

## **A Parapet, or Just One? Interpreting the Hapax Legomenon in the Middle Ages, and Other Issues Relating to Deuteronomy 22:6**

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Dedicated to my teacher, colleague and friend, Professor David Marcus: I am reflecting on a prayer once offered, in the ancient Near East, “to a merciful god” (אלה רחמן), on behalf of a great man: לחיי נבשה ולמארך יומוה / ולכבר שנוה ולשלם ביתה ולשלם זרעה ולשלם / “...for the sustaining of his life and for the lengthening of his days / and for the multiplying of his years and for the well-being of his household and for the well-being of his offspring and for the well-being of / his men and for the averting of illness from him and for the hearkening to his prayer...”<sup>1</sup> Wishing all this and more for David on the occasion of his retirement and the publication of this *Festschrift*.

Since medieval scholars began the work of interpreting the Bible according to its own literary, linguistic, and, even occasionally, historical contexts, the process of defining biblical *hapax legomena* has presented a particular challenge. Left without other examples of a word or root to which to turn in order to explain by analogy, biblical interpreters were left either to outright guesswork or to rely on the rule פתרונו לפי עניינו, “its interpretation follows its contextual meaning.”<sup>2</sup> The word מעקה (Deut 22:8) provides a parade example

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<sup>1</sup> Tell-Fekherye Bilingual Inscription, lines 5, 7–9. See Takamitsu Muraoka, “The Tell-Fekherye Bilingual Inscription and Early Aramaic,” *Abr-Nahrain* 22 (1983–1984): 79–117.

<sup>2</sup>This formulation of the rule “interpret according to context,” followed by many medieval interpreters, is that of Menahem Ibn Saruk, author of the *Mahberet*; see Angel Saenz-Badillos, *Menahem Ben Saruq: Mahberet* [Hebrew and Spanish] (Granada: Universidad de Granada, Universidad Pontificia de Salamanca, 1986), 28\* et passim.

that illustrates how medieval exegetes treated a word that “had no friend” in the Bible (אין לו רע, one descriptive phrase that used to identify a *hapax legomenon*). My essay will examine this particular case, and we shall explore how it may continue to serve as a guide in interpreting in the absence of any known analogy. Moreover, since the word מעקה occurs in Deut 22:8, an ancillary purpose of this paper will be to examine the proximate phrase כִּי יִפֹּל הַזָּכֵל and trace its interpretive history as well.

Before we turn to מעקה, we would do well to set some boundaries or limits to our study, let we fall into secondary issues that ought not to concern us. In contemporary scholarship there has been some debate around the issue of “true” or “absolute” *hapax legomena* versus “not absolute” instances; the former are words that really occur only once, whereas the latter may be associated with other occurring roots.<sup>3</sup> I choose not to be distracted by this distinction, whatever its merits, particularly since the medievals whom we shall meet along the way consider מעקה to be a *hapax legomenon*. As is well-known, the Greek term means “(a thing) said only once,” the rabbinic exegetes described it as אין לו ריע or אין חבר לו, a word that has no “friend” or “companion”; these expressions are themselves rooted in Arabic precedents.<sup>4</sup> The *Oxford English Dictionary* defines it as “a word or form of which only one instance is recorded in a literature or an author.”<sup>5</sup> Greenspahn has described

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<sup>3</sup> See, e.g., Frederick E. Greenspahn, *Hapax Legomena in Biblical Hebrew: A Study of the Phenomenon and Its Treatment Since Antiquity with Special Reference to Verbal Forms* (Chico, CA: Scholars Press, 1984), Appendix I (235–38) vs. Appendix II (239–51). See also Emil G. Hirsch, I. M. Casanowicz, “Hapax Legomena,” in *Jewish Encyclopedia*, 11.226–28; <http://www.jewishencyclopedia.com/articles/7236-hapax>. Greenspahn considers מעקה to be a “true” hapax legomenon (237), whereas the Hirsch and Casanowicz regard it as not absolutely so. Cohen considers מעקה a homonymic *hapax legomenon*, about which classification he writes: “Reasonably certain Akkadian and/or Ugaritic cognates have been suggested, but the author has not been able to locate these cognates or their synonyms in contexts comparable to that of the biblical word. Therefore...the resultant meaning of the biblical hapax legomenon in question must be considered less than certain, and in need of more contextual evidence...” See Harold R. (Chaim) Cohen, *Biblical Hapax Legomena in the Light of Akkadian and Ugaritic* (Missoula, MT: Scholars Press, 1978), 129 (and for the classification, 153).

