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On Rights and Responsibilities: The Framing of the Pesach Story

Elana Stein Hain

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Dr. Elana Stein Hain is the Director of Leadership Education for the Shalom Hartman Institute of North America, where she serves as a lead faculty member and oversees the content of lay and professional leadership programs. A widely well-regarded teacher and scholar, Dr. Stein Hain earned her doctorate in Religion from Columbia University with a dissertation on the topic of legal loopholes in rabbinic literature.

She has served for eight years as a clergy member on the Upper West Side of Manhattan, at both Lincoln Square Synagogue and the Jewish Center, as well as an adjunct faculty member at NYU. A graduate of Columbia University, the Yeshiva University Graduate Program in Advanced Talmudic Studies, and the Cardozo Interdisciplinary Fellowship in Jewish Law and Legal Theory, Elana has taught nationally and internationally, including as a member of Wexner Institute faculty.

Dr. Stein Hain co-founded the OLP (Orthodox Leadership Project) to support female leaders working in the Orthodox Jewish community and the pluralistic Seminarians for Social Justice in response to crisis in Sudan, and was recognized by the *Jewish Week* as an emerging Jewish leader in its first "36 Under 36" listing. She lives in Manhattan with her husband Rabbi Yonah Hain and their two sons.

Elana.steinhain@shalomhartman.org

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One Pennsylvania Plaza, Suite 1606
New York, NY 10119
212-268-0300
info@shalomhartman.org
www.shalomhartman.org

1. Tosefta Pesahim vs. Mishnah Pesahim, Chapter 10

תוספתא פסחים Tosefta Pesahim	משנה פסחים Mishnah Pesahim
<p>י,ו ר"א אומר חוטפין מצה לתינוקות בשביל שלא יישנו ר' יהודה אומר משמו אפילו לא אכל אלא פרפרת אחת אפילו לא טבל אלא חזרת אחת חוטפין מצה לתנוקות בשביל שלא יישנו עד היכן הוא אומר ב"ש אומרים עד אם הבנים שמחה [וב"ה] אומר עד חלמיש למעינו מים וחזתם בגאולה אמרו ב"ש וב"ה [וכן] כבר יצאו [שמזכירין] יציאת מצרים אמרו להם ב"ה אפילו הוא ממתין עד קרית הגבר הרי אלו לא יצאו עד שש שעות ביום היאך אומר את הגאולה ועדיין לא נגאלו.</p>	<p>י,ד מזגו לו כוס שני, וכאן הבן שואל. אם אין דעת בבן--אביו מלמדו, מה נשתנה הלילה הזה מכל הלילות: שבכל הלילות, אין אנו מטבלין אפילו פעם אחת; והלילה הזה, שתי פעמים. שבכל הלילות, אנו אוכלין חמץ ומצה; והלילה הזה, כולו מצה. שבכל הלילות, אנו אוכלין בשר עלי שלוק ומבושל; והלילה הזה, כולו עלי. לפי דעתו של בן, אביו מלמדו. מתחיל בגנות, ומסיים בשבח; ודורש מ"ארמי אובד אביו" (דברים כו,ה), עד שהוא גומר את כל הפרשה.</p>
<p>Rabbi Eliezer says: We give the children <i>matzo</i> quickly so that they will not sleep. Rabbi Judah says in his name: Even if one has only eaten one morsel, has only dipped one vegetable, we give the children <i>matzo</i> quickly so that they will not sleep.</p> <p>To what point in <i>Hallel</i> should one recite? Beit Shammai say: until the words אם הבנים שמחה, while Beit Hillel say: until the words חלמיש למעינו מים. And one ends with the blessing of redemption. Beit Shammai asked Beit Hillel: Have they already come out of Egypt that they are already talking about leaving Egypt? Beit Hillel responded: Even if one waited until the crowing of the rooster, they actually only left at midday. So how can we mention redemption even before they were redeemed?!</p>	<p>They poured a second cup, and here is where the child asks. If the child has no knowledge, the parent teaches them: How different this night is from all other nights, for on all nights, we do not dip even once, while tonight we dip twice. For on all nights, we eat leavened and unleavened bread, while tonight is all unleavened bread. For on all nights, we eat meat that is roasted, boiled, or cooked, while tonight all is roasted. According to the understand of the child, the parent teaches them. S/he begins with negative and ends with praise, and expounds from "My father was a wandering Aramean (Deut. 26:5)" until the end of the section.</p>
<p>י,ח אין מפטירין אחר הפסח [אפיקומן] כגון [אגוזים] תמרים [וקליות] חייב אדם [לעסוק בהלכות הפסח] כל הלילה אפילו בינו לבין בנו אפילו בינו לבין עצמו אפילו בינו לבין תלמידו מעשה ברבן גמליאל וזקנים שהיו מסובין בבית ביתוס בן זונין בלוד והיו [עסוקין בהלכות הפסח] כל הלילה עד קרות הגבר הגביהו מלפניהם ונועדו והלכו [להן] לבית המדרש איזו היא ברכת הפסח ברוך אשר קדשנו במצותיו וצונו לאכול הפסח איזו ברכת הזבח ברוך אשר קדשנו במצותיו וצונו לאכול הזבח.</p>	<p>י,ה רבן גמליאל אומר, כל שלא אמר שלושה דברים אלו בפסח, לא יצא ידי חובתו; ואלו הן-- פסח, מצה, ומרורים. פסח, על שם שפסח המקום על בתי אבותינו במצריים; מרורים, על שם שמיררו המצריים את חיי אבותינו במצריים; מצה, על שם שנגאלו. בכל דור ודור, חייב אדם לראות את עצמו כאילו הוא יצא ממצריים; לפיכך אנחנו חייבין להודות להלל לשבח לפאר להדר לרומם לגדל לנצח למי שעשה לנו את כל הניסים האלו, והוציאנו מעבדות לחירות. ונאמר לפניו, הללו י-ה.</p>

