SPEECH-FORMS IN HEBREW LAW AND PROPHETIC ORACLES

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In recent scholarly discussion of prophetic "covenant lawsuit" oracles, most attention has been directed to a group of texts which exhibit especially clear formal similarities to the covenant formulary which has been illuminated in the past two decades. In these texts the following features recur with notable frequency:

(1) summons to witnesses (Deut 32:1; Isa 1:2a; Jer 2:12; Mic 6:2a);

(2) reference to historical benefits conferred by Yahweh upon Israel (Deut 32:7-14; Judg 2:1b; 6:8b-9; 10:11-12; Ps 81:11 [Engl. 10]; Isa 1:2bα; Mic 6:4-5; Jer 2:6-7a);

(3) accusation against Israel for apostasy (Deut 32:15-18, 21a; Judg 2:2; 6:10; 10:13a; Ps 81:10, 12 [Engl. 9, 11]; Isa 1:2bβ-3; Jer 2:7b-8, 11);

(4) assertion of the futility of appeal to other gods (Deut 32:16-18, 37-38; Judg 10:14; Jer 2:26-28; cf. Judg 2:3bβ).

A further important similarity which these texts share is the lack of emphasis on forthcoming punishment. There is practically no announcement of aggressive punitive action by Yahweh against Israel, and none of the aforementioned texts concludes on such a note. This feature is especially

1 The texts referred to in the discussion below include the following: Deut 32:1-43; Judg 2:1-5; 6:7-10; 10:10-16; Ps 81; Isa 1:2-3; Jer 2:2-37; Mic 6:1-8.


3 The making of a covenant with other peoples involved recognition of their gods, which was a violation of the basic demand of the covenant with Yahweh, which required exclusive allegiance to him. Note v. 3bβ.

4 In several of these texts, Yahweh threatens not to deliver Israel from misfortune which it is already encountering (Judg 2:3; 10:13; cf. Ps 81:14-17 [13-16], and there is also the taunting suggestion that Israel appeal to its "gods" for deliverance [e.g., Deut 32:37-38; Judg 10:14]).

5 Deut 32 may constitute an exception to this statement. The "Song of Moses" (Deut 32:1-43) is a complex composition, on the analysis of which scholars disagree. See the following: P. Winter, "Der Begriff 'Söhne Gottes' im Moselied," ZAW 67 (1955) 40-48; E. Baumann, "Das Lied Moses (Dt. XXXII 1-43) auf seine gedankliche Geschlossenheit untersucht," VT 6 (1956) 414-24; G. E. Wright, "The Lawsuit of God: A Form-Critical Study of Deuteronomy 32," Israel's Prophetic Heritage: Essays in Honor of James Muilenburg (ed. B. W. Anderson and W. Harrelson; New York: Harper, 1962) 26-67; J. Harvey, Le plaidoyer prophétique contre Israël après la rupture de l'alliance (Paris: Desclee de Brouwer, 1967) 31-36. If the text is divided after v. 25, with the notion that vv. 1-25 constitute a complete unit (so Harvey), at least that unit ends with an announcement of judgment. However, I am not persuaded that the poem should be broken up in this fashion. I would contend that the attitude of hope and trust in Yahweh's salvation (vv. 26-43) is a reflection of the liturgical setting in which the rib-genre had its "home." See further below.
notable when comparison is made with (a) speeches of complaint against individuals, such as 1 Sam 2:27-36; 2 Sam 12:7-12; 1 Kgs 14:7-11; 21:17-24; or (b) the prophetic speeches to be analyzed below, in the second major section of this article. It is unlikely that the absence of this element from this number of passages was purely coincidental. I would designate this genre as the "Complaint Speech," to be distinguished from the genre discussed below in section II, which regularly includes an announcement of forthcoming punishment and will be designated the "Judgment Speech."

Two basic positions have evolved concerning the original Sitz im Leben of the "Complaint Speech" genre. On the one hand, there are scholars who posit some sort of lawsuit liturgy in the Israelite cult, whereas others maintain that the evidence points to a borrowing by the prophets of forms from the secular legal process. I myself find more satisfactory the thesis of a cultic ceremony in which the cries of the Israelites to Yahweh for deliverance from misfortune were answered by the complaint (rib) of Yahweh, citing the unfaithfulness of the vassal people; this was followed by ritual penitence and supplication on the part of the people, which was followed in turn by renewal of the covenant. The intent of the rib in this context was to chastise. It served the function of moving the Israelites to contrition. The absence of any categorical announcement of forthcoming judgmental action is therefore understandable. At least in its cultic use, the purpose of the "Complaint Speech" was to facilitate restoral of the covenant relationship.

