenant-renewal ceremonies, during which ceremonies he postulates that there must have been some kind of investigation of the people's covenant-faithfulness to the Law. The cult thus provided both the formal and actual *Sitz im Leben* for the lawsuit genre. Würthwein rejects the old liberal theology position that the prophets were enlightened original moralistic personalities opposed to the cult, but rather dependent upon the cult.

Würthwein's view was successfully challenged by, among others, Franz Hesse, who argues that the cult pronounced judgment, indeed, but upon Israel's enemies, not upon Israel itself.⁶ According to Hesse, the one apparent example, Psalm 50, is to be seen as an imitation of the prophetic lawsuit. Hesse insists that the cultic pronouncements and the prophetic lawsuit must be distinguished: the cult always pronounces judgment on Israel's enemies, while the prophet of judgment had a unique proclamation independent of the cult. For Hesse it was important to maintain the old liberal view that exalts the classical prophets above the cult.

Herbert B. Huffmon set forth a third proposal for the *Sitz im Leben* of the biblical divine lawsuit. Huffmon argues that the conception of Yahweh's lawcourt must be found in relationship to the procedure of covenant-making, and he coins the term "covenant lawsuit."⁷ Huffmon focuses upon five OT passages which employ the summoning of witnesses: Isa 1:2–3; Mic 6:1–8; Jer 2:4–13; Ps 50; and Deut 32. Huffmon examines various theories regarding the nature and of these witnesses—Gunkel's suggestion that the elements of Nature are judges in the case, R.B.Y. Scott's proposal that the background is the witnesses of the secular law court,⁸ and F. M. Cross's theory that these are connected with the

⁶ Franz Hesse, "Wurzelt die prophetische Gerichtsrede im israelitischen Kult?" *ZAW* 65 (1953): 45–53.

⁷ Herbert B. Huffmon, "The Covenant Lawsuit in the Prophets," *JBL* 78 (1959): 285–95.

⁸ R. B. Y. Scott, "The Literary Structure of Isaiah's Oracles," *Studies in Old Testament Prophecy*, ed. H. H. Rowley (New York: T & T Clark, 1950), 175–86.

conceptions of Yahweh's Heavenly Council assembled as a court.⁹ Although Huffmon finds the theory of Heavenly Council appealing and plausible, all of these proposals are seen to be ultimately unsatisfying. Huffmon suggests that the primary background for the biblical trials in which heaven and earth are witnesses is to be found in the Hittite suzerainty-vassal treaties, as proposed by George Mendenhall.¹⁰ Huffmon supports this position by pointing out that of the three passages in the Bible where there is an appealing to heaven and earth as witnesses, all three appear in the context of the establishing of a covenant (Deut 4:26; 30:19; and 31:28). He also point out the similarity between the covenant lawsuits of Scripture (see esp. Mic 6:4–5; Jer 2:6–7; and Deut 32:6b–14) and the Hittite international treaties in that both have reference to the suzerain's former gracious deeds. Huffmon concludes that the formal *Sitz im Leben* of the prophetic lawsuit is to be found especially in the Hittite suzerainty-vassal treaties, along with traditions from the Heavenly Council, and also possible influence from secular law. Huffmon does not deal with the actual *Sitz im Leben* of the prophetic lawsuit, i.e., where the prophets actually gave their lawsuit addresses.

Julien Harvey extended the research of Huffmon by examining more closely the Hittite materials, focusing especially upon the procedures arising from a breach of covenant found in correspondence from suzerains to unfaithful vassals (in contrast with Huffmon who looked primarily at the covenanting formulas).¹¹ Harvey developed this thesis further in a book published in 1967. Harvey shows that the suzerain's letters to the faithless vassal are essentially mirror images of the covenant formulas to which the

⁹ Frank M. Cross, "The Council of Yahweh in Second Isaiah," *JNES* 12 (1953): 274–7.

¹⁰ George E. Mendenhall, "Ancient Oriental and Biblical Law," *BA* 17/2 (1954): 26–46; "Covenant Forms in Israelite Tradition," *BA* 17/3 (1954):49–76; republished as *Law and Covenant in Israel and the Ancient Near East* (Pittsburgh: The Biblical Colloquium, 1955). Cf. idem, "The Suzerainty Treaty Structure: Thirty Years Later," in *Religion and Law: Biblical-Judaic and Islamic Perspectives* (ed. Edwin B. Firmage, Bernard G. Weiss, and John W. Welch; Winona Lake: Eisenbrauns, 1990): 85–100. Mendenhall is heavily indebted to the pioneering work on Hittite suzerainty treaties by Victor Korošec, *Hethitische Staatsverträge: ein Beitrag zu ihrer Juristischen Wertung* (Leipzig: T. Weicher, 1931).

¹¹ Julien Harvey, "Le 'Rib Pattern,' requisitoire prophétique contre Israël, après la rupture de l'alliance," *Biblica* 43 (1962): 172–96; idem, *Le plaidoyer prophétique contre Israël après la rupture de l'alliance: Etude d'une formule littéraire de l'Ancien Testament*; Studia, 22 (Bruges-Paris: Desclée de Brouwer, 1967).

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vassal had earlier assented. He finds that in the case of a vassal's breach of covenant, the suzerain either sent an ultimatum or a declaration of war. Harvey points to striking parallels between the Hittite letters and the prophetic lawsuits of the OT. The OT materials include five examples of what he calls complete accusatory addresses (Deut 32:1-25; Isa 1:2-20; Mic 6:1-8; Jer 2:4-13, 29; Ps 50:1-23) and 14 instances of what he terms incomplete accusatory addresses (Isa 42:18-25; 48:12-19; 57:3-13; 58:1-14; 66:1-4; Jer 6:16-21; Mal 1:6-2:9; Jdg 2:1-5; 1 Sam 2:27-36; 2 Sam 12:7-12; 1 Kgs 14:7-11; 21:17-24; 2 Chron 12:5-8; 15:1-15). Based upon these passages, Harvey suggests the following structure for the divine lawsuit in Scripture (which he calls the *Rib*-Pattern):

1. Appeal to heaven and earth, and to everyone, to listen
2. Declaration of Yahweh's right to act as He has done
3. Accusation against the people who have been disloyal to the Covenant
4. Rhetorical cross-examination, which does not expect any reply
5. Accusatory address, usually historically founded, which summarizes Yahweh's gracious acts and the people's ingratitude
6. Declaration of the powerlessness of the foreign gods, and of the impossibility of re-establishing the right relationship to Yahweh by means of rites
7. Declaration of Israel's guilt
8. Type A: treats of destruction = declaration of war
Type B: a positive specification of what is needed to rebuild the relationship = ultimatum.

Harvey distills these eight elements into five motifs which are normally found in the biblical *Rib*-Pattern (although he considers that one or two of these may be missing without compromising the integrity of the pattern):

1. Preparations for the trial
2. Cross-examination without expectation of reply
3. Accusatory Address
4. Official declaration of the guilt of the accused
5. Condemnation expressed in threats, but not in judgments (Type A)
or
positive instructions as to how the accused is to respond (Type B)

Harvey argues that the ultimate purpose of the covenant lawsuit form is to vindicate the juridical and moral correctness of Yahweh in the face of

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disasters that Israel experienced. Within the lawsuit format there is also the paraenetic (warning) intention to awaken a positive response of repentance on the part of the audience, so that Yahweh can once more be gracious to His people.

Those who have rejected the thesis of Huffmon and Harvey have largely objected on the basis of the alleged great distance of time between the 2nd millennium B.C.E. Hittite suzerainty treaties and the alleged late date of biblical texts with which they are compared. However, if one does not radically re-date biblical materials on the basis of higher-critical presuppositions, but rather accepts the date and *Sitz im Leben* claimed by the biblical text, the first covenant lawsuit (found in Deuteronomy) comes at approximately the same time as the Hittite suzerainty treaties, and the subsequent biblical divine lawsuits follow this basic pattern established in the Torah. I have found the evidence and general conclusions presented by Huffmon and Harvey, building upon the work of Mendenhall, to be persuasive.¹²

Attempts have been made to mediate between the three proposals for the biblical lawsuit's *Sitz im Leben*—secular law, cult, and international law. For example, Eberhard von Waldow's *traditionsgeschichtliche* study combines the theories of Gunkel and Würthwein by proposing that the formal aspects of the biblical lawsuit may be traced to secular law while their content has roots in Yahweh's covenant with Israel (although there is no evidence for an actual cultic trial).¹³

Another example of mediating views is that of James Limburg.¹⁴ Limburg examines in detail five passages employing the term רִיב (*rib*) which are most frequently cited in discussion of the prophetic lawsuit (Isa 1:2–3; 1:18–20; 3:13–15; Hos 4:1–13; and Mic 6:1–8) and concludes that the formal *Sitz im Leben* of the prophetic lawsuit includes all three of the previously proposals: secular law, the cult, and international law (with special emphasis upon international law). Which *Sitz im Leben* is

¹² See also, E. B. Wilson, "Rib in Israel's Historical and Legal Traditions" (Ph.D. dissertation, Drew University, 1970).

¹³ Eberhard von Waldow, *Der traditionsgeschichtliche Hintergrund der prophetischen Gerichtsreden*; BZAW 85 (Berlin: Töpelmann, 1963).

¹⁴ James W. Limburg, "The Lawsuit of God in the Eighth-Century Prophets," Th.D. dissertation, Union Theological Seminary of Virginia, 1969; idem, "The Root רִיב and the Prophetic Lawsuit Speeches," *JBL* 88/3 (1969): 291–304.

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applicable to a given passage must be decided on a case-by-case basis (for Limburg, Isa 3:13–15 is dependent upon the cult, and the other four passages depend upon international law).¹⁵

Limburg discusses one aspect of the debate not yet treated in detail: the significance of the Hebrew root ריב in the Hebrew Bible. Limburg concludes that the root-meaning of ריב is “accuse” (as subject and verb), and derived meanings include “to quarrel,” “argument,” “to sue,” and “suit.” As we will see below, this suggestion of root-meaning is problematic, inasmuch as the vast majority of cases of the ריב in Scripture have a positive and not negative function; the one who is arguing the legal case is defending the cause of the one before the court, and the result is vindication or deliverance. Thus I will suggest below that the root-meaning of the word ריב is “to contend,” which in legal contexts can mean either “contend *for*” (i.e., legally defend or plead the case of someone) or “contend *against*” (i.e., legally accuse or bring indictments against someone).

