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Abstract

Although Exodus 18:13–26 is set in the period of desert wandering, scholars have generally understood the text as reflecting the social world of the monarchic period.¹ Some locate it more specifically in the time of Jehoshaphat, who, according to 2 Chronicles 19:4–11, appointed local judges and established a high court in Jerusalem. According to this view, Exodus 18:13–26 was composed as an etiology for the system of royal judges attested in 2 Chronicles 19:4–11. I propose that the structure of the legal world envisioned by Exodus 18:13–26 is much more closely paralleled by that assumed in Ezra 7:12–26, where the Persian king Artaxerxes instructs Ezra to appoint judges who know the Mosaic law. As such, and in light of literary-historical considerations, Exodus 18:13–26 is best understood as a postexilic expansion of Exodus 18. The expanded Chapter 18 now serves as a major bridge in the book of Exodus by summarizing the deliverance from Egypt and anticipating the revelation at Sinai.

According to Exodus 18:13–26, on the advice of his Midianite father-in-law, Moses appointed officials to judge legal disputes.² They shared his

juridical authority by deciding minor cases but referred hard ones to him. Through this system direct access to the highest court was restricted so that the burden of Moses' case load was made more manageable without compromising his unique position. A parallel account of the establishment of the judiciary is contained in Deut 1:9–18 and the texts are generally regarded as having a literary relationship to one another, with

¹Most influentially, Knierim (1961). And see: Childs (1974: 325), Reviv (1982), Schäfer-Lichtenberger (1985), Crüsemann (1996: 83–90), Cook (1999), Meyers (2005: 138–140).

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connections also to Numbers 11:10–30, according to which Yahweh shared Moses' spirit with 70 of Israel's elders.³ In their chapters, Thomas Römer, Konrad Schmid, Christoph Berner, and Daniel Fleming conceive of the book of Exodus as being edited over a long period of time.⁴ I share this conviction. My chapter argues that Exodus 18 was expanded in the Persian period by the addition of vv. 13–26. Ronald Hendel argued in his chapter that the Exodus story was a living tradition that was intimately connected to the contexts in which it was told. Jan Assmann and Israel Finkelstein emphasized the early, northern prophetic context of the story, while Baruch Halpern emphasized its familial setting. For Hendel and Assmann, the story changed according to the milieu in which it was told. My chapter demonstrates such a change to Exodus 18 in the postexilic period. Verses 13–26, I propose, were added to the chapter in the postexilic period and reflect a postexilic understanding of the structure of the legal world.⁵

³ On the literary relationship between the texts, see Rose (1981: 226–257), Van Seters (1985, 1994: 208–219), Blum (1990: 153–163), Crüsemann (1996: 87–88), Johnstone (1998: 257–259), Cook (1999), Schwartz (2009), Schmid (2010: 235), Berner (2010: 424–425, 428–429), Carr (2011: 267), Baden (2012: 141–142), Albertz (2012: 312–313).

⁴ Dozeman expresses caution about pinpointing the precise social setting of the narrative (2009: 409–410). Houtman likewise cites the opinion of several scholars but he argues that it is not possible to reconstruct a precise historical figure behind the figure of Moses in the story (1996: 397–399).

⁵ At the conference where this paper was originally presented, Thomas Römer mentioned to me his student Daniele Garrone, who is writing a dissertation on Exodus 18 and who takes up the question of a possible connection to Ezra 7. Authors writing outside of the historical-critical tradition have also occasionally observed a connection between Exodus 18 and Ezra 7. J.H. Sailhamer posits that Jethro's actions "foreshadow" those of Cyrus (2009: 376). R.H. Isaacs suggests that the judicial system established by Moses was "reinstated" by Ezra (2000: 65). Oswald (2011) compares the extended prophetic role of Moses in Exodus 18:13–27 to that of Jeremiah in Jer 42:1–6 and suggests that both texts refer to the reorganization of Judah in the sixth century BCE.

Legal Administration in Exodus 18 and 2 Chronicles 19

A half century ago, Rolf Knierim (1961) put the traditio-historical study of Exodus 18:13–26 on new footing. While an older generation had imagined various premonarchic traditions lying behind the narrative (Albright 1963; Gressmann 1913: 161–180; Noth 1972: 136–141), Knierim located this etiology of the judicial system firmly in the monarchic period.⁶ Jethro concludes his advice to Moses with the assurance that all the people will return "to their place," in peace (v. 23b).⁷ The reference to each Israelite having their own *קָדוֹם* suggests a social setting after the settlement in the land. Knierim further narrowed the social setting of the text. Exodus 18:13–26 betrays no anxiety over Moses' own authority, which is simply assumed. Rather, the text is concerned with transferring Moses' authority to other judges. In Knierim's view, neither clan elders nor priests of local shrines would have needed such an etiology, but only a newly appointed category of judge. He therefore sought the etiology's background in the changes to the judicial system attributed to Jehoshaphat in 2 Chron 19:4–11. Jehoshaphat, according to the text, reorganized the traditional juridical system by establishing a high court in Jerusalem and appointing local judges throughout the land. Knierim argued that Exodus 18:13–26 was composed in order to lend Mosaic authority to these new, royally appointed judges.⁸

⁶ A useful summary of the main lines of Knierim's argument can be found in Benjamin (1983: 151–154).

