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Why the Deuteronomist Told about the Sacrifice of Jephthah's Daughter

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Abstract

In response to Thomas Römer's assertion that the story of Jephthah's sacrifice is a Hellenistic insertion into the Deuteronomistic History, this article argues that the presence of the story is best explained as an original part of the history. The portrayal of the sacrifice fits the pattern of moral decline in the book of Judges, and it forms an integral and interconnected part of the story of Jephthah as a whole. Moreover, as part of this whole it reflects an important theme stressed elsewhere by the history: when Israel sacrifices like foreigners do, it will act like foreigners, as well. This is why the story of Jephthah's sacrifice is followed immediately by the story of the tribe of Ephraim, which acts just like the Ammonites, the foreign nation in this account, by invading Gilead.

A. Introduction

The title and content of this article are, to some degree, a response to the content and title of Thomas Römer's article, 'Why Would the Deuteronomists Tell about the Sacrifice of Jephthah's Daughter?' (Römer 1998). Römer's answer to his title's question was that the Deuteronomists would not tell such a story, finding it odd that the Deuteronomistic History (or Dtr) would simply accept human sacrifice, since it violates the law of Deuteronomy and since the History elsewhere does not look favourably on this particular type of ritual. He also finds it 'hard to believe' that an inspired saviour of Israel would be involved with human sacrifice, and thus concludes that Judg. 11.30-31, 34-40—the parts of the Jephthah story

that deal directly with the sacrifice—could not be Deuteronomistic. He argues instead that the author of this portion of the text knew the Iphigenia tradition and thus that this is a Hellenistic insertion. The story of Jephthah's sacrifice, writes Römer, criticizes the prevailing theology of Dtr by critiquing the Deuteronomistic belief that the reasons for punishment and disaster are remarkably clear. Rather like Qoheleth, writes Römer, the author of this insertion 'sacrifices the Dtr ideology of divine pedagogies' (Römer 1998: 38).

I want to argue here that we can show that the story of Jephthah's sacrifice actually fits quite well into Deuteronomistic theology or ideology, as well as into the Deuteronomistic structuring of the book of Judges and the story of Jephthah as a whole (Judg. 10.6–12.7). We thus need not argue that the part of the story that deals with the sacrifice itself is a Hellenistic or any other kind of insertion into the History. Yet Römer, like other scholars, points to the apparent incongruity of this story in its Deuteronomistic context: Jephthah is a saviour of Israel inspired by God who sacrifices his own daughter to YHWH, even though such an act so clearly contradicts proper cultic practices in the eyes of Dtr. It is perhaps because the story of the sacrifice seems so odd in Dtr that scholars have proposed quite a number of different morals that they believe readers are supposed to draw from it. Robert Boling argues that Jephthah's willingness to undertake the sacrifice that results from his vow reveals his 'integrity' (Boling 1975: 210). On the other hand, David Marcus claims that the moral of the story is not to vow rashly, and thus that this is a story that relies, in part, on the impropriety of the judge's vow (Marcus 1986: 54–55). Closer to the conclusion of Römer, Robert Polzin sees the story as reflecting on the limits of the clear ideology of punishment with which the Deuteronomistic Historian began Judges (Polzin 1980: 210). Barry Webb understands the moral of the story of the sacrifice as censoring 'the tendency to accommodate religion to political norms' (Webb 1987: 74), while others see it as pointing to the refusal of both Israel and its leader to take responsibility for their actions (Klein 1988: 95–96), or to the need for Israelites to sacrifice their autonomy, just like Jephthah's daughter (Exum 1993: 139). In his study of vows in the Old Testament, Tony Cartledge suggests that it functions only to make 'a wonderful, if heart-wrenching story' (Cartledge 1992: 185).

There are, of course, many ways in which to define the meaning of a text, and all of the above are, in one way or another, attempts to locate authorial intention. I want to argue here that to determine if Dtr really included the story of the sacrifice and, if so, why the Historian included it,

we are going to have to do three things: account for the various parts of the story of Jephthah in Judg. 10.6–12.7; show how this story as a whole fits into Dtr's narrative in the book of Judges; and discover whether or not it reflects one or a number of main theological motifs in the History in its entirety. This article will do all three, and thus will give a different answer to Römer's title question than Römer did.

In locating the Deuteronomist's intention for the story of Jephthah's sacrifice of his daughter, I will argue that it clearly reflects Dtr's most important theological motif: when Israel worships like foreigners, it will act like foreigners. In the worldview of Dtr, if Israel worships foreign gods or worships YHWH in the manners in which the Canaanites worshipped their gods, the nation will also act in the evil ways in which foreigners act. For Dtr, foreign worship and disobedience of the law go hand in hand, and our Historian has structured the Jephthah story to show that Jephthah, Israel's leader, sacrifices like a foreigner, even though the sacrifice of his daughter is offered to YHWH. This wrong or foreign sacrifice in 11.30–40 is immediately followed by the story of an Israelite tribe attempting to do what the foreign nation in the Jephthah story does: annex land that God has given to the Transjordanians (12.1–6). I will argue, in fact, that Dtr includes a number of the seemingly odd aspects of the story—the unique negotiation between a judge and the foreign invader (11.12–28), the sacrifice itself, and Ephraim's war against the Transjordan—in order to make precisely this point. The Deuteronomist tells the story of Jephthah's sacrifice of his daughter primarily to show yet again that foreign sacrifice accompanies the exercise of foreign morality within Israel. This will be the focus of section C. Moreover, in section B I will argue that the story fits quite well into one of the dominant structuring motifs of the book of Judges: the decline of Israel and its judges. Israel's character and that of its saviours progressively decline throughout the book, as their cultic and moral actions become progressively foreign. This explains the odd opening of the Jephthah story with its long lists of foreign gods whom Israel has worshipped, as well as YHWH's initial denial of salvation to Israel after the Ammonite invasion (10.6–16).

