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Before “Judges in Berlin,” There Were Prophets in Israel

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The Antecedents of the Limitation of Sovereign Power in the Old Testament

Abstract

This article investigates the structural roots of the limitation of political power and the protection of fundamental rights within the biblical corpus, arguing that the foundational logic exemplified by the modern German legend of the Miller of Sanssouci ("there are judges in Berlin") was already operative in the ancient Near East under the Law of Moses and the prophetic tradition of Israel. Employing Ockham's razor to bypass modern bureaucratic constructs such as the institutional tripartite division of powers or formal written constitutions, the study isolates the three essential requirements of limited government: the existence of an objective normative order antecedent to sovereign authority that the ruler cannot repeal; the presence of legitimate agents authorized to declare violations of that norm; and the enforceability of irrevocable sanctions binding upon the sovereign. Examining key biblical episodes—including Deuteronomy 17's "Law of the King," the judicial parables and indictments of Nathan against David and Elijah against Ahab and Jezebel, the agrarian denunciations of Micah, the extra-covenantal justice of Job, and the universal divine court in Psalm 82—the article demonstrates that rulers were held to be subordinate, dependent powers under law. Furthermore, it highlights how Amos 3:7 prefigures the modern criminal legality principle (nullum crimen sine lege) through prior public promulgation of divine decrees, and traces how the New Testament

transposes this governing accountability into an eschatological and universal courtroom where all authorities are held to impartial justice.

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"There Are Judges in Berlin"

The story of the Miller of Sanssouci (Chueiri, 2016) remains an enduring example used to illustrate the limitation of sovereign power. In this tale, the mill owner—a man outside government and possessing little worldly power—remains confident that a superior law exists to which even the sovereign monarch is subordinate, and which guarantees and protects his fundamental rights.

The concept of a government governed by rules that restrain power is found, among other classical thinkers, in Montesquieu's foundational work. Discussing monarchical rule, Montesquieu explains that "intermediate, subordinate, and dependent powers constitute the nature of monarchical government; that is, of that in which a single person governs by fundamental laws" (Montesquieu, 2015, p. 91, our translation). These fundamental laws represent an indispensable framework of codes necessary for checking sovereign authority: "In a monarchy it is not enough to have intermediate powers; there must also be a depository of laws" (Montesquieu, 2015, p. 93, our translation). As the philosopher further elaborates, "In monarchical and moderate states, power is limited by that which constitutes its foundation; [...]" (Montesquieu, 2015, p. 103, our translation).

Nevertheless, as is widely recognized, this was not always the norm. The very theorist who systematized the tripartite division of powers explicitly outlined the existence and characteristics of unrestrained government—despotism—explaining that "The nature of government in despotic states requires extreme obedience; and the prince's will, once made known, ought to produce its effect as infallibly as one ball thrown against another" (Montesquieu, 2015, p. 102, our translation). Under such regimes, there are no laws that

constrain sovereign whim: “In despotic states, where there are no fundamental laws, there is also no depository of laws” (Montesquieu, 2015, p. 93, our translation).

Such despotic styles of governance have been present throughout human history, including classical antiquity, as also noted by Montesquieu (2015, p. 103). Consequently, mainstream legal and state theory typically locates the emergence of modern institutional guarantees and limited government in the modern era and the rise of the liberal state (Doyle, 1986, p. 2), notably articulated by John Locke (2001, p. 27), and embodied in the Modern State established after 1648 with the Peace of Westphalia (Buzan & Hansen, 2012, p. 55).

The Law of Moses

Nonetheless, this paper seeks to demonstrate that already within the Law of Moses, as recounted in the Old Testament Scriptures (Bíblia Sagrada, n.d.), the conceptual framework of a law to which all individuals—including the king and the religious elite—were subordinated was already fully articulated. We will demonstrate this through canonical biblical texts.

From the outset, it must be emphasized that this study neither seeks to establish the empirical historicity of these accounts nor treats them as exclusively confessional or theological matters. Rather, our aim is to show how, within the Old Testament narrative and conceptual framework, the limitation of ruling authority and the safeguarding of the rights of those lacking political influence were already operative within the structural parameters detailed below.

Ockham’s Razor

To clarify our analytical framework, we invoke Ockham’s Razor (Krizek, 2017, pp. 4–8) to set aside the variable of a formal institutional separation of powers or a modern codified constitution—concepts that fall outside our scope. For the purposes of this article, we examine the fundamental logic of limited government: the existence of a higher, binding normative order

to which all persons are subject—analogous, for instance, to the principles enshrined in Article 5, caput and Clause I of the Brazilian Constitution (Brasil, 1988)—wherein the authority of any single branch or ruler is checked by others and made irrevocable, as reflected in Article 60, Paragraph 4 of the same charter (Brasil, 1988).

