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MICHAEL AVIOZ, SAUL AS A JUST JUDGE IN JOSEPHUS' ANTIQUITIES OF THE JEWS

SAUL AS A JUST JUDGE IN JOSEPHUS' ANTIQUITIES OF THE JEWS

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1. Introduction

The king was regarded as "the supreme legal authority, arbiter of justice, and appellate court" in Ancient Israel, as well as in Mesopotamia.¹ He also had military duties and often went to war himself.² When we examine the nature of these roles with reference to Saul in the book of Samuel, we find that he is depicted as a military leader only, i.e., not as a judge.³ This is contrasted with the figure of David, about whom the book of Samuel explicitly states that "David administered justice and equity (משפט וצדקה) to all his people" (2 Sam. 8:15; cf. 1 Sam. 30:25).⁴

This article will explore the portrayal of Saul as a judge in Josephus' Antiquities of the Jews. It is true that some scholars have previously analyzed

¹ B. M. Levinson, "The Reconceptualization of Kingship in Deuteronomy and the Deuteronomistic History's Transformation of Torah," VT 51 (2001) 511-534 (518). See also M. Weinfeld, "Judge and Officer in Ancient Israel," IOS 7 (1977) 65–88; idem, Social Justice in Ancient Israel and in the Ancient Near East (Jerusalem: Magnes; Minneapolis: Fortress, 1995); K.W. Whitelam, The Just King: Monarchical Judicial Authority in Ancient Israel (Sheffield: JSOT Press, 1979).

² T. Jacobsen, Toward the Image of Tammuz (Cambridge: Harvard University Press, 1970) 143-47; R. de Vaux, Ancient Israel: Its Life and Institutions (trans. J. McHugh; London: Darton, Longman & Todd, 1961) 122; Whitelam, The Just King, 17-37, 194; Gina Hens-Piazza, Of Methods, Monarchs, and Meanings: A Socio-Rhetorical Approach to Exegesis (Macon, GA: Mercer University Press, 1996) 39; P. J. King and L. E. Stager, Life in Biblical Israel (Louisville, KY: Westminster / John Knox Press, 2001) 241; A. K. Thomason, Luxury and Legitimation: Royal Collecting in Ancient Mesopotamia (Aldershot, UK: Ashgate Publishing, 2005) 63.

³ S. Abramsky, *Kingdom of Saul and Kingdom of David* (Hebrew; Jerusalem: Shikmona, 1977) 112; Hens-Piazza, *Of Methods*, 61, 76.

⁴ Some scholars deduced historical conclusions from the differences between Saul and David regarding their judicial system. See, e.g., Wilson: "[T]he reign of David also marked the appearance in Israel of the traditional ancient Near Eastern doctrine that the king is directly responsible for maintaining justice in the land and assuring all citizens equal access to the courts." See R. R. Wilson, "Israel's Judicial System in the Pre-Exilic Period," *JQR* 74 (1983) 242. However, my analysis will concentrate on the literary aspects of the narratives.

Josephus' rewriting of the Saul narratives in the Book of Samuel (*Ant.* 6.45-378).⁵ However, the particular issue of justice with reference to Saul has been discussed either very briefly or altogether ignored.⁶ Did Josephus adopt the critical view of Saul found in the Book of Samuel, or did he moderate this view?⁷

2. Louis Feldman on the Virtue of Justice in Josephus' Rewriting of the Saul Narratives

Louis Feldman adopted a scheme in analyzing biblical characters in Josephus's rewriting.⁸ He tried to show that Josephus emphasizes the cardinal virtues (wisdom, courage, temperance, justice, piety) in his retelling of the biblical characters. When rewriting the law of the king (Deut. 17), Josephus writes that the king must "always have a concern for justice (δικαιοσύνης)" (Ant. 4.223). Many Greco-Roman thinkers also regarded justice as the most important function of the king.⁹ Since "justice" has a broad range of connotations, let us first try to define this term according to Josephus. Justice apparently meant "a detailed knowledge of the ancient laws and traditions." ¹⁰ In the rewriting of Jehoshaphat's narrative, Josephus writes that Jehoshaphat ordered the local judges to "render equitable"

⁵ Citations from Josephus are taken from C. T. Begg, Flavius Josephus – Translation and Commentary, Vol. 4: Judean Antiquities Books 5-7 (Leiden and Boston: Brill, 2005). I wish to thank the Ihel fund for its support in preparing this research.