⁷ Cf. Noth (1962: 150). To return "in peace," as J. Gerald Janzen notes, means to return "reconciled with one another," i.e., with the legal dispute settled (1997: 130).

⁸ The thesis has been enormously influential. Even where commentators have expressed doubts about a specific connection to Jehoshaphat, they have tended to understand Exodus 18:13–26 as reflecting changes to the judicial system in the era of the monarchy. For example, in dialogue with Knierim's work, Reviv (1982) and Schäfer-Lichtenberger (1985) locate the narrative in the time of King David.

The theory, however, does not adequately explain several features of Exod 18:13–26 and 2 Chron 19:4–11.⁹ I wish to highlight two shortcomings of this hypothesis that will form a backdrop to the alternative I propose.¹⁰ First, in my assessment, Knierim has overestimated the tension in 2 Chron 19:4–11 between centrally appointed royal judges and other forms of legal authority. The chapter portrays a judicial system that is composed of several overlapping and complementary power structures. Rather than a neat hierarchy of judges all having the same type of authority, there are interconnected roles for judges drawn from different sectors of society. By using the preposition *מִן*, v. 8 portrays Jehoshaphat as appointing to the central court some priests and Levites and some of “the

heads of the ancestors of Israel” (v. 8), apparently a term for a traditionally recognized leadership structure based on the language of kinship (cf. Ezra 4:3; 2 Chron 23:2). Jehoshaphat recognized their traditional authority. Furthermore, the judges that Jehoshaphat appointed in the cities of Judah would defer difficult cases to the multi-partite central court (v. 10). In other words, the narrative does not understand the royally appointed judges as operating independently of traditional forms of distributed authority held by clan leaders, priests, and Levites. Royal and traditional authority are portrayed as operating coherently within a single system. In Exod 18:13–26, as I argue further below, juridical authority is portrayed as coming only from the top down with no connection to traditional forms of authority.¹¹ In arguing that only royal judges required an etiology like Exod 18:13–26, Knierim has, in my assessment, overestimated the tension in 2 Chron 19:4–11 between different forms of legal authority and has not fully come to terms with the exclusively top-down approach to authority in Exod 18:13–26.

A second difficulty with the hypothesis is its failure to account for the prominent role Moses’ non-Israelite father-in-law plays in Exod 18:13–26. In 2 Chron 19:4–11, the judicial reforms are initiated by Jehoshaphat, son of Asa, of the line of David. There is no hint in 2 Chron 19:4–11 that the appointment of local judges or the creation of a Jerusalem high court came as a result of foreign influence. Exodus 18:13–26, on the other hand, credits a foreigner with initiating the appointment of local judges. The father-in-law’s foreignness, as I argue further below, is central to Exodus 18:13–26 and is not merely the result of the larger narrative frame. Whether or not one regards as historically plausible the theses of Gressmann, Albright, and Noth, who saw behind the text one form of premonarchic encounter or another, a great strength of their analyses was their recognition of the startling nature of this foreign attribution. In understanding Exod 18:13–26 as an etiology

⁹ Since Knierim’s hypothesis is based on a purportedly shared historical setting assumed by the texts rather than on any literary dependency between them, the historical reliability of 2 Chron 19:4–11 must also be established. The description of Jehoshaphat’s judicial reforms in 2 Chron 19:4–11 has no parallel in the Book of Kings. The main activity attributed to Jehoshaphat here, his establishment of a system of judges, reads suspiciously like an extended wordplay on his name, as Julius Wellhausen pointed out long ago (Wellhausen 1961: 191). While wordplay is a well-known feature of the Chronicler’s work, it is difficult to find another indisputable instance of such an extended wordplay. Pamela Barmash posits the existence of another extended pun in 2 Chron 16:12, this one bilingual. Asa, whose name relates to an Aramaic root meaning to “heal,” reportedly consults healers instead of Yahweh (cf. Barmash 2005: 34). More to the point, Gary Knoppers and Steven McKenzie have shown the pervasiveness of the Chronicler’s hand in 2 Chron 19:4–11 (Knoppers 1994; McKenzie 2007: 309). The pericope is rich with language, themes, and content characteristic of the Chronicler. As such, it was probably composed by him rather than copied from a source. Albright has also highlighted the evidence for the Chronicler’s hand in the text, but reached the opposite conclusion about its historical reliability (1950). Crüsemann argues that the Chronicler here draws on a source (1996: 90–98). See also Japhet (1993: 770–779), Klein (1995, 2012: 271–278).