The Mosaic Law Concerning the King

One of the cornerstone texts supporting our thesis is found in Deuteronomy 17:14–20, which presents the exact logical structure of a fundamental law that precedes and circumscribes the monarch's power, acting as a constitutive charter for the office itself:

"When you enter the land the Lord your God is giving you and have taken possession of it and settled in it, and you say, 'Let us set a king over us like all the nations around us,' [...] When he takes the throne of his kingdom, he is to write for himself on a scroll a copy of this law... It is to be with him, and he is to read it all the days of his life so that he may learn to revere the Lord his God and follow carefully all the words of this law and these decrees and not consider himself better than his fellow Israelites, nor turn from the law [...]" (Deuteronomy 17:14–20, our translation).

Crucially, this legal requirement predates the actual historical institution of monarchy in Israel, originating within the Mosaic, pre-monarchical corpus. It establishes three structural restraints upon any future ruler: first, the king had to be chosen from among his "brothers," rather than being an absolute, alien autocrat detached from the community; second, he was legally bound to possess and personally read a written copy of the law every day of his life; and third, the explicit objective of this mandate was to prevent his heart from becoming elevated above his brethren—that is, the written code existed precisely to restrain the inherent tendency of sovereign political power toward absolutism. It served as a binding depository of laws upon the

sovereign himself, without which governance would functionally collapse into despotism, and through which the monarch, despite occupying the apex of political authority, remained a subordinate and dependent power relative to norms he lacked the competence to repeal.

Concrete Cases in Biblical History

As demonstrable manifestations of this structural principle, the biblical narrative records several concrete historical-literary episodes illustrating its direct application.

Ahab and Naboth

The first case is that of Ahab and Jezebel in 1 Kings 21. The royal couple of Israel subverts the lawful property rights of a local agrarian neighbor adjacent to the royal palace—a scenario bearing striking parallels to the story of the Miller of Sanssouci—and is consequently indicted by divine command delivered through the prophet Elijah:

"Then the word of the Lord came to Elijah the Tishbite: 'Go down to meet Ahab king of Israel, who rules in Samaria. He is now in Naboth's vineyard, where he has gone to take possession of it. Say to him, "This is what the Lord says: Have you not murdered a man and seized his property?" Then say to him, "This is what the Lord says: In the place where dogs licked up Naboth's blood, dogs will lick up your blood—yes, yours!"'" (1 Kings 21:17–19, our translation).

As previously observed, this mechanism does not constitute a modern, permanent judicial bureaucracy; rather, it embodies the foundational logical premise that an authority exists with legitimate standing to judge the ruler himself, grounded in a normative order that is antecedent to the crown and which the crown has no power to abrogate.

The Prophet Micah

Another instructive example is found in the prophet Micah, explicitly identified as “the Morasthite” (Micah 1:1, our translation)—that is, a native of Moresheth-Gath, a modest agrarian town in the Judean Shephelah, rather than the imperial capital of Jerusalem. This rustic origin accentuates the non-institutional character of his authority. Micah directly denounces the landed aristocracy of the kingdom for systematically expropriating small landowners:

“Woe to those who plan iniquity, to those who plot evil on their beds! At morning’s light they carry it out because it is in their power to do it. They covet fields and seize them, and houses, and take them. They defraud people of their homes, they rob them of their inheritance” (Micah 2:1–2, our translation).

The prophetic term “covet” directly invokes the Mosaic Decalogue’s prohibition against coveting a neighbor’s property. The prophetic indictment does not introduce an ex post facto rule, but rather denounces the breach of an antecedent, publicly promulgated law that bound the political and landed elite alike. As in the case of Ahab and Jezebel, the same logical architecture recurs: an agent possessing no institutional office, hailing from the rural periphery, directly confronts entrenched political-economic power on the authority of a higher law that governs and constrains both parties.

David and the Prophet Nathan

An equally emblematic confrontation occurs between the prophet Nathan and King David in 2 Samuel 12. After David takes Bathsheba, wife of Uriah, and orchestrates Uriah’s death in combat to conceal his adultery, Nathan is dispatched to confront the monarch directly. The prophet employs a judicial parable: the story of a wealthy man owning abundant flocks who expropriates a poor neighbor’s solitary ewe lamb to host a traveler. Hearing this, David unwittingly passes judgment on his own conduct: “David burned with anger against the man and

said to Nathan, ‘As surely as the Lord lives, the man who did this must die!’” (2 Samuel 12:5, our translation).

At that precise moment, Nathan delivers one of the most uncompromising verdicts in prophetic literature: “Then Nathan said to David, ‘You are the man!’” (2 Samuel 12:7, our translation). The formal divine sentence immediately follows: “This is what the Lord, the God of Israel, says: ‘I anointed you king over Israel... Why did you despise the word of the Lord by doing what is evil in his eyes? You struck down Uriah the Hittite with the sword and took his wife to be your own... Now, therefore, the sword will never depart from your house’” (2 Samuel 12:7–10, our translation).

