

## FORM AND FUNCTION OF DEUTERONOMY

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Biblical scholars have offered a variety of options to describe the basic form of Deuteronomy. They can be divided basically into six different proposals: (a) treaty, (b) sermon, (c) law code, (d) proto-Mishna, (e) constitution, and (f) catechesis.

## TREATY

In the last four decades, a number of scholars have argued that there is a relationship in form between the Hebrew covenant and the ancient Near Eastern vassal treaty.<sup>1</sup> The insights of this thesis have been applied to the book of Deuteronomy.<sup>2</sup> The basic relationship between the overall structure of the book and the form of the ancient Near Eastern vassal treaty has been recognized. Thus the book of Deuteronomy is interpreted as a literary account of the renewal of the covenant with God on the plain of Moab.

It seems that there is no need for us to deny a connection between the book of Deuteronomy and the extra-biblical treaty tradition in terms

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<sup>1</sup>For example, G. E. Mendenhall, "Ancient Oriental and Biblical Law," *BA* 172 (1954): 26-46; idem, *Law and Covenant in Israel and the Ancient Near East* (Pittsburgh: Biblical Colloquium, 1955); K. Baltzer, *The Covenant Formulary*, trans. D. Green (Philadelphia: Fortress, 1971); for a comprehensive survey of the topic, see D. J. McCarthy, *Treaty and Covenant*, AnBib 21A, 2d ed. (Rome: Pontifical Biblical Institute, 1978); D. R. Hillers, *Treaty Curses and the O. T. Prophets*, *BibOr* 16 (1964).

<sup>2</sup>This is not the place for discussing whether it has affinities with the Hittite treaties of the late-second millennium (fourteenth to thirteenth centuries B.C.) or with the Assyrian state treaties of Esarhaddon of the first millennium (the seventh-century B.C.): for the former position, see Meredith G. Kline, *Treaty of the Great King: The Covenant Structure of Deuteronomy* (Grand Rapids: Eerdmans, 1963); K. A. Kitchen, *Ancient Orient and Old Testament* (Downers Grove, Illinois: InterVarsity Press, 1966); idem, "Ancient Orient, 'Deuteronomism' and the Old Testament," *New Perspectives on the Old Testament*, ed. J. B. Payne (1970): 1-24. Kitchen recently presented his paper, "Ancient Near Eastern Treaties and the Old Testament," reinforcing the original position he held at Annual Meeting of the Society of Biblical Literature, Chicago, Illinois, November, 1994; cf. J. A. Thompson, *The Ancient Eastern Treaties and the Old Testament* (London: Tyndale, 1964); for the latter, see R. Frankena, "The Vassal Treaties of Esarhaddon and the Dating of Deuteronomy," *OTS* 14 (1965): 122-54; Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: The Clarendon Press, 1972), 59-157; idem, "Traces of Assyrian Treaty Formulae in Deuteronomy," *Bib* 46 (1965): 417-27; cf. J. G. McConville, *Law and Theology in Deuteronomy*, JSOTSup 33 (Sheffield: JSOT Press, 1984), 2-7.

of its formal structure and vocabulary. The thesis is very helpful not only in reinforcing the unity of the book of Deuteronomy but also in supporting the historicity of the book as a literary product reflecting the day in which the author lived. Yet this does not automatically mean that the book should be interpreted in light of that perspective.

Equating Deuteronomy with the treaty form leaves unresolved doubt because the comparative study of the international treaties tends to emphasize only the similarities, neglecting the “*differentia specifica*” in form, content, and purpose between the Near Eastern documents and Deuteronomy.<sup>3</sup> Brekelmans provides insightful criticism regarding all these areas and casts doubt about the treaty background of Deuteronomy.<sup>4</sup> One of the points he makes is that the treaty texts are found not only in “the vassal treaties” but also in other texts, such as royal grants, royal decrees, boundary stones, loyalty oaths, and law codes. Therefore, presuming the almost exclusive influence of international treaties on Deuteronomy can ignore the possibility that there existed other ancient oriental traditions which simply share the element of fealty oath.<sup>5</sup>

The book of Deuteronomy also contains elements such as the Song of Moses, the Blessing of Moses and the account of his death, which cannot be seen as part of the treaty form. Thus it is somewhat stretched to transfer directly from the literary context of the extra-biblical treaties to that of Deuteronomy,<sup>6</sup> especially Deuteronomy as a whole. The external format should not be imposed upon the book unless the book itself warrants it as the intention.