¹⁰ For a thorough critique of Knierim’s hypothesis, see Cook (1999), Graupner (1999). Cook asserts that Exodus 18 belongs to the same stream of tradition as Deuteronomism and the Book of Deuteronomy (Cook 1999). The structure of the legal system envisioned in Deuteronomy 1:9–18, however, is quite different from that envisioned in Exodus 18:13–26.

¹¹ On the nature of delegated authority in the text see also Janzen (1997: 131), Harkam (1999). Cf. Hoftijzer (2001).

ascribing Mosaic authority to royal judges, Knierim has, in my view, overestimated the role of Moses in the text and underestimated that of Moses' father-in-law.

Legal Administration in Exodus 18 and Ezra 7

I propose that in understanding judicial authority as coming only from a central leader and in attributing the judicial system to a foreigner, Exod 18:13–26 compares better with the structure of the legal world envisioned by Ezra 7:12–26. According to Exod 18:13–26, a single leader, Moses, stands at the top of a single judicial hierarchy. Lower judges are appointed solely on the basis of Moses' authority. He chooses “men of valor, who fear god, men of truth who despise ill-gotten gain,” as though the choice depended solely on individual character. There is no hint in the language used to describe these officials that they have any relationship to traditional structures of governance based on assumed kinship or to priestly or Levitical status.¹² Rather, the judges are described in bureaucratic and military language as “men of valor” and as “commanders”—the latter term, in my view, being taken over from Deuteronomy 1.¹³ Nor is there any room in the system for the existence of

other judges who happen to go unmentioned here. According to v. 14, all the people go to Moses for judgment, and according to v. 22 every dispute is to be settled within the system as it is outlined in the chapter. A similar view of legal authority is reflected in Ezra 7:12–26. According to v. 25, Ezra is instructed to appoint judges and magistrates who “know the laws of God.” As with Exodus 18:13–26, the language used for these judges betrays no connection to traditional forms of authority. While priests and Levites are mentioned in vv. 13, 16, and a variety of temple officials in v. 24, the text does not assign them any judicial role. The exclusive legal authority of judges in Ezra 7:12–26 is highlighted by a comparison to Ezra 10, where elders and centrally appointed judges jointly investigate the marriages of certain Israelites to foreigners. This picture of an ongoing role for traditional leadership based on the language of kinship is also found in Deut 1:15, where Moses confirms the authority of tribal heads (ראשי שבטים) and in Num 11:24, where Yahweh places some of Moses' spirit on 70 of the elders of Israel (שבעים איש מזקני ישראל).¹⁴ In contrast, both Ezra 7:12–26 and Exod 18:13–26 contain an idealized view of judicial power, which is imagined as emanating from a central authority without regard to forms of traditional authority held by elders, priests, or Levites.¹⁵

Both texts also credit a foreigner with the idea for a system of judges. In Ezra 7:12–26, the command to establish a judicial system is given

¹² Cook, following Knierim, argues that the phrase “those who hate ill-gotten gain” implies those who are already in a position to exercise judicial authority (Cook 1999: 296; Knierim 1961: 149–150). Here, I emphasize that the language used is not that of traditional kinship—elders, fathers, ancestral houses, clans, tribes, and so on—nor that of priestly or Levitical status.

¹³ As several commentators point out, the seventh-century BCE Yabneh Yam Ostracoon attests the judicial function of the official known as שר (Sarna 1991: 100; Van Seters 1994: 213 n. 18; Weinfeld 1991: 138). A number of biblical texts likewise suggest the title was used for royal functionaries in the monarchic period (1 Sam 8:12, 13; 1 Sam 22:7; 2 Sam 18:1; 2 Kgs 1:9, 11, 13; Isa 3:3; 1 Chron 12:35; 2 Chron 17:14; but cf. Priestly use of the term in Num 31:14, 48, 52, 54). Their role in the judicial system is discussed in Frymer-Kenski (2003). On the term שר, see also Fox (2000: 158–163). She observes similarities and differences between the function of the

Hebrew שר and the Egyptian *šr* and cites Egyptian texts showing the judicial function of these officials.

¹⁴ Note that Exodus 18:12 recognizes a leadership role for the elders of Israel (ישראל ינקו), though there is no indication that they perform any judicial function. In contrast, compare Exodus 24:14. According to this late gloss, Aaron, Hur, and the elders of Israel take on juridical functions. While MT reads, “all Israel's elders” in Exod 18:12, the Samaritan Pentateuch reads “some of Israel's elders,” with partitive *min* (Propp 1999: 625).