This episode is particularly significant for our thesis because it demonstrates that the monarch, in issuing a legal ruling on the hypothetical dispute, implicitly conceded the validity of an objective legal standard binding upon himself. His condemnation was not imposed by a competing political rival, but arose from the application against his own person of the very canon of justice he acknowledged as universally binding upon any subject.

Job from the Land of Uz

The figure of Job also deserves careful consideration. The biblical text itself holds Job up as an archetype of righteousness alongside Noah and Daniel: “even if these three men—Noah, Daniel and Job—were in it, they could save only themselves by their righteousness, declares the Sovereign Lord” (Ezekiel 14:14, our translation). What makes Job particularly compelling for our thesis is that, according to biblical tradition, he lived beyond the bounds of both the codified Mosaic covenant and institutional temple worship. Job did not belong to the nation of Israel; his narrative is set in a patriarchal context prior to, or geographically outside, the Sinai revelation.

Yet, Job articulates his conduct as a spontaneous, personal commitment to justice on behalf of the vulnerable, entirely independent of a coercive state apparatus:

“because I rescued the poor who cried for help, and the fatherless who had none to assist them. The one who was dying blessed me; I made the widow’s heart sing... I was eyes to the blind and feet to the lame. I was a father to the needy; I took up the case of the stranger. I broke the fangs of the wicked and snatched the victims from their teeth” (Job 29:12–17, our translation).

Job’s account indicates that the structural logic protecting the powerless does not depend solely upon a formal written statute such as the Mosaic Torah; rather, it appeals to a broader, antecedent principle of natural justice, of which the Law of Moses represents a subsequent codification within the biblical narrative.

Psalm 82

The principle substantiated in individual episodes—David, Ahab, and the landowners indicted by Micah—finds its comprehensive conceptualization in Psalm 82. This text is not addressed to an isolated ruler, but formulates a universal norm applicable to all political and judicial authorities as a class. The psalm opens with the imagery of a supreme celestial assembly: “God presides in the great assembly; he renders judgment among the ‘gods’” (Psalm 82:1, our translation). In biblical exegesis, “gods” here refers to human judges and rulers wielding delegated authority.

The divine indictment is direct: “How long will you defend the unjust and show partiality to the wicked?” (Psalm 82:2, our translation). The normative standard demanded of governing authorities is set forth in the subsequent verses: “Defend the weak and the fatherless; uphold the

cause of the poor and the oppressed. Rescue the weak and the needy; deliver them from the hand of the wicked" (Psalm 82:3–4, our translation).

The climax of the psalm underscores our central thesis: despite exercising authority over fellow mortals, rulers remain accountable to a higher jurisdiction: "I said, 'You are "gods"; you are all sons of the Most High.' But you will die like mere mortals; you will fall like every other ruler" (Psalm 82:6–7, our translation). The psalm elevates this case-by-case logic into a universal principle: no investiture of political power immunizes a ruler from external judgment. The psalmist concludes with a solemn invocation: "Rise up, O God, judge the earth, for all the nations are your inheritance" (Psalm 82:8, our translation).

The Temporal Principle of Legality

The modern legal canon that penal sanction requires prior statutory law—nullum crimen, nulla poena sine praevia lege—is a foundational pillar of criminal jurisprudence (Bitencourt, 2020, pp. 120–121). In Brazilian law, this principle is codified in both Article 1 of the Penal Code (Brasil, 1940) and Article 5, Clause XXXIX of the Federal Constitution (Brasil, 1988). Remarkably, the core logical structure of this temporal requirement was already articulated in Amos 3:7: "Surely the Sovereign Lord does nothing without revealing his plan to his servants the prophets" (our translation).

In the original Hebrew, the word rendered "plan" or "secret" is סוֹד (*sôd*), denoting not arbitrary concealment, but deliberate counsel within an inner decision-making council. It is the identical term employed in Jeremiah 23:18 to rebuff false prophets who never "stood in the council of the Lord" (our translation). The term evokes an executive chamber or consultative assembly that renders a decision prior to execution. Crucially, that determination must be publicly promulgated through the prophets before it is enacted. The prophetic text thereby

establishes that divine judgment upon rulers and nations is neither arbitrary nor retroactive; it takes effect only after the standard of conduct and the forthcoming sanction have been declared openly.