6 On the use of "complaint" as the preferred meaning of rib (the Hebrew vocable adopted generally as the designation for the genre under discussion), see J. Limburg, "The Root רְבֶּא and the Prophetic Lawsuit Speeches," JBL 88 (1969) 291-304.
9 See especially W. Beyerlin, "Gattung und Herkunft," 27-28; and J. Harvey, Le plaidoyer. The basis for reconstructing for preexilic times this sequence of events is enlarged if we note the context of three examples of the rib in the Book of Judges: 2:1-3; 6:8b-10; and 10:11-14. All three of these complaint speeches against Israel are given similar settings: they occur in the midst of lamentation ceremonies. In the latter two passages it is explicitly stated that the complaint speech of Yahweh was preceded by the cry of the people. The Israelites have cried to the Lord for deliverance from crisis. In the rib, Yahweh (a) reminds them of his past works of deliverance, (b) recounts their subsequent unfaithfulness, and (c) taunts them to appeal now for deliverance to the gods whom they have chosen in his stead. In all of these passages the issue is apostasy, turning to other gods, which is a violation of the basic stipulation of the covenant. The first and the third of these passages show the response of the Israelites to this divine utterance: in 2:4-5, we read of weeping and sacrifice, and in 10:15-16, of confession and ritual putting-away of the "gods." That the narrator understood renewal of the covenant relationship to have ensued is implied by the fact that the subsequent narrative tells of Yahweh raising up deliverers to save his people from the crisis.
It is the purpose of this article to direct attention to another group of prophetic speeches, which could with equal justification be called “covenant lawsuit” oracles, and which should be distinguished as representative of a separate genre that can more definitively be traced back to prototypes in the secular legal process of Israel. Preparatory to an analysis of this genre, which I would call “Judgment Speech,” it is necessary to review what has been discovered about forms of speech and proceedings in the Hebrew law courts.

I. Speech-Forms of the Hebrew Legal Process

Whereas the origins and significance of Hebrew law have received considerable attention from scholars, the actual legal process itself has not been so fully discussed. L. Köhler’s essay on “Justice in the Gate” was for a long time the foremost discussion of the judicial process; its brevity indicates the paucity of information which was drawn from the OT on this subject. Commentaries on Second Isaiah by J. Begrich and on Job by H. Richter made contributions to our knowledge of the speech-forms involved. A great step forward was taken in 1964 with the publication of H. J. Boecker’s study, *Redeformen des Rechtslebens im Alten Testament*, in which the author investigated and categorized the forms of speech employed at the various stages of the legal process. Boecker has gathered from throughout the OT those utterances which exhibit a forensic character and has classified them into three categories, corresponding to the stages of the process: (1) the private, pre-trial confrontation of the disputants, (2) the trial itself, and (3) the formulation of the court’s decision. His findings will be summarized below, along with several needed modifications. On the basis of these modified findings, we shall then proceed with the discussion of those prophetic oracles which are illumined by them.

A. Courts in Israel

Most of the material regarding legal proceedings in ancient Israel is found in narratives describing adjudication in the court of the elders at the gate or in the king’s court.

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12 *Studien zu Deuteronomie* (BWANT 77; Stuttgart: Kohlhammer, 1938).


(1) Court at the Gate. L. Köhler's study of the court at the gate observes that the primary concern of this Rechsgemeinde was the peace of the whole community. "It is the organization for reconciliation. . . . Its sole endeavour is to settle quarrels and to guard the well-being of the community."15 This is not a standing court; the assembly at the gate convened whenever the need arose, and it was constituted by those qualified elders who were available (cf. Jer 26:10; Ruth 4).16 It is before the elders at the gate that a woman accused of adultery is to be brought (Deut 22:13-21). The parents of a rebellious son may bring him thither (Deut 21:18-21). It was here that Naboth was (unjustly) accused and condemned (1 Kings 21). The unjust accusation of Susanna was laid against her in the court at the gate (Sus 34-41). The court at the gate was concerned to establish the rights of all; the welfare of the oppressed is especially mentioned in the OT as a proper concern of the court (e.g., Isa 1:17; Amos 5:12; Prov 22:22). The proceedings were public, and they were conducted orally.

(2) The King's Court. Elsewhere in the OT we find indications of a court at which the king presided. For example, 1 Sam 22:6-19 shows the convening of King Saul's tribunal: he was "sitting" as judge,17 with his servants or the contending parties "standing" before him.18

Judging his subjects was an important function of the king, and "righteousness" in executing this responsibility was a desideratum often mentioned (Isa 9:6 [Engl. 7]; Ps 72:1-2; Prov 29:14). The precise nature of the relationship between the court at the gate and the king's court is not clear.19 The most satisfactory conclusion is probably that of R. de Vaux: "There was at Jerusalem a king's court, to which every man in Israel could appeal. . . . The real or fictitious cases recorded in the historical books show that appeal was made to the king even in cases which we should leave to lower courts."20 Regarding the case in which the woman of Tekoa brought before King David (2 Sam 14:1-20), de Vaux continues, "The king here appears as the judge in the final court of appeal, which he certainly was, but the other examples presume that recourse could also be made to him in the first instance."21

It was to the king that the contending harlots brought their dispute concerning the baby claimed by both (1 Kgs 3:16-28). King Saul summoned the priest Ahimelech to himself, in connection with the assistance rendered by the priest to the fugitive David (1 Sam 22:9-19). It was in the king's court that

15 Hebrew Man, 133.
17 Cf. Prov 20:8; Isa 16:5.
18 Cf. 1 Kgs 3:16; Exod 18:13.
19 Contrast the following two statements from the same volume of IDB: S. Sziksai, "Kings, Kingship": "The king's legal function must not be interpreted as a kind of supreme tribunal, for the administering of justice was normally practiced by the elders without any provision for further appeal" (IDB, 3.13). W. Harrelson, "Law in the OT": "The king soon came to exercise the function of a supreme court in legal matters" (IDB, 3. 84).
the prophet Nathan argued the case in which the adulterous David, thinking himself the disinterested judge, discovered that he had indicted himself (2 Sam 12:1-15).

