

TEORIA

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Rivista di filosofia
fondata da Vittorio Sainati
XXXVIII/2018/1 (Terza serie XIII/1)

Back to Ancient Questions?
Tornare alle domande degli Antichi?

Edizioni ETS

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Covenant Lawsuits and Repentance: Albert the Great on Isaiah 1-3

Stefano Perfetti

In the Bible, legal jargon or lawsuit argumentations are frequently applied to individual cases or to historical and collective experience. The book of Job is the first example that springs to mind. When plagued by disease, Job «desperately wants to dispute with God as with a legal opponent» (as a matter of fact, large parts of the book, but mostly chapters 9-10, are «couched in legal language»¹). Sometimes lawsuit model and jargon go beyond the boundaries of individual cases and address social and political issues. This is what happens in the prophetic book of Isaiah, where the history of Israel interpreted in terms that have been compared to those of a courtroom trial.

The pages that follow focus on the first three chapters of Isaiah. After recalling the results of modern biblical scholarship on the use of legal and forensic jargon in Isaiah (§ 1) and giving a thumbnail sketch of the traditions of Latin Christian exegesis in the Middle Ages (§ 2), I will examine passages of the commentary on Isaiah written by Dominican theologian Albert the Great in the 13th century (§ 3). The aim is to evaluate to what extent the concerns of the original biblical text, when filtered through the Latin Vulgate and through Christian foresight, are captured by the medieval exegete, to what extent Albert is able to understand the peculiar

¹ N. Whybray, *Job. Readings, a New Biblical Commentary*, Sheffield Phoenix, Sheffield 2008, p. 64; see also J. Blenkinsopp, *Wisdom and Law in the Old Testament: The Ordering of Life in Israel and Early Judaism*, Oxford University Press, Oxford-New York 1995, pp. 62-64; J.J.M. Roberts, *Job's Summons to Yahweh: The Exploitation of a Legal Metaphor*, in Id., *The Bible and the Ancient Near East: Collected Essays*, Eisenbrauns, Winona Lake (IN) 2002, pp. 117-122; M.Z. Kensky, *Trying Man, Trying God: The Divine Courtroom in Early Jewish and Christian Literature*, Mohr Siebeck, Tübingen 2010, especially p. 41 and n. 78 (for further bibliography).

theme of the self-awareness of the history of Israel in the form of a legal contention between God and His people.

1. *Isaiah: a courtroom trial or a rîb?*

According to the canon of the Hebrew Bible, the book of Isaiah is the first of the so-called “later prophets”. They are thusly labeled because, while previous prophets, such as Elijah, survive within narratives of their actions, subsequent prophets (of which Isaiah is not the first but surely the most important) survive in eponymous books that report their sayings. As a matter of fact, though, «Isaiah’s proclamation proper [...] does not start until chapter 5. As a historical person who speaks in the first person singular and relates to the audience of *his* time Isaiah appears for the first time in Isa. 5:1»². Indeed, the book of Isaiah opens (1:2-4) as a «threatened court case»³, a «divine lawsuit» that God has with His people, where «heaven and earth are called upon as witnesses in God’s lawsuit to testify against the people»⁴.

The first part of the book of Isaiah (chs. 1-39) refers to the events of the years 740-700 ca. The Egyptian power was in decline, the Assyrian was rising. In 722/1 the Northern Kingdom of Ephraim-Israel (whose capital is Samaria) was conquered by the Assyrians. Subsequently, they began to occupy the territories of the southern kingdom of Judah, ruled by King Hezekiah. In 701 the Assyrians, led by their king Sennacherib, besieged Jerusalem (the capital of Judah). Eventually, a disease spread among the Assyrian army⁵ forced them to retreat, leaving Judah an independent state.

The prophet Isaiah, who lived in Jerusalem, speaks hard words against political and religious leaders who arrogantly misused their power and refused to trust God. At the same time, he urges the «house of Jacob» to walk in the light of God and offers a way out, a path of hope centered on «God’s eschatological plan to establish peace and a Davidic ruler on the throne of David»⁶. In such a way Isaiah makes a claim for a paradoxical faithfulness to God, despite all the adverse events.

² C.O. Schroeder, *History, Justice, and the Agency of God. A Hermeneutical and Exegetical Investigation on Isaiah and Psalms*, Brill, Leiden-Boston-Köln 2001, p. 60.

³ G.V. Smith, *Isaiah, 1-39*, B&H Publishing Group, Nashville TN 2007, p. 94.

⁴ C.O. Schroeder, *History, Justice, and the Agency of God...*, cit., p. 60.

⁵ An angel of God, according to 2 Kings 10 or a disease, such as cholera, according to several historians.

⁶ Cfr. G.V. Smith, *Isaiah, 1-39*, cit., p. 10.

