

From a Post-monarchical to the Pre-monarchical Period of the Judges

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Forsaking, as a growing number of specialists¹, the hypothesis of a Deuteronomistic History (DH) composed around 585 BCE leads to reconsider one of the element of DH, the period of the Judges. The few passages that explicitly mention this period are analyzed before suggesting an alternative view for the development of the period of the Judges.

2 Kings 23.22

The locution 'days of the judges' appears in 2 Kgs 23.22, to indicate that no such Passover as Josiah's had been celebrated since the days of the judges that judged Israel and the days of the kings of Israel and of the kings of Judah:

מימי השפטים אשר שפטו את־ישראל וכל ימי מלכי ישראל ומלכי יהודה

It therefore seems that the period of the Judges was conceptualized well before the third century BCE². However, the antiquity of vv. 21-23 has often been doubted due to the dependence of v. 21 on Deut. 16.1. A note in *BHK* gives weight to the secondary character of part of these verses since it indicates that the whole of יהודה ומלכי ישראל ומלכי יהודה 'and all the days of the kings of Israel and of the kings of Judah' were placed under asterisk in Origen's system of Syrohexaplarian text, one of the most reliable witness for asterisks and obeli. The words 'and the days of the kings of Israel and the days of the kings of Judah' are almost certainly a MT plus compared to the original LXX. Origen borrowed it from Aquila's version³ This means that these words were added to MT after the completion of the first Greek versions of Judges, that is before the end of the second century BCE, since Ben Sirach's grandson seems to indicate that in his days, the Prophets and the other books have been translated in Greek (Sir. prologue 24)⁴.

The parallel in 2 Chron. 35.18 mentions the 'days of Samuel the prophet and all the kings of Israel'. Neither 'days' of the kings nor 'kings of Judah' appear. The writers knew no period of the judges. The 'days of Samuel the prophet' (he was not yet judge because 1 Samuel 7 was not yet written?) described the time prior to King Saul but not the period of the judges. Moreover, the writers do not equate the days of the kings of Judah with those of Israel, for they follow their source in attributing an Israelite origin to the Passover.

The result is that 1 Kgs 23.22 cannot be used to prove that the period of the judges was invented in exilic times.

¹ Among others, A.G. Auld, E.A. Knauf & H.N. Rösel in T. Römer (ed.), *The Future of the Deuteronomistic History* (BThL, 147; Leuven: Leuven University Press, 2000).

² See bibliography in M. Delcor, 'Réflexions sur la Pâque du temps de Josias d'après 2 Rois 23,21-23', in M. Delcor (ed.), *Environnement de l'Ancien Testament* (AOAT, 228; Kevelaer: Butzon & Bercker, 1990), pp. 90-104 and M. Delcor, 'Le récit de la célébration de la Pâque au temps d'Ezékias d'après 1 Chr 30 et ses problèmes' in A. Schenker (ed.), *Studien zu Opfer und Kult im Alten Testament* (FAT, 3; Tübingen: J.C.B. Mohr, 1992), pp. 93-106.

³ A.E. Brooke & N. McLean, *The O.T. in Greek II, 2: I and II Kings* (Cambridge: Cambridge University Press, 1930), p.381.

⁴ E. Tov, 'The Septuagint', in M.J. Mulder (ed.), *Mikra. Text, translation, Reading and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity* (CRINT, 2; Assen / Philadelphia: Van Gorcum / Fortress Press, 1988), pp. 158-188 (162).

Ruth 1.1

The book of Ruth 1.1 is set 'in the days when judged the judges' (בִּימֵי שֹׁפֵט הַשְּׁפֹטִים), an unmistakable reference to a pre-monarchical period of the Judges because the last verses of the book insert Ruth in David's genealogy (Ruth 4.17b-22).

Apart from this time-setting provided by the first and last few verses of the book, the narrative could fit any other context. Setting the book in the days of the judges allowed the Greek canon to append *Ruth* to *Judges*, but this fact does not provide any indication on the date of the formation of the pre-monarchical period of the judges. However, a closer look to the judges themselves may reveal some precious clues.

