

Psalm 109 and the Legal Meaning of Prayer

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The basic Hebrew terms for prayer are the noun *t'pillâ* and the related verb *hitpallēl*. In the Hebrew Bible, both terms denote communication only along the human-divine axis.¹ While other locutions can denote prayer, *t'pillâ* and *hitpallēl* have this specialized meaning, almost exclusively. Put otherwise, numerous locutions regularly describe communication between humans as well as prayers from humans to deities, but *t'pillâ* and *hitpallēl* are reserved for prayer.

Scholarship has long observed a connection between the courtroom and these basic Hebrew words for prayer.² Fundamentally, the noun means "plea" or "petition," from which emerged the specialized meaning, "prayer." This semantic development (or, if we prefer, terminological overlap) reflects the concept of prayer as "making one's case" before God, the judge. Along similar lines, the related verb, *hitpallēl* ("to pray"), means something like "to make a plea for one's self." Most recently, Yitzhaq Feder has supported this interpretation by adducing the evidence of the common Hittite word for prayer, *arkuwar*, which is cognate to English argument. In both Hittite and Hebrew, when one prays, one makes an argument.

My purpose today is to refine the legal interpretation of *t^epillâ* by revisiting Psalm 109:7. This verse figures prominently in discussions of the Hebrew Bible's forensic theology of prayer, because, as I shall elaborate shortly, this verse contains a rare instance of *t^epillâ* directed towards a human adjudicator. Studies of biblical prayer, such as those by Sheldon Blank and Moshe Greenberg, have drawn on this usage to advance an essentially legal understanding of prayer in the Hebrew Bible. Today, I will offer some new observations on the verse itself to support this understanding. Following these more local arguments, I will situate the legal meaning of *t^epillâ* within the broader context of Psalm 109. Contextual factors beyond the verse itself underscore the legal interpretation of *t^epillâ*. At the same time, this interpretation affects our understanding not only of the two verses in which the word occurs in Psalm 109 (109:4, 7), but also the entire psalm.

The scholarly effort to understand the common Hebrew term for prayer focuses on Psalm 109:7 because etymology is of only limited use. This limitation pertains to etymological investigation, as a method, in general, and, more critically, in this particular instance. The precise meaning of the root *p-l-l*, from which the noun and the verb derive, remains elusive. The root's usages pertaining to prayer greatly overwhelm other usages in Hebrew.³ Moreover, the connections between these other usages—some of which do, in one way or another, pertain to law-- and the most common one, "prayer," are not readily apparent.⁴ Attempts, at times

creative, at tracing the semantic history of the Hebrew terminology for prayer only demonstrate the uncertainties inherent in this line of inquiry.⁵ Widening the field to include other Semitic languages, such as Arabic or Akkadian, does not advance the case very far.⁶

To our verse, then. Psalm 109:7 occurs as part of a longer set of imprecations against an enemy (Psalm 109:6–20). Who utters these imprecations against whom-- whether the main speaker in the Psalm against the enemy, or, the other way around, the enemies against the main speaker-- remains a question.⁷ We should also address one other point of grammatical bookkeeping here: the verbs express a speaker's wish, whether we parse both the verbs as jussives or allow the volitional sense to carry over from the imperative in verse 6. In short, someone wishes for someone else to have a bad day in court: *בְּהִשָּׁפֵטוֹ יֵצֵא רָשָׁע*-- "When he sues, may he come out in the wrong." This lawsuit is the immediate context for the *ṯpillâ* of the victim of the imprecation, either the speaker's enemies or the speaker himself.

Context, however, can obscure as much as it can illuminate. Overall, because this verse occurs in a Psalm addressed to God, it is possible to situate it along the human-divine axis, rather than along the human-human one. Interpreting along the human-divine axis exploits not only the verse's overall context in an

address to God, but also the verse's theologically charged vocabulary. Thus, the NRSV renders the verse:

When he is tried, let him come forth guilty;
let his prayer be counted as sin!

According to this rendering, the verse expresses a speaker's hope for an opponent to be judged as guilty and for the opponent's unsuccessful, even counter-productively sinful, prayer. The word *t^epillâ* has its usual meaning "prayer," as does the word *h^ata'â*, which usually refers to sin. Moreover, the word describing the opponent's action is understood as passive ("when he is tried"), which allows for, and even suggests, that the "trial" imagined here takes place before God.⁸ In this situation, "coming forth guilty" would, quite naturally, lead to prayer, which, in turn, God might "count as sin," in the typical sense of that last word.

