

# BETWEEN THE JUDGES AND THE SPIES: THE COURTROOM AS A MICROCOSM FOR THE BATTLEFIELD AND BEYOND

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Moses begins his historical review in Deuteronomy by harking back to the Israelites' departure from Horeb. He recalls how God instructed him to commence the 11-day journey to Israel and references God's words of encouragement for the battles ahead: *See, I place the land at your disposal. Go, take possession of the land that the Lord swore to your fathers, Abraham, Isaac, and Jacob, to assign to them and to their heirs after them* (Deut. 1:8).

Moses proceeds to recount how 'at that time' (*ba-et ha-hee*), he appointed judges to assist him in leading the fast-expanding nation (hereafter, the 'Judges Passage'). Thereafter, he recalls the episode of the spies and its tragic consequences (1:19-46).

The decision to recount the episode of the spies is entirely understandable. On the cusp of entering the land of Israel, he chooses to remind the nation just what precipitated the need for their forty years of wondering the wilderness before reaching this point. By reminding the Israelites that they suffered this fate as a consequence of their own actions, he seeks to focus their minds and hearts so that they will not repeat their past errors.

The interception of the Judges Passage at this point presents a far greater challenge. The apparent lack of congruity is noted by Alter: "Though the adverbial phrase here does convey Moses's retrospective viewpoint, looking back to an event that occurred four decades earlier, there is no connection, either narrative or thematic, between the preceding unit concerning the promise of the land and the unit now introduced, which reports the creation of a judiciary bureaucracy. It looks as though "at that time" is a rhetorical ploy used to camouflage a lack of transition."<sup>1</sup>

Weinfeld similarly considers the general function of the 'at that time' phrase (which appears fifteen times throughout Deuteronomy) to be a marker of an intrusive passage.<sup>2</sup> On the other hand, other scholars see it as drawing

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special attention to the time the relevant event took place.<sup>3</sup> Regardless of the precise meaning of the phrase, the surprising location of the Judges Passage led some of the classical commentators (surveyed below) to relate the Judges Passage to the preceding instruction to conquer the land and the subsequent failure.<sup>4</sup>

Nahmanides considered that the placement of the Judges Passage at this point serves to emphasise that the failure to enter the land of Israel was not due to a lack of organisation. On the contrary, the establishment of the new judicial and leadership institutions demonstrated that on a civic level the people were ready to establish a nation-state of their own. It was solely due to the people's mutiny following the report of the spies that they were barred from entry. Abarbanel makes a similar suggestion, adding the important point that the judges in those days were also military personnel, meaning that the appointment of the judges itself constituted a form of military preparation.<sup>5</sup>

From a slightly different perspective, Hoffman sees the function of the passage as conveying that it was the establishment of the justice system and not any military-type initiative, that was the key prerequisite to the conquest.<sup>6</sup> In this reading, from Moses' perspective the spies were an unnecessary hinderance which undermined faith in God's leadership.

Some modern scholars have considered the passage in the context of the broader themes of Deuteronomy, notably the need to prepare for the Israelites to prepare for a transition in leadership as they enter the land. This, of course, takes on additional significance when considered in light of Moses' impending death.<sup>7</sup>

In this article, I would like to suggest an approach in which full elucidation of the Judges Passage requires closer consideration of the underlying dialogue with the subsequent account of the spies (hereafter, the 'Spies Passage').

#### COMPARISON OF THE JUDGES PASSAGE AND THE SPIES PASSAGE

A comparison of the two passages yields a number of correspondences. From a big picture perspective, both passages involve a dilemma and a human led initiative to solve it. However, the position of Moses and the Israelites, as well as other aspects, are inverted.

In both passages, the ‘problem’ relates, in some form, to being overwhelmed and outnumbered. In the Judges Passage, Moses cannot cope with the large number of Israelites (Deut. 1:10), whereas in the Spies Passage the people are fearful of the greater size of the enemy (Deut. 1:28).

