ISRAEL AND THE ASSYRIANS

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Deuteronomy, the Succession Treaty of Esarhaddon,
and the Nature of Subversion

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C. L. Crouch

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for roo roo

I tell you, Captain, if you look in the maps of the world, I warrant you shall find, in the comparisons between Macedon and Monmouth, that the situations, look you, is both alike. There is a river in Macedon, and there is also moreover a river at Monmouth. It is called Wye at Monmouth; but it is out of my [b]rains what is the name of the other river; but 'tis all one, 'tis alike as my fingers is to my fingers, and there is salmons in both.

Henry V (IV.vii.22-31)

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My mother remains, despite her protestations, the font of all wisdom. My husband has endured a house overrun by books, notebooks, and papers, as well as the myriad other trials which come with proximity to an academic. My father was privy to the early stages of the book while in hospital in February 2012; he did not live to see it in print but his support was ever-present in the months that it took to transform the manuscript from those rough beginnings into its final form. My sister introduced me to Hutcheon and Sanders and lent a modern perspective in our numerous discussions of adaptation and subversion, as well as editing the final manuscript. This one is for her: a once little book for an always little sister.

C. L. Crouch
Nottingham
August 2014

ABBREVIATIONS

AB	Anchor Bible
AHR	*American Historical Review*
AnBib	Analecta biblica
ARA	*Annual Review of Anthropology*
ATD	Das Alte Testament Deutsch
BA	*Biblical Archaeologist*
BASOR	*Bulletin of the American Schools of Oriental Research*
BBR	*Bulletin for Biblical Research*
BBVO	Berliner Beiträge zum Vorderen Orient
BEATAJ	Beiträge zur Erforschung des Alten Testaments und des Antiken Judentum
Bib	*Biblica*
BibOr	Biblica et orientalia
BN	*Biblische Notizen*
BO	*Bibliotheca orientalis*
BSac	*Bibliotheca Sacra*
BZABR	Beihefte zur Zeitschrift für altorientalische und biblische Rechtsgeschichte
BZAW	Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft
CA	*Cultural Anthropology*
CAD	M. T. Roth, ed. *The Assyrian Dictionary*. 21 vols. Chicago, Ill.: The Oriental Institute of the University of Chicago, 1956–2010.
CBQ	*Catholic Biblical Quarterly*
CDOG	Colloquien der Deutschen Orient-Gesellschaft
CHANE	Culture and History of the Ancient Near East

COS   W. W. Hallo and K. L. Younger, Jr., eds. *Context of Scripture*. 3
           vols. Leiden: Brill, 1997–.
DCH   D. J. A. Clines, ed. *The Dictionary of Classical Hebrew*. 9 vols.
           Sheffield: Sheffield Phoenix, 1993–2014.
EdF   Erträge der Forschung
FAT   Forschungen zum Alten Testament
FOTL   Forms of Old Testament Literature
FRLANT   Forschungen zur Religion und Literatur des Alten und Neuen
           Testaments
Ges18   U. Rüterswörden, R. Meyer, and H. Donner, eds. *Wilhelm
           Gesenius' Hebräisches und aramäisches Handwörterbuch über das
           Alte Testament*. 7 vols. 18th ed. London: Springer, 1987–2012.
HALOT   L. Koehler and W. Baumgartner, eds. *The Hebrew and Aramaic
           Lexicon of the Old Testament*. Translated by M. E. J. Richardson.
           5 vols. Leiden: Brill, 1994–2000.
HAT   Handbuch zum Alten Testament
HBM   Hebrew Bible Monographs
HBS   Herders Biblische Studien
HBT   *Horizons in Biblical Theology*
HTR   *Harvard Theological Review*
HUCA   *Hebrew Union College Annual*
JAA   *Journal of Anthropological Archaeology*
JAJ   *Journal of Ancient Judaism*
JAS   *Journal of Archaeological Science*
JAOS   *Journal of the American Oriental Society*
JBL   *Journal of Biblical Literature*
JCS   *Journal of Cuneiform Studies*
JCSMS   *Journal of the Canadian Society for Mesopotamian Studies*
JEA   *Journal of Egyptian Archaeology*
JHI   *Journal of the History of Ideas*
JNES   *Journal of Near Eastern Studies*
JR   *The Journal of Religion*
JSOT   *Journal for the Study of the Old Testament*
JSOTSup   Journal for the Study of the Old Testament: Supplement
           Series
JSS   *Journal of Semitic Studies*
KTU   M. Dietrich, O. Loretz, and J. Sanmartín. *Die keilalphabetischen
           Texte aus Ugarit, Ras Ibn Hani und anderen Orten (Dritte,
           erweiterte Auflage) / The Cuneiform Alphabetic Texts from Ugarit,
           Ras Ibn Hani and Other Places (KTU: Third, Enlarged Edition)*.
           Münster: Ugarit-Verlag, 2013.
LHBOTS   Library of Hebrew Bible/Old Testament Studies