¹⁵ In his analysis of Exodus 18, LeFebvre distinguishes between law that derives from custom and law that derives from divine oracle (2006: 40–47). My analysis here focuses instead on the authority of the individuals who offer judgment.

by Artaxerxes to Ezra in the form of an Aramaic letter. The identification of Artaxerxes as King of Persia in the narrative frame (v. 1) and the fact that the letter is written in Aramaic rather than Hebrew highlight the foreign character of the patriarchal figure who suggests the system of judges. Likewise, in Exod 18:13–26, the suggestion for a system of judges comes from a foreigner, Moses' father-in-law. The peculiarity of this arrangement is brought out by a comparison with the alternative tradition of the establishment of the judiciary in Deut 1:9–18. There, Moses himself was responsible for devising the system of judges. He proposed it to the people, who actively participated in the decisions about whom should serve as judges. That text acknowledges the existence of foreigners and grants appointed judges some legal authority over resident aliens (v. 16), but the system is designed and established exclusively by Israelites. In Exod 18:13–26, on the other hand, the narrative credits a foreigner with the idea for the system of judges.

Furthermore, the foreignness of Moses' father-in-law is not only the result of the larger narrative frame in which the story occurs. Exodus 18:13–26 also highlights the fact that the father-in-law is a non-Israelite by attributing to him idiosyncratic speech patterns.¹⁶ A careful examination of the father-in-law's speech shows that it contains a density of unusual morphological, syntactical, and lexical features. Mordechai Mishor points to several of these (Mishor 2006; cf. Jacob 1992: 507; Greenstein 1999: 160).¹⁷ The narrative frame uses the expression מן הבקר in v. 13, with the preservation of the *nun* before a definite

noun.¹⁸ Such usage is quite normal in standard Biblical Hebrew. The father-in-law, however, uses מן בקר in v. 14, with the preservation of the *nun* before an indefinite noun. The verb נבל (v. 18) is used 18 times in biblical poetry but this is its only use in a prose text. In v. 18 the father-in-law uses the form עשהו where one might better expect עשתו.¹⁹ The preposition מול, itself occurring only 26 times in the Bible, is used in connection with a deity only in Exod 18:19. In v. 20 the father-in-law uses the exceptionally rare אַתֶּם instead of the common form אתם.²⁰ In v. 20 he uses an asyndetic relative clause (הַדִּבְרֵי־לִכּוֹ הַזֶּה), which is a rare construction in prose except in the book of Chronicles.²¹ In v. 21 the father-in-law also uses the verb הזה with the meaning “to choose,” which is otherwise unattested in Biblical Hebrew. In v. 23 he uses the verb בוא with the preposition על instead of the much more common אל, which is used by Moses in v. 15.²² Individually, each of these features might be dismissed as holding no particular significance, but taken together they suggest a deliberate attempt by the narrator to characterize the father-in-law's speech as stilted, unusual, and foreign.

Exodus 18:13–26 and Ezra 7:12–26 thus share two key perspectives that are not shared by any of the other texts usually considered in relation to the establishment of the judiciary—Deuteronomy 1, Numbers 11, and 2 Chronicles 19. At the same time, the texts do not have particularly strong linguistic connections at the level of shared

¹⁶ On the use of dialogue as a means of characterization in biblical narrative, see especially Alter (1981: 79–110). On the use of unusual speech patterns to characterize foreigners in biblical narrative, see Kaufman (1988: 54–55), Rendsburg (1995).

¹⁷ In addition to the features noted below, Mishor argues that the Hiphil of זָהַר, used in v. 20, may be an Aramaic loanword (2006: 228). He points to זָהַר in Ezra 4:22. The form, however, is not widely recognized as an Aramaic loanword.

¹⁸ In v. 13, the definite article is missing from “morning” and apparently also from “evening” in 4QpaleoExod^m (Sanderson 1986: 333).

¹⁹ The latter form is found in Gen 41:32; Exod 12:48; Deut 30:14; Jer 1:12; 23:20; 30:24; Job 23:9; 28:26; 2 Chron 30:3.

²⁰ The form אַתֶּם occurs elsewhere only in Gen 32:1; Num 21:3; Ezek 34:12; 1 Chron 6:50. The form אתֶּם occurs some 285 times.

²¹ On the rarity of this syntactic construction see GKC §155d. 4QpaleoExod^m includes the relative pronoun [ר]אשׁ, but MT is to be preferred as *lectio difficilior* (Sanderson 1986: 334).

²² The Samaritan Pentateuch has substituted אל for MT על (Sanderson 1986: 334).

phraseology and are written in different languages. They do not come from the same scribal hand or school. Rather, they both reflect the same social milieu, in which it was possible to imagine the judicial system as being organized exclusively from the top down and as being initiated by a foreigner. Both texts, in my assessment, date from the postexilic period, whether or not the system they envision was ever implemented.²³ In the monarchic period, official, bureaucratic structures of governance associated with the royal court had always shared juridical and other forms of power with priestly groups and with traditional forms of leadership based on kinship, especially town elders.²⁴ They all functioned as part of a single system. It is only in the post-monarchic period, under the influence of the great empires and after the disruption of traditional modes of life, that biblical scribes came to imagine an exclusively top-down approach to judicial governance like that presented in Exod 18:13–26 and Ezra 7:12–26.²⁵ It is in this period

also that at least some circles sought to lend legitimacy to Israelite systems of law by associating them with foreign sanction.²⁶

