Part I

The Law in Israelite religion

1

God as 'Judge' in Ugaritic and Hebrew Thought

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The many legal texts discovered at Ugarit make it clear that the king played an important legal role; although legal transactions could be carried out before witnesses, many were characterised by the dynastic seal and an indication that they were enacted 'before x (son of y) king of Ugarit' or that they record decrees, decisions or acts of the king.[1] At Ugarit, then, as elsewhere in the ancient Near East, one of the important roles of the earthly king was judicial.

There is, as is well known, evidence that Ugaritic *ṯpṭ*/Hebrew *špṭ* could have a rather more general sense than the specific 'dispense justice'. It is noteworthy that, in the Ugaritic texts, *ṯpṭ* is considered a suitable parallel term to *mlk* 'king' and *zbl* 'prince'. The divine name and epithet *ṯpṭ nhr* 'judge Nahar/River' invariably parallel *zbl ym* 'prince Yam/Sea',[2] while *ṯpṭn* 'our judge' is found parallel to *mlkn* 'our king'.[3]

W.H. Schmidt[4] makes special mention of the following lines:

lysʿ [ålt] ṯ[btk]	Indeed he will pull up the support of your seat;
[ly]hpk [kså] mlkk	indeed he will overturn the throne of your kingdom;
lyṯbr ḫṭ mtpṭk	indeed he will break the sceptre of your rule.[5]

As indicated in the above translation, *mṯpṭk* here seems to require some such rendering as 'rule' or 'dominion', rather than 'justice'. This passage is reminiscent of a statement in the Phoenician Aḥiram inscription, dating from about 1000 BCE:

tḥtsp ḥṭr mšpṭh tbtpk ks' mlkh	… let his judicial staff be broken, let his royal throne be upset.[6]

Also noteworthy is a reference to *mlk nhr* 'king Nahar/River'[7] which may be an alternative term to the more frequent *ŧpṭ nhr.*

That the root *špṭ* can have this wider significance in Hebrew is suggested by the fact that the major 'judges' who preceded the establishment of the monarchy in Israel were charismatic deliverers who ruled sections of the people for a time, and who, with the possible exception of Deborah,[8] do not seem to have administered justice in the narrower sense. In the fourth part of his study on the Israelite Judges, W. Richter[9] considered the task of the 'judge', and the use of the term *špṭ* and its equivalents in the OT, in Ugaritic, in the Mari texts, and in Phoenician, and concluded that the function of the judges is not military and not only juristic, but to rule: his task is government and legal justice. Schmidt[10] suggests that in Pss 96:13 and 98:9 the root is to be rendered 'rule'. M. Dahood[11] offers the rendering 'govern' in the above verses; in Ps 2:10 *mĕläkîm* 'kings' is paralleled by the phrase *šōpĕtê'āreṣ,* which Dahood[12] translates 'rulers of the earth' (as does RSV), and follows E.A. Speiser[13] when he comments on the verse that, 'The basic sense of *špṭ* is "to exercise authority" in various matters.' The Köhler-Baumgartner *Lexicon*[14] gives the sense 'master, ruler' as number 8 under the heading *špṭ.*

From Mari, A. Malamat[15] notes references to the *šäpiṭum,* the counterpart of the Hebrew šō*pēṭ* of the Book of Judges, both of whom, he feels, were not simply judges, but actually leaders of prominent rank, originating in the tribal order. It is also noteworthy that in Carthage, the Phoenician colony in north Africa, the rulers were called *suffetes,* which Köhler-Baumgartner gives as a Latin development from the root *špṭ.*[16]

All this implies that concern for justice and the upholding of rightness was believed to be integral to the idea of ruling. However, despite the fact that š*pṭ/ ŧpṭ* may, at times, have the general sense 'rule', it is also used more specifically of one of the primary roles of the ruler, i.e. that of maintaining justice. A.R. Johnson[17] gives a concise statement of the position in Israel.

