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DEUTERONOMY AND TREATY TEXTS:

A CRITICAL REEXAMINATION OF DEUTERONOMY 13, 17, 27, AND 28

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*For my mother, who has always believed in the value of a good education.*

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California. Dennis Pardee would later improve my understanding not only of Biblical Hebrew, but Northwest Semitic languages in general through the critical study of philology. My knowledge of Akkadian, meanwhile, was fostered by my always supportive instructor Walter Farber, and subsequently nurtured by the wonderful Andrea Seri. With regard to my understanding of Aramaic, I must give thanks to Stuart Creason. Finally, I must express my appreciation to Theo van den Hout and Janet Johnson for my acquaintance with the Hittite and Egyptian languages. Any perceived deficiencies in my translations of Hebrew, Aramaic, Akkadian, Hittite, and Egyptian texts should not be laid at the feet of these eminent teachers, whose expertise far surpasses my own. I am solely to blame if there are errors in translation.

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## NOTES ON TRANSLITERATION, NORMALIZATION, AND TRANSLATION

All translations of cuneiform texts in this dissertation, unless otherwise explicitly noted, should be attributed to the present author. With regard to discussion of Esarhaddon's Succession Treaty (EST), also known as the Vassal-Treaties of Esarhaddon (VTE), I am particularly indebted to the earlier translations and commentaries produced by D. J. Wiseman and Kazuko Watanabe. Jacob Lauinger's transliteration, translation, and commentary on material attested uniquely in the Tell Tayinat version of EST was also immensely important to the production of this study.

One of the chief difficulties in presenting transliteration, normalization, and translation of passages in EST is accommodating the existence of textual variants. Many are minor, but some are certainly of consequence to this study, which aims to evaluate claims that this particular Akkadian text might have directly influenced the composition of chapters in Deuteronomy. Variants of critical importance are duly noted and discussed as necessary. Those of minor consequence are only briefly touched upon, since this study is not intended to serve as a commentary on EST and could never supplant the research of Wiseman, Watanabe, or Lauinger.

The normalized text of passages in EST should be regarded as an aid to understanding my translation. Words and grammatical elements are not presented consistently in Assyrian or Babylonian form across versions of this cuneiform document. Although EST is a Neo-Assyrian composition, it would be necessary to give signs rare readings to accommodate an Assyrian normalization in many instances. When normalizing passages in EST, I decided to keep Assyrianisms that were syllabically spelled out in exemplars, but otherwise typically rendered words in their Babylonian form. This is a justifiable compromise. Evidence does not permit the

reading of cuneiform signs by particular audiences to be determined with confidence, and numerous copies of EST were likely distributed across regions of the Neo-Assyrian empire.

## ABSTRACT

This study critically reexamines claims that Deuteronomy 13, 17, 27, and 28 were influenced by ancient Near Eastern treaty texts or traditions. It has long been recognized that the literary structure of the book of Deuteronomy strongly resembles the organization of material in treaty documents. The latter often contain such elements as a preamble and historical prologue (cf. Deut 1-11), stipulations in second-person (cf. Deut 12-26), and blessings and curses (cf. Deut 27-28) in a sequence corresponding to that in the biblical book. In recent decades, a strong case has been made as well for the direct dependence of several passages in Deuteronomy on “Esarhaddon's Succession Treaty” (EST), also known as the “Vassal Treaties of Esarhaddon” (VTE), although this proposal remains a controversial one. The discovery of a new exemplar of EST at Tell Tayinat, this study demonstrates, strengthens arguments for a literary relationship between this text and Deuteronomy. It affords tantalizing evidence that copies of EST were deposited elsewhere in the Levant, while its use as a display piece near a possible altar calls to mind the Mosaic command in Deut 27:1-8. In addition, this study presents new literary evidence that a copy of EST probably influenced the composition of Deut 13:1-12 and 28:20-44. Close examination of the chiasmic structure of Deut 28:20-44\* demonstrates the literary creativity of the Deuteronomic writers, bolstering claims that they may have borrowed from EST in a highly creative fashion. Most strikingly, the similarities between EST and Deuteronomy 28 terminate precisely at the midpoint (Deut 28:31-32) of the chiasmic structure. This is unlikely to be coincidental, but more plausibly reflects the dependence of Deut 28:23-31 on passages in EST.

# CHAPTER ONE: THE PURPOSE OF THIS STUDY

## 1.1 - History of Research

### *The Subject of the Present Study*

It has long been recognized that the literary structure of the book of Deuteronomy strongly resembles the organization of material in ancient Near Eastern treaties. The latter often contain such elements as a preamble and historical prologue (cf. Deut 1-11), stipulations in second-person (cf. Deut 12-26), and blessings and curses (cf. Deut 27-28) in a sequence corresponding to that in the biblical book.<sup>1</sup> In recent decades, a strong case has been made as well for the direct dependence of several passages in Deuteronomy on “Esarhaddon's Succession Treaty” (EST),<sup>2</sup> also known as the “Vassal Treaties of Esarhaddon” (VTE), although this

1 It is widely accepted among biblical scholars that the book of Deuteronomy is structured like an ancient Near Eastern treaty, although frequently with some qualification. Introductory works to the study of the Hebrew Bible commonly contain a discussion of the similar literary outline of Deuteronomy and treaty texts: Frank S. Frick, *A Journey Through the Hebrew Scriptures* (2<sup>nd</sup> ed.: Belmont: Wadsworth/Thomson, 2003) 212-213; John J. Collins, *Introduction to the Hebrew Bible* (Minneapolis: Augsburg Press, 2004) 160-171; Marc Brettler, *How to Read the Jewish Bible* (Philadelphia: The Jewish Publication Society, 2005) 90-92; Barry L. Bandstra, *Reading the Old Testament: Introduction to the Hebrew Bible* (4<sup>th</sup> ed.; Belmont: Wadsworth, 2009) 176-178; David M. Carr, *An Introduction to the Old Testament: Sacred Texts and Imperial Contexts of the Hebrew Bible* (Chichester: Wiley-Blackwell, 2010) 137-142. This attests to the widespread recognition of significant parallels between the literary structure of Deuteronomy and ancient Near Eastern treaties. For some criticism of the comparison, see Ernest W. Nicholson, *God and His People: Covenant Theology in the Old Testament* (Oxford: Clarendon Press, 1986) 68-82. There is no treaty tradition or text, it should be noted, to which the structure of Deuteronomy corresponds precisely.

2 Steymans, “Eine assyrische Vorlage für Deuteronomium 28,20-44,” in *Bundesdokument und Gesetz: Studien zum Deuteronomium*, ed. Georg Braulik (Freiburg: Herder, 1995) 119-141; Steymans: *Segen und Fluch im Alten Orient und in Israel* (Freiburg: Universitätsverlag; Göttingen: Vandenhoeck & Ruprecht, 1995); Eckart Otto, “Treueid und Gesetz: Die Ursprünge des Deuteronomiums im Horizont neuassyrischen Vertragsrechts,” *ZAR* 2 (1996) 1-52; Eckart Otto, *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* (Berlin:

proposal remains a controversial one.<sup>3</sup> The discovery of a new exemplar of EST at Tell Tayinat,<sup>4</sup> however, has the potential to strengthen the argument for a literary relationship between this text and sections of Deuteronomy. It affords tantalizing evidence that copies of EST may have been deposited elsewhere in the Levant. Moreover, its use as a display piece beside a possible altar in a temple (Building XVI) at Tell Tayinat calls to mind the Mosaic command that the Deuteronomic laws should be displayed on stones beside an altar (Deut 27:1-8). In light of this new exemplar of EST and growing controversy regarding the literary affinity between biblical legal materials and cuneiform texts,<sup>5</sup> further study of the relationship between Deuteronomy and

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Walter de Gruyter, 1999); Bernard M. Levinson, "Textual Criticism, Assyriology, and the History of Interpretation: Deuteronomy 13:7a as a Test Case in Method," *JBL* 120 (2001) 236-241; Bernard M. Levinson, "The Neo-Assyrian Origins of the Canon Formula in Deuteronomy 13:1," in *Scriptural Exegesis: The Shapes of Culture and the Religious Imagination: Essays in Honour of Michael Fishbane*, eds. Deborah A. Green and Laura S. Lieber (Oxford: Oxford University Press, 2009) 25-45; Bernard M. Levinson and Jeffrey Stackert, "Between the Covenant Code and Esarhaddon's Succession Treaty: Deuteronomy 13 and the Composition of Deuteronomy," *JAJ* 3 (2012) 123-140; Hans U. Steymans, "Deuteronomy 28 and Tell Tayinat," *VeE* 34 (2013): <http://www.ve.org.za/index.php/VE/article/viewFile/870/1866>; Bernard M. Levinson and Jeffrey Stackert, "The Limitations of "Resonance": A Response to Joshua Berman on Historical and Comparative Method," *JAJ* 4 (2013) 310-333.

3 Juha Pakkala, *Intolerant Monolatry in the Deuteronomistic History* (Göttingen: Vandenhoeck & Ruprecht, 1999) 41-47; Martti Nissenen, "The Dubious Image of Prophecy," in *Prophecy, Prophecy, and Prophetic Texts in Second Temple Judaism*, eds. Michael H. Floyd and Robert D. Haak (New York: T&T Clark, 2006) 27-28; Christoph Koch, *Vertrag, Treueid und Bund* (Berlin: Walter de Gruyter, 2008); Markus Zehnder "Building on Stone? Deuteronomy and Esarhaddon's Loyalty Oaths (Part 1): Some Preliminary Observations," *BBR* 19 (2009) 341-374; Markus Zehnder, "Building on Stone? Deuteronomy and Esarhaddon's Loyalty Oaths (Part 2): Some Additional Observations," *BBR* 19 (2009) 511-535; Joshua Berman, "CTH 133 and the Hittite Provenance of Deuteronomy 13," *JBL* 130 (2011), 25-44; Joshua Berman, "Historicism and Its Limits: A Response to Bernard M. Levinson and Jeffrey Stackert," *JAJ* 4 (2013) 297-309.

4 The discovery of an "oath tablet" (T1801) at Tell Tayinat was described in 2009 (Jacob Lauinger, "Some Preliminary Thoughts on the Tablet collection in Building XVI from Tell Tayinat," *CSMS* [2011], 5-14). This was readily identified as a new copy of EST, the text of which has since been published by Jacob Lauinger ("Esarhaddon's Succession Treaty at Tell Tayinat: Text and Commentary," *JCS* 64 [2012] 87-123).

5 Evidence that Mesopotamian legal collections influenced the composition of legal materials in Exodus and Deuteronomy is disputed. Eckart Otto (*Das Deuteronomium* [1999] 203-217) has argued for the influence of the Middle Assyrian Laws (MAL) on passages in Deuteronomy. It is

treaty texts is necessary and will be provided by the present study. Special attention will be paid to Deuteronomy 13, 17, 27, and 28, since these chapters contain particularly large clusters of conceptual and phraseological parallels to material found in ancient Near Eastern treaties.

### *Deuteronomy and Hittite Treaties*

Critical research on the relationship between biblical passages and treaty texts began in the mid-twentieth century with the publication of an influential article by G. E. Mendenhall.<sup>6</sup> Building on the observations of Viktor Korošec,<sup>7</sup> it was Mendenhall who first claimed the existence of significant correspondences between the content of Hittite vassal treaties and material in Exodus, Deuteronomy, and Joshua. With regard to Deuteronomy, however, he observed only a few specific parallels. These included the shared role of the Hittite sovereign and YHWH as bestower and guarantor of an agreement across generations (cf. Deut 7:7-8), the

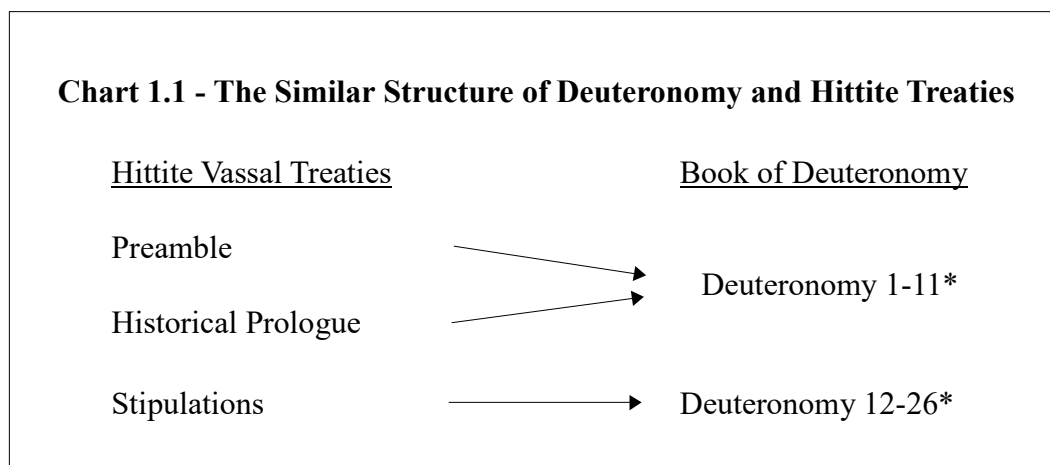
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quite doubtful, however, that the Israelites could have been exposed to this text (cf. Steven W. Hollaway, review of Eckart Otto's *Das Deuteronomium*, *JNES* 66 [2007] 206-208). More recently, a detailed argument for the literary dependence of Covenant Code (Exod 20:19-23:33) on the Code of Hammurabi has been made by David P. Wright (*Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* [Oxford: Oxford University Press, 2009]). This is a more plausible suggestion, inasmuch as the Code of Hammurabi appears to have been a widely copied text. The publication of his preliminary findings ("The Laws of Hammurabi as a Source for the Covenant Collection (Exodus 20:23-23:19)," *Maarav* 10 [2003] 11-87), however, was met with skepticism by Bruce Wells ("The Covenant Code and Near Eastern Legal Traditions: A response to David P. Wright," *Maarav* 13 [2006] 85-118); cf. David P. Wright, "The Laws of Hammurabi and the Covenant Code: A Response to Bruce Wells," *Maarav* 13 (2006) 211-260.

<sup>6</sup> George E. Mendenhall, "Covenant Forms in Israelite Tradition," *BA* 17 (1954) 49-76. It deserves mention, however, that an affinity between the biblical concept of "covenant" (ברית) and ancient Near Eastern treaties was briefly noted by E. Bickerman ("Couper un alliance," *AHDO*, Vol. 5 [1950/51] 153-154) in an earlier article.

<sup>7</sup> Viktor Korošec, *Hethitische Staatsverträge: Ein Beitrag zu ihren juristischen Wertung* (Leipzig: T. Weicher, 1931).

employment of blessings and curses during a ratification ceremony (cf. Deut 27-28), and the invocation of elements of the natural world as witnesses (cf. Deut 32:1). Mendenhall was not concerned with elucidating the literary structure of Deuteronomy in view of the treaty form. Rather, he sought to account for the origin and development of the biblical concept of “covenant” (ברית), and believed this could be aided by analysis of so-called “international covenants” preserved in the form of Hittite suzerainty treaties. Even though many of his conclusions have since been judged by scholars to be dubious,<sup>8</sup> there can be no denying the influence of his comparative approach. Seizing on Mendenhall's insights regarding the similarity between treaties and biblical texts, other scholars have tried to demonstrate that the literary structure of Deuteronomy could have been deliberately modeled on the form of a treaty.<sup>9</sup>



8 Cf. Dennis J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament* (Rome: Biblical Institute Press, 1981) 4-6; cf. Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon Press, 1972) 59-66.

9 Perhaps the earliest attempt to understand the whole of Deuteronomy as a treaty is found in Meredith G. Kline's “Dynastic Covenant,” *WTJ* 23 (1960/61) 1-15. His views were more fully articulated in his later work, *Treaty of the Great King: The Covenant Structure of Deuteronomy: Studies and Commentary* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 1963). It should be noted, though, that Kline's work is obviously written from a polemical religious viewpoint. Another early description of the whole of Deuteronomy as a treaty may be found in K. A. Kitchen's *Ancient Orient and Old Testament* (Chicago: InterVarsity Press, 1966) 90-102.



*Chart 1.1 (Continued)*

Reading of the Treaty	—————→	Deut 17:14-20 (cf. 31:10-14)
Deposition of the Treaty	—————→	Deut 27:1-8 (cf. 31:25-26)
Blessings and Curses	—————→	Deuteronomy 27-28*

It is problematic, however, to suppose any direct literary connection between Hittite treaties and the book of Deuteronomy. Texts in Hittite ceased to be produced towards the end of thirteenth century BCE, but there is no material evidence for Israelite literacy prior to the tenth century BCE.<sup>10</sup> The earliest version of Deuteronomy, moreover, is plausibly dated to a later period on various grounds that will be examined in this study. The influential “De Wette Hypothesis” dates its composition to the seventh century BCE, since there are reasons for suspecting that an edition of the Deuteronomistic law code was promulgated by King Josiah (cf. 2 Kgs 22:3-23:27).<sup>11</sup> Other scholars favor the seventh (or eighth century) BCE in view of the possible influence of exiles from the Northern kingdom on the composition of Deuteronomistic texts.<sup>12</sup> Opposing this view of Deuteronomy's origin are a relatively small, but notable group of researchers, who favor an exilic or post-exilic dating for the biblical book.<sup>13</sup> There is a substantial

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10 There is no consensus, however, as to the identification of the earliest Hebrew text. For some recent discussion of the issue, see Christopher A. Rollston's “What is the Oldest Hebrew Inscription” (*BAR* 38 [2012] 32-40, 66, 68) as well as the critical responses to his article from Yosef Garfinkel (“Christopher Rollston's Methodology of Caution,” *BAR* 38 [2012] 58-59) and Aaron Demsky (“What is the Oldest Hebrew Inscription? – A Reply to Christopher Rollston”: <http://www.biblicalarchaeology.org/uncategorized/what's-the-oldest-hebrew-inscription/>).

11 Cf. Paul B. Harvey, Jr. and Baruch Halpern, “W. M. L. de Wette's “*Dissertatio Critica*...”: Context and Translation,” *ZAR* 14 (2008) 47-85.

12 Cf. Ernest Nicholson, *Deuteronomy and Tradition* (Oxford: Basil Blackwell, 1967) 98-106.

13 The historical reliability of 2 Kings 22-23, describing events during the reign of King

chronological gap, regardless, between the writing of Hittite treaties and the dates by most biblical scholars for the composition of Deuteronomy. Mendenhall only asserted that the Mosaic covenant probably originated in the second millennium BCE, while noting that the “pre-Mosaic” peoples of the Levant were Hittite subjects who could have been exposed to their treaty form.<sup>14</sup>

### *Deuteronomy and Esarhaddon's Succession Treaty*

The discovery of EST would gradually reorient scholarly discussion regarding the relationship between treaty texts and the book of Deuteronomy. Fragments of this Neo-Assyrian text were first discovered at a temple complex in Nimrud, and subsequently published by D. J. Wiseman in 1958.<sup>15</sup> The text presents itself as a record of *adê* (§1; l. 1), a term sometimes translated as “treaty,” but variously argued to denote “stipulations,”<sup>16</sup> “loyalty oath(s),”<sup>17</sup> or “duty, destiny.”<sup>18</sup> It begins with an introductory section identifying the addressees who must remain loyal to Ashurbanipal (§1; ll. 1-12), the successor of Esarhaddon to the throne of Assyria.

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Josiah, has been questioned since the nineteenth century. Gustav Hölscher (“Komposition und Ursprung des Deuteronomiums,” *ZAW* 40 [1922] 161-255), however, was the first major proponent of an exilic dating for the book of Deuteronomy. For a recent summary of evidence favoring an exilic or post-exilic dating, see Juha Pakkala's “Why the Cult Reforms in Judah Probably Did not Happen,” in *One God – One Cult – One Nation: Archaeological and Biblical Perspectives*, eds. Reinhard G. Kratz and Hermann Spieckermann (Berlin: Walter de Gruyter, 2010) 201-235.

14 Mendenhall, *BA* 17 (1954) 54.

15 D. J. Wiseman, “The Vassal-Treaties of Esarhaddon,” *Iraq* 20 (1958) 1-99.

16 Ibid., 3; cf. Joseph A. Fitzmyer, *The Aramaic Inscriptions of Sefire* (Rome: Pontifical Bible Institute, 1967) 23-24.

17 Hayim Tadmor, “Treaty and Oath in the Ancient Near East: A Historian's Approach,” in *Humanizing America's Iconic Book: Society of Biblical Literature Centennial Addresses 1980*, eds. Gene M. Tucker and Douglas A. Knight (Chico: Scholar's Press, 1980) 127-152. This definition, however, has been justly criticized as too narrow by Simo Parpola (“Neo-Assyrian Treaties from the Royal Archives of Nineveh,” *JCS* 39 [1987] 180-183).

18 Jacob Lauinger, “The Neo-Assyrian *adê*: Treaty, Oath, or Something Else?,” *ZAR* 19 (2013) 99-115.

A list of deities who will serve as witnesses to its provisions follows (§§2-3; ll.13-40), and then oaths affirmed with a series of *šumma* clauses (§§4-36; ll. 41-396). The latter are understood by some scholars as further adjurations, and by others as conditions for the realization of the subsequent curses (§§37-106; ll. 397-663).<sup>19</sup> Even upon the initial publication of the text, striking similarities between the curses in EST and those in Deuteronomy 28 were observed by Wiseman. He did not attempt to assess their significance, however, but noted the relatively recent research of G. E. Mendenhall on the importance of treaty texts for the study of biblical passages.<sup>20</sup>

Throughout the next few decades, scholars would offer different explanations for the similarity between curses in Deuteronomy 28 and EST. Dennis J. McCarthy dismissed the possibility of a literary connection in a lengthy comparative study of ancient Near Eastern treaties and biblical passages in 1963.<sup>21</sup> The similarity between the curses of Deuteronomy 28 and those in EST, he argued, is best explained by their shared use of “traditional material.” Parallels in the form and content of curses from different regions and time periods, McCarthy claimed, demonstrate that certain curse formulae were widely known across the ancient Near East by the time that Deuteronomy and EST were composed. Many scholars have since concurred with this assessment. In a short monograph published the following year, Delbert R. Hillers found no reason to suppose any literary affinity between biblical curses and those in EST.<sup>22</sup> The similarity between curses in EST and Deuteronomy 28, he asserted, can be traced to the “oral traditions of curses on which writers and speakers might draw for various purposes,

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19 Steymans (*Deuteronomium 28* [1995] 34-37) provides a useful synopsis of discussion on the issue with references.

20 Wiseman, *Iraq* (1958) 26, nn. 200 and 201.

21 McCarthy, *Treaty and Covenant* (1981).

22 Delbert R. Hillers, *Treaty Curses and the Old Testament Prophets* (Rome: Pontifical Bible Institute, 1964).

either leaving the material as they found it or recasting it in their own style.”<sup>23</sup> Although it had recently been suggested by Rykle Borger that Deut 28:23 might have been copied from an Assyrian treaty,<sup>24</sup> the notion was brusquely dismissed by Hillers as “naive.”<sup>25</sup>

Strong evidence for the direct borrowing of curses from an Assyrian text into Deuteronomy, however, was subsequently noted by Moshe Weinfeld in 1965.<sup>26</sup> Certain parallels between EST and Deuteronomy 28, he pointed out, can only be explained by the influence of an Assyrian source on the latter. Deut 28:27-29 and EST §§39-40 (ll. 419-424), for instance, juxtapose the curse motifs of skin ailment, injustice, and blindness. Only in a Mesopotamian context, however, is the logic of this combination apparent. The skin affliction *saḥaršuppû* mentioned in EST §39 (l. 419) is frequently found in Mesopotamian curses invoking Sin, the moon god.<sup>27</sup> Blindness and injustice, meanwhile, can be recognized as inversely associated with the nature of Shamash, the sun god responsible for judgment. These two deities are commonly paired together throughout Mesopotamian literature, and their invocation in EST §§39-40 (ll. 419-424) clearly accounts for the sequence of curse motifs in EST. The combination of these same curse motifs in the Deut 28:26-29, however, cannot be explained in an Israelite context. This suggests that the origin of these curses should be sought in Mesopotamia rather than Israel. In addition, Weinfeld observed that Deut 28:26-30 and EST §§39-42 (ll. 419-430) contain the

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23 Ibid., 42. Hillers does not, however, adequately justify his swift rejection of Borger's proposal. His assertion (p. 42, n. 21) that “the poetic form of the biblical curse may point to an early origin in Israel or Canaan, whence it could have been adopted by Akkadian writers” is wholly inscrutable. If a Mesopotamian writer could transform the poetry that Hillers discerns into prose, why could an Israelite writer not have done precisely the opposite?

24 R. Borger, “Zu den Asarhaddon-Verträgen aus Nimrud,” *ZA* 54 (1961) 191-192.

25 Hillers, *Treaty Curses* (1964) 42.

26 Moshe Weinfeld, “Traces of Assyrian Treaty Formulae in Deuteronomy,” *Biblica* 46 (1965) 417-427; cf. Moshe Weinfeld, *Deuteronomy* (1972) 116-129.

27 Cf. Steymans, *Deuteronomium* 28 (1995) 80-81.

same curse motifs in an almost identical order, pointing to a literary connection between Deuteronomy 28 and an Assyrian source in particular. Weinfeld did not claim, however, that the Assyrian source from which the Deuteronomic writer borrowed must have been EST.

The same year that Weinfeld published his article asserting the influence of an Assyrian source on the composition of Deuteronomy, Rintje Frankena authored an essay observing similar correspondences between the arrangement of curse motifs in EST and Deuteronomy 28.<sup>28</sup> Frankena laid greater stress on their importance, however, for understanding the historical circumstances in which Deuteronomy was composed. EST can confidently be dated to 672 BCE on the basis of its colophon (ll. 664-670), and it was therefore written remarkably close to the Josianic period in which an early edition of Deuteronomy is theorized to have been produced. Frankena noted that King Manasseh of Judah could have been among the Assyrian subjects who took the oaths recorded in EST, since he is included in a list of Assyrian vassals found in the Annals of Esarhaddon.<sup>29</sup> It is also possible, he claimed, that a copy of EST was subsequently deposited in Jerusalem. Much like Weinfeld, however, Frankena stopped short of insisting that Deuteronomy is directly dependent on EST. The evidence only indicated that some Assyrian treaty must have been used during its composition. It was probably in the context of Josiah's anti-Assyrian reforms, Frankena further theorized, that the repudiation of Assyrian vassalage was accompanied by the drafting of a treaty-like text in which YHWH replaced the Assyrian king as overlord. This new document, the first version of the book of Deuteronomy, nevertheless displayed the influence of the Assyrian treaty material that it was ultimately intended to supplant.

In formulating this theory, Frankena took it for granted that the literary core of

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28 R. Frankena, "The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy," *OTS* 14 (Leiden: E. J. Brill, 1965) 122-154.

29 Ibid., 151.

Deuteronomy was modeled on the form of a treaty.<sup>30</sup> Several scholars, however, have expressed skepticism that the basic structure of the biblical book can be analogized to that of a treaty.<sup>31</sup> Ernest Nicholson, for instance, has objected to the comparison on numerous grounds. Deuteronomy with its homiletic style is rhetorically unlike a treaty, he asserts, and YHWH is never explicitly equated with a king.<sup>32</sup> Moreover, it contains two distinct prologues (Deut 1-3; Deut 4:44-11:32) with the laws of the Decalogue (Deut 5:6-17) intervening prior to the main body of legal material (Deut 12-26). This is structurally dissimilar, Nicholson observes, to the form of any extant treaty document.<sup>33</sup> Important differences are apparent as well when Deuteronomy is compared to the Neo-Assyrian treaty form.<sup>34</sup> The latter lacks a historical prologue, and blessings for fidelity to the treaty are never found together with the curses for failure to comply. As for purported parallels between the rhetoric of Deuteronomy and treaties, such as the command for subjects to “love” (אָהַב/*râmu*) their lord in the former (Deut 6:5, 13:4) and EST §24 (ll. 266-268), Nicholson suggests that their significance is illusory or inflated in scholarship.<sup>35</sup> He therefore views it as unlikely that Deuteronomy was modeled on a treaty.

Building on observations of Weinfeld, however, Paul E. Dion has stressed that the correspondences between the language of Akkadian texts and Deuteronomy 13 are quite numerous and suggestive of some literary connection.<sup>36</sup> The Hebrew phrase that means “to speak

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30 Ibid., 152.

31 C. Brekelmans, “Wisdom Influence in Deuteronomy,” in *La Sagesse de l'Ancien Testament*, ed. M. Gilbert (Louvain: Louvain University Press, 1978) 32-36; Nicholson, *God and His People* (1986) 68-82; Thomas Römer, “The Book of Deuteronomy,” in *The History of Israel's Traditions: The Heritage of Martin Noth*, eds. Steven L. McKenzie and M. Patrick Graham (Sheffield: Sheffield Academic Press, 1994) 196-197.

32 Nicholson, *God and His People* (1986) 71.

33 Ibid., 71.

34 Ibid., 77-78.

35 Ibid., 78-81.

36 Paul E. Dion, “Deuteronomy 13: The Suppression of Alien Religious Propaganda in Israel

mendaciously” (דבר סרה; Deut 13:6), for instance, represents a direct parallel to the Akkadian phrase *dabābu sarratim/surratim*. Moreover, the obligation for the Israelites to investigate reports that an Israelite town has been worshipping a god other than YHWH (Deut 13:15) is described with legal terms reminiscent of those found in Akkadian texts. Most significant for the comparison of Deuteronomy and treaty texts, however, is the admonition in Deut 13:2-6 against a “prophet” (נביא) or “dreamer of dream” (חולם חלום) who agitates against YHWH. This is strikingly similar to the warning against a seditious prophetic figure (*raggimu; mahḥu*) or dream interpreter (*šā'ilu*) in EST §10 (ll. 108-122). Since dreams elsewhere in biblical texts are within the occupational purview of “prophets” (נביאים), Dion has suggested that the distinction between these two groups in Deut 13:2-6 points to a literary connection with EST.<sup>37</sup> “The closer to 672 BC one places the composition of Deuteronomy 13,” he has observed, “the easier to understand are its contacts with the vassal treaties of Esarhaddon.”<sup>38</sup> Although Dion never explicitly asserts that the text of EST §10 (ll. 108-122) served as the literary model for Deuteronomy 13, it is difficult to avoid the impression that he regards it as highly probable.

That curses in Deuteronomy 28 must be recognized as literarily dependent on those contained in EST, however, has been argued by Steymans. In a lengthy study published in 1995, he attempted to disprove the possibility that long-observed parallels between the ordering of curse motifs in Deut 28:20-44 and EST can be explained on the basis of coincidence.<sup>39</sup> Steymans surveyed all of the curses in extant texts from Mesopotamia spanning from the reign of Hammurabi until that of Esarhaddon, and found no example of a motif sequence resembling the

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During the Late Monarchical Era” in *Law and Ideology in Monarchic Israel*, eds. Baruch Halpern and Deborah W. Hobson (Sheffield: JSOT Press, 1991) 153, 200-203.

37 Ibid., 200.

38 Ibid., 204-205.

39 Steymans, *Deuteronomium 28* (1995).

shared arrangement in EST and Deuteronomy.<sup>40</sup> This casts doubt on the possibility that Deut 28:20-44 could have been modeled on curses in a text other than EST. Differences between parallel curses in EST and Deut 28:20-44, Steymans further claims, are analogous to those that occur when a text is directly translated. This is demonstrated in his comparative analysis of bilingual and trilingual inscriptions from the ancient Near East, which examines how texts were altered in translation.<sup>41</sup> As for discrepancies between the ordering of curse motifs in Deut 28:20-44 and EST, Steymans argues that they can be explained by the decision of the Deuteronomic writer to model the biblical passage thematically on EST §56 (ll. 472-493).<sup>42</sup> The structural similarities between Deut 28:20-44 and EST, therefore, establish the dependence of this biblical passage on EST.

Accepting the conclusions of Steymans, Eckart Otto has also asserted that EST was a source utilized during the writing of Deuteronomic passages.<sup>43</sup> In his view, portions of Deuteronomy 13 and Deuteronomy 28 comprise the earliest layer of Deuteronomy, and these passages are translations of sections in EST. This hypothetical version of Deuteronomy, construed as the “Urdeuteronomium” by Otto, would therefore have consisted of a loyalty oath to YHWH (Deut 13:2-10\*) immediately followed by a series of curses (Deut 28:15\*, 20-44\*) applying to the oath breaker.<sup>44</sup> Otto maintains that this work was probably produced during the reign of King Josiah and should be understood in the historical context of his anti-Assyrian reforms. Subsequently, it was supplemented with a series of laws intended to promote the centralization of cultic worship. This new version of Deuteronomy, Otto asserts, reflected not

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40 Ibid., 34-149.

41 Ibid., 150-194.

42 Ibid., 300-312; cf. Ibid., 139-142.

43 Otto, *Das Deuteronomium* (1999).

44 Ibid., 32-90.



only the literary influence of the Covenant Collection (Exod 20:19-23:33), but also the “Middle Assyrian Laws” (MAL).<sup>45</sup> Otto has thus proposed that cuneiform texts exerted a much greater influence on the composition of Deuteronomy as a whole than previously envisioned.

Although not without his criticisms of Otto's claims,<sup>46</sup> Bernard M. Levinson has recently found more evidence for supposing the direct dependence of Deut 13:1-12 on EST. At the structural level, this biblical passage inverts the ordering of material in EST in a manner resembling a citation pattern known as “Seidel's Law.”<sup>47</sup> Both Deut 13:1 and EST §4 (ll. 41-61) prohibit changing or altering a sovereign's injunction and require obedience, he observes, but in a reverse order. Likewise, the mention of family members and prophetic figures as potentially seditious groups is reversed in Deut 13:2-12 and EST §10 (ll. 108-122). Since inverse citation is common when scribes produce texts based on earlier ones, the occurrence of this patterning can be taken as evidence for a literary relationship between Deuteronomy and EST. In Levinson's opinion, the language of dynastic succession in EST was purposefully incorporated into Deuteronomy 13 to reflect the replacement of the Covenant Code with the Deuteronomistic Code.<sup>48</sup>

Among scholars who agree that the composition of Deuteronomy 13\* and 28\* was influenced by EST, however, there is dispute as to how the text became known to the Deuteronomistic writers. Levinson thinks it is plausible that Judean scribes were trained in Akkadian, and thus could have read the text directly from an Akkadian copy.<sup>49</sup> Objecting to this suggestion, William S. Morrow claims that it is unnecessary to posit cuneiform literacy in

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45 Ibid., 203-378.

46 Levinson, *Scriptural Exegesis* (2009) 29; Levinson and Stackert, *JAJ* 3 (2012) 137.

47 Levinson, *Scriptural Exegesis* (2009) 30-35.

48 Ibid., 37; Levinson and Stackert, *JAJ* 3 (2012) 137-139.

49 Levinson, *Scriptural Exegesis* (2009) 340.

ancient Judah to account for similarities between Deuteronomy and EST.<sup>50</sup> He proposes instead that the content of Assyrian treaties was mediated by Assyrian officials appointed to oversee Judah. If a copy of EST was deposited in Jerusalem, these officials could have been responsible for relaying the contents of the text to a Judean audience. This might explain why Deuteronomic passages only loosely imitate Assyrian rhetoric. Judean scribes may have been attempting to reproduce its literary elements without the close knowledge of the text that would come from being able to translate it firsthand. Another suggestion obviating the need for Akkadian literacy in ancient Judah was made earlier by Steymans.<sup>51</sup> The Assyrians, he noted, could have translated EST into Aramaic and provided this version to their western vassals, presumably since the Aramaic language was more familiar to them. Conceivably, diplomatic correspondence between Assyria and Judah might regularly have been conducted in Aramaic rather than Akkadian.

Many scholars remain skeptical, however, that EST provided the literary model for Deuteronomy 13\* and 28\*. Juha Pakkala, for instance, concedes that Deuteronomy 13\* displays the influence of treaty rhetoric, but suggests that the similarity is not strong enough to point to knowledge of EST.<sup>52</sup> He also notes that EST does not contain a parallel for Deut 13:13-16, which prescribes the destruction of disloyal towns, although other ancient Near Eastern treaties display

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50 William S. Morrow, "The Paradox of Deuteronomy 13: A Post-Colonial Reading," in *Gerechtigkeit und Recht zu üben (Gen 18, 19): Studien zur altorientalischen biblischen Rechtsgeschichte, zur Religionsgeschichte Israels und zur Religionssoziologie: Festschrift für Eckart Otto zum 65. Geburtstag*, eds. Reinhard Achenbach and Martin Arneth (Wiesbaden: Harrassowitz, 2009) 231-232.

51 Steymans (*Deuteronomium* 28 [1995] 191-193) initially entertained the possibility that an Aramaic version of EST once existed: "Vor dem Hintergrund der in Nimrud gefundenen Papyrusgallerie ist anzunehmen, dass ein so bedeutender Text wie die VTE von Anfang an sowohl in einer assyrischen als auch in einer aramaischen Version existierte" (p. 193). Later, however, he dismissed the possibility ("Deuteronomy 28 and Tell Tayinat" [2013]): "That the Assyrian royal chancellery produced an official Aramaic translation of the [*sic*] EST is unlikely due to the sophisticated rhetoric [*sic*] effectiveness of the language used in the Assyrian text."

52 Pakkala, *Intolerant Monolatry* (1999) 41-47.

content that is similar. For Pakkala, this is strong evidence that EST was not the treaty on which Deuteronomy 13 was modeled. In addition, Karen Radner has observed that the literary elements of EST may have corresponded with material found in other Assyrian treaties.<sup>53</sup> This is demonstrated, she argues, by the inclusion of the same series of curses in a portion of EST and Esarhaddon's treaty with Ba'al of Tyre. It is possible, therefore, that another treaty featuring similar or identical material may have influenced the composition of Deuteronomy 13\* or 28\*. Both Pakkala and Radner, it should be noted, suggest that a Neo-Babylonian treaty could have influenced the writing of Deuteronomic passages, even if such a text has not been preserved.

The most extensive and provocative critique of recent arguments for the literary dependence of Deuteronomy 13\* and 28\* on EST, nevertheless, has been put forward by Christoph Koch.<sup>54</sup> He expands and expounds on the earlier observation of Morrow that the Aramaic treaties from Sefire, which date to the eighth century BCE, seem to represent an amalgam of elements from different treaty traditions.<sup>55</sup> The Sefire treaties, Koch further asserts, afford a clear precedent for the manner in which Deuteronomy 13\* and 28\* display certain affinities in form and structure to both Hittite and Neo-Assyrian texts. They also reveal that Assyrian rhetoric was already incorporated into a Levantine treaty tradition before the seventh century BCE. Many of the parallels between Deuteronomic passages and EST, Koch then

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53 Karen Radner, "Assyrische *tuppi adê* als Vorbild für Deuteronomium 28,20-44?," in *Die deuteronomistischen Geschichtswerke: Redaktions- und religionsgeschichtliche Perspektiven zur "Deuteronomismus"-Diskussion in Tora und vorderen Propheten*, eds. Markus Witte, Konrad Schmid, Doris Prechel, and Jan Christian Gertz (Berlin: Walter de Gruyter, 2006), 374-375; cf. Spencer Allen, "Rearranging the Gods in Esarhaddon's Succession Treaty (SAA 2 6:414-465)," *WdO*, Vol. 43 (2013) 1-24.

54 Koch, *Vertrag, Treueid und Bund* (1998).

55 Ibid. 57-78; cf. William Morrow, "The Sefire Treaty Stipulations and the Mesopotamian Treaty Tradition," in *The World of the Aramaeans III: Studies in Language and Literature in Honour of Paul Eugène-Dion*, eds. P. M. Michèle Daviau, John W. Wevers, and Michael Weigl (Sheffield: Sheffield Academic Press, 2001) 83-99.

attempts to demonstrate, are not unique enough to justify claims that the former must be dependent on the latter.<sup>56</sup> There are frequently analogues in Hittite and Levantine texts from the second and first millennium BCE. He also asserts that discrepancies between the ordering of similar curses in EST and Deut 28:20-44 cannot be satisfactorily explained by Steymans's suggestion that the latter was structured according to themes in EST §56 (ll. 472-493). There is less similarity here than Steymans claims, according to Koch, and other ancient Near Eastern texts display some of the same themes in a similar order.<sup>57</sup> Although he does concede that Deuteronomy 13\* and 28\* display Assyrian influence, he doubts that this points to knowledge of any known Assyrian text or can be taken as decisive evidence for a seventh-century BCE dating of these passages. On the grounds of internal and external textual evidence that has been highlighted by Timo Viejola and other scholars, Koch prefers to date these chapters to the exilic period, when a textual layer promoting monolatry was supposedly added to Deuteronomy.<sup>58</sup>

Study of the Hittite treaty tradition, Koch's analysis has reaffirmed, remains highly relevant for research into Deuteronomy. In this regard, a particular article by Joshua Berman deserves mention as well.<sup>59</sup> He stresses that stipulations in Deuteronomy 13 are remarkably similar to those found in a Hittite treaty with the people of Išmerika (CTH 133), although the extent of the resemblance has not previously been appreciated by scholars. Deut 13:7-19 and

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56 Koch, *Vetrag, Treuid, und Bund* (1998) 145-168, 203-244.

57 Ibid., 232-238.

58 Ibid., 130-142, 270-323. The existence of a Deuteronomistic layer emphasizing a covenant theology (DtrB), it should be noted, was first proposed by Timo Viejola (cf. "Bundestheologische Redaktion im Deuteronomium," in *Das Deuteronomium und seine Querbeziehungen*, ed. idem [Göttingen : Vandenhoeck & Ruprecht, 1996], 242-276). In making this proposal, Viejola modified the conclusion of Christoph Levin (*Die Verheissung des Neuen Bundes* [Göttingen: Vandenhoeck & Ruprecht, 1985] 84-110) that the earliest form of Deuteronomy lacked such material.

59 Berman, *JBL* (2011) 25-44.

CTH 133 (obv. ll. 21-28) both exhort their audiences to kill relatives or whole city populations that commit treason against their respective sovereign figures. EST §10 (ll. 108-122), by contrast, never mentions the case of a whole city rising up in rebellion. The only manner in which EST and Deuteronomy 13 are uniquely similar, according to Berman, is their reference to prophetic figures as potentially seditious.<sup>60</sup> He mitigates significance of this correspondence, however, by noting that the terms for such persons in EST and Deut 13:2-6 are not cognate. The book of Deuteronomy, he further claims, is far more similar in form and structure to Hittite treaties than Neo-Assyrian ones.<sup>61</sup> Only Hittite treaties contain a historical prologue (cf. Deut 1-11), stipulate a place where the text is to be deposited (cf. Deut 27:1-7; 31:9, 25-26), and demand its periodic reading (cf. Deut 17:18-20; 31:10-13). Berman does not attempt to account for these striking similarities, but simply insists that their existence should not be ignored by scholars.

A more lengthy critical study of the literary relationship between the book of Deuteronomy and Mesopotamian texts has recently been written by C. L. Crouch.<sup>62</sup> She argues that the similarities between EST and Deuteronomy 13\* and 28\* are too weak to justify the claim that there is a literary connection between them. A great deal of the curse imagery in the latter chapter, which has attracted considerable attention from scholars on account of its similarities with curse material in EST, is paralleled in other ancient Near Eastern texts.<sup>63</sup> Moreover, there are some obvious differences between Deuteronomy 13\* and 28\* when compared with passages in EST that purportedly served as literary source for the biblical

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60 Ibid., 40.

61 Ibid., 41-42.

62 C. L. Crouch, *Israel and the Assyrians: Deuteronomy, the Succession Treaty of Esarhaddon, and the Nature of Subversion* (Atlanta: SBL Press, 2014).

63 Cf. Zehnder, "Building on Stone? Deuteronomy and Esarhaddon's Loyalty Oaths (Part 2)" (2009).

writers.<sup>64</sup> For these reasons, Crouch doubts that there must exist a direct literary connection between Deuteronomy and this particular Neo-Assyrian text. The major contention of her study is that this biblical book was not deliberately written as a “subversive” text intended to undermine the rhetoric of Neo-Assyrian imperialism. This particular claim that has been made by Otto,<sup>65</sup> who accords especially great significance to parallels between EST and Deuteronomy.

Clearly, despite enormous research on the topic in recent decades, the precise nature of the relationship between Deuteronomy and treaty texts remains an unresolved and highly contentious issue. Any explanation of apparent similarity, nevertheless, has important consequences not only for analysis of the biblical book, but also efforts to understand developments within Israelite religious tradition. That a version of Deuteronomy was promulgated during the reign of King Josiah has been taken as an anchor for historical reconstruction as far back as the nineteenth century. Parallels between EST and Deuteronomic passages seem to corroborate this view of the origin of the biblical book, and have been understood to reinforce claims that the Josianic reforms were anti-Assyrian in character.<sup>66</sup> Arguments against their significance, however, undermine both of these conclusions and serve to advance alternative theories regarding the compositional history of the biblical book. Koch's recent study of Deuteronomy and treaty texts, for instance, argues that Deuteronomy 13\* and 28\* reflect the beginning of covenant theology during the exilic period.<sup>67</sup> The evidence afforded by ancient Near Eastern treaties, therefore, remains as relevant for discussion of the meaning of

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64 Crouch, *Israel and the Assyrian* (2014) 49-92.

65 Otto, *Das Deuteronomium* (1999) 84-88. Eckart Otto, “Assyria and Judean Identity: Beyond the Religionsgeschichtliche Schule,” in *Literature as Politics, Politics as Literature: Essays on the Ancient Near East in Honor of Peter Machinist* (Winona Lake: Eisenbrauns, 2013), eds. David S. Vanderhooft and Abraham Winitzer, 342-345.

66 Cf. Frankena, *OTS* (1965) 152-153; cf. Otto, *Das Deuteronomium*, 72-75.

67 Koch, *Vertrag, Treueid, und Bund* (1998) 315-323.

covenant and the structure of biblical passages as when Mendenhall first brought it to attention.

## 1.2 – Approach of the Present Study

### *The Scope of This Study*

Recent comparative research has primarily focused on the question of whether Deuteronomy 13 and 28 are dependent on EST, and largely ignored or vitiated the possible influence of a treaty tradition on other chapters. Consequently, the present study will bring Deuteronomy 17 and 27 more fully into discussion. Both of these chapters display material similar to that in treaty texts, and their literary relationship to Deuteronomy 13 and 28 respectively is frequently debated. With regard to Deuteronomy 17, the emphasis on exclusive loyalty to YHWH throughout this chapter links it thematically with Deuteronomy 13. In addition, precise correspondences between the rhetoric of Deut 13:7-12 and Deut 17:2-7 indicate that these passages are somehow literarily connected.<sup>68</sup> Regulations pertaining to the king of Israel in Deut 17:14-20, meanwhile, include a requirement for the king to produce his own copy of Deuteronomy and read from it regularly (vv. 18-19). This is frequently noted to resemble a common stipulation in Hittite treaties requiring that the treaty be read periodically before the vassal king.<sup>69</sup> As for Deuteronomy 27, it not only precedes and arguably frames the much-

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68 It is frequently supposed that material in one of these passages must be literarily dependent on the other, although the direction of dependence is disputed. Cf. Dion, *Law and Ideology* [1991] 159-162; cf. Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford University Press, 1997) 118-123; cf. Juha Pakkala, *Intolerant Monolatry* (1999) 29, 59-60.

69 Cf. Klaus Baltzer, *The Covenant Formulary*, trans. David E. Green (Philadelphia: Fortress Press, 1971), 88; cf. Weinfeld, *Deuteronomy* (1972) 64-65 cf. Jean-Pierre Sonnet, *The Book Within a Book: Writing in Deuteronomy* (Leiden: Brill, 1997) 76, n. 108.

discussed blessings and curses in Deuteronomy 28, but contains its own series of curses (vv. 15-26) as well. The role of these curses vis-a-vis the blessings and curses in Deuteronomy 28 should be explained if an early version of the book is best understood as modeled on a treaty form.

Especially noteworthy in Deuteronomy 27 is the command of Moses (vv. 1-8) for the Israelites to erect stones displaying the Deuteronomic laws beside an altar. There is strong evidence that copies of treaties were preserved at cult sites during the Bronze Age and the Iron Age. It is often stipulated in Hittite treaties, for instance, that duplicate tablets should be deposited at temples in the territory of one or both parties.<sup>70</sup> This was probably done for the practical purpose of ensuring their safekeeping and availability for reference. Vassals were required to read from them regularly and warned against altering their contents or misplacing them. The deposition of a treaty document within the sanctuary of a deity regarded as one of the guarantors of its stipulations, moreover, plausibly served to remind vassals of the dire consequences for breaking them.<sup>71</sup> With respect to the Mosaic command in Deut 27:1-8, there is no reason to think evidence that the Deuteronomic laws were ever exhibited at a cultic site on Mount Ebal or elsewhere. The prescription for their display on plastered stones, however, *does* accord with evidence as to how such a text might have been properly displayed in the imagination of an Israelite writer of the late Iron Age. Sandra Richter has argued that the recurring Deuteronomic phrase “to place his name there” (לִשְׁכֵּן שְׁמוֹ שָׁם; Deut 7:5, 11; 14:23; 16:2, 6, 11; 26:2) should be recognized as a loan-adaptation of the Akkadian *šuma šakānu*, meaning to “inscribe (one’s) name” on a monument.<sup>72</sup> She in turn suggests that the writing of the Deuteronomic laws on stones is

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70 Cf. McCarthy, *Treaty and Covenant* (1981) 63-66.

71 Cf. Mendenhall, *BA 17* (1954) 60.

72 Sandra L. Richter, *The Deuteronomic History and the Name Theology: lēšakkēn šēmô šām in the Bible and the Ancient Near East* (Berlin: Walter de Gruyter, 2002).



anticipated throughout Deuteronomy, although the event is only narrated in Josh 8:30-32.<sup>73</sup>

The need for a new study of Deut 27:1-8, however, is most pressing in light of the recent discovery of a copy of EST at Tell Tayinat. Not only was this exemplar found within a temple, but it was intended as a display piece.<sup>74</sup> The location where it was discovered indicates that it may have been exhibited directly across from an altar in the inner sanctum,<sup>75</sup> probably alongside copies of a hemerological omen series, *Iqqur īpus*. Although EST does not stipulate where tablets of the text should be deposited by subject persons, the preservation of EST in a temple at Tell Tayinat seems to correspond with this aspect of the Hittite treaty tradition. The reason for EST's deliberate exhibition with copies of *Iqqur īpus* warrants and will receive further investigation within this study. For the moment, however, it can only be stressed that evidence for the display of a treaty in a Levantine temple during the first millennium BCE affirms the need for further critical study of the relationship between Deut 27:1-8 and ancient Near Eastern treaty traditions.

It is commonly claimed that Deut 27:1-8 must have been a secondary addition to the biblical book.<sup>76</sup> Setting aside the problems of such arguments, this claim draws attention to an

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73 Sandra L. Richter, "The Place of the Name in Deuteronomy," *VT* 57 (2007), 342-366. There is absolutely no reason, however, to suppose that any of the material in Deuteronomy 5-27 may be "pre-monarchic" (p. 366).

74 Lauinger, *CSMS* (2011) 11-12.

75 This "free-standing, plastered brick mud brick installation" was discerned as "possibly an altar" by Timothy Harrison and James Osborne ("Building XVI and the Neo-Assyrian Sacred Precinct at Tell Tayinat", *JCS* 64 [2012] 131), an identification followed by most scholars since. Lauinger has more recently suggested that this object "served as a 'Dais of Destinies' for *akītu*-ceremonies that were performed in the inner sanctum" ("Literary Connections and Social Contexts: Approaches to Deuteronomy in Light of the Assyrian *adē*-Tradition," *HeBAI* 8 [2019] 96). Yet he also suspects (pp. 97-100) that there may be a connection between the *akītu*-ceremony and Deut 31:9-13. This passage describes the reading of the Deuteronomic laws "at the place which [YHWH] will choose" (Deut 31:11), the designated place of sacrifice within the Deuteronomic ideological schema where an altar to the deity would naturally have been built.

76 S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* (New York: Charles Scribner's Sons, 1896), 294-295; E. W. Nicholson, *Deuteronomy and Tradition*, 35; Richard D. Nelson, *Deuteronomy: A Commentary* (Louisville: Westminster John Knox Press, 2002), 315;

important problem in the comparative study of Deuteronomy and treaty texts. Many passages in Deuteronomy have been argued to resemble sections in treaties, and the structure of the biblical book as a whole is especially similar to the form of a Hittite vassal treaty. Before Hittite treaties or EST were known to scholars, however, theories of the compositional history of Deuteronomy that posited much of its material as secondary were influential and remain so to this day. As a consequence, it is frequently assumed in scholarly discussion that select portions of Deut 4:45-28:68\* must have comprised an early edition of Deuteronomy, while the remaining textual material was secondarily added. This has resulted in obvious tension between diachronic and synchronic analyses of the biblical book asserting the possible influence of a treaty tradition.<sup>77</sup> Was the book of Deuteronomy at a particular compositional stage modeled in accordance with the structure of a treaty? Or is a combination of literary passages that closely resemble the form of a treaty the result of coincidence? The present study will help to answer such questions.

Although a comprehensive study of the similarity between Deuteronomy and treaty texts would require discussion of virtually every chapter in the biblical book, a limited study of Deuteronomy 13, 17, 27, and 28 is valuable for a number reasons. The nature and degree of apparent similarity at the rhetorical and conceptual levels differs significantly across these chapters. Any conclusion regarding its significance will prove useful for assessing the importance of correspondences elsewhere. By treating chapters that are typically assigned to

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Reinhard G. Kratz, *The Composition of the Narrative Books of the Old Testament*, trans. John Bowden (London: T&T Clark, 2005) 129.

<sup>77</sup> This has been observed, for instance, by Thomas Römer (“The Book of Deuteronomy,” 196): “[T]he proposed structure of Deuteronomy according to the so-called treaty pattern is quite superficial; it frequently ignores the diachronic problems of the text and presupposes the book in its deuteronomistic and exilic (!) form. The original Deuteronomy (6.4ff; 12ff\*, 28\* [?]) hardly contains all the elements found in Assyrian (or other) treaties.”

different literary layers, moreover, the present study will assist in resolving tensions between diachronic and synchronic studies of the influence of treaty traditions. Critical study of the relationship between Deuteronomy and treaty texts, it should be recognized, necessarily has important implications for issues surrounding the origin and development of the biblical book. No theoretical model of the literary development of Deuteronomy, however, will be assumed in the planned work. Such a study is both necessary and preliminary for future efforts to understand how the literary units of Deuteronomy were ultimately joined together to form a single work.

### *Employment of the Comparative Method*

The possibility that there is a literary connection between the contents of Deuteronomy and ancient Near Eastern treaty texts has been investigated by biblical scholars for many decades. Extensive comparison of this biblical book and treaty documents has yielded two observations whose significance is widely appreciated, but variously explained: (1) the overarching literary framework of Deuteronomy and Hittite treaties is highly similar; and (2) there are strong literary parallels between the contents of Deuteronomy 13\*, 28\* and particular sections in a Neo-Assyrian “treaty” document, EST.<sup>78</sup> The present study represents a continuation, as well as a sustained critique, of previous studies that have attempted to account for these similarities between Deuteronomy and ancient Near Eastern treaty documents.

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78 The classification of EST, a particular Neo-Assyrian *adê* text, as a “treaty” is potentially misleading. Certainly, the Akkadian term *adê* cannot properly be translated as “treaty” in every instance of attestation (cf. Lauinger, *ZAR* 10 [2013] 99-115). Functionally, however, the word sometimes designates the content of documents that compel rulers and their peoples to abide with political stipulations. It may therefore be appropriately, but admittedly imperfectly, translated as “treaty” in particular contexts. This topic is treated in greater detail elsewhere within the present study, most notably in “Treaty, *Adê*, and Covenant,” a subsection of 2.4.

Although there is widespread agreement among scholars that they evince cultural contact between the Israelites and their neighbors, there is no consensus as to whether these similarities can be explained by the direct or indirect exposure of Israelite scribes to cuneiform documents.

Efforts to understand the relationship between the book of Deuteronomy and ancient Near Eastern treaty texts are frequently hampered by different scholarly approaches to the comparative study of texts. While it is impossible in the context of the present study to offer a thorough overview and critique of the principles of comparative method as employed in the field of biblical study, a topic that has already been admirably treated elsewhere by Meir Malul,<sup>79</sup> it is worthwhile to discuss the benefits as well as the limitations of a comparative approach. This will serve to contextualize subsequent discussion of evidence as to whether there is a direct or indirect literary connection between Deuteronomy and treaty documents. Biblical scholars may have the same evidence at their disposal, but nevertheless reach opposite conclusions as a result of emphasizing different considerations when employing a comparative method of analysis.

The comparative method has been utilized by those striving to elucidate the meaning of biblical words or phrases as far back as the Medieval period,<sup>80</sup> although the study of extra-biblical texts as sources of literary inspiration for biblical compositions is a relatively recent phenomenon. It was the translation of the literary works of ancient Egypt, Mesopotamia, Syria, and Anatolia by European and American scholars—a process begun in the nineteenth century and continuing into the present time—that paved the way for countless studies of

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79 Meir Malul, *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies* (Neukirchen-Vluyn: Neukirchener Verlag, 1990).

80 Malul, *The Comparative Method* (1990) 3-4; H. Polotsky, "Semitics," in *The World History of the Jewish People: At the Dawn of Civilization*, Vol. I.1 (New Brunswick: Rutgers University Press, 1964), 99; James Barr, *Comparative Philology and the Text of the Old Testament* (Oxford: Clarendon Press, 1968) 60-65. Medieval commentators often tried to explain the meanings of obscure Hebrew words by examining the definition of similar words in other Semitic languages.

perceived literary connections between the writings of the Israelites and those of neighboring peoples. Many of these studies have stressed the possibility that biblical texts were somehow directly or indirectly influenced by non-Israelite literary sources. These potential literary influences include the Code of Hammurabi,<sup>81</sup> the mythological texts of Ugarit,<sup>82</sup> and of course EST.<sup>83</sup> Other scholars have chosen to emphasize the ostensibly unique aspects of Israelite religion and culture vis-a-vis neighboring societies on the basis of their extant literature.<sup>84</sup>

81 The influence of Babylonian materials on biblical ones was famously proposed by Friedrich Delitzsch in an important lecture at the dawn of the twentieth century, published under the title *Babel und Bibel: Ein Vortrag* (Leipzig: J. C. Hinrichs, 1903). The notion that the Code of Hammurabi in particular somehow influenced the composition of the Covenant Code has been forcefully asserted recently by David P. Wright (*Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* [Oxford: Oxford University Press, 2009]), and John Van Seters (*A Law Book for the Diaspora: Revision in the Study of the Covenant Code* [Oxford: Oxford University Press, 2003]). Van Seters's argumentation notably differs from Wright's in stressing evidence that the Covenant Code was written for a (post-)exilic audience.

82 The decipherment of Ugaritic texts in the 1930s provided new insights into the culture of the Canaanites, whose beliefs probably influenced Israelite religion in ways that were previously unknown. There are many similarities between the mythological presentation and epithets of the Israelite god YHWH and those of the Canaanite gods, 'El and Ba'al. Cf. Frank Moore Cross, *Canaanite Myth and Hebrew Epic* (Cambridge: Harvard University Press, 1973; cf. Mark S. Smith, *The Origins of Biblical Monotheism: Israel's Polytheistic Background and the Ugaritic Texts* [Oxford: Oxford University Press, 2001]). Literature on this particular topic is voluminous and cannot possibly be easily summarized in the context of a single footnote.

83 The notion that EST somehow influenced the composition of biblical material in Deuteronomy is extensively discussed throughout the present work, and its historical background in scholarship was treated briefly in section 1.1. See n. 2 of the present chapter for important scholarly references favoring the literary dependence of Deuteronomy 13\* and 28\* on EST.

84 This particular comparative approach, emphasizing the most strident differences and similarities between cultures and texts, is sometimes referred to as the "contextual" or "contrastive approach." It has most notably been employed and criticized by William Hallo: "Biblical History in Its Near Eastern Setting: The Contextual Approach," in *Scripture in Context: Essays on the Comparative Method* (Pittsburgh: The Pickwick Press, 1980), eds. Evans, Carl D. and William Hallo, John B. White, 1-26; "Compare and Contrast: The Contextual Approach to Biblical Literature," in *The Bible in Light of Cuneiform Literature: Scripture in Context III* (Lewiston: The Edward Mellen Press, 1990), eds. Hallo, William B. and Bruce William Jones, Gerald L. Mattingly, 1-19; "New Moons and Sabbaths: A Case-Study in the Contrastive Approach," in *Essential Papers on Israel and the Ancient Near East* (New York: New York University Press), ed. Frederick E. Greenspahn, 313-332. Malul (*The Comparative Method*

Regardless of whether one stresses the presence or absence of parallels between biblical texts and other ancient Near Eastern literary sources, the same premises underlie the approach.

A comparative literary approach to study of the Hebrew Bible posits that the observation of *particular* similarities or differences between texts is somehow useful for scholarly understanding of a biblical text. Similarity and difference, however, can be discerned in a number of ways. It can be seen in the use (or non-use) of certain words or phrases, patterns in overarching literary structure, or conceptual presentation. If the parallels between texts are especially numerous, it may prove likely that the texts under comparison reflect the same tradition or culture. One may have been directly or indirectly influenced by the other. There is frequently disagreement, however, as to what comprises a strong literary “similarity,” “correspondence,” or “difference.” To some extent, perceptions of similarity and difference are the result of a subjective analytical process. This fact has doubtlessly contributed to scholarly disputes as to whether particular texts are literarily connected to others. Similarities between one text and another, at any rate, do not *necessarily* point towards the existence of any direct or indirect literary connection. Some similarities might be explained by coincidence or the shared influence of an ancient Near Eastern oral tradition that is not reflected in material record. Differences, meanwhile, might be attributed to the creative transformation of source material. It cannot be assumed that a text showing strong differences from another was not influenced by it.

An especially important consideration, when employing the comparative method, is the [1990]) distinguishes an especially notable strain within this approach: “one points out a given contrast between the ancient Near East and the Old Testament and asserts that is deliberate: the borrowing culture deliberately changed the borrowed material and adapted it to its own ideological scheme, thereby taking a polemical stance with respect to that its source.” This Malul dubs the “Polemic-Seeking Approach,” and it is exemplified in recent scholarship asserting that Deuteronomy 13\* and 28\* subversively reproduce the rhetoric of a Neo-Assyrian *adê*-document, most likely EST.

historical period in which the texts under comparison were written. Biblical texts did not originate in a historical vacuum, and can only reflect oral or literary sources that conceivably existed at the time of their composition. It is by no means simple, nevertheless, to determine the particular period in which a biblical passage was written. The earliest extant copies of biblical texts were probably produced much later than when the texts themselves were composed.<sup>85</sup> The dating of literary sources utilized by the composers of biblical passages is thus crucial for establishing a *terminus post quem* for the composition of those passages. That particular material in a biblical text is similar to that in another ancient Near Eastern text, it should be stressed again, by no means proves that it must be literarily dependent on it. It is always possible that both texts reflect the influence of an earlier literary source, which may not be attested in the extant literary record from the ancient Near East. One cannot always exclude the possibility, moreover, that the biblical text somehow influenced the writing of a similar non-biblical text.<sup>86</sup>

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85 The earliest biblical manuscripts are found in the “Dead Sea Scrolls” collection. The so-called “Great Isaiah Scroll” (1QIsa<sup>a</sup>) preserves perhaps the earliest biblical text to be incontrovertibly attested in material record. It probably dates to the second-century B.C.E, although dates in the immediately preceding or subsequent centuries are plausible; cf. Frank Moore Cross, *The Ancient Library of Qumran* (Minneapolis: Fortress Press, 1995) 176; cf. A. J. T. Jull, D. J. Donahue, M. Broshi, and E. Tov, “Radiocarbon Dating of Scrolls and Linen Fragments from the Judean Desert,” *Radiocarbon* 37 (1995) 11-19. Authorship of this text is self-attributed to a prophet who lived in the eighth century B.C.E. (Isa 1:1), although parts of the biblical book were assuredly written in the exilic or post-exilic period. The priestly blessing recorded in Num 6:23-27, meanwhile, is attested on amulets found at Ketef Hinnom that probably date to the sixth or seventh century B.C.E. Cf. Gabriel Barkay, Andrew G. Vaughn, Marilyn J. Lundberg, and Bruce Zuckerman, “The Amulets from Ketef Hinnom: A New Edition and Evaluation,” *BASOR* 334 (2004) 41-71. That this particular blessing was already formulated by the Iron Age, though, by no means proves that the biblical composition in which it was embedded (the Priestly source of the Pentateuch) must date to the pre-exilic period as well.

86 This particular point was earlier impressed by William Hallo: “The birth legend of Sargon of Akkad has many striking similarities to that of Moses, again a thousand years earlier; but it is probably a product of the court scribes of Sargon II of Assyrian in the eighth century, and conceivably indebted to the story of Moses' birth” (*Scripture in Context* III, 6). Hallo does not mean to imply that the Sargnoic legend *is* dependent on the biblical narrative in Exodus, but rather that this possibility must not be dismissed outright from scholarly consideration.

There are stronger grounds, however, for supposing that a text produced or widely copied within a hegemonic power, such as the Neo-Assyrian or Neo-Babylonian empires, somehow influenced the literature of a subjugated state like Israel or Judah rather than the opposite.<sup>87</sup> Akkadian was the *lingua franca* for diplomacy in the ancient Near East throughout the late Bronze and the Iron Age. Scribes trained in the language were employed not only in Mesopotamia, where Akkadian existed as a spoken language, but also in Anatolia, the Levant, and Egypt for many centuries. By contrast, there is no evidence for literacy in the Hebrew language outside of the territory of Israel and Judah. Certainly, particular officials in the Neo-Assyrian empire may have been familiar with the Hebrew language (cf. 2 Kgs 18:17-37; Isa 36:2-22).<sup>88</sup> There were many officials employed in the Neo-Assyrian and Neo-Babylonian empires who knew Aramaic,<sup>89</sup> a language closely related to Hebrew. There is no reason to

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87 The notions of a “prestige language” and “prestige borrowing” are widely discussed and documented within the field of comparative literary study and the broader discipline of sociolinguistics. R. M. W. Dixon, *The Rise and Fall of Languages* (Cambridge: Cambridge University Press, 1997) 79-85; Lyle Campbell, *Historical Linguistics: An Introduction* (Edinburgh: Edinburgh University Press, 1998), 58-59, 79-85; Anni Sairio and Minna Palander-Collin, “The Reconstruction of Prestige Patterns in Language History,” in *The Handbook of Historical Sociolinguistics* (Oxford: Wiley-Blackwell, 2012), eds. Juan Manuel Hernandez-Campoy and Juan Camilo Conde-Silvestre, 626-638; cf. Wright, *Inventing God's Law* (2009) 349-351.

88 The historicity of this story is difficult to assess. Clearly, its author(s) conceived that there were officials familiar with their native language employed within the Neo-Assyrian empire. This bolsters, but does not prove, the possibility that such officials indeed existed. Various aspects of the biblical description (2 Kings 18-19) of the invasion of Judah and siege of Jerusalem in the late eighth century B.C.E. are substantiated in archaeological and material record (e.g. the siege of Jerusalem), but some elements in the biblical account are fantastical and dubious (e.g. the devastation of the Neo-Assyrian army by an angel of YHWH). Cf. Amihai Mazar, “The Divided Monarchy: Comments on Some Archaeological Issues,” in *The Quest for the Historical Israel: Debating Archaeology and the History of Early Israel* (Atlanta: Society of Biblical Literature), ed. Brian B. Schmidt, 172-173. The account of Sennacherib's invasion is also probably not a unified composition in view of well-known problems in its narrative logic.