<sup>4</sup> See, e.g., Rashbam and Ibn Ezra, respectively, below. There are other medieval terms, for which see Greenspahn, *Hapax Legomena*, 4–6, nn. 11–14.

<sup>5</sup> Cited in Greenspahn, *Hapax Legomena*, 24.



Having surveyed some of the treatments of medieval considerations of *hapax legomena*, let us now turn to the verse in which the word מעקה appears, Deut 22:8: כִּי תִבְנֶה בַּיִת חָדָשׁ וְעָשִׂיתָ מַעְקָה לְגַגְּךָ וְלֹא־תִשִּׂים דָּמַיִם בְּבֵיתְךָ כִּי־יִפֹּל הַנֶּפֶל מִמֶּנּוּ: “When you build a new house, you shall make a parapet for your roof, that you not put blood-guilt<sup>11</sup> upon your house if he shall fall, (shall) that falling-one (fall), from it.” Traditional Jewish sources are quick to point out that the law should apply to any home, not only to a newly built one, however it came to be dwelt in. For example, in *Sifre Devarim*, we read: כִּי תִבְנֶה בַּיִת חָדָשׁ: אֵין לִי אֵלָא בּוֹנֵה. “When you build a new house: [The Torah states] only *build*. [If one] purchases, inherits or receives it as a gift, from where do we learn [that the law nonetheless applies]? The Torah says *house*, meaning, however [one acquires it].”<sup>12</sup>

The rationale for the verse is rooted in the reality of ancient Israelite houses. As Jeffrey Tigay writes;

The roofs of houses in the ancient Near East were flat and were regularly used for a variety of purposes: drying and storing produce, strolling and socializing, and sleeping in warm weather. Hence people were in constant danger of falling off unless a protective barrier was built.<sup>13</sup>

<sup>11</sup> Note that the biblical term דָּמַיִם is a plural, thus, “blood-guilts.”

<sup>12</sup> *Sifre Devarim* §229 (on Deut 22:8); see Louis Finkelstein, *Sifre on Deuteronomy* (New York: The Jewish Theological Seminary of America, 1969), 261 [Hebrew]. This is also one of those occasions when medieval rationalist grammarians share the conclusion of ancient midrash. Note, e.g., the judgment of Ibn Janah: כִּי תִבְנֶה בַּיִת חָדָשׁ וְעָשִׂיתָ מַעְקָה לְגַגְּךָ וְלֹא־תִשִּׂים דָּמַיִם בְּבֵיתְךָ כִּי־יִפֹּל הַנֶּפֶל מִמֶּנּוּ: “(The commandment to construct) a parapet is obligatory with respect to an old house as much as to a new one, and the purchaser is obligated the same way that a builder is”; Michael Wilensky (ed.), *The Book of Embroidery of Rabbi Yonah Ibn Janah in the Hebrew Translation of Rabbi Yehudah Ibn Tibbon* (Jerusalem: The Academy of Hebrew Language, 1964), 318. See also the commentary of the 11th century exegete, Judah Ibn Balaam: אֵין הַמַּעְקָה מִיּוֹחַד בְּבִנוּי זֹלָת הַקְּנִי, אוֹ הַגִּיתָן לֹא הַנּוֹרֵשׁ, אֵלָא שֶׁהַכֹּל חַיִּיב בַּמַּעְקָה “(The commandment to construct) a parapet is not limited to building, to the exclusion of purchasing, or receiving (a house) as a gift, or through inheritance; rather every home requires a parapet” (Hebrew translation from Arabic by Maaravi Perez, accessed at mg.alhatorah.org).

<sup>13</sup> Jeffrey H. Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia-Jerusalem: Jewish Publication Society, 1996), 201. See also *ibid.*, 384, n. 20, where Tigay references biblical texts that feature action on rooftops (Josh 2:6; 1 Sam 9:25; 2 Sam 11:2; 16:22; Isa 22:1; Jer 19:13; 48:38; Zeph 1:5). See also the similar observations of S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* (New York: Scribner’s, 1909), 251.

Several traditional Jewish commentators attempt to relate this law to the broader literary context in which it is found. For example, Rashi relates the law both to immediately preceding and subsequent verses:

כי תבנה בית חדש ועשית מעקה: אם קיימת שילוח הקן, סופך לבנות בית, ולקיים מצות מעקה, שמצוה גוררת מצוה, ותגיע לכרם ושדה ובגדים נאים. לכך נסמכו פרשיות הללו.