## SERMON

Gerhard von Rad argues that the *Sitz im Leben* for Deuteronomy is a cultic celebration, perhaps a feast of the renewal of the covenant at Shechem, which can be conjectured by a formal covenant-making in

<sup>3</sup>S. Dean McBride, Jr., “Polity of the Covenant People: The Book of Deuteronomy,” *Interpretation* 41 (1987): 237. It is reprinted in *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy*, ed. Duane L. Christensen, SBTS vol. 3 (Winona Lake, Indiana: Eisenbrauns, 1993), 70.

<sup>4</sup>C. Brekelmans, “Wisdom Influence in Deuteronomy,” *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy*, 127-31.

<sup>5</sup>Ibid.

<sup>6</sup>A. D. H. Mayes, “Deuteronomy 4 and the Literary Criticism of Deuteronomy,” *JBL* 100 (1981): 30-31. It is reprinted in *A Song of Power*, 203.

Deuteronomy 26:16-19. This old cultic material, in which the form of Deuteronomy was originally rooted, which has its place of origin in Northern Israel, was reworked by circles of Levites in the Judean countryside in the seventh century B.C. for their revival movement and preaching activity (e.g. Neh. 8:7f; 2 Chr. 35:3) into a homiletic instruction preached by Moses.<sup>7</sup> For von Rad, Deuteronomy is a fiction which took the form of a homiletic sermon, in fact, “an artistic mosaic made up of many sermons on a great variety of subjects.”<sup>8</sup>

However, von Rad’s proposal of a covenant renewal feast and the preaching Levites has little historical warrant. If it is indeed homiletic preaching as von Rad argues, then it would rather belong to the prophets than to Levites (e.g. Amos 7:16; Mic. 2:6, 11; Ezek. 21:1,7). It should also be pointed out that when Moses entrusted the book, instead of presenting it solely to Levitical priests, he also gave it to “all the elders of Israel.” (31:9)<sup>9</sup> Therefore it can be said that, not just Levites, the elders were also responsible for teaching and preaching.

In addition to what von Rad said above, he recognizes that the old tradition as a standard has been transferred to the book, thus “Deuteronomy is unmistakably on the way towards working out a canon . . . which now begins to become authoritative, if not precisely as a canon, yet as a *regula fidei* laid down in writing.”<sup>10</sup> As von Rad just indicated, the present form of Deuteronomy sees itself as more than just homiletic proclamation. It is seen as more of a written document with the status of canon.

## LAW CODE

Many scholars consider the book of Deuteronomy to be a law Code. As a result of putting so much effort into finding the “original Deuteronomy,” which many literary critics identified as either chapters

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<sup>7</sup>Gerhard von Rad, *Deuteronomy*; idem, *Studies in Deuteronomy*; idem, *Old Testament Theology*, trans. D. M. G. Stalker. vol. 1 (San Francisco: Harper & Row, 1962).

<sup>8</sup>Idem, *Old Testament Theology*, 221.

<sup>9</sup>Dennis T. Olsen, *Deuteronomy and the Death of Moses: A Theological Reading*, Overtures To Biblical Theology (Minneapolis: Fortress Press, 1994), 8 and n. 4. Some scholars have argued that Deuteronomy was produced by the elders in Israel. See Leslie J. Hoopes, “The Levitical Origins of Deuteronomy Reconsidered,” *BibRev* 28 (1983): 27-36; idem, “Elders and Deuteronomy: A Proposal,” *EgT* 14 (1983): 259-72. For more criticism of the proposal by von Rad, see Nicholson, *Deuteronomy and Tradition*, 83-87.

<sup>10</sup>Von Rad, *Deuteronomy*, 29-30.

12-26 or chapters 5-28,<sup>11</sup> the law Code came to be identified as what the book of Deuteronomy is all about. In fact, the central part of chapters 12-26 consists of a series of laws, many of which are elaborations of earlier laws preserved in the so-called Book of the Covenant in Exodus 20:23-23:33. Thus Deuteronomy is considered to be a law Code reiterating earlier laws in a revised form reinterpreted and adjusted into a new situation.

However, this view not only represents the book partially but also disregards the final form of the book, leaving out the so-called outer frame of the book (chapters 1-3 and 31-34).