89 Cf. H. Tadmor, “The Aramaization of Assyria: Aspects of Western Impact,” in *Mesopotamien und seine Nachbarn: Politische und kulturelle Wechselbeziehungen im alten Vorderasien vom 4. bis 1. Jahrtausend v. Chr* (Berlin: Dietrich Reimer, 192), eds. Hans Jorg



suppose, however, that any Hebrew composition was translated and circulated outside the boundaries of ancient Israel. In view of such considerations, it is more probable that an Akkadian text influenced the composition of a biblical text rather than the opposite. Since the same text might have been transmitted in Akkadian and Aramaic versions,<sup>90</sup> it is also conceivable that cuneiform texts were known to Israelites through translation into a West Semitic language.<sup>91</sup>

Strong literary parallels between Akkadian texts and biblical passages do not necessarily establish the existence of a direct literary connection between them, even if the Akkadian compositions were certainly written before the biblical texts. These parallels might, in some cases, be purely the result of chance. Cultures without any possibility of contact with each other sometimes display remarkable similarities in their mythological literature.<sup>92</sup> Even if the parallels between ancient Near Eastern texts are unique and a direct literary connection is certainly theoretically possible, it can still be difficult to suppose that the writer of one text was somehow familiar with the other. The point is well illustrated by a long-observed parallel between an ox-goring law in the Laws of Eshnunna (LE) and the Covenant Code (CC) in Exod 20:19-23:33:

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Nissen, Johannes Renger, 449-470. Evidence for the linguistic contact between Akkadian and Aramaic speakers is admirably treated in Stephen A. Kaufman's *The Akkadian Influences on Aramaic* (Chicago: University of Chicago Press, 1974).

90 Cf. Steymans, *Deuteronomium* 28 (1995) 191-193.

91 The bilingual inscription found at Tell Fekheriye displays the same text in Akkadian and Aramaic. The significance of this text for the comparative study of EST and Deuteronomy is treated briefly in “Deuteronomy 28 as a Source for Leviticus 26” within section 1.2, and in “Deuteronomy 13\* and 28\* as 'Translations of EST'” within section 3.3 of this study.

92 Myths centering on a cataclysmic flood, for instance, are found across different cultures that existed with little or no contact with each other. Malul, *The Comparative Method* (1990) 94-96. J. F. Bierlein, *Parallel Myths* (New York: Random House, 1994), 121-135. The similarities between the biblical flood story (Gen 6-9) and the “standard” version of Gilgamesh epic are well-known. Malul and others have observed a particularly notable linguistic correspondence in their employment of the cognates כפר and *kupru*; cf. Samuel Lanham Boyd, “Contact and Context: Studies in Language Contact and Literary Strata in the Hebrew Bible” (Dissertation, University of Chicago [2014]), 266-284.

Table 1.1 – Laws of Eshnunna and the Covenant Code	
LE §53 (A iv ll. 13-15; B iv ll. 17-19)	Exod 21:35
<i>šumma alpum alpam ikkimma uštamīt šīm alpim balṭim u šīr alpim mūtim bēl alpim kilallān izuzzū</i>	וכי־יִגַּף שׁוֹר־אִישׁ אֶת־שׁוֹר רֵעֵהוּ וּמֵת וּמָכְרוּ אֶת־הַשׁוֹר הַחַי וְחָצוּ אֶת־כֶּסֶּפוֹ וְגַם אֶת־הַמֵּת יַחְצוּן
“If an ox gores (another) ox and it dies, both ox owners will divide the (purchase) price of the living ox and the flesh of the dead ox.”	“If the ox of a man gores the ox of his companion, and it dies, then they will sell the living ox and divide its price, and they will also split the dead one.”
<p>Akkadian Transliteration:</p> <p><i>šum-ma GUD GUD ik-ki-im-ma uš-ta-mi-it šī-im GUD ba-al-ṭim ù UZU GUD mi-tim be-el GUD ki-la-al-la-an i-zu-uz-zu</i></p>	

These two laws are almost identical.<sup>93</sup> Both prescribe that when an ox belonging to one man gores the ox belonging to another man to death, the sale value of the living ox as well as the carcass of the dead ox will be divided equally between the two owners. No other ancient Near Eastern legal collection treats the case of an ox goading another ox to death, although several other cases of ox-goring are discussed in the Code of Hammurabi (LH §§250-252).

It is extremely problematic, nevertheless, to suppose that there is a direct literary

93 Wright (*Inventing God's Law* [2009] 218) observes, “This verse [Exod 21:35] is almost verbatim the law of LE 53.” He acknowledges (pp. 218-229), though, that there are some differences in their formulation. Malul (*The Comparative Method* [1990] 113-152) likewise notes interesting differences without dismissing the significance of striking similarities. In his view, a Mesopotamian literary tradition almost certainly influenced the composition of passages treating ox-goring in the Covenant Code.

connection between the Laws of Eshnunna and the Covenant Code. No copies of the former text are attested after the eighteenth century BCE.<sup>94</sup> Exod 21:35 was almost certainly composed roughly a thousand years later or more. Since there is no evidence that other exemplars of LE existed to mediate its influence into the first millennium BCE, it is highly improbable that any biblical writer had access to a version of it.<sup>95</sup> If there is a textual connection between LE and CC, however, there are two other possibilities. Either the Laws of Eshnunna influenced the composition of other legal collections, one of which served as a literary source for the biblical composers of the CC, or Exod 21:35 and Laws of Eshnunna §53 reflect the influence of a source that predates LE. There is no corroborating evidence, however, for the existence of this hypothetical source. Alternatively, it is conceivable that a shared tradition of ancient Near Eastern legal reasoning accounts for the strong resemblance between these laws. Likewise, however, the existence of such a tradition is difficult to establish in the absence of other supporting evidence. A final possibility, which it is always impossible to dismiss completely, is that the similarities here are purely coincidental. None of these four explanations can be conclusively proved or disproved. Despite the observation of strong and unique similarities between and LE §53 and Exod 21:35, it is difficult to ascertain whether there is a literary connection between them. There may be none at all, although they are so similar in content.<sup>96</sup>

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94 The precise date when the LE was composed is uncertain. On the basis of extant archaeological evidence, the eighteenth century represents a *terminus ad quem* for the composition and production of copies of the text. Cf. Reuven Yaron, *The Laws of Eshnunna* (Jerusalem: The Magnes Press, 1988) 20-21.

95 Cf. Wright, *Inventing God's Law*, 110. By contrast, many copies of the Code of Hammurabi were produced throughout the Bronze Age and the Iron Age.

96 That a Mesopotamian legal tradition was transmitted orally into the Levant has been argued by Ralf Rothenbusch in *Die kasuistische Rechssammlung im "Bundesbuch" (Ex 21,2-11.18-22,16)* (Münster: Ugarit-Verlag, 2000). This would explain the similarity between the Laws of Eshnunna and the Covenant Code, without supposing that an Akkadian legal text somehow influenced the composition of a biblical one. Cf. Wright, *Inventing God's Law* (2009) 17-19.

The points emphasized in this brief discussion of LE §53 and Exod 21:35 are especially relevant for any discussion of the numerous similarities between passages in EST and Deuteronomy 28. The observation of unique parallels, it has been observed, by no means establishes the existence of a direct literary connection between two texts. It is always possible that texts being compared display the mutual influence of another literary source or oral tradition whose existence can no longer be confirmed. The literary parallels between the curses in EST §§39-42 (ll. 419-430), 63-65 (ll. 526-536), and Deut 28:23-31 are especially strong. But one must grant, as a theoretical possibility, that the curse formulae shared between this particular Neo-Assyrian text and Deuteronomy could have been attested in other Akkadian texts that are no longer extant. An identical set of curses appears to have been reproduced in two extant Neo-Assyrian *adê*-documents (EST; SAA 2 5). This certainly lends credence to the possibility that other Akkadian documents might have contained curses similar or identical to those in EST:

<b>Table 1.2 - Identical Curses in Neo-Assyrian <i>Adê</i></b>		
<u>EST §§ 51-54 (ll. 459-468*)</u>	<u>SAA 2 5 rev. IV ll. 2-7</u>	<u>Normalized Text</u>
“May Ishtar who dwells in Arbela not grant you mercy (and) forgiveness.	“[May] Ishtar [who dwells in Arbela not grant you mercy (and) forgiveness.]	<i>Ištar āšibat Arba'il rēmu gimlu lū lā išakkan elīkun</i>
“May Gula, the great physician, cause there to be illness and weariness in your heart, and a continuous sore in your body. Bathe your blood and pus as if in water.	“May Gula, the great physician, [cause there to be] illness and weariness in your [heart] and a continuous sore in your body. [Bathe your blood in pus as if in water.]	<i>Gula azugallatu rabītu muršu tănēḫu ina libbikunu simmu lazzu ina zumrikunu lišabši dāmu u šarku kīma mē runkā</i>

Table 1.2 (Continued)

“May the Sibittu, the [va]li[ant gods], slay you with their fierce [weapons]. {...}” <sup>97</sup>	“May the Sibittu, the valiant gods, [sl]ay you with their [fierce] weapons.	<i>Sebetti ilānī qardūte ina kakkīšunu ezzūti našpantakunu liškun...</i>
“May Bethel and Anat-Bethel deliver you to the paws of a ravenous lion.”	“May Bethel and Anat-Bethel [deliver] you to the paws of a ravenous lion.”	<i>Bayati-ilī Ananti-Bayati-ilī ina qātī nēši ākili limnūkunu.</i>
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>d</sup>Iš-tar a-ši-bat Arba-īl re-e-mu gim-lu lu la i-šá-kan UGU-ku-un <sup>d</sup>Gu-la a-zu-gal-la-tú GAL-tú GIG ta-né-ḥu ina ŠÀ-bi-ku-nu si-mu la-zu ina zu-um-ri-ku-nu ÚŠ.MEŠ šar-ku ki-ma A.MEŠ ru-[u]n-ka <sup>d</sup>Se-bet-ti DINGER.MEŠ qar-du-te ina GIŠ.TUKUL.MEŠ-šú-nu ez-zu-ti na-aš-pan-[ta]-ku-nu liš-kun <sup>d</sup>Ba-a-a-ti-DINGIR <sup>d</sup>A-na-an-ti-<sup>d</sup>Ba-a-a-ti-DINGIR ina ŠU.II UR.MAḤ a-ki-li lim-nu-ku-nu</p>		

Although portions of SAA 2 5 are broken and must be reconstructed, it clearly displays a text virtually identical with EST at this juncture.<sup>98</sup> If the Deuteronomic composers were indeed borrowing from a cuneiform source, as has been argued, one might naturally propose that the literary parallels between EST and Deut 28:23-30 could be explained by their familiarity with another Neo-Assyrian *adê* document, featuring some of the same curses contained in EST.

If it is not necessary to posit the existence of this hypothetical Neo-Assyrian *adê*, however, then why do so? EST as a candidate for the cuneiform source that influenced

<sup>97</sup> The most recently discovered exemplar of EST from Tell Tayinat displays an otherwise unattested series of curses at this juncture. They have been designated by Jacob Lauinger (“Esarhaddon's Succession Treaty at Tell Tayinat”) as EST §§54A and §§54B (T1801 vi ll. 45-47) in his *editio princeps*. The significance of this additional literary material is discussed in subsection 4.1 of this study. Lines 464-465, meanwhile, are absent in the Tell Tayinat exemplar.

<sup>98</sup> To the knowledge of the present author, this point has never been critically disputed.

Deuteronomy 28 has the benefit not only of clearly *existing*, but also being widely circulated throughout the ancient Near East in the late Iron Age. This is when an early form of Deuteronomy is popularly theorized to have been produced. Any ancient Near Eastern composition, it may be noted, can be speculated to have unattested literary antecedents. There can be little doubt, of course, that modern scholars possess only a fraction of the literary output of the ancient Near East. Extant texts frequently allude to documents whose existence would otherwise be wholly unknown. It is methodologically problematic, though, to insist that texts containing literary material identical to EST must have existed. The *non-existence* of such documents cannot logically be proven or disproven conclusively. Whether a direct literary connection between a particular cuneiform text and a biblical one is plausible, however, is a relevant and crucial topic for assessing the possibility that EST directly influenced Deuteronomy.

Scholars have long struggled to explain how ancient Near Eastern texts might have influenced the composition of biblical ones. Treaty documents composed in the Akkadian, Hittite, and Aramaic languages certainly display remarkable similarities with material contained in the book of Deuteronomy. Yet there is no particular treaty text whose contents precisely parallel those in the biblical book. It may be that multiple treaty documents or treaty traditions directly or indirectly influenced the composition of Deuteronomy. Before examining this particular possibility, it will be helpful to delve further into problems associated with the usefulness of the comparative method for determining whether similar texts are literarily connected. These difficulties are explored in the following section, and aspects of the problem will be further illuminated in discussions throughout subsequent chapters of the present study.

### *Deuteronomy and the “Test of Coincidence vs. Uniqueness”*

One of the most important issues to be addressed in the present study is whether Deuteronomy is somehow literarily dependent on treaty documents. Crucial to assessing the likelihood that such texts were utilized by the composers of this biblical book is what Meir Malul has dubbed the “Test for Coincidence *versus* Uniqueness.”<sup>99</sup> In his important study of the comparative method in biblical study, Malul presents this “test” as an effort to address the following question: “are the similarities and/or differences discovered between sources/phenomena the result of parallel developmen[t]s,<sup>100</sup> independent of each other and, therefore, coincidental or do they point to an original phenomenon unique to the sources under comparison.”<sup>101</sup> If the latter is the case, a text may indeed be discerned as directly or indirectly influenced by another. For Malul's “Test of Coincidence *versus* Uniqueness” to be applied, however, he observes that it is necessary “first to prove *the possibility of influence or connection*, and only then... proceed to check the significance of the similarities and differences on the basis of the test.”<sup>102</sup> The historical plausibility of claims that Deuteronomy was directly or indirectly influenced by ancient Near Eastern treaties, therefore, ought to be examined before specific parallels between the biblical book and these documents are treated in more significant detail.

Although there are remarkable similarities between Hittite treaty texts and the literary structure of Deuteronomy, it is improbable that exemplars of the former were known to the composers of the latter. The collapse of the Hittite empire in the early twelfth century BCE

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99 Malul, *The Comparative Method* (1990) 93.

100 “Developmens” (Malul, *The Comparative Method* [1990] 93) is clearly a typographical error.

101 Ibid., 93.

102 Ibid., 97. The italics are present in the quoted text.

appears to have largely terminated the production and copying of texts in the Hittite language.<sup>103</sup>

While there is evidence for the existence of an Israelite people in the Levant prior to this historical moment,<sup>104</sup> there is no reason to suppose that this nascent group was in diplomatic contact with the Hittite empire. That there was indeed such contact between the Hittites and Levantine peoples is certain, however, in view of the existence of treaty documents between Hittite kings and the rulers of Ugarit.<sup>105</sup> There is even a Levantine myth preserved in the Hittite language itself,<sup>106</sup> confirming the strength of cultural contact between them. Yet no cuneiform text in the Hittite language has been discovered inside the territory of ancient Israel. This casts doubt on the possibility that a Hittite text might have directly influenced the composition of a contemporaneous Israelite text written in the late Bronze Age, or the subsequent Iron Age.

It is more conceivable, by contrast, that Hittite texts somehow indirectly influenced the composition of texts in the Levant during the Iron Age. The Hittite empire exerted diplomatic influence over a large portion of this region throughout the Bronze Age, vying with the

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103 Cf. Levinson and Stackert, *JAJ* 4 (2013) 318.

104 The earliest historical mention of a people called “Israel” appears to be found in the “Merneptah Stele,” which dates towards the end of thirteenth century B.C.E. For an interesting discussion of evidence that an Israel state or culture emerged sometime in the late Bronze Age, and for further references, see Anthony J. Frendo’s “Back to Basics: A Holistic Approach to the Problem of the Emergence of Israel” (New York: T&T Clark International, 2004), 41-64.

105 Fragments of texts variously identified as treaties concluded between the Hittite empire and the city-state of Ugarit include the following: RS 17.340, 17.369A; RS 17.338, 17.349B, 17.407, 17.342, 17.351A, 17.39, 17.394; RS 17.353, 17.357, 17.04, 19.101, 17.450; RS 21.53; RS 11.772, 11.780, 11.782, 11.802. Kenneth A. Kitchen and Paul J. N. Lawrence’s *Treaty, Law, and Covenant in the Ancient Near East: Part 1: The Texts* (Wiesbaden: Harrassowitz Verlag, 2012) is useful, although analytically flawed, compendium of these and other ancient Near Eastern texts.

106 A broken mythological text recorded in the Hittite language ostensibly centers on Canaanite deities, the goddess Asherah and the god Elkunirša (“El-Creator/Owner-of-Earth”). The title of this latter deity is ostensibly found in a Phoenician text (KAI A.III.18: *’l qn ’rš*) and paralleled as well in Gen 14:29 (עליון קנה שמים וארץ). Cf. Gary Beckman, “Elkunirša and Ašertu (1.55),” in *Context of Scripture*, Vol. I: Canonical Compositions from the Biblical World, eds. William W. Hallo and K. Lawson Younger, Jr. (Leiden: Brill, 2003) 149.



Egyptians for political hegemony. The city-state of Ugarit was subservient to the Hittite Empire from the fourteenth century BCE onwards.<sup>107</sup> The Amarna correspondence even details the competition between the Egyptians and Hittites for influence over this region during the late Bronze Age.<sup>108</sup> The possibility that some Hittite materials, no longer extant, influenced the composition of treaty texts in the Bronze Age Levant is at least plausible.<sup>109</sup> These texts could conceivably have been the literary antecedents of materials that influenced the composers of Deuteronomy. Another intriguing possibility is that so-called “Neo-Hittite” city states produced treaties or other texts in the Iron Age that display the influence of earlier Hittite treaties, and these in turn affected the composition of the biblical book.<sup>110</sup> The Sefire treaties from Syria in the eighth century BCE probably attest to the persistent influence of this tradition, as evidence to be treated in elsewhere in the present work demonstrates.<sup>111</sup> Since Hittite treaty texts were produced prior to the composition of Deuteronomy by an empire that was clearly in diplomatic and cultural contact with Levantine peoples, it is certainly plausible that their literary tradition somehow influenced the production of Israelite texts. The similarities between Hittite treaties and literary features of Deuteronomy are difficult to explain, however, without assuming the

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107 Michael C. Astour, “Ugarit and the Great Powers,” in *Ugarit in Retrospect: Fifty Years of Ugarit and Ugaritic* (Winona Lake: Eisenbrauns, 1981), ed. Gordon D. Young, 23-24. William M. Schniedewind and Joel H. Hunt, *A Primer on Ugaritic: Language, Culture and Literature* (Cambridge: Cambridge University Press, 2007) 14-15.

108 George E. Mendenhall. *Ancient Israel's Faith and History: An Introduction to the Bible in Context*, ed. Gary A. Herion (Louisville: Westminster John Knox Press, 2001), 27-37.

109 It should be stressed that “plausible” is not the same as “probable.” As Levinson and Stackert (*JAJ* 4 [2013] 317) have written: “With Canaan on the diplomatic route between the Hittite Empire and Egypt, contact between Hittites and Canaanites was inevitable. It is not surprising, then, that a number of Hittite objects have been found in the southern Levant. However, since Canaan was under control of Egypt during much of that period, extensive official business between the Hittite Empire and the Canaanite city-states would have been unlikely.”

110 Cf. Koch, *Vertrag, Treueid, und Bund* (1998) 27-37, 69-78.

111 See section 2.4 in the present work.

existence of texts that mediated the influence of Hittite texts into the Iron Age Levant.

It is similarly plausible that Neo-Assyrian *adê* documents such as EST directly influenced the composition of Deuteronomy. Exemplars of the former were produced in the Iron Age within a few decades of the Josianic period, during which an early form of the biblical book is most plausibly theorized to have been composed.<sup>112</sup> The chief obstacle to supposing the direct influence of an Akkadian text on the composition of the biblical book is a scarcity of evidence for cuneiform literacy among the Israelites. No archive of cuneiform texts has been discovered at a site in the territory of ancient Israel and Judah.<sup>113</sup> While it is certain that there was diplomatic contact between these states and Neo-Assyrian empire, exactly how diplomatic correspondence between them was carried out remains a matter of considerable scholarly debate and speculation.

There are three possible channels through which diplomacy might have been conducted between the Neo-Assyrian empire and the kingdoms of Israel of Judah. The first possibility is that Neo-Assyrian officials communicated by dispatching Akkadian tablets to the Israelites, who must then have employed scribes trained in reading this language. Favoring this suggestion is the observation of many loanwords from Akkadian into Hebrew,<sup>114</sup> clear evidence that cuneiform texts circulated in the Levant during the Iron Age,<sup>115</sup> and possible examples of the direct

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112 This is a crucial part of the “De Wette” hypothesis. See nn. 11 and 12 in the present work for references and scholarly discussion of controversial, but influential, conjecture. The similarities between EST and Deuteronomy 13\* and 28\*, discussed throughout this work, further confirm the likelihood that the book of Deuteronomy was influenced by this Assyrian text.

113 William M. Schniedewind, *A Social History of Hebrew: Its Origins Through the Rabbinic Period* (New Haven: Yale University Press, 2013) 32. There is persistent hope, however, that an Iron Age archive of cuneiform texts may someday be discovered at Hazor.

114 P. V. Mankowski, *Akkadian Loanwords in Biblical Hebrew* (Winona Lake: Eisenbrauns, 2000).

115 Wayne Horowitz, Takayoshi Oshima, and Seth L. Sanders, *Cuneiform in Canaan: Cuneiform Sources from the Land of Israel in Ancient Times* (Jerusalem: Israel Exploration Society, 2006).

influence of cuneiform texts on biblical ones.<sup>116</sup> A second possibility is that diplomacy was conducted through texts in the Aramaic language,<sup>117</sup> which may on occasion have been direct translations of Akkadian ones. Thirdly, it is conceivable that Neo-Assyrian rulers communicated their wishes orally to the Israelites through an ambassador, perhaps the official known as a *qēpu* speaking in Akkadian, Hebrew, or Aramaic.<sup>118</sup> All three of these diplomatic channels might have been employed simultaneously, of course, as they are by no means exclusive of each other. Any of them, moreover, could explain the influence of an *adê*-text, such as EST, on Deuteronomy.

While it is historically plausible that Neo-Assyrian texts influenced the composition of biblical materials, it is still difficult to prove the likelihood of a direct or indirect literary connection between Deuteronomy and a particular *adê*-text. Exemplars of the latter kind of document frequently display similar rhetoric. Crucial for establishing the likelihood that sections in the biblical book, such as Deuteronomy 13\* and 28\*, might have been dependent on a particular *adê*-text, EST, are the unique correspondences between them. These include not only otherwise unattested correspondences in topic, such as the mention of prophetic figures as inciters of rebellion in Deut 13:2-6 and EST §10 (ll. 108-122),<sup>119</sup> but also large clusters of curse themes shared between Deut 28:23-31 and EST §§39-42 (ll. 419-430), 63-65 (ll. 526-536).<sup>120</sup>

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116 The Code of Hammurabi and EST and have been argued at length to reflect the direct influence of particular cuneiform texts. Cf. Steymans, *Deuteronomium 28 und die adê zur Thronfolgerung Asarhaddons*; cf. Wright, *Inventing God's Law* (2009). Daniel Bodi in *The Book of Ezekiel and the Poem of Erra* (Göttingen: Vandenhoeck und Ruprecht, 1991) has notably argued as well for the influence of the titular Akkadian composition on the writing of Ezekiel.

117 Cf. Steymans, *Deuteronomium 28* (1995) 193.

118 Cf. Peter Dubovsky, "King's Direct Control: Neo-Assyrian Qēpu Officials," in *Organization, Representation, and Symbols of Power in the Ancient Near East: Proceedings of the 54th Rencontre Assyriologique Internationale at Würzburg 20–25 July 2008* (Winona Lake: Eisenbrauns, 2012), ed. Gernot Wilhelm, 447-458.

119 See the subsection, "EST as a Literary Source for Deut 13:1-12," in section 2.1 of the present study for further discussion and references.

120 Evidence for the dependence of Deut 28:26-31 on EST is substantively treated in section

To evaluate the claim that biblical texts were directly dependent on Akkadian ones, it is helpful to examine patterns that are indicative of literary borrowing by biblical writers. The appearance of many similar lexemes or phrases in an identical sequence can readily be grasped as strong evidence that there is a literary connection between distinct texts. An important observation, however, is that biblical writers frequently inverted literary elements in their source material when adapting it. This phenomenon is sometimes referred to as “Seidel's Law,”<sup>121</sup> though this label is something of a misnomer inasmuch as it is a tendency rather than a predictable event as the label “law” might suggest. Many examples of this pattern of literary borrowing have been observed by biblical scholars, and probable examples of the phenomenon in the book of Deuteronomy will be noted and discussed elsewhere throughout the present study. The reason that this pattern occurs when biblical writers adapted their source material is uncertain. It is by no means clear that this pattern of inversion was consciously intended by the biblical composers. To better explain the phenomenon of inverse citation, it will be useful to examine similar material in Deuteronomy 28 and Leviticus 26. The following discussion will also illustrate some of the difficulties involved in assessing the literary connection between texts.

### **Deuteronomy 28 as a Source for Leviticus 26**

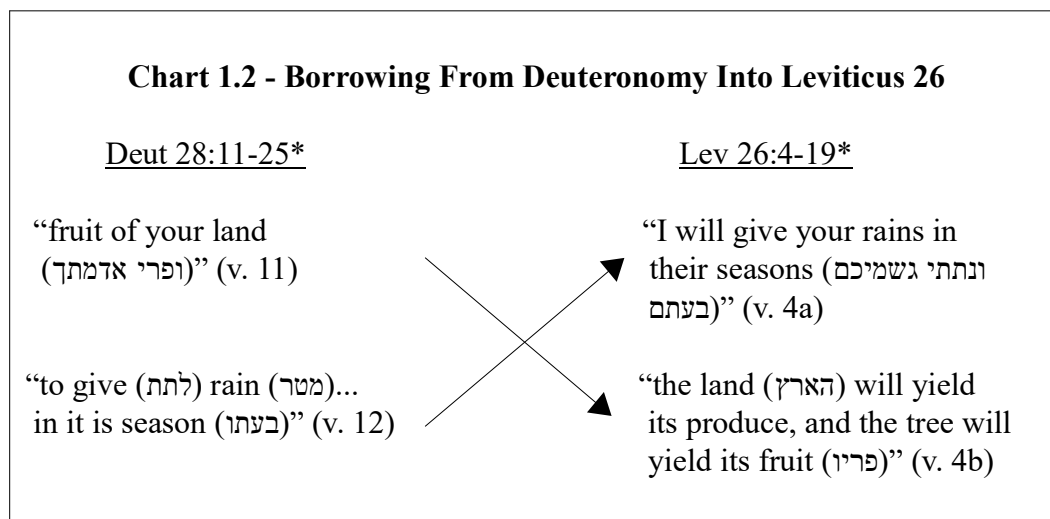
The blessing and curse sections in Deuteronomy 28 and Leviticus 26 serve as the literary conclusions to two of the major legal collections in the Pentateuch, the Deuteronomistic Code (Deut 12-26\*) and the Holiness Code (Lev 7-26\*). They both exhort readers to heed the laws of

3.3 of the present work.

121 Moshe Seidel, “Parallels Between Isaiah and Psalms,” *Sinai* 38 (1955-1956) 149-172, 229-240, 272-280, 335-355; Pancratius C. Beentjes, “Inverted Quotations in the Bible: A Neglected Stylistic Pattern,” *Biblica* 63 (1982), 506-523; Levinson, *Deuteronomy* (1997) 18-20.

YHWH and reap the benefits of obedience, lest they suffer a series of dire consequences. The observation that both law codes conclude with blessings followed by curses, it should be acknowledged, does not constitute significant proof that there exists a literary connection between them. The Code of Hammurabi, which was composed many centuries earlier, likewise contains an epilogue with blessings followed by curses (LH XLVII:1-LI:91). It is conceivable, therefore, that the similar organization of this material in Deuteronomy and Leviticus is partly coincidental, perhaps the result of a shared tradition in the literary organization of law codes.<sup>122</sup>

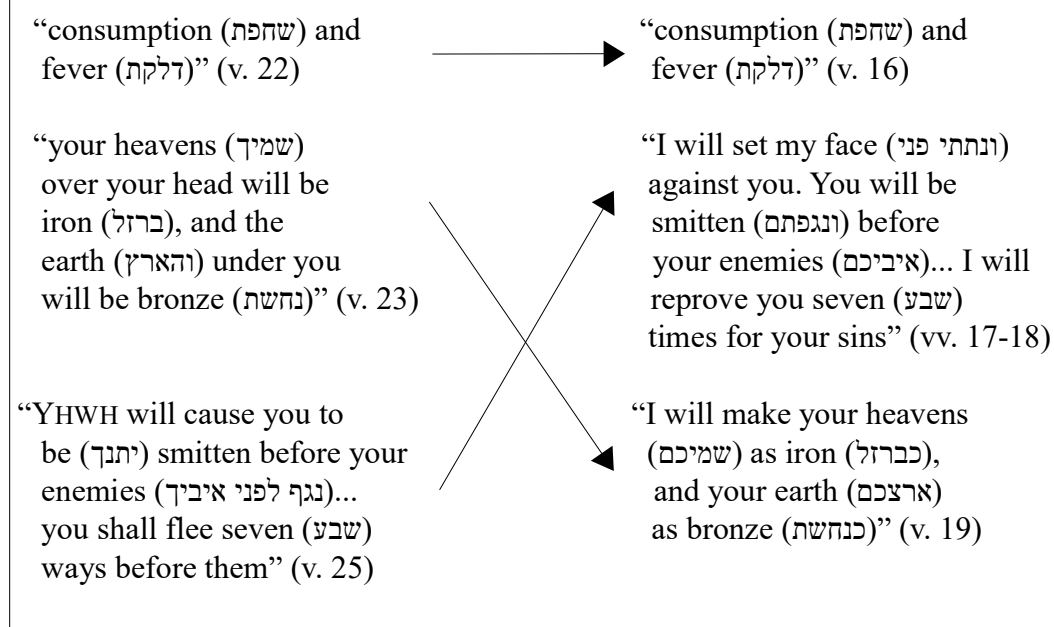
That there is a direct literary connection between the blessings and curses in Deuteronomy 28 and Leviticus 26 is probable, however, since they feature many of the same lexemes (פרי, אדמה, נ.ת.ג, ארץ, עת, איב, שחפת, דלקת, שמים, ברזל, נחשת, נ.ג.פ, פנים, שבע) in similar pairs of curses, sometimes in an inverted literary order. The resemblance between these passages, long discerned by biblical scholars,<sup>123</sup> is simply too strong to be dismissed as coincidental:



<sup>122</sup> Cf. Weinfeld, *Deuteronomy* (1972) 149-150.

<sup>123</sup> Hillers, *Treaty Curses* (191) 40-42; Weinfeld, *Deuteronomy* (1972) 124-126. From the similarities between them, Hillers (p. 42) reaches the incorrect conclusion that the writers of Deuteronomy 28 and Leviticus 26 borrowed from the same curse tradition, “each in his own way.”

Chart 1.2 (Continued)



These curses are not formulated in precisely the same way, of course, but similar material in one passage is recycled into the other in definite patterns. When the same lexemes appear in both passages with a possessive suffix, there is an obvious tendency for the Deuteronomic nouns to feature a second-person singular possessive suffix, while their Levitical counterparts show a second-person plural possessive suffix.<sup>124</sup> Likewise, the corresponding verbal forms in these passages are attested in second-person singular in Deuteronomy 28, but second-person plural in similar parts of Leviticus 26.<sup>125</sup> This same pattern is displayed in other passages where there is evidence of the direct borrowing of material from one of these biblical books into the other.

124 Cf. Jože Krašovec, *Reward, Punishment, and Forgiveness: The Thinking and Beliefs of Ancient Israel in Light of Greek and Modern Views* (Brill: Leiden, 1999). He draws the wrong conclusion, however, that “these passages present independent elaborations of the same traditional theme” (p. 162) on the grounds of very obvious differences between them. This exemplifies the fallacy that one text must correspond almost exactly with another in order for direct literary dependence to be probable.

125 Cf. Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Code* (Tübingen: Mohr Siebeck, 2007) 128.

These stylistic differences do not detract from the significance of the observation that many of the same themes and lexemes are found together in these passages. Rather, the evidence altogether suggests a creative and methodical process of direct borrowing by biblical writers.

The strong similarities between the curses in Deuteronomy 28 and Leviticus 26 can only be explained in two ways. Either one passage served as a literary model for the other, or both were somehow influenced by the same ancient Near Eastern literary source(s) or curse tradition(s). Against the latter possibility, it should be observed that there are no other extant texts displaying such a similar cluster of curse themes and lexemes. Particular curses in these passages, of course, are clearly paralleled in other ancient Near Eastern texts. The transformation of the “heavens” and “earth” into “iron” and “bronze,” for instance, is described not only in Deut 28:19 and Lev 26:23, but also in EST §§63-64 (ll. 526-533). Significantly, though, it has been argued that the many similarities between the curses in Deuteronomy 28 and EST are best explained by the literary dependence of the former passage on the latter. There is arguably a direct chain of influence here (EST\* > Deuteronomy 28\* > Leviticus 26\*).<sup>126</sup> Leviticus 26 contains at least one curse, however, that is paralleled in a text unlikely to have directly influenced a biblical composition. The Aramaic version of the bilingual inscription from Tell Fekheriye,<sup>127</sup> dating to the eighth century BCE, preserves a curse that reads: “May a hundred women bake bread in an oven, but not fill it” (*wm'h: nšwn: l'pn: btnwr: lhm: w'l: yml'nh*; l. 22). This curse is obviously similar to Lev 26:26: “Ten women will bake your bread in one oven... but

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126 See chapter 3, “Deuteronomy 27 and 28,” for a discussion of evidence that Deuteronomy 28 is directly dependent of EST. Stackert's *Rewriting the Torah* (2007) meanwhile, presents important evidence that the Holiness Code is in turn dependent on the book of Deuteronomy.

127 Ali Abou-Assaf, Pierre Bordreuil, Alan R. Millard, *La Statue de Tell Fekheriye et son inscription bilingue assyro-araméenne* (Paris: Editions Recherche sur les civilisations, 1982); Il-Sung Andrew Yun, “The Aramaic and Akkadian Bilingual Inscription From Tell Fekheriyeh and the Dialect of Old Aramaic” (Baltimore, 2008).

you shall eat and not be satiated” (וְאָפּוּ עֵשֶׂר נָשִׁים לַחֲמֻכְכֶּם בַּתֹּנֹר אֶחָד ... וְאָכַלְתֶּם וְלֹא תִשְׂבְּעוּ). Both of these curses feature a particular number of “women” (*nšwn* /נָשִׁים) as the subject of verbs meaning “bake” (*l’pn*/וְאָפּוּ) derived from the same Semitic root (*a.p.n*/א.פ.נ.). Moreover, both curses explicitly mention an “oven” (*btnwr*/בַּתֹּנֹר) as the place where this verbal action is performed.<sup>128</sup> The resemblance between these curses in Leviticus 26 and the Tell Fekheriye inscription is therefore suggestive of a connection between them,<sup>129</sup> but it is difficult and unnecessary to postulate that one text directly influenced the other. Only a single exemplar of the latter is attested, and it displays this one notable similarity with the former. Both texts more likely reiterate a particular curse formula that was once more widely attested in a curse tradition.

What suggests the likelihood of a direct literary connection between Deuteronomy 28 and Leviticus 26, it should be stressed, is the observation that *many* blessings and curses found in them are formulated in a similar manner. They are also attested in rapid suggestion. This is not the case, by contrast, when the curses in the Tell Fekheriye (TF) inscription and Leviticus 26 are compared. It is only a single curse (Lev 26:26/TF l. 22) that is strikingly similar. In addition, it is notable that the only attestations within the Hebrew Bible of particular words meaning “consumption” (שַׁחַפַּת; Deut 28:22, Lev 25:16) and “fever” (דִּלְקַת; Deut 28:22; Lev 25:16) are found in these passages, and these terms are paired together in both. The greater the number of unique literary similarities between texts, the less easily they can be dismissed as coincidental. Certain literary differences between these Deuteronomy 28 and Leviticus 26, moreover, can be explained as the result of creative revision. For instance, there is an obvious correspondence

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128 Cf. Phillip J. King and Lawrence Stager, *Life in Biblical Israel* (Louisville: Westminster John Knox Press, 2001) 67.

129 James L. Kugel, *How to Read the Bible: A Guide to Scripture, Then and Now* (New York: Free Press, 2007) 348-350.



between a word in Deuteronomy 28 that means “rain” (מטר; Deut 28:24) and a different word in Leviticus 26 meaning “rain” (גשם; Lev 26:4a) within a very similar curse. The repetition of semantically similar words here, and elsewhere, can serve as evidence of a literary connection between texts. There is no reason to doubt that biblical writers were capable of such creativity when adapting and borrowing material. Indeed, it is well established that they often recycled material in other biblical texts in service of their own goals, restructuring and repurposing literary elements in ways that reflect a high degree of aesthetic and theological complexity.<sup>130</sup>

That one of these biblical chapters was known to the composer of the other appears perfectly plausible. Both of these texts are written in the same language, ostensibly by members of the same cultural group favoring the worship of YHWH. The suggestion that one of these passages might somehow reflect the direct or indirect influence of the other, therefore, hardly strains credulity *prima facie*. As many scholars have observed, there are also striking similarities between the laws in their associated legal collections (Deut 12-26; Lev 17-25), which both conclude with a similar set of blessings and an earlier discussed series of blessings and curses (Deut 28; Lev 26). Particular laws in the Deuteronomic Code probably served as the literary inspiration for laws in the Holiness Code,<sup>131</sup> although the evidence for this proposal is too extensive and complicated to be adequately explored in the context of the present study. That there are significant literary correspondences between legal passages in the books of

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130 Cf. Michael Fishbane's magisterial study of the phenomenon of inner-biblical exegesis, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon Press, 1985). Fishbane observes that many parallels between biblical passages are well explained by the author of one biblical text reading another and then selectively appropriating material in that source. We should expect that biblical writers would have similarly adapted material in any extra-biblical texts that they had at their disposal, reiterating literary elements without reproducing their source material verbatim. Cf. Levinson and Stackert, *JAJ* 3 (2012) 125.

131 Cf. Stackert, *Rewriting the Torah* (2007).

Deuteronomy and Leviticus, at any rate, reinforces the likelihood that the strong similarities between the blessing and curse passages at the end of these legal collections are not coincidental.

There are strong grounds, therefore, for concluding that there is a direct literary connection between curses in Deuteronomy 28 and Leviticus 26. Curses in these two passages are not formulated in precisely the same manner, but they are constructed in a highly similar fashion plausibly reflecting an act of literary borrowing. One might still object, however, that *other* Israelite or ancient Near Eastern texts once existed that contained similar or identical material. Repetition through time of the same themes and lexemes could result in an unintentional garbling of a textual or oral tradition.<sup>132</sup> It might also be that Deuteronomy 28 and Leviticus 26 display the mutual influence of another ancient Near Eastern oral or literary tradition. This is a needless supposition, however, and it cannot be ignored that many of the same themes and lexemes are clearly repeated in either the same order or an inverse one. The latter pattern may be indicative of direct borrowing by a biblical writer in a manner similar to Seidel's Law, rather than the coincidental use of some curses that were traditionally grouped together.

There are probable examples of this literary phenomenon when Deuteronomy 28 and

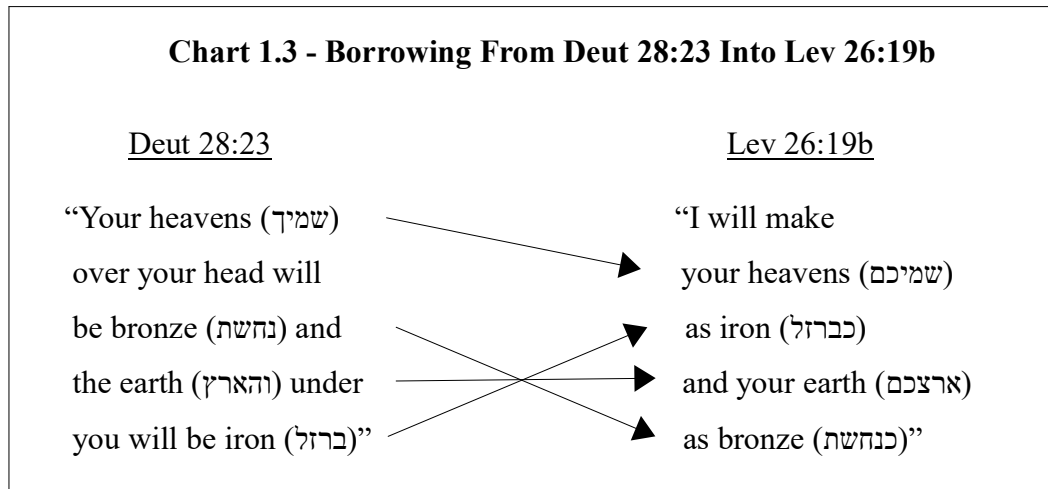
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132 One need only consider the modern-day examples afforded by demonstrations of the popular children's game known as "Chinese Whispers" or "Telephone." Cf. James L. McGaugh, *Memory and Emotion: The Making of Lasting Memories* (New York: Columbia University Press, 2003) 115-119. Scribes in the ancient Near East were evidently trained through a process involving the memorization and reproduction of canonical texts. David W. Baker, "Scribes as Transmitters of Tradition," in *Faith, Tradition, and History: Old Testament Historiography in Its Near Eastern Context* (Winona Lake: Eisenbrauns, 1994), eds. A. R. Millard, James K. Hoffmeier, and David W. Baker, 67-68; Karel van der Toorn, *Scribal Culture and the Making of the Hebrew Bible* (Cambridge: Harvard University Press, 2007) 56, 68; Ignacio Márquez Rowe, "Scribes, Sages, and Seers in Ugarit," in *Scribes, Sages, and Seers: The Sage in the Eastern Mediterranean World* (Göttingen: Vandenhoeck & Ruprecht, 2008) 99-108; Paul Delnero, "The Memorization and Transmission of Sumerian Literary Compositions," *JNES* 71 (2012) 189-208. Cf. M.C.A. Macdonald, "Literacy in an Oral Environment," in *Writing and Ancient Near Eastern Society: Papers in Honour of Alan R. Millard* (New York: T&T Clark, 2005), eds. Piotr Bienkowski, Christopher Mee, and Elizabeth Slater, 69-71.

Leviticus 26 are compared. There are similar blessings in Deut 28:11-12 and Lev 26:4, and similar curses in Deut 28:23-25 and Lev 26:17-19. In the former pair of passages, an increase of “fruit” (ופרי/פרי) in the Israelites’ “land” (אדמתך/הארץ) is promised, provided that they are obedient to the will of YHWH. The deity will also “give” (לתת/ונתתי) the “rain” (מטר/גשמיכם) in its “season” (בעתו/בעתם). Yet these lexical clusters occur in a reverse sequence when these Deuteronomic and Levitical passages are compared, as illustrated by arrows in the preceding chart (1.2) in this study. This is likewise the case when two groups of the same lexemes composing the curses in Deut 28:23-25 and Lev 26:17-19 are juxtaposed. In both passages, there is a curse (Deut 28:23; Lev 26:19) asserting the transformation of the “heavens” (שמיך/שמיכם) and “earth” (והארץ/ארצכם) into “bronze” (נחשת/כנחשת) and “iron” (ברזל/כברזל). There is also a curse (Deut 28:25; Lev 26:17) describing military defeat, wherein the Israelites are “smitten” (נגף/ונגפתם) “before” their “enemies” (איבך/ארצכם). These curses are also presented in a reverse order. Further suggestive of the probability of a literary connection between Deut 28:23-25 and Lev 26:17-19 is the observation that both passages contain verbs meaning “give” (יתן/ונתתי) and the number “seven” (שבע). The cluster of identical lexemes shared between these passages strongly suggests that there is some literary connection between them, even though these lexemes do not always occur in the same sequence. Why the composer(s) of one of these biblical passages inverted particular elements in their source text, but not others, will soon be discussed.

On an extremely small scale, it may first be noted, the literary phenomenon of inverse citation is observable when Deut 28:23 and Lev 26:19 are closely compared. These two biblical verses threaten agricultural blights upon the accursed. The sky is literally or symbolically changed into metal, implicitly yielding no rain to the land, while the land is rendered infertile

through its transformation into metal:



In both curses, identical words for “heavens” (שמים/שמיך) and “earth” (והארץ/ארצכם) occur in succession with second-person possessive suffixes attached. In addition, they are transformed into “bronze” (נחשת/כנחשת) and “iron” (ברזל/כברזל) within both of the biblical passages.

“Heavens” and “earth” are oppositely paired with “bronze” and “iron,” however, when Deut 28:23 and Lev 26:19b are compared. The order of these particular lexemes within these similar curses is thus inverted, while the order of the other two lexical correspondences is the same.

That such differences are found when a biblical composition and the text that probably influenced it are compared can be explained in different ways. It may be that the composer of the blessings and curses Leviticus 26 consciously, or even unconsciously, preserved the common order of the pair “heavens” (שמים) and “earth” (ארץ) attested in Israelite literature. This is indeed the typical order in which these two nouns occur elsewhere throughout the Priestly source,<sup>133</sup> in which the Holiness Code is embedded. By contrast, there is no reason to suppose a biblical composer would have been sensitive to maintaining the order in which “iron” and “bronze” are

<sup>133</sup> “Heavens” (שמים) is listed before “earth” (ארץ) in the following verses that are typically attributed to the P source: Gen 1:1, 15, 17; 2:1, 4a; 7:19, 23; Exod 31:17; Lev 26:19.

mentioned in his literary source material. One may imagine that the writer of Lev 26:19b, having read through Deut 28:23, only loosely imitated the language in his source. He was by no means under some compunction to reproduce the lexemes in his source material in the same order.

Further pursuing this line of reasoning, many differences between the arrangement of lexical clusters (e.g. Deut 28:11-12/Lev 26:4; Deut 28:23-25/Lev 26:17-19) in Deuteronomy 28 and Leviticus 26 can be explained as well. The following scenario may be envisioned for instance. After reading through particular parts of Deut 28:11-26\*, the composer(s) of Leviticus 26 chose to utilize them as a literary model. These composer(s) adapted and incorporated the literary elements fresh in memory into the new composition (Deut 28:12 > Lev 26:4a; Deut 28:25 > Lev 26:17-18), but then glanced back at the preceding material (Deut 28:11 > Lev 26:4b; Deut 28:23 > Lev 26:19) in the source. The order of the shared literary elements was consciously or unconsciously reversed as result.<sup>134</sup> Biblical composers did not outright copy their source material according to this understanding of literary evidence. Rather, they only recycled certain elements within it. Biblical writers read, adapted, and constructed texts in creative ways that reflected their literary-aesthetic preferences and served to advance their ideological beliefs.

Within the context of the present study, unfortunately, all of the similarities and differences between the blessings and curses in Deuteronomy 28 and Leviticus 26 cannot be adequately explored. This would require a lengthy examination of the literary relationship between Leviticus 26 and numerous other passages in Leviticus, Deuteronomy, and Ezekiel.<sup>135</sup>

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<sup>134</sup> The present author sees no reason to assume that every literary event dubbed as “inverse citation” or “Seidel’s Law” reflects a conscious effort at formal citation of the source material.

<sup>135</sup> Cf. Jacob Milgrom, “Leviticus 26 and Ezekiel” in *The Quest for Meaning and Context: Studies in Biblical Intertextuality in Honor of James A. Sanders* (Brill: Leiden, 1997), eds. Craig A. Evans and Shemaryahu Talmon, 57-62; cf. Christophe Nihan, *From Priestly Torah to Pentateuch* (Tübingen: Mohr Siebeck, 2007) 401-545.

The theological aims and compositional methods of the composers of the Holiness Code are a difficult and complicated topic. The reasons that particular biblical passages were adapted by the writers of Holiness Code, likewise, cannot be adequately treated in the present study. The clusters of similar curse motifs and lexemes in Deuteronomy 28 and Leviticus 26, though, bolster the suggestion that there is a literary connection between the law codes that they conclude.

As a coda to the present discussion, it should be stressed that there is an important literary parallel for the proposed model of borrowing by biblical composers. There is strong evidence that the Covenant Code (Exod 20:19-23:33) directly influenced the writing of passages in the Deuteronomistic Code (Deut 12-26\*).<sup>136</sup> Here as well the composers of the latter did not simply reduplicate passages in the former, but selectively appropriated words, phrases, and concepts, which they then rearranged in ideologically meaningful ways. This is well demonstrated throughout Bernard M. Levinson's study of the relationship between the Deuteronomistic Code and the Covenant Code.<sup>137</sup> It is reasonable to suppose that other biblical writers, including those responsible for the production of the Holiness Code, operated similarly when crafting their compositions. The writers of Deuteronomy 13\* and 28\*, it will be demonstrated, probably appropriated literary material in EST in this creative fashion, resulting in a text that displays strong similarities as well as differences from a literary source that directly influenced it.

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136 Levinson, *Deuteronomy* (1997); cf. Wright, *Inventing God's Law* (2009) 357, n. 19; cf. Crouch, *Israel and the Assyrians* (2014) 32-32. There is not universal agreement among critical scholars, however, that the Covenant Code was a literary source utilized by the composers of Deuteronomistic Code rather than the reverse. Cf. John Van Seters, "Cultic Laws in the Covenant Code (Exodus 20, 22-23, 33) and their Relationship to Deuteronomy and the Holiness Code," in *Studies in the Book of Exodus* (Leuven: Leuven University Press/Peeters, 1996) 319-345.

137 Levinson, *Deuteronomy* (1997).

## Akkadian Texts as Sources for Biblical Writers

Whether EST was a literary source utilized by the composers of Deuteronomy 28 is one of the central issues addressed throughout the present study. The assertion that a direct literary connection between Akkadian texts and biblical compositions is plausible, however, has provoked scholarly controversy. There is no clear evidence that copies of cuneiform texts were preserved, copied, or translated in Israel or Judah during the eighth or seventh centuries BCE, apart from apparent similarities in the content of Akkadian texts and biblical passages. This represents one of the greatest obstacles to affirming the direct literary dependence of Deuteronomy 13\* and 28\* on passages in EST. It may be that many Akkadian texts were once stored in Israel and Judah, but no archive of Akkadian texts has been discovered in their territory.

It is clear, however, that Bronze Age rulers of Jerusalem conducted diplomacy with the Egyptian empire by means of cuneiform documents. Six of the Akkadian letters preserved in the Egyptian archive discovered at Tell el-Amarna are addressed from Abdi-Heba, ruler of “Jerusalem” (URU-ú-sa-lim), to an Egyptian pharaoh who ruled in the fourteenth century BCE.<sup>138</sup> On the basis of the Amarna correspondence, it is certain that scribes trained in the production of Akkadian documents were employed by city-states in the Levant during the second millennium B.C.E. Nevertheless, only a small number of cuneiform documents dating to this period have been found within Canaan.<sup>139</sup> Scribes familiar with Akkadian were certainly employed in the region, but they were probably few in number.<sup>140</sup> The same situation might well

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138 EA 285-290.

139 Cf. Horowitz *et al.*, *Cuneiform in Canaan* (2006).

140 Schniedewind, *A Social History of Hebrew* (2013) 31-33. Schniedewind (p. 32) summarizes the evidence as follows: “[T]he lack of large archives like those found at other major Middle Bronze Age cities along the Fertile Crescent likely reflects the relatively limited scribal infrastructure of Canaan during this period—an infrastructure that was heavily dependent on the

have prevailed in the subsequent Iron Age. Without the chance discovery of cuneiform documents from the archive at Tell el-Amarna, this diplomatic communication between Egypt and petty kingdoms in the Bronze Age Levant would be wholly unknown to historians.

Alternatively, it may be that diplomatic correspondence between polities in Mesopotamia and the Levant during the late Iron Age was conducted in an oral or written form by means of Aramaic (cf. 2 Kgs 18:26). This language would probably have been learned more easily by Israelite and Judean scribes, since it is closely related to Hebrew and was written in a similar script.<sup>141</sup> Such diplomatic documents, if they existed, would surely have been recorded on perishable materials such as parchment or papyrus. This could explain why none of them have survived to the present day. The possibility that an Aramaic version of EST was known to Judean scribes has already been considered by Steymans.<sup>142</sup> That particular texts were sometimes produced in Akkadian and Aramaic versions, moreover, is certain. This is proven by the Tell-Fekheriye bilingual inscription discovered in Syria, which has already been discussed in this study for displaying a particular curse (l. 22) that is strikingly similar to one in Lev 26:26.<sup>143</sup>

Regarding the possibility of a direct literary connection between Akkadian texts and biblical legal materials, a major study by David P. Wright arguing that the Code of Hammurabi (*LH*) influenced the composition of the Covenant Code (Exod 20:19-23:33\*) deserves special mention. Wright suggests that many of the long-observed similarities between the content of these texts are the result of the biblical composers of the Covenant Code directly basing their

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economically more prosperous, as well as politically more dominant, polities in Mesopotamia, northern Syria, and Egypt.”

141 Cf. Tadmor, *Mesopotamien* (1983); cf. Schniedewind, *A Social History of Hebrew* (2013) 79-80, 86.

142 Steymans, *Deuteronomium* 28 (1995) 193.

143 See “Deuteronomy 28 as a Source for Leviticus 26,” a subsection of 1.2 in this study.



composition on an Akkadian copy of the Code the Hammurabi, alongside an unknown “participial source.”<sup>144</sup> Probably the strongest evidence that Wright adduces in support of his hypothesis is the sequence of thematically similar legal materials in Exod 21:2-22:14\* and LH §§117-271.<sup>145</sup> There are obvious differences in the literary arrangement of this material, but Wright observes that while the biblical composers occasionally change the order in which material is Code of Hammurabi is presented, they ultimately always return to it.<sup>146</sup> Although a critique of Wright’s monograph cannot be offered in this study, his research is intriguing and ought to spur further study into the possible connections between cuneiform and biblical texts.

Even if the similarities between a particular biblical passage and a cuneiform text are extremely strong, this does not necessarily establish that there is a direct literary connection between them. Although some of the material in EST is highly similar to that in Deuteronomy 13 and 28, for instance, the possibility that other texts containing similar or identical literary material with EST existed can never be discounted. It is methodologically problematic, however, to assume their attestation in the absence of strong evidence. One can posit the existence of unknown texts *ad nauseum*, without any needful justification, to explain the correspondences between literary texts. It is particularly important in turn to discuss the likelihood that texts similar to EST would have been known to the composers of Deuteronomy, so that their purported existence and influence can be justified. The purpose of EST, of course, was to ensure Ashurbanipal's peaceful succession to the throne of the Neo-Assyrian empire after the death of Esarhaddon. For this reason, copies of the text were widely distributed throughout the ancient

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144 Wright, *Inventing God's Law* (2009) 159-16, 199-204.

145 Ibid., 8-10.

146 Ibid., 50.

Near East among those who owed allegiance to the Neo-Assyrian sovereign.<sup>147</sup> The discovery of a new exemplar of EST at Tell Tayinat, a site in the Levant, has bolstered the possibility that a copy of EST was sent to Jerusalem, the capital of a Neo-Assyrian vassal state. Tell Tayinat is geographically removed from Jerusalem by less than 500 miles, much closer than the sites of Nimrud and Aššur where earlier exemplars of the text were found.<sup>148</sup> It seems increasingly plausible, therefore, that a copy of EST might have been known to biblical writers in ancient Israel or Judah, since these kingdoms were at times subjugated to the Neo-Assyrian empire.

With the preceding observations in mind, the present study will now analyze the possibility that the treaty genre or a particular treaty text, such as EST, somehow influenced the composition of Deuteronomy 13, 17, 27, and 28. Special attention will be paid to unique points of literary correspondence, since these are most suggestive that there exists a literary connection between these passages and other ancient Near Eastern texts. The differences between Deuteronomic passages and treaty texts, however, must not be ignored. If one contends that Deuteronomy 13\* or 28\* are literarily modeled on EST, for instance, one should try to explain why the Deuteronomic writers altered or omitted elements in their literary source. The ideological reasons that particular passages, words, phrases, and concepts within the Covenant Code were selectively targeted for adaption, and then subtly or drastically changed when appropriated by the writers of Deuteronomy, have been thoroughly examined. This study is undertaken in view of earlier research, most notably that of Levinson, into the sophisticated

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147 It is clear, of course, that the circulation of copies of EST throughout the Neo-Assyrian empire did not succeed in preventing a dispute over succession. A devastating civil war ensued between Ashurbanipal and Shamash-shum-ukin in the aftermath of the death of their father, Esarhaddon. Marc Van de Mieroop, *A History of the Ancient Near East ca. 3000-323 BCE* (Malden: Blackwell Publishing, 2008) 255.

148 See section 4.1 of the present work for further discussion of the significance that EST exemplars have only been discovered at three locations: Nimrud, Ashur, and Tell Tayinat.

methods by which Deuteronomic composers adapted their source material. While there is widespread suspicion among biblical scholars that the treaty genre somehow influenced the organizational structure of material in the book of Deuteronomy, there is great dispute as to whether particular texts or treaty traditions influenced aspects of its composition. When one considers the empirical model provided by the Covenant Code as a source for the composers of Deuteronomic passages—the sporadic but ideologically meaningful borrowing of literary elements—the case that a particular treaty text, EST, directly influenced the Deuteronomic composers is much stronger than previously realized. The selective appropriation of material from EST into Deuteronomy 13\* and 28\* can then be recognized as act of creative borrowing.

## CHAPTER 2: DEUTERONOMY 13 AND 17

### 2.1 – Deuteronomy 13 and Esarhaddon's Succession Treaty

#### *Deuteronomy 13 and Treaty Rhetoric*

Deuteronomy 13 shares many features of its rhetorical language with passages in ancient Near Eastern treaty texts. The lexical and thematic similarities are numerous, and therefore difficult to dismiss as the result of coincidence. They will be highlighted and treated at length throughout the present chapter. For the purposes of a comparative analysis, it is helpful to divide Deuteronomy 13 into four distinct literary sections: Deut 13:1, 13:2-6, 13:7-12, and 13:13-20. The first of these sections, Deut 13:1, requires obedience to the word of YHWH and forbids any alteration of it. Deut 13:2-6 subsequently prescribes the execution of various diviners who encourage the worship of a deity other than YHWH. These verses are followed by Deut 13:7-12, a law commanding the execution of family and friends who encourage the worship of a deity besides YHWH. Lastly, Deut 13:13-19 requires the extermination of settlements whose inhabitants embrace the worship of a deity other than YHWH. These four sections in Deuteronomy 13 will be treated separately, since they each display particular similarities with material found in ancient Near Eastern treaty texts. The relative strengths and weaknesses of scholarly claims that these literary parallels demonstrate a literary connection between Deuteronomy and treaty texts will be critically examined throughout the present chapter.

Deut 13:1 exhorts its audience to be obedient to the “word” (דבר) of YHWH, and explicitly

forbids that anyone “add to it or subtract from it” (לא־תסף עליו ולא תגרע ממנו).<sup>1</sup> Since the Deuteronomic laws are YHWH's instructions, this clause has the effect of preventing their alteration through supplementation or deletion. It has thus been described as a “canon formula,” protecting the Deuteronomic laws from emendation by later scribes.<sup>2</sup> Clauses intended to prevent the alteration or destruction of a text, it must be noted, are common in ancient Near Eastern literature. Monumental inscriptions in Mesopotamia and the Levant, for instance, frequently contain a warning against substituting one's name in place of an inscribed name, usually the individual responsible for the monument.<sup>3</sup> This would represent a false claim to their ownership.<sup>4</sup> These same texts often demand that the inscription never be effaced.

Categorical warnings against the alteration of a text, however, are especially common in legal documents and ancient Near Eastern treaties. In Hittite treaties, for instance, there is frequently a clause warning against tampering with the text of the tablet or destroying it.

Retaliation by the deities guaranteeing the treaty is implicitly or explicitly the punishment:

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1 In the canonical form of the biblical book, the laws of Deuteronomy are YHWH's instructions mediated by the figure of Moses (Deut 1:1, 4:45, 28:69) to the Israelites on the plains of Moab. Although it has been proposed that the literary framing (Deut 1-11\*, 27-34\*) of the Deuteronomic Code (Deut 12-26) as Mosaic discourse is secondary, it is difficult to imagine how these laws could derive their authority without divine sanction, established by the Code's placement in such a context. Cf. Walter J. Houston, *Pentateuch* (London: SCM Press, 2013) 96.

2 There was good reason for the author of Deut 13:1 to fear that scribes might wish to adapt or emend the Deuteronomic laws. The Deuteronomic Code itself was probably a deliberate revision of the Covenant Collection (Exod 20:19-23:33). Cf. Levinson, *Deuteronomy* (1997). While it cannot be assumed that Deut 13:1 was part of the literary stratum modeled on the Covenant Code, the scribe responsible for its authorship implicitly acknowledges that others might try to alter the Deuteronomic laws. As far as the present author is aware, no evidence speaks strongly against the likelihood that Deut 13\* or 28\* were authored by the person(s) responsible for composing the material comprising Deut 12-28\*. For pertinent discussion, see “The Placement of Deuteronomy 13 and 17 in the Deuteronomic Code” in section 2.2 of the present study, as well as section 3.1, “The Blessings and Curses in Deuteronomy 27 and 28.”

3 For numerous examples with discussion of their meaning and significance, see Richter, *The Deuteronomistic History* (2002) 153-203.

4 Cf. Richter, *The Deuteronomistic History* (2002) 182-184.

**Table 2.1 - Document Protection Clauses in Hittite Treaties**

<u>Translation</u>	<u>Normalized Text</u>	<u>Transliteration</u>
<p>“As for that [per]son who... alters this tablet or sets it up in a secret place—i[f] he breaks (it) or changes the words of this tablet—(he should know that)<sup>a</sup> in this treaty we have called on the gods of secrets, and the gods of the oath-taker. Let them s[t]and, listen, and be witnesses.”</p>	<p>[ma]nnummê... <i>ṭuppa annīta unakkarma ašar puzri išakkan šumma iḥebbi šu[mm]a amâte ša pī ṭuppi ušašna ina libbi riksi annī ilānī ša puzri u ilānī ša bēl māmīti niltassi l[i]zzizzū litemû u lū šībūtu</i></p>	<p><sup>37</sup>[ma]-an-nu-me-e... <i>ṭup-pa an-ni-ta ú-na-ak-kar-ma</i> <sup>38</sup>a-šar pu-uz-ri i-ša-kán šum-ma i-ḥe-eb-bi šu[m-m]a a-ma-te. MEŠ ša KA <i>ṭup-pí ú-ša-aš-na i-na lib-bi ri-ik-si an-ni-i DINGIR.MEŠ</i> <sup>39</sup>ša pu-uz-ri ù DINGIR.MEŠ ša EN <i>ma-mi-ti ni-il-ta-as-sí l[i-i]z-zi-iz-zu le-el-te-mu-u ù lu-ú ši-bu-tu</i> (CTH 51 A rev. ll. 37-39)</p>
<p>“(As for) that person who brings suffering upon him, seizes his land from him, or alters even one word of this tablet, may the Storm-god, King of Heaven... (and) the Thousand Gods of this tablet exterminate him (and) his progeny from the land of Hatti.”</p>	<p><i>kuiš=ma=šši uwāi pedai nu=šši=kan KUR-TUM arḥa dāi našma=kan kēl tuppiyaš 1-ann=a memiyan waḥnuzzi n=an=kan</i> <sup>d</sup>U LUGAL ŠAMÊ... <i>kēl tuppiyaš LIM DINGER.MEŠ IŠTU KUR</i> <sup>uru</sup>Hatti <i>apēl NUMUN-an arḥa ḥarninkandu</i></p>	<p><sup>25</sup>ku-iš-ma-aš-ši u-wa-a-i pé-e-da-i nu-uš-ši-kán KUR-TUM ar-ḥa da-a-i <sup>26</sup>na-aš-ma-kán ke-e-el <i>tup-pí-aš 1-an-na me-mi-an wa-aḥ-nu-uz-zi na-an-kán</i> <sup>d</sup>U LUGAL ŠA-ME-E... <sup>27</sup>ke-e-el <i>tup-pí-aš LI-IM DINGER.MEŠ IŠ-TU KUR</i> <sup>uru</sup>Ḥa-at-ti a-pé-el NUMUN-an ar-ḥa <i>ḥar-ni-in-kán-du</i> (CTH 106.II rev. ll. 25-27)</p>

Table 2.1 (Continued)

<sup>a</sup> Some additional text in the translation is helpful to clarify the connection between these sequential clauses in the Hittite text. Cf. Gary Beckman, *Hittite Diplomatic Texts*, ed. Harry A. Hoffner, Jr. (Society of Biblical Literature: Atlanta, 1995) 46.

The physical preservation of a treaty document serves to prevent any misunderstanding of its terms, which might otherwise have to be relayed exclusively by ambassadors across a great distance. Although the participants and witnesses to treaties, as well as other kinds of legalistic agreements, are regularly mentioned in ancient Near East documents, these persons might not remember precise details. They might, moreover, choose to be deliberately deceitful about them.

The written record of an agreement, however, provides fixed testimony that is not subject to the vicissitudes of human memory.<sup>5</sup> Its preservation thus mitigates the possibility that the precise terms might someday be disputed by parties involved. To deny the existence of the agreement or repudiate its stipulations, therefore, one could be tempted to destroy the material on which it was recorded or alter its text. This possibility is implicitly acknowledged in Mesopotamian legal texts, which frequently admonish persons such as “one who changes the words of this tablet” (*ša awât tuppim annîm unakkaru*; CT 2 33 ll. 15-16) or “one who alters this written contract” (*ša riksi šaṭāri annâ ušannû*; VAS 15 40 l. 52).<sup>6</sup> Clauses that prohibit changing or destroying a text, therefore, are not found exclusively in treaties. They are commonly attested in legal texts produced throughout the ancient Near East for many centuries.

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5 This point is well illustrated by a clause in a Hittite treaty (CTH 41 A IV ll. 32-39) in which the king demands that the speech of his messengers be checked against words on tablets that he has sent. If they do not agree, the king insists, the messenger should not be trusted.

6 The former citation (*ša a-wa-at DUB ani-im û-na-ka-ru*) is taken from an Old Babylonian adoption and marriage notice (CT 2 33), while the latter (*šá ri-ik-si šá-ṭa-ri an-na-a ú-šá-an-nu-û*) is drawn from a contract (VAS 15 40) dating to the Seleucid era. These two examples have been selected, among countless possible ones, because they come from such disparate periods.