**When you build a new house:** If you have fulfilled the command of “letting a mother bird go” (vv. 6–7) in the end (you will) build a new house and (will be able) to fulfill the command of “making a parapet,” for (fulfilling) a command leads to (fulfilling) another command, and you will arrive at (the fulfillment of the commands with respect to) a vineyard (v. 9), fields (v. 10) and fine garments (vv. 11–12). It is for this reason that these sections are juxtaposed.<sup>14</sup>

Ibn Ezra offers a similar interpretation with respect to context, but goes a bit farther afield: “כי תבנה: זאת הפרשה נדבקה, אחר שנלחמו והם בארץ, החל במצות הבית, This section is juxtaposed (to the previous sections) because after engaging in warfare and they are already in the land, they will begin to (be obligated to) the commandments with respect to (building) a house.” Ibn Ezra’s broader contextual understanding of the law of Deut 22:8 thus reaches back to such texts as Deut 20:1ff.; 20:10ff.; and 21:10ff.<sup>15</sup> In contradistinction, Tigay relates the law to a similar one, found earlier in the Torah: “This law is comparable to

<sup>14</sup> Rashi appears to be reliant on *Midrash Tanhuma, Ki Teitzei 1*; see Abraham Berliner, *Rashi on the Torah: The Commentary of Solomon B. Isaac* (Berlin: Levant, 1866), 169, n. 10. He follows a similar interpretive strategy with respect to Deut 21:10–21. The version of Rashi I follow in this article is MS Leipzig 1, generally regarded as the most authoritative single version of Rashi available.

<sup>15</sup> See also Ralbag (R. Levi b. Gershom/Gersonides), who elaborates this idea: וכבר אמרה התורה כי יפול הנופל ממנו, לא בתוכו. והנה נמשכה זאת המצוה לקודמת לה שלא ישתמש האדם בבנין הבית שהוא מסודר מהשכל המעשי לשמירת האדם ולהיות לו למחסה ולמסתור, אל הפסדתו במה שיהיה בביתו סבה לו הפך מה שכוון בו “The Torah has already stated that (the verse) *if he shall fall, shall that falling-one, from it*, (means) and not into it. And so, this commandment continues the theme of [lit. ‘is drawn from’] the one preceding it, that a person should not use building a house, which is arranged from practical wisdom for the protection of a person and be for him a shelter and a refuge, into its loss, insofar as there should be in that person’s house an opposite cause from that which was intended.”



**Parapet:** It has no friend in the Torah. It is like the forms *ma'aseh* (making), *mar'eh* (seeing).<sup>20</sup> However, (the root underlying the word עקת in the verse) *the oppression of the wicked* (Ps 55:4); (and the root underlying the words תעיק and מעיק in the verse) *as the wagon is slowed* (Amos 2:13) and *I will slow your movements* (ibid.) are all from [a putative middle-weak root ק-ו-ע], on the pattern of the verbs ש-ב and ק-מ.<sup>21</sup>

Rashbam, it should be seen, thinks of מעקה as a true *hapax legomenon*; he does not find any cognate root or word for it in the Bible.

Abraham Ibn Ezra makes a similar observation to Rashbam's, though in his typically humorous vein:

**מעקה:** טעמו ידוע מהמקום, כי אין ריע לו. ומדקדק הוציאו מגזרת: עקת רשע,  
והביא עצמו בעקה.

**Parapet:** its meaning is understood from context, because it has no companion.<sup>22</sup> One grammarian<sup>23</sup> derived it *from the oppression of the*

<sup>20</sup> In this comment, Rashbam explains that the root underlying the noun מעקה is עקה, along the lines that the root of the noun מעשה is עשה and the root of the noun מראה is ראה. Like other medievals, Rashbam does not recognize all of these examples to be actually final-*yod* roots.

<sup>21</sup> The two verses to which Rashbam alludes are *מקול אויב מפני עקת רשע כיימיטו עלי אנו ובארף ישטמוני* “[I am restless with my complaint, and I moan] from the voice of the enemy, on account of the oppression (caused by) the wicked, for they shake evil against me, and with anger do they express-enmity against me” (Ps 55:[3–]4); and *הנה אנכי מעיק תחתיהם כאשר תעיק העגלה המלאה לה*, “Behold, I will hamper your movement as is hampered a wagon full of grain” (Amos 2:13). Thus, according to Rashbam's second observation, the appearance of similar-looking words in Psalms and Amos are not to be confused with the word מעקה in Deut 22:8; the roots of all three of those are עוק, patterned along the lines of the roots שוב and קום.

