

# The Bargaining between Jephthah and the Elders (Judges 11:4–11)

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In chapter eleven of the Book of Judges the story is told about Jephthah, the Gileadite, who was driven out of his ancestral home by his younger half-brothers. Jephthah fled to the land of Tob, where he gained fame as leader of a gang of mercenaries. When the Ammonites invaded Israel, there was no military leader to take command, so the elders of Gilead travelled to the land of Tob to persuade Jephthah to assume the position. Jephthah at first refused, but he subsequently agreed to go back with them and lead the Israelites successfully in battle against the Ammonites.<sup>1</sup>

In verses 4–11 of this chapter, Jephthah and the elders engage in a dialogue generally thought of as a bargaining between the two sides. The standard interpretation is that the elders only wanted Jephthah to lead them in battle against the Ammonites: they just wanted him to be a temporary *qāšîn*, “a commander,” of the army. They intended to obtain a good commander without the inconvenience connected with a permanent chief. When Jephthah refused, the elders escalated their offer to that of *rōš*, “governor,” of all Gilead, and it is this offer which Jephthah accepted. In other words, the elders wanted to get Jephthah at a bargain: he should only be a *qāšîn* not a *rōš*; but Jephthah insisted on being a *rōš*. Support for this standard interpretation is adduced in the two terms mentioned in the text, *qāšîn*, which is held to denote the military rank of “commander”; and *rōš*, which is believed to denote a higher civil rank, that of “ruler” or “governor.”<sup>2</sup>

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1 Parallels in other ancient Near Eastern literatures to the epic motif of a hero being driven out by his brothers and prevailing in the end, have been shown by Hayim Tadmor, apud Israel Mahalman, “Jephthah and Jephthah’s Daughter” in *Studies in the Book of Judges* (Israel Bible Society; Jerusalem, 1966), 345 [in Hebrew]; and by Edward Greenstein & David Marcus, “The Akkadian Inscription of Idrimi,” *JANES* 8 (1976), 76–77.

2 For a sample of the commentaries holding this view, see Yehezkel Kaufmann, *The Book of Judges* (Jerusalem, 1968) 219 [in Hebrew]; Robert G. Boling, *Judges*, Anchor Bible 6a (New York, 1975), 198; and J. Alberto Soggin, *Judges*, Old Testament Library, trans. J. S. Bowden (Philadelphia, 1981), 208. This is the view also in the more specialized studies as, for example, in the comments of Malamat: “He declined the initial offer to become the ‘commander’ (*qāšîn*) of Gilead, that is a leadership limited to the duration of the war. He consented only when the elders offered to elect him ‘head [*rōš*] over all the inhabitants of Gilead’”; A. Malamat, “The Period of the Judges,” *The World History of the Jewish People*, vol. 3 (Tel-Aviv, 1971), 158. Similar sentiments are expressed by Hanoah Reviv, “Types of Leadership in the Period of the Judges,” *Beer-sheva* 1 (1973), 210, [in Hebrew]; and by Harmut N. Rösel, “Die ‘Richter Israels’. Rückblick und neuer Ansatz,” *Biblische Zeitschrift* 25 (1981), 203.

This traditional and, indeed, unanimous interpretation is open to dispute particularly because this understanding of the passage creates a number of difficulties in interpreting two of the verses.

Firstly, it does not explain the meaning of Jephthah's rather puzzling words in verse 9 normally rendered as, "If you bring me back to fight against the Ammonites and the Lord delivers them to me, I will be your governor (*rōʾš*)." These words imply that Jephthah will not become governor until he first attains victory in battle. But in the previous verse the elders had already offered him the governorship (to be a *rōʾš*) independent of the result of the battle, and Jephthah is actually appointed *rōʾš* prior to the battle, as we see from verse 11.

