

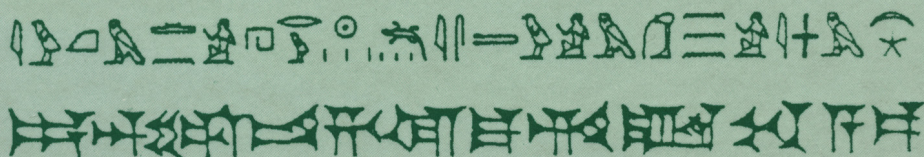
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THE TRIBUNAL OF HISTORY. JUDICIAL ORIGINS OF ANCIENT NEAR EASTERN HISTORIOGRAPHY

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1. Western culture and ancient Near Eastern civilizations

The modern Western world never had problems in accepting an ancient Near Eastern origin for the main features of its “material” culture: the spread of agriculture and animal domestication, of pottery and village life in the early “neolithic revolution”; then the spread of irrigation, metal working and other specialized crafts during the chalcolithic period; monumental architecture and urban planning, writing and other tools of the proto-historical administration and state formation during the “urban revolution”; finally the alphabet and iron working at the end of the bronze age. All these - and other - technical achievements, so important for human advancement on a worldwide dimension, are by and large credited to the early civilizations of the Near East.

Such an acceptation, however, is much more problematic when other achievements are taken into account, namely those related to the intellectual advancement of man. In this field the European tradition points its origins to a properly European culture, i.e. to Greece. The political life in the city-state, the values of freedom and democracy, the individual personality in art and literature, the secular science and the rational thought, philosophy and historiography, all of them have a Greek origin. They even lead to a counterposition bet-

ween Asia and Europe, the Orient and the West, so that no cross-fertilization is possible.

This makes better sense if chronological terms are taken into account. The turning point of the fifth century brings about a shift in the position of Europe in world history: from being a “periphery” of the Near Eastern civilization, Europe becomes its counterpart, to shortly win and surpass it. Because of freedom and democracy, of secular science and rational thought, Europe got a different pace of development, while the Orient remained anchored to its positions, which had been attained long time before. We could even say: there cannot have been any true freedom and democracy in the Orient, there cannot have been any true philosophy or historiography - otherwise the Orient had followed a development similar to our own, had not remained anchored to despotism, myth, and magic.

Now, the legacy of the early periods is mainly technological, while that of the “axial age” in the 6th-5th centuries is mainly intellectual. The former establishes the common features of any civilized culture, while the latter establishes the special features of our own culture as opposed to others. So, just to use famous (or ill-famed) formulae: “Ex Oriente lux” can be accepted in the realm of technical achievements, “The Greek miracle” is best fit to the realm of spiritual values.

In such a context, the importance of historiography cannot be underestimated: a truly historical thought is the mark of a critical approach to the events and their human causes, it is also the mark of a society which is changing through time, and does not depend upon a fixed repertory of myths and rituals. Thus the ancient Near East can provide the “Deeds of the Kings” (Mesopotamia), or the ritualized actualization of mythical models (Egypt): but these are not true history writing.

2. Denials of ancient Near Eastern historiography

Let's quickly consider some of the largely accepted strategies denying the existence of an ancient Near Eastern historiography. A first strategy has to do with the concept of time, in the general frame of the structure of mind. The Oriental mind (like the primitive one) is presumed to be unable to conceive the “linear time” of history, and to be rather characterized by a “cyclical time” best fitting to explain events as ever-recurring actualizations of mythical models. The Semitic verbal system itself has been produced as a proof thereon. The technical points have already been assessed (and refuted) by more

competent scholars, and I will not deal with them here. I want only to point out that such arguments are so questionable that the Israelite concept of time and history has been classified sometimes as cyclical (similar to the Near Eastern one and opposed to the Greek model), and sometimes as linear (as opposed both to the Near Eastern and Greek ones, and the direct outcome of God's intervention in human history!).

My point is different: even if we take for granted that the ancient Near Eastern people had the idea of a cyclical time, it would not be a reason for ruling out their capability of writing history. Many different kinds of history can be conceived: some of them are compatible while some others incompatible with cyclical time. (And by the way: "cyclical-time historians" can be found also in Europe!) When comparing different cultures, the correct departure point is to accept a definition of the discussed topic which is specific enough to make the comparison fruitful, but also large enough to include other cultures in addition to our own - differently any comparison is impossible. I believe that every Orientalist has faced similar problems when discussing with other colleagues (especially in the field of Classics) assuming a priori that no politics is possible before the Greek, no empire before the Roman imperium, no urbanism before Hippodamus, and of course no historiography before Herodotus.