<sup>22</sup> In considering מעקה as a true *hapax legomenon*, Ibn Ezra is likely following Ibn Janah, who lists the word under the root עקה, and does not associate it with any other biblical text. See Wilhelm Bacher, *Sepher Haschoraschim...von Abulwalid Merwan Ibn Ganah (R. Jona): Aus Dem Arabischen in's Hebraische Übersetzt von Jehudah Ibn Tibbon* (Berlin: Mekize Nirdamim, 1896), 382. By contrast, Ibn Janah associates all of the other biblical verses (in Amos and Psalms) under the root עיק; see Bacher, 366.

<sup>23</sup> Yehudah Krinsky suggests that Ibn Ezra is referring to R. Yosef Kimhi, the father of R. David Kimhi (Radak); see Yehudah Krinsky, *Miqraot Gedolot Mehoqeqa Yehuda: Ibn Ezra's Commentary on the Pentateuch with a Supercommentary* (New York: Reinman Seforim Center, 1975), 5.167, n. 31. In his grammatical work *Sefer Ha-Galui*, Kimhi indeed notes Menahem's decision to separate מעקה in Deut 22:8 from the iterations of עוק in Amos and Psalms, but disagrees with him: *“is not you shall make a parapet like those cases?”* See H. J. Mathews, *Sefer Ha-Galui of R. Joseph Kimchi* (Berlin: Mekitze Nirdamim, 1887), 132.

wicked (Psalm 55:4), and thereby succeeded in being oppressive to himself.

Thus, while Ibn Ezra does not expressly state that the root of מעקה in Deut 22:8 is עקה, he does agree with Rashbam that one ought not to look to Ps 55:4 for a clue as to its meaning. He is not explicit with respect to the words מעיק and תעיק in Amos, but one would assume he likewise did not think them to be relevant in establishing the meaning of מעקה, or else he would likely have cited them. In his commentary on Amos 2:13, Ibn Ezra does explicitly connect עקה (in Ps 55:4) as a cognate of תעיק/מעיק. Therefore that would make it clear that he understands all three of these Biblical Hebrew words (עקה, מעיק, and תעיק) as related to one another morphologically, to the exclusion of מעקה, which he would then assign to another root.<sup>24</sup>

To these two possible cognates, we should also add the word מועקה found in Ps 66:11; while neither Rashbam nor Ibn Ezra referenced it, it was cited by R. Eliezer of Beaugency in his commentary on Amos 2:13: מעיק – רִטְנָנְט, “(I will) hinder (you): [In Old French]: *Retanant*, [i.e., restrain]. This is related to the word ‘parapet.’<sup>25</sup> Similar to this is *you have put affliction upon our loins* (Ps 66:11), and *the oppression of the wicked* (Ps 55:4). In any event, the context of the passage proves the meaning of the word here.”<sup>26</sup> It is curious that Eliezer would associate all of these texts in the same company as מעקה in Deut 22:8; in doing so he not only disagrees with his master, Rashbam, but also rejects the

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<sup>24</sup> In both the Italian and the French recensions of his Amos commentary, Ibn Ezra asserts that מעיק means מציק (“to press”), and interprets: ולא תוכלו לברוח, והטעם שתהיו כבדים, “the meaning is ‘you will be heavy, and you will not be able to flee.’” See Uriel Simon, *Abraham Ibn Ezra’s Two Commentaries on the Minor Prophets: An Annotated Critical Edition. Volume One: Hosea, Joel, Amos* (Ramat Gan: Bar-Ilan University Press, 1989), 191 [Hebrew] (the wording of his interpretation in the French recension is virtually identical, “...so that you will not be able to move”; 301–2).

<sup>25</sup> On R. Eliezer’s reliance on Old French to explain problematic biblical words, see Robert A. Harris, *Rabbi Eliezer of Beaugency: Commentaries on Amos and Jonah (with Selections from Isaiah and Ezekiel)* (Kalamazoo: TEAMS: Medieval Institute Publications, Western Michigan University, 2018), 23, n. 44.