Secondly, it does not explain the elders' subsequent statement in verse 10 that they agree to the conditions that Jephthah has proposed—"The Lord Himself shall be witness between us; we will do just as you have said" (v. 10). What conditions were these that Jephthah proposed? In fact, it was the elders, not Jephthah, who had made the proposals and who had allegedly escalated the bargaining from *qāšîn*, "commander," to *rōʾš*, "governor" (v. 8).<sup>3</sup>

The problem of these two verses may be solved when the entire section of verses 1-11 is examined. In my opinion the negotiations between the elders and Jephthah did not center around the level of Jephthah's appointment, whether he was to be a commander (*qāšîn*) or a governor (*rōʾš*). Indeed, there is good reason to think that the difference between the position of *qāšîn* and *rōʾš* was not a factor at all in the negotiations. On the contrary, I maintain that the negotiations centered around a dispute over Jephthah's disinheritance, and that the condition on which Jephthah insisted, and to which the elders eventually agreed, was that he be restored to his rightful inheritance.

My contention that the difference between the positions of *qāšîn*, "commander," and *rōʾš*, "governor," was not a factor in the negotiations, is bolstered by the following considerations.

(1) The elders' offer does not *a priori* seem to make much sense since, as the medieval Jewish commentator Abravanel already noted, after a victorious battle, Jephthah would by right become governor no matter what title he had when going in to battle.<sup>4</sup>

(2) As we learn from the preceding chapter (10:18), the elders originally intended to appoint a *rōʾš*, "governor." The job offer was for a *rōʾš*, so there is no reason to assume that they would not have been prepared to offer the position of *rōʾš* to Jephthah, or that they would downgrade it to *qāšîn*.

(3) The Peshitta version does not show a difference between *rōʾš* and *qāšîn*. In verse 6, the Syriac translates Hebrew *qāšîn* by *rēšāʾ*, the same way that it translates Hebrew *rōʾš* in verse 9. The significance of this fact is that at least one witness,<sup>5</sup>

3 Feigin resolves the problem that in verse 10 the elders are acceding to a condition set by Jephthah by emending the text, changing the *rōʾš* of verse 8 to *qāšîn*. That is, the elders offered only the *qāšîn*-ship, and Jephthah retorted with a counter-proposal in verse 9 of the *rōʾš*-ship; Samuel Feigin, "Some Cases of Adoption in Israel," *JBL* 50 (1931), 192.

4 Isaac Abravanel, *Commentary on the Former Prophets* (1520; Reprint with additions: Jerusalem, 1965), 128 (commentary on verse 9) [in Hebrew].

5 The Septuagint (Codex Vaticanus) renders Hebrew *qāšîn* as *archēgos*, and Hebrew *rōʾš* as *archōn*. But both these terms are used interchangeably elsewhere in rendering Hebrew *rōʾš* and *qāšîn*. For example,

reflecting another tradition, did not see the alleged difference between the positions of *rōʾš* and *qāšîn* as crucial to the bargaining.

(4) The terms *rōʾš* and *qāšîn* are found in parallel passages, and even used as synonyms, elsewhere in the Hebrew Bible. Thus in Micah 3:1, the text reads, *šimeʿû nāʾ rāʾšê Yaʿaqōb ûqeqšînê Bêt Yisrāʾēl*, "Listen, you rulers of Jacob, you chiefs of the House of Israel!"; and the same parallelism occurs in Micah 3:9. It is true that in some cases *qāšîn*, like *rōʾš*<sup>6</sup> is a title for a military leader<sup>7</sup>; however, in other cases<sup>8</sup> it usually means no more than "leader."<sup>9</sup>

In addition to these four objections I believe that it is possible to show that Jephthah rejected the elders' offer, not because the offer of *qāšîn* was inadequate, but for other reasons. This may be demonstrated by recognizing certain stylistic features in the dialogue between Jephthah and the elders which show independently, without recourse to the terms *qāšîn* or *rōʾš*, that Jephthah rejected the elders' offer. These stylistic features are the use of *maddûaʿ*, "why," in a rhetorical question, and the employment of the adverb *lākēn*.