The king’s court “travelled” with the king. 1 Sam 24:8-22 is best interpreted as an instance of legal process, where the fugitive David demonstrates to King Saul that the monarch’s animosity toward David is unwarranted. 2 Sam 19:16-23 concerns the aftermath of Absalom’s coup, and as David returns toward Jerusalem, he renders his decision regarding the fate of Shimei. 2 Kgs 6:26-31 depicts the king of Israel “hearing a case” while inspecting his defensive walls.

B. The Legal Process

Turning now to the actual process, we shall consider it according to the three stages which Boecker has delineated in his study. This will give an opportunity to make some needed modifications in his findings and will set the material relevant for our study in its proper context.

1) Pre-trial Encounter. Certain formulaic questions are especially characteristic of this stage. The one who is setting forth an accusation will often ask the accused party, “What is this thing you have done?” (māh-haddābār hazzeḥ ʾāšīṭā or mah-zōʾi ʾāšīṭā) or “Why...?” (maddāʿā or ʾālmāʿ).

21 Boecker (Redeformen, 48-49) treats David’s speech as an utterance belonging to the pre-trial stage. I would consider this speech (vv. 10-16 [Engl. 9-15]), not an informal, vorgerichtlich statement, but as part of an actual hearing which David has forced upon the king (whose judicial powers have traveled with him to the wilderness of Engedi). By Boecker’s own judgment, Saul’s reply (v. 18 [17]) is an excellent specimen of a legal verdict (Redeformen, 128), and this suggests we are dealing with an actual court hearing.

22 In addition to these two types of courts (gate, king’s court), there are several further types of proceedings which at least deserve mention: (a) In the era of semi-nomadism, justice was administered by the tribal chieflain, who supervised such matters as blood vengeance, marriage, and adoption procedures (see R. de Vaux, Ancient Israel, 151; W. Harrelson, “Law in the OT,” 78). Cf. Gen 38:24-26. (b) After the settlement in Palestine, legal matters which affected the well-being of the amphictyony were adjudicated by an assembly of the tribal league. Cf. Judges 20. (c) Apparently the priests functioned as judges in matters of a cultic nature, as indicated in Leviticus 13-14; Hag 2:11-13; and Zech 7:3. The impression given in the deuteronomic legislation is that the priests arbitrated all kinds of disputes (cf. Deut 17:8-12; 19:16-20; 21:5), but this is unlikely. Cf. I. Mendelsohn, “Authority and Law in Canaan-Israel,” Authority and Law in the Ancient Orient (JAOS, Supplement 17 [1954]) 32; G. von Rad, Deuteronomy: A Commentary (Philadelphia: Westminster, 1966) 118. (d) At several points, a certain charismatic decision-making is attributed to Moses (Lev 24:10-23; Num 9:6-14; 15:32-36; 27:1-11); by virtue of his charismatic endowment, Moses is enabled to learn the judgment of God. In post-Mosaic times, this type of decision was perhaps delivered by the "judges" of Israel, possibly at established shrines; cf. M. Noth, “Das Amt des Richters Israels,” Gesammelte Studien zum Alten Testament (Munich: Chr. Kaiser, 1969), 2. 71-85.

23 Judg 8:1; 2 Sam 12:21.
24 Gen 26:10; Exod 14:5.
25 Jer 26:9; cf. 2 Sam 16:10.
26 Gen 31:30; 1 Sam 26:15.
question itself\textsuperscript{27} or is specified in an accompanying statement.\textsuperscript{28} (The question may be either a rhetorical question [and therefore the equivalent of a declarative accusation]\textsuperscript{29} or a sincere inquiry after motive.\textsuperscript{30})

The accused would frequently respond to his accuser by asking, “What have I done?” (\textit{meh-\textsuperscript{c} ašīṭ̄īl}). Sometimes he would ask the accuser, “Why . . . ?” (lāmmā\textsuperscript{32}).

Often the matter can be settled out of court. Gen 13:8a sounds like a formula (\textit{Streitverhinderungsformel}) which could be used for precisely this purpose: “Let there be no strife between you and me” (\textit{’al-na‘ tēhimērībā bēnī ūḇēnē (yj̄kā)}. In Josh 22:22-23 an oath is sworn by the accused, entrusting the judgment of the matter to Yahweh, putting the case beyond human jurisdiction and thereby avoiding a legal dispute.