For a long time most interpreters, from Hermann Gunkel⁷ onwards, held that the book of Isaiah (as other prophetic books, e.g. Amos or Micah) contains speeches that are patterned on legal action and jargon, and might even mirror the structure of lawsuit and trial speeches (*Gerichtsreden*)⁸. How close they might be to real legal processes of ancient Israel remained an unsettled matter of dispute, though.

Several scholars suggested that the first chapter of Isaiah might be considered as a “covenant lawsuit”, in which prophetic reproaches and threats against the infidelity of the people toward God could be patterned on those political lawsuits – not infrequent in the ancient Near East – in which the great king’s emissaries warned a vassal State that violated the terms of a covenant agreement⁹. Other scholars preferred to compare this chapter to «the negotiations that take place before a trial (similar to an arraignment), rather than a court trial itself»¹⁰. The basic idea is that the prophets act as Yahweh’s prosecuting attorneys and bring the message of the covenant lawsuit against the offending nation¹¹.

What prompted scholars to conjecture an underlying forensic structure is the use of multiple legal terms, the most important being *rîb*, whose meanings range between ‘contention’ and ‘hostility’ to ‘legal dispute’, and *mišpāt*, i.e. ‘judgment’. In this vein Isaiah 3:13-14 says: «The Lord rises to contend (*lā-rîb*) and stands to judge (*lā-dîn*) the people; the Lord will enter into judgment (*bə-mišpāt*) with the elders of his people». As David Petersen glosses, trying to find precise equivalents in the contemporary judicial process: «Here the deity appears to function as prosecuting attorney, offering an indictment against multiple parties for having made the condition of the poor even worse than it had been before»¹².

Traces of alleged lawsuit can also be found in Isaiah 1:2-3, where God

⁷ H. Gunkel, *Die Propheten als Schriftsteller und Dichter*, in H. Schmidt (Hrsg), *Die großen Propheten*, Vandenhoeck & Ruprecht, Göttingen 1915, p. lxiii; H. Gunkel, J. Begrich, *Einleitung in die Psalmen: Die Gattungender religiösen Lyrik Israels*, Vandenhoeck & Ruprecht, Göttingen 1933, p. 329.

⁸ For a concise overview on these themes, see D.L. Petersen, *The Prophetic Literature: An Introduction*, Westminster John Knox Press, Louisville KY 2002, p. 64.

⁹ H.B. Huffmon, *The Covenant Lawsuit in the Prophets*, in «Journal of Biblical Literature», 78 (1959), pp. 285-295; R.J. Marshall, *The Structure of Isaiah 1-12*, in «Biblical Research», 7 (1962), pp. 19-32.

¹⁰ G.V. Smith, *Isaiah, 1-39*, cit., referring to J. Oswalt, *The Book of Isaiah 1-39*, Eerdmans, Grand Rapids (MI) 1986, p. 84.

¹¹ See R.H. O’Connell, *Concentricity and Continuity: The Literary Structure of Isaiah*, Sheffield Academic Press, Sheffield 1994, pp. 31-55.

¹² D.L. Petersen, *The Prophetic Literature: An Introduction*, cit., p. 64.

seem to appoint heaven and earth as judges or as witnesses: «Hear, O heavens, and give hear, O earth». As Petersen remarks, «They are part of the jury who hears the testimony of the trial, which results in a judgment that the people lack knowledge»¹³. And, of course, Isaiah 5: 1-7, the vineyard song: «And now, inhabitants of Jerusalem and people of Judah, judge between me and my vineyard» (v. 3). Then a sort of sentence, uttered by God, follows (vv. 5-7).

Other studies, though, have pointed out that the use of legal terms is not sufficient evidence of an underlying trial-like structure¹⁴. For, the legal jargon one finds in the Bible is quite often a repertoire of metaphorical and rhetorical images, not strictly technical but intertwined with poetic and everyday language.

Furthermore, technical terms themselves might have shades of meaning, different from what earlier scholars assumed. For instance, as Pietro Bovati pointed at, it might be a mistake to consider the *rîb* as a court process. More likely it was a bilateral *dispute* within a family context¹⁵. In the Bible two distinct legal procedures are invoked: the appeal to the court (*mišpāṭ*), with its distinct stages (complaint, trial, judgment, any penalty or acquittal), and the legal dispute (*rîb*), «which has its own shape, a vital environment, a way of working and, above all, a purpose and a result that do not overlap with the courtroom trial. For, in the dispute, the plaintiff (the accuser [...]) does not seek condemnation of the guilty, but his conversion. His eventual goal is to forgive and then to resume the relationship through the hoped-for reconciliation»¹⁶.

¹³ *Ibidem*.