The first stylistic feature is the use of *maddûaʿ*, "why," in a rhetorical question. In verse 7 Jephthah complains to the elders as follows: "Did you not reject me and expel me from my paternal estate? Why (*maddûaʿ*) have you come to me now you are in trouble?" The employment by Jephthah of this particular stylistic usage will be shown to indicate a rejection of the elders' offer.<sup>10</sup> A comparison of other rhetorical questions of this type clearly indicates that in all cases: (a) the clauses before *maddûaʿ* state undeniable facts; and (b) the *maddûaʿ* clause either calls into question a situation or assumption,<sup>11</sup> or indicates incredulosity that, given the preceding facts, certain acts could be carried out.<sup>12</sup> That is, given the facts stated in the rhetorical questions which are held to be undeniable, *maddûaʿ*—how could such a thing come to be? The conclusion is that nobody in his right mind would think that such a thing could happen.

The book of Jeremiah contains numerous examples of this rhetorical feature. Thus in 2:14: "Is Israel a bondman? Is he a home-born slave? Then why (*maddûaʿ*) is

*archēgos* is used 15 times to translate Hebrew *rōʾš*, and *archōn* translates *qāšîn* at Isa. 1:10; 22:3; and Dan. 11:18. See Elmer Carmilo Dos Santos, *An Expanded Hebrew Index for the Hatch-Redpath Concordance to the Septuagint* (Jerusalem, n.d.), 185 & 188.

6 J. R. Bartlett, "The Use of the Word *rōʾš* as a Title in the Old Testament," *VT* 19 (1969), 2.

7 Josh. 10:24; Isa. 22:3; and Dan. 11:18.

8 For example, in Isa. 1:10, *šimʿû debar YHWH qeqšînê Sedom haʾazinû tôrat ʾelōhênû ʿam ʿAmōrah*, "Hear the word of the Lord, you chieftains of Sodom; give ear to our God's instruction you folk of Gomorrah!"; and in Isa. 3:6, 7; 22:3; Prov. 6:7, 25:15.

9 See Greenstein & Marcus, "Idrimi" (note I *supra*), 77, n. 2; and Roland de Vaux, *The Early History of Israel* (Philadelphia, 1978), 761.

10 Depending on how we interpret the syntax of the second verbal form, *wategārešûni* "and you expelled me," as subordinate or coordinate, we may interpret this rhetorical question either as a double or a triple one. In any event, the effect will still be the same. For the form of rhetorical questions, see Moshe Held, "Rhetorical Questions in Ugaritic and Biblical Hebrew," *Eretz-Israel* 9 (1969), 71-79; and Yitzhak Avishur, "The Doubled and Tripled Rhetorical Question Patterns and their Variations in the Bible and in Ugaritic," *Zer Ligeburot. The Zalman Shazar Jubilee Volume* (Jerusalem, 1973), 421-64 [in Hebrew].

11 Many of the uses of *maddûaʿ* found in the prophets fall under this category; see Jer. 2:14, 31; 8:4-5, 19, 22; 14:19; 22:28; 30:6; Mal. 2:10), and Walter A. Brueggemann, "Jeremiah's Use of Rhetorical Questions," *JBL* 92 (1973), 373-74.

12 Cf. Brueggemann, "Rhetorical Questions," 360.

he given over to plunder?" The first two rhetorical questions demand negative answers: Israel is neither a slave nor bondman. The *maddûa*<sup>c</sup> clause then questions how such a thing could be: How could Israel be given over to plunder? It cannot be. No reasonable person would ever think such a thing could happen: Israel should not be a slave.

In narrative passages, too, we have some good examples of this feature. One is from our very chapter, Judges 11:25–26, when Jephthah is arguing with the king of Ammon over disputed territory: "Are you any better than Balak son of Zippor, king of Moab? Did he start a quarrel with Israel or go to war with them? . . . Why (*maddûa*<sup>c</sup>) have you not tried to recover them [the towns] all this time?" Since Balak son of Zippor did not try to claim these towns over three hundred years ago, nobody in his right mind would claim them now. Conclusion: your claim to this territory is rejected. Or in 1 Kings 1:13 when Bathsheba confronts old King David about his alleged promise for her son Solomon: "Did not you, my lord king, swear to your maidservant, 'Your son will succeed me and shall sit on my throne?', so why (*maddûa*<sup>c</sup>) has Adoniyah become king?" Given the fact that you swore to me that Solomon would reign, nobody in his right mind would think that Adoniyah should reign. Conclusion: Adoniyah should not become king.<sup>13</sup>

It is similar in our passage. Jephthah points out to the Gileadites that they undeniably rejected him and expelled him. Given these facts, how, he asks, can you now come to me when you need help? People do not go to those they have rejected for help, nor does the victim of rejection help his rejectors. Nobody in his right mind would come to ask for help in such circumstances: your plea is rejected; I will not help you.