An essay by B. Gemser¹⁶ argues that what he calls the “*rib*-pattern” is part of the extensive use of forensic language in the OT. The *rib*- or controversy-pattern is not so much a literary form of expression or motif as it is a frame of mind among the people of Israel. Based upon a conviction of the “God-maintained moral order” of justice, the *rib* phraseology involving controversy between God and His people (either God’s controversy with men or men’s controversy with God) reveals that “there is something wrong in the relations of the entities involved.”¹⁷ Finally, for Gemser the *rib*-pattern reveals that

All is ultimately left to, lies in the hands of, the Supreme Judge and Ruler, whose judgement is righteous, but unpredictable, and inscrutable for human understanding, whose ways are not ours. He is a person, not a system or an order. But this implies that there is an appeal to Him, even an

¹⁵ For another example of a mediating position on the *Sitz im Leben* of the prophetic lawsuit, see the comments of H. Ringgren, cited below.

¹⁶ B. Gemser, “The *Rib*- or Controversy-pattern in Hebrew Mentality,” in *Wisdom in Israel and in the Ancient Near East*, ed. Martin Noth and D. Winton Thomas, *VTSup* 3 (Leiden: Brill, 1955), 120–37.

¹⁷ *Ibid.*, 136.

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irrational, undeserved, unjustifiable appeal to his heart, his compassion, his grace.¹⁸

In 1978 Kirsten Nielsen published his translated licentiate thesis under the title *Yahweh as Prosecutor and Judge: An Investigation of the Prophetic Lawsuit (Rib-Pattern)*.¹⁹ Nielsen provides a helpful review of literature,²⁰ followed by a brief exegesis of five OT passages containing the basic four-fold prophetic lawsuit pattern outlined by Harvey: Isa 1:2–3; 3:13–15; Hos 2:4–17; 4:1–3; and Ps 50:1–23. Nielsen argues that the basic elements of the various prophetic lawsuits are the same, whatever the life-situation out of which they arise, and thus one cannot determine on a case-by-case basis the proper *Sitz im Leben* of a given passage (contra Limburg). Nielsen's particular interest is in determining the actual *Sitz im Leben* of the prophetic lawsuit, based upon "Scandinavian lines" rather than "German, French, and American premisses,"²¹ and this leads in a predictable direction to the cult, and more specifically, following Sigmund Mowinckel, to the Israelite New Year's Covenant-Renewal Festival (Feast of Booths). However, after examining the evidence, Nielsen concludes that there is insufficient evidence to support an actual cultic *רִיב* in connection with the New Year's festival. Rather the actual *Sitz im Leben* of the prophetic *רִיב* in general must be "the emergency situation in which the prophet sees it as his task to force the people to return to the covenant-relationship with Yahweh by forcing them to come to an awareness of what this relationship demands of them."²² The exception to this are the Lawsuits of Deutero-Isaiah, which Nielsen sees as alluding to a different purpose for the trial procedure

the subject of which is not Yahweh's prosecution and condemnation of Israel for breach of covenant. Where the prophetic lawsuit ordinarily proclaims Yahweh's impending judgement, or at least threatens to do so, the lawsuits of Deutero-Isaiah attempt to bring evidence that Yahweh is

¹⁸ Ibid., 137.

¹⁹ Kirsten Nielsen, *Yahweh as Prosecutor and Judge: An Investigation of the Prophetic Lawsuit (Rib-Pattern)*, JSOTSup, 9 (Sheffield: University of Sheffield, 1978).

²⁰ The previous summary is heavily dependent upon Nielsen's literature review.

²¹ Ibid., 42.

²² Ibid., 61.

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the Lord of History, and to explain the disaster already experienced as Yahweh's righteous punishment.²³

Nielsen conducts an analysis of the role that Yahweh plays in the prophetic lawsuit, and concludes that He is both prosecutor and judge, and furthermore, that He has an ultimate salvific intent, in spite of His other legal roles. Yahweh can be both prosecutor and judge because in the Israelite judicial system, unlike the Western ones, the judge has the responsibility not only to give a ruling on the facts laid before him, but also to uphold the rights of the needy in society. Thus the psalmist's prayer for Yahweh to "judge" him means "to uphold his rights" or "help" him. Nielsen explains:

There is for this reason a tension between the functions of prosecutor and judge which under ordinary conditions would make the fusion of their roles impossible. Thus, when the OT speaks of Yahweh as both prosecutor and judge, this tension is reflected as an element of the Israelite understanding of God: the righteousness of Yahweh demands that the people's apostasy be made the object of condemnation, while his love for the Chosen People leads him to forgiveness and to the restoration of the original relationship. . . . Thus the most apposite metaphor for describing the conflict between Yahweh and Israel is one drawn from the language of the courtroom. Heaven and earth are called to act as witnesses; Yahweh-as-prosecutor presents his irrefutable accusations against Israel; and then Yahweh-as-judge can either choose to pronounce the verdict appropriate to such charges, or by omitting an actual sentence he can express his willingness to forgive his people—or some part of his people—if only they will repent.²⁴

After surveying the vigorous investigation of the covenant lawsuit in the first three-quarters of the 20th century, and encountering the wide consensus among OT scholarship by the 1970's that the "prophetic lawsuit" was an accepted sub-genre,²⁵ I was surprised to find that the discussion on this topic came to a virtual standstill in the 1980's, in the wake of two

²³ Ibid., 71.

²⁴ Ibid., 76–7.

²⁵ In addition to the authors cited above, see, e.g., Claus Westermann, *Basic Forms of Prophetic Speech*, trans. Hugh C. White (Louisville: Westminster, 1991), 199.

influential journal articles which called into question the very existence of a “prophetic lawsuit” genre in Scripture.

Michael De Roche’s article²⁶ discusses the so-called “prophetic lawsuit” genre of the pre-exilic Prophets in the light of the research by S. Roberts on legal anthropology.²⁷ Roberts defines a “lawsuit” as a legal dispute involving three parties: the two disputing parties and a third party (usually the court) that adjudicates the dispute. De Roche argues that the prophetic רִיב of the OT pre-exilic prophets cannot be called a “lawsuit” since it regularly involves only the two disputing parties and not a third party to adjudicate the dispute. According to De Roche, the word רִיב does not mean “lawsuit” or “to bring suit” as often claimed, but rather more broadly means “contention” or “to contend” and refers to the *pre-trial* dispute or contention between two parties *before* such dispute is brought (if it is ever brought) to the court for adjudication. Because of what he regards as the pre-trial and bilateral (not trilateral) nature of the OT רִיב, De Roche concludes that “the terms ‘prophetic lawsuit’ and ‘covenant lawsuit’ should be abandoned.”²⁸

The article by Dwight R. Daniels²⁹ goes even further, and maintains that there is no such thing as a special genre of “*rib*-oracles” in Scripture. In the texts commonly set forth as belonging to such a genre (Isa 1:2–3, 18–20; Jer 2:4–13; Mic 6:1–8; and Hos 4:1–3), Daniels finds no elements of structure or content that specially demarcates such a genre, and thus concludes that “not only should the term ‘prophetic lawsuit’ be abandoned but also the underlying conception that these texts belong to a single genre.”³⁰

With regard to the two aforementioned articles, I find it amazing that, at least as far as I have been able to ascertain, the presuppositions and lines of argument upon which the conclusions of these scholars are based have never been seriously re-examined, yet have been adopted so readily and so

²⁶ Michael De Roche, “Yahweh’s *Rib* against Israel: A Reassessment of the So-Called ‘Prophetic Lawsuit’ in the Pre-Exilic Prophets,” *JBL* 102/4 (1983): 563-574.

²⁷ S. Roberts, *Order and Dispute: An Introduction to Legal Anthropology* (Harmondsworth: Penguin, 1979).

²⁸ De Roche, 574.

²⁹ Dwight R. Daniels, “Is There a ‘Prophetic Lawsuit’ Genre?” *ZAW* 99/3 (1987): 339–60.

³⁰ *Ibid.*, 360.

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uncritically by many. Consider, for example, the author of the article on **רִיב** in the *NIDOTTE*, who refers briefly to the suggestions that **רִיב** can denote a lawsuit and that there is a technical ‘prophetic lawsuit’ genre in the OT, but fails to affirm these views because they are “now widely disputed (see De Roche [*sic.*]).”³¹ No evidence is given for the position taken.

In my response to the first article, I point out, as noted above, that De Roche builds upon Roberts’ study of legal anthropology, and insists that the biblical form of jurisprudence conform to the definition of “lawsuit” set forth by Roberts. A modern anthropological construct of the “lawsuit” is thus imposed upon the biblical text. It should be noted that even in the modern definition of “lawsuit,” there is no requirement of three parties being involved. A “lawsuit” may be defined broadly as “a case, action, or proceeding brought to a court of law for settlement.”³² Furthermore, in the cosmic courtroom setting, where God brings His case, it is absurd to think that in these legal proceedings God would subject His case to a third party for adjudication. God is both Prosecution/Defense Attorney and Judge. Because God is both attorney and judge, and thus there are only two parties in the legal proceedings, is no reason to deny that a lawsuit is present. Furthermore, contra De Roche, most of the various OT passages that have been commonly viewed as describing a lawsuit, clearly appear in a legal, courtroom setting, not just in a pre-court situation (see discussion below). Thus the term “lawsuit” is entirely appropriate for these passages.

This brings us to a critique of the article by Daniels. Daniels acknowledges that references to such items as the “heavens and earth” as witnesses clearly point to a legal setting in which the covenant with Israel was first contracted (Deut 4:26; 30:19; and 31:28), paralleling the witnesses in the Hittite suzerainty treaties. But Daniels, building upon his historical-critical presuppositions, carries out radical redaction-critical surgery on these passages, asserting that none of them “belongs to the postulated Proto-Deuteronomy. . . . The supportive evidence is thus relatively late, and this does not appear to be an accident of transmission.” Other features of the “prophetic lawsuit” passages that point to a legal setting are likewise

³¹ John M. Bracke, “**רִיב**,” *New International Dictionary of Old Testament Theology and Exegesis* (1997, hereafter *NIDOTTE*), 3:1105.

³² Funk & Wagnalls Standard College Dictionary (1966).

expunged from the text by redaction criticism as not belonging to the original text.³³ Thus, Daniels excises textual evidence contrary to his thesis by applying the redactor's knife. Daniels' main arguments against the existence of a prophetic lawsuit genre fall to the ground if one recognizes the strong evidence that has been forthcoming in recent decades supporting the essential unity and antiquity of the book of Deuteronomy.³⁴

Other textual evidence for a legal setting is explained away by Daniels because in his view it does not precisely fit with Israelite legal procedures. For example, because in Mic 6:1–8 God seeks reconciliation with His people, Daniels argues that it must be a cultic liturgical background and not a legal context. There is no consideration given to Hittite correspondence from suzerains to unfaithful vassals containing just such seeking of reconciliation. Nor is attention given to the fact that this is a *cosmic* legal setting, where the courtroom and the cult come together, and where in the heart of divine legal proceedings occurs an offer of grace and a call to reconciliation (see our discussion below).