> … if the nation is to prosper, the king must act as the embodiment of 'righteousness' (*ṣĕdāqâ, ṣeaeq*). That is to say, it is first and foremost his concern to see that the behaviour of society at large is thoroughly 'righteous' (*ṣaddîq*) and that, to this end, the sanctions of the group, particularly the nation's laws, are uniformly observed throughout the different strata of society; for it is only in this way, when the individual is restrained from doing 'what is right in his own eyes', that the well-being (*šālôm*) of the nation, in fact its life or vitality (*ḥayyîm*), can be assured. Thus the king is the supreme 'ruler' or 'judge' (*šōpēṭ*), to whom one may go in any matter of dispute for a final 'ruling' or 'judgement' (*mišpāṭ*) which, ideally at least, will be an act of 'justice' (*mišpāṭ*).

Thus the king was the supreme dispenser of justice in the land, and the psalmist was able to pray:

> *Give the king thy justice, O God,*
> *and thy righteousness to the royal son!*

May he judge thy people with righteousness,
and thy poor with justice! …
May he defend the cause of the poor of the people,
give deliverance to the needy,
and crush the oppressor.

(Ps 72:1, 2, 4)[18]

The above verses make it clear that one of the king's primary tasks as upholder of justice was to see that the poor and needy were not oppressed; the other classes specially singled out in this way were the widows and the orphans.[19] F.C. Fensham has described this care for the widow, orphan and poor as a 'common policy in the Ancient Near East'.[20] He feels that such people had to be protected, as they had no legal supporters.

A similar concern is expressed in the epilogue of the Code of Hammurabi.

> In order that the strong might not oppress the weak, that justice might be dealt the orphan (and) the widow … I wrote my precious words on my stela.[21]

According to the text of the Code of Hammurabi it was Marduk who ordered Hammurabi to 'set forth justice', although the picture on the Louvre stela shows the god Shamash commissioning the king, and Shamash is mentioned in the epilogue; it appears that Marduk had taken over some of Shamash's attributes as god of justice.[22]

That this 'common policy' was carried out in Ugarit is clear from Yassib's words when he criticises his father Keret for his inability to perform his kingly functions:

… ***ltdn***	… you cannot judge
dn ålmnt lttpṭ	the cause of the widow, cannot try
ṭpṭ qṣr npš ltdy	the case of the wretched, cannot put down
tšm ʿl dl lpnk	those who despoil the child of the poor,
ltšlḥm ytm bʿd	cannot drive out those who plunder the orphan
kslk ålmnt	before your face, the widow behind your back.[23]

It is also noteworthy that Dan(i)el sat in the gate[24] and

… ydn	… he judged
dn ålmnt yṭpṭ ṭpṭ ytm	the cause of the widow, tried the case of the orphan.[25]

The close verbal similarity between these passages and the OT references already noted suggests that it is no longer necessary to look so far afield as Babylon for a close parallel to this aspect of royal responsibility.

The importance of a knowledge of the law by the Israelite king is stressed in Deut 17:18-20, where it is stated that a monarch must make for himself a copy of the law, and study it continually to ensure that he keeps its statutes. J.R. Porter[26] has argued that the Deuteronomy passage suggests that each new king is to 'promulgate the Law afresh as another

Moses' on his accession, and he noted that 2 Kgs 23:2 describes Josiah as reading out the law publicly himself. He thus felt that it would be to go too far to suggest that the king of Israel never promulgated a law-code. G. Widengren[27] has suggested that Moses, the law-giver *par excellence,* was the ideal model of the Israelite ruler. Widengren's rather speculative views on the Israelite monarch have been questioned by E.I.J. Rosenthal.[28] Noting the importance of the Torah for the king, he argued that the royal responsibility did not include expounding the law; the king's duty was to *read* the law. But is it advisable to draw too much distinction between 'reading' and 'expounding'? There would presumably be some didactic purpose in Josiah's reading of the law, although it could be argued that this was a special case as it was a recently discovered law-book which was being read. However, in Deut 17:18ff. the king's reading of the law seems to be primarily for his own edification. These verses make it clear that the reading was to be followed by implementation, for the king must not only *know* the law, he must *keep* it; it is only by knowing and keeping the God-given law that he can ensure justice in the realm. The question of whether the Israelite king could himself promulgate law has more recently been considered by K.W. Whitelam in his detailed study of the king's judicial authority.[29] He suggests that it is likely that the king would have the power to legislate in new situations with which the pentateuchal law could not cope; the relative silence of the OT on this could perhaps be attributed to a necessity to maintain the impression that all law emanated from God and could not be changed. But whether or not this aspect of his argument is correct, he has demonstrated clearly that the OT presents an ideal picture of the king as judge.