The main flaw in the NRSV's translation lies in its misinterpretation of the verse's opening word: *בְּהִשָּׁפֵטוֹ*. The word is the infinitive form of the root *špt*, meaning "to judge," conjugated in a stem (the N-stem) that often serves to make active verbs passive. Thus, a passive translation, "when he is judged," is grammatically possible. This stem, however, can also have a reciprocal meaning that reflects "mutual action."⁹ Throughout the Hebrew Bible, when the particular root *špt* appears in this stem, it always has the reciprocal, rather than the passive,

meaning. This is the basis for the translation "when he sues," following Greenberg, rather than the NRSV's "when he is judged;" the verb refers to the human object of the imprecation engaging another human litigant in a lawsuit, not "being judged," passively. Correctly translating the part of the verse that refers to judgment precludes interpreting the verse along the human-divine axis. The verse implies nothing about a judgment before or by God; judgment, here, occurs only before a human authority.

Once it is clear that the first half of Psalm 109:7 refers to the human courtroom, then this is the likely context for the verse's second half, too. Thus, this verse establishes a clear connection between the human courtroom and the word *t^lpillâ*, and so provides the crucial Hebrew evidence for a forensic conception of prayer. Here, the word *t^lpillâ* is likely to mean something other than the usual "prayer," because this usual meaning is specific to the human-divine relationship. Put otherwise, Psalm 109:7 furnishes a unique case of a "prayer" (*t^lpillâ*) directed to a human, rather than to God.

What is this *t^lpillâ*? Sheldon Blank suggests "a defense plea," and other scholars, earlier and later, adopt similar suggestions.¹⁰ In the context of Psalm 109:7, this meaning makes good sense. The verse begins (7a) with a general description of failure to win a lawsuit, and then (7b) specifies that an unsuccessful plea is this failure's cause. Furthermore, this meaning also takes advantage of the

word's much more common meaning, "prayer." The word *t^epillâ* refers to a plea, usually to God, and, in the unique case of Psalm 109:7, to a human adjudicator. On these grounds, I reject the NJPS translation "may he be judged," and Greenberg's translation "let his verdict be-- conviction."¹¹ "Verdict" or "being judged" are possible here, but they ignore the typical meaning, "prayer." "Plea," therefore, is preferred.

Before we turn to matters of wider context, we should address what the speaker hopes the outcome of this *t^epillâ* will be. According to the remainder of the verse, the prayed-for result is for the prayer to become (*tihye + l^e*) *h^ata'â*. The contextual arguments for interpreting *t^epillâ* along the human-to-human, rather than human-divine, axis support interpreting *h^ata'â* differently than the usual "sin." Here, I follow the lead of Norbert Lohfink, in his rendering of our verse, who translates "may he fall short of it."¹² In support of this translation, we can refer to the medieval Jewish exegete David Qimhi, who cites Judges 20:16. This verse describes able Benjaminite marksmen who "could sling a stone at a hair and not miss-- ולא יחטיא"-- nothing theological here. On grammatical grounds, I would tweak Lohfink's translation to accommodate the proper subject-- the *t^epillâ*, rather than the human object of the imprecation. Therefore, I render this part of the verse: "may his plea miss its mark."

At this point, we can summarize our findings based on verse 7. This verse establishes a crucial link between the common word for prayer, *t^epillâ*, and the courtroom. Proper interpretation of the N-stem form of the judgment verb ט פ ש points to a context in the realm of human, rather than divine, adjudication. In terms of our agenda today, two tasks remain, both pertaining to Psalm 109, more broadly: we must consider the other occurrence of the word in verse 4 of the Psalm, and, following that, understand how the psalm, as a whole, elaborates the relationship between the courtroom and prayer.

Verse 4 presents the contrast, well-known throughout the Psalms, between the individual speaker and a group of adversaries, "me vs. the world," as it were. "They" are set against the speaker, who says, וְאֲנִי תִפְלֵה, most literally, "but I prayer." While a grammatical explanation of this phrase remains a bit elusive, its syntactical sense is plain enough. By way of paraphrase, we can supply some English verb, either to express the noun's relationship to the pronoun *wa' ^ani* [along the lines of "I (stand in) prayer"] or to substitute for the noun *t^epillâ* itself ("I pray," instead of "I prayer"). Grammar aside, let us focus our attention on the following question: should we construe *t^epillâ* here along the human-divine axis, as we might anywhere else, or, in light of verse 7, should we invoke a specifically human-to-human interpretation? Put somewhat simply: is the audience of the speaker's *t^epillâ* God or a human judge?