In sum, I do not find convincing the objections raised by scholars like De Roche and Daniels, regarding the existence of a prophetic lawsuit sub-genre in the OT. Thankfully, not all have jettisoned the concept of a prophetic lawsuit following the dissenting voices just mentioned. The standard lexicons and wordbooks published subsequent to the two articles just reviewed have not hesitated to identify the many instances of divine ריב in the OT as “lawsuit.”³⁵ The *Hebrew and Aramaic Lexicon of the Old*

³³ So, e.g., Daniels denies the unity in Jer 2:4–13 by insisting that “v. 12–13 did not constitute an original part of the prophecy in v. 4–11 but have been assigned their present position to function as a redactional link between v. 4–11 and v. 14–19. . . . Certain, however, is that the connection between v. 4–11 and v. 12–13 is a secondary development, a point of significance since it means that for Jer 2,4–13 the connection between the root ריב and an address to the heavens, often considered a sure sign of a ‘prophetic lawsuit’, is not original” (Daniels, 345). Likewise Hos 4:1–3 is seen to have a complicated history of literary development (ibid., 345–7, and the unity of Isa 1:10–20 is rejected (ibid., 348).

³⁴ For evidence of the unity and antiquity of the book of Deuteronomy, including the passages under question by Daniels, see discussion with bibliography in P.C. Craige, *The Book of Deuteronomy*, NICOT (Grand Rapids, MI: Eerdmans, 1976), 20–29; and Eugene H. Merrill, *Deuteronomy*, NAC, 4 (Nashville, TN: Broadman & Holman, 1994), 27–37.

³⁵ See *The Hebrew and Aramaic Lexicon of the Old Testament* (2001, hereafter HALOT), s.v. “ריב”; and H. Ringgren, “ריב,” *Theological Dictionary of the Old Testament* (German 1990–2, English 2004, hereafter TDOT), 13:477–8.

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Testament (2001) clearly places the many verbal references to divine ריב under the subheading of those occurrences “used in legal situations, in the context of a legal dispute” and situates the nominal references under the specific heading of “God’s lawsuit.”³⁶ H. Ringgren, in his *Theological Dictionary of the Old Testament* article on ריב (published in German in 1990–2 and English in 2004), writes that “In most cases, *rib* involves litigation, literal or figurative; it can also refer to individual elements of legal proceedings.”³⁷ As to the OT instances of divine ריב, Ringgren places the discussion of these under the heading of “prophetic lawsuit.” After examining the commonly-discussed passages (Isa 3:13–15; Mic 6:1–8; Hos 2:4–17; Jer 2:4–9; Isa 49:21–24; and 1:16–20), Ringgren summarizes: “That here the prophetic message is clothed in legal terminology is clear and unambiguous.”³⁸

Ringgren surveys the three major backgrounds that have been suggested (see survey of literature above) for this legal terminology—secular Israelite law, the cult, and international law—and concludes that “The solution of the problem probably lies in a combination of these theories. A cultic tribunal is hardly conceivable apart from secular legal proceedings. The forensic language must have its roots in secular law. Such language may well have been incorporated into the cult, undergoing transformation in the process.”³⁹

In the recently-published dissertation by Alan Bandy on the prophetic lawsuit motif in the book of Revelation, an introductory chapter shows how the studies by such “dissenting voices” as De Roche and Daniels have provided needed corrective for some misunderstandings in previous scholarly discussion, but have not succeeded in discrediting the prophetic lawsuit passages individually or as a literary genre in Scripture.⁴⁰ Bandy points out how these “dissenting voices” (1) have corrected the idea entertained by some previously that “the prophetic lawsuit is a literal trial in the same sense of two parties engaging in actual litigation;” (2) they have

³⁶ HALOT, s.v. “ריב”.

³⁷ Ringgren, 13:475.

³⁸ Ibid., 477.

³⁹ Ibid., 477–8.

⁴⁰ Alan S. Bandy, *The Prophetic Lawsuit in the Book of Revelation*, New Testament Monographs, 29 (Sheffield, England: Sheffield Phoenix Press, 2010), 33–37.

caused us to recognize that “Attempts at isolating the exact juridical background are fraught with difficulty, due to the unique prophetic adaptation of these legal procedures;” and (3) they have called for “a careful delineation between a conflict and a lawsuit,” since the Hebrew root ריב “conveys the basic sense of ‘contention’ and does not always imply juridical contexts or the need for arbitration,” and thus the immediate context of a passage (including specific juridical elements) can help to identify when an actual lawsuit speech is present.⁴¹ Despite these needed correctives to common scholarly misunderstandings, Bandy argues persuasively, contra the dissenting voices, for the existence of the lawsuit motif as a prophetic sub-genre in the OT (and, as we will see below, also in the book of Revelation).⁴²

Let us now move from the literature review to an overview of the biblical evidence. In this article I wish to focus specifically upon the *divine* lawsuit motif, not the broader range of human lawsuits. I will examine evidence for the existence of a divine lawsuit not only in the Prophets but throughout the OT (hence I prefer the term “covenant lawsuit” over “prophetic lawsuit”), and also give brief attention to this motif in the NT.

II. The Divine Covenant Lawsuit Motif in Scripture

A. Divine ריב Passages and the Covenant Lawsuit Sub-Genre in the OT:⁴³

There are 68 occurrences of ריב as a verb (Vb, 66 in the qal and 2 in the hifil ptcip.) and 62 occurrences of ריב as a noun (N), for a total of 130 occurrences in the Hebrew Bible. In addition, the noun יריב “adversary” appears twice, and as does the word מריבה “strife,” which is also a toponym (“Meribah”). As mentioned above, the basic meaning of ריב seems to be “contend (either for or against)” or “contention.” As noted in *HALOT* and *TWOT*, and confirmed by my own analysis of all 130 occurrences, the word

⁴¹ Ibid., 36.

⁴² Ibid., 24–58. Bandy’s brief overview of the relevant OT passages confirms many of the conclusions I have reached independently in research for this article; his book (and dissertation upon which the book is based) appeared subsequent to my primary research for this article. Bandy’s primary focus, however, is upon the lawsuit motif in the book of Revelation, which I only briefly mention in this study (see below).

⁴³ Biblical citations are from the Updated NASB unless otherwise indicated.

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can simply mean “quarrel,” or “accuse,” but most frequently appears in a legal context. According to my own count, 84 of the 130 occurrences of ריב appear in a legal setting, and of these 84, 44 refer to God’s ריב (22 as a noun and 22 as a verb). The occurrences of the divine ריב are about equally divided between cases involving a single individual and cases involving a corporate group. The verses with these 44 occurrences of a divine ריב appear below, with an indication of whether Yahweh’s ריב is positive (P, i.e., for vindication/deliverance) or negative (N, i.e., for condemnation/punishment):

P 1 Sam 24:16 (ET 15): “Therefore let the LORD be judge, and judge between you and me, and see and plead [ריב Vb] my case [ריב N], and deliver me out of your hand.” (NKJV)

P 1 Sam 25:39: “When David heard that Nabal was dead, he said, ‘Blessed be the LORD, who has pleaded [ריב Vb] the cause [ריב N] of my reproach from the hand of Nabal and has kept back His servant from evil. The LORD has also returned the evildoing of Nabal on his own head.’ Then David sent a proposal to Abigail, to take her as his wife.”

P 2 Sam 22:44: “You gave me victory over my accusers [ריב N, cf. HALOT]. You preserved me as the ruler over nations; people I don’t even know now serve me.” (NLT)

N Job 10:2: “I [Job] say to God, ‘Do not condemn me; Let me know what You charge [ריב Vb] me with.’” (JPS)

P Job 23:6: “Would he oppose [ריב Vb] me with great power? No, he would not press charges against me.” (NIV) (Cf. v. 4: “I would present *my* case [בְּשִׁפְטֵי] before Him And fill my mouth with arguments.”)

P Ps 18:44 (ET 43): “You gave me victory over my accusers [ריב N, cf. HALOT]. You appointed me as the ruler over nations; people I don’t even know now serve me.” (NLT)

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P Ps 31:21 (ET 20): “In the shelter of your presence you hide them from the intrigues of men; in your dwelling you keep them safe from accusing [רִיבִּי N, cf. HALOT] tongues.”

P Ps 35:1: “Plead [רִיבִּי Vb] *my cause*, O LORD, with those who strive [רִיבִּי N] with me; Fight against those who fight against me.”

P Ps 35:23: “Wake up! Rise to my defense! Take up my case [רִיבִּי N], my God and my Lord.” (NLT)

P Ps 43:1: “Vindicate me, O God, and plead [רִיבִּי Vb] my case [רִיבִּי N] against an ungodly nation; O deliver me from the deceitful and unjust man!”

P Ps 74:22: “Arise, O God, *and* plead [רִיבִּי Vb] Your own cause [רִיבִּי N]; Remember how the foolish man reproaches You all day long.”

N Ps 103:9: “He will not always accuse [רִיבִּי Vb], nor will he harbor his anger forever” (NIV).

P Ps 119:154: “Argue [רִיבִּי Vb] my case [רִיבִּי N]; take my side! Protect my life as you promised.” (NLT)

P Prov 22:23: “For the LORD will plead [רִיבִּי Vb] their case [רִיבִּי N] And take the life of those who rob them.”

P Prov 23:11: “For their Redeemer is strong; He will plead [רִיבִּי Vb] their case [רִיבִּי N] against you.”

P/N Isa 3:13: (Positive) “The LORD stands up to plead a cause [רִיבִּי Vb], He rises to champion peoples.” (JPS) “The LORD rises to argue his case [רִיבִּי Vb]; he stands to judge [דִּינִי] the peoples.” (NRSV). (Or negative): “The LORD takes his place in court [רִיבִּי Vb]. He is the great prosecuting attorney, presenting his case against his people!” (NLT) (The following verses probably favor a negative context of judgment.)

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P Isa 19:20: “It will be a sign and a witness to the LORD of hosts in the land of Egypt; when they cry to the LORD because of oppressors, he will send them a savior, and will defend [רִיבִי Vb] and deliver them.” (NRSV)

P Isa 34:8: “For the LORD has a day of vengeance, A year of recompense for the cause [רִיבִי N] of Zion.” Cf. NJB: “For this will be Yahweh's day of vengeance, the year of retribution in Zion's lawsuit.”

P Isa 49:25: “Surely, thus says the LORD, ‘Even the captives of the mighty man will be taken away, And the prey of the tyrant will be rescued; For I will contend [רִיבִי Vb, legally, HALOT] with the one who contends with you, And I will save your sons.’”

P [Isa 50:8: “He who vindicates me is near. Who then will bring charges [רִיבִי Vb] against me? Let us face each other! Who is my accuser? Let him confront me!”] (NIV) (The רִיבִי here is not initiated by God, but He responds by vindication of the one who is accused.)