⁶ P. Spilsbury, *The Image of the Jew in Flavius Josephus' Paraphrase of the Bible* (Tübingen: Mohr Siebeck, 1998) 170-75; L. H. Feldman, "Josephus' View of Saul," C. S. Ehrlich (ed.) *Saul in Story and Tradition* (Tübingen: Mohr Siebeck, 2006) 214-44; D. Dormeyer, "The Hellenistic Biographical History of King Saul: Josephus, A.J. 6.45-378 and 1 Samuel 9:1-31:13," J. Sievers and G. Lembi (eds) *Josephus and Jewish History in Flavian Rome and Beyond*, (JSJSup 104; Leiden/Boston: Brill, 2005) 147-57. See also C. T. Begg, "King Saul's First Sin According to Josephus," *Antonianum* 74 (1999) 685-96; idem, "The Anointing of Saul According to Josephus," *BBR* 16 (2006) 1-24; idem, "The First Encounter Between Saul and David According to Josephus," *AUSS* 44 (2006) 3-11. Even in his essay on Josephus' rewriting of 1 Sam. 21-22, Feldman does not deal with the issue of justice with regard to Saul. See L. H. Feldman, "Josephus' Version of the Extermination of the Priests of Nob (1 Sam. 21, 1-11; 22, 9-23)," M. Mor et al. (eds) *For Uriel: Studies in the History of Israel in Antiquity Presented to Professor Uriel Rappaport*, (Jerusalem: Shazar Center, 2005) 9*-21*.

⁷ L. H. Feldman, "Josephus' Version of the Extermination of the Priests of Nob."

⁸ L. H. Feldman, *Josephus's Interpretation of the Bible* (Berkeley, Los Angeles, and London: University of California Press, 1998).

⁹ On justice in the works of Josephus, see L. H. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* (Ewing, NJ: Princeton University Press, 1996). In this monograph, Feldman also cites sources from the Greco-Roman world. See also F.W. Walbank, 'Monarchies and Monarchic Ideas', *CAH* VII.1 (Cambridge: Cambridge University; 2nd ed. 1984) 62–100.

¹⁰ S. Mason, *Life of Josephus*, Flavius Josephus – Translation and Commentary, Vol. 9 (Leiden: Brill, 2001) 12, n. 48. On the connection between law and justice, see *Ant.* 7.374, 7.384.

decisions for all, recognizing that God sees all that is done, even in secret" (Ant.9.3).

Feldman writes about Saul: "Not only does Josephus emphasize Saul's qualities of wisdom, courage, and temperance; he also cites his sense of justice." He alludes to several paragraphs in Josephus to show that Josephus considered King Saul as pursuing justice:

- 1. According to Josephus, Saul first goes to look for his father's asses in "the territory of his father's tribe, and only later passes over to that of other tribes (*Ant.* 6.46)."12
- 2. The giving of a gift (תשורה) to a prophet (1 Sam. 9:7) might have been viewed as bribery. Josephus therefore emphasizes that Saul and his servant sought to give the present to the prophet unwittingly, being unfamiliar with the local custom (Ant. 6.48).

It is debatable whether these examples present Saul as just.¹³ However, even if these examples are accepted as representing justice, there remain two narratives in the book of Samuel that show the contrary. Before we discuss Josephus' rewriting of these narratives, let us focus on the biblical narratives themselves.

3 1 SAMUEL 14 AND 1 SAMUEL 22: SAUL AS A NON-JUDGE

3.1 SAUL'S VOW AND JONATHAN'S TRIAL IN 1 SAMUEL 14

First Samuel 14 is part of the description of the war between Saul and the Philistines. During the course of the war, Saul curses anyone who will eat until evening, when triumph over the Philistines is achieved (v. 24). However, Jonathan did not hear of this vow, and ate honey (vv. 25-30). When Saul finds out that his son violated his vow, he sentences him to death, but the people save him (vv. 43-45).

The Septuagint to verse 24 reflects a denunciation of Saul's vow: "And Saul was ignorant with great ignorance in that day and he laid an oath on the people." ¹⁴ Indeed, this vow caused trouble and can be compared to

¹¹ Feldman, Josephus's Interpretation of the Bible, 525-26.