Should either party wish to refer the matter to a court, this is accomplished by the “appeal of the accuser/acused.” The aggrieved party can pursue his attack to the point of demanding a trial. This demand may include a proposed decision, as in Jer 26:8, where the pre-trial confrontation of Jeremiah by “the priests and the prophets and all the people” culminates in the accusers proposing, “You shall die!” In 1 Samuel 26, we read of David confronting Saul’s general, Abner, to whom he addresses the reproachful questions, “Why (lāmmā) then have you not kept watch over your lord the king?” (v. 15) and proceeds to appeal for a judgment, “As Yahweh lives, you deserve to die, because you have not kept watch over your lord, Yahweh’s anointed.”

Gen 31:36-37 records an instance in which the accused desires to have his innocence established by a trial.\textsuperscript{33} With an appeal issued by either of the parties, the transition is made from unofficial discussion to official proceedings.

\textbf{(2) Speeches before the Court.} Whereas the plaintiff speaks directly to the accused in the pre-trial meeting, the accusation as stated before the assembled tribunal is spoken to the court, and the accused is customarily referred to in the third person. Naboth’s accusers declare: “Naboth cursed God and the king” (1 Kgs 21:13). Jeremiah’s opponents hale him before the court and declare: “This man deserves the sentence of death, because he has prophesied

\textsuperscript{27} E.g., “Why have you prophesied in the namē of Yahweh, saying, ‘This house shall be like Shiloh, and this city shall be desolate, without inhabitants?’” (Jer 26:9).

\textsuperscript{28} E.g., “What is this that you have done to us, not to call us when you went to fight with Midian?” (Judg 8:1).

\textsuperscript{29} Gen 26:10; Exod 14:11; Judg 20:12.

\textsuperscript{30} Exod 1:18-19; 2 Sam 12:21.

\textsuperscript{31} Judg 8:2; in 1 Sam 20:32 we see that a third party can use this \textit{Beschwichtigungsformel} on behalf of the accused.

\textsuperscript{32} Cf. 1 Sam 24:10 (Engl. 9). Although this verse occurs in a passage describing an actual hearing in the king’s court (see n. 21 above), it will be noted below that there are similarities between the speech-forms used in the informal, pre-trial encounter of disputants and the speech-forms used in the king’s court when the king himself is one of the contending parties as well as judge. Consequently, I adduce this example from 1 Samuel 24 to show how the accused party might respond in the pre-trial confrontation.

\textsuperscript{33} The exchange between Jephthah and the Ammonite king (Judg 11:12-27) is concluded by Jephthah’s appeal to Yahweh to decide the case by the “trial” of war.
against this city, as you have heard with your own ears" (Jer 26:11). In the
deuteronomic law it is stated that the parents of a rebellious son shall bring
him before the elders assembled at the gate with the accusation, "This our son
is stubborn and rebellious, he will not obey our voice; he is a glutton and a
drunkard" (Deut 21:20).

If a case is being tried before the king rather than the elders, the same form
is appropriate, as attested in the case of the two harlots disputing before
Solomon the motherhood of the baby claimed by both (1 Kgs 3:16-27). In 2
Sam 19:22 (Engl. 21), one of King David's aides, Abishai, brings before the
king an accusation against Shimei, "Shall not Shimei be put to death for this,
because he cursed the Lord's anointed?" 34

There are some cases in which the accusation is addressed directly to the
accused, and most of these involve a dispute between the king and one of his
subjects. 35 If the king's court is the judicatory for a case in which the king
himself is involved both as judge and as one of the contending parties, it is
natural for him to address the accused. 36 In 1 Sam 22:11-16, King Saul is
conducting the trial of the priest Ahimelech, who has supplied help to Saul's
adversary David. Saul addresses the accusing question to Ahimelech and
states the offense plainly (v. 13). In 1 Kgs 2:42-45, King Solomon summons
Shimei and addresses to him questions about his violation of stipulations
which had been laid upon him. 37 These texts clearly represent, not unofficial
inquiries, but instances of the king conducting a trial.

Two types of defense-speeches are possible before the court: a self-defense
and a defense by a third party. In the trial of Jeremiah (Jeremiah 26) we see
both types. In vv. 12-15, Jeremiah raises his own defense; he does not deny the
charge, but he tries to set it in the proper perspective. In vv. 17-19, a defense of
Jeremiah is put forward by certain of the elders. 38 Ahimelech's self-defense (1
Sam 22:14-15) is another instance of acknowledging the alleged action, but
trying to set it in the correct perspective. In 1 Kgs 3:22, the accused denies the
charge. 39