<sup>26</sup> I have taken this translation from Harris, *Rabbi Eliezer*, 23–24; see previous note.

presentation of Menahem Ibn Saruk, his only other real authority in matters of grammar and philology.<sup>27</sup>

Having assessed a number of medieval sources, it is worthwhile asking: what progress has modern scholarship made beyond the observations made almost a millennium ago? To take but one analysis, let us examine the conclusion of Ernest Klein:

מַעֲקָה m.n. (pl. מַעֲקִים, also מַעֲקוֹת), parapet, railing (a hapax legomenon in the Bible, occurring Deut. 22:8). [Prob. derived from עָקָה, a stem related to Arab. ‘aqa (he hindered, held back). This stem is prob. related to עוֹק.]  
Derivative: מַעֲקוֹן.<sup>28</sup>

What to make of Klein’s suggestion that the root עָקָה is “probably related to” the root עוֹק? The most comprehensive and concise summary of the possible root meanings underlying this root is the discussion relating to the words תַּעֲיִק/מַעֲיִק found in Shalom Paul’s Amos commentary.<sup>29</sup> But remember, the prophet’s words there were expressly ruled out by both Rashbam and Ibn Ezra as unrelated to their preferred root עָקָה. Paul presents five potential underlying meanings for תַּעֲיִק/מַעֲיִק in Amos, as follows:

- A medial-*waw* root עוֹק, related to Arabic “to hamper, hinder”
- A geminate root עַקַק, cognate of Arabic “to cut in pieces”
- A medial-*yod* root עַיִק, equivalent to Arabic “to groan”
- A medial-*waw* root עוֹק, but this time related to Aramaic צוֹק “to press”<sup>30</sup>

<sup>27</sup> For a more detailed explanation of R. Eliezer’s surprising efforts to connect מַעֲקָה in Deut. 22:8 with Amos 2:13 and Ps 55:4 and 66:11, see Harris, *Rabbi Eliezer*, 23–24, n. 45. For Menahem’s associations of Hebrew roots and biblical texts on this question, see Saenz-Badillos, *Menahem Ben Saruq*, 289.

<sup>28</sup> Ernest Klein, *A Comprehensive Etymological Dictionary of the Hebrew Language for Readers of English* (Jerusalem: Carta Jerusalem/The University of Haifa, 1987), 367. *BDB* (785a) and *KBL* (615a) both concur that the root of מַעֲקָה is עָקָה (though the latter considers it a “by-form of עוֹק”); David J. A. Clines, *The Dictionary of Classical Hebrew* (Sheffield: Sheffield Academic Press, 1993–2011), 5. 410b, does not take a stand.

<sup>29</sup> Shalom Paul, *Amos* (Hermeneia; Minneapolis: Fortress Press, 1991), 94; see also nn. 492–94 there. See also Meir Weiss, *The Book of Amos* (Jerusalem: Magnes, 1992), 2.99–100, nn. 922–27 [Hebrew].

<sup>30</sup> Rashi had earlier staked out this position; see his commentary on Ps 66:11, and on this see Mayer I. Gruber, *Rashi’s Commentary on Psalms* (Leiden-Boston: Brill, 2004), 441, nn. 5–6. This

- A medial-*waw* root עוק, this time related to post-biblical עוקה (“cavity/trough/pit”) and Arabic (“deep excavation”)

However this summary might help us understand the root meanings of the verb עוק in Amos and Psalms, Paul never makes a case for it to be related to מעקה in Deuteronomy, thus placing himself in the good company of Rashbam and Ibn Ezra.

Hans-Peter Müller has made an interesting case to consider the root עוק as underlying the word מעקה.<sup>31</sup> In his analysis of a Phoenician inscription that contains the word מעק,<sup>32</sup> Müller suggests that its context might be profitably compared to the semantic range of Hebrew גלגל, and might account for the rim-like quality of a parapet.<sup>33</sup> Müller further suggests, therefore, that the Semitic root עוק, with the meaning “to draw a circle” (as though derived from and/or related to עוג or הוג), offers the best approach to understanding the meaning of BH מעקה.<sup>34</sup> However, since Müller’s suggestion is rooted entirely in conjecture, we are, in the end, no further along than we otherwise might be.

Finally, let us consider the inscription Müller references, as transcribed by A. M. Honeyman.<sup>35</sup> While noting that Phoenician מעק is as rare as BH מעקה, Honeyman takes the word as deriving from a putative (עקה) עקי.<sup>36</sup>

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is also the judgment of Shlomo Morag, “On Semantic and Lexical Features in the Language of Hosea,” *Tarbiz* 53 (1983): 489–511 [Hebrew]. My thanks to the late Shalom Paul for this reference.

<sup>31</sup> Hans-Peter Müller, “Die Wurzeln קיע, קעי, קיע und קיע,” *VT* 21 (1971): 556–64. I am grateful to the honoree of this volume, David Marcus, for calling my attention to this article. Shalom Paul referenced Müller in his Amos commentary (94, n. 492) but had only considered the relevance of the meaning “to dig a cavity” in light of an otherwise unattested Arabic root, not this Phoenician inscription (Paul, *Amos*, 94, n. 494).