Exodus 18 and Literary-Critical Considerations

A postexilic date for Exod 18:13–26 does not contradict linguistic evidence and is supported by literary-critical and traditio-historical considerations. A detailed discussion of the linguistic evidence for dating the text lies well beyond my aims here. In this short pericope, the majority of which is dialogue and some of which may be copied from Deuteronomy 1, there is insufficient linguistic data to characterize the text as being written in Standard Biblical Hebrew or Late Biblical Hebrew, which are only subtly different from one another.²⁷ With

²³ On the difficulty of dating the current form of Ezra 7:12–26, see Pakkala (2004: 49–53).

²⁴ A comprehensive reconstruction of the history of judicial administration in ancient Israel and Judah lies well beyond my aims here. Of interest to the legal historian are several biblical narratives. In Jeremiah 26:8–24, prophets, priests, and royal officials play complimentary roles in Jeremiah's trial. Town elders adjudicate between Boaz and his relative in Ruth 4:1–12. 1 Chron 26:29–32 describes David's judicial system and distinguishes between matters of the King and matters of Yahweh. According to 1 Samuel 15, Absalom sought to undermine David's legitimacy by raising doubts about his administration of justice. Mic 3:9–12 ascribes judicial functions to priests and officials. In a forthcoming article, I emphasize the importance of town elders in the system of legal administration (Russell 2014). I agree with Barmash, who argues, "a great deal of legal authority remained in the local community throughout the First Temple period" (2005: 35). On the history of Israelite and Judahite legal administration, see also Macholz (1972), Wilson (1983a, b), Niehr (1987), Westbrook and Wells (2009: 35–52), Wells (2010).

²⁵ In fact, to judge by Ezra 10:8, 14, where elders have judicial functions, if the idealized system of Ezra 7:12–26 was ever implemented, it must have been implemented very late indeed. Ezra 7:12–26 itself may reflect multiple stages of editorial activity. Pakkala argues that the original text within the unit consisted only of Ezra 7:11a, 12–15, 16b, 19–22 (2004: 32–40). For Pakkala, the

system of legal administration in Ezra 7:25 postdates Ezra 10. On Ezra 7:12–26, see also Grätz (2004). He regards this edict of Artaxerxes as a fictional composition from the Hellenistic period.

²⁶ My thesis here does not depend on a narrow theory of imperial authorization of the Torah as it has been advocated by P. Frei (1984). For an overview of the issues involved, see Schmid (2007).

²⁷ The linguistic evidence for a date for Exod 18:13–26 is equivocal. Propp (1999: 627) considers *יִשְׁפֹּטֵנִי* in v. 26 a late spelling (cf. *תִּעְבֹּדֶנִי* in Ruth 2:8 and *תִּשְׁמֹרֶנִּי* in Prov 14:3). GKC § 47g and Joüon-Muraoka § 44c, on the other hand, attribute the forms to their pausal or prepausal position. Polzin has shown that non-assimilation of *nun* before an indefinite noun is characteristic of Late Biblical Hebrew (Polzin 1976: 66; cf. Rendsburg 1980: 72), but this feature occurs in Moses' father-in-law's speech (v. 14) and may thus reflect a deliberate attempt by the narrator to portray the father-in-law in a particular light. According to Hurvitz, the verb *עָמַד* acquired an expanded semantic range in the postexilic period (1982: 95–96). The use of the verb in v. 23 may reflect this expanded range. Even if this could be shown definitively from the context, however, the occurrence of the word is again in speech attributed to Moses' father-in-law. The noun phrase "men of truth" (v. 21) is used elsewhere only in Neh 7:2, in the singular. There the noun phrase is used in close proximity to "fearer of god" and "commander," both also used in Exod 18:21. As such, one text may be deliberately alluding to the other and this noun phrase in itself cannot therefore constitute an argument about linguistic dating. Rose had pointed out that Exodus 18 speaks of *torot*, in the plural, not Torah, in the singular (1981: 229).

regard to literary-critical and traditio-historical considerations, I limit myself to brief observations on the relationship of Exod 18:13–26 to Deut 1:9–18 and Num 11:12–30, the relationship of Exod 18:13–26 to Exodus 18 as a whole, and the relationship of Exodus 18 to the structure of the book of Exodus.