P Isa 51:22: “Thus says your Sovereign, the LORD, your God who pleads the cause [רִיבִי Vb] of his people: See, I have taken from your hand the cup of staggering; you shall drink no more from the bowl of my wrath.” (NRSV)

N Isa 57:16: “I will not accuse [רִיבִי Vb] forever, nor will I always be angry, for then the spirit of man would grow faint before me-- the breath of man that I have created.” (NIV)

N Jer 2:9 (bis): “‘Therefore I will yet bring charges [רִיבִי Vb] against you,’ says the LORD, ‘And against your children's children I will bring charges [רִיבִי Vb].’”

P Jer 11:20: “O LORD of Hosts, O just Judge, Who test the thoughts and the mind, Let me see Your retribution upon them, For I lay my case [רִיבִי N] before You.” (JPS) (It is Jeremiah's רִיבִי but Yahweh the Judge adjudicates positively in the case.)

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P Jer 20:12: “O LORD of Hosts, You who test the righteous, Who examine the heart and the mind, Let me see Your retribution upon them, For I lay my case [יִבַּעְךָ N] before You.” (JPS)
(See comments on previous verse.)

N Jer 25:31: “Tumult has reached the ends of the earth, For the LORD has a case [יִבַּעְךָ N] against the nations, He contends with all flesh. He delivers the wicked to the sword—declares the LORD.”

P Jer 50:34: “Their Redeemer is strong, the LORD of hosts is His name; He will vigorously plead [יִבַּעְךָ Vb יִבַּעְךָ Vb] their case [יִבַּעְךָ N] So that He may bring rest to the earth, But turmoil to the inhabitants of Babylon.”

P Jer 51:36: “Therefore thus says the LORD, ‘Behold, I am going to plead [יִבַּעְךָ Vb] your case [יִבַּעְךָ N] And exact full vengeance for you; And I will dry up her sea And make her fountain dry.’”

P Lam 3:58: “O Lord, You have pleaded [יִבַּעְךָ Vb] the case [יִבַּעְךָ N] for my soul; You have redeemed my life.”

N Hos 4:1: “Listen to the word of the LORD, O sons of Israel, For the LORD has a case [יִבַּעְךָ N] against the inhabitants of the land, Because there is no faithfulness or kindness Or knowledge of God in the land.”

N Hos 12:3 (ET 2): “Now the LORD is bringing a lawsuit [יִבַּעְךָ N] against Judah. He is about to punish Jacob for all his deceitful ways.” (NLT)

N Mic 6:1–2: “Hear what the LORD is saying: Come, present *My* case [יִבַּעְךָ Vb] before the mountains, And let the hills hear you pleading. Hear, you mountains, the case [יִבַּעְךָ N] of the LORD—You firm foundations of the earth! For the LORD has a case [יִבַּעְךָ N] against His people, He has a suit [יִתְוַכַּח] against Israel.”

P Mic 7:9: “I will bear the indignation of the LORD Because I have sinned against Him, Until He pleads [יִבַּעְךָ Vb] my case [יִבַּעְךָ N] and

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executes justice for me. He will bring me out to the light, *And* I will see His righteousness.”

The divine ריב passages have been examined by several scholars (see review of literature above), and it is not necessary, nor is there space in this study, to repeat this research. I will limit my remarks to some of the salient points that have emerged from my own analysis of these and related passages in Scripture.

1. Preponderance of positive lawsuits. Among the list of 44 OT references to a divine ריב, actually employing the term ריב, at least 35 (and perhaps 36) of these divine lawsuits are positive, i.e., God’s legal proceedings lead to vindication or deliverance of His people! There are four times as many positive cases of divine ריב as negative ones. Although the longer passages of the OT which contain the complete covenant lawsuit structure (as described below) focus upon faithless Israel, the preponderance of OT references to covenant lawsuit feature God as defending the cause of His people! This is in harmony with the dominant and overarching positive concept of judgment in the OT, as a time for the judge to uphold the rights of the oppressed and downtrodden.

2. A distinct sub-genre. I concur with the research that has isolated a distinct divine ריב-oracle sub-genre, especially in the Pre-exilic Prophets, which has been labeled a “prophetic lawsuit.” A representative passage in this genre is Mic 6:1-8, where we find the word ריב occurring three times in the first two verses. According to the consensus of those who have analyzed this genre, the “prophetic lawsuit” in its complete formal structure, includes at least four other prophetic passages: Isa 1:2–20;⁴⁴ 3:13–15; Jer 2:4–13; and Hos 4:1–13.

3. Covenant lawsuit. I also agree with those who extend this genre beyond the Prophets to include other passages which call to “heaven and earth” as witnesses, in particular, Psalm 50 and Deut 32. Deut 32 is especially instructive because it provides explicit context for the ריב

⁴⁴ See J. J. M. Roberts, “Form, Syntax, and Redaction in Isaiah 1:2–20,” *Princeton Seminary Bulletin* 3/3 (1982): 292–306, for analysis of this passage as a single coherent unit constituting a covenant lawsuit.

pattern: the context is a breach of covenant.⁴⁵ The appeal to “heaven and earth” as witnesses, found in Deut 32:1, occurs earlier in Deuteronomy referring to the establishment of the covenant (Deut 4:26; 30:19). In the chapter immediately preceding Deut 32 the same appeal is linked by Moses to Israel’s future breaking of the covenant, with “heaven and earth” serving as witnesses against them, clearly in a legal setting (Deut 31:28). This same breach of covenant is apparent in the contents of other extended רִיב-pattern passages noted above. In view of the breadth of this genre that extends beyond the Prophets, and in view of the covenant context of the genre, it seem more appropriate to identify these passages as “covenant lawsuit” than “prophetic lawsuit.”

4. The covenant lawsuit structure. I concur with George Mendenhall and others who have followed him in showing that the “covenant lawsuit” structure forms a virtual mirror image of Israel’s covenant-making pattern, and that these Israelite patterns parallel the basic features of the Hittite suzerain treaties and/or letters to vassals who are guilty of breach of covenant. The basic structure of the Hittite international suzerainty treaties and Israelite covenant-making procedure, may be summarized as the following:⁴⁶

⁴⁵ See especially, G. Ernest Wright, “The Lawsuit of God: A Form-Critical Study of Deuteronomy 32,” in *Israel’s Prophetic Heritage: Essays in Honor of James Muilenburg*, ed. Bernhard W. Anderson and Walter Harrelson (New York: Harper, 1962), 26–67.

⁴⁶ Adapted from Mendenhall, *Law and Covenant*, 31–34. Scholars have demonstrated that the entire book of Deuteronomy is structured in this general covenant-making (or renewal) format (but with the order reversed in putting witnesses last). See, e.g., the outline of Deuteronomy by P. C. Craigie, *The Book of Deuteronomy*, NICOT (Grand Rapids: Eerdmans, 1976), 24:

1. Preamble (Deut 1:1-5)
2. Historical Prologue (chs. 1:6—4:49)
3. General Stipulations (chs. 5–11)
4. Specific Stipulations (chs. 12–26)
5. Blessings and Curses (chs. 27–28)
6. Witnesses (see 30:19; 31:19; 32:1–43)

Cf. Meredith Kline, *Treaty of the Great King: The Covenant Structure of Deuteronomy* (Grand Rapids: Eerdmans, 1963); and Kenneth A. Kitchen, *Ancient Orient and Old Testament* (Chicago: Inter-Varsity, 1966), 90–102.

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1. Preamble (introduction of the suzerain)
2. Historical prologue (statement of previous benevolent acts of the suzerain toward the vassal, as motivation for the vassal's grateful covenant loyalty)
3. Stipulations (General and specific)
4. List of witnesses
5. Blessings and curses

The Israelite covenant lawsuit pattern for breach of covenant is the mirror image of this pattern, except with the witnesses often placed at the beginning of the list, identifying the permanent features of Yahweh's creation who have "witnessed" the vassal's breach of covenant and the suzerain's just actions toward the vassal:

1. List of witnesses (heaven and earth; mountains and hills): Deut 32:1; Isa 1:2a; Mic 6:1-2a; Ps 50:1, 4, 6; Jer 2:12.
2. Preamble (introduction of the suzerain and call to judgment): Deut 32:4-6; Isa 1:2b; Mic 6:1-2; Ps 50:1-7; Jer 2:4-5a.
3. Historical prologue (review of the suzerain's benevolent acts toward the vassal): Deut 32:7-14; Isa 1:2c; Mic 6:3-5; Ps 50:8-15; Jer 2:5b-7a.
4. Indictments (breach of covenant stipulations): Deut 32: 15-18; Isa 1:2d-4, 10-15; Mic 6:6-8 (review of general stipulations), 9-12 (violation of the specific stipulations); Ps 50:16-21; Jer 2:7b-3:11.
5. Verdict (guilty, "Therefore") and sentence (pronouncement of the curses): Deut 32:19-29; Isa 1:5-9; Mic 6:13-16; Ps 50:22; Jer 4:5-31.

5. Other biblical examples of a covenant lawsuit. There are other passages in the Hebrew Bible where one finds such complete structure of a covenant lawsuit, that have not been widely explored. For example, Ezekiel 5-6 has all the aspects of the covenant lawsuit genre:

1. Preamble: "Thus says the Lord God" (Ezek 5:5a)
2. Historical prologue: "This is Jerusalem; I have set her in the midst of the nations and the countries all around her." (Ezek 5:5b)
3. Indictments: "She has rebelled against My judgments by doing wickedness more than the nations. . ." (Ezek 5:6-8)
4. Verdict: "Therefore thus says the Lord God: 'Indeed I, even I, am against you and will execute judgments in your midst in the sight

of the nations. . .” (Ezek 5:8–9). Sentence with the covenant curses: “Therefore fathers shall eat their sons in your midst. . .” (Ezek 5:10–17).

5. Witnesses: “Son of man, set your face toward the mountains of Israel, and prophesy against them” (Ezek 6:1–14). The mountains, normally the lasting and faithful witnesses of Israel’s apostasy, in this instance have also become corrupt (as the fertility cults have been practiced on their heights).

In a 1980 *JBL* article, Henry Parunak also examines the pervasive theme of covenant lawsuit in Ezekiel 8-11 (a passage largely overlooked by previous studies). Parunak summarizes the basic elements of the classic *rib* or covenant lawsuit (convocation of trial, accusation by interrogation, indictment, declaration of guilt, declaration of doom, and promise of salvation for the faithful), and demonstrates how Ezekiel 8-11 contains all of these basic elements, arranged in a chiasmic structure.⁴⁷

There needs to be more study given to examining other potential biblical passages where the essential elements of the covenant lawsuit structure are found although the word ריב may not occur. This should involve, e.g., an examination of all passages where the synonym מִשְׁפָּט “judgment” (as in Ezek 5:8) or the related verb שפט is found, or other synonym such as דין “to judge” or בחן “to examine, [legally] investigate,” or חקר “to investigate, examine,” in order to see if there are other extended passages containing the essential elements of the covenant lawsuit genre. My initial examination of passages containing these Hebrew terms has uncovered at least 66 divine lawsuit passages which are not referred to elsewhere in this paper in connection with other discussion.⁴⁸ These call

⁴⁷ Henry van Dyke Parunak, “The Literary Architecture of Ezekiel’s *mar’ot ’elohim*,” *JBL* 99 (1980): 66-69.