The similarities between the “canon formula” of Deut 13:1 and passages in treaty texts deserve special attention, however, since the rhetorical language in other sections of Deuteronomy 13 (Deut 13:2-6, 7-12, 13-19) is strongly paralleled in ancient Near Eastern treaty documents.<sup>7</sup> It was noted earlier that Hittite treaties commonly admonish treaty participants against altering their text. The literary form of these clauses in Hittite documents, however, differs in striking ways from that found in Deut 13:1. It is always the “word(s)” (cf. *a-ma-te*.MEŠ/*me-mi-an*; CTH 51 rev. 38/CTH 106 rev. l. 26) of the treaty “tablet” (cf. *tup-pí/tup-pí-aš*; CTH 51 rev. 38; CTH 106 rev. l. 26) that are the object of a particular verb meaning to “alter” (*u-ša-aš-ni/wa-aḥ-nu-uz-zi*; CTH 51 rev. l. 38; CTH 106 rev. l. 26).<sup>8</sup> By contrast, it is the “word” (דבר; Deut 13:1a) of a sovereign figure, YHWH, that is the direct object of two corresponding verbs (תסוף... תגרע; Deut 13:1b) in Deuteronomy 13. More similar is the command in EST §4 that “the word of Esarhaddon, king of Assyria, you must not change or alter” (*šum-ma a-bu-tú šá<sup>m</sup>aš-šur-PAP.AŠ MAN KUR aš-šur te-na-a-ni tu-ša-an-na-a-ni*; EST ll. 57-58).<sup>9</sup> Here it is likewise the “word” (*a-bu-tú*; EST l. 57) of a sovereign figure that is object of two verbs with the similar meanings “change” (*te-na-a-ni*; EST l. 58) and “alter” (*tu-ša-an-na-a-ni*; EST l. 58). The only other Neo-Assyrian *adê* document with similar rhetoric admonishes against “whoever changes the wording of this tablet” (*man-nu ša da-bab tup-pi an-ni-e e-[nu-u-ni]*; SAA 2 11 rev. l. 5).<sup>10</sup> This resembles the typical wording of clauses in Hittite treaties more than the clause in EST §4 (ll. 41-61). Ancient Near Eastern treaty texts tend to be highly formulaic, so these

7 “Treaty documents” in this instance is not meant to include *adê*-texts, which are not always treaties. See discussion in the “Treaty, *Adê*, and Covenant” in section 2.4 of the present study.

8 See the excerpts above (Table 2.1) for normalized readings of these Akkadian and Hittite words in context.

9 These lines are normalized and presented in their larger context in Table 2.5 of this study.

10 The normalized text would read: *mannu ša dabāb tuppi annê e[nnûni]*.



similarities and differences in form are potentially significant. That Deut 13:1 most closely parallels EST, a text that was widely circulated (perhaps decades before a version of the Deuteronomistic Code was promulgated)<sup>11</sup> is evidence that EST was known to biblical writers.

The following verses of Deuteronomy 13 (vv. 2-6, 7-12), meanwhile, prescribe the execution of individuals who encourage the worship of a god besides YHWH. Persons who might become apostates are listed in both. In Deut 13:2-6, these are the “prophet” (נביא) and the “dreamer of a dream” (חולם חלום). Even if a “sign” (אֹת) or a “wonder” (מוֹפֵת) seems to authenticate their prophetic power, according to these verses, they must be killed if they incite others to apostasy. Friends and family members are then listed as possible apostates in Deut 13:7-12. Here the obligation to kill any apostate is unambiguously reaffirmed: “You shall not yield to him. You shall not listen to him. Your eye will not cast pity on him. You shall not spare (him). You shall not provide cover for him. You shall surely kill him!” (לֹא־תֵאָבֶה לוֹ וְלֹא תִשְׁמַע אֵלָיו ) (Deut 13:9-10). The language here is somewhat prolix, but impresses upon the reader the necessity of punishing apostasy with death. One might be hesitant to kill a friend or kinsman, but Deut 13:9-10 is clear that there can be no exception to the penalty.

Deut 13:2-12 thus encourages violence as a means of promoting the exclusive worship of the Israelite god YHWH,<sup>12</sup> and its language is clearly modeled on rhetoric intended to secure

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11 If the De Wette hypothesis is correct, the Deuteronomistic Code must have been written by the seventh century BCE. EST, meanwhile, was certainly composed around 672 BCE. The similarities between EST and Deut 13\* and 28\* strongly suggest the likelihood that a version of this legal collection was indeed produced in the seventh century BCE. For intriguing evidence that a version of the Deuteronomistic History—a compilation of materials edited under the influence of the Deuteronomistic laws—was produced by the time of Josiah, see Steven L. McKenzie's *The Chronicler's Use of the Deuteronomistic History* (Atlanta: Scholars Press, 1985).

12 Recent attempts by Eckart Otto (“Human Rights: The Influence of the Bible,” *JNSL* 25 [1999] 1-20) and William Morrow (*Gerechtigkeit* [2009]) to interpret Deuteronomy 13 as a

loyalty to sovereign figures in ancient Near Eastern treaties. The latter texts frequently include lists of individuals who might prove to be disloyal to the sovereign. Hittite treaties, as well as Neo-Assyrian *adê*-documents, regularly mention family members such as parents, brothers, sisters, and children as potentially seditious persons. Deut 13:7-12 similarly contains a listing of different relatives who might betray the sovereign deity. In this respect, it almost perfectly parallels passages found in these ancient Near Eastern texts, providing powerful evidence that a treaty text was utilized as a literary model by the composer of Deuteronomy 13. YHWH is simply envisioned in the role typically occupied by a human sovereign in ancient Near Eastern treaties

**Table 2.2 - Relatives as Traitors in Ancient Near Eastern Treaties**

<u>Translation</u>	<u>Normalized Text</u>	<u>Transliteration</u>
“If someone [say]s a bad word before you... or if he is a person's father, mother, brother, sister, or child... one shall not conceal him, but will seize him and make him kn[o]wn.”	<i>mān=šma[š]=kan idalu=ma uddar kuiški peran [te]zzi... našma=š antuḥši ABU-ŠU AMA-ŠU ŠEŠ-ŠU NIN-ŠU našma DUMU-ŠU... n=an le kuiški mu[nna]ezzi</i>	<sup>21</sup> <i>ma-a-an-ša-ma-[aš]-kán i-da-lu-ma ut-tar ku-iš-ki pé-ra-an [te]-ez-zi...</i> <sup>23</sup> <i>na-aš-ma-aš an-tu-uḥ-ši A-BU-ŠU AMA-ŠU ŠEŠ-ŠU NIN-Š[U n]a-aš-ma DUMU-ŠU...</i> <sup>24</sup> <i>na-an le-e ku-iš-ki mu-u[n-na]-ez-zi</i> (CTH 133 obv. ll. 21-24)

precursor to the legal concept of “human rights” are unlikely to find widespread acceptance. Morrow acknowledges that this biblical chapter encourages the violent suppression of theological dissent, but stresses that it also subordinates man to a higher law that exists outside of the political realm. In this regard, it purportedly anticipates the “idea that human beings possess a[n] intrinsic dignity that cannot be reduced to, or defined by, any political system” (*Gerechtigkeit* [2009] 238). Morrow's reading of the text, however, is anachronistic. It is colored by notions of a separation between religious and secular spheres that would not have been meaningful, or even discernible, to an ancient Near Eastern audience.

Table 2.2 (Continued)

<p>“If you hear and know that there are people instigating sedition or speaking treason among you, whether among your bearded courtiers or eunuchs, whether (they are) his brothers, royal progeny, your brothers, your friends, or anyone among the entire nation, if you hear and [know] (it), you shall seize and [kill] them or [bring] them to Zakutu.”</p>	<p><i>šummu attunu tašammâni tuddâni mā šābī mušamḥiṣṣūte mušadbibūte ina birtukkunu lū ina ša ziqnī lū ina ša rēšī lū ina aḥḥīšu lū ina zēr šarri lū aḥḥīkunu lū bēl ṭābātekunu [lū] ina nīšī māti gabbu tašammâni [tuddâni] lā tašabbatāninni [lā tadukkāni ina] muḥḥi Zakute... [la tubbal]ānin[ni]</i></p>	<p><sup>18</sup><i>šum-ma at-tu-nu ta-ša-ma-a-ni</i> <sup>19</sup><i>tu-da-a-ni-ma-a</i> ERÍN.MEŠ <i>mu-šam-ḥi-iṣ-ṣu-u-te</i> <sup>20</sup><i>mu-šad-bi-bu-u-te</i> &lt;šá&gt; <i>ina bir-tuk-ku-nu lu-u</i> <sup>21</sup><i>ina</i> <sup>lú</sup><i>ša zi-iq-ni lu-u ina</i> <sup>lú</sup>SAG.MEŠ <i>lu-u ina</i> PAB.MEŠ-šú <sup>22</sup><i>lu-u ina</i> NUMUN MAN <i>lu-u</i> PAB.MEŠ-ku-nu EN <i>ṭa-ba-te-ku-nu</i> <sup>23</sup><i>[lu-u] ina</i> UN.MEŠ KUR <i>gab-bu ta-šam-ma-a-ni</i> <sup>24</sup><i>[tu-da-a-ni] la ta-šab-ba-ta-nin-ni</i> <sup>25</sup><i>[la ta-du-ka-an-ni ina]</i> UGU <sup>ṣ</sup><i>Za-ku-te... [la tubbal]-a-nin-[ni]</i> (SAA 2 8 rev. ll. 18-27)</p>
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A unique and highly significant correspondence between Deut 13:7-12 and EST is their mention of prophetic figures as possible instigators of rebellion. The Deuteronomic passage prescribes that prophets who encourage the worship of a deity other than YHWH must be executed. These individuals are designated as a “prophet” (נביא) and “dreamer of a dream” (חלם חלום) in Deut 13:4-6. EST §10 (ll. 108-122) similarly warns its addressees against heeding the treasonous words of prophetic persons such as an “oracle priest” (<sup>lú</sup>*ra-gi-me*; EST l. 116), “ecstatic” (<sup>lú</sup>*maḥ-ḥe-e*; EST l. 117), or a “diviner” (DUMU *šá-'-li a-mat* DINGER; EST l. 117). The death sentence for treasonous speech in Deut 13:10-11a, significantly, is exclusively

paralleled within ancient Near Eastern treaty documents in EST (ll. 138-140) and the Zakutu *adê*-document (SAA 2 6 rev. ll. 18-25).<sup>13</sup> That Deuteronomy 13 displays unique literary connections with these two particular texts, both of which date to the seventh century BCE, is an important observation. If Deuteronomy 13 was influenced by the rhetoric of treaty texts, which seems certain on the basis of extant literary evidence, it is not surprising that this biblical material most closely resembles treaty documents produced in this time period. The seventh century BCE is precisely when numerous scholars have long suspected that the earliest form of the book of Deuteronomy was composed, particularly in view of the De Wette hypothesis.<sup>14</sup>

The closest literary parallels for Deut 13:13-19, however, are found in the Hittite treaty that subjugates the people of Išmerika (CTH 133). As Joshua Berman has observed,<sup>15</sup> the sedition of whole communities is punished in both texts by their complete destruction, with special consideration for the fate of their livestock. These parallels might in turn suggest that there is a literary connection between the book of Deuteronomy and the Hittite treaty tradition:

<b>Table 2.3 - Similar Passages in CTH 133 and Deuteronomy 13</b>	
<u>CTH 133 (obv. ll. 25-28)</u>	<u>Deut 13:13-16*</u>
“If in the midst of my land, one city	“If you hear concerning one of your

13 The key passage from the Zakutu *adê* is quoted above, while the relevant passage in EST is presented and discussed in the subsequent section of the present study (“EST as a Literary Source for Deut 13:1-12”). It should be noted that the crucial verb meaning “you shall kill” (*tu-da-ka-ni*; SAA 2 8 rev. l. 25) is found in a portion of text reconstructed by Simo Parpola. His reconstruction is highly plausible in view of the similar passage in EST (ll. 138-140). To the knowledge of the present author, no scholar has disputed Parpola's reading of this particular line.

14 It is worth noting, however, that even if textual parallels proved that the Deuteronomic Code should be dated to the seventh century BCE, this would by no means demonstrate the validity of the De Wette hypothesis. It cannot be asserted, without recourse to other evidence, that the Josianic reforms (2 Kgs 22-23) actually occurred or were inspired by this legal material.

15 Berman, *JBL* 130 (2011) 27-35.

Table 2.3 (Continued)

<p>“If in the midst of my land, one city [commits] an offense, you, [the me]n of Išmerika, will enter (it)... and slaughter (it) together with the men (of the city). You will [b]ring the (remaining) inhabitants before your [Maje]sty, but the cattle, and the sheep, [take] for yourselves. If in the midst of a city, one house commits an offense, that house with the men shall die. The ser[vants] you will bring (to your majesty), but the cattle [take] for yourselves.”</p>	<p>“If you hear concerning one of your cities... 'Base men have gone out from you midst and have drawn away the people of their city, saying, 'Let us go and serve other gods, whom you have not known'... You shall surely smite the inhabitants of that city by the edge of the sword, destroying it, and all that is in it, (even) the cattle by the edge of the sword.”</p>
<p><i>mān=kan KUR-IA ištarna 1 URU-LUM wašt[ai LÚ.]MEŠ KUR <sup>URU</sup>Išmerika anda arteni... IŠTU LÚ.MEŠ kuenten NAM.RA-ma MAḪAR <sup>D</sup>U[TU-ŠI uwate]ten GUD.ḪI.A -ma=za UDU.ḪI.A šumeš [dāten] mān=kan A-NA URU-LIM -ma ištarna 1 É-tum waštai apāt É-ir LÚ.MEŠ-it akku SA[G.GEME.ÍR.MEŠ] uwateten GUD.ḪI.A-ma=za UDU.ḪI.A šumeš [dāten]</i></p>	<p>כִּי־תִשְׁמַע בְּאַחַת עִרֵיךְ ... יֵצְאוּ אֲנָשִׁי בְנֵי־בְלִיעֵל מִקֶּרְבְּךָ וַיִּדְיָחוּ אֶת־יְיֹשְׁבֵי עִירָם לְאַמּוֹר נֹלְכָה וְנַעֲבֹדָה אֱלֹהִים אֲחֵרִים אֲשֶׁר לֹא־יִדְעֹתָם... הִכָּה תִּכָּה אֶת־יְיֹשְׁבֵי הָעִיר הַהִוא לְפִי־חֶרֶב הַחֶרֶם אַתָּה וְאַתָּה־כָּל־אֲשֶׁר־בָּהּ וְאַתָּה־בְּהִמָּתָה לְפִי־חֶרֶב</p>
<p>Hittite Transliteration:</p> <p><sup>25</sup><i>ma-a-an-kán KUR-IA-ma iš-tar-na 1 URU-LUM wa-aš-t[á-a-i LÚ.]MEŠ KUR <sup>URU</sup>Iš-mé-ri-ka an-da a-ar-te-ni...</i> <sup>26</sup><i>IŠ-TU LÚ.MEŠ ku-en-ten NAM.RA-ma MA-ḪAR <sup>D</sup>U[TU-ŠI ú-wa-t]e-et-ten GUD.ḪI.A-ma-za UDU.ḪI.A šu-um-</i></p>	

Table 2.3 (Continued)

<p>me-e-eš [da-a-at-ten] <sup>27</sup>ma-a-an-kán A-NA URU-LIM-ma iš-tar-na 1 É-TUM  w[a-aš-tá-a-i] a-pa-at É-ir LÚ.MEŠ-it a-ku SA[G.GEME.ÍR.MEŠ] <sup>28</sup>ú-wa-te-  et-ten GUD.ḪI.A-ma-za UDU.ḪI.A šu-me-e-eš d[a-at-ten]</p>
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Both of these texts prescribe the destruction of a single city (1 URU-LUM/בִּיאָה עִירִיךְ; CTH 133 rev. l. 25/Deut 13:13) whose inhabitants have shown themselves to be disloyal to a sovereign figure. They also include a special provision regarding the treatment of “cattle” (GUD.ḪI.A-ma-za/בְּהֵמָה; CTH 133 rev. ll. 26, 28/Deut 13:16) in the city whose inhabitants must be killed *en masse* for acting treacherously.<sup>16</sup> Although a direct literary connection between Deuteronomy 13 and CTH 133 is highly improbable,<sup>17</sup> the observation of these striking parallels further confirms the likelihood that this biblical chapter was deliberately modeled on the rhetoric of treaty texts.

Contrary to the view of Berman and other scholars,<sup>18</sup> the observation that EST contains no literary parallels for material in Deut 13:13-19 is not strong evidence against the existence of a textual connection between Deuteronomy 13 and EST. The lack of such parallels only suggests that Deut 13:13-19 in particular was not modeled on EST. There is no reason to preclude the possibility that other texts alongside EST might have directly or indirectly influenced the composition of Deut 13:13-19. The similarities that Berman observes between the Išmerika treaty and Deuteronomy 13, moreover, are less numerous and substantial than those discerned

16 The seizure of cattle in the Hittite text, of course, is obviously different from the slaughter prescribed in the Deuteronomic passage. Regardless of whether the Israelite text somehow reflects the influence of the Hittite tradition, Deut 13:13-16 has to be understood in light of the *ḥērem* ban (cf. Deut 7; 20:10-18) prescribing the complete destruction of enemies with their property. For further references and critical discussion of *ḥērem*, see Susan Niditch, *War in the Hebrew Bible: A Study in the Ethics of Violence* (Oxford: Oxford University Press, 1993) 28-77.

17 Levinson and Stackert, *JAJ* 3 (2012) 134-136.

18 Pakkala, *Intolerant Monolatry* (1999) 43; Udo Rüterswörden, “Dtn 13 in der Neuren Deuteronomiumforschung,” in *Congress Volume Basel 2001* (Brill: Leiden, 2002), ed. A. Lemaire, 194-197; Berman, *JBL* 130 (2011) 34-35.

between Deuteronomy and EST. They are therefore more likely to be the result of coincidence or an indirect literary connection. When one examines the extant corpus of treaty materials from the ancient Near East, it should be stressed that no other document contains as many literary parallels with Deuteronomy 13 as EST. The significance of these parallels is reinforced by the observation of even stronger parallels between Deuteronomy 28 and EST.<sup>19</sup> The following section in this work will examine evidence that Deuteronomy 13 is *directly* dependent on EST. Copies of EST were widely distributed throughout the ancient Near East in the seventh century BCE,<sup>20</sup> and it is far more plausible that EST was known to biblical writers than a Hittite text.<sup>21</sup>

### ***EST as a Literary Source for Deut 13:1-12***

That EST was a literary source known to the composer of Deut 13:1-12\* is strongly suggested not only by parallels in their phrasing, but the thematic arrangement of their literary content. The “canon formula” in Deut 13:1 appears to recycle material in EST §4 (ll. 41-61), inasmuch as both contain similar clauses prohibiting any change to the “word” (*abutu*/דבר) of a sovereign figure (Deut 13:1a; EST ll. 57-58\*), juxtaposed with a command to obedience (Deut 13:1b; EST ll 58-60\*).<sup>22</sup> The apostasy laws in Deut 13:2-12 in turn borrow from EST §10 (ll. 108-122) by affirming the need to report treasonous behavior with similar lists of potentially seditious persons. All these passages in Deuteronomy 13 and EST, of course, are concerned with

19 These are treated extensively in the third chapter of the present study, “Deuteronomy 28:20-44 and Esarhaddon's Succession Treaty.”

20 This has been demonstrated by the discovery of an exemplar of EST (T1801) at Tell Tayinat. The reasons are detailed in section 4.1 of this study, “The EST Exemplar at Tell Tayinat.”

21 As was observed in section 1.2 of this study, there is no evidence that Hittite texts were preserved or read in the first millennium B.C.E.

22 Levinson, *JAOS* 130 (2010) 342-344.

ensuring loyalty to sovereign figures. These are the Israelite god, YHWH, in the biblical text (Deut 13:4-6, 11), and the current and future kings of Assyria throughout the Neo-Assyrian text.

In addition to these similarities on broadly thematic and structural levels between Deut 13:1-12 and EST §4 together with §10, there are important lexical and phraseological correspondences between them. In EST ll. 57-59 and Deut 13:1, the singular noun “word” (*abutu*/דבר; EST/Deut:13a) is clearly employed as a metonym for the will of their sovereign figures. In both texts, moreover, a pair of second-person verbs prohibits any distortion of it:

Table 2.4 - EST §4* and Deut 13:1	
<u>EST ll. 57-60</u>	<u>Deut 13:1</u>
<p>“The <u>word</u> of Esarhaddon, king of Assyria, you must not <u>change</u> or <u>alter</u>. But Ashurbanipal, the great crown prince whom Esarhaddon, king of Assyria, your lord, has presented to you—this one you must <u>heed</u>.”</p>	<p>“Every <u>word</u> that I am commanding you all, you shall <u>be sure to do</u>. You shall not <u>add</u> to it or <u>subtract</u> from it.”</p>
<p><i>šumma abutu ša Aššur-aḫa-iddina šar māt Aššur tennâni tušannâni šumma Aššur-bāni-apli mār šarri rabû ša bīt ridūti ša Aššur-aḫa-iddina šar māt Aššur bēlkunu ukallimkanūni ḥannūmma lā tadaggalāni</i></p>	<p>את כל־דבר אשר אנכי מצוה אתו תשמרו לעשות ולא תשפ עליו ולא תגרע ממנו</p>
<p>Akkadian Transliteration:</p> <p><sup>57</sup><i>šum-ma a-bu-tú ša</i> <sup>m</sup><i>Aš-šur-PAB-AŠ MAN KUR Aš-šur</i><sup>ki</sup> <sup>58</sup><i>te-na-a-ni tu-šá-an-na-a-ni šum-ma</i> <sup>m</sup><i>Aš-šur-DÙ-A DUMU MAN GAL-u</i> <sup>59</sup><i>šá É UŠ-ti šá</i> <sup>m</sup><i>Aš-</i></p>	



Table 2.4 (Continued)

<p><i>šur</i>-PAB-AŠ MAN KUR Aš-šur<sup>ki</sup> EN-ku-nu <sup>60</sup><i>u</i>-kal-lim-ka-nu-ni ḥa-an-nu- um-ma la ta-da-gal-a-ni</p>
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It should be stressed that this is the sole occurrence of the Akkadian term “word” (*a-bu-tú*; EST l. 57), the obvious equivalent for the Hebrew term דָּבָר (Deut 13:1a), as the singular object of two verbs prohibiting any changes to it. This observation, of course, hardly justifies the claim that there must be a literary connection between these texts. In conjunction with other evidence indicating the literary influence of EST on Deuteronomy 13\* and 28\*, however, this is important corroborative evidence that EST was a source utilized by the composer(s) of Deut 13:1-12\*.

The meanings of these two crucial verbal forms in EST §4 and Deut 13:1, of course, do not correspond precisely. The Akkadian verbs (*te-na-a-ni*, *tu-šá-na-a-ni*; EST l. 58) have similar definitions, “to change” (*enû*)<sup>23</sup> and “to alter” (*šanû*).<sup>24</sup> Their combination in EST §4 serves to emphasize the categorical nature of the prohibition. The Hebrew verbs (תָּרַגַּע, תָּסַף; Deut 13:1b), however, possess the opposite meanings “to add” (פָּ.ס.י) and “to subtract” (גָּ.ר.ע). Although they differ from their apparent Akkadian counterparts in meaning, together they comprise a merism that excludes the possibility of tampering with a sovereign's injunction.<sup>25</sup> The verbal pairs in EST §4 and Deut 13:1 thus have the same rhetorical force, although their wording is different.

23 CAD E (1958) 173-177.

24 CAD Š/1 (1989) 403-408.

25 The “word” (דָּבָר; Deut 13:1a) of Moses, who is mediating the divine commands of YHWH, is clearly the antecedent of the third-person singular suffixes in the prepositional complements (עָלָיו, מִמֶּנּוּ; Deut 13:1b) to the Hebrew verbs תָּרַגַּע and תָּסַף (Deut 13:1b). If the writers of Deuteronomy 13 were appropriating material from EST when composing Deut 13:1, it may be that they adapted material to satisfy the literary-aesthetic considerations of their audience. Merisms are a well-known feature of biblical style. Cf. Jože Krašovec, *Der Merismus im Biblisch-Hebräischen und Nordwestsemitischen* (Rome: Biblical Institute Press, 1977); Jože Krašovec, “Merism – Polar Expression in Biblical Hebrew,” *Biblica* 64 (1983) 231-239.

Similarly, commands to “heed” (*ta-da-gal-a-ni*; EST l. 60) and “be sure to do” (תשמרו לעשות) are found in both passages, although the direct object in EST is Ashurbanipal rather than the “word” (*abutu*) of Esarhaddon. As Levinson notes, one must recognize that the Deuteronomic writers borrowed creatively.<sup>26</sup> Such deviations in literary form are not surprising, but to be expected.<sup>27</sup>

When Deut 13:2-13 and EST §10 are directly compared, a large set of lexical similarities are also observable. Both passages mention the same persons as possibly treasonous against the sovereign figure. The terms for these individuals in Deut 13:7 are cognate or semantically equivalent to those in EST §10: “friend(s)” (*sa-li-me-šu*/רַעַךְ; EST l. 112), “brother(s)” (*ŠEŠ.MEŠ-šu*/אָחִיךָ; EST l. 114), “son(s)” (*DUMU.MEŠ-ku-nu*/בֶּן; EST l. 116), “daughter(s)” (*DUMU.MUNUS.MEŠ-ku-nu*/בַּת; EST l. 116). The terms for “brothers,” “sons,” and “daughters” are listed in the same sequence in EST §10 and Deut 13:6, although “friend” is listed first in EST but last in Deuteronomy 13. This may accord with the earlier discussed pattern of literary inversion, which commonly occurs when the biblical writers directly base their composition on another source. That both passages list relatives as potential traitors, though, does not prove that there is a connection between EST and Deuteronomy 13\*. As was observed earlier, the listing of relatives as potential traitors is extremely common in treaty texts.

Table 2.5 - EST §10* and Deuteronomy 13	
<u>EST ll. 108-122*</u>	<u>Deut 13:2-12*</u>
“If you hear any bad, unfavorable, (or)	“If there arises a prophet or a dreamer

<sup>26</sup> Levinson, *JAOS* 130 (2010) 343.

<sup>27</sup> See section 3.3 of this study, “The Chiastic Structure of Deut 28:20-44,” for literary evidence that demonstrates the creativity of Deuteronomic writers when recycling material.

Table 2.5 (Continued)

<p>improper word with regard to Ashurbanipal... whether from the mouth of your brothers, your sons, your daughters, whether from the mouth of an oracle priest, ecstatic, or diviner, whether from any human being—as many as there are—you must not conceal (it), (but instead) you must come and tell it to Ashurbanipal.”</p>	<p>of dream, saying, 'Let us go after other gods, whom you have not known, and serve them'... you shall not listen to the words of that prophet or dreamer of dream... that prophet or that dreamer of dream will be put to death... If your brother, the son of your mother, your son, your daughter, the woman of your bosom, or your friend, who is as yourself, urge you secretly, saying 'Let us go and serve other gods'... You shall not yield to him. You shall not listen to him. Your eye will not cast pity on him. You shall not spare (him). You shall not cover for him. You shall surely kill him!”</p>
<p><i>šumma abutu lā ṭābtu lā de'iqtu lā banītu ša ina muḥḥi Aššur-bāni-apli... lū ina pī aḥḥīkunu mārīkunu mārātīkunu lū ina pī raggime maḥḥē mār šā'ili amāt ili lū ina naḫḫar ṣalmāt qaqqadi mala bašū tašammāni tupazzarāni lā tallakāninni ana Aššur-bāni-apli... lā taqabbāni</i></p>	<p>כִּי־יִקֹּם בַּקֶּבֶר נְבִיא אוֹ חֹלֶם חֲלוֹמִים... לֵאמֹר נִלְכָּה אַחֲרֵי אֱלֹהִים אַחֲרִים אֲשֶׁר לֹא יָדַעְתֶּם וְנַעֲבֹדֵם... לֹא תִשְׁמַע אֶל־דְּבַרֵּי הַנְּבִיא הַהוּא אוֹ אֶל־חֹלֶם הַחֲלוֹם הַהוּא... וְהַנְּבִיא הַהוּא אוֹ חֹלֶם הַחֲלוֹם הַהוּא יוֹמֵת... כִּי יִסִּיתֶךָ אַחִיךָ בֶן־אִמְךָ אוֹ־בֶנְךָ אוֹ־בִתְּךָ אוֹ אִשְׁתְּךָ חֵיקֶךָ אוֹ רֵעֶךָ כִּנְפֹשֶׁךָ בִּסְתֵר לֵאמֹר</p>

Table 2.5 (Continued)

	<p>נלכה ונעבדה אלהים אחרים לא־תאבה          לו ולא תשמע אליו ולא־תחוס עינך          עליו ולא תחמל ולא תכסה עליוכי הרג          תהרגנו</p>
<p>Akkadian Transliteration:</p> <p><sup>108</sup><i>šum-ma a-bu-tú la DÙG.GA-tú la de-iq-tú</i> <sup>109</sup><i>la ba-ni-tú ina UGU</i> <sup>m</sup><i>Aš-šur-DÙ-A...</i> <sup>115</sup><i>lu-u ina pi-i ŠEŠ.MEŠ-ku-nu</i> <sup>116</sup><i>DUMU.MEŠ-ku-nu</i>  <i>DUMU.MUNUS.MEŠ-ku-nu lu ina pi-i</i> <sup>lú</sup><i>ra-gi-me</i> <sup>117</sup><sup>lú</sup><i>maḥ-ḥe-e</i> <i>DUMU ša-'i-</i>  <i>li a-mat DINGIR</i> <sup>118</sup><i>lu-u ina pi-i nap-ḥar šal-mat SAG.DU mala ba-šú-u</i> <sup>119</sup><i>ta-</i>  <i>šam-ma-a-ni tu-pa-za-ra-a-ni</i> <sup>120</sup><i>ta-lak-a-ni-ni a-na</i> <sup>m</sup><i>Aš-šur-DÙ-A...</i> <sup>122</sup><i>la ta-</i>  <i>qab-ba-a-ni</i></p>	

More crucial for the argument that Deut 13:2-12 is dependent on EST §10 is the observation that both mention prophetic individuals as potentially subversive against their respective sovereign figures. In Deut 13:2 and 13:6, these are the “prophet” (נביא) and the “dreamer of dream” (חלם חלום), probably a person who received some form of revelation by dream.<sup>28</sup> In EST §10, an “oracle priest” (<sup>lú</sup>*ra-gi-me*; EST l. 116),<sup>29</sup> an “ecstatic” (<sup>lú</sup>*maḥ-ḥe-e*; EST l. 117),<sup>30</sup> and a “diviner” (*DUMU ša-'i-li a-mat DINGIR*; EST l. 117) are similarly singled out as dangerous persons. No other treaty document from the ancient Near East, it should be stressed, lists prophetic figures as possible traitors to the sovereign. This is strong evidence for a direct literary connection between Deuteronomy 13 and EST, although the terms for the

28 Cf. Abraham Malamat, *Mari and the Bible* (Leiden: Brill, 1998) 96-101.

29 Cf. Robert R. Wilson, *Prophecy and Society in Ancient Israel* (Philadelphia: Fortress Press, 1984) 111-112.

30 Cf. *Ibid.*, 103-106.

prophetic figures in them are not identical. The Akkadian term *ša'ilu*, however, certainly designated a person who was involved in dream interpretation, much like the “dreamer of dream” (חלם חלום; Deut 13:2, 6) in the Deuteronomic passage.<sup>31</sup> The term for “prophet” in Hebrew (נביא; Deut 13:2, 6), meanwhile, seems to have denoted a figure whose role within Israelite society more closely corresponded to the “ecstatic” (<sup>lu</sup>*mah-ḥe-e*; EST. l. 117) in EST.

As Levinson has also observed,<sup>32</sup> there are important differences between the literary structure of these passages in EST and Deuteronomy 13 that suggest a pattern of literary borrowing. Family members (EST ll. 113-116/Deut 13:7-12) and prophetic figures (EST ll. 116-117/ Deut 13:6) are listed in Deut 13:7-12 and EST §10, but in an inverted order.<sup>33</sup> Likewise, requirements for obedience to the “word” (*a-bu-tū*/דבר; EST l. 57/Deut 13:1) of a sovereign figure, and verbal pairs prohibiting its alteration (*te-na-a-ni, tu-šá-na-a-ni*; EST l. 58/תסף, תגרע; Deut 13:1), are presented in reverse when Deut 13:1 and EST §4 are compared. This accords with a pattern of inverse citation, “Seidel's Law,”<sup>34</sup> evident elsewhere when biblical writers directly borrowed material from another source. In addition to these key observations of Levinson, the first and last literary elements shared between EST §4/Deut 13:1 and EST §10/Deut 13:2-12 are virtually identical in meaning. Remarkably, this final shared material brackets the two sections that display the pattern of inverse citation observed by Levinson:

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31 A. Leo Oppenheim, “The Interpretation of Dreams in the Ancient Near East. With a Translation of an Assyrian Dream-Book,” *Transactions of the American Philosophical Society* (1956) 221-222.

32 Bernard M. Levinson, “Esarhaddon's Succession Treaty as the Source for the Canon Formula in Deuteronomy 13:1,” *JAOS* 130 (2010) 342-344.

33 Ibid., 345-346.

34 For some illustrations, see subsection 1.2 of the the present work, “Deuteronomy 28 as a Source for Leviticus 26.” Charts 1.2 (“Inverse Borrowing From Deuteronomy Into Leviticus 26”) and 1.3 (“Borrowing From Deut 28:23 Into Lev 26:19b”) showcase patterns of literary borrowing closely resembling those being proposed here between EST and Deuteronomy.

### Chart 2.1 - Borrowing From EST Into Deuteronomy 13

<u>EST II. 57-60</u>	<u>Deut 13:1</u>
"The <u>word</u> of Esarhaddon..."	"Every <u>word</u> that I am commanding..."
You must <u>not change or alter</u> ...	You shall <u>be sure to do</u> ...
You must <u>heed</u> (Ashurbanipal)..."	You shall <u>not add or subtract from it</u> ."
<u>EST II. 108-119</u>	<u>Deut 13:2-10</u>
"(An improper word from...) <u>your brothers, your sons,</u> <u>your daughters</u> ...	"If there arises a <u>prophet</u> or a <u>dreamer of dream</u> ... saying, 'Let us go after other gods...'
... the mouth of an <u>oracle</u> <u>priest, ecstatic, or a</u> <u>'dream interpreter'</u> ( <i>šā'ili</i> )..."	If <u>your brother... your son, or your</u> <u>daughter</u> ... urges you secretly, saying, 'Let us go and serve other gods...'
... if you <u>hear</u> (an improper word), you must not <u>conceal</u> (it)..."	You shall <u>not listen to</u> him... and you shall not <u>cover</u> for him."

The term "word" (*a-bu-tú*/דבר) is found at the beginning of the corresponding passages (EST I. 57; Deut 13:1a), while the obligations to "(not) hear" (*ta-šam-ma-a-ni*/לֹא תִשְׁמָע; EST I. 119/Deut 13:9) and "(not) conceal/cover" (*tu-pa-za-ra-a-ni*/לֹא תִכְסֶה; EST I. 119/Deut 13:9)<sup>35</sup> are attested at the end of these sections in EST and Deuteronomy. The patterned cluster of similar words and phrases in these passages strongly suggest that Deuteronomy 13 is directly dependent on EST.

35 The Hebrew verbal root כ.ס.ה most strictly means to "cover, conceal," but with the preposition על takes on a special nuance that is best understood as "cover (for)," "overlook," "condone," or "forgive" rather than simply "conceal," as it has sometimes been translated in Deut 13:9. Cf. Bernard M. Levinson, "Recovering the Lost Original Meaning of וְלֹא תִכְסֶה עָלָיו (Deuteronomy 13:9)," *JBL* 115 (1996) 601-620.

Although the similarities between Deut 13:1-12 and EST §§4-10 are striking in many respects, there are differences that ought to be explained if the former is to be understood as literarily dependent on the latter. All the literary material contained between EST §4 and §10 is clearly not paralleled in Deut 13:1-12. The Deuteronomic passage, moreover, contains material for which there is no literary counterpart to be found in EST, such as the mention of an authenticating “sign” (אוֹת) or “wonder” (מוֹפֵת) associated with a prophetic figure (Deut 13:2b-3). There are plausible explanations, however, as to why some of these changes would have occurred if the writer(s) of the Deuteronomic passage based their composition on EST.

That material in EST §§5-9 (ll. 62-107) was not adapted by the composer(s) of Deuteronomy 13\* is explicable in view of its content. If indeed EST §4 and §10 provided the literary model for Deut 13:1-12\*, then it is apparent that YHWH was envisioned by the Deuteronomic writer in the role of the rulers Esarhaddon (EST ll. 57-60/Deut 13:1) and Ashurbanipal (EST ll. 108-119/Deut 13:2-12). Conceptualizing YHWH as the Assyrian monarch when reading EST §§5-9, however, would surely be problematic for the Deuteronomic writer(s). For these sections are largely concerned with ensuring the physical protection of Ashurbanipal (EST ll. 62-67, 99-100) and preventing his political overthrow (EST ll. 66-72, 83-89, 105-107). Although an Assyrian king would expect his subjects to “guard” (*ta-na-šar-a-ni*, *ta-na-šar-a-šú-nu-u-ni*; EST ll. 65, 100) him “in the country” (*ina A.ŠÀ*; EST l. 49, 99) and within “the town” (*bir-ti URU*; EST ll. 49, 99), the notion that YHWH would require such protection by the Israelites would probably be difficult for the Deuteronomic writers to imagine. It is the Israelites who need YHWH's protection, not the other way around (cf. Deut 28:21-68). Likewise, the obligation to report any improper “word” (*a-bu-tú*; EST l. 73) from the relatives of the sovereign

(EST ll. 76-77) might have been difficult to adapt into a passage about YHWH, even though much of the language here is identical with material in EST §10. For there is no reason to assume that YHWH was conceived as having relatives who would incite the Israelites against Him.<sup>36</sup>

The composer(s) of Deuteronomy 13\* were by no means obligated to adapt all of the material in the literary sources at their disposal. Not every passage in the Covenant Code (Exod 20:1-9-23:33\*), which is widely recognized as a literary source for the composer of the Deuteronomistic Code (Deut 12-26\*),<sup>37</sup> is somehow paralleled in Deuteronomy. Only particular sections in the former directly inspired passages of the latter. These passages are identifiable by clusters of the same lexemes and phrases, frequently in the same or an inverted order in accordance with “Seidel's Law.” There is strong precedent, therefore, for the manner in which the Deuteronomistic writer(s) appear to have borrowed EST when composing Deut 13:1-12\*.

It is quite striking, moreover, that the lists of relatives in Deut 13:7 and EST begin with the same figures. Both texts mention one's “brother(s)” (אָהֶיךָ/ŠEŠ.MEŠ-ku-nu; Deut 13:7/EST l. 115), “son(s)” (בְּנֶיךָ/DUMU.MEŠ-ku-nu; Deut 13:7/EST l. 116), and “daughter(s)” (בָּתֶּיךָ/DUMU.MUNUS.MEŠ-ku-nu; Deut 13:7/EST. l. 116) in the same order, which is unique among ancient Near Eastern treaties.<sup>38</sup> Levinson makes the important observation that the phrase “brother, son of your mother” (אָהֶיךָ בֶן־אִמֶּךָ; Deut 13:7) also parallels a recurrent phrase in EST (ŠEŠ.MEŠ-šú DUMU AMA-šú)<sup>39</sup> that is attested elsewhere, but remarkably never found in

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36 Whether the Deuteronomistic writers conceived of YHWH as a deity within a larger pantheon is a fascinating question that cannot possibly be explored in the present study. The Deuteronomistic Code, at any rate, is manifestly concerned with promoting the worship of YHWH at a single site within ancient Israel. If other gods were thought to exist, the composers of Deuteronomy were not interested in defining their theological role or establishing practices for their cultic worship.

37 Cf. Levinson, *Deuteronomy* (1997).

38 Cf. Levinson, “Textual Criticism, Assyriology, and the History of Interpretation” (2001) 240-241.

39 Cf. EST ll. 94, 103, 171, 270, 285, 341, 343, 354, 496, 504, 515.



another Neo-Assyrian *âde* text.<sup>40</sup> This certainly bolsters the likelihood that EST was a treaty document that served as a direct literary model for the composition of Deuteronomy 13\*.

Lastly, it should be observed that the death sentence for worshiping a deity other than YHWH (Deut 13:10-11a) is paralleled in EST as well. EST §12 (ll. 138-140), which follows the larger unit (§§4-10\*; EST ll. 41-122\*) resembling Deut 13:1-9, authorizes its addressees to impose the death penalty on those who betray the Assyrian king: “If you can seize them and kill them, you shall seize them and kill them” (*šum-ma am-mar ša-ba-ti-šú-nu du-a-ki-šú-nu ma-ša-ku-nu la ta-šab-bat-a-šá-nu-ni la ta-du-ka-šá-nu-u-ni*; EST ll. 138-140). The MT and LXX versions of Deut 13:10-11, however, show different readings. Although both contain the death penalty for treason (Deut 13:11a), the MT version of Deut 13:10a exhorts its readers, “You shall surely kill” (הרג תהרגנו) the apostate, while the LXX version insists, “You shall surely report” (ἀναγγέλων ἀναγγελεῖς) the apostate. It is intriguing that the conclusion of EST §10, a section whose extensive parallels with Deut 13:2-12 have been discussed, likewise ends with the requirement, “You shall go and report [treasonous speech] to Ashurbanipal” (*ta-lak-a-ni-ni a-na<sup>m</sup> Aš-šur-DÛ-A... ta-qab-ba-ni*; EST ll. 120-21). The MT version of Deut 13:10a, however, more likely reflects the original text. When Deut 13:10-11 is directly compared with Deut 17:2-7, the reasons that Deut 13:10a was probably altered in the LXX version of the text become clear.

## 2.2 – The Literary Relationship Between Deuteronomy 13 and 17

### *The Importance of Witnesses to Apostasy*

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40 Levinson, “Textual Criticism, Assyriology, and the History of Interpretation” (2001) 240.

The theme of apostasy that runs throughout Deuteronomy 13 is resumed in Deut 17:2-7. Both sections describe how members of the Israelite community should respond when someone is suspected of worshiping a god other than YHWH. Such behavior is repeatedly condemned in Deuteronomy 13 and 17:2-7, and the sentence for a guilty individual in both passages is death by stoning (Deut 13:10-11, 16; 17:5a-7b). It is only in the latter, however, that a procedure is introduced to determine guilt. There must be “two or three witnesses” (שנים עדים או שלשה עדים; Deut 17:6) affirming that the individual has indeed committed an act of apostasy. Without such evidence, according to Deut 17:2-7, a person cannot be sentenced to death for apostasy.

From a legal perspective, this additional injunction is extremely important. A literal reading of Deut 13:10 can be understood to sanction the immediate execution of the suspected apostate by his accuser: “You (sing.) shall surely kill [the apostate]. Your (sing.) hand will be the first upon him to kill him” (כי הרג תהרגנו ידך תהיה־בו בראשונה להמיתו). There is no requirement in Deut 13:2-12 that witnesses attest to the apostasy of the accused in order for the execution to be legal. Interpreting this law as permitting immediate execution without any judicial process, however, could theoretically cause problems for a community aspiring to uphold the Deuteronomic Code. It is easy to imagine that enmity between an individual or a group could result in a killing that was subsequently justified by an accusation of apostasy.<sup>41</sup> Conceivably, members of the crowd expected to assist in stoning the accused (Deut 13:10b-11) might intervene if there were suspicion about the validity of the accusation. There is no legal mechanism in the MT version of Deuteronomy 13, however, mitigating against the possibility that someone might be summarily executed on the basis of a false accusation of apostasy.

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<sup>41</sup> Juha Pakkala, *God's Word Omitted: Omissions in the Transmission of the Hebrew Bible* (Göttingen: Vandenhoeck & Ruprecht, 2013) 247; cf. 1 Kgs 21:1-16.

The problems that Deut 13:2-12 might pose for a community striving to comply with Deuteronomic law appear to have been evident to ancient readers. The LXX version of Deut 13:10 shows a reading that was probably intended to prevent the kind of summary execution implied in the MT version: “You (sing.) shall surely report about [the apostate]. Your (sing.) hands will be among the first upon him to kill (him)” (ἀναγγέλων ἀναγγελεῖς περὶ αὐτοῦ αἱ χεῖρές σου ἔσονται ἐπ’ αὐτὸν ἐν πρώτοις ἀποκτεῖναι). The obligation to “report” (ἀναγγελεῖς) the apostate seems to imply the existence of a judicial body that might evaluate the accusation. The LXX reading thus softens the extreme rhetoric of the MT, although the death sentence for a verifiable apostate remains the same. Since the LXX translators were usually faithful to their *Vorlage*, the possibility that this variant existed in the Hebrew text at their disposal should be considered. It has been suggested that a confusion of letters ר/ד, together with an inversion of the adjacent consonant ל, accounts for this other reading.<sup>42</sup> The Hebrew text underlying the LXX version of Deut 13:10a (כי הרג תהרגנו) would then look highly similar to the MT (כי הרג תהרגנו).

Evidence favors the MT version of Deut 13:10a, however, as the original reading. Apart from the LXX, every major textual witness suggests the presence of a verbal root meaning “to kill” (ה.ר.ג) rather than “to tell, report” (*Hiphil* ג.ג.ל) in the Hebrew text.<sup>43</sup> In two crucial respects, moreover, the MT reading can be regarded as the *lectio difficilior*. As was observed earlier, the MT reading of Deut 13:10a would pose problems for a community aspiring to uphold the Deuteronomic Code. It is easy to understand, therefore, why a scribe might consciously or

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42 Cf. Bernard M. Levinson, “But You Shall Surely Kill Him!: The Text-Critical Evidence for MT Deut 13:10,” in *Bundesdokument und Gesetz: Studien zum Deuteronomium* (Freiburg: Herder, 1995), ed. Georg Braulik, 37-38; Cf. Anneli Aejmelaeus, “License to Kill: Deut 13:10 and the Prerequisites of Textual Criticism, in *On the Trail of the Septuagint Translators* (Leuven: Peeters, 2007) 185-187.

43 Levinson, “But You Shall Surely Kill Him!” (1995) 40-54.

unconsciously have altered the text, resulting in the LXX reading. Levinson has pointed out that the LXX elsewhere displays unique hermeneutical revisions that involve the metathesis of consonants.<sup>44</sup> By contrast, why a scribe would change the Hebrew *Vorlage* of Deut 13:10a reflected in the LXX to the MT version is difficult to explain in light of problems that it creates for a reading Deuteronomy as a whole. The text of Deut 17:2-7 in the LXX and the MT is virtually identical, requiring multiple witnesses to substantiate an accusation of apostasy before the accused is killed. The LXX reading of Deut 13:10a leaves room for the legal procedure described in Deut 17:2-7 by obligating that apostasy should be reported, but there is no hint that an accusation is subject to judicial review in the MT version of Deut 13:10a. From an inner-Deuteronomic perspective, the MT presents more legal difficulties than the LXX. It is therefore more likely to display the original text in view of the principle *lectio difficilior preferendum est*.

Stylistic arguments that the LXX reading of Deut 13:10a reflects an earlier version of the text are also weak. Paul E. Dion, who has carefully analyzed the different versions of Deuteronomy 13, has forcefully argued for the originality of the LXX reading.<sup>45</sup> He asserts that parallels between phrases in Deut 13:9-10 show the LXX reading to be more logical from a compositional standpoint than the MT reading. These literary parallels are charted below:<sup>46</sup>

Table 2.6 - Parallel Phrases in Deut 13:9-10		
9a	<p>“You shall not yield to him”</p> <p>לֹא־תֵאָבֶה לוֹ</p>	<p>“You shall not listen to him”</p> <p>וְלֹא תִשְׁמַע אֵלָיו</p>

44 Ibid., 53-54.

45 Dion, *Law and Ideology* (1991).

46 This table (2.6) of “Parallel Phrases in Deut 13:9-10” partially reproduces Dion's own (*Law and Ideology* [1991] 154) for the sake of illustrating his argument.

Table 2.6 (Continued)

9b*	“Your eye will not cast pity on him”	“You shall not spare”
	ולא־תחוס עינך עליו	ולא תחמל
9b*-10a*	“You shall not conceal him” ולא תכסה עליו	“You shall surely kill him!” (MT) כִּי הִרְגָּ תְהַרְגֵנּוּ // “You shall surely report him!” ἀναγγέλων ἀναγγελεῖς περὶ αὐτοῦ (LXX)
10a*-b	“Your hand will be the first upon him to kill him” ידך תהיה־בו בראשונה להמיתו	“And afterwards the hand of all the people” ויד כל־העם באחרונה

Dion correctly observes that Deut13:9a, 9b\*, and 10a\*-b, display “synonymous pairs” of words.<sup>47</sup> From this observation he reasons that “one would expect 'not to cover up' [ולא תכסה] and the expression used at the beginning of 10a to form a pair also, and indeed a pair of opposites, since these phrases are linked by [כי] instead of [ו].”<sup>48</sup> Although it is true that the verbal roots meaning “cover, conceal” (כ.ס.ה) and “report” (*Hiphil* ג.ג.ה) reflected in the LXX would be appropriate in this context, the MT reading is just as explicable. The desire “to cover for” the perpetrator of a crime can be construed as the opposite of the urge “to kill” (ג.ה.ה) the criminal. The former prevents punishment, while the latter imposes the ultimate form of it.

Problematic as well is Dion's argument that the employment of a verbal root meaning “to kill” (ג.ה.ה) in the MT of Deut 13:10a is indicative of the originality of the LXX reading. The

47 Dion, *Law and Ideology* (1991) 154.

48 Ibid.

absence of this verbal root elsewhere within the Deuteronomic Code (Deut 12-26) is adduced by Dion as proof that its attestation in the Deut 13:10a is anomalous and probably resulted from textual alteration.<sup>49</sup> There is no place in this legal collection, however, that one would necessarily expect this root to appear. The verbal root “to die” (ת.ו.ה) in the *Hiphil*-stem has virtually the same meaning (“kill”), but it only appears once in the Deuteronomic Code (Deut 13:10a). When someone is “put to death/killed,” a penalty attested elsewhere in the law code (Deut 17:6, 21:22, 24:16), the root “to die” (ת.ו.ה) is found in the *Hophal*-stem. Since the subject undergoes the verbal action, the preference for the root ת.ו.ה rather than ה.ו.ה might well reflect literary convention, or be a stylistic preference of the Deuteronomic composer(s) when a passive verbal form is necessary. In this respect, moreover, the writer(s) of this legal collection might be mirroring the rhetoric in their major literary source, the Covenant Collection (Exod 20:19-23:33).<sup>50</sup> Regardless, it is facile to contend that the appearance of a common verbal root (ה.ו.ה) in Biblical Hebrew within this Deuteronomic passage is evidence that it must have been secondarily added. Indeed, the reasoning of Dion in this matter is contradictory. For he disputes the originality of the MT version of Deut 13:10a on the grounds that the verbal root ה.ו.ה is otherwise unattested within Deuteronomy, but defends the integrity of the LXX version since the Hebrew root ה.ו.ה in the *Hiphil*, meaning “to inform,” is “relatively rare” in the biblical canon.<sup>51</sup>

49 Paul Dion (*Law and Ideology* [1991] 154) goes so far as to assert that “the conspicuous absence of *hrg* [ה.ו.ה] from a book that speaks so much about killing would be enough to cast doubt on the authenticity of 13.10 even without the witness of the Greek.” Karl Budde (“Dtn 13<sup>10</sup>, und was daran hängt.”, *ZAW* 36 [1916] 188), meanwhile, observes that this verbal root appears once elsewhere in Lev 20:16 with the sense of “mit dem Tode bestrafen, (gesetzmäßige) die Todesstrafe an jemand vollziehen.” In his view, this does not mitigate the problem of its unusual appearance in the Deuteronomic chapter. In Lev 20:16, one should note that the death penalty is also expressed using a Hebrew root meaning “to die” (ת.ו.ה), in the context of a phrase that is commonly attested elsewhere in legal texts, “They shall surely be put to death” (מות יומתו).

50 Cf. Exod 21:12, 15, 16, 17, 29; 22:18.

51 Dion, *Law and Ideology* (1991) 154.

There is no good reason to doubt the originality of the MT version of Deut 13:10a, therefore, while there are strong arguments that the LXX reflects an altered version of the Deuteronomic text. It should be explained, however, why the MT and LXX versions of Deuteronomy include the addition of a witness requirement alongside the repetition of the death sentence for apostasy in Deut 17:5b-7a. That Deut 17:5b-7a was added to the Deuteronomic Code as a supplement to the apostasy laws in Deuteronomy 13, however, can be demonstrated. The parallel rhetoric here is the result of inner-biblical borrowing by the writer of Deut 17:5b-7a.

### ***Deut 13:10-11b as a Literary Source for Deut 17:5b-7a***

In addition to their shared theme of apostasy, Deuteronomy 13 and 17:2-7 contain a significant series of lexical correspondences. These are especially clustered between Deut 13:10a-11b and 17:5b-7a, passages that prescribe the execution of apostates by stoning. Here many of the same verbal roots (ה.י.ה, מ.ו.ת, ה.ק.ל, ס.ק.ל), nouns (עם, אבנים, יד), and adverbial expressions (בראשונה, באחרונה) appear in a similar literary arrangement. As a result, the literary connection between these sections has been greatly scrutinized. Many scholars favor the view that Deut 13:10a-11b is dependent on Deut 17:5b-7a, and it is commonly argued that these passages should be assigned to different compositional strata in Deuteronomy. The possibility that common authorship accounts for the similarity between them, though, cannot be dismissed *prima facie*.

It can be shown, however, that Deut 17:5b-7a contains material that was directly appropriated from Deut 13:10a-11b. The preceding section of the present study stressed the legally problematic aspects of Deut 13:10a-11b, which appears to sanction the immediate execution of individuals accused of apostasy without any judicial process. These problems are

directly addressed in Deut 17:5b-7a, which insists that there must be multiple witnesses to substantiate an accusation of apostasy. Only then can the accused be stoned in accordance with Deut 13:11. Although it is possible that the composer of Deut 13:10a-11b delayed the introduction of a witness requirement until a section emphasizing legal procedures in Deut 16:17-17:13\*, there is good reason to suppose that Deut 17:5b-7a was not written by him.

The literary structure of Deut 17:5-7 affords powerful evidence that this passage was secondarily added to mitigate implications of the rhetoric in Deut 13:10a-11b.<sup>52</sup> The text of Deut 17:5a and 17:7b is almost identical with Deut 13:10a-11b. Similar material in these passages, however, is presented in an inverse order. As was emphasized earlier, this is a telltale sign of direct borrowing. The key difference between the laws of Deut 17:5b-7a and 13:10b-11a is the introduction of a legal requirement that multiple witnesses attest to the guilt of the apostate before his execution. This is bracketed in Deut 17:5b-7a by material shared with Deut 13:10b-7a:

<b>Table 2.7 - Borrowing from Deuteronomy 13 Into Deuteronomy 17</b>			
<u>Deut 13:10b-11a</u>		<u>Deut 17:5b-7a</u>	
X	“Your <u>hand will be the first upon him to kill him, and afterwards the hand of all the people.</u> ”	Y'	“ <u>You shall stone them with stones, and they will die.</u> ”
X	<u>יִדָּךְ תְּהִיָּה־בּו בְּרֹאשׁוֹנָה לְהַמִּיתוֹ וְיִדָּ כָּל־הָעָם בְּאַחֲרָנָה</u>	Y'	<u>וּסְקִלְתֶּם בְּאֲבָנִים וּמָתוּ</u>
			“On the testimony of two witnesses or three witnesses, the

52 Levinson, *Deuteronomy* (1997) 118-127.



Table 2.7 (Continued)

			one to die will be killed. He will not be killed on the testimony of a single witness.”
			על פי שנים עדים או שלושה עדים יומת המת לא יומת על פי עד אחד
Y	“ <u>You shall stone him with stones,</u> <u>and he will die.</u> ”	X'	“The <u>hand</u> of the witnesses <u>will</u> <u>be the first upon him to kill him,</u> <u>and afterwards the hand of all the</u> <u>people.</u> ”
Y	<u>וסקלתו באבנים ומת</u>	X'	<u>יד העדים תהיה־בו בראשנה</u> <u>להמיתו ויד כל־העם באחרנה</u>

The recycling of literary material in order to introduce new information is a well-known phenomenon, often accompanying instances of Seidel's law.<sup>53</sup> The change of “hand” (יד) with the second-person pronominal suffix in Deut 13:10b to a noun in construct with “witnesses” (עדים) in Deut 17:7a can easily be explained in view of the new requirement in Deut 17:6. Multiple witnesses are necessary in Deut 17:6 to ensure the legality of the execution. The point is reinforced by these slight changes to the material borrowed from Deut 13:10b into 17:7a.

If Deut 17:5b-7a was based on Deut 13:10b-11a, however, then it must be asked what constituted the original form of Deut 17:2-7. Here there are two possibilities. Either the entirety of Deut 17:2-7 was secondarily incorporated into the Deuteronomic Code or Deut 17:5b-7a was added to a preexisting form of Deut 17:2-7\*. The deletion of Deut 17:5b-7a, it should be

<sup>53</sup> Ibid., 18-20.

observed, does not create insurmountable problems for a coherent reading of the passage. The one who “does evil” (יעשה את־הרע; Deut 17:2) and “has served other gods and worshiped them, the sun, the moon, or any among the host of the heavens” (ויעבד אלהים אחרים וישתחו להם ולשמש או ) (Deut 17:3) would be responsible for the evil to be eliminated: “You shall purge the evil from within your midst” (ובערת הרע מקרבך; Deut 17:7b). Conceivably, a clause condemning the worship of gods other than YHWH could have induced the addition of Deut 17:5b-7a by an editor who wished to qualify a command in Deut 13:10a regarded as problematic.

There is intriguing evidence that material in Deut 17:2-5a was also secondarily added to the biblical book, and Deut 17:2-7 as a whole is most simply understood as a later insertion. The worship of a deity other than YHWH is described in Deut 17:2 as a transgression of the “covenant” (ברית) of YHWH. This is the sole occurrence of this important theological term in the Deuteronomistic Code (Deut 12-26).<sup>54</sup> Similarly, there is only one other mention of the “sun” (שמש), the “moon” (ירח), and the “host of heaven” (צבא השמים) as objects of worship outside of Deut 17:3 in Deuteronomy. It occurs in Deut 4:19, which is embedded in a larger passage (Deut 4:1-40) regarded as a later addition to the biblical book.<sup>55</sup> The worship of astral deities, moreover, is typically denounced in biblical texts thought to date to the exilic or post-exilic periods. Deut 17:3 is consequently suspected to have been written in one of these periods.<sup>56</sup>

54 Here the breach of “covenant” (ברית) is perhaps best understood as a violation of the commandment (Exod 20:2-5\*; Deut 5:6-8\*) in the Decalogue against worship of a god other than YHWH. Cf. Levinson, *Deuteronomy* (1998) 134.

55 Jon D. Levenson, “Who Inserted the Book of the Torah?,” *HTR* 68 (1975) 203-221; Alexander Rofé, *Deuteronomy: Issues and Interpretation* (New York: T&T Clark 2002) 21-22; Ernest Nicholson, “Deuteronomy and the Babylonian Diaspora,” in *On Stone and Scroll: Essays in Honour of Graham Ivor Davies*, eds. James K. Aitken, Katherine J. Dell, and Brian A. Mastin (Berlin: Walter de Gruyter, 2011) 278.

56 H. Niehr, “Host of Heaven,” in *Dictionary of Deities and Demons in the Bible*, eds. Karel van der Toorn, Bob Becking, and Pieter W. van der Horst (Leiden: Brill, 1999) 429; C. L. Crouch, *The Making of Israel: Cultural Diversity in the Southern Levant and the Formation of*

Although these observations do not conclusively prove that Deut 17:2-7 was secondarily added, they offer circumstantial evidence that it was composed after the Iron Age. This is significant because the unique literary correspondences that Deut 13:1-12\* (as well as 28:20-44\*) share with EST suggest that these verses were written in the Iron Age.<sup>57</sup> Literary analogues thus corroborate the view that Deut 17:2-7 probably postdates the composition of Deuteronomy 13\*.

Certain phrases in Deut 17:2 and 17:7 are found elsewhere in the book of Deuteronomy, but their attestation does not establish that these verses must have been included in any particular version of the Deuteronomistic Code. These would include such phrases as: “if there is found” (כִּי-יִמָּצֵא; Deut 17:2a),<sup>58</sup> “within your midst” (בְּקִרְבְּךָ; Deut 17:2a),<sup>59</sup> “in one of your gates” (בְּאַחַת שַׁעְרֶיךָ; Deut 17:2a),<sup>60</sup> and “from your midst” (מִקִּרְבְּךָ; Deut 17:7c).<sup>61</sup> The literary parallels here are found across many passages, and can just as easily be explained by inner-Deuteronomistic borrowing as they can by shared authorship. They shed no light on the nature of the literary relationship between Deuteronomy 13\* and 17\*. What is difficult to explain is why the similar material in these chapters is positioned in such disparate places within the biblical book.

August Dillmann tried to resolve the problem of the literary placement of Deut 13:2-12 and 17:2-7 by positing that they were originally joined together, a suggestion that has proved influential for more than a century.<sup>62</sup> However, there is no manuscript evidence or compelling

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*Ethnic Identity in Deuteronomy* (Leiden: Brill, 2014) 128, n. 63.

57 Evidence for the view that EST, a text written and circulated in the Iron Age, directly influenced the composition of Deuteronomy 13 is presented earlier in the present chapter (“EST as a Literary Source for Deut 13:1-12”). Its probable use as a literary source for Deuteronomy 28 is discussed in the third chapter (“EST as a Literary Source for Deut 28:23-31”) of this work.

58 Cf. Deut 21:1; 22:22; 24:7.

59 Cf. Deut 13:2; 16:11; 19:20; 23:17; 26:11.

60 Cf. Deut 23:17.

61 Cf. Deut 13:6; 13:14; 18:15; 19:19; 21:9, 21; 22:21, 24; 24:7.

62 S. R. Driver, *A Critical and Exegetical Commentary* (1896) 135, 201; Weinfeld, *Deuteronomy and the Deuteronomistic School*, 92, n. 2; Dion, *Law and Ideology* (1991) 159-169;

literary argument that such a version of Deuteronomy ever existed. There are plausible reasons, by contrast, why material directly based on Deuteronomy 13\* might have been situated in the context of Deuteronomy 17. The ambiguity of an earlier form of this passage, it was noted earlier, could have provoked the addition of literary material based on Deut 13:2-12\*. Within the Deuteronomic Code, moreover, there is an intelligible progression in the presentation of legal material within Deut 12:1-17:13\*. The writers may have alternated in emphasizing the demands of cultic worship (Deut 12:1-16:17, 16:21-17:1) and judicial procedure (16:18-20, 17:2-13).<sup>63</sup> Deut 13:2-12 and 17:2-7 may have have been formulated to address different aspects of the problem of apostasy.<sup>64</sup> The former passage is concerned with the problem of *incitement* to apostasy, while the latter reacts to the *act* of apostasy in-itself. Deut 17:2-7 is therefore not wholly anomalous in its literary position as Dillmann and other scholars have suggested.

The evidence altogether indicates that Deut 17:2-7 is probably literarily dependent on Deut 13:2-12, and this has important implications for the present study. If the former served as a literary model for the composition of the latter, this would undermine arguments for the direct dependence of Deut 13:2-12 on EST. The death penalty in Deut 13:2-12, however, appears to have inspired the composition of Deut 17:2-7. The contents of Deut 13:2-12 otherwise correspond exclusively with EST, affording powerful evidence that this Deuteronomic passage was directly based on this treaty text. It is theoretically possible, of course, that other ancient Near Eastern treaties containing similar rhetoric were produced, even if they are no longer

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Levinson, *Deuteronomy* (1997) 105-106; Crouch, *The Making of Israel* (2014) 126-128.

63 Levinson, *Deuteronomy* (1997) 135-137.

64 A. D. H. Mayes, *Deuteronomy* (Grand Rapids: Wm. B. Eerdmans, 1981) 230; Mika Aspinen, "Getting Sharper and Sharper," in *Houses Full of All Good Things: Essays in Memory of Timo Veijola* (Göttingen: Vandenhoeck & Ruprecht, 2008), eds. Juha Pakkala and Martti Nissinen, 56; Cf. Levinson, *Deuteronomy* (1997) 130-135.

attested in the extant textual record. Since EST was widely circulated throughout the ancient Near East, it is a particularly attractive as a candidate for a text that directly influenced the composition of Deuteronomy.<sup>65</sup> There are numerous literary correspondences between EST and passages in Deuteronomy 13\* and 28\* that cannot easily be dismissed as the coincidental.

## 2.3 – The King's Scroll in Deut 17:14-20

### *Hittite Treaties and Deut 17:14-20*

Another passage in Deuteronomy 17 that has been suggested to display parallels with material in ancient Near Eastern treaties is Deut 17:14-20, which commands that Israelite kings produce their own copy of “this instruction” (הַתּוֹרָה הַזֹּאת; Deut 17:18) and regularly read from it.<sup>66</sup> This requirement is sometimes noted to resemble a section found in Hittite treaties stipulating that the treaty must be read before the vassal king.<sup>67</sup> Although Hittite treaties were certainly not utilized as literary sources by the composers of Deut 17:14-20, it is plausible that the Hittite treaty tradition somehow indirectly influenced texts known to the writers of Deuteronomy. Strong parallels between the literary form of this biblical book and Hittite treaties, which have long been noted, encourage investigation into the possibility of such a connection. The similarities between material in Hittite treaties and Deut 17:14-20 are examined in this section. It will be demonstrated, however, that there is no strong evidence that a treaty

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65 Evidence for the distribution of copies of the text is discussed in the fourth chapter of the present work, “The EST Exemplar at Tell Tayinat.”

66 Whether this was envisioned to comprise a version of the Deuteronomistic Code (Deut 12-26\*) or a larger form of the biblical book, containing the surrounding narrative and poetic material present in the MT version, is difficult to ascertain; cf. Sonnet, *The Book* (1997) 71-82.

67 Cf. Baltzer, *The Covenant Formulary* (1971), 88; Weinfeld, *Deuteronomy* (1972) 64-65; Sonnet, *The Book* (1997) 76, n. 108

tradition or text directly or indirectly influenced the composition of this biblical material.