The days when there was no (more) king in Israel (720–620 BCE)

The 'minor' judges presented in Judges 10 and 12 are a real puzzle. After the cycle of oppression and deliverance of the previous chapters, the rule of the judges marks the end of violence, a time of prosperity, each one living under his own tree, feeding on the fat of his tribal land, begetting and marrying hosts of children gambolling on proud donkeys before being laid to rest alongside one's own ancestors⁵.

This bucolic presentation has been recognised as fictitious⁶, and we should be wary of using it as a historical description of pre-monarchical Israel. Indeed, the Tale of the Queen of Kaniš found in old Hittite archives in Bogazköy (1900–1700 BCE)⁷ offers the closest parallel with the Biblical judges as it holds all the details found in Judges 10 and 12 (donkeys, sons and daughters). Tsevat affirms that this tale is the source of the Biblical judges or that both texts are based on the same source⁸. However, the aim of the Hittite tale is obviously to warn against unintentional incest, which is not the case in the Bible, except for Ibzan who takes the trouble to send his 30 daughters outside and to bring in from outside 30 wives for his sons (Judg. 12.9)⁹. This fascinating parallel confirms the antiquarian character of the list of judges which consciously draws on ancient material to evoke a kind of golden age rather than offering a realistic description of the political system in Israel during the pre-monarchical period.

The well-known analogy of the Biblical judges with Iron II Phoenician *suffets* leads towards another era. The oldest attestation of their existence comes from Josephus who claims to cite the records of the Phoenicians and reports that the δῆδασκοὶ governed Tyre during Nebuchadnezzar's blockade:

'Nebuchadnezzar besieged Tyre for thirteen years in the days of Ithobal, their king; after him reigned Baal ten years; after him were judges appointed, who judged the people: Ecnibalus, the son of Balascus, two months; Chelbes, the son of Abdeus, ten months; Abbar the high priest, three months; Mitgonus and Gerastratus, the sons of Abdelemus, were judges six years; after whom Balatorus reigned one year; after his death they sent and fetched Merbalus from Babylon, who reigned four years; after his death they sent for his brother Hiram, who reigned twenty years. Under his reign, Cyrus became king of Persia'¹⁰.

⁵ B. Beem, 'The Minor Judges: a Literary Reading of some very Short Stories', in K.L. Younger (ed.), *The Biblical Canon in Comparative Perspective* (ANETS, 11; Lewiston: Edwin Mellen, 1991), pp. 147-172

⁶ The fictitious character of the list has been stressed by M. Görg, *Richter* (NEB, 31; Würzburg: Echter Verlag, 1993), pp. 6, 59 and 70-71.

⁷ H. Otten & C. Rüster, *Keilschrifttexte aus Bogazköy H. 22 aus dem Bezirk des grossen Tempels* (WVDOG, 90; Berlin: Mann Verl., 1974); *Idem, Eine althethitische Erzählung* (SBT, 17; Wiesbaden: Otto Harrassowitz, 1973), pp. 6-9, 14-36; H.A. Hoffner, 'The Queen of Kanesh', in W.W. Hallo (ed.) *The Context of Scripture 1* (Leiden: E.J. Brill, 1997), pp. 181-182.

⁸ M. Tsevat, 'Two Old Testament Stories and their Hittite Analogues', *JAOS* 103 (1983), pp. 35-42.

⁹ Tsevat, 'Stories', 235.

The reliability of the information is difficult to evaluate. The details of Tyrians chronology offered here are not necessarily trustworthy, although it is significant that Tyre is ruled by 'judges' during the flight of the king around 600 BCE. This fact, reliable enough, provides a most interesting parallel with Judges 10 and 12. Both in Israel and in Tyre, judges would serve an interim government in a time of crisis while the king was missing. In normal times, they represented a kind of municipal authority beside the royal power, limited to the local administration and justice¹¹. It is not far-fetched to postulate that the Tyrian *suffets* were known in Jerusalem, less than 200 km to the South during Josiah's reign. In the light of the *suffets*, the Biblical judges could be interpreted not as a pre-monarchical type of government but as a temporary institution, lasting the whole of the Assyrian period. Instead of naming the Empire (why name a waning power when one is about to take its place over Israel?), the period of the judges is a euphemism referring to a time when Israel had no king, until Josiah would restore order and offer himself as king of Israel. The nice postcard-presentation of the prolific judges from the landed aristocracy of Israelite fringes was likely to get some audience in Israel as it must have been somehow in line with the longings of the Israelite 'people of the land', the tribal elite that suffered most from Statehood and Empire. In this context, the question of the exact meaning of שפטים 'to judge' loses most of its relevance: the aim is not to describe a realistic mode of government but to describe the Assyrian domination over Israel without mentioning the Assyrians. Since Josiah did not mean to idealise kingless Israel, Judges 17–18 graphically depicted the dangers inherent in the prolonged absence of a king, in the 'days when there was no king in Israel'.