### PROTO-MISHNA

Another view of the book of Deuteronomy is presented by J. Weingreen.<sup>12</sup> He argued that the book of Deuteronomy was originally designated to serve as proto-Mishna or an oral Torah, expounding elements of the law and history which are preserved in sections of the preceding three books (i.e. Exodus-Numbers).<sup>13</sup> By studying the phenomenon of deuteronomic legislative activity, Weingreen describes Deuteronomy as being a proto-rabbinic type. That is, rabbinic modes of legal exposition were applied to existing biblical laws to produce extensions and modifications of the basic laws which altered their intent and rendered them relevant to the needs of the time of the Deuteronomists.

Based upon these evidences, Weingreen argued that the book of Deuteronomy initially never intended to be part of a Pentateuch. It was originally transmitted orally as an exposition of the Torah, and when it was circulated in writing during the later period, it came to be accepted as the only authoritative exposition of the existing basic Torah. Its authority, then, became paramount to its status as inspired Scripture. The existence and circulation of the sacred Torah precipitated the need for an authoritative exposition. The Deuteronomic phenomenon of exposition proves that there were sacred texts available. To Weingreen the rabbinic dictum, "What is Torah? It is the exposition of Torah,"<sup>14</sup>

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<sup>11</sup>For this issue, see above section.

<sup>12</sup>J. Weingreen, *From Bible to Mishnah: The Continuity of Tradition* (Manchester: Manchester University Press; New York: Holmes & Meier Publishers, 1976), 132-54.

<sup>13</sup>Weingreen leaves out Genesis as having no place in Deuteronomy.

that applies to Deuteronomy.<sup>15</sup>

The thesis of Weingreen has some merits that provide good insights for understanding Deuteronomy. However, whether his arguments are probable or not, he is still dealing with the pre-written stage of Deuteronomy. In that sense, his view remains as another hypothesis with no historical warrant. How Deuteronomy came to be canonical is difficult for anyone to prove. In addition, the Proto-rabbinic type of exposition by Deuteronomy requires reinvestigation to see whether the earlier laws were reinterpreted and harmonized by the Deuteronomic legislator (according to Weingreen's term) for their own time and place. If this type of Mishnah can be accepted as inspired Torah and provides the model for later expository procedure, then why can not later rabbinic Mishnah be included as part of sacred Scripture? Though Weingreen is correct to see Deuteronomy as the exposition of Torah, which is Deuteronomy's own claim (e.g. 1:5), his view does not represent precisely what the book of Deuteronomy is about. Furthermore, by excluding Genesis from the range of Deuteronomy, Weingreen missed the very important connection between the patriarchal promise and the theme of land which is one of the most prominent themes in Deuteronomy (cf. 7:8; 9:5, etc.).

## CONSTITUTION

More recently, S. Dean McBride, Jr., by supporting Josephus' identification of Deuteronomy's usage of "Torah"<sup>16</sup> as a *politeia* (instead of *nomos*), described the book as the "political constitution" that governs the whole life of the Israelites.<sup>17</sup> For McBride, it is more like "the charter for a constitutional theocracy,"<sup>18</sup> "the divinely authorized social order that Israel must implement to serve its collective political existence as the people of God."<sup>19</sup> By doing this McBride wants to avoid identifying Deuteronomy with mere "teaching" or "instruction" connoting a didactic, moralizing, or homiletic understanding. Interestingly, it is precisely for these points

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<sup>14</sup>Kiddushin 49a.

<sup>15</sup>Weingreen, *From Bible to Mishnah: The Continuity of Tradition*, 132-54.

<sup>16</sup>Josephus, *Antiquities* 4.184, 193, 198, 302, 310, 312.

<sup>17</sup>S. Dean McBride, Jr., "Polity of the Covenantal People: The Book of Deuteronomy," *Interpretation* 41 (1987): 229-44.

<sup>18</sup>*Ibid.*, 238.

<sup>19</sup>*Ibid.*, 233.

that Clements think that McBride's term "polity" is not sufficient in describing the book of Deuteronomy.<sup>20</sup> Clements sees the book of Deuteronomy as a book of "education," which provides a fundamental basis for the life and daily routine of an Israelite's home (cf. Deuteronomy 6:6-9).<sup>21</sup> Thus, according to Clements, McBride's use of the term "polity" misses the important aspect of "personal and individual life-style and spirituality" that the book of Deuteronomy pays attention to.<sup>22</sup>

The above discussion points to the fact that instead of both McBride and Clements describing the character of the Book of Deuteronomy inadequately, it can better be said that both are not adequately describing the book as a whole, but are only covering part of its message.