¹² Feldman, Josephus's Interpretation of the Bible, 526.

¹³ Spilsbury, *The Image of the Jew*, 170, n. 75. Regarding Saul's search for the asses, Spilsbury claims that Feldman "overstates his case." Moreover, Josephus's addition that "they were in error, due to their ignorance that the prophet did not take recompense" can be viewed as elevating the status of Samuel, and not of that of Saul. See Begg, *Commentary*, 109, n. 175. Begg's interpretation might be supported by the fact the Josephus omits the giving of "ten loaves, some cakes, and a jar of honey" to the prophet in 1 Kgs 14:3 (*Ant.* 8.266–67). The two other cases wherein people bring gifts to a prophet are more complicated in Josephus' rewriting. The Na'aman story (2 Kgs 5) is omitted completely, and therefore we cannot know how Josephus explained it. The other case is in 2 Kgs 8:8. Here Josephus writes: "Azael, joined up with Elissai, along with forty camels, which were bearing the best and most costly gifts from what was in Damascus and the palace" (*Ant.* 9.89). The giving of "the best and most costly gifts" (δῶρα) to a prophet is left unexplained.

¹⁴ καί Σαουλ ήγνόησεν ἄγνοιαν μεγάλην ἐν τῆ ἡμὲρα ἐκείνη καὶ

Jephthah's vow in Judges 11:30-31. This story, where Saul functions as a judge, can hardly be considered a case of royal justice. On the contrary, by using narrative analogies the narrator tries to condemn Saul for both the vow and the near execution of Jonathan. An impression that Saul "was rash and presumptuous in his relationship to Yahweh, and that he tried to manipulate the Divine will through ritual formality" may be gained. ¹⁵ When considering this story as one of the "judicial narratives" ¹⁶, the reader here sees Saul as a non-judge.

3.2 THE MASSACRE OF THE PRIESTS OF NOB IN 1 SAMUEL 22

During David's flight from Saul, he reached Nob, city of priests. He asks Ahimelech to give him food, and is given bread and the sword of Goliath (1 Sam. 21:2-10). Doeg, the Edomite, tells Saul of the secret meeting between David and Ahimelech. Saul summons Ahimelech for a trial in which he blames him for insurgency against the king. Ahimelech tries to explain, but Saul quickly declares that Ahimelech and his family will be executed. None of the king's servants dare kill the priests of Nob. Therefore Saul sends Doeg, who kills 85 people. 17 This narrative contains several condemnations of Saul for his behavior: 18

άρᾶται τῷ λαῷ λπέγων Ἑπικατάρατος ὁ ἄνθρωπος. Translation is according to B. A. Taylor (trans.), New English Translation of the Septuagint: 1 Reigns (Oxford, UK: Oxford University Press, 2007) 258. McCarter sees this plus as original and even preferred over the MT. See P. K. McCarter, 1 Samuel (AB; New York: Doubleday, 1980) 245. He claims that the Hebrew text should be read as follows: ושאול שגה גדולה ביום ההוא.

- ¹⁵ McCarter, 1 Samuel, 251. There are analogies between Saul and Jonathan as well as between Saul and Jephthah and Gideon. These analogies strengthen the negative evaluation of Saul in 1 Samuel 14. D. Jobling, "Saul's Fall and Jonathan's Rise: Tradition and Redaction in 1 Sam 14:1-46," JBL 95 (1976) 367-76; U. Simon, Seek Peace and Pursue It: Topical Issues in the Light of the Bible; The Bible in the Light of Topical Issues (Hebrew; Tel Aviv: Yedioth Aharonot, 2002) 114-76; R. H. O'Connell, The Rhetoric of the Book of Judges (VTSup 63; Leiden: Brill, 1996) 288-89.
- ¹⁶ C. R. Mabee, "The Problem of Setting in Hebrew Royal Judicial Narratives" (Ph.D. diss.; Claremont Graduate School, 1977).
- ¹⁷ I do not intend to deal thoroughly with the many difficulties appearing in 1 Sam. 21-22. See Pamela T. Reis, "Collusion at Nob: A New Reading of 1 Samuel 21-22," *JSOT* 61 (1994) 59-73 with earlier literature.
- ¹⁸ According to Regev, Saul "is nowhere condemned for this act in the Bible." See E. Regev, "The Two Sins of Nob: Biblical Interpretation, an Anti-Priestly Polemic, and a Geographical Error in Liber Antiquitatum Biblicarum," *JSP* 12 (2001) 93. Cf. C. T. Begg, "The Massacre of the Priests of Nob in Josephus and Pseudo-Philo," *Estudios Biblicos* 55 (1997) 171-98. However, this assertion does not correspond with the features of Biblical narratives. "Like a stage play, the OT narratives do more showing than telling. The reader is seldom explicitly told by the narrator how this or that character or this or that action, is to be evaluated." See I. Provan, V. P. Long, and T. Longman III, *Biblical History of Israel* (Westminster / John Knox, 2003) 91. Cf. M. Sternberg, *The Poetics of Biblical Narrative: Ideological Literature and the Drama of Reading* (Bloomington, IN: Indiana University Press, 1985) 103, 122. That means that in evaluating his characters, the narrator may use indirect