<b>Table 2.8 - Text and Translation of Deut 17:14-20</b>	
<u>Translation</u>	<u>Hebrew Text</u>
<p>“When you come to the land which YHWH, your God, is giving to you and you take possession of it, you shall dwell therein. Then you shall say, 'I will set a king over me, like all of the nations which surround me.' You shall indeed set a king over you, whom YHWH, your God, will choose; from the midst of your brothers you set a king over you. You shall not be able to set over you a foreign man, who is not your brother. Only he will not multiply horses for himself, nor cause the people to return to Egypt in order to multiply horses. YHWH has said to you all, 'You shall not again return on this way anymore.' Neither shall he multiply wives for himself. He will not turn his heart aside; silver and gold he will not multiply for himself exceedingly. When he sits on the throne of his kingship, he will will write for himself a copy of this instruction on a scroll before the Levitical priests. It will be with him,</p>	<p>כִּי־תָבֹא אֶל־הָאָרֶץ אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן  לְךָ וּיְרַשְׁתָּהּ וַיִּשְׁבְּתָהּ בָּהּ וְאָמַרְתָּ אֲשִׁימָה  עָלַי מֶלֶךְ כְּכָל־הַגּוֹיִם אֲשֶׁר סְבִיבְתִי שׁוֹם  תִּשִּׁים עָלַי מֶלֶךְ אֲשֶׁר יִבְחַר יְהוָה אֱלֹהֶיךָ  בּוֹ מִקֶּרֶב אַחֶיךָ תִּשִּׁים עָלַיךְ לֹא תֹכֵל לִתֵּן  עָלַיךְ אִישׁ נָכְרִי אֲשֶׁר לֹא־אַחֶיךָ הוּא רַק  לֹא יִרְבֶּה־לּוֹ סוּסִים וְלֹא־יֵשִׁיב אֶת־הָעַם  מִצְרִימָה לְמַעַן הַרְבּוֹת סוּס וַיְהִי אָמַר  לָכֶם לֹא תִסְפּוּן לָשׁוּב בַּדֶּרֶךְ הַזֶּה עוֹד וְלֹא  יִרְבֶּה־לּוֹ נָשִׁים וְלֹא יִסּוֹר לִבּוֹ וְכֶסֶף וְזָהָב  לֹא יִרְבֶּה־לּוֹ מְאֹד וְהָיָה כִשְׁבָתוֹ עַל כֶּסֶף  מִמְּלַכְתּוֹ וְכָתַב לוֹ אֶת־מִשְׁנֵה הַתּוֹרָה הַזֹּאת  עַל־סֵפֶר מִלְּפָנֵי הַכֹּהֲנִים הַלְוִיִּם וְהִיתָה עִמּוֹ  וְקָרָא בּוֹ כָּל־יְמֵי חַיָּיו לְמַעַן יִלְמַד לִירְאָה  אֶת־יְהוָה אֱלֹהָיו לְשׁמֹר אֶת־כָּל־דְּבָרֵי  הַתּוֹרָה הַזֹּאת וְאֶת־הַחֻקִּים הָאֵלֶּה לַעֲשׂוֹתָם  לִבְלֹתִי רוֹם־לִבּוֹ מֵאַחֲזִיו וּלְבִלְתִּי סוֹר מִן־  הַמִּצְוָה יְמִין וּשְׂמֹאֵל לְמַעַן יֵאָרִיךְ יָמָיו  עַל־מְּלַכְתּוֹ הוּא וּבָנָיו בִּקְרֵב יִשְׂרָאֵל</p>

Table 2.8 (Continued)

<p>and he will read it all the days of his life, so that he will learn to fear YHWH, your God keeping all of the words of this instruction, these statutes, doing them so that his heart not become exalted over his brothers, so that he not turn aside from commandment, (whether) to the right or to the left, so that he long reign over his kingdom, he and his children within the midst of Israel.”</p>	
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Deut 17:14-20 assumes that the Israelites will eventually accept the rule of a monarch chosen by YHWH (17:14-15), and this future ruler will govern in accordance with the prescriptions of the Deuteronomistic Code. Perhaps anticipating criticism of the institution of monarchy (cf. 1 Sam 8),<sup>68</sup> this passage stresses that this king will not exploit the Israelites (Deut 17:16-17). His compliance with the Deuteronomistic Code will be ensured by his personal reproduction of a copy of the Deuteronomistic laws (Deut 17:18), with which he is expected to comply throughout his reign (Deut 17:19-20). The notion that future kings of Israel will comply with the laws of Deuteronomy, their faithfulness facilitated by reproduction of its written form, has attracted attention as a potential parallel for rhetoric in ancient Near Eastern treaty texts.

Vassal kings of the Hittites were often required to learn the contents of treaty documents

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68 Cross, *Canaanite Myth* (1973) 221, n. 9. P. Kyle McCarter, *I Samuel* (New York: Doubleday & Company, 1980) 161-162; Harold V. Bennett, *Injustice Made Legal: Deuteronomistic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* (Grand Rapids: William B. Eerdmans, 2002) 136.

by having them regularly recited in their presence. This requirement, nevertheless, is not formulated the same way in all Hittite treaties. Sometimes the reading of the treaty is simply stated as perpetual duty, but other times it must occur a fixed number of occasions in a year:

<b>Table 2.9 - Requirement for the Reading of Treaties by Hittite Vassals</b>		
<u>Translation</u>	<u>Treaty Text</u>	<u>Transliteration</u>
“In the land of Mitanni, a copy [of this tablet] is placed before the Storm-goddess of Arinna... Time and time again, let it be read repeatedly before the king of the land of Mitanni and the Hurrian people.”	<i>meḫir tuppi annīti ana pani Šamaš Arinna šakin... emmuti emmutima ana pani šar māt Mittani u pani mārī māt Hurri leltassû</i>	<sup>35</sup> <i>me-ḫi-ir tup-pí an-ni-ti a-na pa-ni</i> <sup>d</sup> <i>Ša-maš</i> <sup>uru</sup> <i>A-ri-in-na ša- kin...</i> <sup>36</sup> <i>e-em-mu-ti e-em-mu-ti- ma a-na pa-ni</i> LUGAL KUR <sup>uru</sup> <i>Mi-it-ta-an-ni</i> <sup>37</sup> <i>ù pa-ni</i> DUMU.MEŠ <sup>uru</sup> <i>Hur-ri le-el-ta- as-sú-u</i> (CTH 51 rev. ll. 35-37)
“In addition, as for this tablet that I have made for you, Alaksandu, let it be read before you, three times a year. You, Alaksandu, should learn it.”	<i>namma kī kuit TUP-PU tuk Ala[kšanduš iyan]un n=e=tta=kan MU.KAM-ti peran 3-Š[U ḫalzeššan]tu n=at=za=kan zik Alakšanduš šakki</i>	<sup>73</sup> <i>nam-ma ki-i ku-it TUP-PU tu-uk</i> <sup>m</sup> <i>A-la-[ak-ša-an-du-uš i- ia]-u-un ne-et-ták-kán</i> MU.KAM-ti <i>pé-ra-an 3-Š[U ḫal-ze-eš-ša-an]-tù na-at-za- kán zi-ik</i> <sup>m</sup> <i>A-la-ak-ša-an-du-uš ša-ki</i> (CTH 76 A III ll. 73-75)

The obligation in such clauses, though, is essentially the same. The vassal king is expected to have the treaty read in his presence for the rest of his reign. Since the mastery of the cuneiform writing system and a foreign language required extensive training, of course, it was probably



necessary for a scribe to mediate the contents of a treaty text in the Hittite language.<sup>69</sup> The purpose of this reading, at any rate, was to ensure compliance with the terms of an agreement.

The requirement for the king of Israel to “learn” (ילמד; Deut 17:19) and “read” (וקרא; Deut 17:19) the Deuteronomic Code serves a similar purpose. Deut 17:14-20 was written to induce obedience to this legal collection, which the Israelites will ratify collectively (Deut 27-28), thus obligating their future rulers to abide its stipulations. If there is some literary connection between Hittite treaties and Deut 17:14-20, then the king of Israel is being conceptualized as a “vassal” of the sovereign figure, YHWH, whose “treaty” is the law code in Deut 12-26. This would closely correspond with how the composers of Deuteronomy 13\* ostensibly adapted material in EST. YHWH is clearly conceptualized in the role of the Assyrian monarch, while the Israelites are envisioned as subjects bound to the provisions in EST.<sup>70</sup> Although circumstantial evidence that Deut 17:14-20 was influenced by the Hittite treaty tradition is intriguing, there are obvious differences between the former and Hittite treaty texts.

An especially interesting difference is that the vassal of a Hittite king is expected to have the treaty read to him, while a king of Israel must read and produce his own copy of the Deuteronomic Code. It is required that the latter “write a copy of this instruction” (וּכְתַב אֶת־מִשְׁנֵה; Deut 17:18), ostensibly referring in whole or part to the Deuteronomic Code,<sup>71</sup> and

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69 Hittite kings could have been trained to understand cuneiform, but there is no evidence that this occurred. The most intriguing evidence for royal literacy in the ancient Near East is Ashurbanipal's claim to be literate (Alasdair Livingstone, “Ashurbanipal: literate or not?,” *ZA* 97 [2007] 98-118). Yariri, a ruler of Carchemish in the eighth century BCE, also claimed to be literate in multiple scripts (K. Lawson Younger, Jr., *A Political History of the Aramaeans: From Their Origins to the End of Their Politics* [Atlanta: Society of Biblical Literature, 2016] 679). The requirement that Hittite treaties be read in front of the Hittite king, however, militates against the possibility that literacy was common or normative among rulers of the Hittite empire.

70 This is discussed most notably in section 3.3 of this study, “EST as a Literary Source for Deut 13:1-12.”

71 Cf. Sonnet, *The Book* (1997) 41-78; cf. Jamie A. Grant, *The King as Exemplar: The*

“read from it all the day of his life” (וְקָרָא בוֹ כָּל־יְמֵי חַיָּיו; Deut 17:19). Other biblical passages suggest that Israelite kings were literate,<sup>72</sup> and this is quite plausible. In the Iron Age, Hebrew was written in a script with a relatively small number of characters compared to the cuneiform writing system, and would have been much easier to learn.<sup>73</sup> Supposing that Deut 17:14-20 was somehow influenced by material in Hittite treaties, one would expect there to be some differences between a Deuteronomic passage and its ostensible literary antecedents from centuries earlier. Different cultural circumstances could explain why an Israelite king is expected to read the stipulations of a document, rather than having them read to him by another.

The parallels between Deut 17:14-20 and the rhetorical language of treaty documents are rather superficial, however, and largely confined to Deut 17:18-19. Indeed, the only other similarity, which could easily be coincidental, is that royal succession is treated in Deut 17:15 and commonly discussed as well in Hittite treaties and Neo-Assyrian *adê* texts. In the Deuteronomic passage, Israelites are required to accept the king that YHWH has chosen (Deut 17:15a), and reject any king who is “a foreigner, who is not your brother” (אִישׁ נָכְרִי אֲשֶׁר לֹא־אֶחָיִךְ; Deut 17:15b). YHWH in this context could be seen as a sovereign figure who is regulating royal succession among his “vassals,” the Israelites, much like ancient Near Eastern rulers in texts such as EST. The difficulty for arguing a literary connection is that many ancient Near Eastern texts, apart from treaty documents, describe historical personages as endowed with

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*Function of Deuteronomy's Kingship Law in the Shaping of the Psalms* (Atlanta: Society of Biblical Literature, 2004) 266-271.

<sup>72</sup> Cf. David M. Carr, *Writing on the Tablet of the Heart* (New York: Oxford University Press, 2005) 118-119.

<sup>73</sup> A Hebrew letter from the late Iron Age (Lachish 3) even records the indignant reaction of a soldier to the accusation that he was illiterate; cf. Schniedewind, *A Social History* (2013) 105-107.

kingship on account of divine favor.<sup>74</sup> Since there is always concern over the principles of royal succession in cultures with a monarchic system of rule, of course, it is not significant that regulations of succession are discussed in ancient Near Eastern treaties and Deut 17:14-20.

The similarities between Deut 17:18-19 and passages in Hittite treaties, meanwhile, can be explained without postulating a literary connection between them. It could be that this Deuteronomic passage was inspired by a system of scribal training. There is evidence that scribes throughout the ancient Near East were trained through a disciplined regimen consisting of reading, copying, and memorization of canonical texts.<sup>75</sup> The scribes who composed Deut 17:14-20 could have modeled the process of the Israelite king's instruction within the Deuteronomic Code on their own method of tutelage. This would obviate the need for any assumption that ancient Near Eastern treaty documents somehow influenced its composition.

It is impossible in the context of the present study to reach any conclusion as to the identity of the authors of Deuteronomy.<sup>76</sup> It can only be affirmed that Deut 17:14-20 is not demonstrably dependent on any particular text or ancient Near Eastern treaty tradition. That the overarching literary structure of the biblical book is similar to that of Hittite treaties is well known. Deuteronomy 13 and 28, meanwhile, display a strong literary affinity with a particular

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74 Cf. Andrew Knapp, *Royal Apologetic in the Ancient Near East* (Atlanta: Society of Biblical Literature, 2015) 45-64.

75 For references, see n. 132 in section 1.2, "Approach of the Present Study."

76 It is worth noting that the king of Israel is required to produce a copy of "this instruction on a scroll *before the Levitical priests*" (את־משנה התורה הזאת על־ספר מלפני הכהנים). The role of the Levites as priests is regularly emphasized throughout Deuteronomy, so it is understandable that they are presented as involved in indoctrinating the king. Cf. McConville, J. G. Law and Theology in Deuteronomy (Sheffield: JSOT Press, 1984) 124-153. The attitude of the Deuteronomic writer(s) towards the Levites and the role envisioned for them within Israelite society, however, remains a contentious issue among biblical scholars. Although it has been argued that the Levites were the authors of the Deuteronomic Code (Gerhard Von Rad, Deuteronomy [Philadelphia: Westminster Press, 1966] 24-26; cf. Van der Toorn [1992] 89-96), Weinfeld (Deuteronomy [1972] 53-57) has compellingly summarized evidence against this view.

treaty text, EST. There is considerable dispute among biblical scholars, however, as to what constituted the earliest form of the Deuteronomy, and when passages resembling those in treaty texts were incorporated into the biblical book. Many scholars have asserted that Deut 17:14-20 is a late addition. Arguments for this view are examined in the following section of this work. Particularly controversial is the notion that any king would have promulgated a law code that included material like Deut 17:14-20, which would seem to circumscribe his royal authority.

### ***King Josiah and the Deuteronomic Code***

Deut 17:14-20 is notable as the only passage in the Deuteronomic Code (Deut 12-26) that alludes to the existence of a monarchy in ancient Israel. For this reason, it has attracted considerable attention among scholars striving to date the composition of Deuteronomy on the basis of the political and theological motivations of its writers. Those who favor a pre-exilic dating for the literary core of Deuteronomy commonly suggest that Deut 17:14-20 was not included in the earliest version of the Deuteronomic Code. It is argued, on various grounds, that this passage promotes an idealized conception of kingship that would have been unacceptable to an Israelite king.<sup>77</sup> Scholars who assert that the Deuteronomic Code is an exilic or post-exilic composition in particular tend to cite the idealism evinced in this passage as evidence that Deuteronomy must have been composed after the end of the monarchy. The failure of the kings of Israel and Judah to uphold the proper worship of YHWH, as prescribed in the Deuteronomic

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<sup>77</sup> Cf. Jacques Vermeylen, "The Book of Samuel Within the Deuteronomistic History," in *Is Samuel Among the Deuteronomists: Current Views on the Place of Samuel in a Deuteronomistic History*, eds. Cynthia Edenburg and Juha Pakkala (Atlanta: Society of Biblical Literature, 2013) 82-85.

Code, accounts for the ultimate downfall of their kingdoms.<sup>78</sup> These particular arguments concerning the dating of this Deuteronomic material, however, are facile on close inspection.

That Deut 17:14-20 was an exilic or post-exilic composition has been asserted on the grounds that its idealized conception of monarchy would have been dangerous to the institution, supposing that it existed at the time of Deuteronomy's composition. An Israelite king, according to this line of argument, would have opposed the composition of legal material that limited his authority.<sup>79</sup> The kings of Israel are expected to produce their own copy of the Deuteronomic Code and comply with its stipulations according to this passage (Deut 17:18-19). They are thereby limited in their judicial power, since they are forever bound to render judgment in accordance with the stipulations of this legal code. As an argument against a pre-exilic dating for the passage, this reasoning suffers on two counts. First, it is conceivable that Deut 17:14-20 was composed during the monarchic period, but the laws comprising the Deuteronomic Code were never actually promulgated by the king.<sup>80</sup> A group outside of the royal court may have written and circulated copies of the text in this passage. Second, if an Israelite king sincerely believed in the political advantage or theological rectitude of the Deuteronomic legal program, then its promulgation would not be problematic from his perspective.<sup>81</sup> The king would be compelling his successors to abide with his views, thus enhancing his own legacy and influence.

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78 Cf. 2 Kgs 17:6-41, 23:25-27.

79 This particular argumentative point is unambiguously asserted by Jacques Vermeylen (p. 82): "This law [Deut 17:14-20] cannot have been written during the royal period, because the legislator was the king himself, and no king is willing to limit his own power."

80 This accommodates the view that northerners may have been responsible for the composition of the biblical book in the aftermath of the destruction of the Kingdom of Israel. Cf. Nicholson, *Deuteronomy and Tradition* (1967) 98-106.

81 Cf. David Janzen, *The Social Meanings of Sacrifice in the Hebrew Bible: A Study of Four Writings* (Berlin: Walter de Gruyter, 2004) 152-153.

An equally untenable argument, which has been made by Juha Pakkala,<sup>82</sup> is that the radical legal and theological program in the Deuteronomic Code is unlikely to have been introduced in the time of Josiah due to its destabilizing influence. Underlying this argument is the supposition that an Israelite king would not willfully implement a politically dangerous transformation of his society. This view, however, is difficult to maintain in view of evidence afforded by even a cursory survey of ancient Near Eastern history. One need only point to the “Amarna Period” in Egypt during the New Kingdom. Destabilizing reforms in religious expression were enacted in a short period of time as the result of the impetus of a single ruler, Pharaoh Akhenaten. His personal role in this cultural transformation is unmistakable.<sup>83</sup> Although the changes that he enacted were transient, they afford a historical precedent for ones as dramatic as those envisioned during the reign of King Josiah (2 Kgs 22-23). One may suppose that he attempted to transform his society, like Akhenaten, but his influence proved more enduring.

There is no reason to suppose that every strata of Israelite society accepted the reforms proposed in the Deuteronomic Code at the time it was composed. It is possible that only particular segments of Israelite society, in small or large numbers, embraced its program of reform. The writers of the Deuteronomistic History might have invented Josiah's reforms as historical fiction or grossly exaggerated them for propagandistic purposes. Their description in the Deuteronomistic History (2 Kgs 22-23) could have been penned decades after the events described, and may thus possess little value as a historical source for Josiah's reign. One must ask, however, why later writers implicitly dated the imposition of the Deuteronomic laws to the reign of this Israelite king. Why not pretend that this legal material was introduced in the time of

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82 Pakkala, *One God* (2010) 207.

83 Marc Van de Mieroop, *A History of Ancient Egypt* (Malden: Wiley-Blackwell, 2011) 199-206.

Moses, as the book of Deuteronomy suggests, and well known to all of the kings of Israel?

There is certainly intriguing, but by no means decisive, evidence that the Deuteronomic Code was unknown or at least not universally accepted, among Jewish communities during the exilic and post-exilic periods. Critics of the theory that King Josiah promulgated the Deuteronomic Code have observed that exilic and post-exilic prophets do not mention his purportedly influential rule in their writings.<sup>84</sup> This is indeed striking if dramatic religious reforms took place during his reign. One might expect the reforms attributed to King Josiah to be controversial, and his actions to be variously celebrated or condemned in biblical literature composed in the aftermath of his reforms. Yet even the prophet Jeremiah, Josiah's historical contemporary (Jer 1:2), does not allude to him by name in connection with any act of religious reform. This silence is all the more remarkable in view of the similarities between Jeremiah's rhetoric and the book of Deuteronomy.<sup>85</sup> It should be noted, though, that many other figures portrayed as historically significant within biblical narratives are rarely mentioned by name within canonical prophetic texts.<sup>86</sup> One cannot conclude that a biblical writer was unfamiliar or unconcerned with a person, simply because their composition(s) fail to mention him or her.

What is more striking is the silence or wholesale ignorance of the post-exilic Jewish

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84 Cf. Pakkala, "Why the Cult Reforms in Judah Probably Did Not Happen" (2010) 204-205.

85 Cf. Weinfeld, *Deuteronomy* (1972) 359-363; Nathan Mastnjak, *Deuteronomy and the Emergence of Textual Authority in Jeremiah* (Tübingen: Mohr Siebeck, 2016).

86 Abraham (cf. Isa 29:22, 41:8, 51:2, 63:16; Mic 7:20) and Moses (cf. Isa 63:11-12; Jer 15:1; Mic 6:4; Mal 4:4) are central figures in the early history of the Israelites as narrated in the Pentateuch, but they are rarely explicitly referenced in prophetic texts. Consider, for instance, that the name "Moses" never appears in Ezekiel, while "Abraham" is attested but once in Jeremiah (33:26) and Ezekiel (33:24) respectively. This has contributed to the dubious speculation that the Patriarchal and Exodus traditions were independent origin stories for the Israelites. Cf. Thomas Römer, *Israels Väter: Untersuchungen zur Väterthematik im Deuteronomium und in der deuteronomistischen Tradition* (Göttingen: Vandenhoeck & Ruprecht, 1990).

community at Elephantine concerning important provisions of the Deuteronomic Code, at least as they came to be understood and practiced within early Judaism.<sup>87</sup> There are various allusions, in correspondence dating to the Persian period, for the existence of a sacrificial temple for YHWH at this Egyptian site.<sup>88</sup> Its existence would seem to violate the command for centralization of sacrificial worship in Deut 12:2-19, inasmuch as “the place which YHWH will choose” (הַמָּקוֹם) (אֲשֶׁר יִבְחַר יְהוָה; Deut 12:5) came to be understood as a circumlocution for Jerusalem in the post-exilic era. It is especially striking that worshipers of YHWH at Elephantine seem to have appealed for aid, in the aftermath of the destruction of their temple, by means of a letter to the high priest in Jerusalem: “Yet previously, when this terrible thing was done to us, we wrote a letter (to) our lord, and to Yehohanan, the high priest, and his companions, the priests who are in Jerusalem... (but) a single letter they did not send to us” (אִף קִדְמַת זֶנָּה בַּעֲדָן זֶה בְּאִשְׁתָּא עָבִיד לָן אַגְרָה) (שְׁלַחַן מֵרָאן וְעַל יְהוֹחָנָן כְּהֵנָּא רַבָּא וְכֻנּוּתָהּ כְּהֵנָּא זִי בִירוּשָׁלַם... אַגְרָה חֲדָה לֹא שְׁלַחוּ עֲלֵינוּ; TAD A4.47 :17-19).<sup>89</sup> One would hardly anticipate the existence of such a letter, if the Jewish communities in Elephantine and Jerusalem accepted the Deuteronomic regulation that sacrificial worship must take place at a single location. Regardless of how one interprets the significance of this correspondence, it does not prove that the Deuteronomic Code must have been written at a later date. It may be that key provisions were variously interpreted or known only to a select portion of Jewish community. Within the present work, however, no conclusion can be reached as to how

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87 Pakkala, “Why the Cult Reforms in Judah Probably Did Not Happen,” 204-206, 211.

88 AP 30; TAD A4.47 cf. AP 31; cf. Bezalel Porten; “The Revised Draft of the Letter of Jedaniah to Bagavahya (TAD A4.8 = Cowley 31),” in *Boundaries of the Ancient Near Eastern World: A Tribute to Cyrus H. Gordon*, eds. Meir Lubetski, Claire Gottlieb, and Sharon Keller (Sheffield: Sheffield Academic Press, 1998) 230-242.

89 How this letter was received by the priests in Jerusalem is a matter for scholarly speculation, since there is no record of their reaction to it. Cf. James C. VanderKam, *From Joshua to Caiaphas: High Priests After the Exile* (Minneapolis: Augsburg Fortress, 2004) 55-58.



laws in Deuteronomy may have influenced the composition of exilic and post-exilic literary materials. This would require a study addressing different questions than those treated here.

The mention of a “king” (מֶלֶךְ) of Israel in Deut 17:14-20, meanwhile, is unhelpful for determining whether this institution existed when Deut 17:14-20 was composed. If Deut 17:14-20 was written when there was an Israelite monarchy, it could be that a particular king of Israel or Judah sanctioned the promulgation of this legal material, since it would compel future kings to comply with the laws that he endorsed. It is just as conceivable, meanwhile, that this passage was composed in the exilic or post-exilic periods in the idealistic aspiration that a future king obedient to the Deuteronomic laws would emerge. A final alternative is that Deut 17:14-20 was composed during the pre-exilic period, *without* royal approval, in the hope that future monarchs would accept the Deuteronomic Code as authoritative.<sup>90</sup> It is impossible, at any rate, to date the composition of Deut 17:14-20 on the basis of its brief discussion of the role of the monarch.

Although the similarities between passages in Hittite treaties and Deut 17:14-20 do not establish when the latter was written, other efforts to date the composition of Deuteronomic material on the basis of treaty parallels may prove more fruitful. When there are numerous lexical and thematic correspondences between Deuteronomic passages and a particular treaty text, of which the composition can be firmly dated, this is certainly relevant for dating the biblical material. Such evidence strongly suggests that one of these compositions was directly based on the other, potentially providing a *terminus post quem* for the composition of the biblical text probably inspired by it. As was observed earlier, there is evidence that Deuteronomy 13 was based on passages contained in EST. In view of the likelihood that Deut 28:20-44 was adapted from EST as well, there is reason to suppose that Deuteronomic passages must have been written

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90 Nicholson, *Deuteronomy and Tradition* (1967) 99-102.

during or after the seventh century BCE. Discussion of this possibility must be deferred, however, until similarities between this Neo-Assyrian text and Deuteronomic curses are treated.

### ***The Placement of Deuteronomy 13 and 17 in the Deuteronomic Code***

Many scholars have suggested that an early form of Deuteronomy consisted of legal material (Deut 12-26\*) that was directly based on the Covenant Code (Exod 20:19-23:33).<sup>91</sup> This has contributed to speculation that Deuteronomy 13 and 17, which do not display strong parallels with material in the Covenant Code, should be recognized as part of a separate compositional stratum in Deuteronomy. Although it is difficult to prove that these chapters were present in the earliest edition of the biblical book, arguments against this possibility are clearly tendentious and flawed. The original composers of Deuteronomy could have drawn on multiple literary sources when crafting their composition.<sup>92</sup> This might, at least partly, explain the confusing arrangement of material in the biblical book. The reasons that Deuteronomic passages were probably based on earlier texts, and ultimately positioned in their present context, should be examined without presupposing any general theory of the composition of the biblical book.

Eckart Otto has suggested that Deuteronomy 13\* and 28\* were originally a distinct composition, a “Judean Loyalty Oath,” based on EST.<sup>93</sup> In his view, this independent text was secondarily incorporated into the surrounding Deuteronomic material, which originally

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91 For scholarly references and a detailed presentation of the critical arguments for this position, see Bernard Levinson's *Deuteronomy* (1997).

92 This type of literary model for the composition of a biblical law code, it should be noted, is proposed by David P. Wright for the writing of the Covenant Code. In his monograph, *Inventing God's Law* (2009), he argues that the writers of the Deuteronomic Code based their composition directly on the “Code of Hammurabi” alongside an otherwise unknown “participial source.” Its existence can be inferred by its intrusive use as a source with distinct features.

93 Otto, *Das Deuteronomium* (1999) 32-88.

constituted the literary core of the biblical book. Both chapters in Deuteronomy display a series of strong similarities with material contained in EST. If Otto is correct that passages in Deuteronomy 13\* and 28\* existed as a separate “Loyalty Oath,” directly based on EST, then it must be explained why an editor divided this work into two parts and incorporated them into disparate sections of Deuteronomy. Why not, one must ask, simply include them as a single block of literary material? It is also conceivable that the Deuteronomic writers selectively borrowed from EST, and only based particular passages in Deuteronomy 13 and 28 on this text.

Another potential obstacle to Otto's proposal is that Deuteronomy 13\* and 17:2-7\* are clearly literarily connected, although material in the latter is wholly unparalleled in the “Judean Loyalty Oath” that Otto envisions. This particular problem, however, is easily surmounted. Although it is difficult to explain why the theme of apostasy is discussed in disparate sections within this biblical book, it has already been shown that the Deut 17:2-7 was probably directly based on material in pre-existing material in Deuteronomy 13.<sup>94</sup> There is no reason, at any rate, to suppose that the composers of Deut 17:2-7\* were influenced by an ancient Near Eastern source other than some version of Deuteronomy 13\*. Highly similar material in these biblical chapters, therefore, does not prove Otto's contention that Deuteronomy 13\* and 28\* must once have existed separately as an independent work that was known to the writers of Deuteronomy

The most important evidence that Otto adduces in favor of his proposal is the organization of literary material within the Deuteronomic Code. He argues that the passages in Deuteronomy 12 and 28 directly based on EST are from a pre-exilic text, which was later interpolated into a Judean law code. For they disrupt a composition modeled on the Covenant

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94 This is demonstrated in section 2.2 of the present study, “The Literary Relationship Between Deuteronomy 13 and 17.”

Code (Deut 12-26\*).<sup>95</sup> The literary model proposed by Eckart Otto may be outlined as follows:

**Chart 2.2 - Deuteronomy 12-28\* and Literary Sources in Otto's View**

Principle Law	———	Exod 20:24-26 > Deut 12:13-27*
Loyalty Encouragement	———	EST > Deut 13:2-12*
Social Privilege Law	}	Exod 21:2-11 > Deut 14:22-15:23*
Legal Procedure Code		Exod 23:1-8 > Deut 16:18-18:5*
Legal Regulation	———	Exod 21:12-22:29 > Deut 19:2-25:12*
Social Privilege Law	———	Exod 23:10-12 > Deut 26:2-13*
Curses	———	EST > Deut 28:15-44*

The thematic organization of the Covenant Collection is closely paralleled, in Otto's literary schema, by the arrangement of material in Deuteronomistic Code. The “principle law” (*Hauptgesetz*) in Deut 12:13-27\* appears to represent a reformulation of the “altar law” (*Altargesetz*) in Exod 20:24-26, and both passages are positioned at the head of their respective law codes.<sup>96</sup> The “social privilege law” (*soziales Privilegrecht*) sections in Exod 14:22-15:23/Exod 23:10-12 and Deut 14:22-15:23/Deut 26:2-13\*, meanwhile, are found in similar literary positions. They each frame a passage concerned with “legal regulation” (*Rechtsordnung*) in Exod 21:12-22:29\*/Deut 19:2-25:12\* alongside a passage concerned with “legal procedure code” (*Gerichtsordnung*) in Exod 23:1-6\*/Deut 16:18-18:5\*. The Deuteronomistic legal material that was directly inspired by EST (Deut 13:2-12; Deut 28:15-44), according to Otto, thus interrupts and supplements an earlier composition deliberately modeled on the Covenant Code.

That the Covenant Code influenced the composition of the Deuteronomistic Code is widely

<sup>95</sup> Otto, *Das Deuteronomium* (1999) 353.

<sup>96</sup> Ibid., 341-351; cf. Levinson, *Deuteronomy* (1997) 28-38.

accepted among biblical scholars, and Otto's outline of the literary correspondences between them will not be disputed here. The possibility that EST influenced the composition of Deuteronomy is much more controversial. No material within the Covenant Code closely resembles Deuteronomy 13\* and 28\*. Yet strong parallels between these Deuteronomic chapters and passages in ancient Near Eastern treaty documents demonstrate that there were literary antecedents for their content. Otto is correct, moreover, that EST is by far the strongest candidate for a literary source that directly influenced their composition. He needlessly rejects the possibility, however, that the writers of Deuteronomy 13\* and 28\* are identifiable with the writers of material that displays the influence of the Covenant Code. This is partly explained by Otto's contention that these sources were utilized in fundamentally different ways. Whereas the former served as the literary inspiration for a drastic revision of biblical laws on ideological grounds, the latter was simply “translated” by biblical writers in his view.<sup>97</sup> It is not problematic, however, to envision the same writers as responsible for composing passages based on these literary sources. Writers capable of selectively borrowing and revising material from the Covenant Code were certainly capable of borrowing material from EST in a different manner.

If Deuteronomy 13\* and 28\* are based on EST, it should be explained why these passages were positioned in disparate sections of Deuteronomy rather than grouped together. Instead of positing the existence of an independent “Judean Loyalty Oath,” it may readily be proposed that the writers of Deuteronomy selectively appropriated material from EST, while constructing a text that was modeled on the structure of an ancient Near Eastern treaty.<sup>98</sup>

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97 Problematic aspects of understanding Deuteronomy 13\* and 28\* as translations of EST are discussed within section 3.3 of the present work, “The Chiastic Structure of Deut 28:20-44.”

98 For some discussion of *adê*-documents as “treaties,” see the “Treaty, *Adê*, and Covenant” subsection in section 2.4 of this study.

Admonitions to loyalty are generally placed towards the beginning of treaty texts, while curses for the violation of their terms are regularly placed towards their literary conclusion. The composers of Deuteronomy may have organized their composition in accordance with the structure of a treaty, placing passages inspired by different sources in appropriate positions.

The literary model expounded by Eckart Otto actually displays an important fallacy commonly found in scholarly literature that *disputes* the literary influence of EST on Deuteronomy. It is implicitly assumed that biblical writers were incapable of crafting a composition in a complex and creative fashion, simultaneously drawing upon multiple literary sources.<sup>99</sup> Postulating the existence of a “Judean Loyalty Oath” is unnecessary to explain the influence of EST on Deuteronomy, and Otto's evidence for its existence is scant and not compelling. A single writer or a group of composers could have drafted the earliest edition of Deuteronomy utilizing EST and the Covenant Code as literary sources. This presupposes, without serious difficulty, fewer steps in the writing process of the biblical book. As a compositional model, it is preferable on the basis of “Occam's Razor” as originally formulated: *pluralitas non est ponenda sine necessitate*.<sup>100</sup> If it is unnecessary to postulate that the

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99 Otto's view that Deuteronomy 13\* and 28\* comprised an independent “Judean Loyalty Oath” is all the more puzzling in light of his dubious and complicated argument (*Das Deuteronomium* [1999] 203-378) that the Middle Assyrian Law Code (MAL) directly influenced the composition of Deuteronomic laws. He seems to accept that Deuteronomic writers were sophisticated in their adaption of material in the MAL, but not in their borrowing from EST. Cf. Levinson and Stackert, “Between the Covenant Code and Esarhaddon's Succession Treaty” (2012) 136-137.

100 William of Ockham, *Philosophical Writings: A Selection* (Indianapolis: Hackett Publishing Company, 1990), trans. Philotheus Boehner, 97. Cf. Armand Mauer, *The Philosophy of William of Ockham in Light of Its Principles* (Toronto: Pontifical Institute of Mediaeval Studies, 1999) 7-8. This is merely one of several philosophical pronouncements, of course, that have been cited as “Occam's Razor.” There is no statement by Ockham recognized as the definitive articulation of this philosophical principle commonly attributed to him. Cf. Antonie Vos, *The Philosophy of Duns Scotus* (Edinburgh: Edinburgh University Press, 2006) 304-306.

composition of Deuteronomy 13\* and 28\* took place at a time different from that of other chapters in the Deuteronomic Code, why insist that this discrete literary stage ever existed?

The literary placement of the material based on EST in Deuteronomy 13\* and 28\*, therefore, can be explained without recourse to Otto's literary proposal. One need only look to the structure of the treaty texts, which plausibly served as models for the writer(s) of Deuteronomy 12-26\*, to account for their literary position in the Deuteronomic Code. *Adê*-documents frequently contain exhortations to obedience at their opening and curses for disobedience to treaty conditions at their conclusion. The writers of Deuteronomy may have selectively borrowed material from EST, and placed this material in a position that closely corresponded with its location in the structure of their source. Even if one rejects the claim that sections of Deuteronomy were influenced by EST, one may still discern the placement of Deuteronomy 13\* and 28\* in the biblical book as natural in view of comparative literary evidence. Tantalizing evidence that Neo-Assyrian *adê*-documents and Hittite treaties influenced Levantine writers, it will be shown in the next section, is found outside of the biblical canon.

## **2.4 – Was There a Levantine Treaty Tradition?**

### ***Treaty Traditions and the Sefire Texts***

In two crucial respects, the literary structure of Deuteronomy more strongly resembles Hittite treaties than treaty texts produced during the Iron Age. Hittite treaties typically begin with a historical prologue describing events that preceded the conclusion of the treaty. As many

scholars have observed,<sup>101</sup> this would seem to correspond to Moses's lengthy account of the collective experiences of the Israelites (Deut 1-11\*) in his valedictory address. Extant treaties from the Iron Age, however, never feature a historical prologue. Likewise, a blessing section is never clearly attested alongside a curse section in Iron Age treaties, although blessings are commonly paired with curses in Hittite treaties. It is difficult to understand, nevertheless, how the Hittite treaty tradition could have influenced the composition of biblical materials. There is no evidence that Hittite texts were produced or read in the first millennium BCE. Strong similarities between the literary content of Hittite treaties and material in the book of Deuteronomy have contributed to speculation, however, that elements of the Hittite treaty tradition survived into the first millennium BCE. It has been proposed that the Hittite treaty tradition was mediated by various “Neo-Hittite” peoples who lived in Anatolia and Syria during the Iron Age,<sup>102</sup> since their literature may have displayed the influence of earlier Hittite texts.

The treaty texts discovered at Sefire afford evidence that a distinct Levantine treaty tradition existed and was influenced by the Hittite tradition. These texts date to the eighth century BCE. They are inscribed in Aramaic on three large basalt steles that were discovered southeast of Aleppo, Syria. In part because they are damaged, it is impossible to ascertain with certainty whether they preserve a single, continuous treaty text, or multiple ones that were concluded at different times.<sup>103</sup> Each stele records some portion of a diplomatic arrangement between Mati'el (מתעאל), king of Arpad, and Bar-Ga'yah, ruler of a polity referred to as “KTK”

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101 Cf. McCarthy, *Treaty and Covenant* (1981) 159-170; cf. Weinfeld, *Deuteronomy* (1972) 69-74.

102 Cf. Koch, *Vertrag, Treueid, und Bund* (1998) 27-37, 69-78.

103 Fitzmyer, *The Aramaic Inscriptions* (1967) 2-3; McCarthy, *Treaty and Covenant* (1981) 100.



(כתח).<sup>104</sup> The former may be the same “Mati’el” (<sup>d</sup>*ma-ti-i’-DINGIR*) who made a treaty with the Assyrian king Assur-Nerari V (SAA 2 2). Bar-Ga’yah, however, is otherwise unknown to scholars. Simo Parpola has controversially proposed that the Sefire texts are “nothing but an *Assyrian* treaty imposed on a defeated adversary.”<sup>105</sup> In his view, Bar-Ga’yah was probably a Neo-Assyrian potentate.<sup>106</sup> Recent research by William Morrow and Christoph Koch, however, has shown Parpola’s proposal to be highly problematic.<sup>107</sup> The Sefire treaties differ stylistically from extant *adê*-documents in obvious ways, and display intriguing similarities with Hittite treaties. It is problematic to view them, therefore, as Neo-Assyrian texts recorded in Aramaic.

Although the Sefire treaties self-identify as records of *adê*,<sup>108</sup> a persistent pattern of references to Bar-Ga’yah in the first-person distinguish these treaty texts from most Neo-Assyrian *adê*-documents. This pattern suggests, moreover, the literary influence of a non-Assyrian treaty tradition. Bar-Ga’yah is usually referenced in the third-person, but each of the Sefire steles feature passages in which Bar-Ga’yah addresses Mati’el in the first person:

Table 2.10 - Examples of First-Person Address in the Sefire Treaties	
<u>Translation</u>	<u>Treaty Text</u>

104 Scholars disagree over the identification of “KTK.” Cf. Fitzmyer, *The Aramaic Inscriptions* (1967) 127-135.

105 Parpola, *JCS* 39 (1987) 183.

106 Cf. Fitzmyer, *The Aramaic Inscriptions* (1967) 127-128. Parpola suspects that the name “Bar-Ga’yah” was used as a substitute for Assur-Nerari V to placate those in Arpad opposed to the expansion of Neo-Assyrian influence. This notion is rejected by Jeffrey Kah-Jin Kuan (*Neo-Assyrian Historical Inscriptions and Syria-Palestine: Israelite/Judean -Tyrian-Damascene Political and Commercial Relations in the Ninth-Eight Centuries BCE* [Eugene: Wipf & Stock, 1995] 121) for the sensible reason that “it is farfetched to suggest that pseudonyms would have helped save Mati’-ilu’s throne, as if anti-Assyrian Arpadites would not have been able to decipher pseudonyms.”

107 Koch (1998) 52-78; Morrow, *The World of the Aramaeans III* (2001).

108 Sefire I A:1; I B:3-4, 23-24; II B:18; III:9, 14, 17, 20, 23, 27.

Table 2.10 (Continued)

<p>“[If you ful]fill these obligations, and if you say, ‘[I am a] man of obligation’... I will not let my son send a hand against your son.”</p>	<p>[tšm ‘wtš]lmn ‘dy’ ‘ln wt ‘mr gbr ‘dn h’ [ ‘nh...] wlykhl bry [l]yšlh yd bbr[k] (Sefire I B:24-25)</p>
<p>“If you obey... I will not be able to send a ha[nd against you].”</p>	<p>phn tšm ‘...pl ‘khl l ‘šlh y[d bk] (Sefire II B:4-6).</p>
<p>“If it occurs to you, and you place it upon your lips to kill me... you will have been deceitful to all the gods of the <i>adê</i> in this text.”</p>	<p>whn ysq ‘l lbbk wtš’ ‘l šptyk lhmtty... šqrtm lkl ‘lhy ‘dy’ zy bspr’ (Sefire III:14-17)</p>

In the Sefire texts, Mati'el appears to be the subordinate partner in the agreement.<sup>109</sup> It is fitting that he is directly addressed by Bar-Ga'yah in view of the typical pattern in Hittite treaties—the junior partner is directly addressed by the superior.<sup>110</sup> Neo-Assyrian treaties, by contrast, generally refer to both treaty participants in the second or third-person.<sup>111</sup> The use of first-person speech is rarely paralleled in the extant corpus of Neo-Assyrian *adê*-documents,<sup>112</sup> and it is

109 Fitzmyer (1967) 2, 125.

110 Mendenhall, *BA* 17 (1954) 59; Morrow, *The World of the Aramaeans III* (2001) 88.

111 A. Kirk Grayson, “Akkadian Treaties of the Seventh Century B.C.,” *JCS* 39 (1987) 131; Morrow, “The Sefire Treaty Stipulations and the Mesopotamian Treaty Tradition,” 85-87.

112 First-person speech by the superior treaty partner is attested in Esarhaddon's *adê* with Ba'al of Tyre (SAA 2 5 III:6-11). It is significant that this example comes from a text in which the subordinate treaty partner is a Levantine ruler. This is quite probably an example of Neo-Assyrian scribes adapting their text for their intended audience, a phenomenon evinced elsewhere in their employment of futility curses (cf. “Treaties and Curse Traditions in the Ancient Near East” in section 3.2 of the present work), and selective reference to Levantine deities in treaties involving rulers such as Mati'el (SAA 2 2) and Ba'al of Tyre (SAA 2 5). Cf. Morrow, “The Sefire Treaty Stipulations and the Mesopotamian Treaty Tradition,” 87-89.

employed with far greater frequency in the Sefire treaties than in any Neo-Assyrian *adê*-text.

There is also strong evidence that blessings were inscribed alongside curses in one section of the Sefire treaties. Although all of the Sefire steles are damaged and illegible in particular places, a well-preserved clause has been discerned by Joseph Fitzmyer as the conclusion to a set of blessings: “May the gods guard against [evil] from his day, and from his house” (*yšrw ’lhn mn ywmh wmn byth*; Sefire I C:15-16).<sup>113</sup> The preceding section on the stele is too damaged, unfortunately, to be read. The subsequent text *is* legible, however, and preserves clauses with the similar wording but formulated as a curse: “Whoever does not guard against the words of the inscription which are on this stele... on the day that he does so, may the gods overturn tha[at m]an and his house and all in it” (*wmn lyšr mly spr’ zy bnšb’ znh... bywm y’b[d] kn yhpkw ’lhn ’š[’ h]’ wbyth wkl zy [b]h*; Sefire I C:16-23\*). Since these two passages contain several of the same lexemes, such as a verbal root meaning “guard” (*lyšr/yšrw*; *n.š.r*), and identical nouns for “day” (*bywm/ywmh*; *ywm*) and “house” (*byth/byth*; *byt*) in a virtually identical sequence, it is probable that some kind of deliberate contrast was intended. Otherwise, these would be redundant passages. Inasmuch as the latter passage (Sefire I C:14-23) uses these same terms in the negative context of curse, it is probable that the former passage (Sefire I C:15-16) was written in the positive context of a blessing. This points to the possibility that other blessings were attested in the broken passage that comprised Sefire I C:9-14. The Sefire treaties, therefore, seem to have contained “blessings,” a literary feature that is otherwise unique to Hittite treaties.

There are important differences between the structure of Hittite treaties and the Sefire texts, however, that must be noted as well. The absence in the Sefire treaties of any passage that can be construed as a “historical prologue,” a well-known feature of Hittite treaties, is an

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113 Fitzmyer, *The Aramaic Inscriptions* (1967) 21.

important dissimilarity.<sup>114</sup> All of the well-preserved exemplars of Hittite treaty texts feature such a passage towards their beginning. While the precise literary structure of the Sefire texts is uncertain, it is obvious that they do not reflect the outline of a Hittite treaty. In no scholarly reconstruction do they consist of a historical prologue, followed by treaty stipulations, with blessings and curses in conclusion, corresponding to the standard structure of a Hittite treaty.

At the same time, there are few clues that the Sefire treaties were influenced by a Neo-Assyrian treaty tradition. Apart from third-person references to the superior and subordinate treaty partners, the only literary element that is suggestive of Mesopotamian influence is the listing of Mesopotamian deities as guarantors of its stipulations (Sefire I A:7-9): Mulissu (*mlš*), Marduk (*mrdk*), Zarpanit (*zrpnt*), Nabu (*nb'*), Nergal (*nrgl*), Shamash (*šmš*), and Nur (*nr*).<sup>115</sup> These gods are mentioned, however, alongside deities who were worshiped in the Levant (Sefire I A:10-12): El (*'l*), Elyan (*'lyn*), Day (*ywm*), and Night (*lylh*).<sup>116</sup> Simo Parpola and Kazuko Watanabe have argued, nevertheless, that the Sefire texts are simply the “Aramaic counterpart” to the *adê* concluded between Assur-Nerari V (SAA 2 2). Though they concede that the former is “not an exact translation,”<sup>117</sup> their claim is problematic since there are no significant correspondences between passages in the Sefire treaties and Neo-Assyrian *adê*-documents.

The literary organization of material in these Neo-Assyrian texts, moreover, is different. Deities are invoked at the beginning of any reconstruction of the Sefire treaties, but they are mentioned at the end of the *adê* between Mati'el and Assur-Nerari V.<sup>118</sup> Although it is possible

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114 Ibid., 122-123.

115 Ibid., 33-35; Crouch, *Israel and the Assyrians* (2014) 98-99. In view of the mention of his consort Mullissu, it is highly likely that the patron god of the Neo-Assyrian empire, Ashur, was invoked as well in the preceding line (Sefire I A:7). Unfortunately, it is too damaged to be read.

116 Fitzmyer (1967) 36-39.

117 Parpola and Watanabe, *Neo-Assyrian Treaties* (1988) xxvii.

118 Crouch, *Israel and the Assyrian* (2014) 99.

that the “Mati'el” (*mt' 'l*) of the Sefire treaties is identifiable with the “Mati'el” (*<sup>m</sup>ma-ti- 'i-DINGIR*) who swore allegiance to Assur-Nerari V (SAA 2 2),<sup>119</sup> there are no grounds for asserting that these documents reflect the same agreement or a later revision of it. “[T]hough possessed of a significant degree of conceptual overlap—involvement of the deities, the importance of the subordinate signatory's loyalty, ritual invocation, [and] curses,” as Carly Crouch observes, they “are not simply the same text.”<sup>120</sup> The literary features that she mentions are generic to treaty texts, and do not establish a connection between these documents.<sup>121</sup>

Similarities between the Sefire texts and the treaty between Mati'el and Assur-Nerari V, moreover, might be explained by the influence of a West Semitic literary tradition on the composition of this particular *adê*-document. The term *adê* itself was probably a West Semitic loanword into Assyrian.<sup>122</sup> While the Sefire texts display some degree of Mesopotamian influence, as has been shown, there is no reason to insist that an *adê*-document could not likewise have been influenced by a West Semitic treaty tradition. Bar-Ga'yah, who is thought by scholars to be the superior party in these texts,<sup>123</sup> may well have been a Neo-Assyrian vassal. This would explain why homage is paid to Mesopotamian gods on Stele I (A:7-12). The Sefire texts, however, need not reflect the Neo-Assyrian literary tradition *in toto*. Even if Parpola is

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119 Fitzmyer, *The Aramaic Inscriptions* (1967) 2-3; McCarthy, *Treaty and Covenant* (1981) 110.

120 Crouch, *Israel and the Assyrians* (2014) 99.

121 The “ritual invocations” to which Carly Crouch refers are symbolic performances described in the Sefire texts (I A:35-42) and the *adê* between Mati'el and Assur-Nerari V (SAA 2 2 I:10-35), which aim to induce obedience by threat. Cf. McCarthy, *Treaty and Covenant* (1981) 117; Moshe Weinfeld, *Normative and Sectarian Judaism in the Second Temple Period* (New York: T&T Clark International, 2005) 27-28; M. L. West, *The East Face of Helicon* (Oxford: Clarendon Press, 1997) 21-23.

122 The reasons that *adê* is thought to be a West Semitic loanword into Akkadian are briefly discussed in the following subsection of this study, “Treaty, *Adê*, and Covenant.”

123 Fitzmyer, *The Aramaic Inscriptions* (1967) 125; McCarthy, *Treaty and Covenant* (1981) 103.

correct that Bar-Ga'yah was an Assyrian potentate imposing obligations on Mati'el, it is possible that the Sefire treaties were written to accord with the conventions of a treaty tradition familiar to Mati'el and his subjects. This might be done to strengthen their literary resonance with their Syrian vassals, and thereby increase compliance with treaty terms. Neo-Assyrian scribes were certainly familiar with foreign cultures, and sometimes tailored their texts for foreign audiences.

In summary, a comparative analysis of the Sefire texts bolsters the likelihood that the influence of the Hittite treaty tradition persisted into the Iron Age. The Sefire texts display literary features that are characteristic of the Hittite treaty tradition, but absent in Neo-Assyrian *adê*-documents. Unfortunately, due to a dearth of examples, it is impossible to determine the literary features that typified Levantine treaty texts in the Iron Age. The Sefire texts afford intriguing evidence, nevertheless, that some Levantine treaties produced in the Iron Age displayed a syncretism of elements found in Hittite and Neo-Assyrian treaty texts. This is precisely the literary model that must be sought by those who propose that Deuteronomy was modeled on the structure of a Hittite treaty, but was also influenced of EST. That the Hittite treaty tradition somehow influenced the composition of Deuteronomy does not preclude the possibility that a Neo-Assyrian text, such as EST, inspired its composition as well. Why treaty documents would have been utilized as literary models by the Deuteronomic composers, meanwhile, is an important question that will be addressed in the following section of this work.

### ***Treaty, Adê, and Covenant***

The Deuteronomic laws (Deut 12-26) are presented in their Pentateuchal context as stipulations comprising a *brît* (ברית), an important term in Israelite theology that is commonly

translated by the word “covenant.” The word is entirely absent from the legal collection, however, apart from a single verse that may be secondary (Deut 17:2).<sup>124</sup> It is otherwise employed to designate this material in the narrative framework of Deuteronomy, describing Moses's pronouncement of these laws as a historical event (Deut 28:69; 29:1-20). Since it cannot be assumed that the author(s) of the Deuteronomistic Code wrote the entirety of the larger narrative in which it is presently embedded,<sup>125</sup> it is not certain that these laws were conceived as the terms of a *brît* (ברית). Whether they originally comprised a “covenant” is difficult to determine, in part because the precise meaning of this crucial term is uncertain. Although a comprehensive study of it is impossible here, some discussion of the term will prove helpful for understanding the reasons that treaties were likely utilized as sources by the writers of the Deuteronomistic Code.

A major reason that “covenant” (ברית) is difficult for scholars to define is that biblical writers frequently emphasized different connotations of its meaning. The word is regularly employed in the “Priestly source” (P) of the Pentateuch, for instance, in contexts where it appears to mean “promise” or “requirement.”<sup>126</sup> God's commitment to Noah that the earth will

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124 For a discussion of evidence suggesting that Deut 17:2-7 is a secondary addition to the Deuteronomistic Code, see section 2.2 in the present work, “The Literary Relationship Between Deuteronomy 13 and 17.”

125 This observation should not be taken to imply that the Deuteronomistic laws are plausibly divorced from the overarching narrative context presented in the surrounding material—the speech of Moses to the Israelites prior to their entry into Canaan. As Jeffrey Stackert (personal communication) stressed to the present author, references to time and place throughout the Deuteronomistic Code are indicative that these laws are best understood in such a literary context. They are clearly presented as the second-person address of a figure (Moses) to a group that has fled from Egypt where they experienced slavery (cf. Deut 13:5, 10; 15:15; 16:1, 3, 6, 12; 17:16; 20:1; 23:4, 7, 9, 18; 24:9, 18, 22; 25:17; 26:5-6, 8), and will soon be entering a land promised to them as an inheritance (cf. Deut 12:8-10; 15:4; 19:3, 10, 14; 20:16; 21:23; 24:4; 25:19; 26:1).

126 Jeffrey Stackert, “Distinguishing Innerbiblical Exegesis from Pentateuchal Redaction: Leviticus 26 as a Test Case-Study,” in *The Pentateuch: International Perspectives on Current Research*, eds. Thomas B. Dozeman, Konrad Schmid, and Baruch Schwartz (Tübingen: Mohr Siebeck, 2011) 377-378.

never again be destroyed by flood (Gen 9:9-17) illustrates the former sense. There are no conditions attached to the deity's pledge. The rainbow will be an everlasting "sign of the *brît*... for generations forever" (אֹת־הַבְּרִית... לְדֹרֹת עוֹלָם; Gen 9:12). A different meaning is evident, meanwhile, in P's account of the Abrahamic covenant (Genesis 17). Circumcision as a ritual action comprises a "covenant" (בְּרִית[ִי]; Gen 17:10, 13), which will secure progeny and land for Abraham and his descendants (Gen 17:3-8). It is implicitly acknowledged, however, that this rite might not be performed: "the uncircumcised male who is not circumcised in the flesh of his foreskin, he will be cut off from his people. He has broken my covenant" (וְעֵרֶל זָכָר אֲשֶׁר לֹא־יָמוּל ) (Gen 17:14). Rather than translating "covenant" (בְּרִית) as "promise" in this context, it makes better sense to understand it as "requirement." Abraham and his descendants *should* be circumcised to receive the benefits of YHWH's blessing in the view of the Priestly writer, but he recognizes that they might fail to perform the ritual.

The possibility that covenantal requirements may go unfulfilled is especially emphasized in the "Deuteronomic" source (D), and within the "Deuteronomistic" historical works that were ostensibly influenced by this Pentateuchal source. Blessings for obedience and curses for disobedience are recorded at the conclusion of the Deuteronomic laws (Deut 27-28), which are designated as the "words of the covenant that YHWH commanded Moses" (דְּבַרֵּי הַבְּרִית אֲשֶׁר־צִוָּה ) (Deut 28:69). The notion that one might choose to obey or disobey covenantal obligations is implicit in its presentation of the Deuteronomic laws. The course of future events is not predetermined, but will be shaped collectively by future choices. The Israelites can decide to obey the Deuteronomic laws and be rewarded, or disobey them and be chastised by YHWH.

Disobedience to the terms of a "covenant" (בְּרִית) can ultimately lead to its abrogation



according to Jeremiah, whose prophetic work seems to display the strong influence of the Deuteronomistic theology.<sup>127</sup> In Jer 31:30-32, the establishment of a new covenant between YHWH and the Israelites is predicted following the termination of an older one. This “old” covenant was concluded during the exodus of the Israelites from Egypt, when literary sources within the Pentateuch ostensibly describe the establishment of covenant at Sinai/Horeb:

<p align="center"><b>Old and New “Covenants” in Jeremiah 31:30-32</b></p>
<p>“Behold, the time is coming—utterance of YHWH—when I will make a covenant (וְכָרַתִּי) with the house of Israel and the house of Judah, (which is) a new covenant (בְּרִית חֲדָשָׁה), not like the the covenant that I made (לֹא כְבָרִית אֲשֶׁר) (כָּרַתִּי) with their fathers in the day that I grasped them by the hand to bring them out of Egypt, for they broke my covenant (אֲשֶׁר־הִמָּה הִפְרוּ אֶת בְּרִיתִי), although I was lord over them—utterance of YHWH. But this is the covenant (חֲבָרִית) that I will make (אֲכָרַת) with the house of Israel after those days—utterance of YHWH—I will place my instruction within them, and write it on their heart(s). I shall be their God, and they will be my people.”</p>

The establishment of a “new covenant” (בְּרִית חֲדָשָׁה; Jer 31:30), which is “not like the covenant that I made with your fathers” (לֹא כְבָרִית אֲשֶׁר כָּרַתִּי אֶת־אֲבוֹתָם; Jer 31:31), clearly implies the supersession of the earlier one.<sup>128</sup> The notion that a covenant with YHWH can be abrogated contrasts sharply with the presentation of “covenant” in the P source. In this literary source, covenants are unconditional “promises” or “requirements” for future generations in perpetuity.

Apparent tensions between the meaning of the Hebrew term in different biblical texts

<sup>127</sup> Weinfeld, *Deuteronomy* (1972) 158-161, 359-361. It is interesting to note that while passages in the Holiness Code (Leviticus 17-26) were probably modeled on Deuteronomy, the notion that a “covenant” (בְּרִית) could be abrogated was not necessarily accepted by the writers of this Levitical material. Cf. Stackert, “Distinguishing Innerbiblical Exegesis from Pentateucal Redaction” (2011) 384.

<sup>128</sup> Stackert, *Rewriting the Torah* (2007) 223.

largely vanish, however, when one realizes that virtually any shade of definition commonly applied to this term is subsumed by its translation as “duty” or “obligation.” A “covenant” (ברית) can be self-imposed, imposed on others, or established as a series of reciprocal agreements.<sup>129</sup> The term thus lends itself to a variety of interpretations, depending on context, and biblical writers may have consciously or unconsciously stressed different meanings of the term for theological reasons. This has important implications for any discussion of the relationship between biblical materials and ancient Near Eastern treaties. If the parallels between “covenantal texts” and treaty documents are not coincidental,<sup>130</sup> then it should be explained why biblical writers modeled their composition on such documents when presenting a “covenant” (ברית).

These parallels are especially strong in the case of Deuteronomy, whose contents strongly resemble ancient Near Eastern treaties in two respects. First, the thematic organization of material in this biblical book closely corresponds to the outline of a Hittite vassal treaty: a historical prologue (Deut 1-11\*), followed by stipulations (Deut 12-26\*), concluding with a series of blessings and curses (Deut 27-28\*).<sup>131</sup> Second, there are striking similarities between the contents of some sections of Deuteronomy and a particular Neo-Assyrian text, EST, commonly described as a “treaty” and designated as *adê*-document by its composers (EST l. 1). These parallels are clustered in Deuteronomy 13\* and 28\*. The former chapter contains clauses forbidding textual alteration and prescribing a death penalty for disloyalty, while the latter

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129 Moshe Weinfeld, “ברית *barîth*,” in *Theological Dictionary of the Old Testament*, Vol. II, eds. G. Johannes Botterweck and Helmer Ringgren, trans. John T. Willis (Grand Rapids: 1977), 258-260; E. Kutsch, “ברית obligation,” in *Theological Lexicon of the Old Testament*, eds. Ernst Jenni, Claus Westermann, trans. Mark. E. Biddle (Peabody: Hendrickson, 1997) 258-260; Stackert, “Distinguishing Innerbiblical Exegesis from Pentateuchal Redaction,” 377-380.

130 Cf. Bikerman, *AHDO* 5 (1950/51) 153-154; Mendenhall, *BA* 17 (1954); Baltzer, *The Covenant Formulary* (1971).

131 For references, see n. 1 in section 1.1, “History of Research.”

contains numerous curses for disobedience to divine stipulations. In both of these chapters, there are similarities with material found exclusively in EST that are unlikely to be coincidental.<sup>132</sup>

If the term “covenant” (ברית) denotes “duty, obligation,” this would account for its multifaceted use by biblical writers. It would also help to explain why a Neo-Assyrian *adê*-document was utilized as a source by the Deuteronomic writers. The term *adê* appears to have possessed a meaning similar to “covenant” (ברית), and was likely the closest terminological analogue within the Neo-Assyrian lexicon.<sup>133</sup> A prestigious *adê*-document, such as EST, would have been especially attractive as a model for the composition of a “covenantal” text by biblical writers.<sup>134</sup> Both kinds of texts detail duties and obligations, which are generally imposed or guaranteed by deities. The precise definition of *adê*, however, is much debated as well. It is frequently translated as “treaty” or “loyalty oath.” Neither of these translations, however, accurately conveys its meaning, which Jacob Lauinger has discerned as “duty, destiny.”<sup>135</sup>

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132 Parallels between Deuteronomy 13\* and EST have already been discussed in section 2.2 (“The Literary Relationship Between Deuteronomy 13 and 17”) of the present work. The strong literary similarities between Deuteronomy 28\* and EST, meanwhile, are treated in section 3.2 (“Deuteronomy 28:20-44 and Esarhaddon's Succession Treaty”) of the subsequent chapter.

133 Etymological investigation has yielded two candidates for words in Akkadian that may share the same Semitic root as Hebrew ברית. The Akkadian term *biritu*, which may be translated as “fetter” (CAD B [19] 252-255), has been suggested to reflect the same root on the grounds that a “covenant” is binding like a fetter. Alternatively, the Akkadian preposition *birīt*, meaning “between” (CAD B [1965] 249-252) has been suggested to be etymologically connected with the Hebrew term in view of the concept of covenant as agreement between two persons or groups. Cf. Weinfeld, “ברית *berîth*” *TDOT II* (1977) 266-269; James Barr, “Some Semantic Notes on the Covenant,” in *Bible and Interpretation*, Vol. II (Oxford: Oxford University Press, 2013), ed. John Barton, 174-176. Neither of these proposals has decisive evidence in its favor. The precise meaning of the Hebrew word, moreover, would by no means be clarified if it were indeed possible to confirm the validity of either suggestion. For it is always possible that the same verbal root in Hebrew took on a different nuance of meaning from that attested in Akkadian.

134 Cf. Levinson and Stackert, *JAJ* 3 (2012) 128, 138, 140; some references concerning the concept a “prestige language” or “prestige borrowing” can be found as well in n. 87 in section 1.2, “Approach of the Present Study.”

135 Lauinger, *ZAR* 19 (2013).

It is understandable that *adê* is often translated as “treaty” or “loyalty oath” in view of the contexts in which the term has attracted the greatest attention from scholars. These are principally Neo-Assyrian political texts, most notably “Esarhaddon's Succession Treaty” (EST), also known as the “Vassal-Treaties of Esarhaddon” (VTE), alongside the Old Aramaic texts comprising the Sefire treaties. These texts are self-designated as *adê*-documents,<sup>136</sup> and establish the conditions by which political relationships between distinct figures and groups must be maintained. In the earliest discovered exemplars of EST, the rulers of Median city-states accept Esarhaddon as king of Assyria and are obligated to defend his kingship.<sup>137</sup> In the Sefire treaties, meanwhile, it is the ruler of territory within Syria, Mati'el, who is subjugated to an otherwise unknown figure, Bar-Ga'yah, who may have been an Assyrian potentate.<sup>138</sup> Since these particular exemplars of *adê*-texts record political arrangements, in which certain rulers are ostensibly subordinated to others, it would seem natural to translate *adê* as “treaty” or “loyalty oath.” When one examines other literary contexts in which this Akkadian term is attested, however, it soon becomes clear that neither of these translations is sensible in particular instances of usage.<sup>139</sup>

In the context of EST, decisive proof that the translation of *adê* as “treaty” must be inaccurate has been afforded by the exemplar discovered at Tell Tayinat.<sup>140</sup> This site was a provincial capital within the Syrian territory of the Neo-Assyrian empire during the seventh century BCE. In the version of EST addressed to its inhabitants, persons already formally

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136 Sefire I A:1, II B:2, III:4; EST I. 1.

137 Wiseman, *Iraq* 20 (1958).

138 For a summary of opposing views as to the identify of Bar-Ga'yah and the land of KTK, see Fitzmyer, *The Aramaic Inscriptions* (1967) 127-135.

139 Cf. Parpola, “Neo-Assyrian Treaties from the Royal Archives at Niniveh” (1987) 180-182; cf. Noel Weeks, *Admonition Admonition and Curse: The Ancient Near Eastern Treaty/Covenant Form as a Problem in Inter-Cultural Relationships* (New York: T&T Clark International, 2004) 38.

140 Lauinger, *JCS* 64 (2012).

incorporated into the Neo-Assyrian empire are obligated to abide with its prescriptions. These officials and professionals, as in other exemplars of EST, are addressed at the beginning:

<b>Table 2.11 - EST Tell Tayinat Exemplar (obv. I ll. 1-13*)</b>	
<u>Translation</u>	<u>Akkadian Text</u>
<p>“The <i>adê</i> of Esarhaddon... with the governor of Kunalia, with the deputy, the majordomo, the scribes, the chariot drivers, the third men of the chariot, the village managers, the information officers, the prefects, the cohort commanders, the chariot owners, the cavalrymen, the exempt, the outriders, the specialists, the sh[ield-bearers (?)], the craftsmen, (and) with [all] the men [of his hands], great and small—as many as there [are wi]th them.”<sup>141</sup></p>	<p><i>adê ša Aššur-aḫu-iddina... isse bēl pīḫāti Kunalia isse šanê isse rabê ekalli ṭupšarrī mukillī appāti rabê alāni mutīr ṭēme šaknī rabê kišrī bēlī mugerrī bēlī pēḫallāti zakkē kallab[ā]ni [u]mmānī a[rītī] kitkittī isse šābī [qātīšu gabbu] šeḫer rabi mal ba[šū iss]ešunu</i></p>
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>1</sup><i>a-de-e ša Aš-šur-PAP-AŠ...</i> <sup>3</sup>TA <sup>lú</sup>EN.NAM KUR <i>ku-na-li-a</i> <sup>4</sup>TA <sup>lú</sup>2-e <sup>lú</sup>GAL É <sup>5</sup>lúA.BA.MEŠ <sup>lú</sup>DIB.PA.MEŠ <sup>lú</sup>3.U<sub>5</sub>.MEŠ <sup>6</sup>lúGAL URU.MEŠ <sup>lú</sup><i>mu-tir ṭè-me</i> <sup>7</sup>lúGAR-nu.MEŠ <sup>lú</sup>GAL-ki-šir.MEŠ <sup>8</sup>lúEN <sup>gīš</sup>GIGIR.MEŠ <sup>lú</sup>EN <i>pet-hal-la-ti</i> <sup>9</sup>lúzak-ku-e <sup>lú</sup><i>kal-la-b[a]-ni</i> <sup>10</sup>lú[u]m-ma-a-ni <sup>lú</sup>a-[ri-ti] <sup>11</sup>lúkit-ki-tu-u TA <sup>lú</sup>ÉRIN.MEŠ [ŠU.II-šú <i>gab-bu</i>] <sup>12</sup>TUR u GAL <i>mal ba-[šú-u]</i> <sup>13</sup>[is-s]e-šú-nu</p>	

This exemplar, which was discovered *in situ*, shows that Neo-Assyrian subjects ranking from the “governor” (<sup>lú</sup>EN.NAM) down to “[all] the men [of his hands] great and small” (<sup>lú</sup>ÉRIN.MEŠ

141 My translations of the terms for the Neo-Assyrian officials here accord with those of Lauinger (*JCS* 64 [2012] 112), who published this passage and provided feedback on this study.

[ŠU.II-šú *gab-bu*] TUR *u* GAL) were required to accept the terms of this *adê*-document.<sup>142</sup> The imposition of EST's conditions on Neo-Assyrian subjects is evidence that *adê*-texts were not produced exclusively as “treaties.” For these are generally understood as arrangements between distinct polities. In the Tell Tayinat exemplar, persons already obliged to be loyal to the Neo-Assyrian empire are directly addressed. Functionally, the word *adê* may designate a “treaty” in EST exemplars that articulate the obligations of foreign subjects to Neo-Assyrian kings. The true meaning of the term, however, cannot be generalized from these particular attestations.