<sup>32</sup> Catalogue of the Cyprus Museum 6300 = RES 453; see Müller, “Die Wurzeln,” 562.

<sup>33</sup> “Haben wir uns ein solches Temenos wie das hebraische gilgal in runder Gestalt zu denken, so wird die Beziehung von phoenizisch מעק zu einer Wurzel עוק ‘einen Kreis ziehen’ noch deutlicher sichtbar als bei seinem hebräischen Pendant”; Müller, “Die Wurzeln,” 562. I am grateful to my colleague, Stefan Schorch, for a delightful conversation in which we discussed both Müller’s suggestions as well as many others.

<sup>34</sup> Müller, “Die Wurzeln,” 561–62.

<sup>35</sup> A.M. Honeyman, “The Phoenician Inscriptions of the Cyprus Museum,” *Iraq* 6 (1939): 104–8.

<sup>36</sup> For further discussion, see also Diether Kellermann, “Ein Beitrag zur Bedeutung des Wortes MRQ,” *Zeitschrift des Deutschen Palästina-Vereins* 86 (1970), 24–37 (esp. 28–29). I am grateful again to Stefan Schorch for referring me to this article.

Understanding the word in context as part of a dedicatory inscription to the goddess Anat (מעק אז יתן), Honeyman writes: “Now the only sort of parapet that would be offered to a deity is the low wall of masonry that served to demarcate the haram or temenos, and from the size of the lettering and the position of the inscription on a narrow margin below a projecting cornice it appears likely that the stone formed the lintel of a low gateway, not more than a yard wide, at the entrance of the temenos.”<sup>37</sup> Thus, it appears to me that Honeyman offers a stronger argument for understanding of the inscription than Müller, yet it must be admitted that neither provides conclusive evidence to explain the *hapax legomenon*.

Without explicit evidence linking the word מעקה via the root עק"י to some word in a Semitic language or some other text of which I am unaware, I fear that we remain at an impasse. Modern researchers, while somewhat closer to resolving the etymology of the word מעקה than medieval scholars were, nonetheless are unable to incontrovertibly resolve the question. However, there are other aspects of Deut 22:8 that are worthy of our consideration; let us turn to those now.

The secondary question to which I refer concerns the phrase כי יפול הנופל. Let us once more examine the entire verse: כי תבנה בית חדש ועשית מעקה לגגך. “When you build a new house, you shall make a parapet for your roof, that you not put blood-guilt upon your house if he shall fall, (shall) that falling-one (fall), from it.” Note that the phrase on which I am focused contains a prefixed verb יפול, followed by a participial noun הנופל, all contained in a subordinate clause introduced by the particle כי.

At least one medieval voice cautions us against drawing any significant conclusions from this phrase. R. Yosef Ibn Kaspi dismisses such attempts: כי יפל הנפל ממנו: אין בזה צורך לפרוש כלל ליודעי מלאכת ההגיון falling-one from it: There is no need altogether to explain this for those who

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<sup>37</sup> Honeyman, “Phoenician Inscriptions,” 105.

understand the science of logic.”<sup>38</sup> But other commentators, each in his own way, call attention to what calling someone “one who falls”—before he actually will have fallen!—might mean. In his recent translation, Robert Alter calls the reader’s attention directly to this feature in the commentary that accompanies his translation: “The Hebrew literally says, ‘should he who falls fall from it,’ the subject of the clause being, as Abraham Ibn Ezra observes, a proleptic usage.”<sup>39</sup> Whether or not prolepsis is a sufficient description we shall discuss below.

But first, ancient rabbinic midrash already noted the feature, and we shall examine it by way of Rashi’s commentary, written some two generations before Ibn Ezra’s: **יפול הנופל**: זה ראוי ליפול, אף על פי כן לא תגלגל מיתתו על ידיך, שמגלגלין חובה על ידי חייב, “*If someone-falling falls from it: he who is worthy to fall (i.e., on account of some crime he had committed), nevertheless his death should not be occasioned by your agency, for (meritorious things/credits are brought about through the agency of worthy people) and demerits/debts only through the agency of guilty people.*”<sup>40</sup> While drawing the reader’s attention to this feature of biblical composition is praiseworthy, the theology on which Rashi’s commentary is based is lamentable;<sup>41</sup> such justifications of senseless deaths inevitably lead otherwise reasonable people to conclude that the one killed in