⁴⁸ The root דין “to judge” is used at least 20 times with reference to a divine covenant lawsuit, of which five passages are not mentioned in connection with words referred to elsewhere in this paper: Job 19:29; 35:14; 36:31; Ps 68:6; 72:2. The root בחן “to examine, investigate” appears at least 13 times in a setting of divine covenant lawsuit, of which five passages are not mentioned elsewhere in this paper: 1 Chron 29:17; Job 17:18; Job 34:36; Jer 12:3; 17:10. The root חקר is used at least four times referring to a divine lawsuit: Job 13:19 (the only passage not mentioned elsewhere in this paper); Ps 139:1, 23; and Jer 17:10. The noun מִשְׁפָּט “judgment” is used in at least 54 passages in a setting of divine lawsuit, of which at least 21 are not mentioned elsewhere in this paper: Deut 1:17; 1 Ki 8:45, 49, 59;

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for further examination in a future study to determine the extent of the lawsuit structures.

6. Incomplete lawsuit structures. One must also note the many passages where there is not a complete covenant lawsuit structure, but, in Harvey's terminology, incomplete accusatory addresses. Harvey points to 14 instances of such incomplete lawsuit structure: Isa 42:18–25; 48:12–19; 57:3–13; 58:1–14; 66:1–4; Jer 6:16–21; Mal 1:6–2:9; Jdg 2:1–5; 1 Sam 2:27–36; 2 Sam 12:7–12; 1 Kgs 14:7–11; 21:17–24; 2 Chron 12:5–8; 15:1–15. To these we can note the *additional* passages mentioned by Gunkel: Isa 41:1ff., 21ff.; 43:9ff.; Hos 2:4ff.; Ps 50:7–13; and Ps 82. It is instructive to note that these examples include a covenant lawsuit against individuals as well as the corporate nation (Isa 1:18–20; 3:13–15; Jer 2:4–9; Hos 2:4ff; and Mic 6:1ff.) as well as imitations of this form of speech in Ps 50:7–13 and Ps 82.

7. Divine lawsuits against the foreign nations. Among the divine ריב passages (where the term ריב occurs), it should be noted that there is at least one example (and perhaps two), where God's lawsuit is directed toward the nations and not toward His people (individually or collectively): Jer 25:31 (negatively) and perhaps Isa 3:13 (positively). Such lawsuits may still be termed as "covenant lawsuit," if one recognizes the universal covenant that God has made with the whole earth (Isa 24:5–6; cf. Gen 9:8–17). Various scholars have recognized that passages not employing the term ריב but constituting divine oracles against the nations (esp. Isa 13–21; Jer 46–51; Ezek 25–32; Amos 1–2; and Zeph 2), should also be classified as divine lawsuits.⁴⁹

1 Chron 16:12, 14; 2 Chron 6:35, 39; Job 13:18; Job 22:4; Ps 37:6; 105:5, 7; Eccl 11:19; 12:14; Isa 4:4; 49:4; Jer 1:16; Ezek 23:45; 39:21; Hos 5:1; 6:5; Hab 1:12; Zeph 3:5, 8, 15; Mal 3:5. The verb שפוט is used in at least 34 passages in a setting of divine lawsuit, which are not mentioned elsewhere in this study (too numerous to list here).

⁴⁹ See, e.g., Thomas G. Smothers, "A Lawsuit against the Nations: Reflections on the Oracles against the Nations in Jeremiah," *Review and Expositor* 85 (1988): 545–54; cf. Walter Brueggemann, *Theology of the Old Testament: Testimony, Dispute, Advocacy* (Minneapolis: Fortress, 1997), 502–518. Brueggemann (504) writes: "For the most part, the oracles against the nations are simple lawswuits of indictment and sentence, beyond which there is no future for recalcitrant nations." Cf. Reinaldo Siqueira, "The Presence of the Covenant Motif in Amos 1:2–2:16" (Ph.D. dissertation, Andrews University, 1996).

8. Provision for reconciliation/grace. As noted above in the review of literature, Harvey's analysis of the Hittite materials indicates that upon breach of covenant the suzerain could either declare punishment upon the unfaithful vassal, or there could be a plan B: a positive specification of what is needed to rebuild the relationship. Such provision for reconciliation is regularly found in the biblical divine covenant lawsuit upon unfaithful Israel, alongside the indictments and threat of punishment. In the midst of the legal proceedings, God often announces the possibility, in fact, there is a divine plea, for reconciliation based upon God's grace and the people's response of repentance and return to covenant loyalty (see Deut 32:29–30; Isa 1:16–20; Mic 6:8; Ps 50:22–23; Jer 3:6–25; 4:14). As Harvey states it, within the lawsuit format there is the paraenetic intention to awaken a positive response of repentance on the part of the audience, so that Yahweh can once more be gracious to His people.

Even if punishment must be brought upon His people as a whole, there is nonetheless a promise of God's grace upon the remnant who do respond favorably in repentance and reformation (Deut 32:36–43; Isa 1:25–26; Mic 7:7–20; Jer 4:27). This promise of salvation and deliverance is also part of God's judgment, inasmuch as a primary function of the judge in Israel was to deliver (see, e.g., the book of Judges). So, e.g., Deut 32:26, 43 reads: "For the Lord will judge His people and have compassion on His servants, when He sees that their power is gone . . . Rejoice, O Gentiles, with His people; For He will avenge the blood of His servants, and render vengeance to His adversaries; He will provide atonement for His land and His people." Mic 7:9 states the prophet's assurance: "I will bear the indignation of the Lord, Because I have sinned against Him, until He pleads my case (יִבֶּן לִי) and executes justice for me; He will bring me forth to the light, and I will see His righteousness."

The provision for grace is also present in (or accompanying) many of the divine lawsuits against the foreign nations. For example, God's message of warning to Nineveh in the book of Jonah carried an implicit offer of reprieve if the nation repented (Jon 3:4), which offer the nation accepted and was spared. God offered blessing and salvation for foreign nations who responded to His message and repented of their evil ways (see Jer 18:7–10). Those among the other nations who would accept the worship of Yahweh were to be welcomed into the covenant community (e.g., Isa 56:3–8; Ezek 47:21–23). A special work of the Messianic Servant

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was to be a “light to the Gentiles” (Isa 42:6; 49:6), bringing Yahweh’s “salvation to the ends of the earth” (Isa 49:6; cf. 42:1; 51:4-5; 60:1-3). A time was even envisioned when Israel’s notable enemies, Egypt and Assyria, would be regarded by God as “My people” and “the work of My hands” (Isa 19:25). Regarding some other foreign nations, even after the threat of coming disaster comes the promise of restoration. So, for example, while Amos 1-2 predicts destruction and/or captivity for the political powers surrounding Israel and Judah (Syria, Philistia, Tyre, Edom, Ammon, and Moab), Jeremiah indicates that, at least in the case of Ammon and Moab, God would eventually “bring back the captives” of these people (Jer 48:47; 49:6).

9. Ultimate purpose: theodicy. As Harvey correctly points out, the ultimate purpose of the divine covenant lawsuit directed toward Israel is to vindicate the juridical and moral correctness of Yahweh in the face of disasters that Israel experiences (see, e.g., Jer 30:11; 46:28; Ezek 5:13; Mic 6:3–5).⁵⁰ The covenant lawsuit is a statement of theodicy! In the case of positive covenant lawsuits, the purpose is also to vindicate Yahweh as well as His people (see, e.g., Ps 79:9–10; Ezek 36:22–23; 39:27–28).⁵¹ God’s name is also vindicated in His lawsuits against the foreign nations (e.g., Isa 19:21–22; 24:5–6; Jer 50:28–29; Ezek 28:6–8; Amos 1:3, 6, 9, 11, 13; 2:1, 4). This question of theodicy in the covenant lawsuits needs to be developed further in another study.

10. *Sitz im Leben.* The *Sitz im Leben* of the negative covenant lawsuits directed toward Israel consists of pivotal moments in salvation history when Israel has proven unfaithful to the covenant with Yahweh, and they are facing disaster and destruction. Deut 32 looks forward to the future when, in Moses’ prophetic vision such a moment was to arise. The eighth-century Isaiah, Hosea, and Micah set forth the divine covenant lawsuit in the last years of probation for the Northern Kingdom of Israel before its captivity, while Jeremiah’s covenant lawsuit comes in the final days before judgment upon the Southern Kingdom of Judah at the turn of the 7th-6th cent BC. God’s procedure in these critical junctures of Israel’s history is to

⁵⁰ Harvey, *Le plaidoyer prophétique*, 165–166.

⁵¹ See, e.g., passages involving the *vindicating* of God’s people: Deut 32:36; 1 Kgs 8:32; 2 Chr 6:23; Job 6:29; 13:18; 19:25; Ps 7:8; 17:2; 24:5; 26:1; 35:27; 37:6; 43:1; 54:1; 103:6; 135:14; Isa 50:8; 54:17; 62:1, 2; 63:1; Jer 51:10; Joel 2:23.

conduct a covenant lawsuit, legal proceedings, in order to reveal the justice of His actions in bringing judgment upon His unfaithful people, as well as to give opportunity for them to repent and receive His gracious forgiveness and salvation.

The *Sitz im Leben* of the positive covenant lawsuits directed toward individuals or the corporate nation of Israel consists of those moments in salvation history when the nation or individuals within the nation are in desperate straits, oppressed or falsely accused by enemies, in need of deliverance and/or vindication by Yahweh.

The *Sitz im Leben* of the covenant lawsuits against the foreign nations is twofold: either presented as a warning to these nations before they have filled up the cup of their iniquity (cf. Gen 15:16 and the case of Jonah's message to Assyria), offering an implicit warning and call to repentance; or a pronouncement of imminent and irrevocable punishment when their cup of iniquity is full (as in the case of Nahum's message to the same country a century later). It is not always possible to determine whether a given lawsuit against a foreign nation comes at a time when probation still lingers and thus the threat of judgment is conditional and an implicit call to repentance, or whether that nation has passed the bounds of divine forbearance and their fate has already been sealed.

B. The Covenant Lawsuit Motif in Scripture

In the last section of this study, I suggest that the covenant lawsuit is not only a (sub)genre, with a specific literary form and/or technical terminology (such as ריב or משפט or דין), but constitutes a motif that suffuses the entire warp and woof of the Bible from Genesis to Revelation. As Gemser states it, the ריב pattern is part of the Hebrew mentality, part and parcel of the way that God is depicted in Scripture.⁵²

1. Pentateuch. In the Pentateuch, various scholars have pointed out numerous examples of divine legal proceedings, beginning in the Garden of Eden after Adam and Eve's Fall. According to Gen 3, God comes walking in the cool of the day, and initiates what Claus Westermann calls variously a "legal process," a "trial," a "court process."⁵³ Phyllis Tribble

⁵² Gemser, "Rib- or Controversy-pattern," 120–137.