¹⁴ See J. Vella, *La giustizia forense di Dio*, Paideia, Brescia 1964; L.A. Schökel, *Trenta salmi: poesia e preghiera*, Edizioni Dehoniane, Bologna 1982, pp. 211-245; M. De Roche, *Yahweh's Rîb against Israel: A Reassessment of the So-Called "Prophetic Lawsuit" in the Preexilic Prophets*, in «Journal of Biblical Literature Bologna, 102, 4 (1983), pp. 563-574; P. Bovati, *Ristabilire la giustizia. Procedure, vocabolario, orientamenti*, Pontificio Istituto Biblico, Rome (1987) 1997²; tr. eng: *Re-Establishing Justice. Legal Terms, Concepts and Procedures in the Hebrew Bible*, translated by M.J. Smith, Sheffield Academic Press, Sheffield 1994.

¹⁵ In this light Bovati examines the accusation of Is 1.2 to 20 and the parable of Is 5,1 ff. See P. Bovati, *Le langage juridique du prophète Isaïe*, in J. Vermeylen (ed.), *The Book of Isaiah. Le livre d'Isaïe. Les oracles et leur relectures. Unité et complexité de l'ouvrage*, Peeters, Leuven 1989, pp. 177-196. Tr. it. di S.M. Sessa: *Il genere letterario del rîb: giudizio o lite? Il linguaggio giuridico del profeta Isaia*, in P. Bovati, «Così parla il Signore». *Studi sul profetismo biblico*, Dehoniane, Bologna 2008, pp. 125-151.

¹⁶ P. Bovati, *Prefazione*, in B. Rossi, M. Cucca, S.M. Sessa, «*Quelli che amo io li accuso*». *Il rîb come chiave di lettura unitaria della Scrittura. Alcuni esempi* (Os 11,1; Ger 13,1-11; Gv 15,1-11/ Ap 2-3), Cittadella, Assisi 2012, pp. 5-13: 11 (my translation).

2. *The traditions of Christian exegesis and Albert's Postilla super Isaiaem*

The book of Isaiah has been hugely influential in Christian literature of all times. Isaiah is quoted or referred to some eighty-five times in the New Testament. In all Patristic literature, too, Isaiah is very often quoted or referred to, mainly as a Messianic and Christological resource, for his alleged messianic prophecy (9:6), for his alleged virgin-birth prophecy (7:14) or for the alleged foretelling of Christ's passion in chapter 53¹⁷. For such reasons, the first of the major prophets was often considered by Christian authors as an evangelist in disguise or as an evangelist under the guise of a prophet. As Jerome (c. 345-420) wrote in the preface to his Latinization of the book of Isaiah: «he should be called an evangelist rather than a prophet» («non tam propheta, quam evangelista») in that «he clearly pursued all the mysteries of Christ and the Church» («universa Christi Ecclesiaeque mysteria ad liquidum prosecutus est»)¹⁸.

A vast scholarly literature on Christian reception of Isaiah is available¹⁹. For our present purpose, though, it will be sufficient to say that Patristic interpretation was by and large dominated by theories of the multiple senses of Scripture, that allowed transition from historical or literal facts to extreme allegorization. A new hermeneutical attitude, though, emerged during the 12th century with the Victorines (i.e. authors centered at the Augustinian abbey of St. Victor in Paris, whose founder was William of Champeaux, but best known are Hugh, Richard, and Andrew of St. Victor). The new attitude consisted in emphasizing the importance of the literal-historical sense of Scripture as the foundation for understanding the allegorical and moral senses²⁰. Attention to the literal-historical sense was

¹⁷ See J.D. Cassel, *Patristic Interpretation of Isaiah*, in C. Mathews McGinnis, P.K. Tull (eds.), *As Those Who Are Taught": The Interpretation of Isaiah from the LXX to the SBL*, Society of Biblical Literature, Atlanta GA 2006, pp. 145-169.

¹⁸ *Praefatio Hieronymi in librum Isaiae*, PL 28, c. 772. The same judgment is to be found in epistle LIII («non prophetiam mihi videtur texere sed evangelium»), PL 22, c. 547, and was subsequently recalled by Augustine in *De civitate Dei*, XVIII, 29.

¹⁹ See, e.g., J.F.A. Sawyer, *The Fifth Gospel: Isaiah in the History of Christianity*, Cambridge University Press, Cambridge 1996; B.S. Childs, *Isaiah: a Commentary*, Westminster John Knox Press, Louisville KY 2001; Id., *The Struggle to Understand Isaiah as Christian Scripture*, Eerdmans, Grand Rapids (MI) 2004; C. Mathews McGinnis, P.K. Tull (eds.), *As Those Who Are Taught"....*, cit.