We do not follow up the Paschal lamb with dessert, such as nuts, dates. A person must engage in the study of the laws of Pesach the entire night, even with one's child, even alone, even with one's student. Once Rabban Gamaliel and the elders were reclining in the house of Boethius son of Zonin in Lod, and they were engaged in studying the laws of Pesach all night until the crow of the rooster. What is the blessing on the Paschal lamb? Blessed is the One Who sanctified us with commandments and commanded us to eat the Paschal lamb. What is the blessing on the other offering? Blessed is the One Who sanctified us with commandments, and commanded us to eat the slaughtered offering.

Rabban Gamaliel says: All who does not speak of these three elements on Pesach has not fulfilled their obligation. And they are: the Paschal lamb, the *matzo* and the bitter herbs. The Paschal lamb referring to the play on words, that God "skipped over" the homes of our ancestors in Egypt. Bitter herbs because the Egyptians embittered our ancestors lives. Matzah because they were redeemed. In every generation, a person must see themselves as though they left Egypt. Therefore, we must thank and praise the One Who did all of these miracles for us and Who took us from bondage to freedom. And we shall say before God, "Praise God."

Focus on Narrative

2. Haggadah Text: The Rabbis in Bnei Brak

מעשה ברבי אליעזר ור' יהושע ור' אלעזר בן עזריה ור' עקיבא ור' טרפון שהיו מסבין בבני ברק. והיו מספרים ביציאת מצרים כל אותו הלילה עד שבאו תלמידיהם ואמרו להם רבותינו הגיע זמן קריאת שמע של שחרית.

Once Rabbi Eliezer and Rabbi Joshua and Rabbi Elazar son of Azaryah and Rabbi Akiva and Rabbi Tarfon were reclining in Bnei Brak. And they were telling the story of the exodus from Egypt that whole night, until their students came and told them, "Our masters, the time for the morning recitation of the *shema* has arrived."

אמר רבי אלעזר בן עזריה הרי אני כבן שבעים שנה ולא זכיתי שתאמר יציאת מצרים בלילות עד שדרשה בן זומא. שנאמר "למען תזכר את יום צאתך מארץ מצרים כל ימי חיידך" – ימי חיידך: הימים, כל ימי חיידך: להביא הלילות. וחכמים אומרים ימי חיידך: העולם הזה, כל ימי חיידך: להביא לימות המשיח

Rabbi Elazar son of Azaryah said: I am as 70 years old, and I never won the argument about reciting the exodus from Egypt at night until Ben Zoma expounded upon it. As it is said: "So that you will remember the day your left Egypt all of the days of your life" – the days of your life: daytime, all of the days of your life: including nights. And the sages say: the days of your life: this world; all the days of your life: including the world to come.