⁵³ Claus Westermann, *Creation*, translated by John J. Scullion (London: SPCK, 1974), 96.

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comments on this scene: “God becomes the prosecutor in a court of law.”⁵⁴ Rick Marrs describes Gen 3:8–13 as a “trial” and “verdict” followed by a “judgment” in Gen 3:14–19.⁵⁵ Aubrey Malphurs summarizes the scene of vv. 14–19 thus: “God as the prosecuting attorney probed the two defendants who reluctantly admitted some guilt but shifted the blame to others. Now God moves from the role of prosecutor to judge and pronounces final judgment.”⁵⁶ Calum Carmichael even shows how the medieval canonists found in the divine legal proceedings of Gen 3 the basic principles of human justice and general rules of judicial procedure.⁵⁷ In the Garden of Eden after the Fall, Adam and Eve are placed on the witness stand, as it were, and given opportunity to testify, and in their very testimony, they perjure themselves and reveal the truth of their guilt. God pronounces the verdict of guilty and sentence of judgment. But in the heart of that judgment is the first Gospel promise (Gen 3:15, the Protoevangelium)!⁵⁸ God’s trial judgment is not to reveal whom He can damn, but to make a way of salvation for all who will respond to His grace!

We see this same procedure all the way through the book of Genesis. The same kind of divine investigative trial is apparent in the story of Cain (Gen 4:9–10): “Where is Abel your brother? . . . What have you done? The voice of your brother’s blood cries out to me from the ground.” Victor Hamilton comments on this scene: “Following the crime, comes the divine investigation. . . . God now shifts from interrogator to that of prosecutor. .

⁵⁴ Phyllis Trible, *God and the Rhetoric of Sexuality* (OBT; Philadelphia: Fortress, 1978), 117.

⁵⁵ Rick R. Marrs, “In the Beginning: Male and Female (Gen 1–3),” in *Essays on Women in Earliest Christianity* (ed. Carroll D. Osburn; 2 vols.; Joplin, MO: College Press, 1995), 2:27–28.

⁵⁶ Aubrey Malphurs, *Biblical Manhood and Womanhood: Understanding Masculinity and Femininity from God’s Perspective* (Grand Rapids: Kregel, 1996), 99.

⁵⁷ Calum Carmichael, “Law and Narrative in the Pentateuch,” in *The Blackwell Companion to the Bible* (ed. Leo G. Perdue; Oxford: Blackwell, 2001), 332–333.

⁵⁸ See Afolarin Ojewole, “The Seed in Genesis 3:15: An Exegetical and Intertextual Study” (Ph.D. diss., Andrews University, 2002).

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. . .”⁵⁹ Similarly, Kenneth A. Matthews remarks: “As in a criminal trial, God presents condemning testimony against Cain.”⁶⁰

God comes again for a legal trial investigation before he brings the flood (Gen 6:1–13; see esp. v. 5, 12, 13 [NRSV]): “The Lord saw . . . And God saw . . . I have determined . . .”. Nahum Sarna notes: “This phrase [“The Lord saw. . .”] has juridical overtones, implying both investigation of the facts and readiness for action.”⁶¹ Likewise, Umberto Cassuto recognizes the divine legal proceedings implied here: “[God, as it were, says:] sentence of destruction upon all flesh has been presented before My Court of Justice, and I have already to come to a decision concerning it, and I am about to execute it.”⁶²

The same procedure is described in God’s coming down for a judicial investigation of the Tower of Babel (Gen 11:5): “The Lord came down to see the city and the tower which the sons of men had built.” Sarna remarks: “God does not react capriciously; he investigates man’s doings.”⁶³ The same procedure is described in His coming down to investigate in Sodom and Gomorrah (Gen 18:20–21). T. F. Mafico points out that “Yahweh came down to make a judicial investigation.”⁶⁴ In each of these cases, scholars have recognized that a legal trial procedure is involved. God comes to investigate, not because He needs to know, but so that it can be seen that He is fair and just in all His dealings.

And in each case, there is at the heart of the judgment the element of grace, God’s desire to save those who are under judgment. The mark on Cain the murderer who deserved the death sentence, was an act of grace for his preservation, “lest anyone finding him should kill him” (Gen 4:15). In the Flood narrative, “Noah found grace in the eyes of the Lord” (Gen 6:8), and the chiasmic heart of Gen 6–9 is not the destruction of the wicked but

⁵⁹ Victor P. Hamilton, *The Book of Genesis: Chapters 1–17* (NICOT; Grand Rapids: Eerdmans, 1990), 230–231.

⁶⁰ Kenneth A. Matthews, *Genesis 1–11:26* (NAC 1A; Nashville, TN: Broadman and Holman, 1996), 275.

⁶¹ Nahum M. Sarna, *Genesis* (The JPS Torah Commentary; Philadelphia: JPS, 1989), 46.

⁶² Umberto Cassuto, *A Commentary on the Book of Genesis* (trans. Israel Abrams; 2 vols.; Jerusalem: Magnes, 1964, 1984), 2: 57.

⁶³ Sarna, *Genesis*, 82.

⁶⁴ T. F. Mafico, “The Crucial Question Concerning the Justice of God,” *Journal of Theology for Southern Africa* 42 (1983): 13.

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God's grace: "Then God remembered Noah, and every living thing, and all the animals that were with him in the ark" (Gen 8:1). In the account of the Tower of Babel, after the sons of men rebelled against God and in bold defiance of God, after the divine legal investigation (Gen 11:5) the people were scattered throughout the earth, not destroyed. Likewise with regard to the people of Sodom and Gomorrah, after the divine investigation (Gen 18:21) Yahweh, the "Judge of all the earth" (v. 25), was willing to save the cities if only ten righteous people were found there (v. 32), and Yahweh, "being merciful," sent his angels to forcibly rescue the reluctant and lingering family of Lot (19:15–17).

Other examples of divine legal proceedings occur throughout the remainder of the book of Genesis. See the following passages with explicit reference or possible allusion to divine judgment involving legal proceedings: Gen 12:10–20; 15:14; 16:5; 20:1–18; 22:1, 12; 26:6–11; 29:31; 30:6; 31:53; 38:7–10; and 50:25 (cf. Exod 4:31).

The last four books of the Pentateuch are replete with references to divine judgment, often explicitly mentioning (or at least implying) legal proceedings. This goes beyond the normal situations where Moses or the appointed judges/priests act on behalf of God in administering justice through the Israelite legal system (Exod 18:13, 19–27; 21–23; Lev 19:15; Duet 1:16–17; 17:8–13; 19:15–21; 25:1–2; cf. Ezek 44:24) to specific moments and venues of God's direct divine judgment: God's "seeing/hearing" of Israel's plight in Egypt, "visiting" them and "remembering" His covenant with them (Exod 3:7, 9; 4:31; 6:5); divine judgment against Pharaoh and the gods of Egypt (Exod 7–11; 12:12; 18:11; Num 33:4); God's "testing" of Israel (Exod 16:4); Massebah and Meribah (Exod 17); the high priest's breastplate of judgment with the Urim and Thummim (Exod 28:15, 30; Num 27:21; Deut 33:8); Israel's worshiping the golden calf (Exod 32:26–28; 33:4–5); Nadab and Abihu (Lev 10); the annual Yom Kippur or day of divine judgment (Lev 16; 23:26–32); the divine "trial of jealousy" in cases of suspected adultery (Num 5:11–31);⁶⁵ affirmative judgment of the 70 elders (Num 11:16–30); Miriam and Aaron's contention against Moses and the resultant divine judgment (Num

⁶⁵ For discussion of this remarkable case in which God takes the trial and punishment into His own hands, see Richard M. Davidson, *Flame of Yahweh: Sexuality in the Old Testament* (Peabody, MA: Hendrickson, 2007), 349–354.

12); divine death sentence on the rebels at Kadesh Barnea (Num 14); Korah, Dathan, and Abiram (Num 16); the Aaron's budding rod (Num 17); Moses' disobedience in striking the rock (Num 20); Baal Peor (Num 25); favorable divine judgment regarding the daughters of Zelophehad and their request for inheritance (Num 27:1-11; 36:1-12); the many cases of divine *kārēt* (a person being "cut off") in which God took direct responsibility for the divine judgment of the high-handed sinner;⁶⁶ and the blessings and curses of the covenant (Lev 26; Deut 27-28).

2. Psalms. Bandy rightly remarks that "A large swath of the Psalms also invoke lawsuit motifs as appeals to Yahweh, who is the righteous judge that will render justice, exact vengeance, and vindicate the innocent."⁶⁷ Gemsler found some twenty-five psalms in which parts or expressions of the lawsuit pattern occur: Pss 3, 4, 5, 7, 11, 17, 26, 27, 31, 35, 42-43, 54, 55, 56, 57, 59, 62, 64, 69, 70, 86, 109, 140, 142, 143.⁶⁸ As a sample of the judicial language in these psalms, Gemsler offers the following:

Cf. Ps. vii, the oath of purgation, verses 4-6, the summoning of the tribunal, verses 7f., the appeal to the judge, verses 9-12, the announcement of punishment, verses 13 ff.; Ps. xvii, the declaration of a "just cause," verses 6-9, the complaint, verses 10-12, the request for sentence and punishment, verses 13 f., and for his own justification, verse 15; Ps. xxvi, the supplication for a hearing and investigation, verses 1-3, the declaration of innocence, verse 4 f. negatively, verses 6-8 positively; Ps. xxxv, the request for a trial, verses 1 ff., the invoking of punishment, verses 4 ff., the complaint, verse 7ff.; renewed complaint and accusation, verses 11-16, for the third time complaint and accusation, verses 19-21, appeal to the judge, verses 22-24, invocation of punishment, verses 25 f. and of justification,

⁶⁶ Donald J. Wold, "The Meaning of the Biblical Penalty *Kareth*" (Ph.D. diss., University of California, Berkeley, 1978), summarized in idem, *Out of Order: Homosexuality in the Bible and the Ancient Near East* (Grand Rapids: Baker, 1998), 144-147. Wold's research has shown that the *kārēt* penalty was "a conditional divine curse of extinction, obliterating the sinner (and progeny) from any role in the drama of Israel's history" (ibid., 147). See ibid., 146, for a tabulation of the crimes in Scripture for which the *kārēt* penalty was imposed. The passages in the Pentateuch calling for the divine *kārēt* penalty include: Exod 12:15, 19; 30:33, 38; 31:14; Lev 7:20, 21, 25, 27; 17:4, 9, 10, 14; 18:29; 19:8; 20:3, 5, 6, 17, 18; 22:3; 23:29; Nu 9:15; 15:30, 31; 19:13, 20.