²⁰ See B. Smalley, *The Study of the Bible in the Middle Ages*, Basil Blackwell, Oxford 1952², pp. 83-95; B.S. Childs, *The Struggle to Understand Isaiah as Christian Scripture*, cit., pp. 149-150; C. Mathews McGinnis, P.K. Tull, *As Those Who Are Taught"....*, cit., pp. 22-23;

further deepened by 13th century authors, such as Albert the Great and Thomas Aquinas, both of whom wrote a commentary on Isaiah.

As regards Aquinas' commentary on Isaiah, scholars once were inclined to consider it as the fruit of his mature teaching as a *magister regens* in Paris, either in his first (1256-59) or in his second period of regency (1268-72). More recent scholarship, though, considers the *Expositio super Isaiam ad litteram* as Aquinas' first theological work as a biblical bachelor, either in Paris after receiving the *licentia docendi* (1252-56) (such a position is held by the Leonine editors²¹), or even before, i.e. at the end of his sojourn at Cologne (1248-52)²².

The date of composition of Albert the Great's *Postilla super Isaiam* is uncertain. Some date it after 1250 (i.e. when he was regent of the Dominican *Studium generale* in Cologne), other scholars ascribe it to the period 1260-62, when Albert was named bishop of Regensburg by pope Alexander IV²³.

While Aquinas' commentary has received a certain (even if not too much) scholarly attention, Albert's still deserves proper critical studies. I shall be giving here a little contribution in this direction, by examining Albert's understanding of the legal references in the first chapters of Isaiah. In particular, I would like to ascertain how much of the self-awareness of Israel expressed by rhetorical and poetical trial-like speeches is understood by Albert.

3. Albert's textual analysis

In Albert's commentary on Isaiah one finds moral parlance (*exaggeratio ingratiitudinis, obstinatio in vitio, inflictio, consolatio lamentantis, deplangere malitiam*), biblical intertextuality (a great number of well-chosen parallel

F. van Liere, *Andrew of Saint Victor and his Franciscan Critics*, in I. Van't Spijker, *The Multiple Senses of Scripture. The Role of Exegesis in Early-Christian and Medieval Culture*, Brill, Leiden 2009, pp. 291-309.

²¹ S. Thomas de Aquino, *Expositio super Isaiam ad litteram*, in *Opera omnia* XXVIII, cura et studio Fratrum Praedicatorum, Editori di San Tommaso, Rome 1974, pp. 19*-20*.

²² J.-P. Torrell, *Saint Thomas Aquinas: the Person and His Work*, vol. 1, transl. R. Royal, The Catholic University of America Press, Washington 2005, pp. 27-33. For more comprehensive accounts, see B.S. Childs, *The Struggle to Understand Isaiah as Christian Scripture*, cit., ch. 11; J.P. Wawrykow, *Aquinas on Isaiah*, in T. Weinandy, D. Keating, J. Yocum (eds.), *Aquinas on Scripture: An Introduction to the Biblical Commentaries*, T & T Clark, London 2005, pp. 43-71, 44-45.

²³ H. Anzulewicz, *Zeittafel (Chronologie nach derzeitigem Forschungsstand)*, in Albertus-Magnus-Institut (ed.), *Albertus Magnus und sein System der Wissenschaften*, Aschendorff, Münster 2011, pp. 28-31.

texts from both OT and NT) and, sometimes, ecclesiological and figural parlance²⁴. As a general rule, Albert is sensitive to the manifold registers of the prophetic writings and in his analysis mirrors and, if possible, enhances them. For the Dominican master, *exponere ad litteram* primarily entails a strict adherence to the literary and historical structure of the prophetic book of Isaiah. Consequently, facts and institutions alluded to, even if they go beyond his historical culture, are in most cases put under the lens and examined, to a certain extent.

Let us consider a small but representative number of examples centered on what, *prima facie*, might be considered as lawsuit jargon.

3.1. *Albert on Isaiah, 1:2*

After the title in verse 1 («The vision of Isaiah the son of Amoz ...») the first chapter of Isaiah opens with these words (vv. 2-3 ESV):

² Hear, O heavens, and give ear, O earth; for the LORD has spoken: “Children have I reared and brought up, but they have rebelled against me. ³ The ox knows its owner, and the donkey its master’s crib, but Israel does not know, my people do not understand”.

Interpretations given by modern scholars range from a divine lawsuit that God has with His people to a family dispute in the form of a *rîb*. Lawsuit atmosphere might be suggested by the appeal to heaven and earth (alternatively understood by interpreters as witnesses, jury or judges). The mention in 2b of rebellious and disobedient children, however, seems to reframe the speech within a family affair (even if conducted with quasi-legal rhetorical devices).

In Albert’s understanding, the first part of verse 2 («Hear, O heavens, and give ear, O earth; for the LORD has spoken») is the «invocation of witnesses», while from the second part of verse 2 («Children have I reared and brought up, but they have rebelled against me ...») onwards, text enters into its narrative sequence («series narrationis»).