So Jephthah's foreign sacrifice and Ephraim's imitation of the invading foreign nation are both part of the decline of Israel and its judges in the book, as well as another Deuteronomistic example of the intersection of Israel's moral and cultic lives. We can thus explain the place of Jephthah's sacrifice of his daughter in the theology of Dtr as a whole, in the way Dtr has structured Judges, and in the way Dtr has constructed the story of Judg. 10.6–12.7. Since we can explain why the Deuteronomist would tell

the story of this sacrifice, we need not assume a later interpolation. Moreover, it makes it easier to determine the meaning the author wanted to convey through the inclusion of the story of the sacrifice when we can pinpoint how the recounting of this ritual act fits into Dtr's larger structural and theological goals on the level of the Jephthah narrative, the book of Judges, and the History as a whole. I should add as a final introductory note that I share Burke Long's suspicion that it is possible to discern layers of redaction within Dtr itself (Long 1984: 16-18), and thus I conceive of the Deuteronomistic History as the work of a single exilic hand. The story of Martin Noth's original hypothesis of a Deuteronomistic Historian and its later modifications by scholars who saw layers of redaction within it is well known, and I will not repeat it here.¹ Nonetheless, there are scholars who reject attempts to isolate redactional strata in Dtr.² Those not in agreement with this position can read this article as a study of a story within the final form of the History.

B. Jephthah's Sacrifice and Israel's Decline in Judges

The first defence of the Jephthah sacrifice as a production of Dtr lies in establishing its place within the Deuteronomistic structure of Judges. It is well known that the stories of the major judges or saviours in the book, from that of Othniel in Judg. 3.7-11 to that of Samson in chs. 13-16, all follow what is often called the cycle of disobedience. As outlined in 2.11-23—as well as by the brief account of Othniel's judgeship which consists solely of this cycle with no additional information—it consists of Israel's worship of foreign gods, divine punishment manifested in the form of a foreign invasion, a cry for aid, the divine appointment of a judge to rescue the nation, and a statement of how many years the land had rest. It is known as a cycle, however, for the apostasy begins anew after the death of each saviour. Yet this is not the only theological motif that structures Judges, for a number of scholars have rightly pointed out that the book is also shaped by a continuing decline of the characters of Israel and its judges, even beyond the period of Samson, as the apostasy continues.

1. One of the best and most recent summaries of it, however, may be found in Römer and de Pury 2000.

2. Besides Long, other scholars have argued that the History is the work of a single hand (e.g. Hoffmann 1980; Van Seters 1983; Peckham 1985). Steven McKenzie's argument is like that of Noth's, who saw a composition by an original historian with some later interpolations (Noth 1981; McKenzie 1991, 2000).

Judges 2.19, within the very introduction to the cycle of disobedience, states that each time the Israelites acted even worse than their ancestors, and this is borne out in the stories of the judges who follow. Dennis Olson argues that the six major judges become progressively less effective and less faithful, while Israel's acts become more evil, the descriptions of its oppression longer, and the years of peace under each judge fewer. The judges are progressively less able to bring out troops for battle, and at the end Samson will fight alone (Olson 1998: II, 762-64, 831-32).

Perhaps it is best to say that the decline is most clearly seen by the time we reach the story of Gideon, the fourth saviour. By this time, YHWH does not immediately raise up a judge for Israel following its cry for help, but first sends it a prophet to remind the nation of its failure to worship YHWH despite the saving acts of God in the past (6.7-10). The foreign invasion here, moreover, produces results more dire for Israel than the previous ones (6.2-6). When we reach the story of Jephthah, the major saviour who follows Gideon, the description of Israel's apostasy is far worse than it has been before, as we shall see, and Jephthah survives to judge Israel for only six years (12.7). While Gideon did not lack troops, the story of Deborah, the saviour who preceded him, states that not all of the tribes came to fight the invaders (5.14-18), and Jephthah commands only the two and a half tribes of Gideon (11.29). Samson, as Olson points out, fights without any participation from his compatriots. In fact, after the stories of Jephthah and Samson the text does not even say that 'the land had rest', as it did after the narratives of the other saviours (Fewell 1992: 73). Lee Humphreys calls this pattern in the book one of 'increasing disintegration' (Humphreys 1989: 94). Cheryl Exum does not see this as careless redaction but as a deliberate picture of the political and moral dissolution of Israel. 'By the end of the story of Samson', she writes, 'the cyclical pattern of punishment/deliverance has broken down' (Exum 2000: 581). The disintegration of Israel's character becomes even more evident in the section of the book that follows the tales of the judges, where we encounter a story of a Levitical grandson of Moses who leads Israel in idolatry (chs. 17-18), and one of a gang rape and murder that results in a civil war (chs. 19-21). By this time, notes Dtr, apostasy and anomism were so entrenched among the people that 'all people did what was right in their own eyes' (17.6; 21.25).