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<sup>38</sup> Similarly, in several private communications it had been suggested to me that the syntactic structure might function essentially as alliterative wordplay. However, the medieval exegetes, who would have typically termed the structure as לשון נופל על לשון צרות or לשון נופל על לשון חובה, appear not to have picked up on the possibility. Likewise, among modern scholars who have studied wordplay in biblical literature, I do not find anyone who points to either Deut 22:8 or other verses that replicate its syntactic structure, as examples of wordplay. See, e.g., Casanowicz, *Paronomasia in the Old Testament*; Edward L. Greenstein, “Wordplay, Hebrew,” in *ABD* 6.968–971; Scott B. Noegel (ed.), *Puns and Pundits: Word Play in the Hebrew Bible and Ancient Near Eastern Literature* (Bethesda, MD: CDL Press, 2000).

<sup>39</sup> Robert Alter, *The Hebrew Bible* (New York-London: Norton, 2019), 1.691–92, commentary, v. 8.

<sup>40</sup> Rashi relies here on *Sifre Devarim* 229:7 (ed. Finkelstein, p. 262). See also R. Yosef Bekhor Shor who interprets in a similar fashion: **כי יפול הנופל**: מי שראוי ליפול. ואף על פי כן הוזהיר שלא תהא תקלה על ידיך, כי מגלגלין חובה על ידי חייב, “*For he shall fall, (shall) that falling one: (This refers to) one who is worthy to fall. And despite this the verse warns that there should not be any by means of your hand, for guilt befalls by the hands of one who is guilty.*”

<sup>41</sup> Stephen Garfinkel, who was present at the Columbia University Seminar when I presented an earlier version of this article, wrote afterwards: “When you were presenting and mentioned that Rashi’s theology was lamentable, I thought you would say it just falls short” (private communication); it is comments like these that make one’s work as a scholar most memorable.

such an accident “had it coming to him.”<sup>42</sup> The Sages who taught that humankind ought not to attempt to create theology out of the capriciousness of human existence were surely on the right track.<sup>43</sup>

But as Alter noted, Ibn Ezra observes a syntactic rule at play in the verse:

**הנפל:** נקרא על שם סופו. וכן: יומת המת; ובגדי ערומים תפשיט;  
 ויתרוצצו הבנים. ומלות רבות לאין מספר בתורה לבדה נקראו בשם סופם.  
 ולא נדע אם כן דרך הלשון, או הוא דרך נבואה, כמו: וירדוף עד דן; עד נחל אשכול;  
 על כן יעזב איש את אביו ואת אמו

The falling one is so called according to how he ends up. So too: *the dead one will be put-to-death* (Deut 17:6), *the clothes of the naked will you strip off* (Job 22:6); *the sons struggled* (Gen 25:22). Many other words, without number in the Torah alone, describe what their referents will become. We do not know whether this is the ordinary (BH) idiom, or whether they are all (stated) according to the way of prophecies, as in *he went in pursuit as far as Dan* (Gen 14:14); *to wadi Eshcol* [“Grape-cluster Valley”] (Num 13:23); *Hence a man leaves his father and mother and clings to his wife* (Gen 2:24).

Ibn Ezra makes several important contributions here. First, he gives a name to the syntactic phenomenon that he observes here: נקרא על שם סופו, something that “is called by the way it ends.” To be sure, this is not a syntactic category found in modern or medieval grammars. Second, he claims that this is a widespread phenomenon, not something that is unusual or even singular, as in the word מעקה itself: סופם בשם נקראו לבדה בתורה לבדה נקראו בשם סופם, “Many other words, without number in the Torah alone, describe what their referents

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<sup>42</sup> I forget which correspondent had suggested the similarity between Rashi’s religious efforts to moralize what appears to be coincidental tragedy, and Brother Juniper’s similar aspiration in Thornton Wilder’s *The Bridge of San Luis Rey*, but the similarity is apt, and equally problematic.

<sup>43</sup> See, e.g., m. *Avot* 4:15: הצדיקים לא מיסורי הרשעים ואף לא מיסורי הצדיקים, “It is not in human grasp (to understand) either the tranquility of the wicked nor even the suffering of the righteous.”

will become.”<sup>44</sup> It remains to be seen precisely how to go about identifying the verses “without number” where such cases might be found. Finally, Ibn Ezra expresses uncertainty as to whether such a phenomenon is rooted in the essentially prophetic nature of biblical literature, or whether it is a construction rooted in the nature of ancient Hebrew: *ולא נדע אם כן דרך הלשון, או* הוא דרך נבואה, “We do not know whether this is the way of language or if it is the way of prophecy.” Even though he does not follow up on the theological implications teased out by midrash, Rashi, and other commentators, I am not certain whether to take him seriously, or whether he really did believe that either a linguistic or a prophetic interpretation of the syntactic structure was a possibility.