Already when commenting on the very first words of Isaiah’s speech, Albert traces a quasi-legal interpretation, for in the formula «Audite

²⁴ For instance, at the beginning of chapter two, where Albert writes that «Post tantam enim comminationem necesse fuit elevare ad spem, ne populus in desperationem incideret. Et ideo describit consolationem quam dominus faciet bonis in tempore Christi, quando figurae synagogae transibunt ad veritatem ecclesiae»: Albertus Magnus, *Postilla super Isaiam*, ed. F. Siepmann, in *Alberti Magni Opera Omnia*, XIX, Aschendorff, Münster 1952, II, 1, p. 35, ll. 2-6.

caeli» («Hear, O heavens») he sees an «invocation of witnesses to the truth of what is said»²⁵. «And this for three reasons: (i) to show he is consistent with the legislator, (ii) to show with cursing that people that does not listen [*scil.* to God] deserve condemnation, and (iii) through a metonymy, to call the angels as witnesses»²⁶. Several fitting parallel passages from the Bible are quoted: Deut. 31:28 for (i); Jer. 2:12-13 and Deut. 32:1 for (ii); Job 33:23-24 for (iii).

As for the following «Et auribus percipe, terra» («and give ear, O earth»), Albert gives two possible reasons: (i) if earth, an insensible substance, listens to the voice of its creator, *a fortiori* – for a still stronger reason – men should do so; (ii) second and weaker (but in accordance with previous commentaries, from Jerome to Hugh of St. Cher): earth as a metonymy for those that dwell on earth²⁷.

At 1:2b («Quoniam Dominus locutus est») the biblical text «adds the *cause of this contestation* by saying: “for the Lord had spoken”, and even insensible creatures have a sense for it» (as Albert says with a sagacious oxymoron); «The Lord has spoken to the Jews in four ways (with external vocalization, by the presentation of benefits, through the correction of plagues, and by inner inspiration), but the Jews refused to listen to him»²⁸.

As anticipated, from the second part of verse 2 («Filiis enutriv...»: «Children have I reared and brought up, but they have rebelled against me ...») onwards, text enters into its narrative sequence («series narrationis»), which has two parts²⁹. The main theme is the «redemption from the Babylonian captivity, literally speaking, or from the demonic captivity of sin» («*redemptio captivitatis vel Babylonicae secundum litteram vel demoniacae, qua capiuntur homines in peccatis*»). This theme – Albert adds – will be dealt with from chapter 40 to the end of book (chapter 40 is commonly considered by the majority of modern interpreters as the prologue of second Isaiah or Deutero-Isaiah). Preliminary chapters 1-39 deal with what is necessary for such a redemption («*de his quae faciunt ad huiusmodi*

²⁵ *Ivi*, p. 12, ll. 2-3: «*invocatio contestantium de veritate dictorum*».

²⁶ *Ivi*, ll. 6-10: «*De invocatione caeli dicit: ‘Audite caeli’ tribus de causis, ut se ostendat in enarrandis legislatori consentaneum, ut cum execratione non audientem populum iuste ostendat esse condemnandum et ut per metonymiam angelos ad dicendum vocet testimonium*».

²⁷ *Ivi*, ll. 32-45.

²⁸ *Ivi*, ll. 45-52: «*Causam autem huius contestationis subiungit dicens: quoniam dominus locutus est, cui omnia insensibilia sensus habent [...]. Locutus est dominus Iudaeis quattuor modis: exteriori vocatione, beneficiorum exhibitione, flagellorum correctione et interiori inspiratione. Et noluerunt audire vocem eius*».

²⁹ *Ivi*, ll. 66-73.

redemptionem»). In order to stress the deep connection between these two parts of the book of Isaiah, Albert quotes Aristotle's *Topics* (II, 3, 110 b 17-18), where the Stagirite, while discussing terms that, although not homonymous, may have multiple correlated meanings, takes the example of "to be the science of", that can express both the end or the means to this end.

3.2. Albert on Isaiah, 3:8-15

Isaiah 2 opens with an eschatological picture of universal peace in the latter days (2:1-5), to which three deprecable scenarios are opposed: idolatry and human pride (2:6-22), the confusion of political and social roles in a corrupt city (3:1-15), and the coquettish vanity of women in Jerusalem (3:16-4:1). In the first part of chapter 3, devoted to political and social critique, lawsuit jargon rings again. The prophetic voice stigmatizes with graphic precision the ineptitude and corruption of rulers, the lack of clear social and political roles that has produced exploitation and injustice. And here, as if in a symbolic courtroom, the Lord acts as both judge and prosecutor. For, the Lord «takes his place in court», «rises to judge the people» (3:13), «enters into judgment against the elders and leaders of his people» (3:14).