This decline is evident in the actions of the judges themselves—Gideon, the saviour before Jephthah, not only has difficulty believing that YHWH can deliver Israel (6.11-40), but also leads Israel in idolatry (8.22-27), while Samson, the saviour following, arranges a marriage with a Philistine

woman (14.1-20), has sex with a Philistine prostitute (16.1-3), and falls in love with a Philistine woman (16.4). (Dtr prohibits intermarriage with the peoples of Canaan because, in the Deuteronomistic worldview, this leads to apostasy [Deut. 7.1-6; Judg. 2.6-3.6, esp. 3.6].) Jephthah's sacrifice of his daughter thus fits nicely in this decline. In the lawcode of Deuteronomy, the very first laws command a centralization of worship (Deut. 12.5-14, 17-19, 26-28), and insist that Israel not worship YHWH in the manners that the foreigners in Canaan worship their gods (12.1-4, 29-31). The only example given here of an illicit Canaanite ritual—perhaps we could say the example *par excellence*—is the immolation of one's children to the gods (12.31; cf. also 18.10). This is also an act that Dtr condemns as among the failings of Israel and its kings (2 Kgs 16.3; 17.17; 21.6). Jephthah's sacrifice of his daughter is obviously a sin from the Deuteronomistic point of view, and so in this context it is hardly something that YHWH would accept.³ Nor is this the only way that this act is a sin in the eyes of the Deuteronomist. Jephthah makes the vow that results in the sacrifice of his daughter before the battle with the Ammonites, the country God had used to punish Israel through invasion. His vow was specifically connected with victory in battle: 'If you [YHWH] surely give the Ammonites into my hand, the one going out who goes out from the doors of my house to greet me when I return in peace from the Ammonites will belong to YHWH, and I will burn it up as a burnt offering' (11.29-30). Yet earlier in the story Jephthah had engaged in negotiation with the Ammonites, and concluded his diplomatic message with a call to YHWH to decide the question of whether the Transjordan belonged to Israel or Ammon: 'May YHWH, the judge, judge this day between the Israelites and the Ammonites' (11.27). Since YHWH's decision is rendered in the battle Jephthah fights against Ammon, the vow acts as an attempt to bribe the God whom Jephthah had specifically invoked earlier as judge to decide the issue (so also Webb 1987: 64; Olson 1998: II, 832), even though the Deuteronomic lawcode specifically forbids the bribing of judges (16.19; 27.25) and its introduction states that YHWH cannot be bribed (10.17).

Dtr shares the common ancient Near Eastern idea that vows must be fulfilled or else calamity will strike the one who swore it (Cartledge 1992:

3. Most scholars who comment on this passage, however, understand the narrative as implying that God accepts the sacrifice. So, for example, Boling 1975: 209; Polzin 1980: 180; Soggin 1981: 218; Tribble 1984: 97; and Exum 1995: 75. This may well have been the point of view of the story's pre-Dtr setting, but Dtr's stance on child sacrifice is beyond doubt.

85-90), as a passage such as Deut. 23.22-24 (21-23) makes clear.⁴ Yet in the History, 'obeying is better than sacrificing', as Samuel says to Saul after an attempted sacrifice which the king wished to perform for YHWH that contradicted YHWH's strict instructions (1 Sam. 15.22). This attempt at sacrifice costs Saul his kingship (15.23, 28), and this condemnation derives not from his sacrificial preparations per se, but because they disobeyed YHWH's command, just as his historical performance in 1 Sam. 13.2-15.⁵ Dtr teaches a similar lesson in 1 Sam. 2.12-36, where the sacrifices to YHWH that Eli's sons improperly perform result in the Elides' loss of the priesthood. YHWH says to Eli, 'I had surely promised that your house and the house of your ancestor would walk in and out before me forever, but now—an oracle of YHWH—far be it from me' (2.30). And YHWH soon says further to Samuel, 'I have sworn to the house of Eli that the iniquity of the house of Eli will not be covered with sacrifice or with offering forever' (3.14). It is not the mere act of sacrifice that is necessary in Dtr, because Israel must perform it according to the stipulations of YHWH and not as it pleases. Dtr does not imply that there was anything improper with the way Saul performs the sacrifices of 1 Samuel 13 and 15, but does state in both cases that they were unacceptable because his performance of them directly contradicted God's command. Sacrifice, even sacrifice to YHWH rightly performed, is not what is most essential in Dtr. More important is understanding and doing the command of YHWH, and the question of child sacrifice is hardly a borderline issue. Jephthah's vow should never have been made in the first place since it was, in reality, an illegal bribe; yet after it was made, Jephthah was certainly under no obligation to fulfill it and thus augment his sin. Obeying is better than sacrificing here because, as in the case of Saul, Jephthah had a direct command from YHWH—in his case in the form of Deuteronomic law—that obviated the sacrifice. In Dtr's eyes, when Israel wishes to sacrifice, it has an

4. This reads, in part, 'If you vow a vow to YHWH your God, do not delay in fulfilling it, for YHWH your God will surely seek it out from you, and it will be a sin for you'. Tony Cartledge points out that in the ancient Near East what was vowed was considered to be the god's property, and thus failure to fulfill it led to punishment and disaster. One Akkadian example that he cites states that a man who has failed to pay his vow has caused the sickness of his entire family, and that the gods might unleash demons on his household (Cartledge 1992: 88-89).