As a reasonable definition of history, the one suggested by Johan Huizinga has been widely accepted, and in fact can represent the common sense afforded to such a concept in modern times: "the intellectual form in which a civilization renders account to itself of its past". Such a definition, far from ruling out of history any specific kind of time conception, even implies that different civilizations have different forms to consider their past. Of course, the different intellectual forms (e.g.: the linear vs. the cyclical time) will produce different literary forms in history writing, but they do not involve nor rule out the capacity of a civilization to conceive and write history as such.

A second strategy has to do with the concept of "pure" historiography, namely a historiography for its own sake, an intellectual exercise, devoid of any practical purpose. Only a civilization which is able to isolate the concept of history as such, will produce "pure" history writing, set apart from the practical needs, unaffected by political or religious bias, apologetic aims, factious judgement. This is certainly not the case of the ancient Near East, where history writing is always at the service of political or religious ideologies and powers.

But could we say that history writing in classical Greece or in modern Europe is devoid of such "impure" connections? A closer scru-

tiny would lead to refuse the highest masterpieces of history writing under the charge of more or less explicit propagandist aims. And more seriously: the norm of purity and disinterestedness, and that of consciousness as well, cannot be adopted in order to select the data pertaining or not pertaining to any field of human activity. Applied and unconscious works are as much relevant, and in some respects even more diagnostic. Just imagine a history of art ruling out all the “applied” art (from architecture to decorated objects), or a history of science ruling out all the technological activities, and so on. Ninety-nine per cent of the human culture would be considered as unworthy of consideration. By the way, the very same idea of “pure history”, or of “art for the sake of art”, or of “disinterested science”, are the produce of specific historical conditions and are not at all “pure” in themselves. They belong to the idealistic philosophy that dominated the restricted intellectual circles of the haute bourgeoisie in the Western world of the first half of this century, and that tried to resist the worldwide movements started by materialistic evolutionism of the mid-nineteenth century.

A third strategy is seldom clearly enunciated, but often given for granted, namely that history writing is the monopoly of the Indo-European peoples, unsuited to the religiously-minded Semites, and quite inaccessible to the other (third-class) peoples. This would explain why, inside the ancient Near East, the Hittites are most oriented toward history writing: because they are Indo-European! Semitic peoples, like Hebrews and Assyrians, are able to produce some historical work, albeit hopelessly affected by religious purposes. And peoples like the Egyptians and the Sumerians are completely devoid of the very sense of history.

Now, the Indo-European heritage, even admitting that such a concept can still be used, would go back to pastoral tribes, without state formation, without writing, without the minimal context (both technical and institutional) for giving birth to a history writing of the kind produced by Greeks and Hittites. No history-writing, in its technical meaning, can be imagined to have been produced in the “original home” of the proto-Indo-Europeans, nor to have been transmitted to the different branches of those peoples. And the idea of a “natural” pre-disposition of the Indo-Europeans to write history should be even less acceptable: it would imply the genetic transmission of cultural acquisitions!

At an empirical approach, let's just consider how historically-minded is the early civilization of China (non-Indo-European, of course), and on the contrary how historically disinterested is the early civilization of India, whose Sanscrit language was the very pivot for the

reconstruction of the Indo-European family! To go back to the Near East, we shall see that the Hittites have a particular bent to history writing not because of their remote origins, but because of their actual political involvement.

3. "Micro-historiography" and inheritance

We prefer to start from some fixed points, which are the reverse of the positions considered so far: that historiography is mostly an "applied" activity, that it is embedded in the political and cultural features of the society, and that it finds the appropriate means of expression according to the intellectual trends of its times, whatever they are.

In the minimal terms of personal history, the validation of a man's role through his past is coterminous with the personal (or family) property of the means of production, and more closely with their transmission (through inheritance or any other procedure) from generation to generation. It is clear how important the recording and use of the past can be, in order to keep a social role and an economic wealth that are transmitted through time. Just to give an elementary exemplification, and just to enter the realm of variation between different social systems: in a society where the position of householder is transmitted from father to son, the recording and use of genealogy will be of paramount importance. In a society where landed properties are sold, the written records or the oral testimonies of the transaction will be the basic points.