This then is the reason for Jephthah's rejecting the elders, not because of their offer of *qāṣîn*, which does not figure in Jephthah's speech at all, but because he was rejected and expelled by them. I have shown elsewhere what the nature of this rejection and expulsion was.<sup>14</sup> Jephthah had originally been adopted by Gilead. When his father died, his brothers went to court—to the elders—to sue on the grounds that Jephthah's adoption was not valid because, in their opinion, the son of a prostitute could not be adopted. The elders ruled in favor of the brothers, and legally disinherited Jephthah. I also showed that the terms that Jephthah uses here, *sānē*<sup>c</sup>, "to hate," and *gārēš*, "to expel," have legal connotations, and that their exact semantic equivalents in Akkadian, *zēru* and *ṭarādu*, when used in revocation clauses of adoption contracts, have the meanings "to reject" and "to annul" respectively. In other words, Jephthah rejected the elders because they had previously rejected his case in court, and had annulled an adoption agreement that his father had made in his favor.

The second stylistic usage which shows that Jephthah rejected the elders for a reason other than that of the level of position offered, is the use of the adverb *lākēn*. The adverb *lākēn* means "this being so, true, we agree," and it is often used in reply to an objection,<sup>15</sup> in which case it has the meaning, "what you say is true, but nonetheless, in spite of this fact."

13 Note Gen. 26:27, which is very close to the actual wording of our own passage, though the *maddûa*<sup>c</sup> clause precedes not follows; Isaac says to Abimelek: "Why have you come since you have rejected me and driven me away?" It is undeniable that you rejected me and expelled me. Given these facts, how can you now come to me in friendship? No one who rejects and expels another can expect that person to be an ally. Conclusion: I will not become an ally of yours.

14 In a paper entitled "The Legal Dispute Between Jephthah and the Elders" read at the annual meeting of the Association of Jewish Studies in Boston on December 15, 1986.

15 F. Brown, S. R. Driver, & C. A. Briggs, *A Hebrew and English Lexicon* (Oxford, 1959), 487A.

Here are some examples of *lākēn* following rhetorical questions. In Genesis 30:15 Leah responds to Rachel's request for the mandrakes: "Is it not enough you take my husband, but you want to take my son's mandrakes as well?" Her implied answer is no; you cannot have the mandrakes! Then Rachel answers: "*lākēn*, he can lie with you tonight in return for your son's mandrakes." Rachel's *lākēn* means: very well then, what you say is true, I did take your man; but nonetheless I will make a deal with you. Give me the mandrakes, and he will sleep with you tonight. Or in Judges 8:6–7, the men of Sukkot refuse Gideon's request for help while pursuing the Midianites: "Do you have Zebah and Zalmunna in your power that we should give your troops food?" That is, we will not give you food because you do not have them. Gideon responds: *lākēn*, what you say is true, I do not yet have these kings in my power. Nonetheless, I will tell you what I am going to do: when I, with God's help, do capture them, I will punish you severely.<sup>16</sup>

Here, as we have seen, Jephthah has turned down the elders' offer because they had previously rejected him and revoked his adoption. The elders answer: *lākēn*, we do not disagree with you, what you say is true. We did reject you and did disinherit you, but now we are coming to you<sup>17</sup> as a gesture of reconciliation and are offering you the position of leader. Now Jephthah lays down the condition for which he was willing to go fight the Ammonites. Jephthah was only prepared to go if he was reinstated to his rightful estate. The phrase in which Jephthah makes his demand is *ʔim mešibim ʔattem ʔoti* in verse 9. This phrase, like the other terms mentioned earlier, has legal connotations with Akkadian parallels. The phrase *lehāšib ʔet* is the exact semantic equivalent of Akkadian *turru ana*, "to return to," "to restore," which, in the context of adoption contracts, means to "reinstate"<sup>18</sup>