Here, both options are possible. We could pursue the human-to-human direction, as we do in the later verse. In this reading, the speaker and the speaker's opponents are adversaries in a lawsuit. To the claims of these opponents, the speaker responds with a *t^lpillâ*, a plea to a human judge. Unlike in verse 7, however, nothing here compels this reading. It is just as likely that, in the face of adversaries, perhaps legal ones, our speaker turns directly to God, with a prayer. In context, this latter possibility suggests a rather elegant, self-referential aspect to the Psalm's opening verses. With the phrase *וְאֲנִי תַפְלֵה*, the speaker refers to the immediately surrounding verses (1–5), in which God is directly addressed.

Rather than choose, we might, instead, retain aspects of both interpretations. To make this argument, it is probably best to consider the psalm, as a whole. Twentieth century scholarship's quest for *Sitze im Leben* fueled the identification of our speaker as a defendant in a trial. This position bases itself not only on the reference to a legal matter in verse 7a's *בְּהִשָּׁפְטוּ*, but also on other legal sounding features. Prominent among these is the root *śin-tet-nun*, which describes the speaker's opponents (verses 20 and 29), the opponents' actions (verse 4), and "an accuser" (verse 6) who will stand to the right of the object of the imprecations (the same character who will offer a failed *t^lpillâ* in verse 7). In short, Psalm 109 is a prime candidate for inclusion in Hans Schmidt's 1928 study of the psalms, entitled *Das Gebet der Angeklagten*, or the prayer of the defendant.¹³

I'm not here to revive Schmidt's position that our speaker must be an actual defendant standing before a temple tribunal, facing an accusation of murder.¹⁴ The psalm's legal terminology does not attest to the speaker's legal status any more than the use of poverty terms evidences the speaker's low financial status. Instead, just as the speaker assumes a posture of poverty, our speaker takes on the persona of a defendant or an accused individual. Because prayer/*t^epillâ* is perceived as making one's case, one presents oneself to God as a litigant. The opponents are "accusers," and the prayed-for outcome is imagined in legal terms: salvation in Psalm 109 is set as a courtroom scene, complete with stage directions. According to verse 31, God "will stand to the right" of the speaker. God steps in to act as legal defense, and assumes the position that, according to verse 6, might otherwise be occupied by an "accuser" (אֲשֶׁר).

All of this impacts our understanding of the word *t^epillâ* in verse 4. It means "prayer," and it refers specifically to the communication that the speaker directs to God in the psalm itself. At the same time, however, it also contributes to the speaker's rhetorical casting of prayer in legal terms. Thus, verse 4 itself presents *t^epillâ* as an appropriate response to the speaker's adversaries and their accusations. Adversaries who, by accusing, act, as it were, in the legal realm, prompt *t^epillâ*, a plea or an appeal.

This interpretation of verse 4 aligns well with biblical and broader ancient Near Eastern theologies of prayer. Humans' suffering, conceived as judgment by the gods, prompts appeals for relief. In particular, one seeks divine intervention when suffering comes about because of other humans, and no solution presents itself in the intra-human domain. In prayer, people turn to deities as courts of last resort, as a way of being heard when human means of achieving justice have been exhausted.

In Psalm 109, the speaker, whom human justice has failed, turns to God with a plea. The enemies present their accusations, and the speaker has not found a forum in which to lodge a successful response. But for God. In the world of this Psalm and its speaker, God is the ultimate arbiter, who hears the speaker's side of the story and who will administer justice on the speaker's behalf.

Given this conceptual framework, *t^epillâ* is the perfect term to describe the speaker's communication with God. Certainly, *t^epillâ* is prayer—what the speaker has to say to God. At the same time, for our speaker, *t^epillâ* is very much a matter of law. Through *t^epillâ*, the speaker gets his day in court, so to speak, the opportunity to make his case against the others who have lodged their accusations.

In conclusion: Psalm 109 provides an invaluable illustration of the nexus between the Hebrew term for prayer, *t^epillâ* and the courtroom. Verse 7 in the

psalm demonstrates the term's place in the vocabulary of the human courtroom. In this instance, at least, the common Hebrew word for prayer denotes a litigant's plea or petition before an adjudicator. In verse 4, the speaker designates his own prayer to God as a *ṭpillâ*. This designation reflects precisely the prayer-courtroom connection. In prayer, the speaker makes his case before God, the ultimate adjudicator.