5. The punishment in that instance was the loss of a dynastic house. In 13.13-14 Samuel tells the king, 'YHWH had established your *kingship* over Israel forever, but now your *kingship* will not stand'. In 15.28 the prophet tells Saul, 'YHWH has torn the kingship from you'.

obligation to do so in a manner that does not, unlike the sacrifices of Saul, the Elides and Jephthah, contradict the will of YHWH.

And while Jephthah's sacrifice is part of the Deuteronomistic story of the decline of Israel's judges, it is worthwhile to point out that the story of Jephthah as a whole is a part of the story of Israel's decline. In the first place, the very opening to the story in 10.6-16 varies to a noticeable extent from the opening of the stories of the previous major judges. The first few elements of the normal cycle of disobedience are here—Israel worships foreign gods, it is punished by invasion, it cries out for help (10.6-10)—but the first aspect has been altered. Whereas the previous stories said merely that 'the Israelites did [or, continued to do] what was evil in the eyes of YHWH' (3.7, 12; 4.1; 6.1), and whereas only the first of the stories mentioned what this evil was ('they served the Baals and the Asherahs'; cf. also 2.11, 13), 10.6-7 states that the Israelites 'served the Baals and the Asherahs and the gods of Aram and the gods of Sidon and the gods of Moab and the gods of the Ammonites and the gods of the Philistines'. Another clear difference between the outset of this story and those of the previous judges is YHWH's response to Israel's cry for help. In the stories of Othniel and Ehud, YHWH's immediate response to the cry is to raise up a judge (3.9, 15),⁶ but in 10.11-13 YHWH refuses deliverance, and rebukes Israel's cry by stating that it has already been delivered 'from the Egyptians and from the Amorites and from the Ammonites and from the Philistines and Sidonians and Amaleq and Maon'.

It is clear enough at the beginning of the story of Jephthah that Israel no longer worships just the Baals and Asherahs, it worships the gods of *all* of the surrounding nations. The infamous history of Israel's apostasy, punishment, and deliverance is rehearsed in this list, and Dtr emphasizes YHWH's loyalty to and patience with Israel in the list of nations from whom YHWH has already delivered Israel. Yet now God's patience with Israel's recidivism has grown thin, and thus we find a refusal to rescue the nation from its current plight. Even after Israel ceases its foreign worship, Dtr writes that *וְהַקִּצֵּר נִפְשׁוּ בְּעַמִּי יִשְׂרָאֵל* (10.16). The NRSV translates this as 'he [YHWH] could no longer bear to see Israel suffer', a positive response to Israel's plea and repentance that many scholars agree with.⁷ Others demur

6. Such an action is not mentioned in the story of Deborah since she is already judging (4.3-4), and in the Gideon story the immediate response is a prophetic condemnation of Israel's apostasy (6.7-10) and only afterward the long struggle to bolster Gideon's faith (6.11-40).

7. See, for example, the translations of the NIV and JPS, as well as those of Boling 1975: 190 and Soggin 1981: 202.

from this majority interpretation, noting that when the verb קצר is used to express emotion, it expresses exasperation. Polzin translates 'he grew annoyed [or impatient] with the troubled efforts of Israel' (Polzin 1980: 177), and Webb provides a similar interpretation (Webb 1987: 47-48). They are correct in their reading of the verb, since it has the root meaning of 'be short' and can be used in the sense of 'be tired of, impatient with, discouraged', but nowhere means 'be sorry for, show compassion'.⁸ What does it mean to say that YHWH became exasperated with עמל ישראל? The word עמל here is somewhat ambiguous. It can refer to suffering (as it clearly does, given its parallels, in Deut. 26.7; Pss. 25.18; 90.10; Jer. 20.18), but it makes little sense to suggest that God became exasperated with the suffering that God had inflicted. Instead, עמל has the sense here of 'evil', as it does in Prov. 24.2 (where it parallels שד, 'violence'), Hab. 1.13 (where it parallels רע, 'evil'), and Isa. 10.1 (where it parallels אי, 'iniquity'), among other places. YHWH's response to Israel's cry, then, is to become exasperated with the continual evil of the nation's apostasy.