Regarding the thesis of McBride, Olsen criticizes it from a different angle. Olsen's assumption that the editing of Deuteronomy occurred during the exilic period naturally dismisses the idea of the role of Deuteronomy as a political constitution. For even if Deuteronomy has functioned as a national constitution in the earlier form, according to Olsen, a political state does no longer exist in the exilic period; thus the function of Deuteronomy changes into something other than a polity.<sup>23</sup>

Though Olsen's criticism of McBride is based upon his own presuppositions, Olsen's observation can still be agreed upon. That is, the book of Deuteronomy sees its role more than a political constitution.<sup>24</sup>

## CATECHESIS

As McBride does, Olsen also focuses on the term "Torah." But the identification of Torah by Olsen is different from that of McBride. Olsen presents Deuteronomy as Torah, and interprets Torah as a program of "catechesis." Olsen wants the term catechesis to be more inclusive than the semantic impression which the term provides at first hand. Thus, he defines Deuteronomic catechesis to be "theologically-centered," "humanly adaptable," "form-critically inclusive," "socially

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<sup>20</sup>R. E. Clements, *Deuteronomy*, OTG (Sheffield: JSOT Press, 1993), 17-18.

<sup>21</sup>Ibid.

<sup>22</sup>Ibid.

<sup>23</sup>Olson, *Deuteronomy and the Death of Moses*, 9. Olsen's own view will be dealt with below.

<sup>24</sup>The same point is also made by Udo Rütterswörden, *Von der politischen Gemeinschaft zur Gemeinde: Studien zu Dt. 16,18-18,22*, BBB 65 (Frankfurt am Main: Athenaeum, 1987).

transformative,” and “communally-oriented.”

“Theologically-centered” means that it is like systematic theology in that it describes a word of and about God putting Him as the center of hope and faith for God’s people. “Humanly adaptable” means that, for Olsen, the only fixed core of tradition is expressed in the Ten Commandments (only direct speech by God; Deut. 5) and the rest of Deuteronomy is a secondary interpretation of the Decalogue, humanly mediated through Moses. This sets up the mechanisms for an ongoing changing process of exposition and exploration of Torah by future generation for their new times and places.

“Form-critically inclusive” means that the genre of catechesis incorporates a variety of forms under its umbrella, including elements of a law Code, a covenant, and a constitution. “Socially transformative” means that it shapes and transforms the thoughts, attitudes, and behaviors of individuals and whole communities, not through enforcement but through persuasion and conviction, inculcating faith and obedience, worship and social ethics. Finally, “Communally-oriented,” means that Deuteronomic catechesis is communal and relational, not obliterating the validity of individual relations and of various other relationships (e.g., human relationships within the faith community). These relationships are interdependently tied to the faith community. This communal catechesis also shapes the structural and institutional life of the community.<sup>25</sup>

Olsen’s description of Torah is commendable in many respects. He tries to see the book of Deuteronomy as a whole and suggests a term encompassing that concept. He rightly focuses on the term “Torah” which is claimed by the book itself. Also, Olsen tries to comprehend the term as broadly as possible to cover the variety of aspects that the book of Deuteronomy is composed of. However, the term “catechesis” used by Olsen, though he defines it with a number of corollaries as shown in the above, still gives the impression of a dogmatic catechismal document. In fact, all the additional corollary descriptions which he attaches to the term catechesis, though it is hard to dispute them, instead of giving distinction to the book of Deuteronomy, rather broaden and so generalize the book that they can be applied to any other book of the Bible.

In terms of finding the form of Deuteronomy, the present writer

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<sup>25</sup>Olsen, *Deuteronomy and the Death of Moses*, 10-14.

wants to suggest her own term which would be very close to the direction made by both McBride and Olsen. That is, attention will be given to Deuteronomy's own description by its use of the term "Torah." The problem is not the term itself but how the term is to be defined. It will be defined by the present writer not as "polity" nor as "catechesis," but as "Torah as a way of life." This proposal is already made in the previous Torch Journal (2004). That is to understand Deuteronomy as "the Torah" and Torah as "a way of Life."

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