Exodus 18:13–26 is widely regarded as containing thematic and linguistic similarities to Deut 1:9–18 and Num 11:12–30. In my view, the connections to Num 11:12–30 are not particularly strong. Although Exod 18:13–26 and Num 11:16–17, 24b–30 are both interested in the nature of Moses' leadership, there is in Exod 18:13–26 no sense that appointed leaders will share in Moses' spirit. Nor is there any sense that Numbers 11 has legal administration as a concern of leadership. Rather, Num 11:16–17, 24b–30 shares much more in common with Deut 1:9–18 than it does with Exodus 18:13–26.²⁸ At most, Exodus 18 and Numbers 11 share the use of the root כָּבַד to

describe the essential problem being addressed: the responsibility is too heavy for Moses. But the root is too common in Biblical Hebrew to serve as evidence of direct literary borrowing in one direction or another (Carr 2011: 268 n. 33). In sum, Num 11:12–30 and Exod 18:13–26 do not share particularly strong linguistic or thematic links.²⁹ There is little reason to posit that one text is literarily dependent on the other.

The connections between Exod 18:13–26 and Deut 1:9–18 are considerably stronger. They share the same essential problem: the people are too many. And they share the same solution: Moses appoints a tiered structure of officials to carry out judicial functions. Furthermore, the literary connections between the texts are palpable. Both texts contain the phrase “officials of thousands, officials of hundreds, officials of fifties, and officials of tens.”³⁰ Between them, the two chapters share the only three occurrences of this extended noun phrase in the Hebrew Bible. Yet, there is no syntactic reason for considering one occurrence more fitting to its context than the other. There is also close resemblance between Exod 18:26, “the hard matter they would take to Moses” and Deut 1:17, “the matter which is too hard for you, you shall bring near to me.” But again, there is no grammatical reason to posit one particular direction of dependence over the other.³¹

But the plural, which is relatively rare throughout the Bible, is used also in Dan 9:10; Neh 9:13. In sum, there is insufficient data to make a strong linguistic case for a date for the text.

²⁸ David Carr concisely summarizes scholarly treatment of Numbers 11 (Carr 2011: 267). The chapter has long been viewed as having two principal layers. The main narrative concerns the people's murmuring about the lack of food and Yahweh's provision of quail. A second layer concerns the distribution of Moses spirit to 70 of the elders of Israel in vv. 16–17, 24b–30 and perhaps also includes Moses' complaint in vv. 11–12, 14–15. Carr cites Blum (1990: 82–84) and Baden (2009: 108–109) as regarding all of Moses' complaint in vv. 11–12, 14–15 as belonging to the same layer as the elders story in vv. 16–17, 24b–30 and Sommer (1999: 611–612) as regarding none of it as belonging to the same layer. Both Numbers 11 and Deuteronomy 1 have a common setting at the departure from Horeb/Sinai and both contain the theme of Moses' ability to bear the burden of the people. Carr, drawing on the work of Martin Rose (1981: 226–257), notes that Num 11:16–17, 24b–30 conforms to the murmuring story structure of the quail episode and as such should be viewed as a harmonizing expansion to Numbers 11 that drew on Deut 1:9–18. While some case can be made for the dependence of Num 11:16–17, 24b–30 on Deut 1:9–18, however, there is no basis for establishing a direction of dependence, if there is any, between Num 11:16–17, 24b–30 and Exod 18:13–26. On Moses' role as intercessor in relation to these texts, see Aurelius (1988: 180–183).

²⁹ Contra Childs (1974: 324–325) and Seebass (2002: 43).

³⁰ Although officials were evidently responsible for varying numbers of individuals, they are not envisioned in the narrative as reporting to one another up a chain of command. Rather, to judge by vv. 22, 26, the system imagines only two tiers of judges: Moses and officials. Any case that is too difficult for the officials is passed on to Moses directly.

³¹ Although Edward Greenstein (1999) has argued that the root כָּבַד is a *Leitmotif* in Exodus 18, the root is very common in Biblical Hebrew and is no more at home in Exodus 18 than in Deuteronomy 1, where it occurs 18 times, five of which are in vv. 9–18. The root is used in both the Covenant Code (e.g., Exod 22:8) and in the Deuteronomistic Code (e.g., Deut 15:2) with the technical meaning “legal case.” The word thus offers little reason for suggesting one direction of dependence or another between Exodus 18 and Deuteronomy 1.

Thematic evidence, though not definitive, suggests that Deut 1:9–18 may have been the original text. John Van Seters notes that Deut 1:9–18 is explicable entirely on the basis of the Deuteronomistic Code.³² In Deut 16:18–19, the people are commanded to appoint tribal judges and officials in every city gate and are charged with executing justice without partiality. According to Deut 17:8–13, a legal case which is too baffling to judge must be brought to a central court consisting of Levitical priests and a judge. Deuteronomy 1:9–18 can thus be explained as a Deuteronomistic reflection on the themes of the Deuteronomistic Code that retrojects legal structures and procedures from the Code back into the time of Moses himself. In contrast, Exod 18:13–26 is isolated thematically from its context. Outside of Exod 18:13–26 and a late gloss about the temporary delegation of legal authority to Aaron and Hur in Exod 24:14, the themes of legal administration that I have been discussing are not taken up directly in the book of Exodus nor in the non-Priestly material in the Pentateuch.³³ In light of these considerations, it seems more likely that Exod 18:13–26 is literarily dependent on Deut 1:9–18, which is, in turn, based on the themes of the Deuteronomistic Code, rather than the other way around. At the same time, this line argument should be regarded as suggestive rather than conclusive.³⁴

³² In Deuteronomy 1, the problem is the number of the people, a theme also found in 1 Kgs 3:8–9.