34 Cf. also 2 Sam 12:1-4.
35 Boecker has generally treated these as part of the vorgerichtlich phase (see, e.g.,
Redeformen, 30, 32), but it is doubtful that this is the best interpretation.
36 Boecker (Redeformen, 86-89) observes correctly that it is erroneous to maintain that the
identity of judge and plaintiff in the prophetic lawsuit is sui generis. 1 Sam 22:6-16 is discussed by
him as a case in which the king fills both roles, but Boecker does not remark on the frequency with
which this dual role appears in the OT. All of the following represent cases in which the king is
involved in both roles: Gen 12:18; 20:10; 26:9; 44:14-34; Exod 1:18-19; 1 Sam 22:6-16; 24:8-22;
37 In Exod 1:18, the Pharaoh summons the midwives who have spared the male Hebrew
children and asks them, maddā "cāsten haddāhār hazeh.
38 Cf. 1 Sam 20:32 for a similar instance.
39 There are several cases reported in the OT in which a party standing accused at one point in
the process becomes later the accuser. In the final encounter between Jacob and Laban (Genesis
31), Laban initiates the dispute by accusing Jacob (vv. 26-30), and Jacob voices the speech of the
defendant (vv. 36-37) and appeals for a hearing. But Jacob's speech then turns into a counter-
accusation (vv. 41-42). From the sphere of international relations we have, in Judg 11, the case
involving the Hebrew sōpēy Jephthah and the king of the Ammonites. Jephthah begins, in v. 12, a
speech appropriate to the defendant, but eventually becomes himself the plaintiff (v. 27). David,
(3) The Court’s Decision. Following the presentation of arguments by the respective parties, the process is brought to its conclusion by the announcement of the court’s decision.40

The verdict is frequently stated in a terse nominal sentence: for example, šaddiq `attā (Prov 24:24; 1 Sam 24:18 [Engl. 17]); dāme (y)kā `al-rō`šekā (2 Sam 1:16); ben-māwet hāzī is hāzōseh zō`t (2 Sam 12:5). These statements are probably influenced by traditional formulations in law codes. A single formula could suffice as the appropriate verdict for a variety of cases, as in Num 35:16-21 the same verdict, rōšēah hū`, is prescribed for several situations.41

The disposition (sentence) is commonly stated in a verbal clause, with the verb in the imperfect (yqtl) state. The disposition represents the consequences of the verdict. In many cases, the law code provided the consequence as well as the verdict for a given case.42 In other cases, especially those where there is no precedent, the disposition must be an ad hoc settlement, which may become the basis for a new statute (cf. Num 27:1-11).

The usual formulation of the decision is a direct address to the accused.43 Prov 24:24 contains a common formulation (šaddiq `attā) which was addressed to the innocent.44 The decision in 2 Sam 19:24 (Engl. 23) is formulated in these words: lō` yāmūt. When the accused is found guilty, the decision is stated as in 1 Sam 14:44; 22:16 (mōt yāmūt in both passages); or 2 Sam 1:16 (dāme(y)kā `al-rō`šekā).

Exceptions to this direct address are in most cases to be explained by the simple fact that the accused is not himself present before the judge. Such is the case in Gen 38:26; 2 Sam 12:5-6 (David does not realize that the accused is present — in himself!); 14:11.45

when pursued by King Saul (1 Samuel 26), defends himself as unjustly accused and pursued (v. 18) and proceeds to level accusations of his own (vv. 19-20). It appears that in oriental judicial proceedings there was not such a rigid differentiation between the roles of “plaintiff” and “defendant” as we are accustomed to.

40 In some cases the decision can be broken down into our categories of the verdict (Urteil) and the disposition (Tatfolgebestimmung): Num 35:16; 1 Kgs 3:27. In other cases this distinction is not possible: 1 Sam 22:16; 2 Sam 19:24 (Engl. 23). In the latter, the very disposition of the case indicates the verdict. The verdict is stated more often in cases where the accused is adjudged innocent, since in many such cases there will be no Tatfolgebestimmung in which the verdict can be reflected.

41 Another of these formulaic verdicts is seen in v. 27: ʿēn lō` dām.

42 So Num 35:16: (CASE:) If he struck him down with an instrument of iron, so that he died, (VERDICIT:) rōšēah hū`; (DISPOSITION:) mōt yūmat hārōsēah.

43 Boecker regards this form as normative for the decision of “innocent,” but he maintains that the impersonal, third-person declaration was customary for stating decisions of “guilty.” See Redeformen, 124, 126; and cf. n. 45 below. Boecker’s position on this point has also been challenged, with somewhat different arguments from mine, by W. M. Clark, “A Legal Background to the Yahwist’s Use of ‘Good and Evil’ in Genesis 2-3,” JBL 88 (1969) 271-72 (notes), and also in the essay cited in n. 14 above.

44 Often this declaration appeared in the mouth of the accuser: cf. 1 Sam 24:18 (Engl. 17); Josh 22:31.

45 Boecker holds that a “guilty” decision was rendered in third person form in both the statement of the verdict and the statement of the sentence. Of the texts which he adduces for his
(4) Summary. From this survey of Boecker’s findings, we call special attention to the following:

(a) The forms of speech were not limited to any one type of judicatory in Israel. Wherever cases were heard, similar forms of speech were employed. For example, the reproachful questions (“What is this you have done?”, “Why . . . ?”) were utilized by plaintiffs in cases pertaining to patriarchal settings (Gen 26:10; 31:27-30), amphyctyonic proceedings (Judg 8:1), the court at the gate (Jer 26:9), and the royal tribunal (1 Sam 22:13). The statement of the accusation in the third person was customary in the patriarchal hearings (Gen 38:24), in the court at the gate (1 Kgs 21:13), and in the king’s court (1 Kgs 3:17-21).