Like the earthly king, the divine ruler is often seen in the role of 'judge'. It was noted above that references to gods as judges often form parallel phrases to statements that they are rulers; however, this does not necessarily imply that such references are merely used to achieve parallelism, without carrying the more specific meaning. It seems more likely that it is because 'judging' was such a basic and primary aspect of 'ruling' that the terms 'king' and 'judge' could be virtually synonymous. Thus, when Anat and Athirat say:

mlkn åliyn bʿl ṯpṭn	Our king is the victor Baal, our judge,
in dʿlnh	there is none over him.[30]

Both titles are apposite; not only has Baal shown through his victory over Yam, the personification of the waters which could threaten chaos, that he is worthy to rule, but he has also established order and thus ensured that the various components of the cosmos are in a *right* relationship with one another. Baal is thus the champion of order and 'right'-ness, and fully deserves the title *ṯpṭ*. It is noteworthy that from Ugarit we have the theophoric names *ṯpṭbʿl* and *bʿlmtpṭ*,[31] while Phoenician and Punic names include *bʿlšpṭ* and *špṭbʿl;*[32] however, the element *ṯlšpṭ* does not appear to

be found with the name of any deity other than Baal in Ugaritic and Phoenician/Punic personal names.

The Ugaritic theophoric names *ṣdqỉl* and *ỉlṣdq*[33] suggest that El was believed to be concerned with 'right'-ness. There is some evidence to suggest that the assembly of the gods over which El presided may sometimes have acted as a judicial gathering. The assembly is called the '*dṯilm* 'congregation/assembly of the gods'[34] and the *pḫr bn ỉlm* 'host/assembly of the sons of El/the gods'.[35] In the Ugaritic version of the pantheon of Ugarit (line 28) mention is made of the *pḫr ỉlm;* the parallel in the Akkadian version is ^{d}*pu-ḫur ilâni*^{M}.[36] We also, and perhaps significantly, find mention of the *pḫr mʿd*.[37] This last term may imply that this could be a judicial assembly.

When Yam sends messengers to demand that Baal be handed over to him, the message is sent to El while he is with the *pḫr mʿd.* G.R. Driver,[38] followed by J.C.L. Gibson,[39] translates the phrase 'full convocation', though both add in a footnote that the literal meaning is 'the assembly' or 'totality of the appointed meeting'. R.J. Clifford[40] notes that *mʿd* occurs only in this phrase and is presumably derived from the root *yʿd* 'appoint, decide', as is '*dt*, hence the second of the literal renderings given above. But this etymology might support a suggestion that this was a decision-making assembly. It must be admitted that the primary purpose of this particular gathering appears to have been for a meal. But it is noteworthy that the demand for Baal is made to the *ỉ lm,* where the reference may well be to the gods, rather than El, and that Anat and Athtarat are to assist in the handing over. Perhaps there is some justification for suggesting that the decision as to whether to hand Baal over was not in the hands of El alone. There may also be a suggestion that the decision as to whether Baal might have a house like the other gods was not taken by El alone, but by the assembly of the gods.[41]

However, with one possible exception, we do not seem to find El called *ṯpṭ* 'judge'. The possible exception is the enigmatic reference to *ỉl ṯpṭ* in text RS 24.252 line 3[42] – enigmatic because it is difficult to be certain to whom the words refer. The opening lines of the text, with our rendering of C. Virolleaud's translation,[43] are as follows:

[åph]n yšt rpủ mlk ʿlm	Then he drinks, *Rpu,* the king of the world,
wyšt [ỉl(?)] gṯr wyqr	and he drinks, the god strong and majestic.
ỉl yṯb bʿttrt	(The god) El is seated beside Athtarat,
ỉl ṯpṭ b hd rʿy[44] dyšr wyžmr	the Judge god (*le dieu Juge*), beside Hadad, the shepherd who sings and plays
bknr	on the lyre …

In his comments on the passage,[45] Virolleaud asks whether *ỉl ṯpṭ* refers to El who is *Rpu,* but notes that in any case this 'judge-god' (*dieu-juge*) is seated beside Hadad (i.e. Baal).