However, at least one modern scholar proposed a linguistic basis for the phenomenon. Arnold B. Ehrlich expressed this explicitly, though not in his commentary on our verse (Deut 22:8), but rather at one of the other verses that Ibn Ezra cited and that demonstrated the rule: Deut 17:6 ( *על־פי | שְׁנַיִם עֵדִים* ) “According to the mouth of two witnesses or three witnesses shall he be put-to-death, that dead one).” Ehrlich writes:

*יומת המת: דרך לשון המקרא כשיצטרך המדבר לפועל סתום יש שיעשה לו פועל מן הפעל ההוא שמשתמש בו, כמו כאן. וכיוצא בו יפול הנופל, ושמע השומע.*

Let him be put to death: It is the way of the language of Scripture when the speaker requires an impersonal verb<sup>45</sup> it will make a participial-

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<sup>44</sup> Using Accordance Bible software, I tried to construct a search that could verify Ibn Ezra’s claim; I am grateful to Helen Brown and Ryan Mudge at Accordance, who helped me with this. However, given Ibn Ezra’s criteria, which were not limited to cases such as Deut 22:8, where both the verb and the following participle contain the identical root, this has proven impossible at least up until the time of this writing. That being said, in addition to the cases cited by Ibn Ezra, I can point to the following additional verses that seem to express the same rule: Num 6:9; 2 Sam 17:9; Isa 16:10; Jer 6:15; 8:12 (?); 51:3; Ezek 34:10; Amos 9:1.

<sup>45</sup> Literally, a “closed” or “stopped up” verb; presumably, Ehrlich means a verb whose referent is unspecified. My thanks to Edward Greenstein (personal communication) for clarifying Ehrlich’s intent. Several of the medieval and early modern rabbinic exegetes employ the term *פועל סתמי* (an “unspecified verb”); see, e.g., Yaakov Tzvi Mecklenburg, *Haketav ve-ha-Kabbalah* (Jerusalem: n.p., 1985) and R. Samuel David Luzzatto (Shadal), *Commentary on the Pentateuch* (Jerusalem: Dvir, 1965) [Hebrew].

noun from the verb that it is employing, as is the case here. Similar cases (may be found) at: *shall he fall, shall that falling (one)* (Deut 22:8); *he will hear, shall that hearer* (2 Sam 17:9).<sup>46</sup>

To be clear, while Ehrlich does state that BH does feature a regular syntactic form (“It is the way of the language of Scripture”) that does *inter alia* encompass the case of *כי יפל הנופל* in Deut 22:8, Ehrlich’s rule is more limited than Ibn Ezra’s. Ehrlich limits his cases to ones in which the participial noun is constructed from the same root letters as its preceding verb, whereas Ibn Ezra, through reference to such biblical passages as Job 22:6 and Gen 25:22, incorporates also cases where the verb and the resultant participle may come from different roots.

### *Conclusion*

In a sense, a conclusion of “no firm conclusion” is a disappointing point at which to arrive. While we might be inclined to regard Ehrlich’s explanation of *כי יפל הנופל* as strong, and would similarly consider the medievals’ derivation of *מעקה* from a stem meaning “restrain” as most plausible, we must admit that these interpretations ought not to be considered as conclusively demonstrated. Despite a journey through the history of interpretation, both with regard to the *hapax legomenon* as well as to the clause *כי יפל הנופל*, we are unable to either conclusively identify the verbal root of *מעקה*, nor to determine whether the construction of the phrase represents a common idiom in BH. Nonetheless, as is often said about joke-telling, the journey getting there is more important than the punchline.

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<sup>46</sup> Arnold B. Ehrlich, *Mikra Ki-Pheschuto* (3 vols.; New York: Ktav, 1969), 1.339 (on Deut 17:6) [Hebrew]. Ehrlich does not appear to treat the word *מעקה* in his *Randglossen*, although in his notes on Amos 2:13 he assigns the word there to the root *עוק*, as do most of the medieval rabbinic commentaries. See Arnold B. Ehrlich, *Randglossen zur hebräischen Bibel* (7 vols.; Leipzig: J. C. Hinriches, 1908), 5.233.