The days when there was no (more) king in Israel (nor in Judah)

However, Josiah's programme fizzled out, Judaeen rule only managed to reach as far as Bethel. This northern expansion of Judaeen territory had a most unexpected result half a century later. In 586 BCE, or even slightly before, Benjamin became the centre of what was left of Judah! This situation produced fierce competition a century later, when the new Persian Jerusalem tried to recover its seventh century BCE status. The 'days when there was no king in Israel' were taken over in Judges 19–21 from Judges 17–18 to describe Benjamin's rule, the days when Mizpah dared to replace Jerusalem until Jerusalem managed to reaffirm itself and put an end to this appalling situation. Judges 19–21 did not describe the dangers of decentralized cults as Judges 17–18 did, but the Benjaminite devious ways when they are not curbed by Jerusalem's control. The days when there was no king characterised the Darkest Ages ever experienced by Jerusalem, when there was no more king neither in Israel nor in Judah (Judges 19–21).

Obad. 21 illustrates the Judaeen post-monarchical period of the Judges:

ועלו מושעים בהר ציון לשפט את-ההר עשו ודיתה ליהוה המלוכה

And saviours will go up in Mount Zion to judge Mount Esau and it will be the kingship for Yhwh.

¹⁰ F. Josephus, 'Against Apion', in Maier (ed.), *The New Complete Works of Josephus* (Grand Rapids: Kregel, 1999), pp. 937-81: 1.156-158.

¹¹ E. Lipinski, 'Suffètes', in E. Lipinski (ed.), *Dictionnaire de la civilisation phénicienne et punique* (Turnhout: Brepols, 1992), p. 429.

This is not the appropriate place to deal with the problems involved with this verse¹². Suffice here to note that someone (in Bethel or Mizpah during the Babylonian era?) understood saviours and judges as a post-royal type of rule that would punish the Edomites for their exactions committed against Judah *after* 586 BCE.

The days when there was no king (yet) in Israel

The LXX translators of Obad. 21 did not translate אֲנֹכִי by a straightforward σωτήρες (as in Judges) but by the complicated ἄνδρες σεσωσμένοι. In sharp contrast to MT that bears no trace of scribal unease with the fact that saviours à la book of Judges would avenge Zion after 586 BCE, the Alexandrine translators obviously avoided too direct a reference to the book of Judges. Their unease is an indicator of the location and date of the conceptualisation of the pre-monarchical period of the Judges. The translators of Obadiah and of the other prophetic books may have been more than mere translators and it is no accident that the Greek canon links the book of Ruth to *Judges* in order to give some extra substance to its brand new pre-monarchical period of the judges.

Mentioning some judges after Joshua and Caleb but before Samuel, Sirach 46.11 is the earliest indication of the canonical order *Joshua–Judges–Samuel* and of the pre-monarchical period of the judges. Since the book of Sirach was written around 200 BCE¹³ it is necessary to date the conception of the pre-monarchical period of the judges before the second century. Rather than going back as far as the fifth century BCE, the third century BCE offers a much more likely historical setting both for the compiling of the first Jewish historiography and for the pro-monarchical period of the judges. Alexandria is the obvious place not only for translating, but also for compiling histories. Alexandria is in a better position than both Jerusalem or Babylon to provide the resources and the political will required to support the writing of a Jewish historiography¹⁴. Writing a history of Egypt in Alexandria during the reign of Ptolemy I (306–283 BCE), Hecataeus of Abdera heard about a version of the origin of the Jews which was much closer to P than to DH: the promised land was ‘utterly uninhabited’ when Israel entered it (see Num. 13.32) and ‘the Jews never had a king’¹⁵. Hecataeus does know about judges, but they are those appointed by Moses ‘to be judges in all major disputes’ (Exodus 18), not pre-monarchical judges from the book of Judges. Either his informers did not know the existence of a pre-monarchical period of the Judges and of DH, or they made a point not to reveal them to Hecataeus! Unless Mizpah or Babylon kept their fifth century DH secret, we can postulate that Alexandrine Jews translated and organised some of the books which were not included into the Torah in order to offer a comprehensive description of Israel’s history to the Hellenistic scholars. Judges and Ruth were inserted between Joshua and

¹² See E. Ben Zvi, *A Historical-Critical Study of the Book of Obadiah* (BZAW, 242; Berlin: W. de Gruyter, 1996), pp. 223–226.