In the Judges Passage, Moses proposes the establishment of a judicial system to the Israelites, whereas in the case of the spies it is the people who take an initiative to Moses. It is worth adding that the dialogue in both passages commences with the phrase ‘I said to you’ (*va-omar alekhem*) which appears only once more in Deuteronomy.

The contours of both initiatives are also similar. Both involve a suggestion to select a group of tribal representatives which is followed by a positive response from the other party. These thematic similarities are reflected in textual correspondences as well (underlined for ease of reference):

#### Judges

*How can I bear unaided the trouble of you, and the burden, and the bickering! Pick from each of your tribes men (havu lakhem anashim) who are wise, discerning, and experienced, and I will appoint them as your heads.” You answered me and said, “What you propose to do is good (*va-tomeru toy ha-davar*) So I took your tribal leaders (*va-ekah et rashei shivteikhem*) (1:12-14)*

#### Spies

*Then all of you came to me and said, “Let us send men (*nishleha anashim*) ahead to reconnoiter the land for us and bring back word on the route we shall follow and the cities we shall come to.” I approved of the plan (*va-yeetav be-einai ha-davar*), and so I selected twelve of your men, one from each tribe (*va-ekah... ish ekhad la-shavet*). (1:22-23)*

Finally, and most importantly, the injunction against fear is central to both passages:

Judges: *You shall not be partial in judgment: hear out low and high alike. Fear no man, for judgment is God’s. (1:16-17).*

Spies: *Go up, take possession, as the Lord, the God of your fathers, promised you. Fear not and be not dismayed. (1:21)*

These correspondences suggest an intended correlation between the judge and the soldier which we will develop further. At the outset, though, it is important to highlight a key difference between the two passages which will

be relevant to the analysis which follows. In the Judges Passage, the central characters are the appointed judges, whilst in the Spies Passage, the focus of the failure is on the Israelites as a unit and not the spies specifically (in marked contrast to the original narrative in Numbers 13-14 where the spies lead the mutiny). In Deuteronomy's version of events, the spies return a concise positive report (see 1:25) and the negative backlash is led by the people. The appointment of the spies is significant only as a reflection of the fearful mindset of the people. Against this problematic attitude, the judges paradigm serves as a conceptual counterpoint.

#### COURAGE IN THE COURTROOM AND BRAVERY ON THE BATTLEFIELD

Within the Judges Passage, as Moses recounts what transpired forty years earlier, the reader becomes privy to a direct communication between Moses and the judges. The three-verse instruction to the judges includes a demand that a judge remain objective and impartial, and not be intimidated by any party regardless of power or status. In other words, the judge must ensure equality before the law: *I charged your magistrates at that time as follows, "Hear out your fellow men, and decide justly between any man and a fellow Israelite or a stranger. You shall not be partial in judgment: hear out low and high alike. Fear no man, for judgment is God's. And any matter that is too difficult for you, you shall bring to me and I will hear it."* (1:16-17)

The centrality of the judge's integrity cannot be overstated. In the biblical view, rendering judgement is considered a divine art. God is described as 'judge of all the earth' (Gen. 18:25), which becomes a key motif throughout the Bible. Through the statement 'for judgement is God's' in the Judges Passage, Moses establishes the human judge as God's agent, with all the gravity and responsibility that entails. In the words of the Sages: 'Any judge who judges a true judgment... the verse ascribes to him as if he became a partner to the Holy One, Blessed be He, in the act of Creation' (BT *Shabbat* 10a).

I would like to suggest that by inserting the Judges Passage immediately prior to the Spies Passage, the fidelity and courage of the judge is adopted as a paradigm for the soldier in the battlefield. Where the judge is God's agent in rooting out evil through the judicial process, on the battlefield that responsibility is vested in the Israelite soldier. Just as the judge must commit

to carry out justice even at great personal risk (hence ‘fear no man’), so too the soldier must discharge his duty on the battlefield as he comes face to face with the enemy.<sup>8</sup> This model bears a very practical expression. As already mentioned, in the biblical era the judges served as military officers, making them ideally placed to impart these values to the soldiers.