In a small village, or a pastoral group, a man must know, and must be able to give the correct answers to a lot of questions: about his father and grand-fathers, about the origin of his properties, about the house he inhabits or the well he uses, about the status of his servants, about the marriage links of his family, and so on. In case of a quarrel with his relatives, about a controversial property or role, the "proofs" to be produced are the family genealogy, plus some aetiological stories, or some time-honored symbols of property (e.g. the tomb of an ancestor). All this in fact makes up the "history" of the village or the tribe, and is strictly necessary in order to keep the community in function, and to surmount possible crises.

In an urban and statalized society, the situation is quite similar in nature, albeit much more complicated by the intervention of writing, of financial transactions, of a complex network of social roles, and of the mediating role of the state. The rights of a man upon a landed pro-

perty must be reconstructed and proved, on the basis of a legally valid tablet, stating the terms of the transaction and the witnesses' names. The right of an adopted son to inherit must also be made clear by an inheritance act, or by a testament. The property of an acquired object or slave must be proved (in order not to be considered a thief!) by the contract of sale. And so on. And the many possible claims and quarrels (with different wives, sons of varied status, disinheritance acts, and so on) will be solved by producing a "historical" proof: the document, or the testimony of the surviving witnesses.

In any case, we can say that a legitimate origin and a correct behavior are the sources for a man's position in the community; and their demonstration is the source for "micro-historiography". The ancient Near Eastern sources provide several examples of juridical documents containing a personal or family "micro-history": these are the "simple forms" or the minimal units of history-writing, and in a sense they are its origin: not in the sense of a diachronic development, but in the sense of the logical procedure of using the past behavior or the past events in order to prove that the present status is the right one.

4. "Macro-historiography" and the State

"Macro-historiography" is just the same thing, in its application to relationships at the level of the State - inside the State, between different States. Therefore, historiography begins with the beginning of the State, with the beginning of claims on territorial ownership, with the beginning of the claims on leadership inside a State. It is astonishing how closely the early forms of historiography do resemble those of the juridical claim, and how often their motivations can be traced to the demonstration of legitimate origin, of correct behavior, of property rights.

The most characteristic forms in ancient Near Eastern historiography are: (1) Self-defence of the ruler, on the point of his legitimacy. Obviously such apologetic auto-biographies mostly belong to usurpers, since the rulers who have a traditional legitimacy do not need to resort to explicit statements. (2) Self-defence of the ruler, on the point of his correct behavior in inner affairs; mostly in the socio-economic and judiciary fields, and under pressure of a crisis. (3) Celebration of the correct and effective activity of the ruler, especially as far as war and conquest, tribute gathering, cultic buildings, ritual performances are concerned. (4) Defence of the legitimacy of a State in the international context, especially on the topics of border location, delivery of

refugees, also on the existence of hegemonic relationships. (5) Defence of the correct behavior of a State in its relations with neighbors: peace treaties, war declarations. On every point the reverse can also be attested: denial of legitimacy and charge of treachery and aggression by the counterparts.

5. Historical development

The most ancient stage of history writing in Sumer (ca. 2400 B.C.), immediately provides some of the best examples of the aforementioned features. The story of the Umma-Lagash border conflict, as narrated by Eannatum and Entemena is a typical example of history writing as a means to legitimize ownership over a territory. Urukagina's edict (the so-called "reforms") is a typical example of the use of history writing as a means to legitimize a usurper in his unusual access to power. These texts show such a developed and effective use of past history, that it would be quite astonishing to find that they have no antecedents. In fact some earlier texts of the same type are partly known or can be postulated, which is enough to lead us back at the end of Early Dynastic II (ca. 2600 B.C.), when the political conditions in Sumer began to require some kind of historical legitimation. But the conceptual development not necessarily took place inside the literary genre of royal inscriptions: as background for similar texts we can simply suggest the habit to judicial debates. In this sense, the most illuminating document is the famous inscription containing the reaction by Urukagina against the war damages produced by Lugalzagesi: a text more judicial than historical in nature, or better a text proving the judicial framework of early history writing.

Here we do not have the time to follow the development of history writing through the two millennia of Near Eastern history separating Enannatum from Herodotus. It is clear, however, that there are no ethnical or mental vocations or preclusions to historiography, while the need for legitimation is always on the fore. We can just hint at different literary forms of such a need: from the "charter" function of the king lists, to the Akkadian model of the Old Babylonian kingship; from the great explosion of history writing in the mid-second millennium (from the Hittites to the Egyptian 18th dynasty), obviously related to the international system of "great kingdoms" and their need for a mutual acknowledgement, to the Assyrian emphasis on war and conquest obviously related to the costs of an empire and the need for a justification in front of people and the gods.