⁶⁷ Bandy, *Prophetic Lawsuit*, 41.

⁶⁸ Gemsler, "Rib- or Controversy-pattern," 128, note 1.

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verses 27f.; Ps. cix, the complaint of the defendant, verses 2-5, quotation of the accusation (the curse invoked against him), verses 6-19, invocation of God's verdict, verse 20, and of his doing justice to the needy innocent, verses 21-31.⁶⁹

From my own cursory survey of the book of Psalms, I would add over sixty more verses from other psalms: Pss 9:4, 8, 16, 19; 10:18; 14:2; 33:13-15; 37:33; 51:6 (ET 4); 53:2-3; 54:1; 56:8-9; 58:11; 62:12; 66:10; 67:4; 73:17-20; 75:2, 7-8; 76:8-10; 80:14; 81:1-2; 82:1-4, 8; 87:6; 94:1-3; 96:10-13; 97:8; 98:9; 102:19-22; 110:5-6; 135:14; 137:7-9; 139:1-6, 23-24; 146:7; and 149:7-9. It is significant to notice how many times the judicial proceedings explicitly involve divine investigation of the evidence (e.g., Ps 7:9; 11:4; 14:2-3; 17:3; 26:2; 33:13; 51:6 [ET 4]; 53:2-3; 80:14; 87:6; 102:19; 139:1, 23-24), and how many times the judgment proceeds from God's heavenly temple/throne (e.g., Ps 9:4; 11:4; 14:2; 33:13; 53:2-3; 68:5; 76:8-10; 80:14; 82:1-2; 102:19) or earthly sanctuary/temple (e.g., 73:17-20). It is also significant that the preponderance of instances of divine judicial activity in the Psalms involve God's positive judgment: vindication/deliverance of His people and/or condemnation/punishment of His enemies (see, e.g., the many occurrences of verses employing the term *צדק*, as listed in the previous section; plus most of the psalms listed above).

Beyond the above listing of individual Psalms, it has been noted that many, if not all, of the so-called psalms of lament have a covenant lawsuit background. The NIV Study Bible summarizes regarding these psalms:

On the whole they reflect the then-current conventions of a court trial, the psalmists presenting their cases before the heavenly King/Judge. When beset by wicked adversaries, the petitioners appeal to God for a hearing, describe their situation, plead their innocence ("righteousness"), lodge their accusations against their adversaries, and appeal for deliverance and judicial redress. When suffering at the hands of God (when God is their adversary), they confess their guilt and plead for mercy. Attention to these various speech functions and their role in the psalmists' judicial appeals

⁶⁹ Ibid., 128, note 2.

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to the heavenly Judge will significantly aid reader's understanding of these psalms.⁷⁰

3. The Prophets. Moving to the Former and Latter Prophets, we have already referred to the twenty passages explicitly referring to a divine ריב (see previous section), and the many examples of passages where there is not a complete covenant lawsuit structure, but, in Harvey's terminology, incomplete accusatory addresses, indicating the presence of the covenant lawsuit motif (see point no. 6 above). We also noted above (point no. 7) the numerous passages involving a divine lawsuit against the nations. In addition to the extensive collections of this material, we encounter whole OT books devoted almost entirely to depicting divine judgment against foreign nations (Jonah, Nahum, and Obadiah), as well as several individual chapters not mentioned above: Joel 3, Mic 5, Zeph 2, and Zech 9. Furthermore, one might argue that much of the entire Latter Prophets consists of indictments against Israel for her apostasy, even when no explicit legal language is employed. For example, Ganoune Diop has argued that in several Isaianic passages "The juridical aspect of the word of God occurs in the setting of the covenant lawsuit as an indictment against covenant breakers (28:14; 32:9; 37:21–22)."⁷¹ (See also discussion on several entire books of the Prophets, below.)

4. Divine lawsuits conducted from the sanctuary/temple. William Shea examines various instances of divine legal judgments in the OT, focusing specifically upon occasions when these came from the Israelite sanctuary/temple.⁷² He isolates twenty-eight passages dealing with judgment from the sanctuary, divided among those conducted from the wilderness tabernacle (eight), those conducted from the heavenly temple (nine), and those set in the context of the earthly temple in Jerusalem (eleven). These break down into six different categories:

1. A favorable judgment upon the righteous (Ps 103, from the heavenly temple).

⁷⁰ *Zondervan NIV Study Bible*, revised ed. (Grand Rapids: Zondervan, 2002), 779.

⁷¹ Ganoune Diop, "A Theological Frame of Reference to Rethink Old Testament Law," unpublished paper, 2009, p. 6.

⁷² William Shea, *Selected Studies on Prophetic Interpretation* (Daniel and Revelation Committee Series, 1; Washington, D.C.: Review and Herald, 1982), 1–24.

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2. A judgment distinguishing between the righteous and the wicked in Israel (Ps 14 (and 53—a duplicate of 14), from the heavenly temple; Mal 3, Ezek 10, and Ps 50 and 73 from the earthly temple).
3. A judgment given in favor of the righteous over against the wicked (Pss 11 and 102 from the heavenly temple; Joel 2–3 in the context of the earthly temple).
4. A judgment upon the sins of otherwise-righteous people (Ps 99, from the earthly temple).
5. An unfavorable judgment upon the wicked in Israel (1 Kgs 22 and Mic 1, from the heavenly temple).
6. Judgments upon foreign nations (Ps 29 and 76 from the heavenly temple; Pss 9 and 60, Isa 18, and Joel 3, from the earthly temple).⁷³

Shea points out that “God was concerned with *three* categories of persons in the world (rather than with just two, as some would insist). These three larger categories consist of the righteous in Israel, the wicked in Israel, and the nations.”⁷⁴

Shea compares the portrayal of divine judgment from the sanctuary elsewhere in the OT with the apocalyptic portrayals of final divine judgment in the apocalyptic book of Daniel, and finds all of the essential elements in both. The cosmic covenant lawsuit scene in Daniel is graphically introduced in Dan 7:10–11:

I kept looking Until thrones were set up, And the Ancient of Days took *His* seat; His vesture *was* like white snow And the hair of His head like pure wool. His throne *was* ablaze with flames, Its wheels *were* a burning fire.¹⁰ A river of fire was flowing And coming out from before Him; Thousands upon thousands were attending Him, And myriads upon myriads were standing before Him; The court sat, And the books were opened.

The outcome and relative timing of this cosmic lawsuit is found in vss. 21–22: “I kept looking, and that horn was waging war with the saints and overpowering them until the Ancient of Days came and judgment was passed in favor of the saints of the Highest One, and the time arrived when

⁷³ Adapted from Shea, *Selected Studies*, 21–22.

⁷⁴ *Ibid.*, 22.

the saints took possession of the kingdom.” The cosmic lawsuit brings both vindication to the saints and condemnation to the little horn. The judgment convenes sometime prior to time when the saints take possession of the kingdom. Reference to the cosmic legal proceedings is made again in Daniel 12:2, when, after describing the great tribulation, Daniel writes, “At that time your people shall be delivered, every one who is found written in the book.”

Two significant differences between the cosmic lawsuit of Daniel and the other divine lawsuits in salvation history pertain to time and scope: the Daniel judgment is future, not contemporaneous, and cosmic, not local. The local, contemporary legal judgments from the sanctuary appear to be “a series of mini-judgments on the microcosmic scale, as it were. These lead up to, point to, and provide an earlier reflection of and parallel to the great final judgment on the macrocosmic scale as is described in Daniel (and the Revelation).”⁷⁵ Shea finds in Ezek 1–10 the closest parallel to judgment in heaven described in Daniel 7.⁷⁶

Shea also examines Acts 7 in the NT, and shows how this chapter sets forth “Stephen as a prophetic messenger of the heavenly court who brings God’s covenant lawsuit to His people (in continuity with the prophets of the OT)” in fulfillment of Daniel 9:24.⁷⁷

5. Covenant lawsuit motif structuring or suffusing larger blocks of Scripture. In addition to individual passages and sections of books devoted to the covenant lawsuit pattern and/or motif, we conclude our discussion by pointing to even larger blocks of Scripture which have been regarded as structured around, or suffused with, the lawsuit genre/motif.

a. Job. One such possibility is the book of Job. We have seen above how various passages of Job contain explicit reference to the divine ריב. Beyond this, numerous scholars have recognized the profusion of legal

⁷⁵ Shea, *Selected Studies*, 24.

⁷⁶ *Ibid.*, 13–20.

⁷⁷ William Shea, “The Prophecy of Daniel 9:24–27,” in *The Seventy Weeks, Leviticus, and the Nature of Prophecy* (Daniel and Revelation Committee Series, 3; ed. Frank B. Holbrook; Washington, D.C.: Biblical Research Institute, 1986), 80–83 (citation at 82); cf. Wilson Paroschi, “The Prophetic Significance of Stephen,” *JATS* 9/1–2 (1998): 343–61.

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terminology in the book,⁷⁸ and several studies contend that the entire book of Job may be regarded as a cosmic covenant lawsuit.⁷⁹

b. *Isaiah*. John Watts, in his two-volume commentary on Isaiah, views the entire book as a twelve-act drama (which he entitles *The Vision of Isaiah*), and argues that “The entire Vision is, in a way, an extension of Yahweh’s [legal] complaint (chap. 1) against his people and his city.”⁸⁰ “The Vision of Isaiah is of a legal dispute, רִיב . . . The adversaries have been summoned in the title verse. They are Judah and Jerusalem. The witnesses have been called. Yahweh is the plaintiff; his children are in rebellion against him.”⁸¹ Throughout his commentary Watts repeatedly points out (using different expressions) that a given act or scene of the dramatic Vision “continues the trial in the heavenly judgment hall.”⁸²

c. *Ezekiel*. In the Festschrift for William Shea, I have argued that the entire book of Ezekiel is structured around the motif of judgment, in particular, the covenant lawsuit.⁸³ I concur with Shea that the covenant lawsuit against Judah in chs. 1–11 is set against a Day of Atonement

⁷⁸ See, e.g., Michael Brennan Dick, “The Legal Metaphor in Job 31,” *CBQ* 41 (1979): 37–50; Edward L. Greenstein, “A Forensic Understanding of the Speech from the Whirlwind,” in *Texts and Traditions: A Tribute to Menahem Haran*, ed. Michael V. Fox et al (Winona Lake, Ind.: Eisenbrauns, 1996), 241–58;

⁷⁹ For analyses of the book of Job as a *rib* or covenant lawsuit, see especially Gemser, “*Rib*- or Controversy-pattern,” 122–125; Heinz Richter, *Studien zu Hiob: Der Aufbau des Hiobbbuches dargestellt an den Gattungen des Rechtslebens* (Berlin: Evangelische Verlagsanstalt, 1959); Sylvia Scholnick, “Lawsuit Drama in the Book of Job” (Ph.D. diss., Brandeis University, 1976); idem, “Poetry in the Courtroom: Job 38–41,” in *Directions in Hebrew Poetry*, ed. Elaine R. Follis, JSOTSup 40 (Sheffield: Sheffield Academic Press, 1987), 185–204; and Claus Westermann, *The Structure of the Book of Job* (Philadelphia: Fortress, 1981); Shimon Bakon, “God and Man on Trial,” *JBQ* 21 (1993): 226–235. Cf. also G. Many, “Der Rechtsstreit mit Gott (*rib*) im Hoibbuch,” Ph.D. dissertation, Ludwig Maximilians Universität, 1970.