Immediately before the Lord taking his place in court and entering into judgment, the biblical text summarizes the overall imputation: «For Jerusalem has stumbled, and Judah has fallen, because their speech and their deeds are against the Lord, defying His glorious presence» (3:8).

When facing this verse («Ruit enim Jerusalem ...») Albert writes: «Here [...] [Isaiah] expresses the reasons of justice, on the basis of which this people undergoes such sufferings. Such reasons are three: punishment, the cause of such punishment, and the proportion of punishment to guilt»³⁰.

(i) Punishment (*poena*) is, obviously, that «Jerusalem has stumbled and Judah has fallen».

(ii) The cause of such punishment (*poenae causa*) is, the Bible says, «because their words and their deeds are against the Lord» or, as paraphrased by Albert, because «they were blasphemous to God and mocked the prophets» (and, quite aptly, Isa. 59:3 and Hier. 9:5 are quoted as parallel texts)³¹. Albert clarifies the «quantitas reatus» – the 'amount of

³⁰ *Ivi*, p. 52, ll. 78-81: «Hic [...] rationes iustitiae allegat quare ista populus pati permittatur. Et dicit tria: poenam, poenae causam et poenae proportionem ad culpam».

³¹ *Ivi*, p. 53, ll. 2-10.

crime' – in terms suited to moral theology: «by saying “against the Lord” it is remarked that this is a mortal sin»³².

(iii) The proportion of punishment to guilt (*poenae proportio ad culpam*) is touched upon at 3:9: «Agnitio vultus eorum reponit eis»: «For the look on their faces bears witness against them». And here Albert is on the ridge between the theological-legal and the psychological-moral notion of sin and guilt, for he observes that Isaiah portrays here both «confusion and sin» («confusio et peccatum»), because on their faces one could see the bodily traces of sin, such as hyperpigmentation of skin and a frown («in maculis et deformitatibus vultus»). Indeed, «it is a sign of goodness to be ashamed to our own shameful acts». However, the moral process of shame and repentance for some reason does not work and stops before its completion. That is why the Lord undertakes stronger corrective measures. And here the lawsuit language returns, although, as we shall see, adapted to a path of moral transformation.

Later on, Albert comments on Isaiah 3:13, the scene in which the Lord «takes his place in court; he rises to judge the people» (NIV): «Stat ad iudicandum Dominus et stat ad iudicandos populos» (Jerome's Vulgate). Here several contemporary translations, on the footsteps of KJV, tend to be faithful to the nuances of the Hebrew text: «The Lord stands up (*niššāb*) to contend (*lā-rīb*); and He stands (*wə-ʿōmēd*) to judge (*lā-dīn*) the people». Usually in the Bible, when the Lord sits down (*yō-šēb*) on His heavenly throne, He assumes the role of the judge (e.g. Ps. 9:11; Joe. 3:12), but when He rises from his throne (*qum*, e.g. Isa. 2:19; 2:21; 33:10), He comes forward and stands as accuser. However, leaving aside all this, we must keep in mind that the Latin Vulgate on Albert's desk was different, less detailed, and sounds like this: «The Lord stands to judge and stands to judge the peoples». Albert explains that «Here the betrayal of the people is dealt with, from the point of view of He who judges according to the criterion of a just judgment» («Hic tangitur populi destitutio ex parte iudicantis per iusti iudicii rationem»), and gives particular emphasis to the *décalage* between «Stat ad iudicandum dominus» («The Lord stands to judge») (3:13) and «Dominus ad iudicium veniet» («The Lord will enter into judgment») (3:14). In the first case the key-word is the motionless verb *stat*: «Although provoked by the crimes of His people, the Lord, in His mercy, *stands* (*stat*) to judge: He stands and does not hurry to punish,

³² *Ivi*, ll. 17-19: «Quantitatem tangit reatus. In hoc quod dicit: *Contra dominum*, notatur mortale esse peccatum».

as He waits for the conversion of sinners»³³. Several parallel verses, witnessing God's patience with the sinner, follow (Isa. 30:18; 27:4-5), that Albert glosses by saying: «And here justice struggles with mercy. Because justice urges to go to the punishment of the wicked, but mercy holds it in order not to proceed»³⁴.

Then, when commenting on «the Lord will enter into judgment» («Dominus ad iudicium veniet») (3:14), Albert stresses the role of the future tense: «After waiting for repentance, since the Lord saw that the people would not convert, the Lord entered into judgment through the steps of justice. This is expressed by “the Lord will enter into judgment”: future tense is used because the Lord enters step by step»³⁵.

As one can plainly see, Albert catches the flavor of the legal jargon of Isaiah and is ready to amplify its traits in his analysis. At the same time, he understands it as a rhetorical and emotional strategy, whose aim is to induce a moral transformation in readers. In other words, lawsuit or legal jargon is instrumental to a more complex prophetic-homiletic strategy.