(b) Before a disinterested panel of judges, it was common for the plaintiff to address the court when stating the accusation and to refer to the accused in the third person, as noted at the end of the preceding paragraph.

(c) The decision of the court, stating verdict and/or disposition, was addressed directly to the accused. Exception was naturally made if the accused party was absent from the court.

II. The “Judgment Speech”

A number of prophetic oracles which express the judgment of Yahweh against the sins of Israel exhibit characteristics which point persuasively to a non-cultic prototype which, in distinction from the “Complaint Speech” referred to above, proceeded beyond the stage of complaint or accusation to an announcement of punishment.

The oracles to be considered here exhibit a striking formal trait which generally confirms some of the findings of the previous section and is in turn illuminated by those findings. These passages display a sudden transition from speaking of the sinful people in impersonal, third person references to a direct mode of address, and this transition coincides with the shift from reproach (or accusation) to announcement of punishment (sentence). This pattern, we noted in section I, was customary in Hebrew courts, where the accuser set

argument (Redeformen, 135-51), most are formulations from law codes and cannot be taken to represent the forms in which a court’s decision was stated. Others of the texts, though drawn from narrative sections of the OT, have to do with situations in which the accused is not present and therefore cannot be addressed (e.g., Gen 38:26; Lev 24:14; Num 15:35; 2 Sam 12:5). In fact, of all the texts collected by Boecker in this section, only four occur in narratives dealing with actual trials where the accused is present (1 Sam 14:44; 22:16; 1 Kgs 2:36-38; 3:27); and of these, only the last one frames the decision in the third person. In 1 Kgs 3:27, the statement of the disposition is really not so much a formal declaration of the court’s decision as instructions to the king’s aides; a similar case may be seen in 2 Sam 1:15-16, where the court’s decision is addressed to the guilty party (v. 16), and instructions are given to those who are to execute the sentence (v. 15). Jer 26:16 may represent an exception to the direct-address pattern we find in statements of the court’s decision, but the fact that it is followed (vv. 17-19) in the present arrangement of the text by further speech in defense of the accused suggests that the statement in v. 16 may not be the official declaration of the court’s final decision.

This does not pretend to be an exhaustive summary of Boecker’s monograph. In addition to the speech-forms dealt with here, Boecker treats also such forms as confessions of guilt, arbitration posprals, and formulas used in property exchanges and marriage arrangements.
forth his charges by speaking of the accused in the third person, and the court's decision was announced directly to the accused. We note first in this connection Mic 6:9c-15:

9c Hear, O tribe and assembly of the city!
10 Shall I forget the treasures of wickedness\(^{47}\) and the scant measure that is accursed?
11 Shall I acquit the man with wicked scales and with a bag of deceitful weights?
12 Her\(^{48}\) rich men are full of violence, her inhabitants speak lies.\(^{49}\)
13 Therefore I have begun to smite you, making you desolate because of your sins.
14 You shall eat and not be satisfied,
for you will be stricken with dysentery.\(^{50}\)
You shall overtake (prey) and not carry it off;\(^{51}\)
and what you carry off,
I shall give to the sword.
15 You shall sow, but not reap;
you shall tread olives,
but not anoint yourself with oil,
and grapes, but you shall not drink wine.\(^{52}\)

We find this shift also in Amos 3:10-11:

"They do not know how to do right,"
says Yahweh,
"those who store up wrong and violence in their strongholds."
Therefore thus says Yahweh:
"An adversary shall surround the land, and bring down your defenses from you, and your strongholds shall be plundered."

\(^{47}\) Bēt rāṣāḥ is dropped from the overloaded line; perhaps this reflects a marginal gloss bat rešāḥ inserted by some scribe as a synonym for šēpat rāzōn zēʾūmāḥ, since "bath" is the liquid measure equivalent to "ephah"; for these words as parallel, see Isa 5:10.

\(^{48}\) Note that the emendation of this pronoun to "your" by RSV, NEB and other translations is made unnecessary by our findings concerning the proper form of the accusation in Hebrew law courts.

\(^{49}\) The last colon of v. 12 is probably a gloss on the verse and may be dropped, with most commentators.

\(^{50}\) For the translation of the second colon, see A. Ehrman, "A Note on Micah VI 14," VT 23 (1973) 103-5.

\(^{51}\) Change MT ʿaṣēq to taʾšēq (Hiphil of nṣēq). This seems to be the reading of D. R. Hillers, Treaty-Curses and the Old Testament Prophets (BibOr 16; Rome: Biblical Institute, 1964) 29, and I have adopted the translation given there.