⁸⁰ John D. W. Watts, *Isaiah*, 2 vols., Word Biblical Commentary (Waco, TX: Word, 1985, 1987), 1:li.

⁸¹ *Ibid.*, 1:21.

⁸² *Ibid.*, 2:128 (re. Isa 42:13–43:21). For other examples, he calls Isa 3:13–15 “a prosecution speech before a court” (1:42), and 41:1–20 “the great trial scene” (2:108). These examples could be multiplied many times over throughout the two volumes.

⁸³ Richard M. Davidson, “The Chiastic Literary Structure of the Book of Ezekiel,” in *To Understand the Scriptures: Essays in Honor of William H. Shea*. (ed. David Merling; Berrien Springs, MI: The Institute of Archaeology/Siegfried H. Horn Archaeological Museum, 1997), 71–93. May be accessed at www.andrews.edu/~davidson.

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background, and these chapters are placed in chiasmic parallel with the final vision of Ezekiel (chs. 40–48), given to Ezekiel on the Day of Atonement (Ezek 40:1).⁸⁴ Shea summarizes the movement of these two frames of the book:

Thus the visions of God and His glory given to Ezekiel . . . center on His temple and His relationship to it. In Eze 1 He is seen coming to His temple from the north to take up His work of judgment there. In Eze 10 He is seen leaving His temple to the east 14 months later, having completed that work of judgment. . . Then He is finally seen by Ezekiel (40:1) on the day of atonement returning from the east to His temple, which ultimately was to be reconstructed.⁸⁵

In the remaining parts of Ezekiel’s macrostructure, as I have analyzed it, the motif of lawsuit moves away from focusing on Judah after the close of her probation with the siege of the city, to the divine lawsuits against Israel’s neighboring nations (25–32), and the motif reaches its chiasmic apex with the cosmic divine lawsuit upon the Fallen Cherub (Ezek 28:11–19) and the vindication of God in the restoration of His people (Ezek 28:20–26).

d. *Daniel.* The very name of the book, “Daniel,” meaning “God is my Judge,” belies the major theme of the book. Several scholars argue forcefully for “judgment” (including especially, the legal proceedings) as the dominant, overarching, theme of the book. See, e.g., the commentary on Daniel by Jacques Doukhan, who shows how “the motif of judgment can be traced everywhere throughout the book of Daniel.”⁸⁶

e. *Malachi.* Several scholars have argued that the entire book of Malachi should be seen as a covenant lawsuit. Building upon Harvey’s analysis of Mal 1:6–2:9 as a covenant lawsuit, Julia O’Brien, in her published dissertation, makes the case that “the entire Book of Malachi. .

⁸⁴ According to Walter Zimmerli’s calculations, based upon a fall-to-fall reckoning (as accepted by many Ezekiel scholars), this date fell that year on October 22, 573. Walter Zimmerli, 1979-1983, *Ezekiel: A Commentary on the Book of the Prophet Ezekiel* (vols. 1 and 2; Hermeneia. Philadelphia: Fortress, 1979–83), 2:345-346.

⁸⁵ Shea, *Selected Studies*, 20.

⁸⁶ Jacques B. Doukhan, *Daniel: The Vision of the End* (Berrien Springs, MI: Andrews University Press, 1987), 11–13. See also the covenant lawsuit of Daniel 5, as analyzed by Ted Noel (personal correspondence, 2/15/08).

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. employs the form of the covenant lawsuit.”⁸⁷ A similar position is taken by Elizabeth Achtemeier in her commentary on Malachi.⁸⁸

f. *Gospel of John.* Moving briefly to the NT, a recent study by Andrew Lincoln has analyzed the development of the lawsuit motif in the Gospel of John, and concludes that God’s lawsuit with humanity characterizes the dominant way of seeing the rhetoric of the Fourth Gospel.⁸⁹ Lincoln summarizes regarding John’s gospel, “The lawsuit between God and the nations becomes a [lawsuit between] God and the world and provides the overarching framework within which Israel’s controversy with God is now seen to be a part.”⁹⁰

g. *Pauline Epistles.* While not arguing for the lawsuit motif to be the overarching structuring device of the Pauline Epistles, proponents of the “New Perspective” on Paul have shown the vital place of the lawcourt background in Paul’s theological argumentation. For example, N. T. Wright, in his book on justification in Paul, argues repeatedly that “Paul’s doctrine of justification is focused on the divine *lawcourt*. God, as judge, ‘finds in favor of,’ and hence acquits from their sin, those who believe in Jesus Christ.”⁹¹ For Wright, the language of “righteousness” in Paul is based upon the OT usage of the term, where it “regularly refers to lawcourt, or quasi-lawcourt situations.”⁹² Without recognizing and giving due place to the divine lawcourt background to Paul’s epistles, Wright insists, one can never understand the message of Paul.

h. *Revelation.* One cannot overlook the pervasiveness of the lawsuit motif in this apocalyptic finale to Scripture. From the introduction of Jesus as “the faithful witness” (1:5), to the series of covenant-renewal (and implied lawsuit) messages directed against the seven churches in chs. 2–3;⁹³ to the cry of the souls of the martyrs under the altar during the 5th seal:

⁸⁷ Julia M. O’Brien, *Priest and Levite in Malachi* (SBLDS 121; Atlanta: Scholars Press, 1990), citation at p. 63.

⁸⁸ Elizabeth Achtemeier, *Nahum–Malachi* (INT; Atlanta: John Knox, 1986), 172.

⁸⁹ Andrew T. Lincoln, *Truth on Trial: the Lawsuit Motif in the Fourth Gospel* (Peabody, Mass.: Hendrickson, 2000).

⁹⁰ *Ibid.*, 46.

⁹¹ N. T. Wright, *Justification: God’s Plan and Paul’s Vision* (Downers Grove, IL: IVP Academic, 2009), 12 (*italics original*).

⁹² *Ibid.*, 68.

⁹³ See William Shea, “The Covenantal Form of the Letters to the Seven Churches,” *AUSS* 21/1 (Sp 1983): 71–84.

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“How long, O Lord, holy and true, until You judge and avenge our blood. . .” (Rev 6:10); on to the series of judgments announced by the seven trumpets (Rev 8–9); to the opening of the inner sanctum of the Temple (11:19) for the commencement of a cosmic Yom Kippur judgment, on to the judgment described in the First Angel’s message (Rev 14:6–7) coming before the reaping of the earth’s harvest at the Second Advent of Christ (Rev 14:14–20); to the seven bowl judgments of Rev 16 and the judgment of Babylon in Rev 17–18; to affirmation of theodicy from the multitude in heaven, “True and righteous are His judgments, because He has judged the great harlot” (19:2); to the appearance of Christ on His white horse at the Second Coming, when “in righteousness He judges and makes war” (19:11); to the judgment given to the saints during the millennium (20:4), and finally, to the final cosmic divine lawsuit, the Great White Throne judgment, in which John “saw the dead, small and great, standing before God, and books were opened. . . and the dead were judged according to their works, by the things which were written in the books” (20:12)—from beginning to end, the book of Revelation is suffused with the covenant judgment/lawsuit motif.

The recently-published dissertation by Alan Bandy builds upon numerous studies of lawsuits in the book of Revelation, and argues that the whole Apocalypse of John is actually structured around the prophetic lawsuit, modeled after the basic biblical pattern set forth in Deut 32.⁹⁴

i. *The entire OT (and NT) a covenant lawsuit?* Walter Brueggemann, in his magisterial OT theology, boldly asserts that the entire OT should be read against the background of the lawsuit motif.⁹⁵ He writes in his preface: “I have focused on the metaphor and imagery of the courtroom trial in order to regard the theological substance of the Old Testament as a series of claims asserted for Yahweh, the God of Israel.”⁹⁶ Hence the subtitle of this OT theology: *Testimony, Dispute, Advocacy*. For Brueggemann, the lawsuit motif in the Hebrew Bible has become ubiquitous. One wonders if Brueggemann wrote a theology of the NT, he would find the same ubiquity of the lawsuit there as well.

⁹⁴ Bandy, *Prophetic Lawsuit*, passim (for other studies related to covenant lawsuit in the book of Revelation, see especially pp. 11–18).

⁹⁵ Brueggemann, *Theology of the Old Testament: Testimony, Dispute, Advocacy* (1997).

⁹⁶ *Ibid.*, xvi.

III. Conclusion

Whether or not the entire OT or even the whole Bible should be regarded as a lawsuit, nevertheless we can safely conclude that the divine covenant lawsuit is pervasive in Scripture, both as a discrete sub-genre and as a prominent motif throughout the various parts of both OT and NT. Numerous legal terms converge to depict the divine lawsuit. I have isolated at least 320 different references to a divine covenant lawsuit in the OT, not to speak of the extensive use of the motif in the NT.

Although the divine lawsuit often is accusatory, it is surprising to find that the majority of the divine ריב (*rib*) passages (explicitly using the Hebrew word ריב) are not negative but positive, as God defends/vindicates the cause of His covenant people. Even when the divine lawsuit passages are accusatory, amidst the legal proceedings is frequently found the offer of grace/reconciliation to those who will respond in repentance. It is also remarkable how many of the divine lawsuits occur in the context of the sanctuary/temple (either earthly or heavenly) as Yahweh the Supreme Judge adjudicates justice in human affairs.

After surveying the profusion of biblical material regarding the divine covenant lawsuit, it becomes apparent that far from being a rare occurrence when God conducts legal proceedings involving the inhabitants of this earth, such investigative phase of judgment may be regarded as a regular procedure preceding divine executive judgment. Before God executes judgment (either positively or negatively) toward an individual or a people, He first conducts legal proceedings, not for Him to know the facts, but to reveal in open court, as it were, that He is just and fair in all of His dealings, and that He has done all that He can to save as many as He can. Such mini-lawsuits constitute a microcosm of the macrocosmic final “assize,” the apocalyptic cosmic divine lawsuit described in such passages as Daniel 7 and throughout the book of Revelation.

In this study we have only been able to briefly survey the rich tapestry of the divine covenant lawsuit in Scripture. The many strands of this significant motif invite much more attention in future studies.

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