Worth mentioning here is the debate as to the exact implication of the phrase ‘for judgement is God’s’ as appears in this passage. According to Jackson, it suggests a system of ‘charismatic divine justice’ where ‘God inspires the human judge to make a decision in accordance with divine justice’.<sup>9</sup> This contrasts to an alternative system of ‘delegated divine justice’ in which God authorises humans to adjudicate as divine agent based on their human understanding.

If the meaning in our context is that God is positively engaged and acts in the judicial process through the medium of the judges (even if understood in more dynamic terms as I would suggest), then it strongly resonates with the words of Moses in the Spies Passage: *I said to you, “Have no dread or fear of them. None other than the Lord your God, who goes before you, will fight for you, just as He did for you in Egypt before your very eyes...”* (Deut. 1:29-30). God, as it were, fights alongside the Israelite soldiers in battle, just as he sits with the judge in the courtroom.<sup>10</sup>

#### THE JUDGE AS FOIL TO THE SLAVE

To gain a fuller appreciation of the messaging of the Judges Passage, one must also consider the wider context of the difficulty of the transition of the Israelites from slaves to sovereign nationhood.

Let us first note that a slave is robbed of freewill and personal autonomy as every aspect of their life is prescribed and controlled.<sup>11</sup> Preoccupied with mundane tasks and drudgery of day to day survival, the slave struggles to think beyond the immediate moment. For this reason, in response to the Moses’ intitial request for a three-day reprieve, Pharaoh reacts by further intensifying the slavery (Ex. 5:8), thereby attempting to eliminate the very contemplation of freedom.<sup>12</sup>

The absolute dependency of the Israelites upon their Egyptian masters, provides an important backdrop to the fear of waging battle and entering the land. Settling the land presupposes an autonomous existence on the

individual and national level, which is polar opposite to the life of the slave. This is a well attested motif constantly lurking at the background of the sojourn in the wilderness. Here I would like to focus on how the judge and slave stand as antitheses to one another in this regard.

The persona of the judge could not be more different from that of the slave. By maintaining impartiality, fierce independence, and resisting external pressures, he expresses not just fearlessness, but also a free spirit and personal autonomy which stands in marked distinction to the slave.<sup>13</sup> The former Israelite slaves establishing their own judiciary, therefore becomes a defining symbol of their emancipation.<sup>14</sup>

Just as important as the process of independent adjudication, is its stated objective. When laying out the mandate of the judges, Moses does not simply require the judge to resist intimidation, but emphasises the need to hear everyone equally regardless of status: "*Hear out your fellow men, and decide justly between any man and a fellow Israelite or a stranger... hear out low and high alike*" (Deut. 1:16-17)

The ideal embodied by this instruction - to give an equal voice to all members of society – stands in stark relief to the imbalance of power inherent in the system of slavery.<sup>15</sup>

#### THE CONSTITUTION OF THE NEW NATION

The autonomy exhibited by the judge, coupled with their mandate to provide equal treatment to all, is critical to shaping the values and identity of the new nation which is a key focus of Deuteronomy. At the heart of that identity lies the principle of ethical monotheism which assumes spiritual equality and (therefore) demands collective participation. As Berman demonstrates with various examples, these are major themes throughout the Torah in general, and Deuteronomy in particular.<sup>16</sup> In sharp contrast to the prevailing systems of the ancient Near East, the Bible endorses a system of collective power sourced in the individual and community, rather than a system of exclusionary power, where the king and the elite dominate. We therefore find that the conventional status of king as elected son of God is supplanted by the collective polity of Israel referred to as 'sons of God' (Deut. 14:1); in place of the scribal and priestly elite, Israel as a collective is to become a 'wise and discerning nation' (Deut. 4:6) and a 'kingdom of

priests' (Ex. 19:6).<sup>17</sup> It is therefore instructive that the appointment of the judges, tasked with listening to everyone on equal terms, opens the book of Deuteronomy. In the biblical view, the voice of every member of society should be heard equally.