Evidence afforded by the Tell Tayinat exemplar, though, might upon first glance reinforce the suggestion that *adê* denotes “loyalty oath” rather than “treaty” in the context of EST. For there is no reason an oath could not be imposed upon internal subjects as well as foreign vassals. Scholars who favor this translation of the term point to its attestation in conjunction with *māmītu*,<sup>143</sup> which is understood to designate a kind of “oath.”<sup>144</sup> *Adê* is also attested as the direct object of an Akkadian verb that means “to swear (an oath)” (*tamû*).<sup>145</sup> The stipulations found in Neo-Assyrian *adê*-documents, according to this understanding of the term, are the sworn conditions of obedience to a sovereign figure. There are instances in other texts, however, where this cannot be the correct sense of the term and another translation is clearly required.

This has been persuasively argued by Jacob Lauinger, who has re-examined attestations of the term *adê* in light of the exemplar of EST discovered at Tell Tayinat.<sup>146</sup> He marshals an

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142 Lauinger (*JCS* 64 [2012] 113-114) makes the interesting observation that the “governor” (*bēl pīḫāti*) in the Tell Tayinat exemplar is unnamed. This may reflect the reality that the person in this role could readily change. The Median rulers in other exemplars, by contrast, are named. That his descendants likewise go unmentioned may reflect the non-hereditary nature of his role.

143 Cf. Korošec, *Hethitische Staatsverträge* (1931) 26; Weinfeld, *Deuteronomy* (1972) 67; Koch, *Vertrag, Treueid, und Bund* (1998) 98-99.

144 CAD M/1 (1977) 189-195.

145 Lauinger, *ZAR* 19 (2013) 105; CAD (2006) 159-168.

146 Lauinger, *ZAR* 19 (2013).

impressive array of evidence that some *adê* documents were put under seal by Neo-Assyrian rulers as a transformative act, by which they became “tablets of destiny” (*tuppê adê*).<sup>147</sup> These documents, circumstantial evidence suggests, may have played a role in the enthronement celebration constituting the *akītu* festival.<sup>148</sup> Lauinger does not dispute the claim that particular material in *adê*-documents comprised the content of an oath. He correctly points out, however, that this does not establish that “loyalty oath” is an accurate translation of *adê*. “The act of swearing an oath,” Lauinger observes, “was one element of the larger practice of establishing an *adê*... the oath could stand by synecdoche for that practice, but in principle, *adê* is not synonymous with 'oath.' ”.<sup>149</sup> “Duty,” in his view, is the correct translation in some contexts. He notes Durand's suggestion<sup>150</sup> that the earlier attested and homophonous Akkadian term *adû*, meaning “work assignment, duty,”<sup>151</sup> is plausibly connected with the Neo-Assyrian term *adê*.<sup>152</sup>

There is certainly, at any rate, an etymological relationship between the Neo-Assyrian term *adê* and the Aramaic term *'adê* ( *'dy* ). The chief obstacle to the view that these terms are cognates is that the Aramaic word begins with the letter *ayin* ( *'* ) rather than *aleph* ( *'* ). A connection between these words can be established, however, if the term was somehow borrowed from Aramaic into Akkadian. For it is plausible that the phoneme represented by *ayin*

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147 It is expected that those sworn to uphold an *adê* will do so. If these individuals fail to comply with the stipulations of an *adê*-document, they will in turn suffer the prescribed consequences. In this manner, these documents determine their ultimate fate. “Destiny” is therefore an appropriate translation of the term in the context of the phrase *tuppê adê*. Cf. Lauinger, “The Neo-Assyrian *adê*: Treaty, Oath, or Something Else?” (2013) 110-112, 114-115.

148 Ibid., 110-115.

149 Ibid., 107.

150 J.-M. Durand, “Précurseurs syriens aux protocoles néo-assyriens: considérations sur la vie politique aux Bords-de-l'Euphrate,” in *Marchands, diplomates, et empereurs: Études sur la civilisation mésopotamienne offertes à Paul Garelli*, eds. D. Charin and F. Joannès (Paris: Editions Recherche sur les Civilisations, 1991) 70.

151 Cf. CAD A/1 (1964) 135-136.

152 Lauinger, *ZAR* 19 (2013) 100, 115.

(ʕ) would not be reflected in cuneiform script, since no corresponding articulation existed in Akkadian. It is difficult to explain, by contrast, how borrowing occurred in the opposite direction. The phoneme represented by *aleph* (ʾ) in Akkadian is capable of being represented in Aramaic script by *aleph* (א). Divergence in their representation cannot be explained by their common descent from a proto-Semitic phoneme, since the *a*-class vowel in the Akkadian term should have been colored to an *e*-class.<sup>153</sup> In view of such observations, it is generally supposed that the Aramaic term must have been loaned into the Neo-Assyrian dialect of Akkadian.<sup>154</sup>

This proposal is supported by the observation that the term *adê* is not attested until the first millennium B.C.E., when the Neo-Assyrian empire began to expand westward and come into increased contact with Levantine powers.<sup>155</sup> Neo-Assyrian scribes plausibly employed the term, initially at least, as a helpful means of subjugating peoples by means of their terminology. This does not truly establish, however, that no linguistic connection exists between the similar terms *adû* (“work assignment, duty”) and *adê*. The Aramaic term might have been appropriated by Neo-Assyrian scribes because it aurally and semantically resembled the more familiar Akkadian term *adû*. This would account for a cluster of semantically similar, but etymologically

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153 Kaufman, *The Akkadian Influences* (1974) 33, 142; Cf. Fitzmyer, *The Aramaic Inscriptions* (1967) 24; John Huehnergard, *A Grammar of Akkadian* (Winona Lake: Eisenbrauns, 2005) 586-594.

154 For further references and discussion of this point, see Dennis Pardee, review of John C. L. Gibson's *Textbook of Syrian Semitic Inscriptions. Vol 2. Aramaic Inscriptions, Including Inscriptions in the Dialect of Zincirli*, *JNES* 37 (1978) 196; Hayim Tadmor, *Humanizing America's Iconic Book* (1980) 142-149; Koch, *Vetrag, Treueid, und Bund* (1998) 97-102.

155 J. A. Brinkman (“Political Covenants, Treaties, and Loyalty Oaths in Babylonia and between Babylonia and Assyria,” in *I trattati nel mondo antico. Forma ideologia funzione*), eds. L. Canfora, M. Liverani and C. Zaccagnini [Rome: “L'Erma” di Bretschneider, 1999], pp. 82-83) comments that “this picture may not be correct if an apparent attestation of *adê* some five centuries earlier in a damaged passage of the Tukulti-Ninurta Epic should be verified; but this is at present an isolated and not incontrovertible witness.” In light of the linguistic evidence and political contact between the Middle-Assyrian empire and Levantine polities, however, such an early attestation of the term *adê* would not preclude the possibility of West Semitic borrowing.



distinct terms across Semitic languages—Aramaic *'adê* ( *'dy* ) alongside Akkadian *adû* and *adê*.

If the term *adê* is best understood as “duty,” it makes sense that an *adê*-document was chosen as the model for composition of a legal collection comprising a “covenant” (ברית). For the meaning of this Akkadian term would closely correspond to that of the Hebrew term, which it has been observed probably means “duty, obligation.” The words “duty” and “obligation” convey social propriety and a requirement for action. It is logical, moreover, that the composers of Deuteronomy looked to an *adê*-document for literary inspiration because the motivations underlying its composition were similar to their own.<sup>156</sup> Both texts were written to induce obedience to a set of terms, with divine retribution as a penalty for disobedience. EST in particular may have been employed as a literary source by biblical writers because it was a prestigious text.<sup>157</sup> Numerous copies of it were deposited throughout the ancient Near East.<sup>158</sup>

The use of a Neo-Assyrian *adê*-document as a literary source by the composers of Deuteronomy is perfectly explicable in view of the comparative evidence. It has already been

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<sup>156</sup> Although it is impossible to trace a direct literary connection between the Hittite treaty tradition and the book of Deuteronomy, it is worth noting that a term closely analogous to the meaning of Hebrew ברית and Neo-Assyrian *adê* is attested in the Hittite language. The Hittite noun *išhiul-*, which is clearly related to the verb *išhiya-*, *išhai-* meaning “to bind” or “impose upon,” is variously translated as “binding,” “obligation,” injunction,” “statute,” “treaty,” “obligation,” “duty,” and “regulation.” Cf. Jaan Puhvel, *Hittite Etymological Dictionary*, Vol. 2 (New York: Mouton, 1984) 398–403; Ada Taggar-Cohen, “Covenant Priesthood: Cross-cultural Legal and Religious Aspects of Biblical and Hittite Priesthood,” eds. M. Leuchter and J. M. Hutton (Atlanta: Society of Biblical Literature, 2011) 14. The Akkadian term *riksu*, meaning “bond” and sometimes “contract” (CAD R [1999] 347-355) was contemporaneously employed to translate this Hittite term. This does not prove, however, that *riksu* more closely approximates its meaning than *adê*, since the latter was not attested until centuries after the production of Hittite texts, possibly as a West Semitic loan word. Cf. M. Weinfeld, “Covenant Terminology in the Ancient Near East and Its Influence on the West Author(s),” *JAOS* 93 (1973) 190-199.

<sup>157</sup> Cf. Dixon, *The Rise and Fall of Languages* (1997) 79-85; Campbell, *Historical Linguistics* (1998), 58-59; 79-85; Sairio and Palander-Collin, *The Handbook* (2012) 626-638; Wright, *Inventing God's Law* (2009) 349-351.

<sup>158</sup> Evidence for this is discussed in section 4.1 of the present study, “The EST Exemplar at Tell Tayinat.” It is possible that one or more copies of EST were distributed in ancient Judah.

demonstrated, of course, that there is intriguing evidence that passages in EST were known to the composers of Deuteronomy 13\*. The case for a direct literary connection, however, proves considerably stronger when one examines evidence that EST also influenced the composition of curses in Deut 28:20-44. Altogether, evidence suggests that this particular Neo-Assyrian text was known to the writer(s) of an Iron Age version of Deuteronomy. Proof that the curses in EST influenced the composition of Deuteronomy 28 is presented in the next chapter of this study.

## CHAPTER 3: DEUTERONOMY 27 AND 28

### 3.1 – The Blessings and Curses in Deuteronomy 27 and 28

#### *The Literary Units of Deut 27:11-26 and 28:1-68*

Deuteronomy 27 and 28 largely consist of blessings and curses, which are intended to induce obedience to the Deuteronomic laws. From a synchronic as well as a diachronic perspective, there are numerous difficulties in discerning the literary connection between these blessings and curses. Fortunately, this material divides quite well on the basis of form and content into six distinct units: Deut 27:15-26 (curses), Deut 28:1-6 (blessings), Deut 28:7-15 (blessings), Deut 28:15-19 (curses), Deut 28:20-44 (curses), and Deut 28:45-68 (curses). The unique features of these units, and the significance of their placement within the compositional structure of Deuteronomy 27-28, will be treated below. It is difficult to read these chapters as a coherent text. The narrative and stylistic problems within them, however, can ultimately be resolved by recognizing that this biblical material must have been written by multiple authors.<sup>1</sup>

The first group of curses (Deut 27:15-26) in Deut 27-28 is supposed to be uttered by the Levites during a ceremony at Mount Gerezim and Mount Ebal (Deut 27:11-14). It consists of twelve declarations that individuals are “accursed” (אָרֹר) for illicit actions, such as making an

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<sup>1</sup> As a general rule, diachronic proposals regarding the literary development of a text should focus on addressing the most serious problems posed by its synchronic reading as a narrative whole, rather than supposed inconsistencies in style. This approach has recently been applied broadly in the context of Pentateuchal analysis by advocates of the “Neo-Documentarian” school. Cf. Joel S. Baden, *The Composition of the Pentateuch: Renewing the Documentary Hypothesis* (New Haven: Yale University Press, 2012) 13-33; cf. Jeffrey Stackert, *A Prophet Like Moses: Prophecy, Law, and Israelite Religion* (Oxford: Oxford University Press, 2014) 19-22.

idol (Deut 27:15), or having sexual relations with a family member (Deut 27:20, 22-23). Each pronouncement is supposed to receive a statement of affirmation, “Amen” (אמן), from the Israelites attending the ceremony. The verses comprising Deut 27:15-26 are thus remarkably uniform in their literary formulation. There is a stylistic inconsistency, however, towards the beginning (Deut 27:15) and end (Deut 27:26) of the curse list. Whereas the subject of the passive participle “accursed” (ארור) is always an active participle in the central section (Deut 17:16-25) of the passage, the noun “man” (איש) is the subject of ארור in Deut 27:15, and implicitly the relative clause (“who does not affirm”; אשר לא־יִקִּים) in Deut 27:26. These two verses alone, it may be noted, contain relative clauses. There is also an explanatory clause, “for he has uncovered the hem of his father” (כי גלה כנף אביו), in Deut 27:20 that is without parallel elsewhere in this passage. Deut 27:15-26 is otherwise a rigidly formulated and stylistically consistent literary unit, which clearly stands apart from the surrounding material in the biblical book.

The presentation of curse material in the subsequent biblical passage (Deut 28:1-6), however, creates difficulties for a synchronic reading of Deuteronomy 27-28. The curses in Deut 27:15-26 are pronounced collectively by the Levites (Deut 27:14), but those in Deuteronomy 28 are ostensibly uttered by an individual speaker. The prefaces to the blessing and curse sections in the latter are phrased as first-person speech: “If you indeed listen to the voice of YHWH, your god, by observing all his commandments that *I am commanding you* (אנוכי מצוֹר) today... then all these blessings will come upon you and overtake you” (Deut 28:1-2; cf. Deut 28:15). It is possible, however, to envision each Levite as speaking in the singular during the ceremony that is supposed to take place at Mount Ebal and Mount Gerezim.<sup>2</sup> Alternatively, it may be that Deut

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2 Deut 27:1 and Deut 27:9 indicate that the subsequent speeches are to be delivered by Moses and other persons. In the former, it is “Moses and the elders of Israel” (משה וזקני ישראל), while in the latter it is “Moses and the Levitical priests” (משה והכהנים הלויים). Yet Deut 27:1 and

28:1-2 breaks from the description of the Levitical ritual described in the preceding chapter (Deut 27:14-26). Moses might be envisioned here as issuing a series of blessings and cursing on the Israelites before their entry into Canaan. This is problematic, however, since the ceremony described in Deut 27:12-13 features the Levites “bless(ing)” (לברך; Deut 27:12) and “cursing” (הקללה; Deut 27:13). If the description of the ritual to be performed at Mount Ebal and Mount Gerizim ends in Deuteronomy 27, who should pronounce the otherwise undescribed “bless(ing)” is unclear.<sup>3</sup> A final possibility is that the first-person comments in Deut 27:11-28:44\* are the asides of Moses, who otherwise provides the exact wording of a future speech by the Levites.

The first distinct blessing unit within Deuteronomy 27-28 is Deut 28:3-6. The blessings here emphasize the potential for material prosperity (Deut 28:4-5), and universality with respect to place (Deut 28:3) and action (Deut 28:6). Much like the curses of Deut 27:15-26, these blessings are consistently formulated with a passive participle (ברוך) at their beginning. The fulfillment of these blessings, however, is dependent on obedience to the Deuteronomic Code (Deut 28:1-2). Disobedience has the opposite consequences. The curses in Deut 28:16-19 obviously parallel the blessings in Deut 28:3-6 *verbatim*, except for the change of the participle “blessed” (ברוך) to “cursed” (ארור). Both passages, moreover, are prefaced with identically-worded sections (Deut 28:1-2, 28:15) that serve as introductions to the larger blessing and curse sections of Deuteronomy 28. Deut 28:1-6 and Deut 28:15-19 thus comprise a literary diptych.

The blessings in Deut 28:7-14, meanwhile, are distinct in their literary form. They do not

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27:10 then contain a virtually identical phrase with a verbal form in first person, which suggests that an individual is speaking (“which I am commanding you”; אשר אנכי מצוה אתכם/מצוך היום).

<sup>3</sup> The lack of a set of blessings corresponding to the curses in Deut 28:14-26 was perceived as problematic by the composers of material included in the *Community Rule* (1QS), who regarded an adaption of the “Priestly Blessing” (Num 6:24-26) as its literary parallel. Cf. Steven D. Fraade, *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarians and Sages* (Leiden: Brill, 2011) 98-102.

begin with a passage participle, but rather a finite verb with YHWH as its subject (יקטל יהוה).<sup>4</sup>

Only one of these verbal forms is unmistakably jussive (יצו; Deut 28:8).<sup>5</sup> Others are clearly indicative or ambiguous with respect to verbal mood. One can divide the blessing and curse sections in Deuteronomy 27-28 on the basis of opening verbal forms into six literary units:

<b>Table 3.1 - Blessing and Curse Sections in Deuteronomy 27 and 28</b>		
<u>VERSES</u>	<u>CONTENT</u>	<u>FORM</u>
Deut 27:15-26	Curses	“Accursed is...” ... ארור
Deut 28:1-6	Blessings	“Blessed will be...” ... ברוך
Deut 28:7-14	Blessings	“May YHWH...” or “YHWH will...” ... יקטל יהוה...
Deut 28:15-19	Curses	“Cursed will be...” ... ארור
Deut 28:20-44	Curses	“May YHWH...”

4 The verbal root ק.ט.ל is employed here and in the following chart, “Blessings and Curse Sections in Deuteronomy 27 and 28,” as a paradigmatic verb to help indicate verbal aspect.

5 The Samaritan Pentateuch shows יצוה, but the weight of other textual evidence speaks strongly against the originality of this reading. Cf. Steymans, *Deuteronomium 28* (1995) 363.

Table 3.1 (Continued)

		or “YHWH will...” ...יקטל יהוה... + Mixed Forms
Deut 28:45-68	Curses	Mixed Forms

The blessings and curses in Deuteronomy 27\* and 28\* are thus formulated in distinct fashions, and each unit possesses unique characteristics. From Deut 28:15 onward, it will be shown, material in the latter chapter consists of curses whose contents display significant literary parallels with EST. Understanding how these sections relate to one another on a literary level is important for understanding the role that treaty texts played in their compositional process.

Deut 28:45 demarcates the beginning of a new section in Deuteronomy 27-28, while Deut 28:45-68 as a whole is literarily distinct from the preceding material in Deut 28:20-44 for two reasons. First, Deut 28:45 was clearly written to introduce a summary conclusion to the preceding curse material: “All of these curses will come upon you—they will pursue you, and overtake you, until you are destroyed. For you did not listen to the voice of YHWH, your God, by keeping his commandments and statutes, which he commanded” (ובאו עליך כל־הקללות האלה ורדדוך) (Deut 28:45). Second, some scholars understand this verse as a predication, with historical foreknowledge, that the Israelites will fail to uphold the Deuteronomy laws and suffer the consequences.<sup>6</sup> Deut 28:46-68 largely details the exile of the Israelites as a punishment, culminating in an ironic reversal of the

<sup>6</sup> Cf. Steymans, *Deuteronomium* 28 (1995) 227.

exodus—YHWH will bring the Israelites back to Egypt, where they will be sold as slaves to the Egyptians (Deut 28:68). Although the description of exile as a punishment does not prove that these curses were written in the aftermath of a historical experience of exile,<sup>7</sup> the stress on this theme at the conclusion of Deuteronomy 28\* is extraordinary. It is tempting to treat this observation as circumstantial evidence that the curses in Deut 28:46-68 were written to explain the real exile of the Israelites or Judeans as the result of disobedience to the Deuteronomic Code.

### ***Editorial History of Deut 27:14-28:68***

The blessings and curses in Deut 27:14-28:68 can readily be grouped into six distinct literary units (Deut 27:15-26; 28:1-6, 7-14, 15-19, 20-44, 45-68), but it is extremely difficult to understand the relationship between them from a synchronic perspective. Are the curses in Deuteronomy 28 uttered by the Levites? Do the curses in Deut 28:45-68 display authorial foreknowledge that the Israelites will be exiled, and will all of the curses in Deuteronomy 27-28 be realized? The answers to these questions must be sought in the context of a diachronic study of these chapters. It can be shown that the units comprising Deuteronomy 27-28\* were composed at different times by multiple writers, since this alone accounts for the inconsistencies in form, content, and style that are observed when they are read together as a literary whole.

There is literary tension between Deut 27:12-13 and 27:14 that strongly suggests these verses were written by different authors. The former seems to envision a future scene in which

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<sup>7</sup> Exile is featured in other ancient Near Eastern curse texts as an act of divine retribution, so its inclusion as a punishment here is not decisive evidence that the exile of the Israelites or Judeans was a historical reality from the perspective of the author. Cf. Martien A. Halvorson-Taylor, *Enduring Exile: The Metaphorization of Exile in the Hebrew Bible* (Leiden: Brill, 2011) 22-38. If Deut 28:46-68 was written in view of an experience of exile, it should be noted, these verses may allude to the exile of the Northern tribes without any awareness of the Judean exile.



the Levites are positioned by Mount Gerizim together with five other Israelite tribes (Deut 17:12), while the remaining six tribes are stationed by Mount Ebal (Deut 27:13). Yet in the subsequent verse, it is the Levites who pronounce the curses in Deut 27:15-26 “to all of the men of Israel” (אֵל כָּל־אִישׁ יִשְׂרָאֵל; Deut 27:14). If the Levities are positioned on the opposite side of the valley of Shechem, on Mount Ebal, then it is improbable that their speech would be heard by Israelites more than a mile away at Mount Gerezim. Even if the Levites cry out with “a loud voice” (קוֹל רָם; Deut 27:14b), the scene is wholly unrealistic. The author of Deut 27:14-26 perhaps envisions a scene in which the Levites are arrayed before all of the Israelite tribes assembled together. Since there is clear evidence that other biblical passages (Deut 27:4-8, Josh 8:30-35) which describe a ceremony at Mount Ebal and Mount Gerezim were secondarily added,<sup>8</sup> it is reasonable to explore the possibility that Deut 27:12-13 may be secondary as well.

Deut 27:14-26 does not fit well into its larger context, so there are immediate grounds for suspecting that this passage is an addition to the biblical book. The abrupt transition from the collective speech of Levites in Deut 27:15-26 to the blessings and curses in Deuteronomy 28, which are presented as first-person speech (Deut 28:1, 15),<sup>9</sup> may indicate that it was written by a different hand. One might attribute this incongruity to literary inelegance on the part of a Deuteronomic writer, but there is a stronger reason to discern this passage as a literary supplement. Few of the actions for which one is “accursed” (אָרוּר) in Deut 27:15-26 are forbidden within the Deuteronomic Code (Deut 12-26),<sup>10</sup> and most are not mentioned at all. With

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8 This is discussed in more detail in a subsection of 4.2, “Deut 27:1-13 as a Literary Source for Josh 8:30-35.” Where the covenant ceremony envisioned by the writers of Deuteronomy 27 is supposed to take place has important implications for understanding the ideological aims and literary provenance of the Deuteronomic Code. The deletion of Deut 27:12-13, it should be noted, would not resolve all of the problems posed by a synchronic reading of Deuteronomy 27.

9 Cf. n. 295 in the present work.

10 Cf. Deut 23:1.

regard to topics omitted in the latter, especially those concerning sexual impropriety (Deut 27:20-23), there are correspondences in the Holiness Code (Lev 17-26\*),<sup>11</sup> which was probably written after the Deuteronomistic Code in the hope of supplanting it.<sup>12</sup> This further suggests that Deut 27:15-26 was not written as part of the Deuteronomistic Code, but was most plausibly incorporated as a supplement. The removal of Deut 27:14-26 presents no problems for a straightforward reading of the Deuteronomistic text. The curses in Deut 28:1-68\* could have immediately followed Deut 26:19 or 27:9-10. Both possibilities have long been noted by those who view material in Deuteronomy 27 as interrupting the narrative flow of the biblical book.<sup>13</sup>

The relationship between the literary units in Deuteronomy 28 (vv. 1-6, 7-14, 15-19, 20-44, 45-69) is complicated as well, and material here likewise cannot easily be attributed to the hand of a single author. The parallel content of Deut 28:1-6 and 15-19, which is treated in the preceding section of the present study,<sup>14</sup> might indeed be part of the same compositional layer. It is possible that a writer of Deuteronomy chose to construct a literary diptych by deliberately duplicating particular expressions in an earlier series of curses and blessings. That the curses in Deuteronomy 27-28 far outnumber the blessings does not establish that there is literary discontinuity between these chapters. This unequal distribution of blessings and curses is paralleled elsewhere within ancient Near Eastern texts.<sup>15</sup> It is the significant literary tension between passages in these chapters that points to the likelihood of independent authorship.

Deut 28:7-14 and 28:20-44 are similar in certain respects, but the differences between

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11 Cf. Lev 18:6-30, 20:10-23.

12 Stackert, *Rewriting the Torah* (2007).

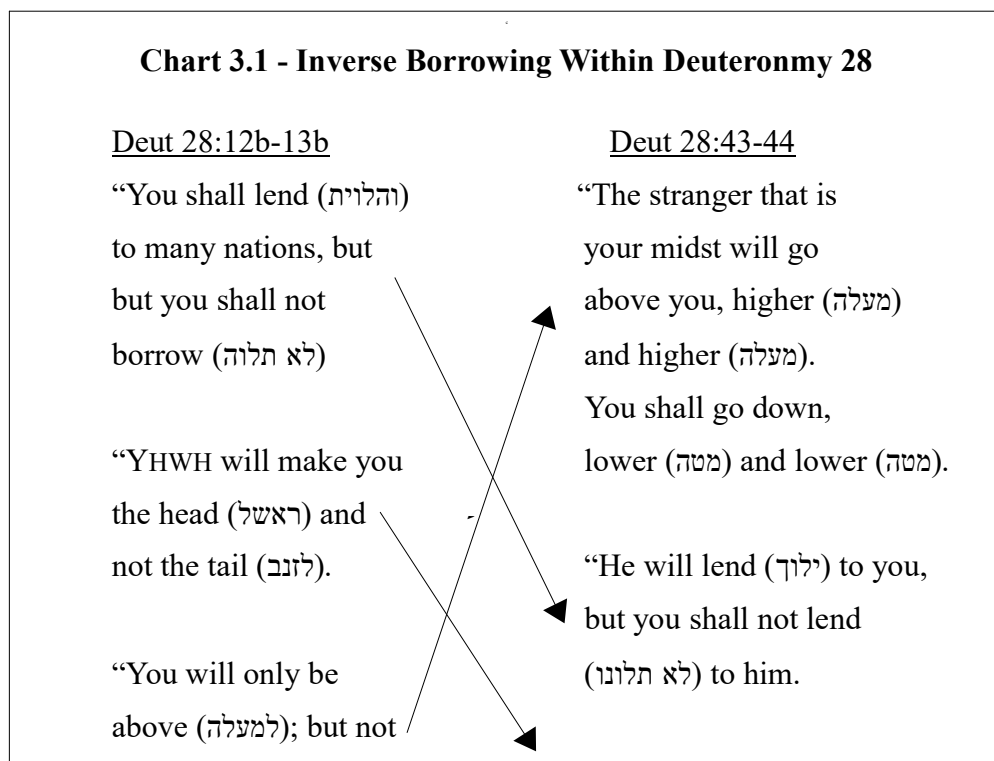
13 Cf. Driver, *Deuteronomy* (1896) 297-298; Nicholson, *Deuteronomy* (1967) 21, 34; Nelson, *Deuteronomy* (2002) 315, 327.

14 See the subsection of 3.1, "The Literary Units of Deut 27:11-26 and 28:1-68."

15 Victor P. Hamilton, *Handbook on the Pentateuch* (Baker Academic: Grand Rapids, 1982) 445.

them suggest that one of the passages was directly based on the other. Some phrases and expressions are clearly duplicated in them (cf. Deut 28:7/28:25; Deut 28:12b-13b/28:43-44), but most of the material is wholly dissimilar. Both of these passages, however, regularly display third-person verbs in the indicative or jussive moods (יקטל) with “YHWH” (יהוה) as the subject. The possibility that Deut 28:7-15\* and 28:20-44\* were written by the same person cannot be immediately excluded. It is more plausible, however, that the similarities between them are the result of a deliberate effort at literary harmonization, rather than shared authorship. They were also probably written, it will be shown, before the composition of Deut 28:45-68.

The literary elements shared between Deut 28:12b-13b and 28:43-44 occur in the inverted pattern that is characteristic of inner-biblical borrowing. Although the phrasing here is not identical, many of the same lexemes (מטה, מעלה, זנב, ראש, ל.ו.ה) are attested in both passages. This strongly suggests that one section represents a creative adaption of material in the other:



*Chart 3.1 Continued*

beneath (למטה).”



“He shall be the head (לראש),  
and you will be the tail (לזנב).”

The curses in Deut 28:43-44 are the opposite outcomes of the blessings in Deut 28:12b-13b, although the order of the parallel material in Deut 28:12b-13a/28:44 and 28:13b/28:45 is reversed. It is conceivable that a later editor attempted to harmonize the blessings in Deut 28:7-14 and the curses in Deut 28:20-44 by providing them with parallel conclusions. One must ask, though, why the conclusions to blessings in Deut 28:7-14 and curses in Deut 28:46-69 respectively were not made to resemble each other instead. That Deut 28:7-14 or 28:20-44 underwent an editorial process that is not reflected in Deut 28:45-68 is tantalizing evidence that the former sections are part of a literary stratum distinct from the latter's. It also bolsters the suggestion that the blessings and curses in this chapter originally concluded in Deut 28:44.<sup>16</sup>

That the material in Deut 28:45-68 was secondarily added is suggested by several important observations. The reduplication of the earlier opening formula to the curses (Deut 28:15) within this chapter (Deut 28:45) is wholly unnecessary in its present context. It marks the beginning of a section with material that is otherwise without parallel in preceding passages. There is also a subtle, but highly significant change, observable between the content of these particular verses. Whereas the former warns that particular curses “will occur if you do not listen” (וְהָיָה אִם־לֹא תִשְׁמַע; Deut 28:15) to the Deuteronomic laws, the latter warns that “all of these curses will come upon you... because you did not listen” (וּבָאוּ עֲלֶיךָ כָּל־הַקְּלָלוֹת הָאֵלֶּה... כִּי־לֹא שָׁמַעַתָּ; Deut 28:45). The use of the perfect verb שָׁמַעַתָּ may signal, by contrast, that the relevant

<sup>16</sup> Cf. Steymans, *Deuteronomium* 28 (1995) 377-383.

curses have already come into effect from the perspective of the writer.<sup>17</sup> Since Deut 28:46-68 then emphasizes the punishment of exile (cf. Deut 28:49, 64-65), concluding with the return of the Israelites to Egypt (Deut 28:68),<sup>18</sup> these verses were likely written in allusion to a real exile.

The final verse of Deuteronomy 28 is distinct from the rest of the material in this chapter, since it is written as third-person narration.<sup>19</sup> It can easily be construed as a coda for the Mosaic speech that comprises the bulk of the biblical book (Deut 12-28\*): “These are the words of the covenant, which YHWH commanded Moses to make with the children of Israel in the land of Moab” (אלה דברי הברית אשר־צוה יהוה את־משה לכתת את־בני ישראל בארץ מואב ישרעל; Deut 28:69a). For the preceding words to be understood as the “words of the covenant” (דברי הברית) necessitates an interpretation of this Mosaic discourse as a “covenant” (ברית). It has already been noted that this term occurs only once in the Deuteronomistic Code (Deut 17:2), in the context of a passage discernible as a later addition to the larger composition.<sup>20</sup> It may be that Deut 28:69a is likewise a later editorial comment,<sup>21</sup> although this cannot and need not be proven in the present study.

### 3.2 - Deut 28:20-44 and Esarhaddon's Succession Treaty

#### *Treaties and Curse Traditions in the Ancient Near East*

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17 Ibid., 227.

18 As was noted earlier, the arrival of Israelites in Egypt who are willing to sell themselves as slaves (Deut 28:68) clearly represents an ironic reversal of the exodus from Egypt, within the historical schema of Deuteronomy. That a sizeable contingent of Judeans actually resettled in Egypt in the aftermath of Babylonian conquest, it should be noted, may hint at the historical reality of an emigration from Judea to Egypt in the aftermath of the Judean exile, from the writer's perspective. Cf. Rainer Albertz, *Israel in Exile: The History and Literature of the Sixth Century B.C.E.*, trans. David Green (Atlanta: Society of Biblical Literature, 2003), 96-98.

19 This statement should not be taken to imply that third-person narration is extraordinary

20 See section 2.2, “The Literary Relationship Between Deuteronomy 13 and 17”, in the present study.

21 Cf. Steyrmans, *Deuteronomium 28* (1995) 197-201.

The inclusion of curses in Deuteronomy 27-28, following the laws comprising the Deuteronomic Code (Deut 12-26), is commonly cited as evidence that the biblical book was modeled on the form of a treaty. Curses are attested in all of the well preserved Hittite treaty documents after the listing of treaty stipulations. Neo-Assyrian *adê*-documents, by contrast, seem to have contained curses but never blessings. Curses were probably included in both kinds of documents for the same practical reasons. Deities revered by the partners to the treaty are commonly invoked in these texts, and the gods serve as witnesses and guarantors of the agreement. The violation of treaty provisions is expected to trigger the infliction of the curses associated with them. Treaty participants are thus incentivized to avoid abrogating treaty terms.

That curses are attested towards the end of treaty documents as well as Deuteronomy does not prove, however, that there is a direct literary connection between such documents and the biblical book. Other ancient Near Eastern legal texts, such as the Code of Hammurabi, feature curses towards their conclusion. This legal collection, dating to the mid-eighteenth century B.C.E, contains a lengthy series of stipulations (LH §§1-282; V:26-XLVI:102), and concludes with blessings (LH XLVIII:59-XLIX:17) and curses (LH XLIX:18-LI:91). There are striking similarities between the organization of material in the Covenant Code and the Code of Hammurabi, affording intriguing evidence that biblical writers were familiar with this canonical Akkadian legal text.<sup>22</sup> There is no section in the Code of Hammurabi or any other Mesopotamian

22 Wright, *Inventing God's Law* (2009) 7-16. Wright stresses that although the authors of the Covenant Code often deviate from the thematic order of laws in the Code of Hammurabi, they ultimately always return it. Although the present author regards some of Wright's argumentation as convoluted and highly suspect (cf. Joel S. Baden, review of David P. Wright's *Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi*, RBL [2010]), the overall thesis of his work is strong. The conclusions of this study are by no means dependent on Wright's thesis, but his argument if correct certainly bolsters the suggestion that biblical writers may have borrowed from another widely-circulated cuneiform text such as EST.

text, however, that may be construed as a “historical prologue” paralleling a section that is typically attested at the beginning of Hittites treaties as well as the book of Deuteronomy (Deut 1-11). The favorable treatment of particular deities and their temples by Hammurabi, as described within the Code of Hammurabi (LH I:50-IV:63), is too vague to be construed as a description of actual historical events. It is very difficult, therefore, to construe this Mesopotamian text as the literary antecedent for the composition Deuteronomy 27-28.

There are other literary features that are characteristic of West Semitic compositions, but not Akkadian ones, clearly attested in Deuteronomy 28. Most notable is a curse form that is commonly attested in Deuteronomy and other West Semitic texts, but rarely paralleled in Mesopotamian texts—the so-called “futility curse.”<sup>23</sup> Some examples of this curse form, which is frequently attested in Iron Age texts composed in Hebrew and Aramaic, are cited below:

Table 3.2 - Futility Curses in West Semitic Literature	
<u>Translation</u>	<u>West Semitic Text</u>
“May seven mares suckle a colt, but it not be sa[tis]fied. May seven] cows suckle a calf, but it not be satisified. May seven ewes suckle a lamb, but [it not be satis]fied.”	<i>wšb' ssyh yhyqn 'l w' l yšb[ ' wšb' ] šwrh yhynqn 'gl w' l yšb' wšb' š' n yhynqn 'mr w[ ' l yš]b'</i> (Sefire I A:22-23)
“They will eat, but they will not be satisfied.”	ואכלו ולא יִשְׂבְּעוּ (Hos 4:10α; cf. Lev 26:26, Mic 6:14)
“Houses of hewn stone you have built,	בתי גזית בנייתם ולא־תשבו בם כרמ־י

23 Hillers, *Treaty Curses* (1981) 28-29.

Table 3.2 (Continued)

but you will not dwell in them. Pleasant vineyards you have planted, but you shall not drink their wine.”	חמד נטעתם ולא תשתו את־יֵינֶם (Amos 5:11; cf. Zeph 1:13)
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A “futility curse” consists of an exhortation or statement that accursed persons will, or already have, undertaken a course of action, followed by a declaration that they will ultimately fail to achieve their goal. Deut 28:38-40 consists exclusively of curses that correspond to this format. It is unlikely, therefore, that they were directly modeled on curses in a Mesopotamian treaty text.<sup>24</sup>

There is one instance, however, in which this characteristically West Semitic curse form may have been deliberately reproduced by Akkadian scribes. This particularly striking example of a “futility curse,” which has been highlighted by Steymans,<sup>25</sup> is found in a report from the Neo-Assyrian king, Ashurbanipal, to the god Ashur (RINAP 5 IX).<sup>26</sup> The key elements of a futility curse, in which labor is performed for an unfulfilled expectation, are clearly reflected:

Table 3.3 - Futility Curse in RINAP 5 IX (ll. 65-67 )	
<u>Translation</u>	<u>Normalized Text</u>
“(May) the foal of a camel, the foal of a	<i>bakru suhīru būru hurāpu ina muḥḥi 7</i>

24 The present author argues that the curses in Deut 28:38-40 were directly based on those in Deut 28:26, rather than passages in EST. For detailed discussion, see section 3.3 of this study, “The Chiastic Structure of Deut 28:20-44.”

25 Steymans, *Deuteronomium* 28 (1995) 183.

26 This text has been reconstructed by Manfred Weippert, “Die Kämpfe des assyrischen Königs gegen die Araber: Redaktionskritische Untersuchung des Berichts in Prisma A,” *WO* 7 (1973) 39-85.



Table 3.3 (Continued)

donkey, a calf, (and) a spring lamb suckle on seven suckling females, but milk not satisfy their stomach.”	<i>mušēniqāti ēniqūma šizbu lā ušabbû karassun</i>
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>13</sup>anše <i>ba-ak-ru</i> <sup>anše</sup> <i>su-ḫi-ru</i> <sup>gud</sup> AMAR <sup>udu</sup> NIM <sup>14</sup>ina UGU 7.TA.ÀM <i>mu-še-ni-qa-ti</i> <i>e-ni-qu-u-ma</i> <sup>15</sup>šī-iz-bu la ú-šab-bu-u ka-ras-sún</p>	

Steymans suggests that Neo-Assyrian scribes accommodated the expectations of a West Semitic audience when writing this text. The enemy addressed in the curse was probably a chieftain among the Qedar-tribe, a confederation of Arab peoples. The unexpected presence of this curse form in an Akkadian text circumstantially suggests that Neo-Assyrian scribes were familiar with West Semitic rhetoric, and could reproduce it to increase the literary resonance of their text.<sup>27</sup>

Particular curse forms were employed more regularly than others in parts of the ancient Near East, at any rate, and this must be taken into account in any discussion of the literary relationship between EST and Deuteronomy 28. That the parallel curses in these texts are formulated in different ways can be explained, in light of comparative evidence, as the result of an effort by the composers of Deuteronomy 28 to adapt material in EST for their Israelite audience. This does not mean, though, that Steymans is correct in his claim that Deut 28:20-44 should be construed as a “translation” (*Übersetzung*) of passages in EST. Rather, as will be shown, this Deuteronomic passage is better understood as a creative transformation of its source

<sup>27</sup> Cf. Laura Quick, *Deuteronomy 28 and the Aramaic Curse Tradition* (Oxford: Oxford University Press, 2018) 104-106.

material. The observation that ancient Near Eastern writers composed their texts to accord with the literary expectations of their audience must be taken into account when discussing the possibility that EST directly influenced the composition of Deut 28:20-44\*. This does not mean that every difference between purportedly similar sections in these texts is best explained by literary dependence of the latter on the former as Steymans claims. It will be shown that he overreaches when arguing that there is a literary connection between EST and Deut 28:32-44. The case that other material in this Deuteronomic passage was based on EST is much stronger.

### ***EST as a Literary Source for Deut 28:23-31\****

There is an abundance of literary evidence that EST served as a direct literary model for the curses in Deut 28:23-31. The similarities between the curses in this Neo-Assyrian text and those in this biblical passage have received considerable attention since fragments of the former were published. Even when offering the first translation,<sup>28</sup> Wiseman detected the striking resemblance between material included in EST §§63-64 (ll. 528-533) and Deut 28:23-24:

<b>Table 3.4 - EST §§63-64* and Deut 28:23</b>	
<u>EST ll. 528-532</u>	<u>Deut 28:23</u>
“May [the gods] make your <u>ground</u> like <u>iron</u> so that no one can plow it; just as rain does not fall from a <u>brazen heaven</u> , so may rain and dew not come down upon your fields and meadows.”	“Your <u>heavens</u> over your head will be <u>bronze</u> , and the <u>earth</u> under you will be <u>iron</u> .”

28 Wiseman, *Iraq* 20 (1958) 1-99. Specifically, Wiseman (pp. 26 [n. 201] and 88) noted without much commentary a general similarity between EST ll. 528-530 and Deut 28:23-24.

Table 3.4 (Continued)

<i>qaqqarkunu kī parzilli lēpušū</i> <i>memmēni ina libbi lū lā iparru'a kī ša</i> <i>issu šamā'tī ša šiparri zunnu lā</i> <i>izannunūni kī ḥanni'e zunnu nalšu ana</i> <i>libbi eqlātikunu tamerātikunu lū lā</i> <i>illak</i>	והיו שמך על ראשך נחשת ואשר והארץ אשר תחתך ברזל
Akkadian Transliteration: <sup>528</sup> <i>qaq-qar-ku-nu ki-i AN.BAR le-pu-šu me-me-ni</i> <sup>529</sup> <i>ina lib-bi lu i-par-ru-'a</i> <sup>530</sup> <i>ki-i šá TA ŠÀ AN-e šá UD.KA.BAR A.AN la i-za-nun-u-ni</i> <sup>531</sup> <i>ki-i ḥa-an-</i> <i>ni-e zu-un-nu na-al-šú ina ŠÀ A.ŠÀ.MEŠ-ku-nu</i> <sup>532</sup> <i>ta-me-ra-ti-ku-nu lu la</i> <i>il-lak</i>	

Both describe a punitive transformation of the “heavens” (AN/שמים; EST l. 530/Deut 28:23) into “bronze” (ZABAR/נחשת; EST l. 530/Deut 28:23), while the “ground/earth” (*qaq-qar-ku-nu*/ארץ; EST l. 528/Deut 28:23) becomes like “iron” (AN.BAR/ברזל; EST l. 528/Deut 28:23). The articulation of similar curses in ancient Near Eastern texts, of course, does not by itself establish the existence of a literary connection between them. For it is clear that similar curses were employed in ancient Near Eastern texts in instances where the author(s) of one composition could not have been familiar with the work of the other.<sup>29</sup> What is striking is the large number of curse motifs that are shared between EST and Deut 28:20-32 in a similar literary arrangement.

The curses in EST ll. 532-533 (EST §64\*) and Deut 28:24, which follow those in EST ll. 528-531 (§§63-64\*) and Deut 28:23, share the motif of a bad “rain” descending on the accursed. Here as well similar lexemes are employed, reinforcing the likelihood of a literary connection:

29 Cf. Malul, *The Comparative Method* (1990) 113-152.

Table 3.5 - EST §64* and Deut 28:24	
<u>EST ll. 532-533</u>	<u>Deut 28:24</u>
“Instead of <u>rain</u> , may <u>embers</u> rain down on <u>your land</u> .”	“YHWH will make the <u>rain</u> of <u>your land</u> <u>powder</u> and <u>dust</u> ; from heaven it will come down on you, until you are devastated.”
<i>kūm zunni pe'nāti ina mātikunu liznunā</i>	יתן יהוה את־מטר ארצך אבק ועפר מן־השמים ירד עליך עד השמדך
<p>Akkadian Transliteration:</p> <p><sup>532</sup><i>ku-um zu-un-nu</i> <sup>533</sup><i>pe-'-na-a-ti ina KUR-ku-nu li-iz-nu-na</i></p>	

In EST §64, “embers” (*pe-'-na-a-ti*; EST l. 533)<sup>30</sup> will fall instead of “rain” (ŠÈG; EST l. 532). The transformation of “rain” (מטר) into “powder” (אבק) and “dust” (עפר), which will descend from the sky, creates a comparable image in Deut 28:24. In both passages, this unfortunate rain will fall on the “land” (KUR/ארץ; EST l. 533/Deut 28:24) of the accursed.

The rapid succession of these similar curses in Deut 28:23-24 and EST §§63-64 (ll. 528-533), nevertheless, might be construed as coincidental. If these particular curse formulae were widely circulated throughout the ancient Near East, as others seem to have been, it is logical that they were usually paired together. Normal rain would certainly not fall from an unnatural “heavens” (AN/שמים; EST l. 530/Deut 28:23) of “bronze” (ZABAR/נחשת; EST l. 530/Deut 28:23). There are no other curses in Mesopotamian literature, however, in which the “heavens”

<sup>30</sup> Cf. *CAD* P (2005) 324-326.

become “bronze” or the “ground” (*qaq-qar-ku-nu*; EST l. 528) becomes arid and infertile like “iron” (AN.BAR; EST l. 528). A close parallel is found in Lev 26:19, but this is almost certainly the result of its literary dependence on Deut 28:23.<sup>31</sup> There is reason, therefore, to be skeptical that the grouping of these similar curses reflects the influence of a shared literary tradition.

That the composer of Deut 28:23-24 directly based his composition on EST §§63-64 (ll. 528-533) is suggested by two other observations. The “brazen heaven” (AN-e ša ZABAR; EST l. 530) of EST is plausibly a real object on which materials were burnt.<sup>32</sup> It would be natural and not purely poetic for embers to fall from it, as described in EST §64 (l. 533). By contrast, Deut 28:23 appears to refer to the literal transformation of earthly skies into bronze. One has no reason to expect that “powder and dust” (אֵבֶק וְעָפָר; Deut 28:24), the apparent equivalent for the “embers” in EST, would fall instead of “rain” (מָטָר; Deut 28:24). It is possible, therefore, that the composer of Deut 28:23 interpreted the “brazen heaven” in EST as alluding to the heavens actually transformed into bronze. On the basis of this misunderstanding, and the preceding curse

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31 For evidence, please consult “Deuteronomy 28 as a Source for Leviticus 26” within section 1.2 of this study. That the Holiness Code (Lev 17-26\*) was influenced by Deuteronomy, and consequently must have been written after it, has been convincingly demonstrated by Stackert (*Rewriting the Torah* [2007]).

32 Steymans, *Deuteronomium* 28 (1995) 134-135: “Es handelt sich um einen Vergleich, der offenbar nicht auf das Himmelsfirmament abzielt, sondern auf einen Gegenstand, der aus Bronze hergestellt wurde und den man ebenfalls *šamû* nannte. vSoden sieht in VTE Z. 530 übertragenen Sprachgebrauch und listet im AHW drei weitere Stellen auf, in denen Gegenstände namens *šamû* aus Gold hergestellt bzw. mit Gold überzogen sind. Es könnte sich um Baldachine handeln, die auch im Deutschen, wenn man sie bei Prozessionen herumträgt, bisweilen 'Himmel' genannt werden. In Z. 530 geht es also um ein Artefakt aus Bronze, das in übertragenem Sprachgebrauch als 'Himmel' bezeichnet wurde und aus dem selbstverständlich kein Regen fällt. Die Vergleiche der folgenden Flüche untermauern diese Interpretation. Auch das schmelzende Zinn (Z. 534), der zeugungsunfähige Maulesel (Z. 537) und der in der Biermaische gärende halbe dar. Ebenso selbstverständlich dürfte der bronzene Himmel-Baldachine gewesen sein. Die Mehrdeutigkeit des Wortes *šamû* wird in § 64 ausgenutzt. Vom Baldachin, aus dem unmöglich Regen kommen kann, wechselt der Blick zum Regen, der aus dem Himmelsfirmament eigentlich kommen sollte. Der Fluch besteht darin, dass der Regen ausbleibt und statt dessen Kohle vom Himmel fällt. Wie das Eisen vermittelt Bronze Festigkeit und Härte.” See also Steymans's analysis on pp. 284-291.

in which the “ground” (*qaq-qar-ku-nu*; EST l. 528) is transformed into “iron” (AN.BAR; EST l. 528), the Deuteronomic writer may have composed the curse in Deut 28:23. The argument that these curses are literarily connected is then bolstered by the observation that the motifs of a heaven of bronze and earth of iron are presented in a reverse order in Deut 28:23 and EST §63 (ll. 528-531). This inversion of literary elements, of course, may be indicative of borrowing.<sup>33</sup>

Similarities between EST§65 (ll. 534-536) and Deut 28:25 substantiate the pattern of literary correspondences that have been observed between EST§§63-64 and Deut 28:23-24. While there is a thematic connection between curses describing agricultural devastation in EST§§63-64\* and Deut 28:24, there is no reason that a curse describing defeat at the hands of an enemy should immediately follow them in both EST §§65\* and Deut 28:25\*.<sup>34</sup> This oddity further strengthens the likelihood that there is a direct literary connection between these texts:

<b>Table 3.6 - EST §65* and Deut 28:25*</b>	
<u>EST ll. 534-535</u>	<u>Deut 28:25a-c</u>
“Just as lead does not stand before fire, may you not stand before your <u>enemy</u> .”	“YHWH will make you smitten before your <u>enemies</u> ; you shall go out by one path against them, but you shall flee by seven paths before them.”
<i>kī ša annuku ina pān išāti lā izzazzūni attunu ina pān <u>nakrikunu</u> lā tazzazzā</i>	יתנך יהוה נגף לפני <u>איבך</u> בדרך אחד תצא אליו ובשבעה דרכים תנוס לפניו

33 See discussion and references in “Deuteronomy and the 'Test of Coincidence vs. Uniqueness',” a subsection of section 1.2 in the present study.

34 The curses in EST §§64 (ll. 530-533) and 65 (ll. 534-536) might have been deliberately juxtaposed on account of their thematically connected imagery of burning embers and fire.

Table 3.6 (Continued)

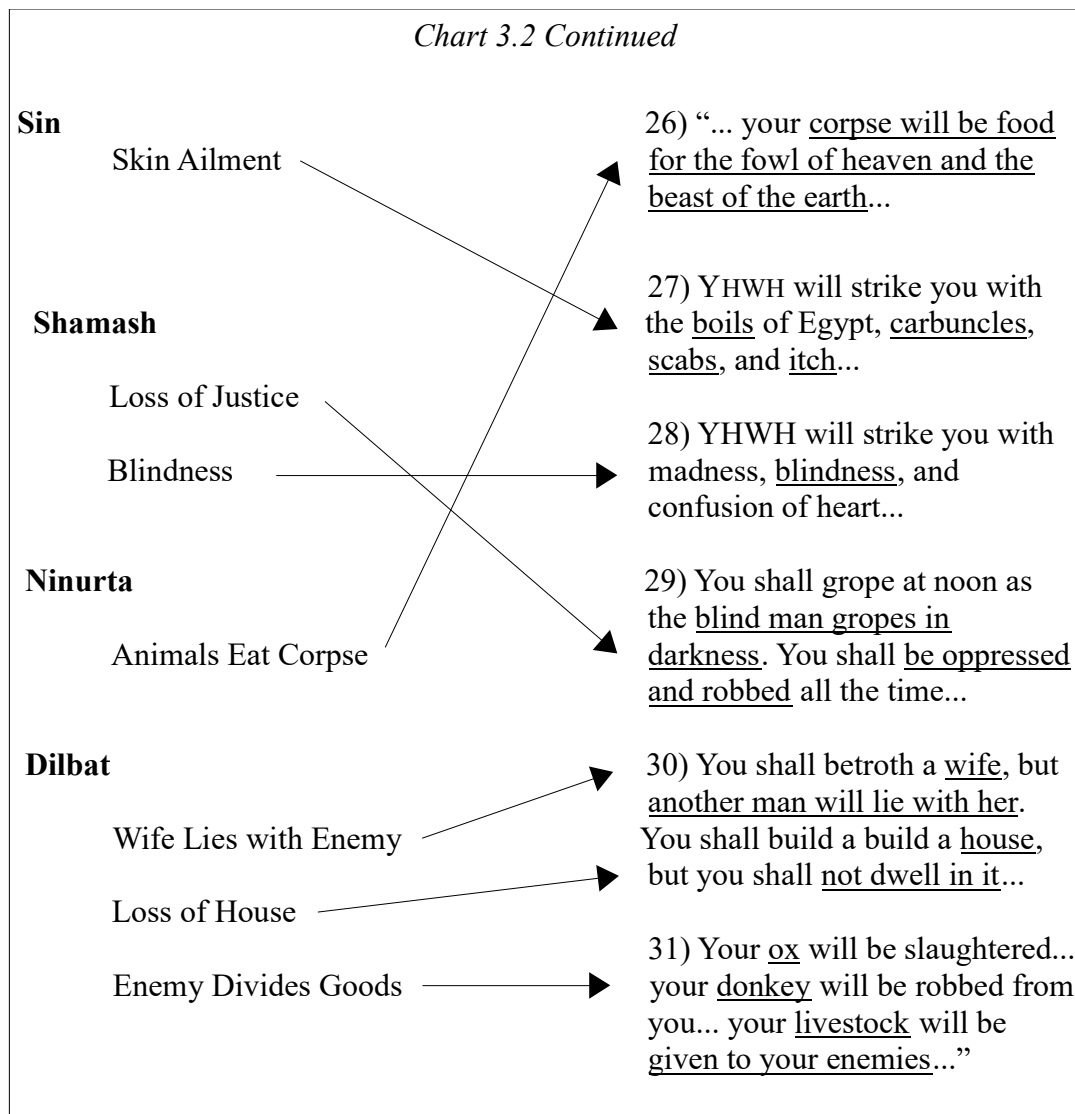
Akkadian Transliteration:	
<sup>534</sup> <i>ki-i šá AN.NA ina IGI IZI la i-za-zu-u-ni</i>	<sup>535</sup> <i>at-tu-nu ina IGI <sup>lu</sup>KUR-ku-nu l[a]</i>
<i>ta-za-za</i>	

Although only a single lexeme, “enemy” (<sup>lu</sup>KÚR/אֹיֵב; EST/Deut 28:25a) is shared between these passages, they both essentially convey the same curse. Military defeat is described, expressed as flight before the enemy. Failure to “stand” (*i-za-zu-u-ni*; EST l. 534) before the enemy in EST would naturally result in the “fleeing” (פָּנָה; Deut 28:25c) mentioned in the Deuteronomic passage. Although these curses are not formulated in precisely the same manner, a literary connection between them is probable in view of the larger pattern of literary correspondences that is observable when Deut 28:23-31 and EST §§39-65\* are compared.

Most striking is the similar sequence of curse motifs in EST §§39-42 (ll. 419-430) and Deut 28:26-31, which was first pointed out by Moshe Weinfeld.<sup>35</sup> In EST, the curse motifs of skin ailment (ll. 419-420; cf. Deut 28:27), loss of justice (ll. 422-423; cf. Deut 28:29), blindness (ll. 423-424; Deut 28:28-29), consumption of corpses by animals (ll. 425-427; cf. Deut 28:26), wives having sexual relations with an enemy (ll. 428-429; cf. Deut 28:30), not possessing a house (ll. 429-430; cf. Deut 28:30), and an enemy dividing goods (ll. 430-431; cf. Deut 28:31), are clustered together. These same motifs, remarkably, are found together in Deut 28:26-31:

Chart 3.2 - Sequence of Similar Curse Motifs in EST and Deuteronomy 28	
<u>EST ll. 419-430</u>	<u>Deut 28:26-31</u>

35 Weinfeld, *Deuteronomy* (1972) 116-124.



There are two discrepancies, however, in the literary arrangement of these curse motifs. First, the carrion curse (EST ll. 425-427) in the middle of EST §§39-42 is paralleled at the beginning (Deut 28:26) of the Deuteronomic passage (Deut 28:26-31). Second, the motifs of blindness (EST ll. 423-424/Deut 28:28-29) and injustice (EST ll. 422-423/Deut 28:29) are presented in a reverse order when EST and Deuteronomy 28 are compared. These are minor obstacles, however, to supposing the direct literary dependence of Deut 28:26-31 on EST §§39-42.

The rearrangement of the curse motifs of EST §§39-42 in Deut 28:26-31 can be explained



in a number of ways. That the motifs of blindness (EST ll. 423-424a/Deut 28:28-29) and injustice (Deut 28:29c/EST ll. 422-423) are reversed in EST §§40-41 and Deut 28:27-28 corresponds with a common pattern of inverse citation in biblical literature. More difficult to explain is the displacement of the carrion curse (EST ll. 425-427; Deut 28:26), which is in the middle of EST §§39-42, but at the beginning of the Deuteronomic passage (Deut 28:26-31). Moshe Weinfeld proposed two explanations to account for this difference. The Ninurta curse is attested in one EST exemplar (ND 4329) at the end of sequence in EST §§39-42.<sup>36</sup> According to Weinfeld, it might therefore have been placed differently in the copy of EST known to the composer of Deut 28:26-31. The order in which deities are mentioned in EST, however, generally accords with patterns in other Mesopotamian texts.<sup>37</sup> It is difficult to find a parallel for the placement of Ninurta before the pair of Sin and Shamash. Easier to envision is an alternate version of EST in which the curse motifs associated with Shamash were placed before those associated with Sin, since the former deity is typically mentioned before the latter in Mesopotamian texts. If the copy of EST known to the Deuteronomic writers featured curses invoking Shamash, Sin, and Ninurta in that order, the order of curse motifs in Deut 28:26-29 is explicable in light of a pattern of literary inversion when biblical writers borrowed from other texts, particularly EST. When a particular passage was appropriated by the writers of Deuteronomy, interior literary elements are elsewhere presented in an inverse order, while exterior literary elements are likewise displayed in a reverse order as their literary frame.<sup>38</sup>

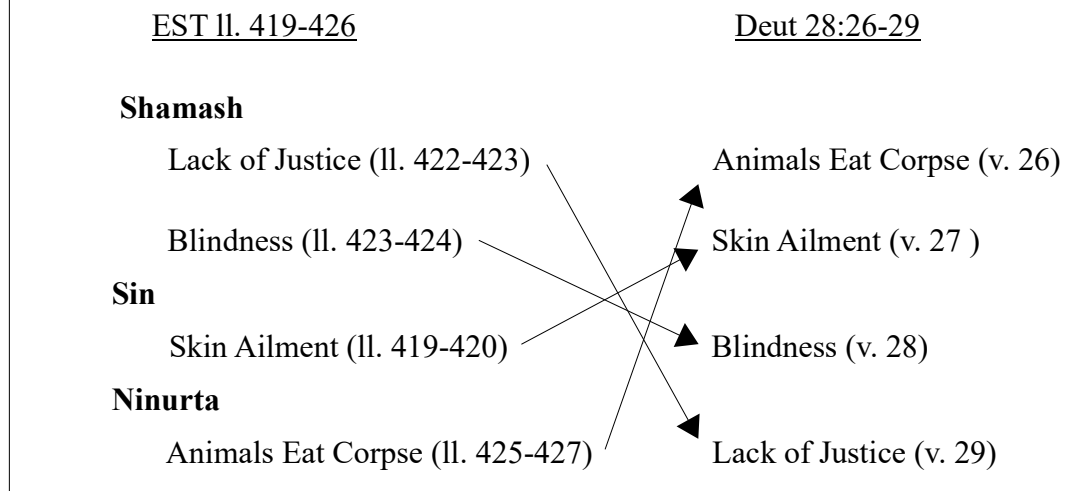
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36 Cf. Weinfeld, *Deuteronomy* (1972) 118-119.

37 Ibid., 116-124. For Allen, “Rearranging the Gods” (2013), the arrangement of curse motifs in Deuteronomy 28 strongly suggests the influence of the Assyrian literary tradition, but not necessarily the direct influence of a version of EST.

38 See chart 2.3 (“Borrowing From EST Into Deuteronomy 13”) in the present study.

**Chart 3.3 - Possible Arrangement of Curse Motifs in Israelite Copy of EST**



Less likely is Weinfeld's proposal that the curse motifs in Deut 28:26-31 were originally arranged in a different order.<sup>39</sup> He suggests that the curse in which one's corpse is consumed by animals (Deut 28:26; cf. EST ll. 425-427) most logically follows a curse detailing pillage at the hands of an enemy (Deut 28:30-33). Death and pillage in the aftermath of a “military defeat” might well result in one's corpse being eaten as carrion, as Weinfeld suggests, but it is still difficult to explain why Deut 28:26 was displaced by a later editor. For Deut 28:25 explicitly describes defeat at the hand of an enemy, and it is therefore equally conceivable that the curse in Deut 28:26 was positioned by the composer(s) of Deut 28:20-44\* after this verse on the basis of Weinfeld's reasoning. There is no variant reading of the biblical text, moreover, that supports his suggestion. Disagreement over the reasons that similar material was not arranged in an identical fashion in EST and Deut 28:26-31, at any rate, by no means diminishes the significance of the cluster of curse motifs that serves as strong evidence for a literary connection between them.

The Ninurta curse in EST §41 (ll. 425-427) and the curse in Deut 28:26 are certainly

<sup>39</sup> Weinfeld, *Deuteronomy* (1972) 119, n. 1; cf. Crouch, *Israel and the Assyrians* (2014) 70-72.

similar, regardless of how one explains the different placement of these corresponding passages. Both involve the eating of the body by a pair of animals, one a land animal and the other a bird:

<b>Table 3.7 - EST §41 and Deut 28:26</b>	
<u>EST ll. 425-427</u>	<u>Deut 28:26</u>
“May Ninurta, foremost of the gods, fell you with his furious arrow. May he fill the steppe with your blood. May he feed your flesh to the jackal and the eagle.”	“ <u>Your corpse</u> will be <u>food</u> for the <u>fowl of the heavens</u> and the <u>beast of the earth</u> . There will be no one to frighten (them away).”
<i>Ninurta ašarēd ilāni ina šiltāhīšu šamri lišamqitkunu dāmīkunu limalli šēru šīrkunu arû zību lišākil</i>	והיית <u>נבלתך למאכל לכל-עוף השמים</u> ולבהמת הארץ ואין מחריד
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>425d</sup>MAŠ a-ša-red DINGIR.MEŠ ina šil-ta-ḫi-šu šam-ri li-šam-qit-ku-nu  <sup>426</sup>MÚD.MEŠ-ku-nu li-mal-li EDIN UZU-ku-nu Á.MUŠEN zi-i-bu <sup>427</sup>li-šá-kil</p>	

There are clearly differences in the literary form of these curses, just as there between EST §§63-64 (ll. 528-533) and Deut 28:23-24. There is no reason to insist, though, that the Deuteronomic writers were obligated to precisely reproduce the rhetoric of the literary source(s) on which they based their work. It is clear that they were capable of borrowing in a highly creative fashion.

Many of the differences between EST §41 and Deut 28:26 are explicable as a result of the Deuteronomic writer adapting material in EST for an Israelite audience. The deletion of the reference to Ninurta is natural, since Deuteronomy promotes the exclusive worship of YHWH. The “flesh” (UZU.MEŠ-ku-nu; l. 427) consumed by animals in EST, which is implicitly a

“corpse” (גבלתך; Deut 28:26), then becomes the subject of the main verb (היית; Deut 28:26) in Deut 28:26. The transformation of the body into food is indicated in Deut 28:26 by the combination of a preposition (ל) and a noun (מאכל), whose root (ל.א.כ) is the same as the Akkadian verb (*akālu*) in EST §41. The substitution of the two animals referenced EST—the “eagle” (UŠ.MEŠ-ku-nu; EST l. 426) and the “jackal” (zi-i-bu; EST l. 426)—with the “fowl of heaven” (עוף השמים) and “beast of the earth” (בהמת הארץ) in Deut 28:26 is likewise explicable. The latter are paired elsewhere in biblical literature as a merism for all animals,<sup>40</sup> and like their counterparts in EST §41 are creatures associated with the land and the sky respectively. The writer of the Deuteronomic passage is simply replacing the two animals in EST with a generalized pair of creatures that would be more familiar to his intended Israelite audience.

The first curse motif in EST §39 (ll. 419-421), which invokes the deity Sin, is then paralleled in Deut 28:27. Here the similarity is only apparent on a conceptual level, as both texts mention forms of skin affliction:

Table 3.8 - EST §39 and Deut 28:27	
<u>EST ll. 419-421</u>	<u>Deut 28:27</u>
“May Sin, the luminary of heaven and earth, clothe you with <i>saḥaršubbû</i> (an affliction that is visible on the skin). May he decree against you entering into the presence of the gods and the king. Roam like the onager and the	“YHWH will strike you with the <u>boils</u> of Egypt, <u>carbuncles</u> , <u>scabs</u> , and <u>itch</u> , of which you cannot be healed.”

40 Cf. Gen 2:19-20; Jer 7:33, 15:3, 16:4, 19:7, 34:20; Job 35:1. The clearest literary parallels are clustered in Jeremiah, which displays strong similarities with, and may have been directly influenced by, the book of Deuteronomy. Cf. Weinfeld, *Deuteronomy* (1972) 359-361; Mastnjak, *Deuteronomy* (2016).

Table 3.8 (Continued)

gazelle in the steppe!”	
<i>Sîn nannar šamê u eršeti saḥaršubbû liḥallipkunu ina pān ilānī u šarri erābkunu ayi iqbi kī serrēme šabīti šēru rupdā</i>	יִכְבֶּה יִהְיֶה בְּשַׁחֲיָן מִצָּרִים וּבְטַחְרִים בְּגֶרֶב בְּחָרֶס אֲשֶׁר לֹא-תוּכַל לְהִרְפֹּא
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>419d</sup>30 <i>na-an-nar</i> AN.MEŠ <i>u</i> KI-tì <i>ina</i> SAḪAR.ŠUB-<i>bu</i> <sup>420</sup><i>li-ḫal-lip-ku-nu</i> <i>ina</i> IGI DINGIR.MEŠ <i>u</i> LUGAL <i>e-rab-ku-nu a-a iq-bi</i> <sup>421</sup><i>ki-i sér-re-me</i> MAŠ.DÀ EDIN <i>ru-up-da</i></p>	

The illness that was called *saḥaršubbû* (SAḪAR.ŠUB-*bu*; EST l. 419) is commonly featured in curses invoking Sin,<sup>41</sup> and was clearly manifest on the skin, although its modern medical diagnosis is unknown. It is probably not to be equated with the disease of “leprosy,” as has sometimes been proposed, but might well have resulted in some of the symptoms that are mentioned in Deut 28:27: “boils” (שַׁחֲיָן), “carbuncles” (טַחְרִים), “scab” (גֶּרֶב), and “itch” (חָרֶס).<sup>42</sup> Even if some or all of these particular symptoms were not displayed by those suffering from *saḥaršubbû*, the Deuteronomic composer might have included them by analogical extension. EST §39 could thus be the inspiration for Deut 28:27, with YHWH being substituted for Sin.