Nor is it only the unusual opening of the story of Jephthah that alerts readers to the worsening state of Israel's character. The story of the sacrifice of the judge's daughter itself implicates not only Jephthah in the sin of foreign sacrifice, but the victim as well, and all of Israel. When Jephthah realizes that his only child has come out from his house to greet him, he tells her 'I have opened my mouth to YHWH and I am not able to take it back' (11.35). In this context, the idea that Jephthah must sacrifice his daughter despite the Deuteronomic prohibition on such acts is ludicrous, and yet his daughter agrees with him, parroting his faulty reasoning: 'My father, you have opened your mouth to YHWH; do to me even as it went out from your mouth' (11.36). From the Deuteronomistic point of view, the daughter has every right to reject her father's vow and sacrifice, both of which, in the Historian's eyes, are sins, and yet she meekly complies, thereby implicating herself from Dtr's perspective. Exum understands her response as an attempt to make Jephthah take responsibility for the vow he made (Exum 1995: 78), a plausible explanation, and only so if the daughter also believes that circumstances require her father to carry out the vow. Closer to Dtr's point is Esther Fuchs's argument that the text portrays her

8. The verb applies to emotions elsewhere only in Num. 21.4; Judg. 16.16; Mic. 2.7; Zech. 11.8; and Job 21.4, and in all of these cases it has the sense of 'be exasperated'. Nowhere do we see a meaning of 'feel sorry for'. It is used in biblical Hebrew in the sense of someone's patience becoming short, somewhat in the same manner in which we can use the phrase 'be short with' in English.

as partially responsible for her own death, since she justifies her fate by reminding her father that vows must be fulfilled (Fuchs 1993: 125). To extrapolate from Fuchs's point somewhat, the daughter collaborates in her own death because she accepts the same foreign (and therefore wrong) assumptions about sacrifice that her father does. In the Deuteronomistic context, this sacrifice is not obedience to YHWH, and so should not be undertaken, and yet instead of rebuking him for his vow and his plan to fulfill it, she accedes to it and offers not one word in argument. Her sole request is to go to the mountains for two months so that 'I might mourn my virginity, I and my companions' (11.37). 'She became a statute in Israel', writes Dtr; 'four days every year the daughters of Israel go out to recount (לִתְנוּת) the daughter of Jephthah the Gileadite' (11.39-40). The only other time readers of the Deuteronomistic History encounter the verb תָּנָה is in Judg. 5.11, where it is used in the context of recounting 'the righteous acts of YHWH' on behalf of Israel. Israel is complicit in Jephthah's crime for generations afterwards because the nation, like Jephthah and his daughter, has not learned to distinguish between good and bad sacrifice; because the nation, it would seem, equates her acquiescence to illegitimate sacrifice to the sorts of things that YHWH has done for Israel. Even if we understand the verb תָּנָה here to have a neutral sense rather than the praise implied in its use in 5.11, the only insight that Dtr gives readers as to the daughter's character—and thus the basis that Dtr believes lies behind the recounting of her in Israel's annual festival—is her complicity in rather than condemnation of her father's crime.⁹

To summarize, then, the Jephthah story fits nicely into the narrative of the decline of Israel and its judges that Dtr presents readers with in the book of Judges. We encounter a judge who makes a foreign sacrifice prohibited by law to YHWH, and in this case even the victim does not attempt to stay his hand. The sin of the nation, even at the beginning of his story, has grown exponentially worse than previously. Somewhat differently than in the story of Gideon, Israel does not join Jephthah in his sinful worship, but it does, like his daughter, signal its approval of the act. Dtr even suggests that Israel has still not learned the evil of that sacrifice, since the Historian writes that the daughters of Israel continue to commemorate the daughter of Jephthah, and thus to commemorate her failure to condemn and

9. To be clear, we are interested here only in the function of this annual ritual from Dtr's point of view. As to its significance in its pre-Dtr setting, readers may consult the suggestions in Soggin 1981: 217-18; Keukens 1982; Gray 1986: 319-20; Bal 1988: 46-49; Day 1989.

her participation in the cultic sin her father committed. And not only does the narrative of Jephthah fit into the pattern of the decline of Israel and its saviours which Dtr sketches in Judges, but we can now explain the presence within it of its odd opening and the unique story of a judge negotiating with an invader. The former dramatically portrays the decline of Israel; the latter shows the very act of the vow that leads to the sacrifice to be a sin.

C. Jephthah's Sacrifice as a Sign of Israel's Foreignness

The manner in which Jephthah's sacrifice and Israel's acquiescence to it marks them out as foreign is already clear. Sacrifice to the Canaanite gods and even Canaanite types of sacrifice—especially child sacrifice—within the worship of YHWH are prohibited in Dtr. Yet the most important lesson that the History as a whole teaches its readers is not solely that Israel must worship and sacrifice rightly, although this may seem like the case at times. After all, it is the mere establishment of the high places that brings divine condemnation upon Solomon (1 Kgs 11.1-13, 26-40), and it is the continued existence of Jeroboam's cultic places that brings condemnation upon the Northern dynasties (1 Kgs 14.7-14; 15.27-30; 16.12-13, 17-19, etc.). Scholars recognize that Josiah is clearly the ideal king in Dtr—as Richard Friedman has noted, the Historian describes Josiah alone in the same terms as Moses (cf. Deut. 34.10 and 2 Kgs 23.25); Josiah alone in Dtr fulfills the command to love God with all his heart, soul, and mind (Deut. 6.5 and 2 Kgs. 23.25); Josiah alone fulfills the command to read the law 'in the ears of the people' (Deut. 31.11 and 2 Kgs 23.2); Josiah alone smashes Jeroboam's idols 'thin as dust', which is precisely what Moses does to the golden calf (Deut. 9.21; 2 Kgs 23.6, 15) (Friedman 1981: 5-10). Dtr heaps this praise upon him even though, in the narrative, he does nothing except restore the cult according to Deuteronomistic stipulations. Moreover, it is not Hoshea's geopolitical missteps (2 Kgs 17.1-6) that doom the North to destruction in the eyes of the Deuteronomist, it is the manner in which the nation worships (17.7-23). Yet as we saw in the story of the condemnation of Saul in 1 Samuel 15, sacrifice in Dtr is not more important than obedience. Saul's sin there, as in 1 Samuel 13, was preparing a sacrifice that violated YHWH's commands. So just what relationship does Dtr see between worship and obedience to the divine command?