This theme entailing the diffusion of power to the people, can also be discerned in the process through which the judges were appointed. In what might be described as a step towards judicial independence, Moses reports that he instructed the people themselves to select the judges (*havu lakhem*, Deut. 1:13),<sup>18</sup> and the judges are even referred to as representatives of the people (lit. 'pick for yourselves'). This is a surprising twist given that the pretext for the appointment was the excessive pressure exerted on Moses creating an expectation for the judges to be cast as representatives of Moses. Finally, it is important to highlight that the selection was based exclusively on individual qualities (see v.15) and not on pedigree. Thus, even as the judiciary was established, the people were to take an active role in terms of both selection and composition.<sup>19</sup> The move is significant as, beyond its democratic underpinnings, it aligns the Israelites with the objectives of the judiciary and the required qualities.

I mentioned earlier that some scholars consider Moses' primary motivation for discussing the judges at this stage to be concerned with leadership transition. Based on the above, we might suggest that the Judges Passage is less about the leadership institutions per se, and more about embedding leadership qualities within the general populace.<sup>20</sup> As Moses recalls his speech to the judges, he subtly redirects its message to his current audience. In so doing, he refocuses it to highlight the qualities which will be foundational for the development of a new sovereign nation built on a collective power model. The challenge of such transition for the former slaves is laid bare as Moses moves on to review the episode of the spies.

#### A 'MATTER TOO DIFFICULT'

When the Israelites approach Moses in connection with the spies, their words – as reported in Moses' speech - closely mirror the case of a judge who finds a matter too difficult and must escalate the case to Moses:

**Judges:** *Fear no man, for judgment is God's. And any matter that is too difficult for you, you shall bring to me (va-tikrevun elai) and I will hear it.* (1:16-17).

**Spies:** *See, the Lord your God has placed the land at your disposal. Go up, take possession, as the Lord, the God of your fathers, promised you. Fear not and be not dismayed. Then all of you came to me (va-tikrevun elai) and said, "Let us send men ahead to reconnoiter the land for us and bring back word on the route we shall follow and the cities we shall come to."* (1:21-22)

A matter 'too difficult' for the judges is generally understood as a matter too technically complex. In other words, where a verdict cannot be reached by the judges, Moses acts as the final arbiter of the law. However, if we read the clause as a direct continuation of the injunction to 'fear no man', then it obtains a new (or additional) meaning. The case which must be escalated to Moses is one where, due to the magnitude or profile of the case, the judge cannot withstand the pressure or the intimidation from one of the parties. Read in this way, there is a natural flow from the core of the passage to its conclusion.<sup>21</sup> It is noteworthy that in the Exodus account of the judges (ch. 18), the cases to be brought to Moses appear to encompass both 'difficult cases' (*davar ha-kasheh*) and 'big cases' (*davar ha-gadol*), suggesting that the consideration of which cases to escalate was not based purely on technical complexity.<sup>22</sup>

This alternative reading becomes highly relevant in the context of the spies. The initiative to send spies may be construed as a strategic move, but it may also expose underlying fear and hesitation. By adopting the language from the immediately preceding Judges Passage, Moses intimates (albeit with the benefit of hindsight) that the people were motivated by the latter. Due to their fear and lack of faith, the matter was indeed 'too difficult for them', and as a result they brought the matter to him.<sup>23</sup> Whether or not one accepts this explanation of the 'difficult cases', it seems clear that the instruction to the Israelites to 'fear not' in the Spies Passage should be read as an echo of the injunction in the Judges Passage.<sup>24</sup>