The curses that follow in EST §40 (ll. 422-424) and Deut 28:28-29 are likewise conceptually similar. They mention in an inverse order the loss of justice (Deut 28:29c; EST ll. 422-423) and infliction of blindness (EST ll. 423-424; Deut 28:28-29a). As Weinfeld has

41 Weinfeld, *Deuteronomy* (1972) 119-121.

42 Baruch Levine, *Numbers 1-20* (New Haven: Yale University Press, 1993) 184. The modern diagnostic equivalents for the Hebrew words in Deut 28:27 are still uncertain.

observed, this is powerful evidence that a Mesopotamian source influenced the composition of this Deuteronomic material.<sup>43</sup> Shamash (a sun god) is associated with light and by logical extension the power of vision, but he is also the god of justice. The curse motifs in EST and Deuteronomy here are therefore explicable only in light of a Mesopotamian literary tradition:<sup>44</sup>

Table 3.9 – EST §40 and Deut 28:28-29	
<u>EST II. 422-424</u>	<u>Deut 28:28-29</u>
“May Shamash, the light of the heavens and the earth, <u>not judge you with a true judgment</u> . <u>May he take away your eyesight</u> . Go <u>in darkness!</u> ”	“YHWH will strike you with madness, <u>blindness</u> , and confusion of heart. You shall grope at noon, as the <u>blind man</u> gropes <u>in darkness</u> . You shall not make your ways prosperous. You shall surely be <u>oppressed and robbed</u> all the time. There will be no one to save you.”
<i>Šamaš nūr šamāmī u qaqqari dīn kitti ayi idīnkunu nītil īnīkunu liššīma ina eklēti ittallakā</i>	יכבה יהוה בשגעון ובעֲבֵרוֹן ובתמהון לבב והיית ממשש בצהרים כאשר ימשש העֹר באֶפְלָה ולא תצליח את־דרכיך והיית אך עֲשׂוֹק וגִזוֹל כל־הימים ואין מושיע
<p>Akkadian Translation:</p> <p><sup>422d</sup>UTU nu-úr šá-ma-mi u qaq-qa-ri di-in kit-ti <sup>423</sup>a-a i-di-in-ku-nu ni-ṭil IGI.2-ku-nu li-ši-ma <sup>424</sup>ina ek-le-ti i-tal-la-ka</p>	

43 Weinfeld, *Deuteronomy* (1972) 119-121.

44 Steymans, *Bundesdokument* (1995) 139-140.

The vetitive phrase in the former text, “May he [Shamash] not judge you with a true judgment” (*di-in kit-ti a-a i-di-in-ku-nu*; EST ll. 422-423) implies the loss of justice. This is not precisely the same as its apparent equivalent in the latter, “You shall only be oppressed and robbed all the time” (וְהָיִיתָ אֶךְ עָשׂוֹק וּגְזוּל כָּל־הַיָּמִים; Deut 28:28). It might have been difficult, however, for a Deuteronomic writer to adapt material in EST §40 by substituting YHWH for Shamash. The curses in Deuteronomy 28 are inflicted on Israelites who have violated the laws of YHWH. They are therefore “just” punishments. That YHWH would abrogate justice, as Shamash does in EST §40, might therefore have been theologically problematic for a Deuteronomic writer. For these reasons, the composer of Deut 28:29 may have adapted EST ll. 422-423 by particularizing the experience of injustice as the events of being “oppressed and robbed” (עָשׂוֹק וּגְזוּל; Deut 28:29c).

Deut 28:29 can also be understood as a rather creative adaptation of the subsequent precative phase and imperative command in EST §40, “Let your gaze become blurred. Walk in darkness!” (*ni-ṭil IGI.2-ku-nu le-ši-ma ina ek-le-ti i-tal-la-ka*; EST. ll 423-424). Blindness is clearly implied as a curse inflicted by Shamash in EST §40, much like YHWH strikes the disobedient Israelite with “blindness” (וּבְעֹרֹון) in Deut 28:28. The latter becomes a “blind man” (הָעֹרֵר; Deut 28:28), who gropes “in darkness” (בְּאֶפְלָה; Deut 28:28), the same expression that occurs in EST §40 (*ina ek-le-ti*; EST l. 424). EST §40 is thus recognizable as the potential model for Deut 28:28-29, a possibility strengthened by the correspondences observed elsewhere.

That curses involving skin affliction (Deut 28:27), blindness (Deut 28:28-29a), and injustice (Deut 28:29c) are attested in rapid succession in Deut 28:27-28 is strong evidence that this biblical text was based on a Mesopotamian source. For there is no obvious connection between these motifs in an Israelite literary context. By contrast, the arrangement of these same

motifs is intelligible in EST §§39-40 (EST ll. 419-424). Each is associated with Sin and Shamash, the Mesopotamian gods of the sun and moon, who are typically paired together throughout Akkadian literature. The skin affliction *saḥaršuppû* (EST l. 429) is commonly mentioned in curses invoking Sin, and was clearly a blight associated with this deity. The pairing of the motifs of injustice (Deut 28:29c; EST ll. 422-423) and blindness (Deut 28:28-29a; EST ll. 423-424), meanwhile, can only be explained in the context of a curse invoking Shamash.

The final set of curse motifs shared between EST §§39-42 (EST ll. 419-430) and Deut 28:26-31 affords especially strong evidence that EST was probably the Mesopotamian composition at the disposal of the Deuteronomic writer. The curses associated with Dilbat in EST §42 (ll. 428-430) display the same motifs and vocabulary as Deut 28:30-31. In two cases, they appear to be reformulated as futility curses, which are characteristically West Semitic:

Table 3.10 - EST §42 and Deut 28:26-31	
<u>EST ll. 428-430</u>	<u>Deut 28:30-31</u>
“May Dilbat (Venus), the bright one among the stars, within your sight make <u>your wives lie in the lap of your enemy</u> . May your sons <u>not possess your house</u> . May a foreign <u>enemy divide your possessions</u> .”	“ <u>You shall betroth a woman, but another man shall lie with her</u> . You shall build a <u>house</u> , but not dwell in it. You shall plant a <u>vineyard</u> , but not reap it. Your <u>ox</u> will be slaughtered before your eyes, but you shall not eat from it. Your <u>donkey</u> will be stolen before you, and not returned to you. Your flock will <u>be given</u> to your <u>enemy</u> , and there will be no savior (for you).”



Table 3.10 (Continued)

<i>Dilbat nabāṭ kakkabāni ina niṭil</i> <i>īnikunu ḥīrātikunu ina sūn nakrikunu</i> <i>lišanīl mārīkunu ayi ibellū bīt kun</i> <i>nakru aḥū liza"iza mimmūkun</i>	<p><u>אשה תארש ואיש אחר ישכבנה בית</u>  תבנה ולא-תשב בו כרם תטע ולא  תחללנו שורך טבוח לעיניך ולא תאכל  ממנו חמרך גזול מלפניך ולא ישוב  צאנך נתנות לאביך ואין לך מושיע</p>
<p style="text-align: center;">Akkadian Translation:</p> <p><sup>428d</sup><i>Dil-bat na-bat MUL.MEŠ ina ni-ṭil IGI.2-ku-nu ḥi-ra-ti-ku-nu</i> <sup>429</sup><i>ina ÚR</i>  <sup>lú</sup><i>KÚR-ku-nu li-šá-ni-il DUMU.MEŠ-ku-nu</i> <sup>430</sup><i>a-a i-bé-lu É-ku-un</i> <sup>lú</sup><i>KÚR a-</i>  <i>ḥu-u li-za-i-za mim-mu-ku-un</i></p>	

In these passages, the curse motifs of one's wife lying with an enemy (EST ll. 428-429; Deut 28:31a), the loss of one's house (EST ll. 429-430; Deut 28:31b), and an enemy dividing one's goods (EST l. 430/Deut 28:31d-f) are attested in succession. The Deuteronomic composer ostensibly recasts the motifs in EST in clauses with second-person verbs. Semantically equivalent nouns in Akkadian and Hebrew, “wives/wife” (*hi-ra-ti-ku-nu*/אשה; EST l. 428/Deut 28:31a) and “house” (*É-ku-un*/בית; EST. l. 430; Deut 28:31b) are the object of these verbs in two parallel curses. In the clauses that feature the former noun, verbs that mean “to lie” (*nālu*/ב.ש.כ) are attested as well. Note that while it is the “sons” (*DUMU.MEŠ-ku-nu*; EST l. 429) of the owner who do not “possess” (*i-bé-lu*; EST l. 430) the house in EST, it is fittingly the builder in the corresponding futility curse who does not “dwell” (חשב; Deut 28:31b) within it. In the context of the futility curses in Deut 28:31, though, it is unclear how these misfortunes occur. But is plausible that the writer envisioned them as caused by an “enemy” (<sup>lú</sup>*KÚR*/לאביך; EST l.

430/Deut 28:31f), just as they are in EST §42. The “wife” (אשה), “house” (בית), “vineyard” (כרם), and “ox,” (שורך) could be seized together with the “donkey” (חמור), and “flock” (צאנך) mentioned in Deut 28:31. Only the last of these possessions is explicitly described as captured by enemies, but the reason for the loss of the rest is otherwise unclear. The Deuteronomic writer may simply have expanded on the phrase “your possessions” (*mim-mu-ku-un*; EST l. 439) by particularizing the property here as items that would signify wealth to an Israelite audience.

Altogether, the similarities between EST §§39-42 (ll. 419-430) and Deut 28:26-31 greatly bolster the argument for the literary dependence of the latter on the former. Although the curses are not formed in precisely the same way, the latter can discerned as literary adaptations of material in the former. Just as the composer(s) of the Deuteronomic Code (Deut 12-26) selectively appropriated terms from the Covenant Code (Exod 20:19-23:33) to create a replacement law code,<sup>45</sup> frequently inverting the order of literary material in their source, he/they might have creatively adapted material in EST to create a unique series of curses. There is no reason to expect that the literary form of curses in Deut 28:20-31 should correspond precisely with those in their purported literary source, EST §§39-64 (ll. 419-533).<sup>46</sup> In view of the numerous literary correspondences at the levels of theme, vocabulary, and literary sequence between them, a direct literary connection is certainly plausible. More difficult to understand is the relationship between curses in Deut 28:32-44 and passages in EST. Before examining the alleged parallels between them, though, it is beneficial to discuss the structure of Deut 28:20-44.

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45 Cf. Levinson, *Deuteronomy* (1997).

46 The second chapter of the present study details at the length how the Deuteronomic writers appear to have selectively appropriated material from EST into Deuteronomy 13.

### 3.3 – The Chiastic Structure of Deut 28:20-44

#### *The Arrangement of Curse Motifs in Deut 28:20-44*

There are numerous literary parallels between the curses in Deut 28:20-31 and 28:32-44, occurring in a pattern that clearly indicates Deut 28:20-44\* was deliberately structured as a chiasm.<sup>47</sup> The observation of this underlying literary structure is critically important for understanding the textual history of the passage for two reasons. First, since particular sections in Deut 28:20-44 have been argued to be secondary additions (e.g. Deut 28:36-37), any reconstruction of the original form of the composition is considerably aided by excluding material that does not fit into the chiasm. Second, Steymans's hypothesis that the structure of Deut 28:20-44\* was based on a chiasm in EST §56 (ll. 472-493)<sup>48</sup> would be strengthened if it could be shown that there are strong correspondences in their literary form. It will be demonstrated, however, that there is no need to posit the influence of EST §56 on the composition of Deut 28:20-44. The chiastic structure of Deut 28:20-44\* can be explained

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47 Duane L. Christensen, *World Biblical Commentary: Deut 21:10-34:12*, Vol. 6B (Nashville: Thomas Nelson Publishers, 2002) 680-681; cf. Steymans, *Deuteronomium 28* (1995) 300-312.

48 Steymans (*Deuteronomium 28* [1995] 109-120) persuasively argues that EST §56 (ll. 472-493) is to some degree structured chiastically: A: Death and Ghost (ll. 426-477); B: Glow and Embers (ll. 477-479); C: Hunger and Thirst (ll. 479-480); D: Pestilence (ll. 480-481); E: Dogs and Swine (ll. 481β-484) (a) Corpse Defilement, (b) No Burial After Death; F: Darkness (ll. 485-486); E': Deluge and Flood (87-489) (b') Suffering Before Death (a') Defeat; D': Sickness (l. 490); C': Food and Drink (ll. 490-491); B': Ointment and Covering (ll. 491-492); Loss of Homeland and Demons (ll. 493). His analysis is generally correct and insightful, although one may quibble over details as to how the literary chiasm is best outlined. The central theme of theme of the chiasm, "Darkness" (*Finsternis*), is inversely associated with the sun-god Shamash according to Steymans (139-141), who understands the entirety of Deut 28:20-44\* as a translation of passages in EST alluding to this god. This latter conclusion is undermined by the weakness of the literary parallels that Steymans discerns between EST §56 and Deut 28:20-44\*, which are treated at length in the next subsection of this study, "The Hypothesis of Steymans."

without recourse to Steymans's theory. Though his arguments warrant detailed scrutiny, it is worthwhile to examine first how Deut 28:20-44 is structured as a chiasm. A survey of the evidence illustrates the creativity of the biblical writers who may have borrowed from EST.

The central lines of the chiasm are Deut 28:31-32. Both of these verses emphasize the theme of loss. Various signs of prosperity and wealth (ox, donkey, flock, sons, daughters) are listed with a second-person singular possessive suffix, and described as seized by others:

<b>Table 3.11 – Midpoint of the Chiasm in Deut 20:20-44*</b>	
<u>Deut 28:31</u>	<u>Deut 28:32</u>
“Your ox will be slaughtered before your eyes (לעיניך)... Your donkey will be robbed from you... Your flock will be given (נתנות) to your enemies.”	“Your sons and your daughters will be given (נתנים) to another people; your eyes (ועיניך) looking and straining for them all day.”

Two of the same lexemes appear in reverse order in these verses. Both feature a plural participial form of the verbal root meaning “to give” (נ.ת.נ) with forms of wealth as their subjects. The phrase “your eyes” (עיניך) is also attested in each verse, with the second-person possessive suffix in the singular. It is employed in both contexts to emphasize that the accursed will visually struggle with the seizure of his children and animals. Those who take the addressee’s children in Deut 28:32, moreover, may be identifiable with the enemies in Deut 28:31 who seize animals.

The immediately adjacent verses, Deut 28:30 and 28:33a, continue the chiastic pattern of correspondences in Deut 28:20-44\*. Here the parallels occur exclusively on a thematic level. These verses emphasize the futility of endeavors that will be undertaken by the addressee:

<b>Table 3.12 – Parallels in Deut 28:30 and 28:33a</b>	
<u>Deut 28:30</u>	<u>Deut 28:33a</u>
“You shall betroth a wife, but another man will lie with her. You shall build a house, but you shall not dwell in it. You shall plant a vineyard, but you shall not gather (its fruit).”	“The fruit of your ground, and all of your labor, a people that you have not known will consume.”

The main thematic distinction between these verses is that the former emphasizes the futility of many actions (betrothal, building, planting), while the latter stresses the futility of land cultivation. In both verses, though, the products of cultivable areas, a “vineyard” (כרם; Deut 28:30) and the “ground” (אדמתך; v. 33a), are not obtained by the addressee who labors on them. Rather than repeating the same lexemes, the Deuteronomic composers fashioned these corresponding sections within the chiasm by stressing the theme of futility in different ways.

The parallelism between Deut 28:29b and 28:33b is more obvious, since the curses here largely consist of the same verbal forms and phrases in the same order. Each clause begins with the verbal form, “you shall be” (והיית), followed by the same passive participle, “oppressed” (עשוק). They then conclude with an identical adverbial phrase, “all the time” (כל־הימים):

<b>Table 3.13 – Parallels in Deut 28:29b and 28:33b</b>	
<u>Deut 28:29b</u>	<u>Deut 28:33b</u>
“You shall surely be (והיית) oppressed (עשוק) and robbed all the time (כל־הימים).”	“You shall just be (והיית) oppressed (עשוק) and crushed all the time (כל־הימים).”

The differences between Deut 28:29b and 28:33b are minor, and further demonstrate the

creativity of the Deuteronomic composers in crafting the chiasm. The adverb “surely” (אך; Deut 28:29b) is paralleled by the adverb רק (“only”; Deut 28:33b), with both modifying the verbal form והיית (“you shall be”). The passive participles “robbed” (וגזול; Deut 28:29b) and “crushed” (ורצון; Deut 28:33b) likewise occur in the same literary position, immediately following the passive participle עשוק (“oppressed”). The Deuteronomic composers were concerned with differentiating each corresponding section within the chiastic structure, but here the differences are extremely small. Consequently, the literary connection between them is easily noticed.

The parallels between Deut 28:29a and 28:34 are likewise not coincidental, although the differences between the literary form of these passages are starker. Only a single lexeme is shared between these verses, the verbal root ש.ג.ע (“to be mad”). This root occurs in a nominal form שגעון (“madness”) in Deut 28:29a, but in a participial form משגע (“driven mad”) in Deut 28:34. In both clauses, however, madness is connected with the theme of vision in distinct ways:

<b>Table 3.14 – Parallels in Deut 28:28-29a and 28:34</b>	
<u>Deut 28:28-29a</u>	<u>Deut 28:34</u>
“YHWH will strike you with madness (שגעון), blindness, and confusion of heart. You shall grope at noon, as the blind man (העור) gropes in darkness.”	“You shall be driven mad (משגע) as a result of what your eyes see (ממראה עיניך).” (אשר תראה)

Deut 28:29a mentions madness and loss of vision as distinct punishments for the accursed individual, while Deut 28:34 describes madness as directly resulting from a visual experience. Deut 28:28-29a stresses the loss of vision by twice employing the verbal root ע.ו.ר (“to be blind”), referencing the infliction of “blindness” (ובערון) on the accursed and his subsequent wandering as a “blind man” (העור). Deut 28:34, meanwhile, stresses that the accursed will be

driven mad “as a result of what [his] eyes see” (ממראה עיניך אשר תראה; Deut 28:34). The noun מראה and verb תראה in Deut 28:34, reflecting the Hebrew root ר.א.ה (“to see”), are attested in obvious contrast with the repetition of the semantically opposite root ע.ו.ר in Deut 28:28-29a.

The next corresponding verses in the chiasmic structure are Deut 28:27 and 28:35. These two verses begin in an identical fashion, “YHWH will strike with boils” (יכבה יהוה בשחין), and feature the same phrase, “of which you cannot be healed” (אשר לא־תוכל להרפא). Here the theme of skin affliction is central, although the suffering of the afflicted is described differently:

Table 3.15 – Parallels in Deut 28:27 and 28:35	
<u>Deut 28:27</u>	<u>Deut 28:35</u>
“YHWH will strike you (יכבה יהוה) with the boils (בשחין) of Egypt, carbuncles, scabs, and itch, of which you cannot be healed (אשר לא־תוכל להרפא).”	“YHWH will strike you (יכבה יהוה) with awful boils (בשחין) on the knees, and on the legs, of which you cannot be healed (אשר לא־תוכל להרפא), from the sole of your foot up to the top of your head.”

Deut 28:27 specifies that the “boils” (שחין) are somehow connected with Egypt (מצרים), while Deut 28:35 describes them as “awful” (רע). Whether the “boils of Egypt” in Deut 28:27 references a distinct type of ailment, perhaps that experienced by the Egyptians as one of the plagues (Exod 9:8-12) associated with the Exodus,<sup>49</sup> is difficult to determine. Otherwise, the only difference between Deut 28:27 and 28:35 is that the former mentions other types of skin afflictions—“carbuncles” (טחרים), “scabs” (גרב), and “itch” (חרס)—while the latter notes the places that boils might occur—“knees” (ברכיים), “legs” (שקים), “foot” (רגל), and “head” (ראש).

49 Cf. Candida R. Moss and Jeffrey Stackert, “The Devastation of Darkness: Disability in Exodus 10:21-23, 27, and Intensification in the the Plagues,” *JR* 92 (2012) 370-371.

Deut 28:28:25d-26a and 28:38-40 are then connected by their shared theme of the consumption of sustenance by different creatures, and the transformation of the accursed into a object of humiliation. They both begin (Deut 28:25d/28:37) with an identical verbal form, “you shall be” (והיית), which trumpets the change of the accursed into something shocking or reprehensible among “all” (כל) viewers. The verbal root א.כ.ל (“to eat”), however, is the sole lexeme shared in the corresponding sections that compose Deut 28:26 and Deut 28:28-40:

<b>Table 3.16 – Parallels in Deut 28:25-26 and 28:37-40</b>	
<u>Deut 28:25d-26</u>	<u>Deut 28:37-40</u>
<p>“You shall become (והיית) a horror to all the kingdoms of the earth (לכל ממלכות (הארץ). Your corpse will become food (למאכל) for the fowl of the heavens and the beast of the earth. There will be no one to frighten (them away).”</p>	<p>“You shall become (והיית) an astonishment, a proverb, and a byword among all the peoples (בכל העמים) to which YHWH drives you. You shall bring out much seed to the field, but gather in little, for the locust will consume it. You shall plant and cultivate vineyards, but you shall not drink wine or gather (their grapes), for the worm will eat them (תוכלנו). You shall have olive-trees throughout all your borders, but you shall not anoint with oil, for your olives will drop off.”</p>

The noun מאכל (“food”) features this root in Deut 28:26a, while the verbal form תאכל (“you shall eat”) is attested in Deut 28:29. In addition, both of these verses describe various creatures as eating. These are the “fowl” (עוף) and “beast” (בהמת) in Deut 28:26a, and the “locust” (הארבה)



and “worm” (התעלת) in Deut 28:38-40. Although the creatures in these passages are not identical, they fulfill a similar literary role inasmuch as they both consume the accursed for disobedience.

The theme of futility, of course, is shared between Deut 28:30, 28:33a, and 28:38-40. Each of these sections stress that the products of agricultural labor will not be enjoyed by the accursed. The reason that these thematically similar sections are positioned differently within Deut 28:20-44 is best explained by the underlying chiastic structure of the passage. Deut 28:30 and 28:33a parallel each other through their shared theme of futility, while Deut 28:26a and 28:38-40 parallel one another by repetition of the same lexeme (ל.נ.א) with different creatures performing this verbal action. The effort to sustain literary continuity between these different sections in the chiastic structure is complex, and evinces the creativity of the Deuteronomic composers. This same creativity is evident as well in the transition from Deut 28:38-40 to 28:41.

The futility theme of Deut 28:38-40 continues in 28:41, where it is announced that the Israelites will produce children that are seized by others. Within Deut 28:38-41, though, there is a striking shift from threat from the threat of agricultural devastation (vv. 37-40) to captivity of children (v. 41). This seems abrupt, but it is perfectly explicable in view of the chiastic structure of Deut 28:20-44. A curse thematically similar to Deut 28:25a-c must appear in Deut 28:41:

<b>Table 3.17 - Parallels in Deut 28:25 and 28:41</b>	
<u>Deut 28:25a-c</u>	<u>Deut 28:41</u>
“YHWH will make you smitten before your enemies; you shall go out by one path before them, but you shall flee by seven paths before them.”	“You shall beget sons and daughters, but they shall not be yours, for they shall go into captivity.”

Although there are no significant parallels on a lexical level between these passages, they are thematically similar inasmuch as they explicitly (Deut 28:25) and implicitly (Deut 28:41) describe the consequence of military defeat. The captivity of children, in light of the Neo-Assyrian practice of deportation, is a logical consequence of defeat in battle. When compared with one another, independent of their literary context, a direct connection between these verses would not be detectable. It would be difficult to understand, though, why the futility curse in Deut 28:41, mentioning the captivity of children, is positioned between two sets of futility curses (Deut 28:38-40, 28:42) describing agricultural devastation. Unless, of course, one grants that Deut 28:32-44\* was composed as the latter half of a chiasm carefully patterned on Deut 28:20-31\*. This is especially powerful evidence that Deut 28:20-44\* is a distinct compositional unit.

It should be noted that the allusion to “captivity” (שבי) in Deut 28:41 does not constitute significant evidence that Deut 28:20-44\* must have been composed in the exilic or post-exilic periods. There may be the temptation, especially in light of the emphasis on destruction and deportation in a subsequent curse section (Deut 28:45-68), to construe the reference to deportation in Deut 28:41 as *vaticinium ex eventu*. As Steymans and other scholars have observed, however, the punishment of exile/deportation is attested elsewhere in ancient Near Eastern curses.<sup>50</sup> There is the additional difficulty that the “captivity” described as punishment in Deut 28:41 need not be equated with exile. It is only the children of the accursed that are captured in Deut 28:41, and it is not specified that the accursed themselves or their children are held in a foreign land. The captivity described Deut 28:41 therefore by no means implies the “exile” of the Israelites as a whole. Deut 28:41, however, fits perfectly within the chiastic

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50 Steymans, *Deuteronomium 28* (1995) 107-108; cf. Martien A. Halvorson-Taylor, *Enduring Exile: The Metaphorization of Exile in the Hebrew Bible* (Leiden: Brill, 2011) 21-38.

structure of Deut 28:20-44\*. It is therefore unlikely to have been introduced secondarily. Its deletion would undermine the otherwise taut structure of the chiasm in Deut 28:20-44\*.

The final sections that are part of the chiastic structure in Deut 28:20-44\* are Deut 28:23-24 and 28:42. Both of these passages contain the same noun, “land” (ארץ), and describe its agricultural devastation. In the former, a devastating drought is implied as punishment. In the latter, meanwhile, a devastating plague of insects will ruin the harvest of the Israelites:

<b>Table 3.18 – Parallels in Deut 28:23-24 and 28:42</b>	
<u>Deut 28:23-24</u>	<u>Deut 28:42</u>
“Your heavens over your head will be bronze, and the earth (והארץ) under you will be iron. YHWH will make the rain of your land (ארצך) powder and dust; from heaven it will come down on you, until you are devastated.”	“All of your trees and the fruit of your land (ארצך) insects will possess.”

Deut 28:42 in essence reiterates the curse in Deut 28:38, “the locust will consume (your field)” (יחסלנו הארבה). In the former verse, it is insects called צלצל, a term that seems to correspond with the modern taxonomic order *orthoptera* (e.g. grasshoppers, crickets, locusts), that devour the land. This repetition within Deut 28:38-42 here is best explained as an effort to create a chiastic structure within Deut 28:20-44\*. Famine is a logical consequence of both drought (Deut 28:23-24) and the consumption of plants by swarming insects (Deut 28:42). The curses in these passages are thus thematically similar, although their wording and length is strikingly different.

Many of the same lexemes and themes in Deut 28:20-31 are clearly reduplicated in Deut 28:32-44, but in an inverted order. The result is a literary chiasm, which cannot possibly be

viewed as accidental or coincidental. The observation of this underlying structure reaffirms and strengthens other evidence, treated throughout this study, that Deut 28:20-44 is a distinct compositional unit within Deuteronomy 28. This chiasm may readily be outlined as follows:

<b>Chart 3.4 - The Chiastic Structure of Deut 28:20-44*</b>
<p>Land is Rendered Barren (vv. 23-24)</p> <p>Consequences of Military Defeat (v. 25a-c)</p> <p>Popular Marvel and Corpse is Food for Animals (v. 25d-26)</p> <p>Boils That Cannot Be Healed (v. 27)</p> <p>Madness and Loss of Vision (vv. 28-29a)</p> <p>Continual Oppression (v. 29b)</p> <p>Futility of Action (v. 30)</p> <p>Loss of Possessions to Others (v. 31)</p> <p>Loss of Children to Others (v. 32)</p> <p>Futility of Land Cultivation (v. 33a)</p> <p>Continual Oppression (v. 33b)</p> <p>Madness from Vision (v. 34)</p> <p>Boils That Cannot Be Healed (v. 35)</p> <p>Popular Horror and Land is Food for Creatures (vv. 37-40)</p> <p>Consequences of Military Defeat (v. 41)</p> <p>Land is Claimed by Locusts (v. 42)</p>

Although Deut 28:20-44\* is clearly structured as a chiasm, this observation cannot be taken as proof that the first half of the chiasm (Deut 28:20-31) was composed in the same manner as the second half. Although the first half was probably composed under the influence of EST, for reasons that have been discussed, the second half of this passage might well have been written solely under the influence of the preceding material in Deut 28:20-31. The Deuteronomic

composer(s) could have utilized a prestige text as a literary model (EST), but then constructed a chiasm by using the new composition (Deut 20:20-31\*) as the model for Deut 20:32-44\*. This would account for the structure of Deut 28:20-44\* as a composition directly based on EST.

The literary parallels between Deut 28:20-31 and 28:32-44, regardless of how they are best explained, demonstrate the great creativity of the Deuteronomic composers. A precise sequence of distinct themes and lexemes in Deut 20:20-31 is reiterated in Deut 28:32-44. However, while parallel passages are often nearly identical in their language (e.g. Deut 28:29b/Deut 28:33b), at other times they are strikingly different (e.g. Deut 28:25-26a/Deut 28:38-41) in many respects. If the composer(s) of this Deuteronomic passage produced a composition with a complex repetition of themes and lexemes, of course, then it stands to reason that they were similarly capable of adapting literary material from EST in a highly creative fashion. They might have appropriated particular phrases in their source material, but at other times simply expanded on certain themes. There is no reason to expect that the writers of Deut 28:20-44\* would have adapted material from EST in an identical manner in every instance. To suggest that obvious differences in the formulation of similar passages in EST and Deut 28:20-44\* disprove a literary connection between these texts is to ignore evidence as to how biblical writers clearly operated when creating their texts.<sup>51</sup> The differences between Deut 28:20-31\* and EST can be explained as the result of a process of *selective* appropriation and *creative* adaption.

The assertion that Deut 28:32-44\* is dependent on EST, however, is certainly dubious when contrasted with the claim that Deut 28:20-31\* is based on EST. As will be shown in the

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51 Cf. Malul, *The Comparative Method* (1990) 124-125. As Jeffrey Stackert has observed (personal communication), Bruce Wells (*Maarav* 13 [2006]) may be criticized for not recognizing the likelihood of differences between a biblical text and a source that influenced its composition, inasmuch as Wells overly emphasizes the significance of “point[s] of identicalness” as proof of a direct literary connection.

following section of the present work, there are limits as to the numbers of literary discrepancies that can be tolerated before literary dependence is unlikely. Steymans has made detailed and forceful arguments that Deut 28:32-44\* was directly influenced by EST. He also asserts that Deut 28:20-44\* as a whole is best understood as a unified text whose structure is modeled on a chiasm in EST §56 (ll. 472-493).<sup>52</sup> Although he adduces interesting observations in support of his provocative thesis, he ultimately fails to demonstrate it. The evidence that Deut 28:20-31\* was directly influenced by EST is much stronger than the evidence that Deut 28:32-44\* was based on EST. This speaks strongly against his claim that Deut 28:32-44\* was likewise inspired by EST.

### *The Hypothesis of Steymans*

Although Deut 28:20-31 is probably dependent on EST, it does not logically follow that Deut 28:32-44 must be as well. The composer(s) of Deut 28:20-44\* might have chosen to craft the latter half of the chiasm in a manner distinct from the first half. Steymans, however, has made an intriguing case for the dependence of virtually all the material in Deut 28:32-44 on EST by arguing that the organization of curses in Deut 28:20-44 is best explained in view of EST §56 (ll. 472-493).<sup>53</sup> He proposes that curses in disparate sections of EST were selectively appropriated by the Deuteronomic composers, and then arranged according to the chiastic structure of EST §56. This in turn accounts for structure of Deut 28:20-44\* as a whole.<sup>54</sup>

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52 See n. 48 in this chapter for discussion and references.

53 Steymans, *Deuteronomium 28* (1995), 300-12.

54 The table below partially reproduces in translation similar ones contained in a short article by Steymans (*Bundesdokument* [1995] 120-121) and his lengthy monograph (*Deuteronomium 28* [1995] 300) on the topic of the literary connection between EST and Deut 28:20-44.

<b>Table 3.19 - The Structure of EST §56 as the Basis for Deut 28:20-44</b>		
<u>EST §56</u>	<u>Theme</u>	<u>Deut 28:20-44</u>
ll. 472-475	General Cursing	v. 20a
ll. 476-479	Death Realm and Place Loss	vv. 20b-21
ll. 479-481	Famine and Sickness	vv. 22-24
ll. 481-483	Events in War	v. 25a
ll. 483-484	Flesh as Animal Food	v. 26
l. 485-486	Darkness and Loss of Justice	vv. 28-29a
l. 487	Misery	v. 29b
l. 488	Effect of Enemies	vv. 30-32
l. 489	Misery	v. 33b
l. 490	Sickness	vv. 34-37
l. 490	Sustenance	v. 38
l. 491	Drink	v. 39
l. 491	Ointment	v. 40
l. 492	Clothing/Children	v. 41
l. 493	Strangers in Living Space	vv. 43-44

Steymans recognizes that EST §§39-42 and §§63-64 were utilized by the Deuteronomic composers who wrote parts of Deut 28:23-31\*. In his view, passages outside of EST §56 were

selectively adapted for thematic reasons by the composers of Deuteronomy, and then incorporated into the structure of Deut 28:20-44\* modeled on EST §56. The entire Deuteronomic passage is thus construed by him as literarily dependent on various sections of EST.

Steymans's theory is an ingenious one, but the similarities that he discerns between Deut 28:20-44\* and EST §56 prove too weak upon close to inspection to justify his audacious claim that the entire passage was modeled on material in EST. The evidence that EST §§39-42 and §§63-64 served as the literary basis for the composition of passages in Deut 28:23-31\* has already been treated in this study, and Steymans's scholarly contributions to this proposal have been duly noted.<sup>55</sup> These sections in EST and Deuteronomy display large clusters of the same lexemes in a similar literary arrangement. While there are differences in the literary form of similar material in Deut 28:23-31 and EST §§39-42 and §§63-64, the large number of unique correspondences is difficult to dismiss as coincidental. The same cannot be said, by contrast, when EST §56 and Deut 28:32-44 are compared. Although the Deuteronomic composers were capable of adapting their source material in creative ways, Steymans fails to explain why the manner in which EST §56 was adapted differs strikingly from that of EST §§39-42 and §§63-64.

The weaknesses of Steymans's hypothesis are easily illustrated by directly comparing the passages in Deut 28:20-44 with those that he asserts were based on EST §56. According to

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55 See "EST as a Literary Source for Deut 28:23-31\*" in section 3.2 of the present study for an examination of evidence that this Deuteronomic material was somehow influenced by EST. The most suspect aspect of Steymans' analysis in this regard is his claim that these sections within Deuteronomy 28 can be construed as "translations" (*Übersetzungen*) of EST. Eckart Otto (*Das Deuteronomium* [1999] 57-90), building on the observations of Steymans, has similarly claimed that Deut 13:2-12\* is a translation of EST §4 (ll. 41-61) and §10 (ll. 108-122). There are obvious differences between the formulation of these corresponding passages in EST and Deuteronomy 13\* and 28\*. Steymans and Otto do not dispute that these differences exist, but argue that they accord with patterns of dissimilarity attested between other ancient Near Eastern texts that are indisputably translations of others.



Steymans, the opening lines (ll. 472-476) of EST §56 served as the literary source for the composition of Deut 28:20a. These passages contain one term that can be discerned as semantically equivalent, but otherwise correspond only inasmuch as both stress cursing as punishment:

Table 3.20 – EST §56* and Deut 28:20a	
<u>EST ll. 472-475</u>	<u>Deut 28:20a</u>
“May the great gods of heaven and earth, who dwell in the (four) corners (of the world), as many as are mentioned on this tablet, strike you (and) look angrily at you. May they furiously <u>curse</u> you with a terrible curse.”	“YHWH will send upon you <u>cursing</u> , confusion, and rebuke in all that stretch out your hand to do.”
<i>ilānī rabûti ša šamê eršeti ašībûtu kibrāti mala ina ṭuppi annê šumšunu zakru limḥaṣūkunu likkilmūkunu arratu maruštu aggiš <u>līrurūkunu</u></i>	ישלח יהוה בך את־המארה את־ המהומה ואת־המגעת בכל־משלח ידך אשר תעשה
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>472</sup>DINGIR.MEŠ GAL.MEŠ šá AN-e KI-tì a-ši-bu-tu kib-ra-a-ti <sup>473</sup>ma-la ina ṭup-pi an-ni-e MU-šú-nu zak-ru lim-ḥa-ṣu-ku-nu li-ke-l-mu-ku-nu <sup>474</sup>ar-ra-tu ma-ru-uš-tu ag-giš li-ru-ru-ku-nu</p>	

EST and Deuteronomy contain words with the same Semitic root ( *ʿ.r.r* ) in these sections, although in a verbal form in the former (*li-ru-ru-ku-nu*; EST l. 424) and a nominal form in the

latter (מֵאֲרָה; Deut 28:20a). Steymans appropriately classifies EST ll. 472-476 and Deut 28:20a, moreover, as “general cursing” (*allgemeine Verfluchung*) sections. Since both serve as summary introductions to distinct sections consisting exclusively of curses, however, this particular correspondence at the lexical level can easily be dismissed as coincidental. Only in view of stronger similarities between EST §56 and Deut 28:20-44 could his observations be taken as corroborative evidence of a literary connection, but such literary parallels are lacking.

To defend his claim that Deut 28:20a is literarily dependent on EST §56, Steymans stresses other similarities whose significance is dubious. He asserts, for instance, that the sequence of nouns meaning “cursing” (אֶת־מֵאֲרָה), “confusion” (אֶת־מְהוּמָה), and “rebuke” (וְאֶת־מַגְעֵרָתָא) in Deut 28:20a corresponds with the sequence of verbs meaning “may they strike you” (*lim-ḥa-ṣu-ku-nu*), “may they look angrily at you” (*li-kel-mu-ku-nu*), and “may they curse you” (*li-ru-ru-ku-nu*) in EST ll. 474-475. Steymans sees it is significant that “cursing” and “confusion” in the Hebrew text consist of five syllables, with the latter containing a long vowel in the penultimate syllable, while the following noun “rebuke” has seven syllables. According to him, this reflects the *Ellu-Ebbu-Namru* principle,<sup>56</sup> in which words and expressions in Akkadian compositions are arranged according to their length, as verbal forms sometimes appear to be in EST.<sup>57</sup> He adduces no evidence, however, that this patterning is regularly reflected elsewhere

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<sup>56</sup> Steymans, *Deuteronomium 28* (1995) 301-302.

<sup>57</sup> Crouch (*Israel and the Assyrians* [2014] 75-76), specifically citing Steymans's proposal that *Ellu-Ebbu-Namru* principle (n. 70) accounts for aspects of the literary formulation of the Hebrew text, correctly observes that “Steymans is obliged to rely heavily on the idea that translations may involve divergences from their sources in terminology and phraseology, as well as concluding that the author of Deut 28 was engaged in significant creative activity in the process of transforming this VTE source material.” Steymans persuasively demonstrates that significant literary changes took place during the process of translating texts from one ancient Near Eastern language into another. Unfortunately, he is also willing to propose that otherwise unparalleled adaptations took place when the writer(s) of Deut 28:20-44 borrowed from EST.

within Deut 28:20-44\* in the passages that he purports were based on EST. For this line of argumentation to be convincing, Steymans would have to establish the *Ellu-Ebbu-Namru* principle as a regular pattern in EST reflected elsewhere in Deut 28:20-44. An additional weakness to Steymans's argument is that the sequence of these nouns in Deuteronomy can easily be explained without supposing literary dependence on EST §56. The combination of מארה, מהומה, and מגערת in Deut 28:20a might easily result from the euphonic quality of their combination, each having the same initial consonant and an almost identical number of syllables.

Steymans attempts to bolster his claim that Deut 28:20a is literarily dependent on EST ll. 472-476 by noting the repetition of verbal roots in both passages.<sup>58</sup> He contends that it is significant that a Hebrew root meaning “to send” (ישלח... בכל־משלח; ש.ל.ח) is attested at both the beginning and end of Deut 28:20a, while a root that means “to curse” (*arāru*; *li-ru-ru-ku-nu... ar-ra-tu*) occurs twice within EST l. 475. In both passages, he observes, these particular roots occur in a nominal and verbal form. Yet the Semitic roots repeated here are obviously not identical. Literary passages featuring the same root in a verbal and nominal form, moreover, are extremely common throughout Semitic literature. Steymans's claim is particularly problematic in view of his previous assertion that the repetition of a verbal root meaning “to curse” in Hebrew and Akkadian (ר.ר.ר/*arāru*) is proof of a literary connection between these passages. For this results in an extremely complicated model for the composition of Deut 28:20a. On the one hand, this root is supposedly mirrored in its consonantal length by a noun possessing the entirely different meaning “rebuke” (ואת־מגערת; Deut 28:20a). On the other, its employment with a cognate noun (*li-ru-ru-ku-nu... ar-ra-tu*; EST l. 475) in EST supposedly served as the inspiration for the reduplication of an altogether different Semitic root (ישלח... בכל־משלח; ש.ל.ח; Deut 28:20a)

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58 Steymans, *Deuteronomium* 28 (1995) 303.

in the corresponding Deuteronomic passage. This an overly complicated model of borrowing. The combination of these proofs of a literary connection between EST and Deut 28:20a does not strengthen Steymans's theory, but if anything weakens the credibility of his argumentation.

It is subsequently asserted by Steymans, with equally slim evidence, that EST II. 475-479 served as the literary basis for Deut 28:20b-21. Here there are no terms at all that are synonymous, and the literary similarities that he observes are extremely superficial. Steymans concedes, it should be noted, that these passages are extremely different in their literary formulation, but asserts that they are nevertheless connected on a thematic level:

<b>Table 3.21 – EST §56* and Deut 28:20a.21</b>	
<u>EST II. 476-479</u>	<u>Deut 28:20a.21</u>
“Above, may they uproot you from the living. Below in the earth, may they make your spirit thirst for water. May they make you fight off shadow and twilight. May you not find refuge in a hiding place.”	“Until you are destroyed and perish quickly... May YHWH cause pestilence to cling to you, until he has consumed you off the ground.”
<i>eliš balāṭi lissaḥūkunu šapliš ina erṣeti eṭemmakunu mē lišammû šillu u šētu liktaššidūkunu ina puzri šaḥāti lā tannemmidā</i>	עד השמדך ועד־אבדך מהר... ידבק יהוה בך את־הדבר עד כלתו אתך מעל האדמה
<p>Akkadian Transliteration:</p> <p><sup>476</sup>e-liš TI.LA.MEŠ li-sa-ḥu-ku-nu šap-liš ina KI-ti <sup>477</sup>e-tém-ma-ku-nu A.MEŠ li-za-mu-u GISSU u UD.DA <sup>478</sup>li-ik-ta-ši-du-ku-nu ina pu-uz-ri šá-ḥa-ti <sup>479</sup>la ta-nem-mi-da</p>	

In both passages, Steymans notes, death is implied as a punishment (*li-sa-hu-ku-nu*/השמדך; EST 1. 476/Deut 28:20b $\alpha$ ) that in turn removes the accursed from the “earth/ground” (KI-*ti*/האדמה; EST 1.476/Deut 28:21). Several of the subsequent Deuteronomic verses (Deut 28:22-24), however, contain a term meaning “earth” (ארצך/והארץ; Deut 28:23-24), and likewise mention the loss and destruction of the accursed with similar phrasal constructions (עד השמדך, עד עבדך; Deut 28:22, 24), consisting of a preposition and infinitival form with a second-person singular possessive suffix. This certainly diminishes the significance of the correspondences that Steymans discerns as basis for the dependence of Deut 28:20b $\alpha$ .21 on EST ll. 476-479. Although the repetition of these similar phrases in Deut 28:22-24 could conceivably be traced to the influence of EST ll. 476-479 on this material, Steymans fails to note that corresponding phrases are found in Deut 28:20-24. These demand some explanation, or at the very least recognition, in the context of his literary theory that EST §56 served as the basis for curses in Deuteronomy 28.

Ignoring such difficulties, Steymans goes on to claim that EST ll. 479-481 served as the literary basis for Deut 28:22. Once again, not a single verbal or nominal form is clearly paralleled between these passages. Steymans stresses, however, that two of the same curse themes, famine and illness, are shared between these passages in EST and Deuteronomy 28:

<b>Table 3.22 – EST §56* and Deut 28:22</b>	
<u>EST ll. 479-481</u>	<u>Deut 28:22</u>
May food and water abandon you. May famine, shortage, deprivation, and plague not be removed from you.”	“May YHWH strike you with consumption, fever, and inflammation, with extreme heat, drought, blight and mildew. They shall pursue you until you are

Table 3.22 (Continued)

	destroyed.”
<i>aklu u mē līzibūkunu sunqu ḥušaḥḥu bubūtu mūtānu ina maḥrikunu ayi ippiṭir</i>	יככה יהוה בשחפת ובקדחת ובדלקת ובחרחר ובחרב ובשדפון ורדפון ובירקון עד עבדך
<p>Akkadian Transliteration:</p> <p><sup>479</sup>NINDA.MEŠ u A.MEŠ li-zi-bu-ku-nu <sup>480</sup>su-un-qu ḥu-šaḥ-ḥu bu-bú-tu mu-ta-nu <sup>481</sup>ina IGI-ku-nu a-a ip-pi-ṭir</p>	

The reference to “famine” (*su-un-qu*; EST l. 480) and loss of “food” (NINDA.MEŠ; EST l. 479) in EST §56 purportedly accounts for the repeated mention in Deut 28:22 of events that might result in famine, such as “extreme heat” (חרחר), “blight” (חרב), and “mildew” (שדפון). Meanwhile, the allusion to various forms of illness, “consumption” (שחפת), “fever” (דלקת), and “inflammation” (חרחר), is construed by Steymans as an expansion on the notion of “plague” (NAM.ÚŠ.MEŠ; EST l. 480). It is especially significant as well, according to him, that the loss of “water” (A.MEŠ; EST l. 479) is mentioned in EST §56. For this explains why curses centering on devastation as a result of drought in EST §§63-64 (ll. 528-531) were then adapted by the Deuteronomic composers and incorporated into a literary structure modeled on EST §56.

Steymans model for the composition of Deut 28:20-44\* becomes even more complicated at this point, further weakening his already strained argument for the literary dependence of this Deuteronomic passage on EST §56. In his view, the Deuteronomic composers utilized EST §§63-65 (ll. 526-536) when writing Deut 28:23-24. They then simultaneously employed EST

§56 and EST §39-42 (ll. 419-430) as the literary source for Deut 28:25-32\*,<sup>59</sup> but relied largely on EST §56 as the inspiration for Deut 28:33-44\*. The similarities that Steymans discerns as proof of a literary connection between EST §56 and Deut 28:20-44\*, however are noticeably weaker than those that have long been observed between Deut 28:23-31\* and EST §§39-42, §§63-64. Whereas the latter passages in EST and Deuteronomy feature large clusters of synonymous words, the former contain only a few sporadic examples of such word pairs. The similarities between EST §56 and Deut 28:20-44\* are largely thematic. This does not, of course, disprove Steymans's hypothesis. The manner in which the chiasm in Deut 28:20-44\* is constructed demonstrates the remarkable creativity of the Deuteronomic composers, and their ability to adapt material on the basis of theme. It is striking, nevertheless, that the way in which they purportedly adapt material in EST §56 is so different from how they adapt EST §§39-42 and §§63-64. Steymans does not provide an explanation for this serious difficulty in his theory.

Since the correspondences between Deut 28:23-31\* and these sections in EST have already been treated, it is best to proceed to a discussion of Steymans's evidence that EST §56 shaped the literary structure for Deut 28:25-29a\*. Both of these passages contain curses that feature the eating of flesh by animals (EST ll.483-484; Deut 28:26) and the infliction of a darkness (EST ll. 485-486; Deut 28:29). Steymans sees this as evidence of a literary connection:

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59 See discussion in "EST as a Literary Source for Deut 28:23-31\*" in section 3.2 of the present work. Crouch (*Israel and the Assyrians* [2014] 76) is right to stress that the "extent of the differentiation between Deut 28 and VTE §56 goes beyond what can be attributed to either translational limitations or creative license while still retaining the degree of specificity necessary to successfully signal an adaptation." She is injudicious, nevertheless, in her dismissal of the significance of the literary correspondences between Deut 28:23-31\* and EST as proof of possible literary connection. One may discern the former as a selective and creative borrowing of material from the latter, rather than a "translation" (*Übersetzung*) as Steymans has proposed.

Table 3.23 - EST §56* and Deut 28:26-29a	
EST II. 483-486	Deut 28:26-29a
<p>“May the earth not receive your corpses; may your grave (be) in the belly of a dog (or) pigs; may your days be darkened; may your years be dark; may they decree darkness without light as your fate.”</p>	<p>“Your corpse will be food for the fowl of the heavens and the beast of the earth. There will be no one to frighten (them away). YHWH will strike you with the boils of Egypt, carbuncles, scabs, and itch, of which you cannot be healed. YHWH will strike you with madness, blindness, and confusion of heart. You shall grope at noon, as the blind man gropes in darkness.”</p>
<p><i>pagrīkunu erṣetu ayi imḥur ina karši kalbi šaḥī lū naqbarkunu umīkunu lū eṭū šanātikunu lū eklā ekletu lā namāri ana šīmtīkunu lišīmū</i></p>	<p>והיתה נבלתך למאכל לכל־עוף השמים ולבהמת הארץ ואין מחריד יככה יהוה בשחין מצרים ובטחרים בגרב בחרס אשר לא־תוכל להרפא יככה יהוה בשגעון ובעברון ובתמהון לבב והיית ממשש בצהרים כאשר ימשש העור באפלה</p>
<p>Akkadian Transliteration:</p> <p><sup>483</sup>lū<sup>1</sup>ŪŠ.MEŠ-ku-nu KI.TIM <sup>484</sup>a-a im-ḥur ina kar-ši UR.GI<sub>7</sub>.MEŠ SAḤ.MEŠ lu na-aq-bar-ku-nu U<sub>4</sub>.MEŠ-ku-nu lu e-ṭu-u MU.MEŠ-ku-nu ek-la ek-le-tu <sup>486</sup>la na-ma-a-ri a-na šim-ti-ku-nu li-ši-mu</p>	

Here one observes two pairs of synonymous words. Both of these passages feature nouns meaning “corpse” with a second-person possessive suffix (<sup>1</sup>ŪŠ-ku-nu/נבלתך; EST I. 483/Deut 28:26) and terms meaning “darkness” (*ek-le-tu*/באפלה; EST I. 485/Deut 28:29). The same



Akkadian term for “darkness” is found in EST §40 (*ek-le-ti*; EST l. 424), and this literary similarity could be taken to bolster Steymans’s argument that EST §§39-42 was selectively targeted for literary adaptation by the Deuteronomic composers. However, Steymans readily concedes that there are no clear literary correspondences between EST ll. 481-483 and any material within Deut 28:20-44\*.<sup>60</sup> In addition, the theme of the loss of justice in EST §40 is unparalleled in EST §56. It is supposedly introduced into the Deuteronomic composition on account of EST §40’s position between EST §39 and §41, which show lexical and thematic similarities with EST§56. Since every verse in Deut 28:25-29a displays similarities with EST ll. 423-427, however, one must ask why it is necessary to postulate the influence of EST§56 at all.

Steymans’s model for the composition of the Deut 28:20-44\* has the superficial advantage of explaining why Deuteronomic material based on EST §41 was placed before material influenced by EST §§39-40 and §42. According to him, the Deuteronomic writers borrowed from EST §41 (ll. 425-427) with an eye to preserving the overarching structure of EST§56. Both EST ll. 483-486 and Deut 28:26, Steymans observes, describe events that may be construed as consequences of war.<sup>61</sup> The loss of “braids” (*si-si*; EST l. 481) and “locks” (*mat-nat*; EST l. 482) are recognizable as acts of humiliation by an enemy, while the consumption of one’s “corpse” (נבלתך; Deut 28:26) by animals is the natural outcome of death in battle. The thematic connections that Steymans perceives between these passages in EST and Deuteronomy are certainly not impossible, but tenuous at best in view of the absence of any lexical parallels.

That the Deuteronomic composers could adapt material solely on a thematic level, without reduplicating particular words or phrases, has already been shown. The complex manner

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60 Steymans, *Deuteronomium* 28 (1995) 304.

61 Ibid., 117, 304-305.

in which the chiasm in Deut 28:20-44\* is constructed demonstrates the ability of the Deuteronomic writers to adapt and expound on literary themes. Not every parallel unit within the chiastic structure of this passage features the same lexemes, but there is always a clear thematic correspondence.<sup>62</sup> This is not the case, however, in the examples that Steymans highlights as evidence for a literary connection between EST §56 and Deut 28:20-44\*. The thematic similarities that he discerns are extremely broad, and do not furnish strong evidence that there is such a connection. Since lexical parallels are absent as well, the thesis is extremely weak.

The point is well illustrated by comparison of EST l. 487 and Deut 28:29b. Steymans argues that the latter served as the literary inspiration for the former. There are no obvious similarities, however, between the language and themes of EST l. 487 and Deut 28:29b:

Table 3.24 - EST §56* and Deut 28:29b	
<u>EST l. 487</u>	<u>Deut 28:29b</u>
“In moaning and sleeplessness, may your life come to an end.”	“You shall surely be oppressed and robbed all the time. There shall be no one to save (you).”
<i>ina tănēḥi dilipti napištakunu liqti</i>	והיית אך עשוק וגזול כל־הימים ואין מושיע
<sup>487</sup> <i>ina ta-né-ḥi di-lip-ti na-piš-ta-ku-nu liq-ti</i>	

Not a single term is paralleled between EST ll. 487 and Deut 28:29b. Steymans asserts, however, that there is indeed thematic parallelism here. He suggests that they share the theme of “misery”

<sup>62</sup> See discussion in “The Arrangement of Curse Motifs in Deut 28:20-44,” the immediately preceding subsection in the present chapter of this work, for evidence with critical commentary.

(*Elend*). It is difficult, however, to conceive of a more spurious thematic connection when one takes into account the literary contexts of these passages. Curses by their very nature involve the infliction of suffering upon individuals, and it should be expected that all of the curses in EST and Deut 28:20-44\* somehow involve the experience of “misery” by those who are cursed.

Steymans goes on to assert that there is a literary connection between EST ll. 448-489 and Deut 28:30-33, because both contain curses describing the effect of war on the defeated.<sup>63</sup> Although there is no explicit mention of war in either passage, Deut 28:30-33 does refer to “enemies” (לִי־אֹיֵב; Deut 28:31), a term that would naturally occur in a literary passage treating with military defeat. The events described in this Deuteronomic passage might result from plundering by enemies in a war. This is not clearly the case, however, in EST ll. 488-489:

<b>Table 3.25 - EST §56* and Deut 28:30-33</b>	
<u>EST l. 488-489</u>	<u>Deut 28:30-33</u>
“May a terrible flood, a deluge that cannot be faced, rise up from the earth (and) establish your devastation.”	“You shall betroth a wife, but another man will lie with her. You shall build a house, but you shall not dwell in it. You shall plant a vineyard, but you shall not gather its fruit. Your ox (shall be) slaughtered before your eyes, but you shall not eat from it. Your donkey shall be robbed from you. It shall not return to you. Your flock shall be given to your enemies. There shall be no savior for you.”

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63 Steymans, *Deuteronomium* 28 (1995) 306.

Table 3.25 (Continued)

<i>bubbulu abūbu lā maḥru ultu erṣeti</i> <i>līlāma našpantakunu liškun</i>	אשה תארש ואיש אחר ישכבנה בית תבנה ולא־תשב בו כרם תטע ולא תחללנו שורך טבוח לעיניך ולא תאכל ממנו חמרך גזול מלפניך ולא ישוב צאנך נתנות לאיביך ואין לך מושיע
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>488</sup>U<sub>4</sub>.NÁ.ÀM <i>a-bu-bu la maḥ-ru ul-tu</i> KI.TIM <sup>489</sup><i>li-la-am-ma na-aš-pan-ta-ku-nu liš-kun</i></p>	

The “flood” (U<sub>4</sub>.NÁ.ÀM; EST l. 488), “deluge” (*a-bu-bu*; EST l. 488), and “devastation” (*na-aš-pan-ta-ku-nu*; EST l. 480) that are mentioned in EST §56, nevertheless, are thematically associated with the actions described in Deut 28:30-33 according to Steymans. He observes that the deity Nergal, who is associated with war in Mesopotamian mythology, sometimes bears the epithet “imposer of the deluge” (*šākin abūbi*).<sup>64</sup> Likewise Ištar, a Mesopotamian goddess who is frequently associated with war, is occasionally mentioned in connection with the threat of “deluge” (*abūbu*).<sup>65</sup> For Steymans, such observations are proof that references to a “flood” in EST have a martial connotation. The presence of this theme in EST §56 in turn explains the introduction of material translated from EST §42 (ll. 428-430) into Deut 28:30-33. The former passage unambiguously describes the consequences of defeat at the hand of a military enemy.<sup>66</sup>

It is crucial for Steymans’s argument that the theme of war is reflected at this literary

<sup>64</sup> Ibid., 117-118.

<sup>65</sup> Ibid.

<sup>66</sup> For a translation and brief discussion of EST §42 (ll. 428-430), see “EST as a Literary Source for Deut 28:23-31\*” in section 3.2 of this study.

juncture in EST §56. Although there are no lexical parallels between EST ll. 488-489 and Deut 28:30-33—just as there are no such parallels between EST l. 487 and Deut 28:29b—a thematic correspondence between EST ll. 488-489 and Deut 28:30-33 accounts for the peculiar arrangement of material in Deut 28:25-32. Specifically, it explains why material based on EST §§39-42 has been placed in a sequence reflecting the influence of EST §§41, 39-40, and §42 in that order. EST §41 describes the consequences of military defeat and also mentions consumption of flesh (cf. Deut 28:25-26). EST §39 then features skin afflictions (cf. Deut 28:27). Finally, EST §40 describes falling into darkness (cf. Deut 28:28-29a), while EST §42 elaborates on defeat by enemies (cf. Deut 28:30-32). Steymans accepts that the similarities between EST §§39-42 and Deut 28:25-32 are best explained by dependence of the latter on the former, but according to him the order of material in Deut 28:20-44\* must be explained in view of EST §56.

It bears repeating that the relative lack of lexical correspondences between EST §56 and EST §§39-42 does not disprove the possibility that EST §56 inspired material in Deut 28:30-33. Corresponding sections within the chiastic structure of Deut 28:20-44\*, which were treated earlier, clearly demonstrate that the Deuteronomic composers could construct parallel passages through an emphasis of parallel themes. It is not only the lack of lexical parallels, but the relative weakness of many of the purported thematic parallels, that casts grave doubt on Steymans's argument for the dependence of Deut 28:20-44\* on EST §56. The remaining evidence that Steymans adduces as proof of his provocative theory that EST §56 served as the literary model for the structure of Deut 28:20-44\*, meanwhile, is little stronger and ultimately unpersuasive.

According to Steymans's theory regarding the composition of these two passages, the chiastic repetition of themes between EST §56 and Deut 28:20-44\* begins in EST ll. 488-489

and Deut 28:33b-35. Here he discerns an important similarity in their shared description of “misery” (*Elend*).<sup>67</sup> The problem of associating curses with others on the basis of this vague theme has already been treated. In this instance, however, Steymans can point to the affliction of “sickness” (*Krankheit*) as a more specific thematic correspondence between the passages:

Table 3.26 - EST §56* and Deut 28:33b-35	
<u>EST II. 489-490</u>	<u>Deut 28:33b-35</u>
“May any goodness be your abomination. May any sickness be your fate.”	“You shall just be oppressed and crushed all the time. You shall be driven mad as a result of what your eyes see. YHWH shall strike you with awful boils on the knees, and on the legs, of which you cannot be healed. From the sole of your foot up to the top of your head.”
<i>mimma ṭābtu lū ikkibkunu mimma marṣu lū šīmatkunu</i>	והיית רק עשוק ורצוץ כל־הימים והיית משגע ממראה עיניך אשר תראה יכבה יהוה בשחין רע על־הברכים ועל־השקים אשר לא־תוכל להרפא מכף רגלך ועד קדקדך
Akkadian Transliteration:	
<sup>488</sup> <i>mim-ma DÜG.GA lu ik-kib-ku-nu</i> <sup>489</sup> <i>mim-ma GIG lu ši-mat-ku-nu</i>	

Types of illness are clearly described in both passages. As Steymans observes, EST §56

<sup>67</sup> Ibid., 306-307.

expresses the wish that “any sickness” (*mim-ma* GIG; EST l. 490) befall the accursed,<sup>68</sup> while Deuteronomy 28 mentions the infliction of a specific ailment, “boils” (בשחין; Deut 28:35). In addition, the Deuteronomic passage contains the phrase “of which you cannot be healed” (לא-תוכל להרפא; Deut 28:35). The verbal root meaning “heal” (ר.פ.א) might well call to mind its conceptual opposite, the infliction of sickness. There are two possible ways, therefore, of associating these two passages in EST and Deuteronomy 28 on the basis of the interrelated themes of “sickness” and “misery.” It is not outright impossible that the Deuteronomic composers could have adapted material from EST in the creative manner that Steymans discerns. However, without stronger support for his claim that EST §56 accounts for the arrangement of material in Deut 28:22-44\*, Steymans's conclusion that there is a literary connection is suspect.

Steymans then asserts that the following lines in EST §56 (ll. 490-491) directly influenced the composition of Deut 28:38-40.<sup>69</sup> In his view, they display a significant series of thematic correspondences. Specifically, the themes of “sustenance” (*Nahrung*), “drink” (*Getränk*), and “ointment” (*Salbe*) occur in rapid succession within these two passages:

<b>Table 3.27 - EST §56* and Deut 28:38-40</b>	
<u>EST ll. 490-491</u>	<u>Deut 28:38-40</u>
“May pitch and bitumen be your food. May the urine of a donkey be your drink. May naphtha be your ointment.”	“You shall bring out much seed to the field, but gather in little, for the locust will consume it. You shall plant and cultivate vineyards, but you shall not drink wine or gather (their grapes), for

68 Ibid., 307.

69 Ibid., 118.

Table 3.27 (Continued)

	the worm will eat them. You shall have olive-trees throughout all your borders, but you shall not anoint with (olive) oil, for your olives will drop off.”
<i>qīru kupru lū mākalākunu šīnāt imēri</i> <i>lū mašqītkunu napṭu lū piššatkunu</i>	זרע רב תוציא השדה ומעט תאסף כי יחסלנו הארבה כרמים תטע ועבדת ויין לא־תשתה ולא תאגר כי תאכלנו התלעת זיתים יהיו לך לכל־גבולך ושמן לא תסוך כי ישל זיתך
Akkadian Transliteration: <sup>489</sup> <i>qi-i-ru ku-up-ru lu ma-ka-la-ku-nu</i> <sup>491</sup> KĀŠ ANŠE.NÍTA <i>lu maš-qit-ku-nu nap-ṭu</i> <i>lu pi-šat-ku-nu</i>	

In Deut 28:38, according to Steymans, the inability of the accursed to gather the produce of his field on account of locusts calls to mind the transformation of “food” (*ma-ka-la-ku-nu*; EST l. 490) into pitch and bitumen in EST l. 490. In both, the loss of solid food is obviously implied as a punishment. In Deut 28:39 and EST l. 491, meanwhile, the absence of drinkable liquid is similarly suggested as an affliction. This occurs through the destruction of the grape harvest, which will leave no win for the accursed to “drink” (תשתה; Deut 28:39) in the former, and the transformation of urine into “drink” (*maš-qit-ku-nu*; EST l. 491) in the latter. The same Semitic root is reflected in the Hebrew verb and the Akkadian noun. The verbal root meaning “eat” (תאכלנו) in Deut 28:39 is likewise found in the word for “food” (*ma-ka-la-ku-nu*) in EST l. 490.

Steymans thus envisions the writer of the Deuteronomic passage as extrapolating from a general form of sustenance, “food,” and a particular form of liquid, “urine” (KĀŠ) in EST §56



when composing Deut 28:38-39. He in turn stresses the likelihood that the mention of “ointment” (*pi-šat-ku-nu*; EST l. 491) in EST served as the inspiration for a curse centering on the devastation of the olive harvest in Deut 28:40. For the accused will be unable to “anoint” (תסוך) with “(olive) oil” (ושמן) in Deut 28:40. The loosely shared reference to “(an)ointment” in these passages might suggest there is a literary connection between them, but not a single one word employed by the writers of these passages can be discerned as synonymous parallels.

The connections that Steymans discerns between these passages, nevertheless, are indeed intriguing. Although it might seem strange that a short passage in EST §56 (ll. 490-491) served as the model for the longer compositional unit comprising Deut 28:38-40, this particular difficulty is surmountable. The preceding study of the chiastic structure of Deut 28:20-44\* has shown that the Deuteronomic composers were capable of composing short passages by expounding on the themes in longer ones in a creative manner.<sup>70</sup> The reformulation of the curses in EST ll. 490-491 as “futility curses” in Deut 28:38-40 could be explained as a conscious or unconscious effort by the Deuteronomic composers to adapt material for their audience.<sup>71</sup>

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70 Although Steymans explains the overarching chiastic structure and the composition of particular passages in Deut 28:20-44\* as the result of the influence of EST §56, the present author prefers to explain the composition of the second half of the chiasm (Deut 28:32-44\*) as directly modeled on the first (Deut 28:20-31\*). It would be hypocritical, however, to dismiss Steymans's proposal on the grounds that particular passages only parallel each other with regard to theme. For there is clear evidence of deliberate but purely thematic parallelism between the two halves of the chiasm in Deut 28:20-44\*, which must have been the result of authorial intent. There is evidence elsewhere as well that biblical writers were capable of substantial creativity when adapting earlier biblical compositions. It is the relatively weak set of thematic correspondences between EST §56 and Deut 28:20-44\* that casts doubt on Steymans's proposal.

71 Evidence for the distinctiveness of “futility curses” as a West Semitic literary form is presented in “Treaties and Curse Traditions in the Ancient Near East” within section 3.2 of this study. The Tell Fekhireye inscription demonstrates that Aramaic futility curses could be paralleled by Akkadian ones that were formulated differently. However, the presence of West Semitic curse forms in Deut 28:38-40 can also be explained as a consequence of the latter half (Deut 28:32-44) of the chiasm in Deut 28:20-44\* not being written under the influence of EST.

There are more troubling difficulties, however, with Steymans’s argumentation that the final passages in EST §56 in Deut 28:20-44\* are connected. He asserts, for instance, that there is a literary connection between the ostensibly unrelated themes of “clothing” (*Kleidung*) and “children” (*Kinder*). The former theme is reflected in EST ll. 492, while the latter is found in Deut 28:41-42. These passages, it should be noted, do not show any lexical correspondences:

<b>Table 3.28 - EST §56* and Deut 28:41-42</b>	
<u>EST ll. 492</u>	<u>Deut 28:41-42</u>
“May the weed of the river be your cloak.”	“You shall beget sons and daughters, but they shall not be yours, for they shall go into captivity. All of your trees and the fruit of your land insects shall possess.”
<i>elapû ša nāri lū taktīmḱunu</i>	בנים ובנות תוליד ולא־יהיו לך כי ילכו בשבי כל־עצך ופרי אדמתך יירש הצלצל
<p>Akkadian Transliteration:</p> <p><sup>492</sup><i>e-la-pu-u šá ÍD lu tak-tim-ku-nu</i></p>	

According to Steymans, the literary connection between these passages is discerned when other ancient Near Eastern texts containing curses are examined. He observes that the themes of “sustenance,” “drink,” “ointment,” and “clothing,” are sometimes attested together elsewhere in Neo-Assyrian curse texts.<sup>72</sup> In a particular Neo-Assyrian treaty, moreover, these themes are sometimes linked with the theme of “deportation.”<sup>73</sup> From this observation, Steymans infers that

72 Steymans, *Deuteronomium* 28 (1995) 308-309.

73 Steymans, “Ein assyrisches Vorlage” (1995) 135-136; SAA 2 5 IV, ll. 14-17.

the Deuteronomic composers could have been inspired by the reference to a “cloak” (*tak-tim-ku-nu*; EST l. 482) in EST §56 to describe a scene of deportation. Specifically, the mention of children, “sons and daughters” (בנים ובנות), being sent into “captivity” (בשבי) in Deut 28:41.