3. Sagit Mor, "The Laws of Sacrifice or Telling the Story of the Exodus?" *Zion* 68:3 (2003), 302

בדברו על הגאולה מתייחס רבן גמליאל לגאולת מצרים הקונקרטיית בלבד ואינו מזכיר את ההמשכיות לדורות כלומר אינו מדבר על גאולה לאבותינו, לנו ולבנינו. רבן גמליאל מדחיק בכך את החוויה העכשווית של השעבוד ואת הקריאה לגאולה, ומדגיש במקומה את חוויות העבר – הרחוק והקרוב גם יחד. רבן גמליאל והמנהיגים היושבים עמו מכחישים אפוא לכאורה את השינוי שחל במציאות – במקרה זה ביטולו של פולחן קרבן הפסח. הם אמנם מנסים ליצור בכך תחושה של המשכיות, אך בלי לעודד תחושות גאולה מיידיות, שעלולות אולי להביא לנקיטת יזמות ממשיות במציאות.

In his discussion of redemption, Rabban Gamliel relates to the concrete redemption from Egypt only rather than mentioning the continuation of the redemption for generations – meaning that he does not speak of redemption of *our* ancestors, of us and of our children. Rabban Gamliel thus pushes away the immediate experience of enslavement and of a call for redemption, and instead emphasizes the experience of the past – the far off and the nearby together. Rabban Gamliel and the leaders sitting with him, however, deny it seems the major change in reality, in this case, the loss of the Paschal Lamb. They do however, try to create a sense of continuity through learning about the sacrifice, but without encouraging any immediate sense of redemption, which may cause people to take concrete initiative to bring the redemption.

4. Sagit Mor, "The Laws of Sacrifice or Telling the Story of the Exodus?" *Zion* 68:3 (2003), 309

לגישה זו יש השלכות בשני מישורים מרכזיים. המישור האחד הוא המישור הרעיוני. סיפור המעשה בבני ברק, הקושר את החוויה הנוכחית עם תהליכים מקבילים בהיסטוריה של העם היהודי, משנה למעשה את זווית הראייה של הנוכחים. החורבן והגלות אינם נתפסים עוד כחוויה יחידה בעצמתה...אלא כחוויה אחת מני חוויות משבריות רבות ששרד העם היהודי במהלך קיומו...המישור האחר הוא המישור הנפשי... הגישה של הסיפור על בני החבורה המכונסת בבני ברק רואה ב'חוויה' – ולא במישור האינטלקטואלי – את דרך ההתמודדות הנכונה עם האבדן.

To this [second approach] there are consequences in two central arenas. The first is the ideational. The story of the rabbis in Bnei Brak, which connects the current moment to paprelle processes in Jewish history, changes practically the perspective of the people present. The destruction and exile are not a singular experience...but instead one experience among the many difficulties that the Jewish nation has survived during its exsistence...the other area is in the personal...The approach of storytelling by this group in Bnei Brak sees in the experiential - rather than in the intellectual – the way to properly deal with loss.

Focus on Law

5. Haggadah Text: Four Children

תְּכַסֵּם מָה הוּא אוֹמֵר? מַה הָעֲדוֹת וְהַחֻקִּים וְהַמִּשְׁפָּטִים אֲשֶׁר צִוָּה ה' אֱ-לֹהֵינוּ אֶתְכֶם? וְאַף אֶתָּה אָמַר לוֹ כְּהַלְכוֹת הַפֶּסַח: אֵין מִפְּטִירֵינוּ אַחַר הַפֶּסַח אֶפְיִקוֹמוֹן.

The Wise One asks: "What is the meaning of the laws and traditions God has commanded?" (Deuteronomy 6:20) You should teach the child all the traditions of Passover, even to the last detail.

רָשָׁע מָה הוּא אוֹמֵר? מָה הָעֲבֹדָה הַזֹּאת לָכֶם? לָכֶם - וְלֹא לוֹ. וְלִפִּי שְׂהוּצִיא אֶת עַצְמוֹ מִן הַקֶּלֶל כִּפְּר בְּעֵקֶר. וְאַף אֶתָּה הִקְהֵה אֶת שִׁנָּיו וְאָמַר לוֹ: בְּעֵבוֹר זֶה עָשָׂה ה' לִי בְּצִאתִי מִמִּצְרָיִם. לִי - וְלֹא לוֹ. אֵילוֹ הִיָּה שָׁם, לֹא הִיָּה נִגְאָל

The Wicked One asks: "What does this ritual mean to you?" (Exodus 12:26) By using the expression "to you" the child excludes themselves from his people and denies God. Blunt the child's teeth and say to them: "It is because of what the Lord did for me when I came out of Egypt..." (Exodus 13:8) "For me" and not for the child -- for had the child been in Egypt, they would not have been freed.