In the end, the courage which Moses sought in the judges was disappointingly lacking when it came to the spies. If we are correct that the two passages are to be read in dialogue with one another, then perhaps we might note one further inversion. The judges were instructed to ignore the



status and power of whoever stood before them in court (*ka-katon ka-gadol tishma'un*), but when the spies reported back to the people, size did indeed make all the difference: *You sulked in your tents and said, "It is because the Lord hates us that He brought us out of the land of Egypt, to hand us over to the Amorites to wipe us out. What kind of place are we going to? Our kinsmen have taken the heart out of us, saying, 'We saw there a people stronger and taller (am gadol va-ram) than we, large cities with walls sky-high, and even Anakites.' "* (1:27-28)

Forty years and a generation later, Moses hopes the nation has matured and is ready to internalise the values set out in the Judges Passage which are prerequisites for conquering the land and establishing the nation as envisaged by the Torah.<sup>25</sup>

#### CONCLUSION

We have shown that the Judges Passage is presented as a rhetorical response to the preceding instruction to advance towards the land. The review of the summons to the judge anticipates the challenges the Israelites will face on the battlefield. By invoking a model of personal autonomy and courage drawn from faith in God, Moses appeals to the Israelites to oppose the submissive instinct of the slave and overcome fear and uncertainty. Like the judge in the courtroom, they are not to be intimidated or overwhelmed by the strength and number of the opposition.

The attributes of the judge are not only relevant for the immediate battles ahead, but also for shaping the values of the new nation. First, the independent spirit of the judge is to be mirrored in the aspirations for personal and national autonomy. Second, the mandate to dispense justice to all ('judge righteously between man and his brother and the stranger who is with him') and hear everyone equally ('hear the small like the great'), reinforces the principle of social-religious equality, which is a focal point of Deuteronomy and central to the national identity. To further advance these ideals and develop the collective power model, Moses invited the Israelites to take an active role in selecting the judges and chose to highlight the democratic process within his speech. The judges themselves would be chosen from amongst the people based on individual merit.

Against this backdrop, the failure of the spies can be seen as a commentary on the difficulty of this transition. The lofty vision expressed in the mandate of the judiciary unravels in the following passage of the spies and this is expressed in the literary inversion. In contrast to the spirit of the judge, the people procrastinate and seek to relinquish responsibility. It would instead fall to the second generation, the audience of Moses' speech, to assume responsibility and complete the mission.

## NOTES

1. R. Alter, *The Five Books of Moses: A Translation with Commentary* (New York: W.W. Norton, 2004), p.881
2. See M. Weinfeld, *The Anchor Bible: Deuteronomy 1-11* (New York: Doubleday, 1991), p.137-140. It is noteworthy, however, that the unity of the passages is generally accepted even amongst source critics (see for example A. D. H. Mayes, *Deuteronomy*, p.118).
3. P. Vogt, *Deuteronomic Theology and the Significance of Torah: A Reappraisal* (Indiana: Eisenbrauns, 2006), p.92-112; D. L. Christensen, *World Biblical Commentary: Deuteronomy 1:1-21:9* (Columbia: Thomas Nelson, 2001), pp. 21-22. Tigay adopts the view of the classical commentators cited; see J. Tigay, *JPS Torah Commentary: Genesis* (Philadelphia: Jewish Publication Society, 1989), p.10.
4. It is of course possible that the primary function of the *ba-et ha-hee* phrase is to ease the 'bump' of the transition even if the passages are related on a deeper level. It is also worth mentioning the suggestion that the phrase signifies the temporal nature of the tribal led judicial system in the wilderness which was superseded by the judicial bureaucracy of Deuteronomy 16-17. See J. Berman, *Created Equal: How the Bible Broke With Ancient Political Thought* (New York: Oxford University Press, 2011), pp. 76-77. However, this is difficult as there are instances where the phrase introduces actions of enduring significance (e.g. the appointment of the Levites in Deut. 10:8). See also S. Slater, "I have set the land before you": a study of the rhetoric of Deuteronomy 1-3 (Ph.D.) (McGill University, 1991), pp. 62-65.
5. On the overlap between judge and officer, see M. Weinfeld, "Judge and Officer in Ancient Israel and in the Ancient Near East, *Israel Oriental Studies*", vol. 7 (1977): pp. 65-88
6. R. David Zvi Hoffman, introduction to *Deuteronomy*. Hoffman also notes the military role of the judges.
7. See Vogt (op. cit.); See also T. Granot, *Deuteronomy: Faith, Humanity, Nation* (Jerusalem: Koren, 2020), pp. 34-38 (Hebrew)
8. Some rabbinic authorities deduced from the words of the Sifri and Maimonides that a judge is indeed required to endanger his life rather than abscond. See commentary of R. Joel Sirkis "Bach" (1561-1640) to Choshen Mishpat 12:1.
9. B.S. Jackson, "Human Law and Divine Justice: Toward the Institutionalisation of Halakhah," *9 JSIJ* 1 (2010) pp. 223-247. Nahmanides in his commentary on the verse adopts the delegated model. See also H. Shapiro, "For the judgement is God's: Human judgement and Divine Justice in the Hebrew Bible and in Jewish Tradition", *Journal of Law and Religion*, Vol. 27 no. 2 (2011-12), pp. 273-328)