³³ Propp notes that Exod 24:14 is marked as an editorial insertion by the resumptive repetition, “Moses ascended the mountain” in vv. 13, 15 (2006: 299). Note also that in Numbers 25:5, traditionally considered non-Priestly, the “judges of Israel” execute Moses’ sentence of death upon their men who attached themselves to Baal-Peor. The theme of fair judgment is taken up in the Holiness Code in Lev 19:15. In the Priestly text Num 35:24, the whole community is involved in judgment.

³⁴ M. Rose proposed that Number 11 is dependent on Deuteronomy 1, which is in turn dependent on Exodus 18 (1981: 226–257). For J. Baden, Deut 1 is dependent on both Exod 18 and Num 11 (2012: 141). It seems implausible to him that Num 11 and Exod 18, which describe separate events in Israel’s past, should both be derived from a single episode in Deut 1. I do not share his skepticism in this regard. Crüsemann argues that a stronger case

Let us turn, then, to the relationship of Exod 18:13–26 to Exodus 18 as a whole. Form critics of Exodus 18 have viewed the narrative’s structure as key to understanding its traditio-historical background.³⁵ The story’s main events occur over two days, with quite distinct activities on each. On day one, Jethro meets Moses in the desert, listens to all that Yahweh had done for Israel, and celebrates a feast to God. On day two, Moses’ father-in-law observes Moses administering justice to all the people and recommends a new system of judicial administration, which is adopted. In addition to the thematic contrast between the two halves there are important distinctions in terminology. In vv. 1–12, Jethro’s name is used seven times and the title father-in-law is used three times, somewhat interchangeably. In vv. 13–26, however, the character is referred to only as Moses’ father-in-law and the name Jethro does not appear.³⁶ Likewise, the noun אלהים and the divine name יהוה are both used in vv. 1–12, while only אלהים

can be made for literary stratification in Deuteronomy 1:9–18 than in Exodus 18:13–26 (1996: 87–88). However, Deut 1:9–18 reads sensibly as a unit.

³⁵ For Hugo Gressman, the events now recounted as part of day one were originally an etiology of the Yahweh cult at Kadesh, to which, he believes, the narratives were originally attached (1913: 161–180). On the other hand, the events now recounted as part of day 2 were originally an etiology of a dual system of justice based on lay judges and priestly oracles. For Gressman, Jethro’s role as instructor brought the two originally independent tales together. Along related lines, Noth believed that the figure of Moses’ father-in-law had brought the two traditions together and that the cultic tradition was more central than the legal one (1972: 136–141). According to Noth, behind Exodus 18:1–12 lay a tradition of pilgrimage to a mountain held sacred by both Midianites and some early Israelites. Childs also notes the tenuous connection of the tradition about legal administration to Midian (1974: 326). See also Albright (1963, 1968: 39–42, 1970). On Midianites-Kenites as possible bearers of early Yahwistic traditions, see also Blenkinsopp (2008).

³⁶ Cf. Schäfer-Lichtenberger (1985: 61), Albertz (2012: 299). In v. 14, LXX reads “Jethro,” where MT, 4QpaleoExod^m, and the Samaritan tradition all read “father-in-law of Moses” (Sanderson 1986: 333; Propp 1999: 626).

appears in vv. 13–26.³⁷ Given these linguistic and thematic differences between vv. 1–12 and vv. 13–26, I agree with an older generation of form critic that understood the two halves of the chapter as having different traditio-historical backgrounds. At the same time, the chapter reads sensibly as a whole. It opens with Jethro hearing all that God had done for Moses and for Israel and it closes with him departing for his home. Furthermore, vv. 13–26 offer no explanation of how Moses’ father-in-law reenters the narrative after such a long absence. As such, vv. 13–26 seem to assume the existence of vv. 1–12. These apparently contradictory observations are easily reconciled on the hypothesis that vv. 13–26 constitute an expansion of vv. 1–12, 27 (so also Berner 2010: 406–429).³⁸ In my view, the expansion was partly based on material from Deut 1:9–18 but it reflected a fundamentally different view of the structure of legal administration than that text.

Finally, I offer some brief observations on the relationship of Exodus 18 to the book as a whole. E. Carpenter has shown that the chapter sits at a transitional point in the book (Carpenter 1997).³⁹

³⁷ There is some variation in the manuscript traditions in the language used for the deity. In v. 1, MT reads “God,” while a Genizah manuscript, LXX, and the Targumim read “Yahweh” (Propp 1999: 624).