In the introduction to the lawcode of Deuteronomy, YHWH assures the nation that its own righteousness is not the causative factor in winning the

land. 'It is due to the wickedness of these nations that YHWH is dispossessing them from before you' (Deut. 9.4). Dtr does not limit its definition of wickedness to merely cultic matters, even if these do seem to be at the forefront of the Historian's attention. In the very beginning of the History, after relating the story of Israel's rebellion (Deut. 1) and the gift of the Transjordan (chs. 2–3), Moses turns to ethical matters. In ch. 4 he warns Israel of the need to obey all of the laws (4.1–2, 5–8, 40), although almost the entire chapter is devoted to the dictum that apostasy will lead to destruction and a loss of the land. The demand for monolatry is, in fact, the only law mentioned here. After the Decalogue in ch. 5, Moses again emphasizes that Israel must keep all of the laws (6.1–9), yet also states again that it is apostasy which will lead to destruction (6.14–16). Deuteronomy 6.17–25 then reiterates the theme of keeping all of the laws, while 7.1–6 commands the genocide of and separation from the Canaanites lest they turn Israel to the apostasy that will result in the destruction of the nation. Deuteronomy 7.7–15 turns to the subject of the prosperity with which YHWH will bless Israel if it follows all of the laws, but 7.16 and 25–26 return to the same theme as 7.1–6. There is no doubt but that the Historian believes that Israel is bound to keep all of the laws, not just the one concerning the worship of YHWH alone, and yet he or she seems to move between the two concepts as if they were equivalent. And while the Deuteronomic lawcode itself discusses a wide range of issues, it begins with commands to centralize worship and to not worship YHWH in the ways in which the Canaanites worship their gods, as we have seen.

Perhaps the clue to the connection between right worship and absolute fealty to the law can be found in Deut. 8.11–20, which warns Israel, 'lest you forget YHWH your God by not keeping his commandments and his judgments and his statutes which I am commanding you this day' (8.11). Should Israel forget YHWH and worship foreign gods, says Moses, Israel will be destroyed. Worship of YHWH alone is the sign that Israel has not forgotten YHWH and thus accords this God and no other the authority to impose the moral standard to which Israel must adhere—the law that came directly from YHWH—if it wishes to continue to exist as a nation in the land. Right worship and sacrifice are the litmus test of Israel's recognition of YHWH's authority and of the moral status that it accords to the Deuteronomic code. This is why the Historian can move so easily between the two concepts of keeping the entire law and worshipping YHWH alone; they are, for all intents and purposes, equivalent. We can see this connection elsewhere in Dtr; in Josh. 23.6–9, for example, where Joshua also ties

obedience to all of the laws to right worship. It is present in Judg. 2.1–3.6, where the narrator alerts readers in 2.1–5 that YHWH has left Canaanites in the land so that their gods ‘will be a trap for you’ (2.3), and then goes on to show precisely how that trap works by introducing in 2.11–23 the cycle of disobedience which has the worship of the Canaanite gods as its focal point. Judges 3.1–6 puts this matter a somewhat different way, stating that the test the Canaanites pose for Israel is whether or not Israel will obey all of the laws. Foreign worship and failure to keep the law are equivalent here. They are also equivalent in two of Dtr’s most pivotal texts, 2 Kgs 17.7–23 and 23.1–25. In the former, Dtr explains the rationale for the destruction of the North by pointing to Israel’s foreign worship, yet 17.13–15a, 16a also refer to the nation’s rejection of ‘all of the commandments of YHWH’. In the latter, the highlight of the History, Josiah destroys all sacrificial and cultic apparatuses that do not conform to Dtr’s doctrine of monolatry and centralization of worship. Yet even here, 23.2–3, 24 state that Josiah read ‘all the words of the book of the covenant’ and that he and the people agreed to keep YHWH’s commandments, decrees, and statutes. Right sacrifice and worship may be Dtr’s main focus, but the Historian does not divorce this from keeping all of the laws of Deuteronomy. Worship merely shows where the nation locates authority, including moral authority, and thus is the most obvious sign of Israel’s moral life.