- 1. There is an analogy between Saul the way Saul treated Amalek and the massacre at Nob (1 Sam. 15:3//22:19).¹⁹
- 2. The legal procedure in which Ahimelech and the other priests are put to death is irregular: Saul is basing his decision solely on Doeg's testimony, and does not give Ahimelech a real chance to explain himself. ²⁰
- 3. In this story Saul functions as both a prosecutor and a judge. 21

4. JOSEPHUS' REWRITING OF 1 SAMUEL 14 AND 1 SAMUEL 22

After dealing with the biblical narratives themselves, we are now in a position to decide whether Josephus followed the negative evaluation of Saul as judge, or adopted a more sympathetic view.

It is clear that when comparing Josephus to the MT with reference to Saul's vow and Jonathan's trial (Ant. 6.116-28), Josephus departs from the MT in some details.²² However, concerning the motif of a just king, there is no indication that Saul was considered as such by Josephus. Josephus' rewriting praises Jonathan for being brave and the people for their great efforts to save Jonathan.

Josephus expands on Ahimelech's defense regarding the massacre at Nob. Following Ahimelech's speech, Josephus adds an evaluation of Saul's decision to put Ahimelech and the priests of Nob to death, while ignoring Ahimelech's truthful explanation: "for fear is so terrible that it does not believe even a truthful self-defense" (6.259). But Josephus' most significant addition to the MT appears in paragraphs 262-67:

means such as analogies.

¹⁹ M. Garsiel, *The First Book of Samuel. A Literary Study of Comparative Structures, Analogies, and Parallels* (Hebrew; Ramat Gan: Revivim, 1983) 133. See also the commentaries of Brueggemann and Miscall: "It is ironic and telling that Saul refused to execute such massive destruction against the Amalekites (15:9), but now in his deterioration, he will act destructively against his own people." W. Bruegemann, *First and Second Samuel* (Interpretation; Westminster/John Knox, 1990) 160. "Through the hand of a foreigner, Saul perpetrates upon Israelites, priests of the Lord, what he himself did not perpetrate upon foreigners, the Amalekites." P. D. Miscall, *1 Samuel: A Literary Reading* (Indiana University Press, 1986) 136.

²⁰ C. Mabee, "Judicial Instrumentality in the Ahimelech Story," C.A. Evand and W.F. Stinespring (eds.) *Early Jewish and Christian Exegesis: Studies in Memory of William Hugh Brownlee* (Atlanta: Scholars Press, 1987) 17-32.

²¹ Weisman, *People and King*, 39, n. 10 refers here to Livius: "et nunc quereretur eundem accusatorem capitis sui ac iudicem esse" (Titus Livius, *Ab urbe condita* 8.32.9). Translation: "[Fabius found it far from easy to reply to each question in detail], and protested against the same man being both accuser and judge in a matter of life and death." [Livius, *The History of Rome*, trans. Rev. C. Roberts (London: J. M. Dent & Sons, 1905)].

²² See Feldman, "Josephus' Version of the Extermination of the Priests of Nob," and Begg, "The Massacre of the Priests of Nob."