10. It is possible that the parallel is more rhetorical than exact. The judges may be God's agents under a delegated model which assumes the human mind is divinely endowed with the capacity to independently discern divine truth (analogous to Adam Smith's 'impartial spectator'), whereas on the battlefield God actively aids the Israelites to defeat the naturally more powerful enemies. Nevertheless, even under this model there is potential scope for providence to prevent misapplication of justice due to the asymmetry of information and absence of relevant facts.

11. The following definition of personal autonomy is instructive for our purposes:

"Personal autonomy (also referred to as 'individual autonomy') refers to a psychological property, the possession of which enables agents to reflect critically on their natures, preferences and ends, to locate their most authentic commitments, and to live consistently in accordance with these in the face of various forms of internal and external interference. Personally autonomous agents are said to possess heightened capacities for self-control, introspection, independence of judgment, and critical reflection; and to this extent personal autonomy is often put forth as an ideal of character or a virtue, the opposite of which is blind conformity, or not 'being one's own person'." ("Autonomy: Normative," by M. Piper, The Internet Encyclopedia of Philosophy, ISSN 2161-0002, <https://iep.utm.edu/>)

12. On another occasion it can be shown that autonomy as the hallmark of humanity lies at the centre of the story of Eden. This being the case, it is unsurprising that this turns into a major theme throughout the Torah (on the individual and national level) with slavery being cast as the antithesis.

13. A first-hand account of the struggle for personal autonomy amid slavery was provided by Victor Frankl, in his famous work, *Man's Search for Meaning*. Controlling one's inner response even as one is unable to control one's circumstances, formed the basis of his theory of logotherapy.

14. Ancient Egypt also had a strong tradition of judicial impartiality (derived from the concept of *ma'at*). Comparisons have in fact been drawn between the inscriptions on Rekhmire's tomb (vizier appointed by Thutmose III) and our passage. See L. Neudorf "Judicial Independence: The Judge as a Third Party to the Dispute" (2015) *Oxford U Comparative L Forum* 2 at [ouclf.law.ox.ac.uk](http://ouclf.law.ox.ac.uk), text after note 110. The novelty of the Judges Passage, as argued here, is the transfer of the judicial traits to the former slaves, both formally and figuratively. Egyptian society, on the other hand, was built on a well-defined hierarchy which institutionalised slavery. For ways in which the Torah polemicises against the Egyptian social hierarchy, see J. Grossman, *Joseph: A Tale of Dreams* (Rishon LeZion: Yedioth Ahronoth, 2021), pp. 469-476

15. There is invariably a gap between theory and practice. The biblical prophets constantly decried the miscarriage of justice. Likewise, Thomas Jefferson could quill the words 'all men are created equal' and still be a slave owner. Nevertheless, the articulation of the vision sets the direction of travel.