\(^{52}\) V. 16 is best treated as a unit in itself, separate from 9-15. The references of the first line are uncertain; if they connote Baal-worship, then the topic is clearly distinct from that of the preceding verses.
See also Isa 30:8-14 and Hos 12:8-10 (Engl. 7-9),\textsuperscript{53} and, possibly Amos 5:7, 10-11.\textsuperscript{54}

In addition, there are texts where a statement of the sentence (announcement of punishment) addressed directly to the accused is prefaced by a hōy-oracle, consisting of hōy + active participle(s) (usually plural) + third person finite verbs. An example is Mic 2:1-3:

\begin{quote}
Woe to those who devise wickedness 
and work evil upon their beds!  
When the morning dawns, they perform it, 
because it is in the power of their hand.  
They covet fields and seize them; 
and houses, and take them away; 
you oppress a man and his house, 
a man and his inheritance. 
Therefore thus says Yahweh: 
"Behold, against this family I am devising evil, 
from which you cannot remove your necks; 
and you will not walk haughtily, 
for it will be an evil time."
\end{quote}

Also in this category can be listed Isa 10:1-4; 30:1-5; and, probably, Mic 3:5-8.\textsuperscript{55} Although the woe-oracle had a separate origin from the juridical speech-forms,\textsuperscript{56} the genre commended itself to the prophets as a useful component of the prophetic Gerichtsrede. The impersonal style of the hōy-oracle made it quite suitable for use, in the prophetic Judgment Speech, as an analogy to the accusation of the profane legal process.

\textsuperscript{53} The punishment of again making Israel dwell in tents connotes a taking-away of them from the wealth and luxury accumulated in the settled land (cf. v. 9[8]). The same notion is expressed in 2:11-17 (9-15) and 3:4. In Hosea's thought, the execution of this judgment was the means of creating conditions for renewal of Israel's faithfulness and of the covenant bond.

\textsuperscript{54} It is assumed here, with most commentators, that these verses constitute a single oracle which has been interrupted by vv. 8-9. V. 7 begins with a definite plural participle, which might originally have been prefaced by a hōy (cf. J. L. Mays, Amos [OT Library; London: SCM, 1969] 91), in which case this pericope falls into the category described in the following paragraph.

\textsuperscript{55} Some emendation is required to justify the inclusion of this last passage here. kōh ʾāmar Yhwh must be removed from the structure of the poem and the opening words altered to read hōy hannēḇīʾim. Hōy might have dropped out of the text due to haplography (with Yhwh), and a later scribe altered the text in line with a phrase known to him, such as is found in Jer 14:15 or 23:15. A similar emendation is proposed by T. H. Robinson, Die zwölf kleinen Propheten: Hosea bis Micha (HAT 14; Tübingen: Mohr [Siebeck], 1938) 137.

Still further, there are several prophetic speeches in which the accusatory portion is composed of:

vocative (e.g., šim ʿu-nā ʿzō ʿtī)
+ nouns specifying the addressee (e.g., rāʿṣē bêt va ʿqōḥ)
+ participles denoting the (reproachful) actions of the addressee (e.g., hâmētā ʿhim mišpāṭ)
+ third person finite verbs (e.g., ʿaqqēšā) and/or pronouns (e.g., laʿādōnēhem).

This manner of setting forth the accusation is, strictly speaking, direct address, but the impersonal formulation with the participles and third-person verbs and pronouns has much the same effect as the previous examples of third-person accusations and has perhaps been influenced by the juridical speech forms. The announcement of punishment which follows is addressed directly to the accused.

In addition to the striking shift from third-person to second-person statements at precisely the point where this shift would occur in the profane legal process, there are other factors which indicate that the prophets were modelling these speeches on the profane proceedings.

The sins set forth in the accusatory section of these speeches are nearly always social crimes (such as perversion of justice, mistreatment of the poor, economic exploitation), as distinguished from the sin of apostasy, which is the characteristic transgression mentioned in the “Complaint Speech” oracles. These social crimes are the sort adjudicated in the secular courts.

Moreover, the “Judgment Speech” oracles commonly proceed to the stage of “sentencing,” or announcing the punishment, in contrast to the “Complaint Speech” passages. It is not the intent of the proceedings in the secular courts simply to chastise or to warn and evoke expressions of penitence from the guilty. When a party’s guilt is established, sentence is passed. It is this kind of process which constitutes the prototype for the prophetic Judgment Speeches.

Although accusation and sentence are, in the secular process, spoken by different persons, the prophets were not thereby forbidden from adapting these forms of speech for expression of Yahweh’s suit against Israel just because the Lord God of Israel happened to be in a position both to declare

57 Mic 3:9-12; Amos 4:1-3. Amos 8:4-6 appears to be the first part of such a Judgment Speech. Since the prophet Amos commonly proceeds from accusation to announcement of punishment (cf. 3:10-11; 4:1-3; 5:10-11; 6:4-7), it is likely that the accusation now found in 8:4-6 was originally accompanied by a statement of the “sentence.”
58 All examples to this point from Mic 3:9.
59 Amos 4:1.
60 GKC, § 126 e-f.
61 Further support for this derives from the mention in several of these Judgment-Speech passages of persons who would constitute the court at the gate (cf. Mic 3:9; 6:9c; Amos 5:7a; Isa 10:1-2). Note also the reference in Isa 30:8a β to sēper, which term is often used to refer to a legal document used in proceedings at the gate (cf. Deut 24:1; Jer 3:8; 32:11, 14; Job 31:35).
62 Excepting, of course, those instances in the king’s court in which the king is both plaintiff and judge.
the charges and to pass sentence upon the guilty people. 63 Isa 5:1-6(7), a passage similar in many respects to those discussed above, provides a good example of the way in which a prophet, speaking for Yahweh and imitating the proceedings of a secular court, could assume the posture at one point (vv. 1-4) of speaking as a plaintiff to a panel of judges other than himself, and at another point (vv. 5-6) assume the posture of himself being the one to decide the punishment.