This gives everyone [the opportunity] of learning about and discerning the ways of humans: As long as they are private, humble citizens, incapable of exercising their [true] nature or daring to do as they wish, such persons are gentle and moderate; pursuing only what is just, they devote all their loyalty and solicitude to this. As for the Deity, they are convinced that He is present to everything that happens in life, and not only sees the deeds that are done, but already knows the thoughts themselves from which those deeds will [flow].

When, however, they attain to authority and dynastic power, they set all these things aside. Taking off, like masks on a stage, these habits and manners, they put on audacity, insanity, contempt of things human and Divine.

And now, when piety and justice are especially needed by them who are most exposed to envy with their thoughts and actions manifest to all, then it is that they—as though God no longer saw them or as if He were anxious before their authority—that act without restraint.

What they hear, they fear, or they either willingly hate or cherish irrationally. To them these things seem certain and confirmed, and likewise true and pleasing to both humans and to God, while to the future they give no thought.

[Initially], they honor those who have put themselves out in many ways for them, but having honored them, they then envy them. Having incited them to [gain] renown, they deprive those who had attained it, not only of this, but even, because of it, of life itself, doing so for vile reasons that are unbelievable in their exaggerations. They do not punish deeds worthy of judgment, but rather on the basis of slanders and unexamined accusations. They kill, not those who ought to suffer thus, but whomever they can.

According to the Josephus, the ideal judge is one who seriously investigates the witnesses, and demands strong evidence, especially when human life is involved. This is definitely not the case with King Saul, who commands the killing of the entire city of Nob, basing his decision on "slanders and unexamined accusations." As we saw above, this is precisely how some modern scholars evaluated Saul in this narrative. Josephus uses themes and idioms similar to those he used in his retelling of Saul's war with Amalek in 1 Samuel 15 in order to emphasize Saul's sin in 1 Samuel 22,:

- a. Women and infants were exterminated in both narratives (6. 136 // 6.260).
- b. Both the cities of Amalek and Nob were totally destroyed (6. 136 // 6.262 and 268).
- c. Both narratives tell of one survivor: Agag and Abiathar respectively.

The differences between the narratives are even more telling: While in the war with Amalek, God ordered Saul so exterminate women and infants

(6.136), whereas in the Nob narrative, Saul acted as if God did not see him (6.265).²³

This comparison helps Josephus emphasize the gravity of Saul's bloodshed, i.e., he treated Nob as if they were enemies while sparing the life of Agag,²⁴ when he was ordered not to do so. The city of Nob did not deserve the rightful fate of Amalek's cities.

5. SUMMARY AND CONCLUSIONS

My inquiry has shown that when analyzing Josephus' rewriting of the Bible, it is suggested that scholars first try to fully understand the biblical account in and of itself, appreciate the difficulties found therein, and evaluate the interpretive options. This process can be aided by the use of modern commentaries and studies on the relevant biblical book. Only then can we return to Josephus and analyze his retelling. This method can prevent unsolicited arguments regarding Josephus' retelling of the Bible. Scholars who analyze Josephus must be acquainted with the literary and hermeneutical analysis of biblical narratives. Although we have demonstrated this principle in a particular case, we think that it can be demonstrated in other cases as well.

Returning to the title of this essay, Josephus does not praise Saul for being a just king. It is David who is praised by Josephus for administering justice (*Ant.* 6.153; 6.160; 160; 6.290; 7.110; 7.269; 7.391).

The only exception is the encomium on Saul, where Josephus writes: "He therefore seems to me a uniquely just (δίκαιος), courageous, and prudent man" (6.346). However, this general statement cannot be supported from Josephus' retelling of the Saul narratives. This may be explained if we assume that Josephus entered the motif of justice into Saul's encomium only as a mere literary motif and not as part of his overall understanding of Saul's character. The encomium "is the most common form in antiquity for praising a person according to fixed, regular categories (origins, parents, nurture, virtues, and death)." Josephus fits "into the international atmosphere of the Roman Empire, where it was common for historians and rhetoricians to describe, compare, contrast, praise, slander, and apologize for various cities and peoples." If that is the case, then the motif of justice is not the main issue in Saul's encomium, but rather his

²³ Contrast with Jehoshaphat's orders to the local judges: "They were to render equitable decisions for all, recognizing that God sees all that is done, even in secret" (*Ant.*9.3).