16. See Berman, (op. cit.). I would argue the theme evolves over the course of the Torah tracking the educational journey of the Israelites themselves. Grossman, for example, shows that the initiative displayed by the new generation at the end of the forty years is the running motif connecting the seemingly random assortment of passages at the end of the book of Numbers. See J. Grossman, "Divine Command and Human Initiative: A Literary View On Numbers 25-31", *Biblical Interpretation* 15 (2007), pp. 54-79

17. Berman, (op. cit.), pp. 59-68; 114-117.

18. The judiciary, as described in the Judges Passage, may not be defined as independent in the modern sense, as Moses (the executive branch) was the supreme authority who dealt with the 'difficult' cases. However, the system prescribed for the post-Moses era (Deut. 16:18-17:14), including the establishment of the central judiciary, omits any role for the king or the prophet (or oracle for that matter) and may indeed be the earliest known model of judicial independence which entailed separation of powers. See D. C. Flatto "The Historical Origins of Judicial Independence and Their Modern Resonances", 117 Yale L.J. Pocket Part 8 (2007), <http://yalelawjournal.org/forum/the-historical-origins-of-judicial-independence-and-their-modern-resonances>; see also Berman (op. cit.), pp. 68-80. The judiciary in ancient Egypt, by contrast, was never conceived as an independent body as the supreme authority was pharaoh, considered responsible for maintaining *ma'at*. Furthermore, there was no professional jury and it was government officials who acted as decision makers in both civil and criminal cases. See L. Neudorf, op. cit., text after note 75.

19. Regarding the import of the phrase *havu lakhem* in v.13, compare Rashi and the Netziv in their respective commentaries. Netziv understands that the people were themselves responsible for the selection (as we have suggested), whereas Rashi provides a more restricted meaning.

20. These are separately addressed in Deuteronomy 16-18

21. The proposed explanation is intuitive and consistent with the practice of many modern states whereby the most serious or high-profile cases are brought to a central court where the most distinguished judges preside (e.g. the Old Bailey for England and Wales). Our suggestion may nonetheless be challenged by the fact that the cases which were to be brought to the central court as described in Deuteronomy 17:8 were indeed cases which were unresolved at the regional level due to their complexity. As alluded to, however, the two explanations need not be contradictory. In ancient Egypt, it seems that the Great Kenbet dealt with the most serious cases and was also the final court of appeal. See M. R. Bunson, *Encyclopedia of Ancient Egypt*, Revised Edition (New York: Facts on File, 2002), p. 211.

22. One viewpoint found in the Talmud is that the change from *davar ha-gadol* to *davar ha-kasheh* reflected a deliberate modification on the part of Moses to Jethro's original plan (TB Sanhedrin 8a; Rashi, Num. 27:5).

23. Rashi, commenting on the verse, was attentive to the sense of panic underpinning the request to send the spies: "Here, however, you approached me, all of you, in a crowd, the young pushing the elders, the elders pushing the heads".

24. Christensen (p.29) proposes that the Spies Passage is built around a concentric structure starting with the travel notice of 1:19 and ending with the travel notice of 1:45. The centre of the chiasm is the summons not to fear of 1:29-30.

25. A fuller analysis is needed to account for the interactions with Exodus 18 (appointment of judges) and Numbers 11 (appointment of seventy elders), both of which are incorporated into Moses' review in Deuteronomy 1. I will briefly note, however, that it does not seem coincidental that the appointment of the elders in Numbers 11 intercepts the flow between the journey from Mt. Sinai and the original spies narrative, in parallel manner to the interception of the Judges Passage in Deuteronomy 1.