¹³ G. Sauer, *Jesus ben Sirach* (JSRHZ, 3.5; Gütersloh: G. Mohn, 1981), p. 483.

¹⁴ No definite answer can be provided to the intricate question of the relation between the Greek and the Hebrew canonical orders, since both conceptions have probably influenced each other and that LXX and MT’s orders as we have them now reflect this interaction. Sirach’s prologue is a weighty argument in favour of the primacy of the Prophetic collection because it takes as a well established fact that the second part of the Canon is Prophetic. However, in spite of its clear non historical ordering, MT seems to have integrated LXX’s historical scheme for Joshua–2 Kings, its Former Prophets. This is a weighty argument in favour of the existence of a Jewish historiography in Greek, prior to MT’s order. Thanks owed to Professor Adrian Schenker (Fribourg).

¹⁵ Diodorus of Sicily XL.3 (trans. F.R. Walton; LCL; London: Heinemann; 1967), p. 283.

Kingdoms for the first time ever¹⁶ to constitute the pre-monarchical period of the Judges. This process can have occurred as early as the reign of Ptolemy II (282–246 BCE, earliest possible date for the translation of the Torah). It was completed before 200 BCE because Sir. 46.11 mentions judges between Joshua and Samuel.

However, an Alexandrine setting for the composition of the first Jewish historiography and the pre-monarchical period of the Judges is unlikely to convince Martin Noth's disciples. A few indirect mentions of a historiography should be reviewed.

2 Samuel 7.11

The first evidence of a day or days (LXX), when Yhwh commanded judges on his people Israel before David's reign, is found in 2 Sam. 7.11. Yhwh promises to plant Israel in a place so that the children of wickedness will not afflict them as they did at the beginning (v. 10)¹⁷. The next verse explains that the beginning refers to the day when Yhwh ordered judges on his people Israel (v. 11a). That the period of the Judges is meant here is possible but far from certain¹⁸: the mention of judges is situated at the junction between to very different passages (vv. 1-7 and 11b-16)¹⁹, a fact that could indicate its secondary nature; moreover, the verb צוה 'to order' is more likely to have first applied to משפטים 'judgements' rather than to the שפטים 'judges' as is the case in 1 Chron. 22.13; 28.7. This way, the text makes much more sense because it refers to the giving of the commandments at Mount Sinai just after the liberation from 'the children of wickedness who afflicted Israel' (v. 10b)²⁰. The ה of the participle was dropped once the pre-monarchical period of the judges was created.

Nehemiah 9

Nehemiah 9 appears to present a historical summary of Israel and Judah's past along clear chronological lines: Creation (v. 6), Patriarchs (vv. 7-8), Exodus (vv. 9-21), Conquest (vv. 22-25) and, according to Schmid, the times of the Judges and of the Kings (vv. 26-31)²¹. Indeed this text is clearly following the sequence presented by the five books of Moses and Joshua. However, after the conquest, the narrative is not following the neat succession of judges and then kings that a Nothian scholar would expect. In fact, judges are not even mentioned. The book of Saviours is clearly alluded to (מושיעים and צעק v. 27, זעק v. 28), but judges appear nowhere, not even in v. 28 where Judg. 2.11-19 is quoted. Samuel is equally ignored; Judaeans or Israelite kings are presented, not as representatives of a specific

¹⁶ K. Schmid, *Erzväter und Exodus* (WMANT 81, Neukirchen-Vluyn, Neukirchener Verl., 1999), pp. 218-220.274.

¹⁷ D. Vanderhooff, 'Dwelling beneath the Sacred Place: A Proposal for Reading 2 Samuel 7:10', *JBL* 118 (1999), pp. 625 - 633.