4. Conclusion by way of comparison

The innovative character of Albert's exegesis becomes even more evident when one compares it with the commentary of a fellow-Dominican and immediate predecessor, such as Hugh of St. Cher (†1263). In his *Postilla super Esaiam prophetam* (probably written between 1230 and 1235), Hugh gives little or no recognition to the underlying horizon of meaning and to the original intentions of the text. He tends to focus, instead, on moral and ecclesiological Christian concerns. In such a frame of mind, all the allusions to trial or legal dispute are washed away and turned into spiritual and ecclesiastical allegories.

Few short examples – taken from his commentary to Isaiah 1 – will give the idea. First, Hugh divides the first chapter into ten parts, giving each of

³³ *Ivi*, p. 55, ll. 33-36: «Stat ad iudicandum dominus, hoc est dominus misericors, ad iudicandum provocatus sceleribus populorum, stat erectus quidem ad iudicandum, sed stans et non festinans ad poenam expectando peccatorum conversionem».

³⁴ *Ivi*, ll. 42-44: «Et est pugna iustitiae cum misericordia. Iustitia enim propellit ad gradiendum in poenam super impios, misericordia autem tenet, ne procedat».

³⁵ *Ivi*, ll. 55-59: «Post expectationem ad paenitentiam, videns dominus quod populus non convertatur, dominus procedit ad iudicium passibus iustitiae. Et hoc est quod dicit: *Dominus ad iudicium veniet*. Futurum dicit, quia continuis passibus venit».

them a markedly *moral* characterization, as one can see just from the first four:

This chapter is divided into ten parts. In the first, Isaiah calls heaven and earth as witnesses against the Jews, since, not doing what they are exhorted to do, they rightly deserve to be punished. In the second, he reproaches Jews because of their ingratitude (there: ‘Children have I reared’ etc.). In the third, he reproaches them because of their obstinacy in sin (there: ‘Woe to the sinful nation’ etc.). In the fourth, reproach regards shamelessness in sinning (there: ‘Hear the word of the Lord’ etc.)³⁶.

When commenting on 1:1-2, Hugh layers a series of alternative possible interpretations, highlighting in each of them spiritual, moral, and ecclesiological overtones:

He says ‘Hear, O heavens’: a way of saying, as when it is said: ‘if men remain silent, the stones will cry out’ [Luke, 19:40] [...]. Or it is metonymy: ‘Hear, O heavens’, i.e. angels, and ‘and through ears perceive, O earth’, i.e. men. Or ‘heavens’ as higher spiritual intelligences [...]; ‘and through ears’, i.e. through inner and outer hearing, ‘perceive, O earth’, i.e. lesser carnal sensible realities, ‘my prophecy’. Thus, here you will find a simple narrative, that you might discard as if it were milk: for Isaiah’s vision is like a river in which the lamb can wade and the elephant can swim³⁷.

And a little later:

In a mystical sense: ‘Vision of Isaiah’, i.e. of Christ; ‘concerning Judah and Jerusalem’, i.e. against clerics and laymen, or against seculars and claustrals.

³⁶ Hugo de Sancto Caro, *Biblia cum postillis Hugonis de Sancto Caro. Quarta pars [...] continens textum una cum postilla [...] prophetarum Esaie, Hieremie et eiusdem Threnorum, Baruch*, Basileae, s.d., fol. a3v: «Dividitur autem hoc capitulum in decem partes. In prima invocatur Esaias in testimonium contra Iudaeos caelum et terram, quia iuste puniendi sint nisi fecerint quod hortatur. In secunda reprehendit Iudaeos de ingratitude (ibi: “Filiis enutrivit”) etc.). In tertia reprehendit eos de obstinatione peccandi (ibi: “Vae genti peccatrici”) etc.). In quarta de impudentia peccandi (ibi: “Audite verbum domini”) etc.)».

³⁷ *Ibidem*: «Dicit ergo “Audite caeli”: expressio est, sicut cum dicitur: si homines tacerent, lapides clamarent [...]. Vel est metonymia: “audite caeli”, idest angeli, et “auribus percipe terram”, idest homines. Vel “caeli” idest maiores spirituales intelligentes [...]. “Et auribus” interioribus et exterioribus, “percipe terra”, idest minores carnales sensibiles, “prophetiam meam”. Quare ibi invenietis simplicem historiam, quam quasi lac fugere poteritis. Est enim visio Esaias quasi fluvius in quo pedicare potest agnus et elephas natare». This last image is patterned on Gregorius Magnus, *Moralia in Iob, Ep. Leandro*, 4, ed. M. Adriaen, (CCSL 143 A), 2 vols., Brepols, Turnhout 2005, p. 6, ll. 177-178: «Quasi quidam quippe est fluvius, ut ita dixerim, planus et altus, in quo et agnus ambulet et elephas natet».