Some of those who have considered this text do feel that the phrase *ỉl ṯpṭ*

refers to El. S.B. Parker[46] feels that *il* here is most likely the proper name of the god El, while F.M. Cross renders the beginning of the third line 'El sits as judge with Haddu his shepherd',[47] However, the passage is differently understood by others. B. Margulis[48] has suggested that *hdr'y* and '*ṯtrt* may, in this passage, be place-names and that therefore *Rpu* is being described as 'the god dwelling in Ashtaroth, the god ruling (judging) in Edrei'.[49] A.F. Rainey[50] described this as 'the one really interesting proposal made by Margulis', and felt that Virolleaud's interpretation of *yṯb b-* as 'is seated beside' is extremely dubious. J.C. de Moor[51] translates the third line of the text 'the god who is judging with Haddu, the Shepherd who sings and plays… , taking this to be a description of the god Rpu. A similar view has recently been accepted by G.C. Heider,[52] who takes *il* to be 'the general term for deity'. It is not possible here to consider the many problems of the interpretation of this text; suffice it to say that it is far from clear that it contains a reference to El as *ṯpṭ*.

In the Ugaritic texts it is the god Yam/Nahar who is, above all, given the title *ṯpṭ*. It has already been noted that *ṯpṭ nhr* invariably parallels *zbl ym,* so it must now be asked whether the title is used here merely with its general sense (the specific meaning being only implicit), or whether Yam/ Nahar was actually regarded as a judge. A. Jirku renders the phrase *ṯpṭ nhr* as 'Richter des Stromes', though he does note that 'das Wort schofet hier so viel wie "Fürst, Regent" bedeutet'.[53] W.F. Albright[54] noted that Virolleaud rendered the phrase 'the *suffete* of the river', but rejected this because he felt that *suffetes* reflect an advanced stage of Phoenician magistracy. He therefore suggested the rendering 'the judge, River', and felt that the name might reflect an ancient custom of trial by ordeal in a river. Support for this might perhaps be found in a personal name from Mari, *I-ti* ^{d}*Naru*^{m}, which F. Thureau-Dangin translated 'Le dieu Fleuve sait'.[55]

The second paragraph of the Law-Code of Hammurabi contains the following provisions:

> If a seignior brought a charge of sorcery against a(nother) seignior, but has not proved it, the one against whom the charge of sorcery was brought, upon going to the river, shall throw himself into the river, and if the river has then overpowered him, his accuser shall take over his estate; if the river has shown that seignior to be innocent and he has accordingly come forth safe, the one who brought the charge of sorcery against him shall be put to death, while the one who threw himself into the river shall take over the estate of his accuser.

The above is the translation of T.J. Meek,[56] who notes that the word for 'river' has the determinative of deity, 'Indicating that the river… as judge in the case was regarded as god'. Meek felt the reference to be to the river Euphrates. G.R. Driver and J.C. Miles, in their commentary on this paragraph,[57] take the reference to be to 'the river-god' or 'the holy river'; although they do not identify the river-god/holy river, they do note other Mesopotamian evidence for a river ordeal, and (in a footnote) mention the Ugaritic *ṯpṭ nhr.*

While it is clear that trial by ordeal in a river was practised in Mesopotamia,

there seems to be no proof that such a practice was carried on in Ugarit, or that Yam/Nahar ever acted as a judge in the specific sense. The title *ṯpṭ nhr* has been thought to reflect the notion of a trial of the souls of the departed. Thus G.R. Driver claims:

> The Ugar. *ṯpṭ nhr* 'judge river' is a title which reflects the myth that the trial of the souls of the dead before admission to the nether-world takes place on the bank of the world-encircling river or ocean.[58]

J. C. de Moor[59] has found possible support for such a judgement on the bank of the river of death in a reference in text RS 24.293 lines 9-10.[60] W. Schmidt[61] saw significance in the fact that the title *ṯpṭ nhr* occurs only in those texts which describe Yam's attempt to seize the predominance over the gods for himself; Yam is endeavouring to gain the dominion through his rebellion, and it is for this reason that he is called *ṯpṭ nhr*; however, it is Baal who is victorious and becomes *ṯpṭ*. It may, then, be significant that the title 'judge' figures prominently in the account of the struggle for dominance between claimants to kingship – the struggle whose outcome provided the guarantee of cosmic order.