We should thus hardly be surprised that, when Jephthah—the judge of all Israel (as 12.7 declares)—makes a foreign sacrifice, and when all of Israel creates a festival that commemorates the willingness of the human victim to take part in it, we find the nation acting like foreigners in matters other than cultic. For Dtr, this growth of foreign morality, concomitant with the presence of foreign sacrifice, appears not only in Israel’s foreign worship catalogued in Judg. 10.6 and the nation’s support for the judge’s foreign sacrifice, but in Ephraim’s invasion of Gideon in 12.1–6. Dtr constructs the Jephthah story as a whole to draw this connection between Jephthah’s foreign sacrifice and Ephraim’s foreign morality. Important to this conclusion is Dtr’s inclusion of 11.12–28, the only story where an Israelite judge negotiates with a foreign state. There hardly seems much point to the negotiation in a writing where the author’s worldview is that YHWH controls history and uses foreign nations to punish Israel through invasion, only later to give the Israelites victory over them following their cry for help. As we have already seen, part of the point of Dtr’s inclusion of this part of the narrative is to create the context wherein Jephthah may call upon YHWH as a judge to decide the issue of whether Israel or Ammon

is entitled to the Transjordan and thus make his vow an act of attempted bribery. There is another point, however, one that turns around the main content of Jephthah's act of diplomacy. The gist of Jephthah's argument to Ammon, the conclusion to the brief history he relates of Israel in the Transjordan or Gideon (the two terms are synonymous here [Ottoson 1969: 9]), is that YHWH has given the Transjordan to Israel, not to Ammon (11.14-26, esp. vv. 23-24). While Dtr does indeed see the Ammonite invasion as divine punishment for Israel's apostasy (10.7-8), what is at stake in the negotiation between Jephthah and the Ammonite king is to whom God has given the land. When Jephthah sends a message to the king of Ammon asking for an explanation for the invasion, the king replies that Israel illicitly holds Gilead, which rightfully belongs to Ammon (11.12-13). The argument that Jephthah lays out against Ammon's claim roughly follows the narrative of Deuteronomy 1-3. Perhaps most important in the Deuteronomistic story that Jephthah retells for the benefit of Ammon in Judg. 11.14-22 is that Deut. 2.3-9, 19-23, 37 stress that YHWH gave certain pieces of land to Israel but forbade the nation from taking land that did not belong to it. What land in the Transjordan Israel did conquer was, in reality, a direct gift from YHWH (Deut. 2.24-36; 3.12-17; Judg. 11.21-23). Since it is the divine world that provides land for the nations, says Jephthah, Ammon thus has no claim to Gilead (11.24).¹⁰

Thus, Ephraim's invasion of Gideon in 12.1-6 simply replicates the actions of Ammon, the foreign nation in the story. In Dtr, YHWH gives Gideon to Israel, but very specifically to Reuben, Gad, and the half-tribe of Manasseh (Deut. 3.8-13; Josh. 1.12-15; 13.8-13; 18.7; 22.1-9). In the way that Dtr has constructed the story of Jephthah, then, Ephraim's invasion of Gideon makes the Cisjordanian tribe seem just like Ammon, a foreign country claiming land that YHWH had given to others. Ephraim's rationale for the incursion may be that Jephthah did not call the tribe out to battle against Ammon (12.1), but Dtr states that the reason Gideon fought against and defeated Ephraim was *כי אמרו פליטי אפרים אתם גלעד בתוך* ('because they said, "Survivors of Ephraim are you, O Gilead, in the midst of Ephraim, in the midst of Manasseh"', 12.4). The word *פליטים* refers to the survivors of the losing side of a battle (see Gen. 14.3; Josh. 8.22; Jer. 42.17; 44.28, etc.), so it seems strange that Ephraim would apply it to Gilead, which has just won the battle against Ammon.

10. The spuriousness of Ammon's argument is augmented by Jephthah's further counterpoint that if the land really belonged to Ammon, it had had 300 years in which to claim it, and yet had not done so (11.26).

Boling's translation—"For the fugitives of Ephraim said: "O Gilead, you are in the midst of Ephraim and Manasseh"" (Boling 1975: 211)—is linguistically possible, but does not fit the context. The Ephraimites can only be fugitives or survivors if they have just survived a losing war which, at this point in the story, they have not. If the ׀ of 12.4 introduces a clause with the sense of Boling's interpretation, then the clause makes little sense, for the defeated side would hardly taunt its victors.¹¹ The ׀ of 12.4 indicates that Ephraim's taunt is the impetus for Gilead's attack, and the taunt indicates that Ephraim wishes to reduce Gilead to a mere remnant after Ephraim's violent victory there.¹² Like the foreign Ammonites in the story of Jephthah, the Ephraimites are defeated, and their accents give them away to the Gileadites, allowing the Transjordanians to slaughter them because the Ephraimites say 'sibboleth' rather than 'shibboleth', the Gileadite pronunciation (12.6). The inclusion of this story of the different accents is not mere ridiculing of the Cisjordanians as Marcus has suggested (Marcus 1992), it is a way for Dtr to portray the Ephraimites as foreigners unmasked by foreign accents who, like the Ammonites, do not belong in the land that God has not given to them.

The Deuteronomist has carefully constructed this story to present Ephraim as a foreigner—this is part of the reason for the inclusion of the story of the negotiation, for its main focus is to show that YHWH has given particular bits of land to Israel, and that other nations have no right to them.

11. And a translation which suggests that Gilead was made up of 'throw-outs' from Ephraim and Manasseh (Soggin 1981: 220) does not fit the sense of the word פְּלִיטִים.