³⁸ The opening words of v. 13, וַיְהִי כִּשְׁמֹעַת, may have belonged to the original narrative. Verses 3–4, which contain the names of Moses’ sons, contain awkward grammatical shifts in subject. They may also contain later material. On the redaction history of the chapter, see Berner (2010: 406–429). Berner posits some ten redactional layers in the chapter. I am more cautious than he is about the ability of scholarship to reconstruct the many layers of the text. Schäfer-Lichtenberger argues that a basic narrative in Exodus 18 was supplemented by three additions: vv. 15b, 20b; vv. 16b, 20a; and vv. 21b, 25b (1985).

³⁹ Carpenter writes, “Exodus 18 is perhaps the major transitional chapter in the book of Exodus, summarizing the past events (Exod. 1–17) and preparing for the coming revelations at Sinai (Exod. 19–40). To be sure, there are other transitional passages (e.g., 1.1–7; 15.22–24). But ch. 18 seems to be the major hinge in the structure of the total composition, serving both as a prologue and an epilogue” (1997: 91–92). In my view, Carpenter has not adequately accounted for the several chapters devoted to the

The first half of the chapter recapitulates the deliverance of the people from Egypt narrated in the preceding chapters while the second half anticipates the revelation of God’s law from Sinai as reported in the chapters that follow. The relationship of Exodus 18:1–12, 27 to the material that precedes can be refined further. Konrad Schmid, drawing on the work of Erhard Blum, has noted that the chapter has particularly close affinities with Exodus 3–4: the name Jethro, the term “mountain of God,” the description of the exodus as an act of Yahweh’s goodness (טובה) and as his deliverance (Hiphil of נצל), and the use of the definite article with God (האלהים) (Schmid 2010: 235; Blum 1990: 360–365). For Schmid, Exodus 18 belongs to a post-Priestly redactional layer that included Exodus 3–4, a layer that he dates to the early fifth century BCE. Setting aside the use of the definite article with God, which is too common in the Pentateuch to be diagnostic in and of itself, I would point out that the connections to Exodus 3–4 occur only in vv. 1–12, 27.⁴⁰ Exodus 18:13–26 is linguistically and thematically quite different, as I have noted above. If vv. 13–26 is indeed an expansion to vv. 1–12 + 27, then it would be later than Schmid’s post-Priestly redactional layer.

Exodus 18:13–26 looks forward to the revelation at Sinai.⁴¹ Edward L. Greenstein (1999) has shown how the narrative has artfully deployed the leitwort דבר, generally, “thing, word, matter,” but used at times in Exodus 18 with the more narrow meaning “legal case.” In his view, it serves to introduce the motif of the “words of

description of the tabernacle (Exod 25–40). On the bridging function of the chapter, see also Smith (1997: 228–231), Propp (1999: 633–634), Meyers (2005: 136), Schmid (2010: 235 n. 447). On Exodus 18 as a prologue to Exodus 19–24, see Cassuto (1967: 211). See also Frevel (2003), Römer (2009).

⁴⁰ Compare Frevel (2003: 5–20).

⁴¹ In this regard, Erhard Blum is correct in asserting that Exodus 18 was inserted only after the Priestly editors had finished the beginning of the Sinai pericope in Exodus 19 (Blum 1991: 54–56, 2006: 94 n. 18).

Yahweh,” in chapters 19–33.⁴² To my mind, as a prologue to the revelation at Sinai, Exodus 18:13–26 performs at least three functions. First, it addresses one major shortcoming of the Covenant Code, namely the lack of a mechanism for the implementation of the laws it contains. Second, it reminds the audience that although the revelation at Sinai in 34:16 includes an injunction against marrying foreign women, even Moses himself, at the very genesis of the judicial system, had a foreign wife. As such, the narrative in its current form can be interpreted as advocating a different response to foreign marriage than Ezra 7–10.⁴³ Third, although Aaron and the elders of Israel play important leadership roles in Exodus 24, the prologue in Exod 18:13–26 establishes the priority of another kind of judicial system. That system, like the one described in Ezra 7:12–26, had an exclusively centralized structure rooted in administrative terminology and was implemented on the advice of a foreigner.

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⁴² On the theme of God’s mighty acts in the chapter, see also Houtman (1996: 394). Cf. Dozeman (2009: 408), Cassuto (1967: 222).

⁴³ Whatever meaning the emphatic וַי in v. 27 may have carried in the original narrative, before the addition of vv. 13–26, in its current context it reads as though Moses’ father-in-law leaves by himself, without Moses’ wife and children, who apparently remain with Moses. Contrary to the procedures narrated in Ezra 10, even Moses kept his foreign wife with him. 4QpaleoExod^m and LXX omit וַי in v. 27 (Sanderson 1986: 334). On וַי with ו, cf. 1 Sam 26:12 Jer 5:5; Song 2:11. On varying biblical attitudes towards outsiders, see Leveen (2010).

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