We can just provide here a few examples of the possible relevance of our formula (history as a judicial argument) in understanding the historiography of the ancient Near East.

6. Guide-lines for a first case study: Usurpers' apologies

A particular motif can be identified through the times, in order to show how the different arguments selected for self-legitimation are dependent upon the changing conditions in both the material and the ideological fields. The apologies of the usurpers are a clear example thereon: many important pieces of history writing do belong to this peculiar situation - from Urukagina's reforms to Shamshi-Adad's section in the Assyrian king list, from the testament of Hattushili I to the edict of Telipinu, from the statue of Idrimi to the apology of Hattushili III, from the story of David to that of Joash, from the legend of Sargon to the Nabonidus-Cyrus polemics.

In all these cases, the "tribunal-like" setting is clear: the usurper is in fact under charge (often implicitly, sometimes explicitly) by public opinion, because his seizing of the throne did not follow the normal procedures and consequently does not afford the expected guarantees. The correct relationships between god and king, and between king and people are in danger. The new king has to reassure his subjects that his own position is quite legitimate: either because of a previously unknown descent from (or designation by) the former king, or because of a direct designation by the gods. In every case the apology must resort to history, in linking the actual position of the king with the last position of firm legitimacy, and most often in depicting the intermediate period as a period of disorder and illegitimacy.

While the "tribunal-like" setting of all the apologies is clear, the literary forms are quite varied, and also the juridical arguments are varied, in accordance with the specific case, and with the legal norms of the time. The kingdom is a kind of property, and his transmission from king to king follows the norms of property transmission widely accepted in the society. Therefore the arguments of the usurpers have to do with the procedures of inheritance transmission. In a society where landed property is theoretically dependent on the temple (mid-third millennium), Urukagina wants to be accepted as restorer of an order that was established by the gods, in relation to which any change is a deviation and a damage. In a society where the inheritance is transmitted from father to son inside a strict family hierarchy (early-second millennium), Shamshi-Adad wants to be accepted as legitimate

heir of long-lasting tribal genealogies. In a society where the automatic transmission is put in doubt by adoptions and sales, and property and family roles are available to the most able members of the community (mid-second millennium), Idrimi wants to be accepted as an audacious and active man, who ventures to conquer the throne by his own merits and activity. At least to be precise on a single point: Idrimi's access to the throne and his polemics against his elder brothers, could not have been conceived but in a society (as the north-Syrian society of the Late Bronze age) where the inheritance acts state that there is no (more) difference between elder and younger sons (*sihru rabu ianu*), and that family hierarchies are established by personal behavior and not by birth-order.

Of course I do not see a direct link between the evolution of inheritance practices and the evolution of historiography. Yet a mediate influence can certainly be posed. In general terms, we can work with the descriptive and interpretive model of a civilization as a system built up of many different sub-systems: ecology and settlement pattern form a sub-system, technology forms another sub-system, economy still another one, and so on. All the sub-systems are interactive (in order to keep the society coherent and well working), but not necessarily every sub-system is directly influencing all the others; many influences are mediated by a third sub-system. So, the influence of inheritance practices (belonging to the sub-system of ownership of the means of production) on history writing (belonging to the sub-system of ideology) is mediated by the sub-systems of social structure and of political structure. Yet the ultimate source of influence is quite easily pointed out.

7. Guide-lines for a second case study: War declarations

The relevance of the so-called "historical introductions" to the international treaties is well known: when a formal political relation is established between two partners, be it a paritetical relation or one of dependence, it is necessary to go back to the most meaningful events in the previous relations in order to show how the present one is juridically correct. In particular the historical introductions to the Hittite treaties are well known, and the historiographical relevance of properly juridical texts like the treaties is widely accepted.

Lesser attention has been paid to war declarations. Yet, these have the same purpose of the historical introductions to the treaties: namely, to point out in recent (or remote) past the correct behavior of

our country and the aggressiveness or treachery of the enemy. Like an international treaty, also a war declaration is a properly juridical document, in this case a document of charge or indictment against the enemy. In the ordalic conception of war, the result of war is decided by the judge-god, and the judge-god cannot but favor the right side. Therefore, war declarations contain all the historical elements suitable to convince the judge-god (and the public opinion) that our side didn't look for anything else than peace, yet was forced to do war because of the aggressive attitude of the other side. Often, in the very moment someone attacks the neighbor's territory, he declares to be attacked or at least threatened by the neighbor himself.