‘Hear, O Heavens’, i.e. clerics or claustrals; ‘and through your ears perceive, O earth’, i.e. laymen or seculars; ‘Children have I reared’, i.e. clerics or claustrals have I adopted as my own sons³⁸.

When facing «The Lord stands to judge» (3:13), Hugh glosses: «that is to punish the Jews through Chaldeans and Romans». «Stands to judge the peoples» for Hugh means that «the Lord discerns the merits of the individual persons and exhorts them to fight, because standing is proper to those who fight». «The Lord will enter into judgment» (3:14): with the good company of patriarchs and prophets (fol. b3ra).

Even though he was a learned Dominican of the first half of the 13th century, Hugh still maintains strong connections with forms of traditional Christian exegesis. Indeed, most of what he says is patterned almost *verbatim* on the commentary on Isaiah written by Jerome (c. 345-420):

[Isaiah] calls to hearing heaven and earth, hinting by ‘heaven’ to higher and angelic virtues and by ‘earth’ to mortals, by way of metonymy [μετρονομιᾶς]: naming the containers instead of what is contained in them. [...] And it is to be noticed that he says ‘hear’ to the heavens and ‘perceive through your ears’ to the earth: for what is higher is more intelligent; and what is humbler is entangled with earthly matters. [...] He who is heaven and has citizenship in heavenly things can understand these words in a mystical way. He who is earthly will hold to the simple narrative³⁹.

The same Jerome, who elsewhere is keen to give us manifold details on the tribes of Israel, on the peculiarities of Palestinian agriculture⁴⁰, on alliterative figures in Hebrew (such as *šim’ū šāmayim*: ‘Hear, O heavens’), this time favors spiritual exegesis and disregards the historical and political dimension of the trial-like (or *rib*-patterned) speech that opens Isaiah.

³⁸ *Ibidem*: «Mystice: “Visio Esaiae”, idest Christi; “super Iudam et Hierusalem”, idest contra clericos et laicos, vel contra saeculares et claustrales. “Audite caeli”, idest clerici vel claustrales; “et auribus percipe terra” idest laici vel saeculares; “Filius nutrivit”, idest clericos vel claustrales mihi in filios adoptavi».

³⁹ Hieronymus, *Commentariorum in Isaiam Prophetam Libri Duodeviginti*, Migne PL 24, p. 25 A-C: «[...] coelum et terram ad audiendum provocat. In coelo supernas significans angelicasque virtutes; in terra mortalium genus, μετρονομιᾶς ab his quae continent ea quae continentur. [...] Et hoc notandum quod coelis dicatur “audite”, terrae “auribus percipe”: ea enim quae excelsa sunt maiorem habent intelligentiam; quae humiliora terrenis involvuntur. [...] Si quis igitur coelum est et habet municipatum in coelestibus, audiat mystice quae dicuntur. Si quis terrenus, simplicem sequatur historiam».

⁴⁰ B.S. Childs, *The Struggle to Understand Isaiah as Christian Scripture*, cit., p. 96: «Jerome shows much interest in tracing various aspects of Palestinian agriculture (chapters 1, 5, 28), and he brings to bear his own empirical observation on planting, sowing, and harvesting of grain, on how vineyards were tended and fruit trees cared for».

Throughout his commentary on Isaiah, Albert maintains a constant flux of three semantic layers: historical, moral and Christological. The most important feature, though, is that the moral and Christological do not reduce the historical to a mere springboard for Christian actualization. As stated before, Albert tries to mirror and deepen the plurality of registers of the prophetic book. In his multilayered commentary, moral analysis, biblical intertextuality, and allegory go side by side with a constant attention to the historical level and the literary structure of the book of Isaiah. In this framework, Albert perceives the manifold traits of the original legal terminology. Of course, he is not able to discern all of their Semitic nuances. But he wasn't supposed to do that. In order to accomplish his preaching task, the hermeneutical strategy is to point out these traits and re-read them as rhetorical-emotional devices, aimed at the moral transformation and repentance of all the sinners.

Abstract

The paper focus on the first three chapters of Isaiah. After recalling the results of modern biblical scholarship on the use of legal and forensic jargon in Isaiah (§ 1) and giving a thumbnail sketch of the traditions of Latin Christian exegesis in the Middle Ages (§ 2), I will examine passages of the commentary on Isaiah written by Dominican theologian Albert the Great in the 13th century (§ 3). The aim is to evaluate to what extent the concerns of the original biblical text, when filtered through the Latin Vulgate and through Christian foresight, are captured by the medieval exegete, to what extent Albert is able to understand the peculiar theme of the self-awareness of the history of Israel in the form of a legal contention between God and His people.

Keywords: Albert the Great; book of Isaiah; biblical lawsuits; repentance.

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Finito di stampare nel mese di giugno 2018