Steymans’s reasoning here is highly problematic on two grounds. First, he assumes without any evidentiary support that the Deuteronomic composers must have been familiar with a tradition of grouping these curse themes together. Supposing that EST was a literary source utilized the composers of Deut 28:20-44\*, of course, it is conceivable that the Deuteronomic writers were exposed to other Assyrian texts. However, since no connection between the themes of “clothing” and “children” can possibly be discerned without recourse to this supposition, Steymans is implicitly asking readers to accept the conclusion that he is attempting to demonstrate. Namely, that there *is* a literary connection between Deut 28:41-42 and EST §56. He cannot, purely on the basis of a direct comparison of these two passages, discern a literary connection between them. Steymans thus hypothesizes that Israelite scribes were familiar with other Akkadian texts, but does not explain how they might have been exposed to them.

The second major problem with Steymans’s argument is that the curse themes of “deportation,” “sustenance,” “drink,” “ointment”, and “clothing” are clustered in only two Neo-Assyrian texts (SAA 2 2; SAA 2 5) cited by Steymans. This is scant evidence that they were traditionally grouped together, which is crucial for Steymans's claim that Israelite scribes composed Deut 28:41-42 in view of a pattern. It is especially noteworthy that the theme of “deportation” (cf. Deut 28:41) is only clearly attested in one of these two *adê*-documents:

<b>Table 3.29 - Clusters of Curse Themes in Neo-Assyrian <i>Adê</i></b>	
<u>SAA 2 2 rev. IV ll. 14-16</u>	<u>SAA 2 5 rev. IV ll. 14-17</u>

Table 3.29 (Continued)

<p>“May dirt be their food. May pitch be their ointment. May the urine of a donkey be their drink. May papyrus be their clothing. May their sleeping place be in the waste heap.”</p>	<p>“May Melqart and Eshmun deliver your land to devastation. May they deliver peoples as plunder. May they uproot you from your land. May they banish food from your mouths, garments from your outward form, (and) oil for your anointing.”</p>
<p><i>epru ana akālišunu qīru ana piššatišunu šīnāt imēri ana šatišunu niāru ana lubuštišunu liššakin ina tubkini lu mayālšunu</i></p>	<p><i>Milqartu Iašumunu mātḫunu ana ḫapê nišīḫunu ana šalāli liddinū ultu mātḫunu lissuḫūḫunu kurummāti ina pīḫunu kuzippī ina lānikunu šamnī ina pašāšīḫunu luḫalliḳū</i></p>
<p><sup>14</sup>SAḪAR.MEŠ <i>a-na KÙ-šú-nu qī-ru a-na ŠÉŠ-šú-nu</i> <sup>15</sup>KÀŠ ANŠE NAG-šú-nu <i>ni-a-ru ana lu-bu-uš-ti-šú-nu</i> <sup>15</sup>liš-šá-kin <i>ina tub-ki-ni lu ma-a-a-al-šú-nu</i></p>	<p><sup>14</sup><sup>d</sup>Mi-il-qar-tu <sup>d</sup>Ia-aš-mu-nu KUR-ku-nu <i>a-na ḫa-pe-e</i> <sup>15</sup>UN.MEŠ-ku-nu <i>a-na šá-la-li li-di-nu</i> TA KUR-ku-nu [lis-su]-ḫu-ku-nu ŠUKU.MEŠ <i>ina pi-i-ku-nu ku-zip-pi ina la-ni-ku-nu</i> Ì.MEŠ <i>ina pa-šá-ši-ku-nu lu-ḫal-li-qu</i></p>

“Deportation” is plausibly implied in SAA 2 5 by the punishment of Melqart and Eshmun delivering the accursed's people “into captivity” (*a-na šá-la-li*; r. IV. l. 15).<sup>74</sup> To be taken into captivity in this Neo-Assyrian context might well mean deportation. It is less clear that the comparable punishment in SAA 2 2, in which the accursed's people will find their “resting place

74 Cf. CAD Š/1 (1989) 197-198.

in the waste heap” (*ina tub-ki-ni lu ma-a-a-al-šú-nu*; r. IV l. 16), should be understood as describing deportation. The loss of one's resting place could result from deportation, but might equally well result from the destruction of one's home or evacuation from it. All of the other curse themes—“sustenance,” “drink,” “ointment”, and “clothing”—that Steymans discerns between these two passages in Neo-Assyrian *adê*-documents are certainly shared, but the absence of clear parallels for the themes of deportation (of children) weakens his hypothesis.

An entirely new difficulty for Steymans’s hypothesis is apparent when the subsequent passages in Deut 28:20-44\* and EST §56 are compared. The theme of “strangers in (one's) living space” (*Fremde im Lebensraum*) in purportedly reflected in both EST ll. 493 and Deut 28:43-44. Yet it is clear on closer inspection that the “strangers” (*Fremde*) being equated by Steymans are distinct in these passages. Once again, moreover, there are no clear lexical correspondences between the passages in EST and Deuteronomy that Steymans asserts are literarily connected:

Table 3.30 - EST §56* and Deut 28:43-44	
<u>EST l. 493</u>	<u>Deut 28:43-44</u>
“May the <i>šēdu</i> -spirit, the <i>utukku</i> -demon, and the <i>rābiṣu</i> -demon seize your house.”	“The stranger that is in your midst will go above you, higher and higher. You shall go down, lower and lower. He will lend to you, but you shall not lend to him. He shall become the head, and you shall become the tail.”
<i>šēdu utukku rābiṣu lemnu bītātikunu liḥīrū</i>	הגר אשר בקרבך יעלה עליך מעלה מעלה ואתה תרד מטה מטה הוא ילוך ואתה לא תלוננו הוא יהיה לראש ואתה תהיה לזנב

Table 3.30 (Continued)

<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>493</sup><i>še-e-du ú-tuk-ku ra-bi-šu lem-nu É.MEŠ-ku-nu li-ḫi-ru</i></p>
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The “*šēdu*-spirit” (*še-e-du*), the “*utukku*-demon” (*ú-tuk-ku*), and the “*rābišu*-demon” (*ra-bi-šu lem-nu*) in EST l. 493 are all supernatural beings. By contrast, Deut 28:43-44 describes the future situation of “the stranger” (הגר), a resident alien within an Israelite community. If the Deuteronomic writers crafted Deut 28:43-44 directly on the basis of EST, focusing on the “stranger” (הגר) in their midst, then they must have conceptually connected various Neo-Assyrian demons and spirits with resident aliens. While it may be that the authors of EST perceived these spirits to be as real as any corporeal entity, there is no reason to assume that they would be equated with the very real and tangible “stranger” (גור) in Israelite society by the Deuteronomic composers. Steymans does not adequately explain how they are to be equated.

There are striking differences between the treatment of these figures in these curses (EST l. 493; Deut 28:31) as well. In the former, it is the intrusion of the demonic entity itself that presents a problem. The “*šēdu*-spirit”, the “*utukku*-demon,” and the “*rābišu*-demon” are assumed to be unwelcome in the “houses” (É.MEŠ-ku-nu) of the accursed. Their very presence is intrinsically dangerous for the dweller. By contrast, the presence of the “stranger” within the Israelite community was by no means perceived as inherently problematic.<sup>75</sup> In Deut 28:43, it is the ascendancy of the resident alien within the Israelite community that is stressed as dangerous. The “stranger” is symbolically elevated, “higher and higher” (מעלה מעלה), above the Israelite native, who correspondingly falls “lower and lower” (מטה מטה). The native in turn is described as

<sup>75</sup> Cf. Deut 10:17-19.

indebted to the “stranger” (Deut 28:44), receiving loans but never acting as lender. What is fundamentally dangerous is not the mere presence of the resident alien, but his eventual supremacy that leads the degradation of the Israelite native. It is difficult to regard the curse in Deut 28:43-44 as a mere “translation” of EST 1. 493 in view of these conceptual differences.

Steymans’s overarching hypothesis that the literary arrangement of material in Deut 28:20-44\* was influenced by EST §56 is clearly problematic. There are often striking differences, but no meaningful similarities, between verses in Deut 28:20-44 and EST §56 that Steymans regards as literarily connected. He fails, moreover, to observe any strong pattern of synonymous parallels in the verbal or nominal forms attested in these passages. By contrast, these are abundant when EST §§39-42 and §§63-65 are compared with Deut 28:20-31\*. The Deuteronomic composers were capable, of course, of adapting material in a highly creative fashion. This was established in the preceding analysis of the chiasmic structure of Deut 28:20-44\*, as well as the discussion of literary parallels between Deut 28:20-31\* and EST §§39-42 and §§63-65. The parallels between EST §§39-42 and §§63-65 and Deut 28:30-31\* are certainly stronger, and seem to result from a different methodological approach, than those that Steymans’s discerns in the borrowing of material from EST §56. It is not likely, therefore, that the structure of Deut 28:20-44\* can be explained as a singular act of literary borrowing from sections of EST.

Both EST §56 and Deut 28:20-44\* appear to have been structured chiasmically, but Steymans wrongly interprets this as evidence that the former served as the literary basis for the latter. The *true* significance of this observation for understanding the literary structure of Deuteronomy eludes him. When one critically examines all of the evidence afforded by comparative study of EST and Deuteronomy 28, it is remarkable that the strongest literary

correspondences between the former and the latter texts terminate precisely at the structural midpoint of the chiasm in Deut 28:20-44\*. The first half of the chiasm in Deut 28:20-44, comprising Deut 28:20-31, seems to have been based on literary material in EST §§39-42 and §§63-65 in view of a strong cluster of shared themes and lexemes. The literary similarities between Deut 28:20-44\* and EST §56, however, are weaker in virtually every respect. That the strong literary correspondences between EST and Deut 28:20-44\* cease at the midpoint of the chiastic structure is not likely to be the result of coincidence. Rather than attempting to explain this entire structure in light of EST, it is simpler and more plausible to suppose that the writers of Deut 28:20-44\* only crafted the first half of the chiasm in light of material in EST, and then recycled material in this composition to create a second half that was not directly based on EST.

One of the greatest weaknesses in Steymans's hypothesis, though, is the reason that he proposes particular literary material outside of EST §56 being sporadically adapted and incorporated into Deut 28:20-44\*. These particular passages (§§39-42, 63-64), he asserts, drew the attention of the Deuteronomic composers on account of explicit and implicit allusions to the sun-god Shamash,<sup>76</sup> who is responsible for administering justice. YHWH is likewise associated with justice and light throughout the biblical canon,<sup>77</sup> and for this reason the Deuteronomic composers deliberately adapted passages with allusions to him when crafting their law code. Even a cursory survey of biblical literature, however, reveals that YHWH is associated with virtually every positive characteristic that a deity might possess, such as mercy and faithfulness (e.g. Deut 7:9; Ps 36:5). Shamash is referenced in EST §40 (l. 422), but otherwise goes unmentioned within the passages (EST §38-39, 41-42, 56, 63-40) that Steymans discerns as

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<sup>76</sup> Steymans, *Deuteronomium* 28 (1995) 139-142.

<sup>77</sup> E.g. Deut 32:4, 33:2; Ps 27:1, 89:14; Zech 3:5.



influencing the curses in Deut 28:30-44\*. Only the inverse association of Shamash with the curse theme of darkness in EST §56 (ll. 485-486), and paltry lexical correspondences between EST §§38-40 (featuring a single mention of Shamash) and §§63-64, serve as evidence for Steymans's thesis. Why would the Deuteronomic composers have fixated on these literary connections when constructing their text, while ignoring other passages in which Shamash is explicitly mentioned?<sup>78</sup> Steymans offers no explanation. Most crucially, none of the connections that Steymans asserts are necessary to explain the chiasmic structure of EST, as was shown earlier.

An important consideration, when one examines the possibility of a direct literary connection between two particular ancient Near Eastern texts, is the following question: why construct a text in this way? Steymans never identifies another text as an antecedent for the complex literary model that he proposes for the borrowing of material from EST into Deut 28:20-44\*. Where is there evidence of a text being structured chiasmically, on the basis of a particular passage, with material borrowed sporadically from disparate sections within the same text? Steymans is proposing an exceptionally complicated literary model for the composition of Deut 28:20-44 that is wholly unparalleled in the biblical canon. He certainly succeeds in demonstrating his own literary creativity, but not that of the composer(s) of Deut 28:20-44\*.

Steymans does regard certain parts of Deut 28:20-44 as secondarily added to the Deuteronomic text, and therefore the following verses do not show the influence EST in his literary model: Deut 28:20c, 21b, 25d,<sup>79</sup> and 36-37. These verses are discerned as additions on various grounds, and Steymans is hardly alone in viewing them as secondary. Deut 28:20c

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78 Cf. EST ll. 334, 545, 649; cf. Steymans, *Deuteronomium 28* (1995) 132.

79 Steymans, *Deuteronomium 28* (1995) 263-264. The text that Steymans references as Deut 28:25b is designated by the present author as 28:25d: "You shall be a horror to all the kingdoms of the earth" (והיית לזעוה לכל ממלכות הארץ).

contains a particular phrase that is virtually identical to one that occurs elsewhere in Jeremiah: “because of the evil of your misdeeds” (מפני רע מעלליך; cf. Jer 4:4, 21:12, 44:12).<sup>80</sup> Since other passages in Deut 28:45-62 plausibly display the influence of Jeremiah, Steymans suggests that this phrase was introduced by the same editor responsible for the introduction of this Deuteronomic material reflecting the reality of the exile. This possibility is reinforced by the concluding phrase in Deut 28:20c, “through which you have abandoned me” (אשר עזבתני). The use of a perfective verbal form here (עזבתני) is striking, inasmuch as it may hint that this future disobedience has already taken place from the perspective of the writer.<sup>81</sup> Deut 28:20c can be read as presuming that the conditions of the Deuteronomic Code have indeed not been fulfilled. It thus seems out of place at this juncture within the Deuteronomistic historical schema. Similarly, Deut 28:21b ostensibly describes removal from the land of Israel as a punishment for disobedience, a possible example of *vaticinium ex eventu*: “until His consuming you off of the land that you are going thither to possess it” (עד כלתו מעל העדמה אשר־אתה בא־שמה לרשתה). The mere reference to exile hardly proves that the verse must be exilic or post-exilic, but Steymans observes that Deut 28:21b interrupts a sequence of curses treating with the affliction of sickness (Deut 28:21-22).<sup>82</sup> Moreover, it seems to unnecessarily reduplicate the concluding phrase of Deut 28:22, “until you are destroyed” (עד עבדך), which could have been its literary inspiration.

For similar reasons, Deut 28:25b and Deut 28:36-37 are presumed by Steymans to be editorial supplements to Deut 28:20-44. The phrase “you shall be a horror to all the kingdoms of the earth” (והיית לזעוה לכל ממלכות הארץ) in Deut 28:25b is without parallel in EST, but the phrase is clearly paralleled in three passages in the book of Jeremiah (cf. Jer 15:4, 24:9 29:18). Deut

80 In Jer 21:25, מעלליך is the *Qere* reading for the *Ketib* מעלליהם.

81 Cf. Steymans, 256.

82 Steymans, *Deuteronomium* 28 (1995) 258.

28:36-37 is likewise unparalleled in EST, and Steymans regards it as a late addition to Deuteronomy that implicitly acknowledges the exile as a historical reality for its audience:

<b>Table 3.31 - Text and Translation of Deut 28:36-37</b>	
<u>Translation</u>	<u>Hebrew Text</u>
“May YHWH bring you and the king whom you shall establish over you to a nation that you do not know, (neither) you nor your fathers. You shall serve there other gods, (made of) wood and stone. You shall be an astonishment, a proverb, and a byword among all of the peoples whom YHWH drives you.”	יֹלֵךְ יְהוָה אִתְּךָ וְאֶת־מֶלֶכְךָ אֲשֶׁר תִּקֶּים עֲלֶיךָ אֱלֹהֵי אֲשֶׁר לֹא־יָדַעְתָּ אֹתָהּ וְאֶבְתִּיךָ וְעַבַּדְתָּ שֵׁם אֱלֹהִים אֲחֵרִים עֵץ וָאֶבֶן וְהָיִיתָ לְשִׁמָּה לְמַשָּׁל וּלְשִׁנְיָנָה בְּכָל הָעַמִּים אֲשֶׁר־ יִנְהַגְךָ יְהוָה שִׁמָּה

In perhaps another example of *vaticinium ex eventu*, exile is implicitly the punishment that will befall the Israelites. YHWH will cause the the Israelites to dwell in a different nation (Deut 28:36), alongside other peoples (Deut 28:37). From Steymans's perspective, of course, the literary parallels between EST and Deut 28:20-44\* establish that this Deuteronomic passage is a translation of EST, which dates to the late Iron Age. It follows, in his view, that Deut 28:36-37 must be secondary, since these verses seem to have been written after the exile was experienced.

Steymans's arguments that Deut 28:20c, 21b, 25d, and 36-37 were absent in the earliest form of Deut 28:20-44, however, are not convincing. In the first place, the literary similarities between Deut 28:20c, 28:45-62, and Jeremiah 15:4, 24:9, 29:18, could be explained by the direct literary dependence of the latter passages on former, rather than the reverse direction of borrowing as Steymans asserts. Nathan Mastnjak has forcefully argued that the composers of

Jeremiah allude to Deuteronomy 28, purely on the basis of the interpretive logic of the writer(s) responsible for the composition of Jeremiah.<sup>83</sup> Deut 28:20c, meanwhile, does not necessarily imply that the Israelites *have* broken the laws of Deuteronomy from the perspective of its writer. A sophisticated understanding of the Hebrew verbal system casts doubt on the assertion that the use of a perfective verbal form here must be explained by attributing its composition to the exilic period. The writer of Deut 28:20c, after envisioning the fulfillment of curses in Deut 28:20a-b, might have deliberately shifted his language by employing a verbal form best translated in tensed languages with a past tense verb in context (“through which you have abandoned me”; אשר עזבתני). The use of verbal form with perfective aspect—relating an event that has occurred relative to another—makes sense when describing a punitive action, which can only take place after the terms of the the Deuteronomic covenant have somehow been broken by the Israelites.

The repetition of identical lexemes, phrases, and themes in Deut 28:25d and 28:37, moreover, is unequivocal evidence that this material was carefully positioned to fit within the larger chiasmic structure of the passage. Both contain an identical verbal form immediately followed by the same preposition (“You shall be”; והיית ל-), to which a nominal form with a strongly negative connotation is attached (“horror/astonishment”; זעורה/שמה). Witnesses to the devastation inflicted upon the Israelites in Deut 28:25d and 28:37, meanwhile, are explicitly mentioned at the end of both (“to all the kingdoms of the earth/among all of the peoples”; לכל ממלכות הארץ/ בכל העמים). The suggestion that this material was secondarily added, therefore, implicitly assumes that a later composer discerned the chiasmic structure of Deut 28:20-44\* and inserted new material accordingly. It is simpler to assume, in light of the literary parallels between Deut 28:25d and 28:27-28, that they are integral parts of the original composition of

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83 Nathan Mastnjak, *Deuteronomy* (2016) 93-114.

Deut 28:20-44\*. Steymans is compelled to assert that this material is secondary in view of his theory that EST is the sole literary source for the composition of Deut 28:20-44\*. Any material that does not fit into a chiastic structure modeled on EST §56 he naturally suspects to be secondary. Since neither Deut 28:25d nor 28:37-38 fit well into his literary model, they are excluded from it. It is convenient for him that these verses can be read as alluding to the devastation of Judah, since this affords an easy reason to dismiss them as (post-)exilic additions.

The chiastic structure of Deut 28:20-44 can be discerned without any presuppositions about the compositional history of the passage, whose significance is misunderstood by Steymans. Deut 28:20-31 and 28:32-44, which comprise the two halves of the chiastic structure in Deut 28:20-44, do not display the influence of the EST §56 (ll. 472-493). Yet the literary structure of the Deuteronomic passage, it has been shown, suggests that there is a direct literary connection between this passage and EST. The strong parallels between EST and Deut 28:20-44\* terminate *precisely* at the midpoint of the chiasm. Deut 28:31, from both a synchronic and diachronic perspective is thus a pivotal juncture. This observation synergistically reinforces the likelihood that parallels between EST and Deut 28:20-31\* are deliberate and not coincidental.

To his credit, Steymans recognizes that only some sections of EST were utilized in the composition of Deut 28:20-44\*. The Deuteronomic composers were free to borrow from their literary sources as they saw fit. There is a potential precedent, it should be stressed, for this choice borrowing from a cuneiform text by biblical writers. David P. Wright's model for the literary dependence of the Covenant Code (Exod 20:19-23:33) on the Code of Hammurabi is similar in this regard. Wright discerns that the composer(s) of the former appropriated a large amount of material from this cuneiform legal text, frequently but *not* always in an identical

arrangement.<sup>84</sup> Only particular passages were targeted for literary adaption, and occasionally the biblical composer(s) deliberately structured their new material chiastically. Wright's thesis is certainly intriguing, although it may be criticized at times for some of the same reasons at Steyman's hypothesis.<sup>85</sup> Wright's proposal is strongest, however, when he stresses the striking similarities between the organization of material in these texts, particularly with respect to lexemes and legal themes shared between the Code of Hammurabi and the Covenant Code in a similar order. The composers of Deuteronomy appear to have operated in a methodologically similar fashion when appropriating material from EST. The model of literary appropriation proposed in the present study thus finds a potential precedent in the adaption of a cuneiform copy of the Code of Hammurabi by the composers of the Covenant Code. The observations in Wright's study are thus pertinent, but by no means crucial, for discussion of the probable literary influence of EST on Deuteronomy. The conclusions of this study are not dependent on his arguments, of course, but follow logically from a direct comparison of material in EST and Deut 20-44\*.

The literary connection between between EST and Deut 28:20-31\* can be explained in two ways. The composers of one text might have borrowed material from the other or, alternatively, both texts may display the influence of another literary source. Three factors in particular, however, strongly favor the likelihood that Deut 28:20-44\* is directly dependent on EST. First, as the discovery of the Tell Tayinat exemplar of EST has illustrated anew, EST was a text widely distributed throughout the ancient Near East in the late Iron Age. There is no

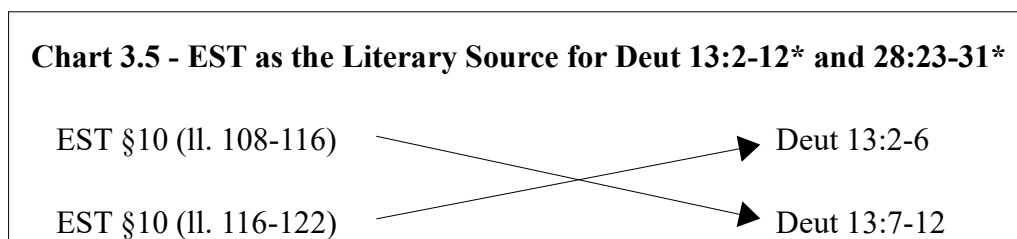
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84 Wright, *Inventing God's Law* (2009) 8-10.

85 Wright attempts to explain most of the literary structure and content of the Covenant Code (CC) as directly dependent on the Code of Hammurabi (LH). While there are certainly striking correspondences between these legal compositions, Wright (*Inventing God's Law* [2009] 69-74) probably goes too far by attempting to understand successive layers CC as influenced by the epilogue to LH. Cf. Baden, review of David P. Wright's *Inventing God's Law* (2010).

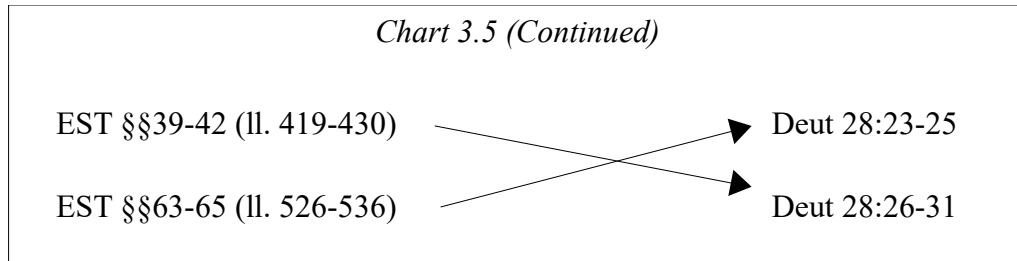
evidence whatsoever, by contrast, that the book of Deuteronomy could have influenced an audience outside of ancient Israel. Second, if one presumes that *other* texts existed featuring the same sequence of curses shared between EST and Deut 28:20-44\*, there is no outside evidence for their existence. As Steymans has demonstrated and rightfully stressed, EST is a preferable candidate for the literary model of Deut 28:20-44\* by virtue of the incontrovertible evidence that it clearly existed when Deuteronomy was plausibly being composed. Third, there is the reinforcing evidence that Deut 13:2-12\* may have been based on EST, in view of unique similarities between these texts. These three observations have not always been sufficiently appreciated in discussions of the literary correspondences between EST on Deut 28:20-44\*.

It is especially striking that the pattern of literary borrowing from EST §10 (ll. 108-122) into Deut 13:2-12\*, as proposed by Levinson,<sup>86</sup> is virtually identical to that discerned in the present study for the borrowing of material similar to EST §§39-42, 63-65 into Deut 28:20-44\*. In both instances, the most plausible model of borrowing involves the inverse citation of subsections of EST by the composers of the Deuteronomic texts. Just as particular words and phrases in Deut 13:2-6 and 13:7-12 seem to be based on EST ll. 108-116 and ll. 116-122 respectively, numerous words and phrases in Deut 28:20-31 similar to those in EST ll. 419-430 and ll. 526-536) occur in rapid succession in an opposite order. These similar patterns of probable literary borrowing from EST into Deuteronomy are outlined in the chart below:



86 Levinson, *JAOS* 130 (2010) 345-346.

Chart 3.5 (Continued)



These mutually reinforcing patterns bolster the likelihood of a literary connection, and strongly suggest they are part of the same literary stratum within the book of Deuteronomy. It would be an extraordinary coincidence indeed, if different writers utilized a literary source in almost identical manner when crafting a new composition. It is simpler, and therefore more reasonable, to envision the direct appropriation of literary material from EST into Deut 13:2-12 and Deut 28:20-44 as the result of a single compositional event that must have taken place sometime close to 672 BCE.<sup>87</sup> Assuming that only EST §§39-42 (ll. 419-430) and §§63-65 served as a literary basis for the composition of Deut 28:20-44\* yields a literary model that more readily accounts for the structure of the Deuteronomic passage as a whole than that proposed by Steymans.

This alternative model may briefly be summarized as follows. EST §§39-42 (ll. 419-430) and §§63-65 (ll. 526-536) were selectively adapted by the composer(s) of Deuteronomy, but reproduced in an inverted order within Deut 28:23-31. This is methodologically similar, it has been observed, to the manner in which material in EST §10 (ll. 108-122) was borrowed by the writer(s) of Deut 13:2-12 in view of Seidel's law. The composer(s) of Deut 28:32-44\* then deliberately reiterated the themes and lexemes in Deut 28:23-31. This accounts for the chiasmic

<sup>87</sup> This is when Ashurbanipal was crowned as successor to Esarhaddon, king of the Neo-Assyrian empire. Copies of EST were probably produced and widely disseminated across the ancient Near East at around this time, when Judah would also have been a vassal of the empire. Cf. Wiseman, *Iraq* 20 (1958) 4; Steymans, *Deuteronomium* 28 (1995) 14-17; Jacob Lauinger, "Neo-Assyrian Scribes, 'Esarhaddon's Succession Treaty,' and the Dynamics of Textual Mass Production," in *Texts and Contexts: The Circulation and Transmission of Cuneiform Texts in Social Space* (Berlin: Walter de Gruyter, 2015), eds. Delnero, Paul and Jacob Lauinger, 288-289.



structure of Deut 28:20-44, which Steymans erroneously argues was based on that in EST §56.

Steymans's model has the superficial appeal of “simplicity,” inasmuch as it purports to explain the entire structure and content of Deut 28:20-44\* in view of material in EST. Upon close inspection, however, it proves complicated and fraught with literary problems. His theory supposes that the composer(s) of Deut 28:20-44 sought out references to the deity Shamash within other passages EST (§§39-32, 63-64; cf. §§40, 68, 101), which could then be utilized in the context of a composition successively reflecting themes in EST §56. But this results in a haphazard and chaotic structural model for the appropriation of material from EST into Deut 28:20-44, as we have seen. The web of connections that Steymans discerns between Deut 28:20-44 and passages throughout EST is too convoluted and wholly unprecedented to be plausible.

Steymans's proposal is a highly creative, but demonstrably flawed, attempt to simultaneously account for the chiasmic structure of Deut 28:20-44\* and its literary dependence on EST. Since the parallels between EST and the first half of the chiasm (Deut 28:20-31\*) are significantly weaker than those in the second half (Deut 28:32-44\*), it is improbable that the same biblical writer(s) were adapting material from EST. One may reasonably conclude that EST was a literary source known to Deuteromonic writers, but not for reasons that are uniquely proposed by Steymans. In a quixotic effort to demonstrate the total literary dependence of Deut 28:20-44\* on EST, he routinely dismisses the creative agency of the biblical writers. This tendency is carried to an extreme when he argues that Deut 28:20-44\* is a translation of EST.

### **Deuteronomy 13\* and 28\* as “Translations” of EST**

An important but highly dubious claim of Steymans, which has been accepted by Eckart

Otto,<sup>88</sup> is that Deut 28:20-44\* should be recognized as a “translation” (*Übersetzung*) of passages in EST. Steymans does not dispute that there are striking differences between the form and content of passages in EST and Deut 28:20-44\* that he views as literary parallels. He argues, however, that the differences between these particular passages mirror those found in other ancient Near Eastern texts that are recognizable as translations. While Steymans's comparative analysis of bilingual and trilingual inscriptions is fascinating,<sup>89</sup> his observations on the topic are ultimately adduced in defense of an untenable proposition. He ignores or altogether fails to explain many differences between EST and Deut 28:20-44\*. Steymans's observations on translational discrepancies, nevertheless, are extremely important for any discussion of the phenomenon of literary borrowing across ancient Near Eastern languages and cultures.

In his study of the relationship between Deuteronomy 28 and EST, Steymans examines at length the differences that are attested in cases where one ancient Near Eastern text contains material that was probably translated from another. He rightly observes that striking changes frequently took place during the translation process. Particular words and phrases in source material were clearly altered, consciously or unconsciously, by translator(s) in ways that rendered them more culturally meaningful to the intended audience. From such observations, Steymans concludes that the Deuteronomic composer(s) probably attempted to render select passages throughout EST with appropriate idioms in the Hebrew language. This would potentially account for differences between EST and Deut 28:20-44\*, while not ignoring obvious discrepancies between the phrasing of the passages that Steymans purports to be parallel.

The treaty between pharaoh Rameses II and king Hattušili III, concluded during a

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88 Otto, *Das Deuteronomium* (1999) 64-69.

89 Ibid., 152-194.

competition for political dominance over Syria and Canaan in the fourteenth and thirteenth centuries BCE, is preserved in Egyptian and Akkadian versions. They differ in two significant ways that are observed by Steymans. First, some curse material in the Akkadian version is absent in the Egyptian version, while the blessings and curses that they share are arranged differently.<sup>90</sup> This demonstrates that the addition, subtraction, and rearrangement of material occurred during the process of translation, an observation potentially bolstering Steymans's claim that Deut 28:20-44\* is a translation of sections of EST. Second, parallel passages in them differ from one another in ways that suggest a deliberate effort by the translators to accommodate the cultural expectations of their audiences. For instance, the expression “the thousand gods of Hatti and the thousand gods of Egypt” (*ḥ3 n n̄tr n p3 t3 n Ḥt m-di' ḥ3 n n̄tr n p3 t3 n Kmt*) in the Egyptian version of the text probably corresponded with the expression “the great gods [of the land of Hatti together with the great gods of the land of Egypt]” (DINGIR.MEŠ GAL.MEŠ [*ša KUR Ḥa-at-ti qa-du DINGIR.MEŠ GAL.MEŠ ša KUR Mi-iṣ-ri-i*]) in the Akkadian version.<sup>91</sup> The latter text, although broken, clearly featured the phrase, “the great gods” (DINGIR.MEŠ GAL.MEŠ), which commonly denotes the major deities within the Mesopotamian pantheon. The Egyptian version at the same points displays a standard phrase in Hittite literature, “the thousand gods of the land of Hatti” (*ḥ3 n n̄tr n p3 t3 n Ḥt*), which regularly references the pantheon of ancient Anatolia. The writers of the Akkadian version probably employed the common Akkadian phrase, “the great gods,” here rather than reproduce the Hittite expression “the thousand gods.”<sup>92</sup>

90 Steymans, *Deuteronomium* 28 (1995) 152-154. It is possible that the lengthier series of curses in the Hittite version reflects a scribal effort to accommodate Hittite literary convention, since Hittite treaty texts commonly contain an extensive series of blessings and curses.

91 Cf. Ibid. Note that the Akkadian text (CTH 91) under discussion is often referred to as the “Hittite version” of the treaty.

92 One may conjecture that those responsible for conveying the contents of an Akkadian copy of the treaty to an Egyptian audience consciously or unconsciously utilized the standard Hittite

That a text which is recognizably a “translation” of another can differ in important but sometimes subtle ways from its counterpart is further confirmed by a comparison of the Akkadian and Aramaic versions of the inscription at Tell Fekheriye. One set of differences in particular stands out as evidence for Steymans's argument that Deut 28:20-44\* should be discerned as a direct translation of passages in EST. In two passages that clearly parallel each other, curses are formed in strikingly different ways in their Akkadian and Aramaic versions:

<b>Table 3.32 – Curses in the Tell-Fekheriye Inscription</b>	
<u>Aramaic Version (ll. 18-22)</u>	<u>Akkadian Version (ll. 30-36)</u>
<p>“May he sow, but may he not harvest. May he sow a a thousand (measures of) barley, but take a fraction of it. May one hundred ewes suckle a lamb, but it not be satisfied. May one hundred women suckle a child, but it not be satisfied. May a hundred women bake bread in an oven, but not fill it.”</p>	<p>“May he sow, but may he not harvest. May he sow a thousand, but not bring in one <i>sūtu</i>-measure. May one hundred ewes not satisfy a lamb. May one hundred cows not satisfy a calf. May one hundred mothers not satisfy a child. May one hundred baking-women not fill an oven.”</p>
<p><i>wlʾrʿ : wʾl: yḥṣd: wʾlp: šʿryn: lʾrʿ wprys: lʾḥz: mnḥ wmʾh: sʾwn: lhynqn: ʾmr: wʾl: yrwh: wmʾh: swr: lhynqn ʾgl: wʾl:</i></p>	<p><i>līriš lū lā eṣṣede līm līriš 1 sūta liṣbat 1 mē laḥrū lā ušabbā ḥurāpa 1 mē lâtu lā ušabbâ mûre 1 mē āliâte lā</i></p>

phrase, “thousand gods of Hatti,” when reading the cuneiform, “DINGIR.MEŠ GAL.MEŠ ša KUR *Ḥa-at-ti*.” Little is known about the exact methods by which diplomatic correspondence was translated in the ancient Near East during the Bronze Age. Cf. Mark E. Smith, *God in Translation: Deities in Cross-Cultural Discourse in the Biblical World* (Tübingen: Mohr Siebeck, 2008) 51-56. Cf. Itamar Singer, “‘The Thousand Gods of Hatti’: The Limits of an Expanding Pantheon,” in *Israel Oriental Studies XIV: Concepts of the Other in Near Eastern Religions*, eds. Alon, Ilai, Ithamar Gruenwald, and Itamar Singer (Leiden: E. J. Brill, 1994) 81-102.

Table 3.32 (Continued)

<p>yrwh: wm'h: nšwn lhynqn: 'lym: w'l:  yrwy wm'h: nšwn: l'pn: btnwr: lhm:  w'l: yml'nh</p>	<p>ušabbâ mārā 1 mē apiāte lā šamlā<sup>a</sup>  tinūra</p>
<p>Akkadian Transliteration:</p> <p><sup>30</sup>li-riš lu-ú la <sup>31</sup>e-še-de 1 IGI li-riš 1 BÁN <sup>32</sup>li-iš-bat 1 ME U<sub>8</sub> la ú-šá-ba-a  <sup>33</sup>UDU.NIM 1 ME GUD ÁB la ú-šá-ba-a mu-ri 1 ME <sup>34</sup>a-li-a-te la ú-šá-ba-a  DUMU <sup>35</sup>1 ME a-pi-a-te la-a ú-la-a <sup>36</sup>NINDU</p>	
<p><sup>a</sup> Edward Lipiński, “The Bilingual Inscription from Tell Fekherye,” in <i>Studies in Aramaic Inscriptions and Onomastics</i>, Vol. 2 (Leuven: Peeters, 1994) 46. Cf. Il-Sung Andrew Yun, “The Aramaic and Akkadian Bilingual Inscription from Tell Fekheriyeh and the Dialects of Old Aramaic” (Dissertation, Johns Hopkins University [2008]) 210.</p>	

The Aramaic and Akkadian versions of this passages feature “futility curses” that are formed, albeit asyndetically in the Akkadian text,<sup>93</sup> with pairs of precative verbs. Steymans points out, however, that the Akkadian version contain curses that violate the pattern typical of futility curses.<sup>94</sup> Beginning with curse, “May one hundred ewes not satisfy a lamb” (1 ME U<sub>8</sub> *la ú-šá-ba-a* UDU.NIM; ll. 32-33), the Akkadian version clearly deviates from the Aramaic version. The former does not feature the first clause of action in the former, “May one hundred ewes suckle a lamb” (*wm'h: s'wn: lhynqn: 'mr;* l. 20), although the same outcome is stressed in the Aramaic and Akkadian versions, “but it not be satisfied/not satisfy a lamb” (רורה: לא/la ú-šá-ba-a UDU.NIM; ll. 20/33). As was observed earlier, “futility curses” are characteristically West Semitic.<sup>95</sup> It is evident that the writers of the Aramaic text produced a version of these curses that

93 Steymans (*Deuteronomium* 28 [1995] 182) observes that one would expect the Akkadian conjunctions “u” or “-ma” to link the two verbs recreating a West Semitic futility curse.

94 Ibid., 181-182.

95 See discussion in “Treaties and Curse Traditions in the Ancient Near East,” a subsection of

closely accorded with the literary conventions of the Levant. The writers of the Akkadian version, meanwhile, deliberately or unconsciously crafted a version without this format.

Although such literary differences do not prove that Deut 28:20-44\* are to be construed as “translations” of EST, they do demonstrate the conscious or unconscious flexibility and creativity of ancient near Eastern writers when adapting literary material for a new audience. Changes such as the alteration of divine names and titles, or the reformulation of verbal forms, clearly occurred during the process of translation by ancient Near Eastern scribes. Yet Steymans, who examines at length other examples of ancient Near Eastern texts in translation, never produces an example of a translated text that displays differences as numerous and dramatic as those evident when EST and Deut 28:20-44\* are compared. He only highlights specific and isolated examples of particular changes that loosely parallel those he discerns between these texts. There are simply too many differences between EST and corresponding Deuteronomic passages in Steymans's literary model for his claim that the latter represents a “translation” (*Übersetzung*) of the former to be credible. The same can be said for Otto's assertion that Deut 13:1-12\* is a translation of EST §§4 and 10, which builds on the conclusions of Steymans.

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section 3.2 of the present work.

## CHAPTER 4: THE IMPACT OF DISCOVERIES AT TELL TAYINAT

### 4.1 – The EST Exemplar at Tell Tayinat

#### *The Significance of the Addresses in the Tell Tayinat Exemplar*

The discovery of an exemplar of EST at Tell Tayinat has important implications for critical study of this Neo-Assyrian text. The text of this exemplar confirms that those directly subject to Neo-Assyrian rule were compelled to abide with its stipulations. It was previously suggested that only the bodyguards of the Neo-Assyrian king or foreign subjects were compelled to accept the terms of EST. As other scholars have observed,<sup>1</sup> the existence of this exemplar also affords circumstantial evidence that copies of this Neo-Assyrian text might have been deposited elsewhere in the Levant, perhaps at a site in ancient Israel. For it was discovered *in situ* at a site by the Orontes river, extremely close to the modern border of modern Syria and Turkey.

Controversy regarding the political status of the addresses in EST was previously fueled, in large part, by the locations in which other exemplars were found. Prior to the discovery of the Tell Tayinat exemplar in 2009, fragments that constituted at least ten separate copies were identified by scholars. Nine of these were discovered at Nimrud by Max Mallowan during the 1950s, while three fragments that composed at least one other copy were found at Ashur.<sup>2</sup> The Nimrud exemplars are all addressed to Median subjects of Ashurbanipal, while those addressed in the Ashur exemplar(s) are unknown. Supposing that these *adê*-texts were “vassal-treaties,” as D. J. Wiseman believed when he translated them,<sup>3</sup> one must ask why they were found far outside

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1 Cf. Steymans, *VeE* 34 (2013); Stackert, *A Prophet Like Moses* (2014) 31-32.

2 Lauinger, *Texts and Contexts* (2015) 288.

3 Wiseman, *Iraq* 20 (1958) 3-4.

the territory of the vassals who were expected to preserve their copy (EST ll. 410-413).

In view of these circumstances of discovery, there has been dispute among scholars as to whether EST was an inner-political document, crafted to secure the loyalty of subjects within the Neo-Assyrian empire to Ashurbanipal, or a treaty intended to reinforce the subjugation of its vassal states. The outcome of this debate has important consequences for assessing the likelihood that EST was a literary source known to the writers of Deuteronomy 13 and 28. If EST records a set of obligations imposed on subjects within the empire, but not foreign vassals, it would be considerably less probable that Judeans were exposed to it. The exemplar found at Tell Tayinat establishes beyond doubt in its opening lines (T1801 I:1-13) that Neo-Assyrian officials and their subordinates were addressees of the document. This observation does not prove, however, that all those addressed in EST exemplars were subjects, as opposed to vassals, of the Neo-Assyrian king. Indeed, the evidence afforded by extant exemplars speaks strongly against this view.

Although it is certainly incorrect, the earlier interpretation of EST as a “vassal treaty” is understandable in view of the evidence available to scholars prior to the discovery of the Tell Tayinat exemplar. D J. Wiseman, who first translated the exemplars discovered at Nimrud, proposed that they were written to enforce the subjugation of peoples outside the Neo-Assyrian empire, because the person principally addressed in each version was a Median “city ruler” (EN.URU; *bēl ali*), along with his descendants. Uncertainty regarding the identity and background of the Median rulers addressed in these exemplars attracted the attention of Mario Liverani, who made the rather sensational and highly dubious proposal that EST was addressed to Median bodyguards at the Neo-Assyrian court.<sup>4</sup> Although his suggestion never received any

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4 Mario Liverani, “The Medes at Esarhaddon's Court,” *JCS* (1995) 57-62. The Nimrud exemplars “do not contain any of the clauses one expects to find in agreements regulating the duties of vassals,” he observes (p. 58), “such as delivery of tribute and armed contingents,



considerable support,<sup>5</sup> it is significant within the history of scholarship as a reasoned challenge to the standard interpretation of EST as a “vassal treaty.” Liverani's hypothesis can be put to rest, of course, together with the proposal that EST was written to impose subjugation on Neo-Assyrian vassals, in light of the discovery of the Tell Tayinat exemplar. It is now certain that individuals and groups across the Neo-Assyrian empire were subject to the terms of EST, and copies were widely circulated throughout the ancient Near East. The Median persons addressed in the exemplars known to Wiseman, as well as their descendants, were obviously separated geographically by many hundreds of miles from those addressed in the Tell Tayinat exemplar.

Three plausible explanations have been proposed as to why most exemplars of EST were not discovered within the territory of those addressed. All of the discovered exemplars, it must be noted, were found at sites—Nimrud, Ashur, and Tell Tayinat—that were fully incorporated into the Neo-Assyrian empire at the time that EST was composed. Steymans has tried to account for this observation by postulating that copies of EST were stored at the locations where addressees brought their tribute and renewed their oath of loyalty.<sup>6</sup> Exemplars addressed to the Medes were recovered at Nimrud, he suggests, because this was probably where the Medes brought tribute, perhaps in the form of horses. Likewise, Tell Tayinat was a site where tribute could have been collected by Levantine subjects of the empire. JoAnn Scurlock, meanwhile, has

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relations with third parties, delivery of refugees, and so on. Instead, one finds only an obsessive insistence on the protection of the designated heir to throne.” That the Medians addressed were bodyguards at the imperial court would account for the discovery of these exemplars in Nimrud, rather than Media. “[T]he fact that we have recovered only the Mede oaths,” he concludes, “can now be explained in the simplest terms: there were no similar oaths with other 'vassals'” (p. 62).

<sup>5</sup> Liverani's argument has been acknowledged, without endorsement, in many studies of the relationship between EST and the curses in Deuteronomy 28. Cf. Koch, *Vertrag, Treueid, und Bund* (2008) 82-84; Zehnder, “Building on Stone? Deuteronomy and Esarhaddon's Loyalty Oaths (Part 1)” (2009) 360-361; Crouch, *Israel and the Assyrians* (2014) 150.

<sup>6</sup> Steymans, *VeE* 34 (2013); cf. Wiseman, *Iraq* 20 (1958) 11-12. Cf. Lauinger, *HeBAI* 8 (2019) 95-97.

made an interesting but rather fanciful suggestion as to why EST exemplars found at Nimrud were addressed to Medes.<sup>7</sup> She proposes that rebellious Medes brought their copies of the text there to destroy to them. In her view, they may have broken these documents and defaced reliefs in Assyrian palaces out of “guilt-ridden fear,”<sup>8</sup> hoping to vitiate the curse threats against disobedient subjects. As a final alternative, Frederick Mario Fales has suggested that “the eight city-lords of the Zagros area did not show up to take the oath of collective fealty.”<sup>9</sup> Their copies of the text therefore remained in Nimrud, and were never brought into Median territory.

All these proposals, although intriguing, are extremely speculative. Since none of the extant exemplars of EST specify the site they should be stored, it is impossible to determine whether the particular sites where copies have been discovered are typical or atypical. Distinct political or cultural circumstances might have determined the site where such documents were kept. It is probable that at least a hundred copies of EST, perhaps more than two hundred, were produced and distributed throughout the empire.<sup>10</sup> While it is conceivable that a version of EST was addressed to the ruler of Judah, a vassal of the Neo-Assyrian empire in the seventh century BCE, whether it would have been stored in Jerusalem or elsewhere is impossible to determine.

### *The New Curses in the Tell Tayinat Exemplar*

Although the text of the EST exemplar discovered at Tell Tayinat is largely identical with

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7 JoAnn Scurlock, “Getting Smashed at the Victory Celebration, or What Happened to Esharaddon's So-Called Vassal Treaties and Why,” in *Iconoclasm and Text Destruction in the Ancient Near East and Beyond*, ed. Natalie N. May (Chicago: University of Chicago Press, 2012) 175-186.

8 Ibid., 182.

9 Frederick Mario Fales, “After Ta'yinat: The New Status of Esarhaddon's *Adê* for Assyrian Political History,” *RA* 106 (2012) 151.

10 Lauinger, *Texts and Contexts* (2015) 290.

that attested in other copies of EST, there are two passages showing otherwise unattested material that deserve special comment. Its opening section (I:1-13) is unique among known exemplars, since its addressees are certainly persons living within a region formally incorporated into the Neo-Assyrian empire. The significance of these addressees has been treated in the preceding section of this study. In addition, however, there are two successive curses (VI:44-49) in the Tell Tayinat version of EST §54 containing material not preserved in the other known exemplars of the text.<sup>11</sup> Lauinger dubs the first of these newly attested curses §54A (VI:45-46), and the second §54B (VI:47). These curses, together with surrounding literary material that compose the standard forms of EST §54 (ll. 466-468) and §55 (ll. 469-471), are cited below.

<b>Table 4.1 - EST §§54-55 in the Tell Tayinat Exemplar</b>	
<u>Translation</u>	<u>Akkadian Text</u>
“May Aramiš, lord of the city (and) land of Qarnê, lord of the land of Aza’i, fill you with green water. May Adad and Šāla cause there to be stabbing pain (and) ill health everywhere in your land. May the Queen of Ekron make worm(s) fall from your insides. May Bethel and Anat-Bethel deliver you into the hands of a devouring lion. May Kubaba (and) Karḫuḫa the goddess of	<i>Aramiš bēl āli māt Qarnê bēl māt Aza’i mē arqūti limallīkunu Adad Šāla ša Kurba’il siḫlu šīru lā ṭābu ina zumur mātikunu lišabši Šarrat-Amqarrūna ištu libbikunu lišaḫḫiḫa tūltu Bayati-ili Ananti Bayati-ili ina qātī nēši ākili limnūkunu Kubaba Karḫuḫa ša Gargamiš rimṭu dannu ina libbikunu liškunū dāmūkunu kīma tīki ina qaqqar littuttuk</i>

11 Other exemplars of EST are damaged at the point where §54A and §54B would have been included, but they may well have been present. Lauinger (JCS 64 [2012] 119) observes that the ending of §54B in the Tell Tayinat exemplar (*tul-t[u]*; VI:47) seems to have been preserved in a Nimrud exemplar (ms 85; *[tul]-tu*). Kazuko Watanabe (*Die adē-Vereidigung anlässlich der Thronfolgeregelung Asarhaddons* [Berlin: Gebr. Mann, 1987] 196) surmised earlier that this fragment preserved evidence for the existence of additional material between EST §54 and §55.

Table 4.1 (Continued)

<p>Carchemish, place a powerful <i>rimtu</i>-affliction upon you. May your blood trickle to the earth like a rain shower.”</p>	
<p style="text-align: center;">Akkadian Transliteration:</p> <p><sup>466</sup> <i>a-ra-miš</i> EN URU KUR SI EN URU KUR <i>a-za-i</i> A.MEŠ SIG<sub>7</sub>.MEŠ <i>li-mal-li-ku-nu</i> <sup>d</sup>IM <sup>d&lt;&lt;m&gt;&gt;</sup> <i>ša-la šá</i> <sup>uru</sup> <i>kur-ba-il si-iḫ-lu</i> UZU.MEŠ <i>la DÙG.GA ina zu-mur KUR-ku-nu li-šab-ši</i> <sup>d</sup> <i>šar-rat-a-am-qár-ru-u-na</i> TA ŠÀ-ku-nu <i>li-šá-ḫi-ḫa tul-tu</i> <sup>467</sup> <i>ba-a-a-ti</i>!-DINGIR <sup>&lt;d&gt;</sup> <i>a-na-an-ti</i>-<sup>d</sup> <i>ba-a-a-ti</i>-DINGIR <sup>468</sup> <i>ina</i> ŠU.II UR.MAḪ <i>a-ki-li lim</i>!-<i>nu-ku-nu</i> <sup>469</sup> <sup>d</sup> <i>kù-bába</i> <sup>d</sup> <i>kar-ḫu-ḫa</i> <i>ša</i> <sup>uru</sup> <i>gar-ga-miš</i> <sup>470</sup> <i>ri-im-tu dan-nu ina</i> ŠÀ-ku-nu <i>liš-kun</i> ÚŠ.MEŠ-ku-nu <sup>471</sup> <i>ki-ma ti</i>!-<i>ki ina qaq-qar lit-tu-tuk</i>!</p>	

As Steymans has observed,<sup>12</sup> there are seven deities associated with the Levant mentioned in rapid succession in EST §§54-55. The first of these is Aramiš, who is described as the “lord of Qarnê” (*bēl Qarnê*), a Neo-Assyrian province probably located to the south of Damascus.<sup>13</sup> The second and third are the gods Adad and Šāla, who are associated with the site of Kurba'il. The precise location of this site is unclear, but it is generally supposed to be northwest of Nineveh.<sup>14</sup> The “Queen of Ekron” (*šarrat Amqarrūna*), meanwhile, is readily recognized as the chief goddess of the Philistine city of Ekron, close to the western border of the Kingdom of Judah.<sup>15</sup> The fourth and fifth deities then mentioned in the passage, Bethel and Anat-Bethel, are most plausibly associated with the biblical site of “Bethel” (בֵּית־אֵל; cf. Gen 12:8, 28:10-22, 35:1-16a;

12 Steymans, *VeE* 34 (2013).

13 Lauinger, *JCS* 64 (2012) 119.

14 Steymans, *VeE* 34 (2013).

15 Lauinger, *JCS* 64 (2012) 119.

1 Kgs 12:25-33; Amos 4:4, 5:5-6) in ancient Israel,<sup>16</sup> located about twelve miles to the north of Jerusalem at the boundary of the tribes of Ephraim and Benjamin. Lastly, there is mention of the two gods “Kubaba (and) Kurhaha of Carchemish” (*Kubaba Karḫuḫa ša Gargamiš*; EST l. 469),<sup>17</sup> a city located on the west bank of the Euphrates river at the border of the present-day states of Syria and Turkey. The placement of the newly attested curses in the Tell Tayinat exemplar (§54A and §54B), which mention such deities as Adad, Šāla, and the Queen of Ekron, is perfectly explicable in view of the literary context. The other curses within EST §§54-55 also invoke Levantine deities—Aramiš, Bethel, Anat-Bethel, and Kubaba. It is possible that EST was composed with its expected audiences in mind, mentioning deities who would have been known and worshiped among those addressed in exemplars. This would have been done to help ensure obedience, since disobedience risked angering the gods most revered among the addressees. Alternatively, these deities may have been mentioned to reflect the inclusion of Levantine territory within the Neo-Assyrian empire or simply to make the curse listing more powerful.<sup>18</sup>

Although all the deities mentioned in EST §§54-55 are indeed associated with the Levant as Steymans suggests, he unfortunately leaps from this observation to some hasty and unwarranted conclusions. Since the curse in EST §54B mentions the goddess known as the “Queen of Ekron” (*šarrat Amqarrūna*), he asserts “it is safe to conclude that there was a copy of

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16 Steymans (*VeE* 34 [2013]) speculates that “[i]f the Assyrians conceived Bethel as one manifestation of El, Bethel may also have been outsiders’ way to allude to the deity venerated in the temple of Jerusalem.”

17 This new reading (<sup>d</sup>*kù-bába* <sup>d</sup>*kar-ḫu-ḫa ša* <sup>uru</sup>*gar-ga-miš*; l. 469) is clear in Tell Tayinat exemplar (VI:50). Cf. Lauinger, *JCS* 64 (2012) 119. It is perhaps not coincidental that the curse invoking Kubaba and Karḫuḫa is preceded by one mentioning a “lion” (UR.MAḪ), given the association of these divinities and Carchemish with lions. Cf. Billie Jean Collins, “Animals in the Religion of Ancient Anatolia,” in *A History of the Animal World in the Ancient Near East* (Leiden: Brill, 2002) 331.

18 These two suggestions are based on brief remarks by Lauinger (personal communication).

the oath tablet in Ekron.”<sup>19</sup> This is presumptuous, particularly in light of his earlier assertion that copies of EST were deposited at locations where Neo-Assyrian subjects brought their tribute. Ekron is distinct from the other sites mentioned in EST §54, he acknowledges, since it was not incorporated into the Neo-Assyrian empire at the time that the EST was composed.<sup>20</sup> Perhaps the inhabitants of Ekron brought their tribute to the nearest provincial capital, just as Medians brought tribute to Nimrud in his view. Equally problematic is his conclusion that all provincial capitals in the Neo-Assyrian empire must have possessed a copy. “If the provincial capital Kullania was in possession of a copy of the EST,” he claims, “temples in Qarnê/Qarnaim and Samaria, capitals of Assyrians [*sic*] provinces, must equally have had copies on display.”<sup>21</sup> That copies of EST were displayed in these places is plausible, but there is nothing that compels such a conclusion.<sup>22</sup> Steymans goes to an unfortunate extreme in his interpretation of the evidence when he concludes that copies of EST *must* have deposited at other sites by analogical extension.

While there is no compelling evidence for Steymans's assertion that copies of EST existed at various sites mentioned in the Tell Tayinat exemplar, the discovery of this exemplar certainly bolsters the possibility that a copy of this text was addressed to the ruler of Judah. Its existence proves that copies of the document were deposited in the western half of the periphery of the Neo-Assyrian empire. The city of Kunalia (Tell Tayinat) is never mentioned in other exemplars of EST, yet a copy of EST was discovered there. That Jerusalem goes unmentioned in extant exemplars of EST, therefore, cannot be taken as evidence that a unique copy of the document was not placed there. It would have been pragmatically difficult, and indeed needless,

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19 Steymans, *VeE* 34 (2013).

20 Ibid.

21 Ibid.

22 Cf. Quick, *Deuteronomy* 28 (2018) 55-56.

to reference all cities in the empire receiving a copy of EST in any version of the text.

The Kingdom of Israel, whose territory included the site of Bethel, was largely absorbed into the Neo-Assyrian empire by the end of the eighth century BCE. The Kingdom of Judah, meanwhile, was politically subjugated to the rulers of Assyria by the time of Manasseh in the seventh century BCE.<sup>23</sup> Although Judah was not directly administered in the same manner as the territory controlled by the governor of Kunalia (Tell Tayinat), the ruler of Judah was probably expected to exhibit the same loyalty. When copies of EST were produced and distributed, around 672 BCE, Manasseh would have been the king of Judah. It is plausible that he would have been expected to comply with the terms of EST. The distinction between a Neo-Assyrian “governor” (*bēl pīḫāti*) and an indirectly-ruled “vassal” king would not have been conceptually significant in Neo-Assyrian imperial ideology. All of those bound by an *adê*, from a Neo-Assyrian perspective, would have been expected to fulfill its requirements or risk the dire consequences of its curses.

That a copy of EST was known to Judean scribes can be surmised on the basis of strong literary evidence that the writers of Deuteronomy 13\* and 28\* directly modeled their composition on some version of the text. One can only speculate, however, regarding the physical and literary form of the version known to them. Copies of EST might have circulated in an Aramaic translation on scrolls.<sup>24</sup> Alternatively, as Steymans suggests in view of the discoveries at Tell Tayinat, a cuneiform copy addressed to Judean officials may have been deposited within the temple of Jerusalem, and remained there until the time of Josiah.<sup>25</sup> Since the scribes responsible for producing copies of EST crafted versions to accommodate the

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23 Steymans, *Deuteronomium* 28 (1995) 15-17.

24 See n. 51 in section 1.1 of the present study, “History of Research.”

25 Steymans, *VeE* 34 (2013): “[I]t is safe to argue that copies of the EST were on display in Ekron, as well as in Jerusalem, both being vassal states of Esarhaddon’s empire. The Jerusalem copy roused the curiosity of Judean scribes and their ambition to create a similar Hebrew oath. ”

expectations of their audiences, an exemplar of EST intended to be read by Judeans would have been distinct from others. Might this Judean exemplar have contained curses invoking YHWH? And were passages referencing YHWH targeted for literary adaption by the Deuteronomic composers? The attestation of previously unknown curses invoking Levantine deities in the Tell Tayinat version of EST raises such questions that are unfortunately unanswerable at this time.

## **4.2 – Deut 27:1-8 and Treaty Texts**

### ***The Preservation and Display of Treaty Texts***

Treaty texts from the ancient Near East frequently contain provisions to ensure that physical copies of the document will be preserved or displayed by participants in the treaty. Such sections are attested in many Hittite treaties as well as Neo-Assyrian *adê*-documents.<sup>26</sup> Their public display was probably intended, at least in part, to facilitate popular awareness of their terms through reading or word of mouth. Officials would be incentivized to avoid carelessly or deliberately violating the terms of an agreement, out of fear of the real or imagined consequences.<sup>27</sup> These are repeatedly and vividly articulated across treaty documents and traditions in the form of curses. Even if readers disregarded threats of divine retribution, they could certainly have feared the outcome of a devastating military conflict resulting from any deliberate or inadvertent violation of the stipulations of a major treaty. The preservation and display of agreements between ancient polities thus served to safeguard their enforcement.

The Deuteronomic Code (Deut 12-26), which has been shown to display strong

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26 For textual examples and some critical discussion, see “Deuteronomy 13 and Treaty Rhetoric” in section 2.1 of the present study.

27 Cf. Scurlock, *Iconoclasm* (2012).



similarities in its literary structure and content with treaty texts, was likewise supposed to be preserved and displayed among the Israelites. According to Deut 27:1-8, the Deuteronomic laws are to be inscribed on stones besides an altar on Mount Ebal, after the Israelites cross the Jordan river into Canaan. Texts that are not treaties, of course, were frequently inscribed upon monumental structures throughout the ancient Near East. In view of the numerous other literary correspondences between Deuteronomic passages and ancient Near Eastern treaty texts, however, the possibility that Deut 27:1-8 reflects their influence should be investigated.

It is clear that the EST exemplar discovered at Tell Tayinat was constructed as a display object. The text of this exemplar is inscribed from top to bottom on both sides along the same direction on its vertical axis. This obviously contrasts with the standard manner in which Akkadian texts are written on tablets. Cuneiform tablets typically read in opposite directions on their vertical axis, with an “obverse” side displaying the beginning of the text, and a “reverse” side continuing the text when flipped on the vertical axis.<sup>28</sup> Akkadian texts on monumental structures, however, are inscribed in the same direction on their vertical axis to accommodate viewing as one circulated around them. This is the manner in which the text of EST was inscribed on the Tell Tayinat and Nimrud exemplars. The Tell Tayinat exemplar in particular was certainly displayed at a temple site (cf. Deut 27:1-8). Excavators found it *in situ*, collapsed face forward where it once stood.<sup>29</sup> Most likely, it was placed on a podium across from what may have been altar in the northwest quadrant of the inner sanctum of the temple (Building XVI).

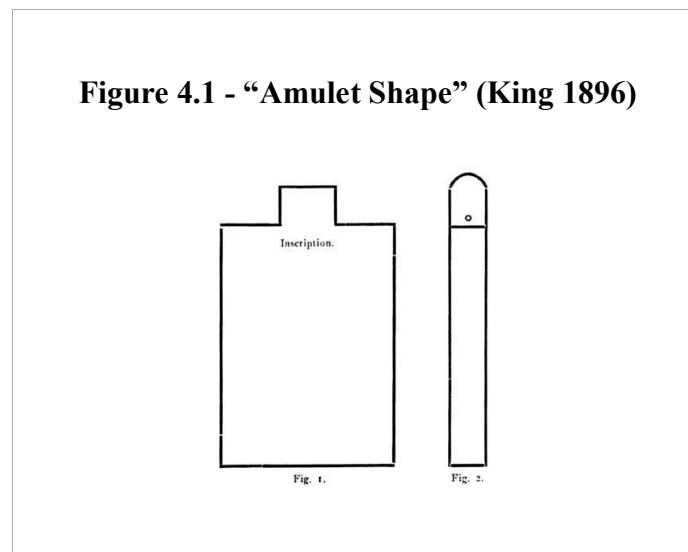
That the Tell Tayinat exemplar was intended for display is supported by other circumstantial evidence. The tablet shows “circular indentations” on its sides, strong evidence that

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28 Lauinger, *CSMS* 6 (2011) 9, 11.

29 Ibid., 11-12.

it was once held by pegs in a frame on the podium in the Tell Tayinat temple.<sup>30</sup> Discovered alongside this exemplar of EST, meanwhile, are exemplars of other texts that were probably displayed as well. Two nearby tablets (T1923, T1927) were inscribed with the astrological text *Iqqur Īpuš*, and both feature a rectangular protrusion in the middle of the upper edge. As Lauinger has stressed, the shape of these particular tablets is significant. “The so-called 'amulet shape' of the tablets,” he observes, “seems... to have developed from what was purely a functional form that allowed a tablet to be suspended, perhaps as a votive object.”<sup>31</sup> This particular tablet shape was observed and illustrated more than a century ago by L.W. King:<sup>32</sup>



Texts may have been recorded on objects with this shape in order to facilitate their display by pegs, ropes, or poles strung through them. Both of the Tell Tayinat copies of *Iqqur Īpuš* with this shape are perforated. The largest exemplar (T1701+T1923) is pierced along its horizontal axis through the upper rectangular protrusion. That vegetal matter was found in this perforation

30 Jacob Lauinger, “*Iqqur ĩpuš* at Tell Tayinat,” *JCS* 68 (2016) 230.

31 Lauinger, *CSMS* 6 (2011) 11.

32 L. W. King, “New Fragments of the Dibbarra-Legend on Two Assyrian Plague Tablets,” *ZA* 11 (1896) 50.

suggests that a rope may have been strung through it, so that it could be suspended for display.<sup>33</sup>

The T1927 exemplar, meanwhile, has holes showing that it was pierced on its vertical axis. This likewise suggests that it was displayed, perhaps by string when rotated at a 90-degree angle.<sup>34</sup>

Why copies of EST and *Iqqur Īpuš* were displayed at the temple of Tell Tayinat is uncertain, and several explanations may be proposed. It could be that the prestige of these texts accounts for their preservation and display. The Tell Tayinat exemplar of EST (T1801), as a unique document written to ensure the loyalty of the local inhabitants to Aššurbanipal, might have been highly valued by those residing at the site. Exemplars of *Iqqur Īpuš*, as a widely copied menology and astrological text, may likewise have been prized as a canonical text.<sup>35</sup> Another intriguing possibility is that copies of EST and *Iqqur Īpuš* were displayed for the practical purposes of ensuring their safekeeping and availability for reference. EST and *Iqqur Īpuš* are also remarkably similar in an important respect, which might account for their display beside one another—they both contain predictions for the future. EST articulates a series of consequences for disobedience to its terms in the form of curses in EST §§37-106 (ll. 410-663). *Iqqur Īpuš*, on the other hand, prescribes the outcomes of particular events if performed on

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33 Lauinger, *JCS* 68 (2016) 232.

34 The reasons for these suppositions are articulated by Lauinger (“*Iqqur ĩpuš* at Tell Tayinat” [2016] 232) as follows: “The next largest tablet of *Iqqur ĩpuš*, T-1927, also has a large rectangular projection, although the projection is not on top of the tablet but on the left side... Significantly, this piercing is much smaller than the piercing through T-1701+1923, and it seems impossible that T-1927 would not have toppled over with only slender means of support set off to its left in this way. However, if the tablet was rotated 90 degrees, then the projection is on top of the tablet and the piercing would have run through its horizontal axis. This rotation would have corrected the imbalance and allowed the tablet to be suspended, although still by a means of support smaller than that used for T-1701+1923, for example, perhaps string instead of rope.”

35 Certainly, the fact that multiple copies were found at the site indicates it was a document somehow valued by those who maintained the temple site. Lauinger (“*Iqqur ĩpuš* at Tell Tayinat,” 232) estimates that at a minimum of three copies have been found.

specific dates.<sup>36</sup> These texts might therefore have been accorded special status in view of their perceived power for the prediction of events. As Lauinger has observed, copies of EST show the seal of the god Aššur, which indicates alongside other evidence that these documents were perceived as “tablet[s] of destinies.”<sup>37</sup> None of the foregoing suggestions as to why these texts were displayed exclude one another. They may all have been factors motivating their display.

Most likely, however, the strongest factor accounting for the exhibition of an EST exemplar at Tell Tayinat was its revered status as a “tablet of destinies.” Exemplars of this document, as Lauinger has shown,<sup>38</sup> were probably regarded as sacred artifacts, transformed through the oath-performance at an *akītu*-ceremony and the impression of divine seals on the object itself. Such an object would naturally have been deposited in the inner sanctum of the temple at Tell Tayinat on account of its religious significance. Although relatively few people would have been capable of reading the Akkadian text, Laurie Quick has observed that “the symbolic value of the tablet, sealed as it was with three divine seals of the god Assur and utilized alongside other visual media... was clear to all.”<sup>39</sup> The physical exemplar of EST would thus have impressed visitors to the temple at Tell Tayinat on the religious as well the visual level.