תָּם מָה הוּא אוֹמֵר? מַה זֹאת? וְאִמְרַתְּ אֵלָיו: בְּחֹזֶק יָד הוּצִיאָנוּ ה' מִמִּצְרָיִם, מִבֵּית עֲבָדִים

The Simple One asks: "What is all this?" You should tell the child: "It was with a mighty hand that the Lord took us out of Egypt, out of the house of bondage."

וְשִׂיאֵינוּ יוֹדֵעַ לְשֹׂאֵל - אֶת פֶּתַח לוֹ, שֶׁנֶּאֱמַר: וְהִגַּדְתָּ לְבִנְךָ בַּיּוֹם הַהוּא לֵאמֹר, בְּעֵבוֹר זֶה עָשָׂה ה' לִי בְּצִאתִי מִמִּצְרָיִם

As for the One Who Does Not Know How To Ask, you should open the discussion for that child, as it is written: "And you shall explain to your child on that day, 'It is because of what the Lord did for me when I came out of Egypt.'" (Exodus 13:8)

Relationship Between Law and Story

6. Exodus/Shemot 12 - Law

- טו** שבעת ימים, מצות תאכלו--אך ביום הראשון, תשביתו שאר מבתיכם: כי כל-אכל חמץ, ונכרתה הנפש ההוא מישראל--מיום הראשון, עד-יום השביעי.
- 15** Seven days shall ye eat unleavened bread; howbeit the first day ye shall put away leaven out of your houses; for whosoever eateth leavened bread from the first day until the seventh day, that soul shall be cut off from Israel.
- טז** וביום הראשון, מקרא-קדש, וביום השביעי, מקרא-קדש יהיה לכם: כל-מלאכה, לא-יעשה בהם--אך אִשֶׁר יֹאכַל לְכֹל-נֶפֶשׁ, הוא לְבַדּוֹ יַעֲשֶׂה לָכֶם.
- 16** And in the first day there shall be to you a holy convocation, and in the seventh day a holy convocation; no manner of work shall be done in them, save that which every man must eat, that only may be done by you.
- יז** ושמרתם, את-המצות, כי בעצם היום הזה, הוצאתי את-צבאותיכם מארץ מצרים; ושמרתם את-היום הזה, לדורותיכם--חוקת עולם.
- 17** And ye shall observe the feast of unleavened bread; for in this selfsame day have I brought your hosts out of the land of Egypt; therefore shall ye observe this day throughout your generations by an ordinance for ever.
- יח** בראשון בארבעה עשר יום לחדש, בערב, תאכלו, מצות: עד יום האחד ועשרים, לחדש--בערב.
- 18** In the first month, on the fourteenth day of the month at even, ye shall eat unleavened bread, until the one and twentieth day of the month at even.
- יט** שבעת ימים--שאר, לא ימצא בבתים: כי כל-אכל מחמץ, ונכרתה הנפש ההוא מעדת ישראל--בגר, ובאזרח הארץ.
- 19** Seven days shall there be no leaven found in your houses; for whosoever eateth that which is leavened, that soul shall be cut off from the congregation of Israel, whether he be a sojourner, or one that is born in the land.
- כ** כל-מחמץ, לא תאכלו; בכל מושבתיכם, תאכלו, מצות. {פ}
- 20** Ye shall eat nothing leavened; in all your habitations shall ye eat unleavened bread.' {P}
- ...
- כט** ויהי בחצי הלילה, והי הכה כל-בכור בארץ מצרים, מבכר פרעה הישב על-כסאו, עד בכור השביעי אשר בבית הבור; וכל, בכור בהמה, וכל-בכור בהמה.
- 29** And it came to pass at midnight, that the LORD smote all the firstborn in the land of Egypt, from the first-born of Pharaoh that sat on his throne unto the first-born of the captive that was in the dungeon; and all the first-born of cattle.
- ל** ויקם פרעה לילה, הוא וכל-עבדיו וכל-מצרים, ותהי צעקה גדלה, במצרים: כי-אין בית, אשר אין-שם מת.
- 30** And Pharaoh rose up in the night, he, and all his servants, and all the Egyptians; and there was a great cry in Egypt; for there was not a house where there was not one dead.