12. Nor is this the first interest that Ephraim has shown in the Transjordan in Judges. David Jobling points out that Dtr recounts Ephraim's battles at the fords of the Jordan in Judg. 3.27-29 and 7.24-8.3, as well as in 12.1-6. Even when we put his structuralist arguments aside, we can still appreciate his point that Ephraim (or, in Jobling's eyes, the entire Cisjordan) is anxious about its control of the Transjordan (Jobling 1986: 109-17, 125-28). Its authority there is challenged in 7.24-8.3 when Gideon calls the tribe only after the main part of the battle against Midian has been completed, and again in 12.1-6 when Jephthah does not call it out to battle at all. (This is certainly Ephraim's claim [12.1], although Jephthah maintains that he had in fact summoned the tribe to battle, albeit with no result [12.2]. Yet Dtr quite clearly lists the places where Jephthah went before the battle [11.29], and Ephraim is not among them.) In such cases Ephraim's tendency is to threaten violence. In 3.27-29 Ehud acknowledges Ephraim's right to control the fords when, at the beginning of the battle, he summons the tribe to seize them; in 7.24-8.3 Ephraim's anger is mollified only after it is convinced by Gideon that it has accomplished more in battle than his forces; but in 12.1-6 it has been left out of the battle entirely, and thus is in the potential position of losing control over its access to the Transjordan.

By recounting here the story of Deuteronomy 1–3, Dtr has also reminded readers that YHWH gave the Transjordan to the two and a half tribes of Gilead, and not to Ephraim. The placement of the story of Ephraim's invasion immediately following the story of Jephthah's foreign sacrifice, a sacrifice out of which Israel creates an annual commemoration, teaches yet again the Deuteronomistic lesson that when Israel sacrifices like foreigners it will act like them, as well.

D. Conclusion: An Absence of Tragedy

To summarize, then, we can explain how the story of Jephthah's sacrifice of his daughter fits into Dtr's larger theological motif of the parallel between foreign sacrifice and foreign morality, as well as the literary and theological patterns through which Dtr has structured the book of Judges. It fits into the decline of Israel's character in Judges—Exum rightly argues that the intertribal warfare in 12.1–6 is paradigmatic of the end of Judges (chs. 17–21) where Israel's character deteriorates to an embrace of idolatry, anomism, and internecine warfare, where all the people do what seems right to them (Exum 1993: 136). Once we understand the story's role in Dtr's narrative, we can also explain how the sacrifice fits within the story of 10.6–12.7 and its apparent oddities, such as: the long opening that follows and yet deviates to some extent from the normal introduction to the stories of the major judges in the cycle of disobedience; the multiple uses for the unique scene of negotiation between a judge and a foreign invader; the vow that Jephthah makes; the daughter's acquiescence to her father's desire to sacrifice her and the commemoration that Israel makes out of her period of mourning; and the concluding tale of Ephraim's invasion of Gilead. The Deuteronomist tells the story of the sacrifice of Jephthah's daughter to show, yet again, that foreign sacrifice and foreign morality accompany each other for Israel. Nor is it only the judge who acts like a foreigner in the sacrifice of his daughter; all of Israel, and even the victim, are culpable to some degree in this foreign sacrifice.

Some scholars argue that Jephthah's story is a tragic one: Exum states that there is no reason given for the disaster that strikes the judge (Exum 1989: 59–83); and Fuchs argues that Dtr means to portray Jephthah as a tragic figure (Fuchs 1993: 117; cf. also Bodoff 2000). What is perceived as tragic depends upon one's point of view, but certainly from a Deuteronomistic point of view there is no tragedy here. Jephthah attempts to bribe YHWH and offers a foreign sacrifice to which even his daughter, the

victim, agrees. For Dtr, we thus have only a story of a man who does not understand that the vow is not only not necessary but, in fact, a bribe, and that to undertake the sacrifice of his daughter is directly to contradict the command of YHWH. Sacrifice here is clearly not better than obedience. For Dtr, Jephthah is not a tragic figure but a failure along the lines of Saul and Eli's sons, for like them he believes that any kind of sacrifice trumps the necessity of obedience. Yet in Dtr wrong sacrifice will always reflect a rejection of YHWH's authority and therefore of the authority of YHWH's law. Nor in Dtr can sacrifice make up for sin, as YHWH informs Samuel in regard to the case of the Elides. Jephthah is perhaps not as great a failure as Jeroboam and Manasseh, since unlike these two kings he does not cause Israel to sin (see the use of שׁוּט in the hiphil in 1 Kgs 14.16; 2 Kgs 17.21-22; 21.11, in reference to how these two kings affected the cultic lives of the people). In Jephthah's case, nonetheless, all of Israel commemorates rather than rejects his foreign offering to YHWH, and so both his sacrifice and the people's attitude toward it are just one more step in the decline of Israel in Judges. As we would expect in the Deuteronomistic History, foreign sacrifice accompanies foreign morality, and Dtr constructs the entire Jephthah story to emphasize precisely this point, thus including Jephthah's negotiations with Ammon and Ephraim's invasion of Gilead to portray an Israelite tribe acting just like a foreign nation. This is why the Deuteronomist tells the story of Jephthah's foreign sacrifice.

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