An excellent example of the usage of the Akkadian phrase is seen in an adoption contract from Nuzi (15th century B.C.E.), where a father who had previously disinherited a son now wishes to reinstate him. The phrase used for the reinstatement is *ana mārūtīm uttēr*, literally, "to restore to sonship." The relevant sections of the text read: "(as regards my son), I at first annulled his relationship (*kirbānšu ehtepe*) but now I have restored him into sonship (*ana mārūtīm uttēršu*). He is the elder son and a double share he shall receive."<sup>19</sup>

Since Hebrew *lehāšib ʔet* is the exact semantic equivalent of Akkadian *turru ana*, Jephthah, by making the condition *ʔim mešibim ʔattem ʔoti*, requests from the elders that he be reinstated in his father's house as a son. Jephthah is saying: "I agree on the condition that you restore me to my rights. If you give me restitution I will be your governor."<sup>20</sup> That is the condition for which he is willing to go and fight for Gilead.

16 For other examples of *lākēn* after rhetorical questions, see Num. 16:11; Isa. 10:15–16; Jer. 6:15; 8:10, 12; 23:30; 30:16; Ezek. 18:30. Cf., W. Eugene March, "*Lākēn*: Its Functions And Meanings," in Jared J. Jackson & Martin Kessler, eds., *Rhetorical Criticism: Essays in Honor of James Muilenburg* (Pittsburg, 1974), 282–83.

17 Instead of Hebrew *šabnū*, "we have returned," in verse 8, the Peshitta version reads *ʔetayn*, "we have come."

18 For other Hebrew examples of *lehāšib* meaning "to restore, to reinstate," see Gen. 40:13, 21; 2 Sam. 19:12; Isa. 1:26; Jer. 15:19.

19 Ephraim A. Speiser, "New Kirkuk Documents Relating to Family Laws," *AASOR* 10 (1930), no. 8 (H21):3–7 (pp. 38–39). Cf. *CAD*, M/1, 320, "now I have reinstated him as an adopted son."

20 Though this verse is difficult because of the fact that the purpose clause precedes the main clause, I would offer the following translation: "If you reinstate me, I will agree to be your *rōʔ* to fight the

And that is the condition to which the elders agree: "And the elders of Gilead answered Jephthah, 'The Lord Himself shall be witness between us: we will do just as you have said'" (v. 10).

The elders pledge to accept the terms that Jephthah has proposed. This clears up the two problems of the standard interpretation with which we began our discussion. Jephthah is not saying, as is traditionally thought, "If you bring me back to fight against the Ammonites . . . I will be your governor (*rōʾš*)." These words imply that Jephthah will not become governor until he first attains victory in battle. Rather, Jephthah is laying down conditions here: to be reinstated. Secondly, it explains the elders' statement that they agree to the conditions that Jephthah has proposed. Otherwise the problem remains that if it were the elders, not Jephthah, who had made the proposals and escalated the bargaining, there is no reason for them to agree to do what Jephthah had said. On the contrary, they agree not to any proposal of their own (of Jephthah being a commander or governor), but to Jephthah's proposal of reinstatement.

To sum up, the bargaining between Jephthah and the elders did not focus on offers of any particular position which Jephthah should assume. There is every reason to believe that a distinction between the positions of *qāṣîn*, "commander," and *rōʾš*, "governor," was not a factor at all in the negotiations. The two stylistic features—the use of the rhetorical questions with *maddûa*<sup>c</sup> and the use of the adverb *lākēn* after the rhetorical question—show that Jephthah refused the elders' offer for considerations other than rejection of the position of *qāṣîn*. Rather, the bargaining centered on Jephthah's complaint to the elders that he had been disinherited by them, and his condition that he be reinstated to his rightful inheritance.

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Ammonites, and may God deliver them before me." The *athanaḥta*, of course, should go under *ʾôî* not under *lepānāy*, because that is the end of the protasis.