¹⁸ D.F. Murray, *Divine Prerogative and Royal Pretention* (JSOTSup., 264; Sheffield: Sheffield Academic Press, 1998), p. 184.

¹⁹ See S.L. McKenzie, 'Why Didn't David Build the Temple?: the History of a Biblical Tradition', in M.P. Graham, R.R. Marrs & S.L. McKenzie (eds.), *Worship and the Hebrew Bible* (JSOTSup., 284; Sheffield: Sheffield Academic Press, 1999), pp. 204-224.

²⁰ This solution was already hinted at by S.R. Driver, *Notes on the Hebrew Text and the Topography of the Books of Samuel* (Oxford: Clarendon Press, 1960), p. 275: 'As the text stands, the reference in 10b will be to the sufferings of Egypt, but this is a thought alien to the context in which rather the blessings secured by the settled government of David are contrasted with the attacks to which Israel was exposed during the period of the Judges'.

²¹ Schmid, *Erzväter*, 302-304.

period, but alongside princes, priests, prophets, fathers and people (vv. 32 and 34). Nehemiah 9 presents the Torah (vv. 26, 29, 30,34) and its sequel (Joshua) in its firm chronological sequence that leads to the Conquest, but after the Conquest, there is no more chronological thread to follow because the DH and its periodization does not yet exist. Kings, prophets and saviours are lumped together because they do not yet belong to a canon.

Psalm 106

Psalm 106 may provide evidence for a pre-monarchical period of the Judges. It refers to a time after the Exodus, when Israel sacrificed to Canaanite idols (v. 38), was given over to the heathens (v. 41), and was oppressed by its enemies (v. 42). The book of Saviours is probably referred to, although its most characteristic features are missing: vv. 43-44 use $\sqrt{\text{ללל}}$ rather than שע for the act of deliverance and רנן instead of לעק for the cries uttered by the people. Neither judges nor saviours nor kings appear, and v. 46 jumps directly to the exile, by-passing the monarchy, just as Ezekiel 20 and Psalm 78 do. One can hardly talk about a systematic presentation of Israel's history. Psalms 105 and 106 show that the sequence of events narrated in the Hexateuch is fixed, but after the conquest, there is still no model to organise the various books along a neat chronological thread.

There is therefore no obstacle to date the invention of the pre-monarchical period of the judges in Alexandria at the end of the third century BCE. The 'days when there was no king in Israel' became, then and only then, the days *before* the kings (Ruth 1.1). The books of Judges and of Ruth were assigned the task to illustrate that particular period within a succession of periods leading up, from the origins of the world and of Israel, to the Persian era (Ezra, Neh., Est.). Within a century, the Hasmonaeans used this chronological sequence to establish a conscious link between the Maccabees and the judges as forerunners of their dynasty: 'Jonathan took up residence in Michmash and began to judge the people, rooting the godless out of Israel' (1 Macc. 9.73). Although they rejected the Greek concept of historiography, the Hasmonaeans kept the order of the first part of Alexandria's historiography for their 'Former Prophets' (except for Ruth). This chronological concern bears the unmistakable seal of Alexandria²² and should logically be attributed to the third century BCE. The extent of the period of the judges does not correspond to the limits of the book of Judges: it starts after the second burial note of Joshua (Judg. 2.11²³) and ends somewhere between 1 Samuel 8 (the rejection of Samuel's sons as judges) and 1 Samuel 11 (Saul's deliverance of Jabesh imitating the saviour accounts). This fact reveals the artificiality of the pre-monarchical period of the Judges rather than the validity of Noth's DH hypothesis²⁴. The period of the Judges is a literary construct that should not be used as evidence for the reconstitution of the factual history of Israel before statehood²⁵ and should be definitively banned from serious Histories of Israel.

²² Schmid, *Erzväter*, 51.

²³ Against Schmid, *Erzväter*, 218, who has the period of judges starting in Joshua 24.

²⁴ Against T. Römer, 'L'école deutéronomiste et la formation de la Bible hébraïque', in T. Römer (ed.), *The Future of the Deuteronomist History* (BETHl 147, Leuven: Leuven University Press, 2000), p. 184.

²⁵ R.G. Kratz, *Die Komposition der erzählenden Bücher des AT* (Uni-Taschenbücher, 2157; Göttingen: Vandenhoeck & Ruprecht, 2000), p. 195.