Regardless as to why the Tell Tayinat exemplar of EST (T1801) was constructed as a display piece, it was certainly not the only treaty text deliberately inscribed for display within a Levantine context. The Sefire treaties, which are recorded on three large basalt stelae, were

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36 René Labat, *Un calendrier Babylonien des travaux des signes et des mois (séries Iqqur īpuš)* (Paris: Librairie Honoré Champion, 1965). Cf. Ulla Koch-Westenholz, *Mesopotamian Archaeology: An Introduction to Babylonian and Assyrian Celestial Divination* (Copenhagen: Museum Tusculanum Press, 1995) 93.

37 Lauinger, *ZAR* 19 (2013) 108-115; Lauinger, *HeBAI* 8 (2019) 92-96.

38 Lauinger, *ZAR* 19 (2013) 113-115; cf. A. R. George, “Sennacherib and the Tablet of Destinies,” *Iraq* 48 (1986) 133-46.

39 Quick, *Deuteronomy* 28 (2018) 59.

obviously intended for public viewing. Their size attests to the fact that they were not constructed simply as records of a treaty agreement, but were intended to serve as visible reminders of it, perhaps at a public thoroughfare or temple. Even if relatively few speakers of Aramaic were literate and capable of reading the inscriptions recorded on these stele, their monumental display might have raised awareness of the treaty agreement among the population in which they were deposited. The terms of the treaty could have spread among the local populace by word of mouth. Unfortunately, the Sefire stelae were not found *in situ*, and it is impossible on the basis of their content to ascertain the context in which they were erected.<sup>40</sup>

It is well established, however, that copies of ancient Near Eastern treaties were commonly kept for preservation and display at temples. The Tell Tayinat exemplar of EST was discovered at a temple by a display podium, while most of the other exemplars of EST were discovered at the Temple of Nabu at Nimrud. Although extant copies of EST do not contain any provision requiring them to be deposited at a specific location, they do contain a section (EST §36; ll. 410-413) emphasizing the importance of their physical preservation. This passage can now confidently be reconstructed in light of evidence afforded by the Tell Tayinat exemplar

Table 4.2 – Text and Translation of EST §36 (ll. 410-413)	
<u>Translation</u>	<u>Akkadian Text</u>
“You shall not alter (it), consign (it) to fire, throw (it) into the water, cover (it) in earth, destroy (it) by any clever means, ruin (it), (or) damage (it).”	<i>šumma attunu tunakkarāni ina Girra tapaqqidāni ina mē tanaddāni ina epri takattamāni ina mimma šipir nikilti tabbatāni tuḥallaqāni tasappanāni</i>

40 Cf. Fitzmyer, *The Aramaic Inscriptions* (1967) 1-2.

Table 4.2 (Continued)

Akkadian Transliteration:	
<sup>410</sup> <i>sum-ma at-tu-nu tu-na-kar-a-ni</i>	<sup>d</sup> GIŠ.BAR <sup>411</sup> <i>ta-pa-qi-da-a-ni ina A.MEŠ ta-na-da-a-ni</i>
<sup>412</sup> <i>ina ep-ri ta-kàt-ta-ma-a-ni ina mim-ma ši-pir ni-kil-ti</i>	<sup>413</sup> <i>ta-bat-a-ni tu-ḫal-la-qa-a-ni ta-sa-pan-a-ni</i>

Clauses intended to ensure the physical preservation of documents are common in ancient Near Eastern legal texts.<sup>41</sup> Temples were favored sites, moreover, for important documents to be kept and stored. Hittite treaties regularly contain a provision requiring copies of the document to be kept at temples.<sup>42</sup> Not only were they important administrative centers, but the belief that they were sacred sites might have contributed to their real or perceived nature as especially safe locations for the preservation of important documents. Fear of angering the gods, of course, might deter looting and destruction of temples during periods of war or social turmoil. That copies of EST were deposited at temples is also understandable if they were construed as “tablets of destiny,”<sup>43</sup> and the physical copy of an *adê* regarded as “a truly 'theophanous' substance” as Fales suggests.<sup>44</sup> While there is no passage in EST fixing the place where copies must be stored, it is certainly significant that the Tell Tayinat exemplar was displayed near a temple altar.

Deut 27:1-8 likewise prescribes that the Deuteronomic laws should be displayed on stones beside an altar. Remarkably, the details of this passage accord with the *realia* of Iron Age inscriptions. Levantine texts were sometimes written in ink on surfaces covered “in plaster”

41 Examples of such clauses are presented and treated in section 2.1 of the present study, “Deuteronomy 13 and Esarhaddon's Succession Treaty.”

42 For further discussion, see section 2.4 of the present work, “Was There a Levantine Treaty Tradition?”

43 Cf. Lauinger, *ZAR* 19 (2013) 110-115.

44 Fales, *RA* 106 (2012) 153.

(בשׂיד; Deut 27:2, 4). A notable example is the Deir Alla inscription, which records the sayings of “Balaam, son of Beor” (בלעם־בר בער; l. 4).<sup>45</sup> This figure is commonly identified with a Moabite prophet, whose actions are narrated in a lengthy passage of the Pentateuch (Num 22-23; cf. Mic 6:5). In addition to this eighth-century Transjordanian inscription, an important series of ink on plaster inscriptions were recovered at the site of Kuntillet Ajrud in northern Sinai.<sup>46</sup> These inscriptions appear to date to the eighth century. Three much-discussed lines in one of these inscriptions even reference the chief deity of the Israelites: “I have blessed you to YHWH of Samaria and his (sacred tree/Asherah/temple)” (*brkt. ’tkm lyhwh. šmrn wl’ šrt*; ll. 4-6).<sup>47</sup> Regardless of how one understands their significance, they demonstrate a cultural link between the Israelites and those who wrote the inscription. One may also reasonably conclude that numerous other ink on plaster inscriptions were produced in the Levant in the Iron Age.<sup>48</sup>

None of these observations, of course, establish that the Deuteronomic Code was actually displayed in the Cisjordan as prescribed by Deut 27:1-8. What matters is simply that the construction of such a monument could certainly have been envisioned by a biblical writer living during the Iron Age.<sup>49</sup> This has been shown clearly by the preceding survey of the material

45 For the complete text with interesting critical commentary, see Jo Ann Hackett, *The Balaam Text from Deir 'Alla* (Chico: Scholars Press, 1984). Some valuable criticism of her presentation of this text is found in Dennis Pardee's review (*JNES* 50 [1991] 139-142).

46 F.W. Dobbs-Allsopp, J. J. M. Roberts, C. L. Seow, and R. E. Whitaker, *Hebrew Inscriptions: Texts from the Biblical Periods of the Monarchy with Concordance* (New Haven: Yale University Press, 2005) 277-298.

47 Cf. André Lemaire, “LES INSCRIPTIONS DE KHIRBET EL-QÔM ET L'ASHERAH DE YHWH,” *RB* 87 (1977) 595-608 ; David Noel Freedman, “Yahweh of Samaria and His Asherah,” *BA* 50 (1987) 241-249; B. Sass, “On epigraphic *šR* and \* *šRH* , and on Biblical Asherah” *Transeu* 46 (2014) 47-66, plates on 189-190.

48 Cf. Ephraim Stern, *Archaeology of the Land of the Bible: The Assyrian, Babylonian, and Persian Periods*, Vol. II (New York: Random House, 2001) 53.

49 Jeffrey Stackert (personal communication) notes the importance of this point for discussion of the compositional relationship between Deut 27 and other passages thought to compose the original form of Deuteronomy (D): “Even if Deut 27 is not of a piece with the rest of D, it was

record. The Sefire treaties, Aramaic *adê*-texts dating to the late Iron Age, were inscribed on enormous basalt slabs (cf. Deut 27:2, 8). The Deir Alla text and the Kuntilet Ajrud inscriptions, meanwhile, were written on plaster (cf. Deut 27:2, 4), proving that this surface type was indeed a medium for writing. Finally, the exemplar of EST discovered at Tell Tayinat affords evidence that treaty texts may, in some instances, have been displayed alongside altars in the Levant. Altogether, this suggests that Deut 27:1-8 accurately reflects the manner in which a treaty (or a covenantal agreement like the Deuteronomic Code) might have been inscribed for display.<sup>50</sup> That the altar in Deuteronomy 27 is not constructed at a temple is an insignificant point of reference, since no temple can be constructed within the Deuteronomic historical schema.

### ***Remarks on the Composition of Deut 27:1-8***

It is frequently claimed that Deuteronomy 27 was secondarily added to a version of Deuteronomy that largely consisted of laws.<sup>51</sup> The Deuteronomic Code and the curses for disobedience to it (Deut 28) are presented as the direct speech of Moses. Deuteronomy 27, therefore, seems to disrupt the Mosaic discourse by beginning with third-person narration:

“Moses and the elders of Israel commanded the people, saying...” ( וַיִּצַו מֹשֶׁה וְזִקְנֵי יִשְׂרָאֵל אֶת־הָעָם ) (Deut 27:1). Since the entirety of Deuteronomy 12-28, apart from just a few verses in

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incorporated into it, and that incorporation is historically informed and situated.”

50 It should be noted that no extant ink-on-plaster inscription comparable in length to the Deuteronomic Code has been discovered, but that does not preclude the possibility that such inscriptions existed or could be imagined as existing. For discussion of the ideological connection between the biblical notion of a “covenant” (ברית) with YHWH and the Neo-Assyrian concept of *adê*, please see a subsection of 2.4 in this study, “Treaty, *Adê*, and Covenant.”

51 Cf. J. Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des alten Testaments* (3<sup>rd</sup> ed.; Berlin: Georg Reimer, 1889) 191-195; Driver, *Deuteronomy* (1896), 294; Nicholson, *Deuteronomy* (1967) 34-35; Nelson, *Deuteronomy* (2002) 4-9, 315; Kratz, *The Composition* (2005) 114-133.



Deuteronomy 27 (vv. 1, 9, 11) and the coda in Deut 28:69, consists of first-person speech, the chapter seems out of place. For this reason, it has been proposed that the material comprising Deuteronomy 27 was probably secondarily inserted into an earlier version of Deuteronomy. According to one line of scholarly reasoning, the earliest version of Deuteronomy consisted of laws, formulated as the second-person address of Moses or YHWH to an Israelite audience (Deut 12-26\* [and 28\*]),<sup>52</sup> that was later supplemented with material composed by different writers.

To suggest that the alteration between third-person narration and second-person direct speech in Deuteronomy 27 is indicative of literary discontinuity is problematic in light of comparative evidence. Other ancient Near Eastern treaties and law codes, whose literary unity has never been disputed, display similar transitions between first-person, second-person, and third-person speech. These transitions are often attested at literary junctures distinguishing a “prologue” or an “epilogue/blessing and curse” section from the main body of treaty/legal material.<sup>53</sup> Thus, there are precedents for the transition in Deut 27:1, which marks a boundary between the Deuteronomic Code and passages detailing the terms of its ratification. What is crucial for discernment of compositional fault lines is not stylistic inelegance, however, but rather logical discontinuities in legal content or narrative. Discontinuity in style can provide circumstantial evidence for source division, but cannot on by itself prove different authorship.<sup>54</sup>

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52 Ibid.

53 This is clear from even a casual perusal of Hittite treaties (Beckman, *Hittite Diplomatic Texts* [1999]), which alternate between the first-person speech of the Hittite king and second-person address to vassals, as well as a reading of the Code of Hammurabi. The latter begins (LH I:50-V:24) and ends with the first-person speech of Hammurabi (LH XLVII:9-XLIX:44), bracketing laws in the third-person. If the Deuteronomic composers directly or indirectly borrowed from earlier literary traditions, then it is hardly surprising that different forms of speech are employed. There is no reason to insist that they were so creatively rigid that they could not alternate between third-person narration and direct address in the second-person; cf. Peter C. Craigie, *The Book of Deuteronomy* (Grand Rapids: Wm. B. Eerdmans, 1976) 52-53.

54 This accords with a fundamental principle for source division in the Neo-Documentarian

There are grounds, however, for arguing that material Deut 27:2 is a literary duplicate of Deut 27:4 or *vice versa*.<sup>55</sup> Many of the same words and phrased are repeated, with only minor variation in grammatical form. These lexemes, moreover, appear in an identical literary order:

Table 4.3 – Duplicate Material in Deut 27:2 and 27:4	
<u>Deut 27:2</u>	<u>Deut 27:4</u>
“ <u>It will happen</u> on the day that you <u>cross the Jordan</u> to the land which YHWH, your God, is giving to you, (that) <u>you will erect</u> for yourselves great <u>stones</u> , and <u>you shall plaster them with plaster</u> .”	“ <u>It will happen</u> when you <u>cross the Jordan</u> (that) <u>you will erect</u> these <u>stones</u> , that I am commanding you all this day, on Mount Ebal, and <u>you shall plaster them with plaster</u> .”
וְהָיָה בְיוֹם אֲשֶׁר תַּעֲבְרוּ אֶת־הַיַּרְדֵּן אֶל־ הָאָרֶץ אֲשֶׁר־יְיָהוָה אֱלֹהֵיךָ נָתַן לְךָ וְהִקְמַת לְךָ הָאֲבָנִים גְּדֻלוֹת וּשְׁדַת אֹתָם בְּשִׂיד	וְהָיָה בְּעֶבְרַכֶּם אֶת־הַיַּרְדֵּן תִּקְיְמוּ אֶת־ הָאֲבָנִים הָאֵלֶּה אֲשֶׁר אֲנִי מִצְוֶה אֹתְכֶם חַיּוֹם בַּהֵר עֵיבֵל וּשְׁדַת אוֹתָם בְּשִׂיד

Both of these verses begin with the same verb, “it will happen” (וְהָיָה), which commonly introduces a subordinate temporal clause in Biblical Hebrew. These are followed respectively by

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approach to Pentateuchal literary analysis with which the present author is in agreement. Joel Baden (*The Composition of the Pentateuch* [2012] 31) has summarized it as follows: “The separation of the literary analysis, on the grounds of narrative flow alone, from all other secondary considerations of the individual sources, be it theme, style, or potential historical setting, must be maintained if the analysis is to retain any degree of objectivity. [¶] As long as it is remembered that considerations of narrative flow must always be primary in the analysis of the Pentateuch, the elements of theme, style, and historical setting, though secondary, do add considerably to the Documentary Hypothesis as a whole.” That is to say, they may have value if they regularly correspond to conclusions derived from an analysis of the logic of narrative flow. 55 This is a good example of duplicate material in Deut 27:1-8, but others may be observed. Such duplicates may reflect a polemical expansion of the passage. See the discussion in n. 58.

a second-person plural imperfect verb (תַּעֲבִירוּ; Deut 27:2a) and an infinitive construct (בַּעֲבֹרְכֶם; Deut 27:4) with a second-person plural possessive suffix. Both of these words, although different parts of speech, display a verbal root meaning to “cross” (ע.ב.ר), and feature the same geographic location, “the Jordan” (אֶת־הַיַּרְדֵּן), as their direct object. Verbs that display an identical verbal root (ק.ו.ג) are then attested in second-person *Hiphil* form in both passages (וְהִקְמַת/תִּקְיִמוּ; Deut 28 27:4b/2b) with precisely the same direct object, “stones” (הָאֲבָנִים). These clauses are rapidly followed by virtually identical commands regarding these objects, “you shall plaster them with plaster” (וְשָׂדַת אֶת־הֶם בְּשִׁיד; Deut 27:4c/2c). Since these two verses are so similar in their literary formulation, there can be little question that they are directly connected. Either they were authored by the same person, or the writer of one deliberately borrowed material from the other.

Although Deut 27:2 and 27:4 seem redundant in content, they do differ in two crucial respects. The former commands that the stone monuments displaying the Deuteronomic laws should be erected in the Transjordan “on the day” (בַּיּוֹם) that the Israelites cross the Jordan river. By contrast, there is no clear timeframe for the erection of stones displaying the Deuteronomic laws in the latter verse. What is stressed instead is the precise site that the monument recording the laws should be displayed, “on Mount Ebal” (בְּהָר עֵיבָל). There is nothing problematic with the immediate erection of stones upon the crossing of the Jordan as prescribed in Deut 27:2.

However, as others have observed,<sup>56</sup> the site of Mount Ebal is clearly more than a day's journey on foot from the Jordan river. It is difficult, therefore, to interpret Deut 27:4 as simply a reiteration of the command in Deut 27:2. Unless distinct monuments are to be erected at both sites, one is compelled to view one of these verses as a duplicate or supplement to the other,

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<sup>56</sup> Driver, *Deuteronomy* (1896) 295; Sonnet, *The Book* (1997) 87-88; Nelson, *Deuteronomy* (2002) 316-317.

conceptualizing a different site where these stones should be erected. Since the reference to “these stones” (האבנים האלה) in Deut 27:4 requires the previous mention of “great stones” (האבנים הגדולות) in Deut 27:2, it may be safest to conclude that Deut 27:4 was modeled on Deut 27:2.<sup>57</sup>

### *Deut 27:1-13 as a Literary Source for Josh 8:30-35*

The Mosaic command to construct an altar at Mount Ebal (Deut 27:1-8) cannot be fulfilled until the Israelites have entered the land of Canaan. All extant versions of Deuteronomy conclude, however, with a description of the death of Moses and the mourning ritual of the Israelites on the plains of Moab (Deut 34:5-12).<sup>58</sup> There is no logical place within its narrative

<sup>57</sup> It is not necessary for the purposes of the present study to establish the precise literary relationship between Deut 28:2 and 28:4. What is most crucial is the observation that, in both verses, the Deuteronomic laws are conceptualized as publicly displayed. The phrase “on the day that you cross the Jordan” (ביום אשר תעברו את־הירדן; Deut 28:2) may not have been intended literally, as Eugene Ulrich (“4QJoshua<sup>a</sup> and Joshua's First Altar in the Promised Land,” in *New Qumran Texts and Studies: Proceedings of the First Meeting of the International Organization for Qumran Studies, Paris 1992*, eds. George Brooke and Florentino Garcia Martinez [Leiden: E. J. Brill, 1994] 95) has observed. Moreover, since biblical writers often describe miraculous or improbable events, the possibility that the author of Deut 28:2 unrealistically imagined that a monument could be erected by the Israelites at Mount Ebal, on the same day as their crossing of the Jordan river, cannot altogether be dismissed. It is conceivable that Deut 27:2 and 27:4 were written by someone not perfectly familiar with the geography of ancient Israel. Relevant to any discussion of the realism of these two verses is Jeffrey Tigay's (*Deuteronomy* [Philadelphia: The Jewish Publication Society, 1996] 297) observation that “[i]f Deuteronomy means that the text should be written on plaster, then the writing would eventually be washed away by rain, since the text does not require that a structure be built over the steles.” However, the reduplication of the words, “You shall write... all the words of this Torah” (וּכְתַבְתָּ... אֶת־כָּל־דִּבְרֵי הַתּוֹרָה הַזֹּאת) in Deut 27:3a and 27:8 can be discerned as an example of resumptive repetition bracketing the insertion in Deut 27:3b-7. As Ulrich (p. 95) also observes: “In v 4 the MT (followed by LXX<sup>B,A</sup>) has בָּהָר עֵיבָל, the Samaritan Deuteronomy has בָּהָר רִגְרִיזִים, and the Old Latin – surely reflecting an ancient form of the LXX – has *Garzin*! The suspicion is strong that the mention of a specific place is a secondary insertion, and that whichever mountain was first inserted... the other is a tertiary, polemic substitution... the only readily apparent rationale for [the insertion] here is polemical.”

<sup>58</sup> This should not be taken to imply that the literary structure of Deuteronomy, as presently attested across manuscript traditions, reflects that of the earliest form of the biblical book, or even the most significant hypothetical version (“D”) at a historical-critical level that underlies

framework, therefore, to narrate the building of this altar. It is only after the Israelites have crossed the Jordan River, an event described in the book of Joshua (chapters 3-4), that they have the opportunity to act on this particular instruction from Moses. The building of an altar at Mount Ebal is appropriately narrated in Josh 8:30-32, ostensibly in fulfillment of the command in Deut 27:1-8. Josh 8:30-35, however, was probably added by a later writer who strove to harmonize the contents of Joshua with passages in a contemporaneous edition of Deuteronomy.

<b>Table 4.4 – Text and Translation of Josh 8:30-35</b>	
<u>Translation</u>	<u>Hebrew Text</u>
<p>“Then Joshua built an altar to YHWH, the God of Israel, on Mount Ebal, as Moses, the servant of YHWH, commanded the children of Israel, as is written in the scroll of the Torah of Moses—an altar of unhewn stones upon which no iron has been wielded. Then they offered upon it whole burnt sacrifices to YHWH, and they sacrificed <i>šlēmîm</i>-offerings. He wrote there upon the stones a copy of the Torah of Moses, which he wrote before all the</p>	<p>אז יבנה יהושוע מזבח ליהוה אלהי ישראל בהר עיבל כאשר צוה משה עבד־יהוה את־בני ישראל ככתוב בספר תורת משה מזבח אבנים שלמות אשר לא־הניף עליהן ברזל ויעלו עליו עלות ליהוה ויזבחו שלמים ויכתב־שם על־האבנים את משנה תורת משה אשר כתב לפני בני ישראל וכל־ישראל וזקניו ושטרים ושפטיו עמדים מזה ומזה לארון נגד הכהנים הלויים נשאי ארון ברית־יהוה כגר כאזרח חציו אל־מול הר־גרזים והחציו אל־מול הר־עיבל</p>

these various traditions. In the Neo-Documetarian model, for instance, “The siglum “D” stands for not the earliest layer of the document, but for the final form, comprising the central law code, the two introductory speeches, and the concluding material (which is itself probably layered like Deut 1-11). Despite is evident stratification, the D document is a cohesive and coherent whole, with a defined agenda, consistent themes and language, and a recognizable structure... It comprises the entirety of Deuteronomy 1:1-32:47[\*]; that is D, the pentateuchal document incorporated into the canonical text by the compiler” (Baden, *The Composition* [2012]) 138).

Table 4.4 (Continued)

<p>children of Israel. And all Israel, their elders, the officials, and the judges stood on one side and the other side of the Ark, before the Levitical priests that bore the Ark of the covenant of YHWH, the stranger as well as the native—half facing Mount Gerizim, and half facing Mount Ebal as Moses, the servant of YHWH, commanded at first to bless the people. Afterwards, he read all the words of the Torah, the blessing and the cursing, according to all that is written in the scroll of Torah. There was not a word from among all which Moses commanded that Joshua did not read before all the assembly of Israel, and the women, the children, and the stranger going about in their midst.”</p>	<p>כאשר צוה משה עבד־יהוה לברך את־ העם ישראל בראשונה ואחר־יכן קרא את־כל־דברי התורה הברכה והקללה ככל־הכתוב בספר התורה לא־היה דבר כל אשר־צוה משה אשר לא־קרא יהושוע נגד כל־קהל ישראל והנשים והטף והגר ההולך בקרבם</p>
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Josh 8:30-35 contains three clear references to Mosaic commands in Deut 27:1-13. First, the building of the altar at Mount Ebal is carried out “as Moses, the servant of YHWH, commanded the children of Israel, as is written in the scroll of the Torah of Moses” (כאשר צוה משה; Deut 8:31). Since a version of Deuteronomy was probably identified as the Torah of Moses (cf. Deut 31:24-26), it is likely that Josh 8:30-31 was intended to be understood as the fulfillment of Moses's command in Deut 27:1-8. The

construction of an altar in Josh 8:31 with “unhewn stones” (אבנים שלמות), upon which no “iron” (ברזל) has been “wielded” (גוּרָה), corresponds with Deut 27:6. The sacrifices offered on it (עלות; ) match those in Deut 27:7. The writing of the Torah of Moses on “stones” (אבנים) in Josh 8:32, meanwhile, seems to accord with the Mosaic instructions in Deut 27:2-4 and Deut 27:8. Lastly, there is the division of the Israelites into two groups, stationed at Mount Gerezim and Mount Ebal, for a blessing and curse ceremony that occurs “as Moses, the servant of YHWH, commanded” (כאשר צוה משה עבד־יהוה; Josh 8:33). This seems to be done in compliance with the commands in Deut 27:11-13, which are literarily anticipated in the rhetoric of Deut 11:26-29.

In view of the strong correspondences between commands in Deuteronomy 27 and the actions performed in Josh 8:30-35, there can be little doubt that these passages are somehow literarily connected. Explicit allusions in Josh 8:30-35 to Mosaic commands (Josh 8:31, 33), indicate that the composer of the former must have been familiar with a version of this Deuteronomic passage. Without a background knowledge of Deut 27:1-3, moreover, it is unclear on what “stones” (אבנים) the Torah of Moses is written in Josh 8:32. The erection of plastered stones is not mentioned in Josh 8:30-35, so readers would be left to assume that the inscribed “stones” are the unhewn stones (not explicitly plastered) from which the altar is constructed (Josh 8:31).<sup>59</sup> This manner of textual display is unprecedented and difficult to envision.

Virtually all of the actions of Joshua in Josh 8:30-35 are recognizably performed in compliance with commands found in various sections of Deuteronomy. Some of the literary correspondences here are not immediately discernible, however, since they reflect interpretive

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59 Fishbane, *Biblical Interpretation* (1985) 162; cf. Kristin De Troyer, “Building the Altar and Reading the Law,” in *Reading the Present in the Qumran Library: The Perception of the Contemporary by Means of Scriptural Interpretations*, eds. Kristin De Troyer and Armin Lange (Atlanta: Society of Biblical Literature: 2005) 152, 154.

readings of Deuteronomic passages by the composer of Josh 8:30-35. The description of the inscribed stones as a “copy of Torah” (משנה תורה) in Josh 8:32 is especially significant, since this expression appears elsewhere only in Deut 17:18 (משנה התורה). While Joshua is by no means a “king” (מלך), the figure that is supposed to write a “copy of Torah” according to Deut 17:14-20, he certainly represents the closest approximation of a ruler following the death of Moses. The composer of Josh 8:30-35 probably conceptualizes Joshua's leadership role as analogous to that of a king, and thus envisions him as writing his own copy of Torah. This is supported by the observation that a single person ostensibly inscribes the Torah of Moses in Josh 8:32, since the verbal form is in the singular (“and he wrote”; ויכתוב). Joshua is the only individual mentioned in the passage, and therefore the natural subject of the verb. That ancient readers understood Joshua as the subject is shown by the LXX version of this verse, which has “Joshua” added to the text (“and Joshua wrote”; καὶ ἔγραψεν Ἰησοῦς; Josh 9:2c).<sup>60</sup> Joshua thus produces a copy of Torah of Moses in Josh 8:34, much like future kings of the Israelites are required according to Deuteronomic law (Deut 17:14-20). The composer of Josh 8:30-35 is not simply copying material from Deuteronomy, but creatively adapting it to portray Joshua as a leader whose behavior corresponds to the model of leadership in Deuteronomy. Joshua even reads “all the words of Torah” (כל־דברי התורה; Josh 8:34) along with the “blessing and cursing” (הברכה וקללה; Josh 8:34), although the reading of Deuteronomic laws is never mentioned as part of the ceremony described in Deut 27:10-13. The public reading of the Torah, however, is commanded in Deut 31:10-13.<sup>61</sup> In accordance with Deut 31:12, the audience in Josh 8:35 is an “assembly” (קהל) that includes “the women” (הנשים), “the children” (הטף), and “the stranger” (הגר). Joshua

60 Josh 8:30-35 (MT) = Josh 9:2<sup>A-F</sup> (LXX).

61 For some interesting discussion of a possible connection between Deut 31:9-13 and the Assyrian *adê*-tradition, see Lauinger, *HeBAI* 8 (2019).



thus plays a role similar to the unspecified individual or group expected to read the Torah of Moses according to Deut 31:10-13.<sup>62</sup> While it cannot be assumed that the events described in Josh 8:30-35 take place at the time of the Feast of Tabernacles (Deut 31:10), this by no means diminishes the likelihood that Deut 31:10-13 inspired the description of Joshua's actions here.

It is especially significant that the public reading of the Torah commanded by Moses occurs “at the place which [YHWH] will choose” (במקום אשר יבחר; Deut 31:11), since the composer of Josh 8:30-35 seems to understand Mount Ebal as this location. Josh 8:34 probably reflects a crucial aspect of Deuteronomistic theology that biblical scholars have long discerned. Since the site where worship is to take place within Deuteronomistic theological schema is not fixed, but vaguely labeled as the place which YHWH “will choose” (יבחר), it is possible that this site was construed by the Israelites as changing through time.<sup>63</sup> This interpretation of Deuteronomistic theology is strongly supported by a passage in the book of Jeremiah, which displays close affinities with Deuteronomistic theology and phraseology.<sup>64</sup> When condemning the Israelites for their actions, Jeremiah alludes to the destruction of Shiloh while simultaneously acknowledging this site as formerly a holy place: “Just go to my place which is in Shiloh, where I caused my name to dwell there at first, and see that which I did because of the wickedness of my people, Israel” (כי לכוֹנֵנָא אֶל־מְקוֹמִי אֲשֶׁר בְּשִׁילוֹ אֲשֶׁר שָׁכַנְתִּי שָׁמָיִם בְּרִאשׁוֹנָה וּרְאוּ אֶת אֲשֶׁר־עָשִׂיתִי לוֹ) (Jer 7:12).<sup>65</sup> The sacrifices offered at Mount Ebal in Joshua 8 can be

62 Cf. Martin Noth, *The Deuteronomistic History*, trans. E. W. Nicholson (2<sup>nd</sup> ed.; Sheffield: JSOT Press, 1991) 63-64.

63 Cf. Alexander Rofé, “The Strata of Law about the Centralization of Worship in Deuteronomy and the History of the Deuteronomistic Movement,” in *Congress Volume: Uppsala 1971* (Leiden: Brill, 1972) 221-226; J. G. McConville and J. G. Millar, *Time and Place in Deuteronomy* (Sheffield: Sheffield Academic Press, 1994) 117-124.

64 Cf. Weinfeld, *Deuteronomy* (1972), 359-365; Mastnjak, *Deuteronomy* (2016).

65 Cf. Jer 12:14. It is remarkable that the same expression, “at first” (בראשונה), appears as well in Josh 8:33. This phrase, as employed in Josh 8:33, most plausibly alludes to the Mosaic

understood as performed in accordance with the law of cultic centralization in Deuteronomy 12. The place which YHWH “will choose” (יִבְחַר) may have recognized as Jerusalem at the time that Deuteronomy was composed, but it was likely understood to designate different sites across historical periods. It is otherwise difficult to explain why the sacrifice by Joshua (Joshua 8:31), who is presented as a model Israelite leader, does not receive negative comment in Josh 8:30-35.

That some form of the material in Josh 8:30-35 is positioned differently within the Masoretic text, LXX (Josh 9:2<sup>A-F</sup>), and Qumran (4QJoshua<sup>a</sup> 5:1\*)<sup>66</sup> versions of Joshua bolsters the suggestion that this passage was secondarily introduced into the biblical book. Although the reasons that these verses are not attested in the same position is a matter of speculation and debate,<sup>67</sup> there are many examples of passages, widely suspected to be secondary additions, being placed in different positions across manuscript traditions.<sup>68</sup> A writer influenced by Deuteronomy probably introduced what constitutes the text of Josh 8:30-35 (MT) into a particular textual tradition. Later editorial efforts at literary harmonization in turn account for the

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command in Deut 11:29 for blessing and cursing at Mount Gerizim and Mount Ebal.

66 Eugene Ulrich, “4QJoshua<sup>a</sup> and Joshua's First Altar in the Promised Land” (Leiden: E. J. Brill, 1994) 89-104.

67 Cf. Sarah Lebharr Hall, *Conquering Character: The Characterization of Joshua in Joshua 1-11* (New York: T&T Clark: 2010) 139-141; Thomas B. Dozeman, *Joshua 1-12: A New Translation With Introduction and Commentary* (New Haven: Yale University Press, 2015) 382; Emmanuel Tov, “The Literary Development of the Book of Joshua as Reflected in the Masoretic Text, the LXX, and 4QJoshua<sup>a</sup>,” in *Textual Criticism of the Hebrew Bible, Qumran, and Septuagint* (Brill: Leiden, 2015) 147-153.

68 A good example is the “Song of Hannah” (1 Sam 2), which is positioned slightly differently in the MT, LXX, and Qumran (4QSam<sup>a</sup>) versions. Cf. Emmanuel Tov, “Different Editions of the Song of Hannah and of Its Narrative Framework,” in *The Greek and Hebrew Bible: Collected Essays on the Septuagint* (Leiden: Brill, 1999) 433-455. In all three of these manuscript traditions, the “Song of Hannah” is obviously problematic. The poem clearly references the institution of kingship in Israel: “He will give strength to his king and raise up the horn of his anointed” (1 Sam 2:10). Yet there is no king within Israel at the time in which Hannah supposedly makes her poetic pronouncements. The “Song of Hannah” was probably not composed by the writer of 1 Sam 1-2\*, but secondarily incorporated into its present context.

disparate placement of this material in the MT, LXX, and Qumran versions. Editors reached different conclusions as to where this material belonged on the basis of subjective judgments.

Josh 8:30-35 also begins (Josh 8:30), quite significantly, with the unusual syntactic combination of the temporal preposition  $\text{אז}$  (“then”) immediately followed by an imperfect verbal form. In context, this verbal form must be understood as describing a complete or inchoative act,  $\text{יבנה}$  (“he built/set about building”). This pattern often occurs elsewhere, Isaac Rabinowitz has observed,<sup>69</sup> at the beginning of other passages that were probably secondarily added. “The construction is resorted to as an efficient means of causing a reader or hearer to regard the ensuing textual material as temporally (though not sequentially) linked,” he notes, “when the writer, editor or speaker does not wish to work in and to merge such additional material with that of the preceding text as a given.”<sup>70</sup> Regardless of how it is explained, the use of  $\text{אז}$  + imperfect (understood as “preterite” according to Rabinowitz) as a redactional device is well attested. Josh 8:30-35, in view of this and other evidence presented, is best understood as a secondary addition.

Why this passage was composed and secondarily introduced into the book of Joshua may readily be surmised. Within the schema of the Deuteronomistic History, the Israelites are ultimately successful in their goal of conquering the land Canaan. This is only explicable, in view of the blessings and curses in Deut 27-28\*, if the Israelites have obeyed prescriptions within the book of Deuteronomy. The composer(s) of Josh 8:30-35 probably had access to a version of the biblical book that included Deuteronomy 11\*, 17\*, 27\* and 31\*,<sup>71</sup> and shaped a new narrative to accord with this material. Joshua must, from their viewpoint, have complied

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69 Isaac Rabinowitz, “ $\text{אז}$  Followed by Imperfect Verb-Form in Preterite Contexts: A Redactional Device in Biblical Hebrew,” *VT* 34 (1984) 53-62. Cf. Exod 15:1; Num 21:17; Deut 4:31; Josh 8:30, 10:12, 22:1; 1 Kgs 3:16, 8:1, 9:11, 11:7, 16:21; 2 Kgs 8:22, 12:18, 15:16, 16:5.

70 Ibid., 54.

71 Cf. Dozeman, *Joshua* (2015) 383-384.

with all of Moses's commands throughout Deuteronomy to achieve the “historical” conquest of Canaan.<sup>72</sup> This belief in turn prompted the addition of Josh 8:30-35 to their version of Joshua.

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72 Sonnet, *The Book* (1997) 88, n. 5.

## CHAPTER 5: CONCLUSIONS OF THIS STUDY

### 5.1 – Summary of the Comparative Evidence

#### *The Relationship Between “Treaty” Traditions and Deuteronomy*

The goal of this study was to critically reassess the nature of the literary connection between Deuteronomy and ancient Near Eastern treaty texts. For more than half a century, scholars since G.E. Mendenhall have proposed that the structure of this biblical book was probably modeled on the form of a treaty,<sup>1</sup> since it bears such a striking resemblance to the outline of a Hittite treaty. More recently, it has been proposed that the composition of Deuteronomy 13\* and 28\* was directly based on a particular text, “Esarhaddon's Succession Treaty” (EST), a Neo-Assyrian *adê*-document. Deuteronomy 13\*, 17\*, 27\*, and 28\* were selected for scrutiny in this study, because all of these chapters have been argued on various grounds to display the influence of both the Hittite treaty tradition and Neo-Assyrian *adê* texts,

When passages in these Deuteronomic chapters are directly compared with those in ancient Near Eastern treaty texts, the similarities are so numerous and striking that they cannot be dismissed as coincidental. There is especially strong evidence that EST served as a literary model for the composition of Deuteronomy 13:1-12 and 28:20-31\*. This does not prove, however, that the structure of Deuteronomy as a whole was deliberately modeled on the form of an ancient Near Eastern treaty. EST itself cannot strictly be described as a treaty,<sup>2</sup> and its probable influence is only demonstrable with respect to these two passages. Moreover, no extant

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1 For references, see n. 1 in section 1.1 of this study, “History of Research.”

2 For a concise overview of the problems associated with this translation and further scholarly references, see discussion in section 2.4 of this study, “Treaty, *Adê*, and Covenant.”

Neo-Assyrian *adê*-document or other so-called “treaty” text produced in the Iron Age contains material corresponding to the “historical prologue” (cf. Deut 1-11) in Hittite treaties. Blessings (cf. Deut 28:1-14) for obedience to the stipulations of an agreement are likewise unattested in Neo-Assyrian *adê*-documents, although they are regularly featured in Hittite treaty texts. If the treaty model for the composition of Deuteronomy is valid, a plausible source outside of the Neo-Assyrian *adê* tradition must be identified as a model for the literary structure of Deuteronomy.

That the Hittite treaty tradition could *indirectly* have influenced the composition of Deuteronomy during the Iron Age, however, is suggested by literary evidence.<sup>3</sup> First, it is likely that blessings were featured alongside curses in the treaty text(s) inscribed on the three Sefire steles. Blessings (cf. Deut 28:1-14) are otherwise only attested in ancient Near Eastern treaty documents within the Hittite treaty tradition. Second, there is the use of first-person speech by the figure who is probably the superior party in the agreement(s) recorded on these steles. This corresponds with the pattern in Hittite vassal treaties. It is a distinguishing feature of the Hittite treaty tradition that the Hittite sovereign frequently speaks in the first person in the course of dictating terms to his subjects. The first-person speech of Moses throughout the Deuteronomic Code (Deut 12-26\*), mediating the will of the sovereign figure, YHWH, thus bears an intriguing resemblance to this pattern characteristic of Hittite treaties.<sup>4</sup> Although Neo-Assyrian *adê*-texts,

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3 Evidence for a connection between the Hittite treaty tradition and Deuteronomy is summarized with commentary in a subsection of 2.4, “Treaty Traditions and the Sefire Texts.”

4 Jeffrey Stackert (personal communication) correctly points out to the present author that although “Moses mediates a divine message, his first person is really his own. He does not, for example, speak in the divine first person, as other prophets do.” One should not deny the creative agency of the Deuteronomic composers, however, in modeling the form of their document on that of an ancient Near Eastern text in which the sovereign speaks in the first person. Relevant discussion and notes are found in section 2.4, “Was There a Levantine Treaty Tradition?” First-person speech is notably absent in the other two compositions, EST and the Covenant Code, that many scholars have argued directly influenced the composition of the Deuteronomic Code. Moses's legal pronouncements, moreover, are authoritative as an expression of YHWH's will.

such as EST, display parallels with material in Deuteronomy, these two literary features are completely absent from extant exemplars of them. The “Neo-Hittite” city states of the first millennium BCE, though, are plausible conduits for the influence of a Bronze Age treaties into the Iron Age Levant. Although there is no particular ancient Near Eastern treaty tradition or text whose rhetoric or structure precisely matches that of Deuteronomy, this cannot diminish the significance of the strong correspondences between the Hittite treaty tradition and Deuteronomy.

There is widespread agreement, meanwhile, that the striking similarities between EST and Deuteronomy 13\* and 28\* establish the existence of some kind of literary connection between their rhetorical language. What is at issue is whether these literary similarities prove that there is a *direct* literary connection between these texts. Those who criticize arguments that EST was a source known to the composers of Deuteronomy 13\* or 17\* can always stress the possibility that texts containing similar rhetoric might have existed, and these documents somehow influenced biblical writers. Since only a fraction of the literary output of the ancient Near East has survived, it is conceivable that texts containing similar or virtually identical rhetoric existed in the Neo-Assyrian, Neo-Hittite, or Israelite textual traditions of the Iron Age.

Literary material was indeed sometimes recycled, for instance, within the Neo-Assyrian *adê*-tradition. This is demonstrated by the inclusion of an identical series of curses in EST (§§51-54; ll. 459-468\*) and Esarhaddon's treaty with Ba'al of Tyre (SAA 2 5; rev ll. 2-7).<sup>5</sup> It is conceivable, therefore, that other *adê*-texts produced in the late Iron Age contained curses identical with those in EST. Such texts might in turn have influenced the composition of Deuteronomy 13\* and 28\* rather than EST. One must ask, however, how likely it is that the

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5 These passages are presented alongside each other for comparison in “Employment of the Comparative Method,” a subsection of section 2.1 in this study, “Approach of the Present Study.”

writers of Deuteronomy were exposed to these hypothetical texts containing rhetoric only attested in EST §§4 (ll. 41-61), 10 (ll. 108-122), 39-42 (ll. 419-430), and 63-65 (ll. 526-536). If such texts existed, of course, it must be supposed that they were known to Israelite/Judean writers to explain their influence on biblical texts. Two significant and wholly unsubstantiated claims must then be posited to dismiss the similarities between EST and Deuteronomic material as proof of a connection between them: 1) the existence of texts with virtually identical material; and 2) their literary accessibility by the writers of Deuteronomy. By contrast, there is little reason to doubt that Judean officials, as members of a vassal state of the Neo-Assyrian empire, may have been exposed to a version of EST addressed directly to them or those to whom they brought tribute.<sup>6</sup> On the basis of existing textual evidence, at least, the correspondences between EST and Deuteronomy are unique and significant evidence of a literary relationship between them.

While it is possible that texts containing rhetoric similar or identical to that in EST existed, there is no reason to insist that they must have. Since it is impossible to prove the nonexistence of a text, moreover, it is methodologically problematic to posit its existence when questioning the likelihood of a literary connection between EST and Deuteronomy. One might easily abstract this to a general principle, directly modeled on the dictum known as Occam's Razor in one of its original formulations: *pluralitas fontium possibilium non est ponenda sine necessitate*.<sup>7</sup> There is simply no reason to propose that a Neo-Assyrian treaty text other than EST influenced the composition of Deuteronomy. EST was composed in the late Iron Age,

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6 See discussion in subsection, "The Significance of the Addresses of the EST Exemplar at Tell Tayinat," within section 4.1, "The EST Exemplar at Tell Tayinat" of the present study.

7 In English translation, "A plurality of possible sources should not be posited without necessity." Cf. William of Ockham, *Philosophical Writings: A Selection* (Indianapolis: Hackett Publishing Company, 1990), trans. Philotheus Boehner, 97. There is, of course, no definitive formulation of "Occam's Razor." This was observed in n. 100 of the second chapter in this study.



intriguingly when many scholars have theorized that a form of this biblical book was produced. The strong similarities between EST and Deuteronomy 13\* and 28\* can thus be explained without supposing the existence of an unattested oral or textual tradition. EST is advantaged as a source candidate for the writers of Deuteronomy 13\* and 28\* not only on the grounds that it obviously existed, but copies of it were widely circulated throughout the ancient Near East.<sup>8</sup>

An obvious objection to arguments that Deuteronomy 13\* and 28\* are literarily dependent on EST is that their similar passages do not correspond word-for-word or phrase-for-phrase. It is clear, however, that biblical authors were capable of adapting material from their sources in a highly creative fashion. This has long been discerned by scholars examining evidence of inner-biblical borrowing and exegesis.<sup>9</sup> The present study has shown that Deut 28:20-44\* was deliberately structured as a chiasm, with Deut 28:32-42 reiterating themes and lexemes in Deut 28:23-31 in an inverted order.<sup>10</sup> The two halves of this chiasm deviate in ways that are striking and obvious, yet these passages are unmistakably connected. There is no reason to doubt the possibility that the writers of Deuteronomy 28\*, who were capable of recycling particular words and thematic concepts in a sophisticated fashion when constructing a chiasm, could have adapted material from a foreign text such as EST in a similarly creative manner.

Not every alleged parallel between treaty texts and passages in Deuteronomy, however, should be explained by asserting the existence of a direct literary connection. The apparent similarities that Deuteronomy 17\* shares with Hittite treaties and Neo-Assyrian *adê*-texts are

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8 Evidence for this view is presented in “The Significance of the Addresses of the EST Exemplar at Tell Tayinat,” within section 4.1 of this study, “The EST Exemplar at Tell Tayinat.”

9 Cf. Fishbane, *Biblical Interpretation* (1985).

10 For further commentary and scholarly references on the chiastic structure of this passage, see section 3.3 of this study, “The Chiastic Structure of Deut 28:20-44.”

either the result of indirect influence or purely coincidental.<sup>11</sup> Deut 17:2-7 prescribes the death penalty for religious apostasy, thus paralleling the rhetoric of EST §10 (ll. 108-122). It is clear upon close examination, however, that Deut 17:2-7\* is directly dependent on Deut 13:7-12. Alleged parallels between Hittite treaties and the requirement in Deut 17:14-20 that Israelite kings read from a scroll with YHWH's instruction, meanwhile, are extremely tenuous. The influence of the Hittite treaty tradition might account for some features in Deuteronomy that are not found in the Neo-Assyrian *adê* tradition, which probably shaped the latter's composition as this study has shown. No single Deuteronomic passage, though, clearly reflects Hittite influence.

In summary, while there is intriguing evidence that the Hittite treaty tradition might have indirectly influenced the composition of the book of Deuteronomy, this cannot be proven on the basis of evidence surveyed in this study. It is highly improbable that any Hittite document directly influenced the composition of biblical passages. The influence of the Hittite treaty tradition, however, could have been mediated by texts written in the Iron Age. Such texts may have been composed by Levantine peoples formerly subjugated to the Hittites, who were subsequently incorporated into “Neo-Hittite” city-states such as Carchemish. The Sefire treaties indeed afford intriguing evidence that features otherwise confined to Bronze Age Hittite treaties were attested in the Iron Age Levantine treaties.<sup>12</sup> These features include the use of first-person speech by the superior party in the agreement, and the likely attestation of blessings alongside curses for disobedience to agreement terms. The only treaty text, though, that can be demonstrated to be a literary source probably known to the composers of Deuteronomy is EST.

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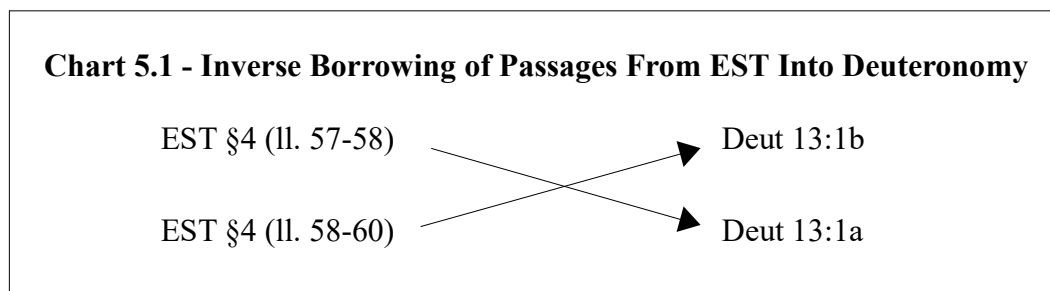
11 Evidence for this assertion is presented throughout the second chapter of this study.

12 This is shown in section 2.4 of this study, “Was There a Levantine Treaty Tradition?”

### *The Influence of EST on Deuteronomy 13 and 28*

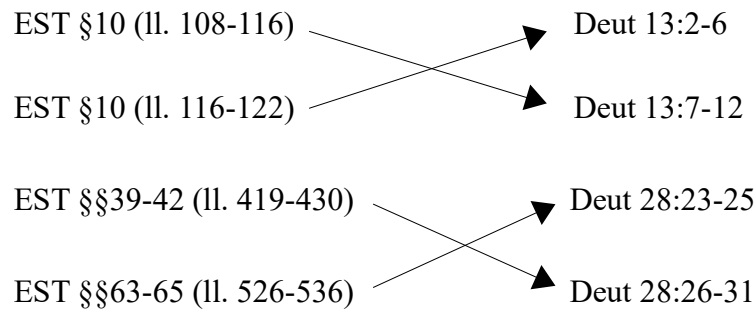
Deuteronomy 13\* and 28\* display unique clusters of themes and lexemes that are similar or virtually identical with those found in EST §§4 (ll. 41-61), 10 (ll. 108-122), 39-42 (ll. 419-430), and 63-65 (ll. 526-536). This strongly suggests there is some literary connection between them. Many of the literary parallels between Deuteronomy 13\* and 28\* and EST were first observed several decades ago, however, and there is no scholarly consensus as to their significance. This study has sought to demonstrate that these biblical chapters were probably dependent on this particular Neo-Assyrian text. Although there are differences in their literary structure and content, there are plausible reasons for why they exist. Clear patterns in these differences, moreover, can be discerned as strong evidence for direct literary borrowing.

Parallels between specific themes and lexemes in EST and Deuteronomy 13\* and 28\* are frequently found in an inverted order. In light of the well-attested pattern known as “Seidel’s Law,” this is indicative of textual borrowing. Levinson first observed that Deut 13:2-12\* displays this pattern in its repetition of key terms and themes in EST §§4 (ll. 41-61) and 10 (ll. 108-122).<sup>13</sup> His observations have been noted and expanded upon throughout this study, which has established a shared pattern of inverse borrowing from EST into Deuteronomy 13\* and 28\*:



13 Cf. Levinson, *JAOS* 130 (2010) 342-344.

*Chart 5.1 Continued*



Deut 28:23-25 and 28:26-31 repeat material in EST §§39-42 (ll. 419-430) and §§63-65 (ll. 526-536), but likewise in a reverse order. Since the manner in which material was borrowed from EST into Deuteronomy 13\* and 28\* is identical, it is simplest and therefore most reasonable to suppose that the same person(s) composed the biblical material. They are probably part of the same literary stratum within the book of Deuteronomy, although the former chapter is firmly embedded in the Deuteronomistic Code (Deut 12-26) and the latter is positioned outside of it.<sup>14</sup>

Study of the compositional structure of Deut 28:20-44 further bolsters the assertion that this material in Deuteronomy is probably directly dependent on EST. The strongest similarities between material in EST and Deut 28:20-44 are found in Deut 28:20-31. They terminate, therefore, precisely at the midpoint (Deut 28:31-32) of the larger chiastic structure of the passage. This literary juncture is highly significant, therefore, for independent reasons at the synchronic and diachronic levels of analysis. If one rejects the probability of a literary

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<sup>14</sup> This statement should not be taken to imply that the present author subscribes to any theory positing different authors for the legal material composing the Deuteronomistic Code (Deut 12-26) and the bulk of the narrative framing material in the current form of the biblical book of Deuteronomy. See notes 147 and 148. The intricacies of this topic cannot be adequately addressed within the present study, and need not be treated to advance its argumentative points.

connection, the observation that the Deuteronomic text pivots from its dependence on EST at this crucial literary juncture would be an extraordinary coincidence. It is more likely that the composer(s) of this passage utilized EST when composing the first half (Deut 28:20-31), but then crafted the second (Deut 28:32-44) on the basis of the first without relying on EST.

Steymans recognized the importance of this chiastic structure in attempting to explain the composition of Deut 28:20-44 as literarily dependent on EST. His claim that the entire content of this passage was directly based on passages scattered throughout EST, however, is fraught with problems. Not only are the literary similarities between EST and the first half of the literary chiasm (Deut 28:20-31\*) obviously stronger than those perceived by him in the second half (Deut 28:32-44\*), but his arguments as to why particular sections within EST were selectively adapted by biblical writers are weak.<sup>15</sup> He proposes that various passages in EST referencing the sun-god Shamash (EST §§39-42, 63-64) were utilized by the Deuteronomic composers, and rearranged according to the chiastic structure of another passage (EST §56) mentioning this god. However, there is no other instance of a biblical writer adapting material from disparate sections in a source, and then reordering material to match the structure of a subsection in that source. Steymans further conjectures that this Mesopotamian deity drew the attention of biblical writers on account of his association with the concept of justice, but this proposal has been shown to be extremely speculative and problematic on its own terms.<sup>16</sup>

Although Deuteronomy 13\* and 28\* are probably dependent on passages in EST, they are certainly not translations as Steymans and Otto have claimed.<sup>17</sup> The composers of Deuteronomy

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15 Detailed criticisms of Steymans's argument are presented in "The Hypothesis of Steymans" in section 3.3 of the present study, "The Chiastic Structure of Deut 28:20-44."

16 Ibid.

17 Steymans, *Deuteronomium* (1995) passim 152-312; *Das Deuteronomium* (1999) 64-69.

were capable of drawing from multiple literary sources in crafting original passages, and also selectively borrowing from them in a creative fashion that defies the label of “translation” (*Übersetzung*).<sup>18</sup> It is likely, for instance, that the writers of Deuteronomistic Code adapted material in the Covenant Code (Exod 20:19-23:33).<sup>19</sup> Yet it is impossible to allege that the former is a translation of the latter, since they were both composed in Hebrew. The authors of Deuteronomy merely used the Covenant Code as a literary model when crafting a legal collection promoting their own theological program. There are therefore no grounds to doubt that they would have adapted passages from an Akkadian text such as EST in an identical fashion.

Deut 13\* and 28\* are based on passages in EST without parallel in the Covenant Code. That the Covenant Code lacked models for the passages that the writers of Deuteronomy wished to include at these points in their composition may account for their selective borrowing from EST. Deut 13:1-12 repudiates the authority of any text or person subverting the rhetoric of the Deuteronomistic Code. It does so by appropriating rhetoric that is unique to EST, denouncing the alteration of a sovereign's “word” (*abutu*/דבר; EST §4), and mandating the execution of prophetic figures who reject his authority (EST §11). The role of Esarhaddon as a sovereign figure is recognizably reconceptualized by the authors of the Deuteronomistic Code as analogous to that of the Israelite god, YHWH.<sup>20</sup> Since the composers of Deuteronomy desired to include a series of curses (cf. Deut 27-28\*) at the conclusion of their legal collection, meanwhile, they were compelled to look towards a source outside of the Covenant Code, since there are no curses in this legal collection. This could explain the influence of EST (§§39-42, ll. 419-430; §§63-65, ll.

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18 For further discussion of this point, see “Deuteronomy 13\* and 28\* as 'Translations' of EST,” within section 3.3 of the present study, “The Chiastic Structure of Deut 28:20-44.”

19 See nn. 5 and 320 for references that are both supportive and critical of this proposal.

20 Evidence for this view is presented in detail in section 2.1 of this study, “Deuteronomy 13 and Esarhaddon's Succession Treaty.”

526-536) on the first half (vv. 20-31) of the chiastically structured curses in Deut 28:20-44.

Why material in EST was targeted for adaption by the composers of Deuteronomy, as opposed to other possible sources, can only be an object of speculation. The reason proposed by Eckart Otto, though, is dubious. He suggests that biblical composers sought to subvert Neo-Assyrian imperial rhetoric in EST by appropriating it in the context of a composition promoting the worship of YHWH. The supremacy of YHWH, according to Otto, is asserted in contradistinction to that of the Neo-Assyrian king.<sup>21</sup> However, this view assumes without evidence that Judean audiences were familiar enough with this Neo-Assyrian text to recognize its creative transformation. At the very least, it posits that the Deuteromic writers intended to draw a deliberate contrast. The book of Deuteronomy, however, contains no explicit or unambiguous references to Neo-Assyrian hegemony over Israel or Judah.<sup>22</sup> Although Otto's claim is not necessarily incorrect, the dependence of Deuteronomy on EST can be interpreted in other ways.

The discovery of an exemplar at Tell Tayinat bolsters the likelihood that copies of EST were deposited at numerous sites throughout the Neo-Assyrian empire.<sup>23</sup> This may have conferred a privileged status on this text, and explain its use as a literary source by the composer(s) of the Deuteromic Code.<sup>24</sup> Scribes in the ancient Near East were trained through the reading, memorization, and reproduction of well-known texts. The selective borrowing of words, phrases, and themes from EST into Deuteronomy 13\* and 28\* might therefore represent

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21 Otto, *Das Deuteronomium* (1999) 84-88; Otto, *Literature as Politics* (2013) 342-345.

22 The writers of Deut 28:20-44 may have been conscious of an actual experience of exile, but this is uncertain. See n. 305 in this study as well as “The Chiastic Structure of Deut 28:20-44” within section 3.3, “The Arrangement of Curse Motifs in Deut 28:20-44.”

23 Evidence for this view is treated in “The Significance of the Addresses of the EST Exemplar at Tell Tayinat,” within section 4.1 of this study, “The EST Exemplar at Tell Tayinat,”

24 This is especially true if we understand the authors of the Deuteromic Code to have been crafting a legal program intended to *succeed* that of the Covenant Code's. Cf. Levinson and Stackert, *JAJ* 3 (2012).

an example of the well-attested phenomenon of “prestige borrowing.”<sup>25</sup> There is no need to assume that the Deuteronomic writers intended to subvert EST's message to their audience.

Particular sections of EST, it has been stressed, might have been targeted for adaption by the writers of Deuteronomy on account of their unique content. EST (§10, ll. 108-122) is the only known treaty text or legalistic document requiring the execution of prophetic figures who speak ill of a sovereign figure. For this reason, it would certainly have been useful for drafting Deut 13:2-12. EST also contains more curses (§§37-56, ll. 414-471; §§58-106, ll. 513-663) than any other extant text from the ancient Near East, and might therefore have been attractive as a literary model for those who crafted the lengthy series of curses in Deut 28:20-44. That EST was utilized as a literary source by the composers of Deuteronomy is explicable on the grounds that it contained particular passages which were suitable for adaption in contexts envisioned by the Deuteronomic writer(s), for which other sources of literary inspiration may have been lacking.

There may also be a precedent for the prestige borrowing from an Akkadian text by Pentateuchal authors. The manner in which EST was used by Deuteronomic writers clearly resembles that proposed by David P. Wright in his monograph arguing that the Covenant Code (Exod 20:19-23:33) was based on the Code of Hammurabi.<sup>26</sup> Key material was selectively borrowed, and then rearranged in discernible patterns. There is an important difference, however, between the Code of Hammurabi and EST as possible sources for the writers of biblical texts. Copies of the former are known to have been reproduced across many centuries. Exemplars of the latter, by contrast, were only distributed during a comparatively brief period in the seventh

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25 Cf. Dixon, *The Rise and Fall of Languages* (1997) 79-85; Campbell, *Historical Linguistics* (1998), 58-59; 79-85; Sairio and Palander-Collin, *The Handbook* (2012) 626-638; Wright, *Inventing God's Law* (2009) 349-351

26 Wright, *Inventing God's Law* (2009).



century BCE. Many scholars have argued, though, on grounds separate from those presented in this study, that the first version of Deuteronomy was probably produced in the seventh century.

There is another important observation to be made against the subversion model of literary borrowing. It assumes that EST exerted such a powerful influence on a Judean audience that the recycling of its rhetoric in a Yahwistic context somehow served to undermine loyalty to the Neo-Assyrian ruler. The devastating civil war that broke out soon after the death of Ashurbanipal (648-652 BCE), however, demonstrates that the rhetoric of EST did not exert a powerful influence upon his subjects. The terms of EST were either poorly known or not universally respected among the various peoples incorporated, through direct governance or indirect vassalage, into the Neo-Assyrian empire. This is yet another reason to reject the notion that the writers of Deuteronomy deliberately appropriated literary material from EST in an attempt to undermine Neo-Assyrian hegemony. EST, it was noted earlier in this study, might have influenced the composition of Deuteronomic passages for other, more plausible reasons.

The precise time period in which Deuteronomy 13\* and 28\* were written under the influence of EST, however, is difficult to determine. Copies of EST could have been preserved, reproduced, and circulated across many decades. A version of EST might therefore have been known to the writers of these chapters in Deuteronomy long after the initial production of this text during the rule of Ashurbanipal. If EST was translated into a Northwest Semitic language, as Steymans once suggested,<sup>27</sup> it is highly probable that this version of the text was recorded on perishable materials such as parchment or papyrus, which would since have been lost to time.

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27 Steymans, *Deuteronomium* 28 (1995), 191-193. Although Steymans entertained this possibility in his early monograph of the relationship between EST and Deuteronomy 28, he has since rejected it in light of the discovery of an exemplar of EST at Tell Tayinat; Steymans, "Deuteronomy 28," *VeE* 34 (2013).

That no copy of EST in Akkadian or in translation into Hebrew or Aramaic has been discovered in the territory of ancient Judah hardly proves that a version of the text never circulated in this region.<sup>28</sup> Evidence presented in this study establishes that a version of EST was likely known to Deuteronomic writers, although its precise outline and form cannot be ascertained with certainty.

## **5.2 – Final Thoughts and Remarks**

### ***Directions for Future Research***

The present study has yielded observations with significant consequences for future research into the nature of literary transmission and borrowing in the ancient Near East. Distinct types of literary connection are evident when Deuteronomy 13, 17, 27, and 28 are directly compared with passages in Bronze Age and Iron Age treaties. It is probable that the composer(s) of Deuteronomy 13\* and 28\* directly based material in these two chapters on passages in a particular Neo-Assyrian treaty text (EST). The composer(s) of passages in Deuteronomy 17\* and 27\*, however, were probably indirectly influenced by traditions surrounding the deliberate display and preservation of treaties and other legalistic documents. Certainly, this study reinforces the need for further inquiry into the complex relationship between textual and artifactual evidence. The discovery of an exemplar of EST at Tell Tayinat has not only yielded evidence relevant for discussion of the literary relationship between this text and the book of Deuteronomy, but also material evidence as to how such texts were displayed in the ancient

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28 Ibid. Although no archive of cuneiform documents has been discovered in this region, cuneiform literacy during the Iron Age is certainly plausible in light of the discovery of the earlier Amarna correspondence. For further discussion and critical references on this topic, see “Deuteronomy and the 'Test of Coincidence vs. Uniqueness',” and “Akkadian Texts as Sources for Biblical Writers” in section 2.1, “Deuteronomy 13 and Esarhaddon's Succession Treaty.”

Levant. The Deuteronomic laws are supposed to be displayed beside an altar (Deut 27:1-8), but in a manner that only partially accords with how texts are known to have been exhibited.<sup>29</sup>

That material was probably borrowed from EST into Deuteronomy 13\* and 28\* in a creative manner should spur research into the possibility that other cuneiform texts similarly influenced biblical passages. A major contention of this study is that biblical writers were capable of adapting literary material from biblical and extra-biblical sources in sophisticated ways, which cannot be construed as mere translation or copying. The comparative study of texts should, therefore, not focus *exclusively* on lexical or phrasal correspondences as proof of a literary connection between them. Evidence for the dependence of a biblical passage on a cuneiform text can be sought at the levels of theme and ideology. There is, moreover, no reason to expect that material adapted from one text into another would be reproduced in the same literary order. Those who study the phenomenon of inner-biblical borrowing, of course, have long discerned the ingenuity of biblical composers. The possibility that these writers might likewise have appropriated material from extra-biblical sources, in ways that consciously or unconsciously altered its original order, has not been sufficiently acknowledged or appreciated by scholars. Particular texts, though, warrant special attention by those striving to detect the possible influence of foreign compositions on the content of biblical texts. A widely-circulated text like EST or a canonical composition, such as the Code of Hammurabi, is certainly more likely to have been utilized to biblical writers than one produced for a relatively small audience.

Although Deuteronomy 17\* and 27\* are not directly based on any known treaty text, comparative study of these chapters with treaty documents still sheds light on aspects of the compositional history of Deuteronomy. The former was clearly influenced in part (cf. Deut 17:2-

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29 This is shown in section 4.2 of this study, “Deuteronomy 27:1-8 and Treaty Texts.”

7) on material in Deut 13:2-12, which was probably based on EST.<sup>30</sup> The latter, although not directly based on any known treaty text, might have been influenced by traditions pertaining to the display and material reproduction of treaty texts. Exemplars of treaties were certainly constructed for public display, and often concluded with blessings and curses intended to secure obedience to their stipulations (cf. Deut 12-26). Further study of the complex relationship between literary genre and manner of material record in the ancient Near East is warranted, and might yield insights for discussion of the literary connection between treaties and Deuteronomy.

One of the most important and still unresolved issues in biblical scholarship is the relationship between material thought to constitute the original form of Deuteronomy (“Urdeuteronomium”), commonly construed as some version of the material in Deut 12-26, and passages in the prologue (Deut 1-11\*) and the epilogue (Deut 27-34\*) to the Deuteronomic Code. It is frequently suggested that the legal material was composed first, and the surrounding Deuteronomic material was subsequently added. If so, how the overarching structure of Deuteronomy came to resemble that of an ancient Near Eastern treaty should be explained. Whether the “treaty-like” structure of Deuteronomy is the result of conscious effort by the biblical composers, or partially coincidental, cannot be determined on the basis of evidence presented within this study. It has only been demonstrated that particular sections of Deuteronomy 13 and 28 were probably modeled on passages in a particular treaty text, EST.

That EST influenced the composition of Deuteronomy, it should be noted, also does establish when the literary core of the biblical book was composed. While it is likely that Deut 13:1-12\* and Deut 28:20-44\* were composed sometime close to 672 BCE, when numerous

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30 Extensive discussion on these points, with numerous scholarly references both for and against views favored by the present author, may be found in the second chapter of this study.

copies of EST were produced, this does not prove that any or all of the other literary material in Deuteronomy was written in a particular time period. De Wette's hypothesis that a version of the Deuteronomic Code was promulgated during the reign of King Josiah in the late seventh century BCE is viable, but so are alternative hypotheses positing an exilic or post-exilic date for the composition of Deuteronomy—at least in a form close to that attested in the Septuagint and, more fragmentarily, in the Dead Sea Scrolls. Those who favor the existence of an Iron Age version of Deuteronomy may point to the conclusions of this study as circumstantial evidence that the earliest form of this biblical book was likely produced during the period of Neo-Assyrian hegemony, but this dating cannot be proven on the basis of evidence presented in this study.

### *Closing Reflections*

It is certain that a great deal of textual and archaeological evidence from the Bronze Age and Iron Age has eroded and is forever lost to scholars. Researchers of ancient Near Eastern literature will always be hampered by their lack of access to materials that once existed. Perhaps the chief objection to the conclusion that EST directly influenced the composition of Deuteronomy 13\* and 28\* is the possibility that other texts, containing similar or identical material, were known to biblical writers. This would obviate the need to propose a direct literary connection between EST and Deuteronomy. There is no reason, however, to assert that such texts must have existed. Although a copy of EST has not been discovered within the territory of ancient Judah, it is probable that numerous copies of this text were produced and distributed across all regions owing allegiance to the Neo-Assyrian empire.<sup>31</sup> Those who doubt the influence

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31 For evidence, see section 4.1 of this present study, “The EST Exemplar at Tell Tayinat.”

of EST on Deuteronomy and propose the existence of another text with passages similar to those in EST are burdened by the need to posit Judean access to this hypothetical text.

If future discoveries yield evidence that previously unknown texts contained material similar to EST §§4 (ll. 41-61), 10 (ll. 108-122), 39-42 (ll. 419-430), and 63-65 (ll. 526-536), and these texts may have been accessible to the composer(s) of Deuteronomy 13\* and 28\*, this would be grounds for reevaluating some of the conclusions of this study. On the basis of evidence that is presently attested, however, it is probable that EST directly influenced the composer(s) of these Deuteronomic chapters. Here the present study must rest with its conclusions. It is hoped that scholars will continue to investigate the similarities and differences between Deuteronomy and ancient Near Eastern treaty texts in light of its observations.

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