The New Testament and Christianity

In the New Testament, this structural framework is preserved, though transposed to a different plane. Jesus does not establish an institutional civil polity for His community, nor does He present Himself as an immediate structural reformer of the Roman provincial framework. However, this does not signify an endorsement of lawlessness or a denial of civil judicial authority. In Matthew 5:25–26, Jesus presupposes the validity of the civil judicial process when advising prompt reconciliation: “Settle matters quickly with your adversary who is taking you to court. Do it while you are still together on the way, or your adversary may hand you over to the judge, and the judge may hand you over to the officer, and you may be thrown into prison. Truly I tell you, you will not get out until you have paid the last penny” (our translation), thereby recognizing the procedural legitimacy of established civil magistrate authority.

At the same time, Jesus clarifies that His kingdom does not compete for temporal geopolitical hegemony: “My kingdom is not of this world. If it were, my servants would fight to prevent my arrest by the Jewish leaders. But now my kingdom is from another place” (John 18:36, our translation). The same distinction is drawn regarding taxation to Caesar—a deliberate trap to entangle Him politically: “So give back to Caesar what is Caesar’s, and to God what is God’s” (Matthew 22:21; cf. Mark 12:17; Luke 20:25, our translation). He declines the role of a fiscal partisan while acknowledging the civil authority’s legitimate sphere.

Paul broadens this relocation in Ephesians 6:12: “For our struggle is not against flesh and blood, but against the rulers, against the authorities, against the powers of this dark world and

against the spiritual forces of evil in the heavenly realms" (our translation), redirecting the Christian horizon from temporal rebellion to transcendent spiritual reality.

The Inescapable and Impartial Judgment

This thematic shift does not eliminate the accountability of the powerful; rather, it universalizes and defers ultimate reckoning. The Book of Revelation portrays a final tribunal before which all humanity stands without distinction: "And I saw the dead, great and small, standing before the throne... The dead were judged according to what they had done as recorded in the books" (Revelation 20:12–13, our translation). Whether mighty rulers or ordinary citizens, all are subject to the judgment of the Great White Throne. Paul describes this accountability in judicial language: "For we must all appear before the judgment seat of Christ, so that each of us may receive what is due us for the things done while in the body, whether good or bad" (2 Corinthians 5:10, our translation), a truth echoed in Matthew 16:27 ("the Son of Man is going to come... and then he will reward each person according to what they have done," our translation) and Revelation 22:12 ("My reward is with me, and I will give to each person according to what they have done," our translation).

In Matthew 25:31–46, this universal judgment encompasses all nations without regard to earthly status, using as its decisive criterion the practical exercise of justice toward the most vulnerable—a direct continuation of the prophetic demands of the Old Testament. This perspective was anticipated in Ecclesiastes, which, after surveying the apparent failures of earthly justice, concludes: "For God will bring every deed into judgment, including every hidden thing, whether it is good or evil" (Ecclesiastes 12:14, our translation). The biblical canon thus acknowledges that earthly checks on authority—whether prophetic confrontation or modern

judicial oversight—may prove fallible, establishing in transcendent divine judgment the ultimate guarantee that no power remains permanently above the law.

Conclusion

This study has demonstrated that the institutional logic exemplified by the Miller of Sanssouci is not an exclusive creation of modern constitutionalism; rather, its structural core was already present within the biblical tradition. We identified this core as three essential elements: an objective legal norm that sovereign power neither authored nor can repeal; a recognized agent possessing legitimate authority to denounce its infraction; and an irrevocable judgment that the ruler cannot nullify.

This paradigm recurs consistently across biblical history: in the "Law of the King" in Deuteronomy 17, which subordinates the monarch to the Torah prior to his accession; in Nathan's rebuke of David, where the king acknowledges the binding force of the law he violated; in Elijah's condemnation of Ahab and Jezebel; in Micah's agrarian defense against the ruling class; and in Psalm 82's universal demand for judicial rectitude. Furthermore, Job demonstrates that this principle operates beyond positive statutory law, and Amos 3:7 prefigures the principle of prior legality by requiring public declaration before the execution of judgment.

Finally, Christianity does not dismantle this legal architecture, but transposes it to an eschatological dimension. Christ does not institute a temporal judicial bureaucracy, but preserves for the final judgment the absolute certainty that no power—"great or small"—stands beyond justice, a horizon anticipated in Ecclesiastes 12:14. In conclusion, the foundational logic of the Miller of Sanssouci was already active within Israel's legal-religious tradition centuries before its systematic codification in modern Western political philosophy.

Declaration on the Use of Generative Artificial Intelligence

During the preparation of this manuscript, the author used generative artificial intelligence tools (Claude, developed by Anthropic, and Gemini, developed by Google) solely for formatting, language correction, and translation of the text. The research idea, the research design, the selection and interpretation of the biblical texts, the identification and selection of the authors and sources cited, and the analysis and arguments presented are exclusively the work of the human author, who conducted the research independently. These tools were not used to generate ideas, sources, or analysis. After using them, the author reviewed and edited the content as needed and takes full responsibility for the content of the published article.

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