לא וַיִּקְרָא לְמֹשֶׁה וְלֵאחֶרֶן לַיְלָה, וַיֹּאמֶר קוּמוּ צֵאוּ מִתּוֹךְ עַמִּי--גַם-אֲתֶם, גַם-בְּנֵי יִשְׂרָאֵל; וּלְכוּ עֲבַדוּ אֶת-ה', כְּדַבְּרֵיכֶם.

31 And he called for Moses and Aaron by night and said: 'Rise up, get you forth from among my people, both ye and the children of Israel; and go, serve the LORD, as ye have said.'

לב גַם-צֹאנֵיכֶם גַם-בְּקֹרְכֶם קָחוּ כַּאֲשֶׁר דִּבַּרְתֶּם, וּלְכוּ; וּבֵרַכְתֶּם, גַם-אֹתִי.

32 Take both your flocks and your herds, as ye have said, and be gone; and bless me also.'

לג וַתִּחַזַק מִצְרַיִם עַל-הָעָם, לְמַהֵר לְשַׁלְּחֵם מִן-הָאָרֶץ: כִּי אָמְרוּ, בְּלִנְנוּ מֵתִים.

33 And the Egyptians were urgent upon the people, to send them out of the land in haste; for they said: 'We are all dead men.'

לד וַיִּשָּׂא הָעָם אֶת-בָּצֶקוֹ, טָרֵם וְחָמָץ; מִשְׁאֲרֵתָם צָרְרֹת בְּשִׁמְלֹתָם, עַל-שִׁכְמָם.

34 And the people took their dough before it was leavened, their kneading-troughs being bound up in their clothes upon their shoulders.

לה וּבְנֵי-יִשְׂרָאֵל עָשׂוּ, כְּדַבַּר מֹשֶׁה; וַיִּשְׁאַלוּ, מִמִּצְרַיִם, כְּלֵי-כֶסֶף וְכֵלֵי זָהָב, וְשִׁמְלֹת.

35 And the children of Israel did according to the word of Moses; and they asked of the Egyptians jewels of silver, and jewels of gold, and raiment.

לו וַה' נָתַן אֶת-חַן הָעָם, בְּעֵינֵי מִצְרַיִם--וַיִּשְׁאַלוּם; וַיִּנְצְלוּ, אֶת-מִצְרַיִם. {פ}

36 And the LORD gave the people favour in the sight of the Egyptians, so that they let them have what they asked. And they despoiled the Egyptians. {P}

7. Jane B. Baron, Law, Literature, and the Problems of Interdisciplinarity (Yale L. Journal, 3/99)

Until the Civil War, the story goes; the man of law in the United States was also a man of letters. But by about 1870, when Christopher Columbus Langdell became dean of Harvard Law School, law began to be conceptualized as a science rather than an art, a methodology, a specialized professional discipline characterized by its own logic, methodology, and subject matter. Once law became an independent field, literature was no longer a part of legal education, nor was it part of lawyers' everyday competence. Putting this point in a slightly different way, there was no "and" to law in its Langdellian form; law was autonomous. Indeed, this lack of an "and" was what made law law.

8. Babylonian Talmud Pesahim 116a

מתחיל בגנות ומסיים בשבח: מאי בגנות רב אמר מתחלה עובדי <עבודת גלולים> {עבודה זרה} היו אבותינו [ושמואל] אמר עבדים היינו אמר ליה רב נחמן לדרו עבדיה עבדא דמפיק ליה מריה לחירות ויהיב ליה כספא ודהבא מאי בעי למימר ליה אמר ליה בעי לאודווי ולשבוחי א"ל פטרתן מלומר מה נשתנה פתח ואמר עבדים היינו

One begins with the negative and ends with the praise: What is the negative? Rav says: In the beginning our ancestors were idolaters. And Samuel says: We were slaves. Rav Nachman said to Daru his slave: A slave whose master frees him and gives him silver and gold, what should he say to him? He responded: He should thank and praise. He responded: You have exempted us from reciting the *mah nishtanah*. He began with "We were slaves."