We would not insist that the prophets' imitation of the juridical style requires us to locate the Sitz im Leben of their speeches in the court itself. Certainly the style was familiar enough that the sense and the intention which the prophets sought to convey could be appreciated wherever the words were uttered. The Hebrew prophets were distressed at the fashion in which the people of Israel — often the very persons who were supposedly the exemplars of justice — exploited their fellow citizens without scruple. Is it not, therefore, quite easily conceivable that the prophets did go to the courts, appearing as men come to argue their case and, employing the customary style and forms of speech, delivered there the accusation and verdict of Yahweh — often turning the tables on the judges themselves, so that those who had come to "sit" in judgment now "stood" accused and sentenced? 64

III. Conclusions

The OT continually celebrates the "justice" and the "righteousness" of Israel's God (e.g., Deut 32:4; Isa 5:16; Jer 11:20; Pss 36:7 [Engl. 6]; 119:137). In his lawsuits against Israel we see a manifestation of these qualities. His action against Israel is in accord with what is expected of a just suzerain. The hypothesis of a cultic ceremony of covenant renewal along lines suggested by Harvey and Beyerlin seems a likely one to this writer: in response to cries of the people for deliverance from misfortune, Yahweh declares his case against them, and only when they have acknowledged the justice of his complaint is there possibility of renewing the covenant. 65

The great prophets themselves shared the theology which found expression in this liturgy: Yahweh was willing to provide for a restored pact with the repentant vassal. But these prophets came to recognize the lack of depth in much of the penitence expressed in these ceremonies, and they were aroused to dispute the notion that such a service would always awaken God's compassion and favorable disposition toward Israel, ex opere operato. A cultic lament, a renunciation of idols and a repeated oath of allegiance to Yahweh were falsely expected by the people to bring about an automatic satisfaction of Yahweh's justice.

63 Just as the adoption of the oriental treaty genre for Yahweh's covenant with Israel was not precluded by the fact that Yahweh was in a position to be both a party to the treaty and the deity with oversight of the treaty.

64 Note the remarkable parallel to the prophet Nathan's appearance in King David's court, in 2 Samuel 12.

65 See n. 9 above.
The oracle in Mic 6:1-8 shows how a prophet might use the "Complaint Speech" as his model and yet express dissatisfaction with the shallowness of the ritual response. Elsewhere I have suggested that Amos 4:6-12, though related to this genre, is to be understood in the context of Amos's thought to express that prophet's belief that Yahweh's forgiveness and restoration of the people is by no means automatic. E. M. Good has developed an interpretation of Hos 5:8-6:6 along similar lines; he suggests "a liturgical setting with two foci: Legal judgment and restoration through theophany." In that particular adaptation of the ritual pattern by Hosea, the penitence is followed by an ambiguous reply from Yahweh (6:4-6), again referring to the shallowness of the ritual response.

Another strategy of the prophets, exemplified in the "Judgment Speech" oracles, was even more radical. They perceived the need for an approach to the people which would point up the impossibility of separating allegiance to Yahweh from the pursuit of social justice. Did the penitence and vows uttered in the holy places have no relevance for the practices in the market-place and the courts of law? Were the cultic lament, renunciation of idols, and repeated professions of faith to have no effect on the social practices of those who participated in the cultic service? Into the streets the prophets went, and there they laid out the indictments of Yahweh — sometimes against even the judges themselves! As in the profane courts, the guilty could not absolve himself by liturgical confession and offering of sacrifice. Declarations of remorse and penitential actions do not here exculpate the guilty. In these representations of Yahweh's justice the proceedings conclude with the passing of sentence.

The repeatedly expressed pessimism of the prophets regarding the moral capacities of the Israelites makes it difficult for me to think that the prophets hoped by this preaching of judgment to induce repentance, so that the "sentence" would not be executed. The Judgment Speeches give no indication that the prophets intended the announcements of punishment in a conditional sense. The crimes of the Israelites stand exposed. Sentence is passed. Judgment is coming.

66 G. M. Tucker, Form Criticism of the Old Testament (Philadelphia: Fortress, 1971) 62: "The term threat is not strong enough for the prophet's bad news concerning the future. It is too weak primarily because it implies a conditional element, for example, that disaster — judgment — will come if the people do not repent. At least in the announcements of judgment themselves, no such condition is stated or implied. The future had already been decided. The purpose of the announcement of judgment was to set that future into motion and to make it clear beyond a shadow of a doubt that the coming trouble was Yahweh's judgment upon his people for very good reasons."
67 This is not to say that, in prophetic theology taken as a whole, judgment is the final word. In Hosea and Jeremiah, to name but two examples, the process of judgment was perceived in a positive manner — healing, disciplinary, educative; cf. Hos 2:4-17; 3:1-5; Jer 31:2-6, 16-20. But that is a topic for another study, which can build upon the conclusions of this one.