Before turning from the notion of Ugaritic gods as judges, M.C. Astour's suggestion[62] should be noted, that text RS 24.271,[63] a list of divine names, includes the names of some deities connected with justice. In line 14 he sees a pair of names *ṣdq mšr*, which he takes to be personifications of 'righteousness' and 'justice'; he likens these to the Babylonian Kettu and Mēšaru, personified as sons of Shamash, the god of justice. In *Ugaritica* V, the transliteration divides the consonants *sdqm šr*; however, the transcription implies that there is no word-divider in the line and that the letters are evenly spaced. Line 15 contains a reference to *ḥnbn il d[n(?)]*;[64] Astour associates the first word with Arabic *haniba*, and renders the phrase 'The Compassionate One, god of judgement', seeing the reference to be to another deity connected with justice.

The theme of the divine king as judge is common in Hebrew thought. The downfall of Yahweh's enemies was seen as a just punishment; hence we find the notion of a Day on which Yahweh would bring judgement upon them:

> *At the set time which I appoint*
> *I will judge with equity …*
> *… it is God who executes judgement*
> *putting down one and lifting up another.*
>
> (Ps 75:3,8 MT)[65]

Here we are probably to see the concept of the eschatological 'Day of Yahweh', on which all the enemies of God will be brought to justice,[66] a type of concept which is lacking in Ugaritic thought. But Yahweh's judgeship is not only on a cosmic scale, for he too is concerned with that 'common policy' of the ancient Near East, i.e. care for those who have no legal supporters:

> *Father of the fatherless and protector of widows*
> *is God in his holy habitation.*
>
> (Ps 68:6 MT)

L. Bronner[67] has argued that the incident of Naboth's vineyard[68] is intended to show the stark difference between Elijah's God and Jezebel's god. 'It showed that while Baalism went hand in hand with injustice and crime, the religion of the God of Israel was the bulwark of righteousness and justice.' Whether this particular inference is, in fact, justified is debatable, but it can certainly be accepted that in the cycle of stories about Elijah and Elisha polemic against Baalism is to be expected. It is necessary, however, to stress that such polemic was against Baalism as practised. Since certain of the attributes of Baal were taken over by Yahwists to describe the nature and activity of their God, the attributes themselves can hardly have been thought offensive. The offence no doubt lay in the ascription of the attributes to another god, who was demonstrably (cf. the mt Carmel incident[69]) unworthy of the claims made on his behalf. Thus a belief that 'God' had powers to bestow fertility on the earth would not, in itself, be objectionable, unless 'God' was held to be any but Yahweh. The story of Naboth's vineyard is only indirectly a piece of polemic against Baal in that the practices of his devotees bring Baalism and hence Baal into disrepute.

An aspect worthy of particular stress is the fact that the motif of judgement recurs frequently in the Psalms which speak of Yahweh's enthronement. In Psalm 93, statements that Yahweh reigns, and that his power over the seas has been established, are followed by the words:

> *Thy decrees are very sure;*
> *holiness befits thy house,*
> *O* Lord, *for evermore.*
>
> (Ps 93:5)

A.R. Johnson[70] suggested that it is Yahweh's supremacy over the sea which proves that he has the power to fulfil his covenant promises, and that in Psalm 95 we see the other side of the picture, viz. Israel's corresponding responsibilities and obligations. Again in Psalm 96 we read that Yahweh's establishment of 'order' is the basis of his role as judge:

> *Say among the nations, 'The* Lord *reigns!*
> *Yea the world is established, it shall never be moved;*
> *he will judge the peoples with equity.'*
>
> (Ps 96:10)[71]

Not dissimilar is the suggestion in Psalm 97 that demonstrations of Yahweh's powers in the realm of nature are guarantees of his justice:

> *Clouds and thick darkness are round about him;*
> *righteousness and justice are the foundation of his throne …*
> *Zion hears and is glad,*
> *and the daughters of Judah rejoice,*
> *because of thy judgements, O God …*
> *The* Lord *loves those who hate evil;*
> *he preserves the lives of his saints;*
> *he delivers them from the hand of the wicked.*
>
> (Ps 97:2, 8, 10)[72]

In Psalm 98 Johnson noted that the themes of victory, covenant loyalty, and justice are again to be found, while in Psalm 99 a statement that Yahweh is the 'Mighty King, lover of justice'[73] is followed by some instances of great characters of Israel's history who remained faithful to the covenant obligations.