9. Barry Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories*

To explore the dialogical nature of Talmudic legal narrative is, to some extent, an exercise in reading against the grain. The dominant hermeneutic of dialectical interpreters both within the Bavli itself and in the post-Bavli commentarial literature generally challenges the legal narrative to “square with the formal rule.” The exercise of reading Talmudic legal narratives involves, therefore, the utilization of source criticism to separate the legal narrative until from its intra-talmudic interpretation. Such reading practice also involves reckoning with the disparity between the inherently dialogical legal narrative and the generally monological frame of interpretation that seeks to limit the juridical content of legal narratives to that which can be firmly established by formal statute, midrash, or reasoned argument. (p 24)

The dictum, it should be noted, does not say simply that one must get inebriated on Purim. Rather, the dictum includes a reference to the two male protagonists of the book of Esther, Haman and Mordecai. Inebriation is supposed to create a confusion of characters such that one does not know whether to bless the hero or curse him, to curse the villain or bless him. This confusion perfectly captures the quality of Purim as carnivalesque masquerade. On this day on which people dress up to assume a different identity, inebriation allows for the breaking of personal boundaries. Rabba’s dictum is both an attempt to assert control over the practice of inebriation by legislating it and an attempt to make the ultimate hedonistic activity – getting drunk – a purposive religious event. A law demanding inebriation is bizarre, and the dictum returns to its biblical source to connect the practice with the day’s character. The dictum’s rhetoric marks Rabba’s own ambivalence about legislating to a control a day characterized by antinomian, base tendencies. While the dominant monological hermeneutic of Jewish law has looked to this dictum as analogous to other dicta that embody normative requirements (and asked whether inebriation is, in fact, a legal requirement), contemporary yeshiva students have (without any sense of irony) turned this statutory attempt to authorize (and thus control) drinking into a popular Purim drinking song; both are reasonable interpretations of a highly ambivalent text. (p 29)

10. Robert Cover, *Obligation: A Jewish Jurisprudence of the Social Order*

Judaism is, itself, a legal culture of great antiquity... When I am asked to reflect upon Judaism and human rights, therefore, the first thought that comes to mind is that the categories are wrong. I do not mean, of course, that basic ideas of human dignity and worth are not powerfully expressed in the Jewish legal and literary traditions. Rather, I mean that because it is a legal tradition, Judaism has its own categories for expressing through law the worth and dignity of each human being. And the categories are not closely analogous to “human rights.” The principal word in Jewish law, which occupies a place equivalent in evocative force to the American legal system’s “rights,” is the word *mitzvah*, which literally means “commandment” but has a general meaning closer to “incumbent obligation.”

Yet, as I scan my own—our own—privileged position in the world social order and the national social order, as I attend the spiritual and material blessings of my life and the rather obvious connection that some of these have with the suffering of others, it seems to me that the rhetoric of obligation speaks more sharply to me than that of rights. Of course, I believe that

every child has a right to decent education and shelter, food and medical care; of course, I believe that refugees from political oppression have a right to a haven in a free land; of course, I believe that every person has a right to work in dignity and for a decent wage. I do believe and affirm the social contract that grounds these rights. But more to the point, I also believe that I am commanded—that we are obligated—to realize those rights. (p 3, 11)

11. Brachi Elitzur, *The Collective Memory of the Exodus* (<http://etzion.org.il/en/collective-memory-exodus>)

In the Books of Ezra and Nechemia – and especially in Divrei Ha-yamim – the Exodus is almost completely absent, even where we would expect to find mention of it... The omission of the Exodus from the text in Divrei Ha-yamim has been interpreted in various ways. [15] In light of our above discussion, we view it as arising from the sensitive state of the returnees from the Babylonian exile and the desire to instill some hope in them with regard to the future. The Exodus was a one-time event, a miracle of unprecedented scope, in which a subservient nation received Divine aid that transformed its situation from one of persecution to one of triumph. Recognition of God was the main purpose of the miracles of the Exodus, and God's hand was felt at every stage of the process. The miraculous aspect characterizing the Exodus could have amplified the sense of weakness and lack of faith among the returnees towards the promises of the prophets. The miracles of the Return to Zion were not spectacular, unprecedented wonders. The reality was very different from the prophetic descriptions of events whose power would cause the impressions of the miraculous Exodus to fade into oblivion. The omission of any mention of the Exodus, then, was meant to moderate the anticipation of a supernatural miracle and to reinforce faith in the process of the return as the realization of God's promise via the prophets and as the realization of the redemption.