²⁴ This was pointed out also by the rabbis (b. Yoma 22b).

²⁵ Roncace also mentioned this problem in Feldman's studies, albeit from another angle. See M. Roncace, "Another Portrait of Josephus' Portrait of Samson," *JSJ* 35 (2004) 185-207.

²⁶ Jerome H. Neyrey, "Encomium versus Vituperation: Contrasting Portraits of Jesus in the Fourth Gospel," *JBL* 127 (2007) 529-52 (529).

²⁷ David L. Balch, "Two Apologetic Encomia: Dionysius on Rome and Josephus on the Jews," *JSJ* 13 (1982) 102-22 (122).

courage, "knowing his predicted doom, unflinchingly goes out to battle to meet it." ²⁸

Alternatively, it is possible that Josephus tried to soften the negative depiction of Saul in the Biblical version. After all, Saul is the first king of Israel. In order to achieve this end, he added "a lavish encomium."²⁹

In the end of my discussion, I will briefly deal with the question of text that Josephus used in the retelling of the Saul narratives. Different viewpoints exist among Josephus' researchers as to the *Vorlage* that Josephus used when rewriting the Bible. This issue is controversial among scholars and the last word on this subject has not yet been said. 30 Ulrich and others claim that Josephus used the LXX as a basis for rewriting the Book of Samuel. 31 I basically accept the view of Feldman and others 32 that, as far as the Book of Samuel is concerned, Josephus shows clear signs of knowledge of both a Hebrew and Greek versions. 33

²⁸ H. St. J. Thackeray, *Josephus, the Man and the Historian* (New York: Jewish Institute of Religion Press, 1929) 60.

²⁹ H.W. Atttidge, *The Interpretation of Biblical History in the Antiquitates Judaicae of Flavius Josephus* (HDR, 7; Missoula, Montana: Scholars Press, 1976) 114. It seems that Dormeyer ("The Hellenistic Biographical History of King Saul") overstates when he sees Saul as representing the Hasomonean dynasty as well as Josephus' considering himself a legitimate heir to it. Had this been the case, Josephus should have stressed King Saul's virtue of justice or even omit the problematic descriptions of him.

³⁰ See C. T. Begg, Josephus' Account of the Early Divided Monarchy (AJ 8, 212-420): Rewriting the Bible (BETL, 108; Leuven: Leuven University Press, 1993) 271-76; Idem, Josephus' Story of the Later Monarchy (AJ 9, 1-10, 185) (BETL. 145; Leuven: Leuven University Press & Peeters, 2000) 625–26; Feldman, Josephus' Interpretation of the Bible, 23–36.

³¹ E. C. Ulrich, *The Qumran Text of Samuel and Josephus* (HSM 19; Missoula, Mont.:. Scholars Press, 1978); idem, L.H. Feldman and G. Hata (eds.) "Josephus' Biblical Text for the Books of Samuel," *Josephus, the Bible and History* (Detroit: Wayne State University Press, 1989) 81–96.

Monarchy, 105, 125, 164–65, 185, 223, 270, 294, 312, 532, 596, 619, 625. In his articles on Josephus, Begg does not present conclusive conclusions on the question of Josephus' Biblical text, and he admits that it is hard to know what text Josephus used in the particular narratives. And indeed, as G. Sterling has noted, it is "impossible to make a firm case for a specific textual tradition." See G. E. Sterling, "The Invisible Presence: Josephus's Retelling of Ruth," S. Mason (ed.) Understanding Josephus: Seven Perspectives (Sheffield: Sheffield Academic Press, 1998) 109. Étienne Nodet has proposed an interesting suggestion. In his opinion, Josephus is the first translator of the historical books of the Hebrew Bible into Greek. Therefore, one cannot speak of the influence of the Septuagint on Josephus. Josephus' Hebrew text was an authorized copy of the Jerusalem archives. See Étienne Nodet, "Josephus and the Books of Samuel," S.J.D. Cohen and J.J. Schwartz (eds), Studies in Josephus and the Varieties of Ancient Judaism; Louis H. Feldman Jubilee Volume (Leiden: Brill, 2007) 141-67.

³³ I would like to thank the Ihel and Beit Shalom Funds for supporting the research that led to this article.