Once again, we have no time to enter the details, but just to quote a few examples of war declarations with an explicit historical introduction (all the war declarations do have it). A continuous development can be easily pointed out, from a famous Old Babylonian letter from Mari to the many war declarations contained in the Hittite texts, from the literary treatment in the epic of Tukulti-Ninurta to the first millennium survivals in the Neo-Assyrian and Neo-Babylonian texts. The war declaration of Jephthe against the Ammonites (Judges 11: 12-27) is the best example of such a genre in Israelite historiography, and is closely similar to the Hittite and Assyrian examples.

In every case, a brief but significant history of the political and military relations between the two sides is given - obviously a biased and selective one, one reserving all the blame to the enemies and all the right to his own country. The selection and organization of past history for the sake of international politics is especially intensive in the Late Bronze period, when the "balance of powers" extended the search for legitimation from inner to outer audience. The "tribunal" of public opinion was enlarged to the entire community of Near Eastern states. In other periods - especially the Neo-Assyrian one - the international scenery is different, and this kind of historical self-justification can more easily be found in letters to the god, and connected with oath violation (another clear judicial context, although sublimated in the religious code).

8. Guide-lines for a third case study: The Hittites

We can now shortly and finally revert to the "Hittite problem", and suggest an obvious explanation. The Hittites were historically-minded neither because they were Indo-Europeans, nor because they were more similar to the Greeks, but because they were juridically-minded

in their inner and international political evaluations. Most of their history writing is political in subject and judicial in tone. Just remember the genres: international treaties with historical introductions, annals filled with war declarations and moral judgements on the enemies' behavior, letters of indictment against unloyal vassals, prayers with enquiries on past events, testaments and apologies explaining irregular successions, collection of "cases" to be used as precedents.

The reason is clear: the Hittites had built up a very complex political system, one necessarily based (given their reduced demographic and economic resources) on a search for consent in addition to a display of force. Before or after or alongside winning their enemies, the Hittites needed demonstrating that they were right, and the enemies were guilty. The demonstration was partly addressed to the gods, in the form of prayers, rituals of evocatio (in their explicit judicial setting), partly to the human audience - the inner one for internal problems, and the outer one for international problems. And of course the divine audience was just a sublimation or a metaphor for the human one. Even texts which were not immediately functional to this judicial syndrome, like the Annals (or Annals-like historical narratives), were nevertheless fed by the obsessive search for proving oneself to be right.

The arguments mostly used in Hittite historiography are those best fit to a judicial procedure: search for an older document (treaty or oath or agreement) in relation to which loyalty and treachery can be tested; search for similar cases which have already been agreed upon, and can now constitute a kind of "judicial precedents"; search for juridical norms of general acceptance (the norm of reciprocity being the most obsessively applied). Past history is first of all a sequence of previous behaviors, proving the right and wrong of the opponents; and it is also a set of cases to be recalled and evaluated in order to act according to the received norms.

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At this point I could be charged with a too monolithic view of Near Eastern historiography. Of course I have insisted on its judicial origins, since they have been until now mostly neglected by scholars. This does not rule out other stimuli to history writing, which grows more and more complex with the passing of time. At least I want to mention here a second important motive in political historiography (and in my view almost all Near Eastern historiography is political histo-

riography). Besides the search for the judicial arguments, the search for models is as much important. I have dealt on another occasion with the role of the Akkad kings as models of behavior for later kings. The two motives are differently represented: the judicial motive is paramount in documents endowed with a practical function (or a juridical value), while the model motive is paramount in literary texts. Another stimulus came from the administrative and legal need for a fixed chronology. Another one came from the need for celebrating the deeds of the kings. Still another one came from the endless sequence of collapse and restoration in the mud-brick buildings. Also the mythical search for origins (origins of things and norms) could find its way into some pieces of history writing.

All these are important factors, to be duly considered when writing a multi-faceted history of ancient Near Eastern historiography. Yet I think the judicial motive to be perhaps the decisive one, at least the only one to explain the original stimulus for recording and quoting past events in the perspective of present needs. It goes without saying that Near East historiography was far from being "pure" and conceived for his own sake; it was always functional and biased, sometimes fantastic or purposely false. Could you imagine a "pure" court address, one written and pronounced "for its own sake", with no concern for the side under charge, with no aim to convincing the judges?