A. Weiser[74] in his commentary on the Psalter, argued that the concept of Yahweh's judgement has its source in the *Heilsgeschichte,* and in the giving of the law:

> The idea of judgement constitutes not only ideologically, but also from the point of view of the cultus the link connecting history and law, these two focal points of the covenant tradition around which the thought of a number of psalms revolves. … the entire redemptive work of Yahweh as reenacted in the cult is frequently summed up by the psalms under the aspect of the idea of his judgement, and termed his 'righteousness'.[75]

C. J. Labuschagne[76] felt that the dominating characteristic which gave rise to Yahweh's incomparability was his miraculous intervention in history as a redeeming God; this characteristic includes many qualities, such as those of mighty warrior, holy and terrible, of a God who works wonders, and not least of a God of justice who cares for the wronged, the oppressed and the weak. Thus an appeal to Yahweh for justice on the part of an individual is based on the interpretation of Yahweh's activity in history as an intervention for the sake of justice.

Against the view of Weiser, J. Gray[77] suggested that while in the Pentateuch judgement seems to be of local significance, this is very different from the cosmic judgement which is seen in the ideology of kingship in the Psalter and the prophetic books. But it is necessary to be wary of assuming that, in passages where the theme of the divine King is present, cosmic justice is divorced from individual justice. Ps 103:6 states:

> *The* Lord *works vindication*
> *and justice for all who are oppressed.*

While in verse 19 the psalmist says:

> *The* Lord *has established his throne in the heavens,*
> *and his kingdom rules over all.*

Thus, in the same Psalm, we find reference to cosmic kingship and to individual justice – justice for all being justice for each and every one. Rather similarly, in Psalm 145, the following statements are made:

> *I will extol thee, my God and King,*
> *and bless thy name for ever and ever …*
> *They [i.e. men] shall pour forth the fame of thy abundant goodness,*
> *and shall sing aloud of thy righteousness …*
> *The* Lord *upholds all who are falling,*
> *and raises up all who are bowed down.*
>
> (PS 145:1, 7, 14)

It may thus be concluded that the theme of Yahweh's care for justice for the

individual was by no means out of place in the kingship ideology, and was perhaps as integral as the cosmic theme of judgement of the whole world.

In the divine realm, then, it has been noted that Yahweh's establishment of order in the universe and his concern for justice and order in society are closely linked, not least in contexts which present Yahweh as king. In the Ugaritic texts, the contest between Baal and Yam/Nahar is a contest about kingship and Baal's demonstration of his supremacy over the forces of chaos, and it is in the context of this contest that the title *ṯpṭ* appears prominently; it may be that as a result of this victory Baal was worthy to be called *mlkn* 'our king' and *ṯpṭn* 'our judge'. Although the Babylonian material is really beyond the scope of this essay, it is noteworthy that it is Marduk who has demonstrated his supremacy over the gods by his victory over the personification of the waters, of whom Hammurabi says: 'When Marduk commissioned me to guide the people aright, to direct the land. I established law and justice in the language of the land, thereby promoting the welfare of the people.'[78]

In the cases of Marduk and Yahweh, it is possible to point to evidence of concern for justice in society; but there is no clear evidence that Baal's control over chaos led to any ethical implications. Since Baal is *ṯpṭn* 'our judge' this could be simply a matter of silence, but it is dangerous to assume that just because certain elements are common to two or more cultures, all elements must be common. Nevertheless, there does seem to be some relationship between macrocosm and microcosm – right order in society parallels order in the cosmos. Since presumably the notion of god as 'king' is derived from the earthly concept of monarchy, at least in origin, the fact that the king is ultimately responsible for order in society would imply that any god worthy to be called king must be capable of sustaining order. Thus justice can be seen as an integral aspect of the very order of things – order in nature and order in society go hand in hand.