¹The human-divine aspect is so pervasive as to be practically exclusive. In the case of the verb, the clearest exception occurs in Isa 45:15. For the noun, see the discussion of Ps 109:7, below. For a convenient chart of the distribution of addressees of various prayer terms in biblical Hebrew, see J. F. A. Sawyer, "Types of Prayer in the Old Testament: Some Semantic Observations on Hitpallel, Hithannen, etc." *Semitics* 7 (1980):140.

²Moshe Greenberg, *Biblical Prose Prayer as a Window to the Popular Religion of Ancient Israel* (Berkeley: University of California Press, 1983), 21–22, with references to earlier literature.

³The noun *ṭpillâ* occurs, in various forms, 77 times. The plural noun *p^elilim*, the next most frequently attested nominal derivative of *p-l-l*, occurs just three times, with other words (*p^elilâ*, *p^elilyyâ* and *p^elilî*) occurring only one time each. The verb *hitpallēl* occurs 80 times, while related D-stem forms occur only 4 times.

⁴For example, the noun *p^elilim* occurs in the law in Exod. 21:22. See, however, the sobering observation by Amos Hakham, on Job 31:21, another place in which the noun *p^elilim* occurs: "the meaning of *p^elilim* is probably not the same in all these verses" [*Job with the Jerusalem Commentary* (Jerusalem: Mosad Harav Kook, 2009), 314].

⁵For an example of the kind of creative, but ultimately unconvincing, semantic speculation the root *p-l-l* and its connections to prayer have spawned, see D. R. Ap-Thomas, "Notes on Some Terms Relating to Prayer," *VT* 6 (1956):230–239. A more disciplined argument can be found in Adele Berlin, "On the Meaning of *pll* in the Bible," *RB* 96 (1989):345–351.

⁶Akkadian *palālu* occurs in Old Assyrian legal texts, but its meaning remains open to debate, as evidenced by the comment "(meaning uncertain)" in CAD *palālu* B (P, 51). For an attempt to define the Akkadian root, and relate it to the legal underpinning of Hebrew prayer terminology, see Chaim Cohen, "The Ancient Critical Misunderstanding of Exodus 21:22–25 and Its Implications for the Current Debate on Abortion," in *Mishneh Todah: Studies In Deuteronomy and Its Cultural Environment in Honor of Jeffrey H. Tigay* (ed. Nili Sacher Fox, David A. Glatt-Gilad, and Michael J. Williams; Winona Lake, Ind.: Eisenbrauns, 2009), 457–458. Compare, however, the definition of the Akkadian supplied by Cécile Michel, "Règlement des comptes du défunt Hurašānum," *RA* 88 (1994): 124 and Cécile Michel, "Hommes et femmes prêtent serment à l'époque paléo-assyrienne," in *Jurer et maudire: pratiques politiques et usages juridiques du serment dans le Proche-Orient ancien* (ed. Sophie Lafont; *Méditerranéés* 10-11; Paris: L'Harmattan, 1996), 112.

⁷See Stephen C. Egwim, *A Contextual and Cross-Cultural Study of Psalm 109* (Biblical Tools and Studies 12; Leuven: Peeters, 2011), 59–65, with additional references to earlier literature. Also see F.-L. Hossfeld and E. Zenger, *Die Psalmen: Psalm 101–150* (NEchtB; Würzburg: Echter, 2012), 635–636.

⁸For this interpretation, see Rashi, among other medieval Jewish interpreters.

⁹GKC §51.

¹⁰Sheldon H. Blank, "The Confessions of Jeremiah and the Meaning of Prayer," *HUCA* 21 (1948):337–338 n. 12, with references to earlier literature. Also see E. A. Speiser, "The Stem *PLL* in Biblical Hebrew," *JBL* 82 (1963):306; Mitchel Dahood, *The Psalms III: 101–150* (AB 17a; Garden City: Doubleday, 1970), 102; Leslie C. Allen, *Psalms 101–150* (WBC 21; Waco, TX: Word Books, 1983), 70, 72;

¹¹Greenberg, *Prose Prayer*, 22.

¹²Norbert Lohfink, *In the Shadow of Your Wings: New Readings of Great Texts from the Bible* (trans. Linda M. Malone; Collegeville, Minn.: The Liturgical Press, 2003), 120. See Zorell, s.v. *הַטָּאָה*.

¹³Hans Schmidt, *Das Gebet der Angeklagten im Alten Testament* (Giessen: Alfred Töpelman, 1928).

¹⁴See Hans Schmidt, *Das Gebet der Angeklagten im Alten Testament* (Giessen: Alfred Töpelman, 1928), 40–45.