MQR	*Michigan Quarterly Review*
NCB	New Century Bible
NEchtB	Neue Echter Bibel
OBO	Orbis biblicus et orientalis
OBT	Overtures to Biblical Theology
Or	*Orientalia* (New Series)
OTL	Old Testament Library
OTM	Oxford Theological Monographs
OTS	*Old Testament Studies*
PEQ	*Palestine Exploration Quarterly*
RHR	*Revue de l'histoire des religions*
RINAP	The Royal Inscriptions of the Neo-Assyrian Period
SAA	State Archives of Assyria
SBLABS	Society of Biblical Literature Archaeology and Biblical Studies
SBLMS	Society of Biblical Literature Monograph Series
SBLWAW	Society of Biblical Literature Writings from the Ancient World
SBT	Studies in Biblical Theology
SBTS	Sources for Biblical and Theological Study
Sem	*Semeia*
SSI	*Social Science Information*
TA	*Tel Aviv*
TF	Theologie und Frieden
TSAJ	Texts and Studies in Ancient Judaism
UF	*Ugarit-Forschungen*
VT	*Vetus Testamentum*
VTSup	Supplements to Vetus Testamentum
WO	*Die Welt des Orients*
WUANT	Wissenschaftliche Untersuchungen zum Alten und Neuen Testament
ZABR	*Zeitschrift für altorientalische und biblische Rechtsgeschichte*
ZAW	*Zeitschrift für die alttestamentliche Wissenschaft*
ZDPV	*Zeitschrift des deutschen Palästina-Vereins*

INTRODUCTION

The origins and purpose of the book of Deuteronomy remain, despite significant progress in the two centuries since de Wette, two of the most contested points in biblical scholarship. A prominent feature of attempts to ground the deuteronomic text in a historical context over the last half century has been the observation of certain affinities between Deuteronomy and ancient Near Eastern vassal treaties and loyalty oaths. More specifically, it has been suggested that the book of Deuteronomy, in some more or less original form, constituted a subversive appropriation of Neo-Assyrian imperial ideology in favor of a Yahwistic theocentricity: a text deliberately designed to undermine the authority of the Assyrian king by planting YHWH in his stead. The prevalence of this assertion has its roots in the widespread recognition of similarities between elements of Deuteronomy, especially chapters 13 and 28, and Assyrian vassal treaties and loyalty oaths, with a particular focus on the Succession Treaty of Esarhaddon, commonly referred to as VTE.[1] The

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[1] This developed out of an older interpretive strand that saw the nearest links to the deuteronomic material in the Hittite treaties. Recent attempts to reassert the connection to the Hittite material include J. Berman, "CTH 133 and the Hittite Provenance of Deuteronomy 13," *JBL* 131 (2011): 25–44 and, more broadly, A. Taggar-Cohen, "Biblical *Covenant* and Hittite *išḫiul* Reexamined," *VT* 61 (2011): 461–88. These attempts have proved controversial; note especially the debate between Berman, Levinson, and Stackert in B. M. Levinson and J. Stackert, "Between the Covenant Code and Esarhaddon's Succession Treaty: Deuteronomy 13 and the Composition of Deuteronomy," *JAJ* 3 (2012): 133–136; J. Berman, "Historicism and Its Limits: A Response to Bernard M. Levinson and Jeffrey Stackert," *JAJ* 4 (2013): 297–309; B. M.

idea that there are extensive allusions to VTE in Deuteronomy has become a persistent element in discussions regarding the origins and purpose of the book.

Although there have been some recent efforts to question the relationship between Deuteronomy and VTE—Koch, Zehnder, and Pakkala most notable among these—the idea that Deuteronomy relies on Assyrian forms and Assyrian ideology in formulating a subversive agenda remains prominent, especially in English-speaking scholarship. The following aims to go beyond the doubt cast on the nature of Deuteronomy's relationship with VTE to question the nature of its relationship with Assyrian ideology more widely and, as a consequence, to challenge the interpretation of the book in subversive terms.

For those already persuaded of the exilic origins of these texts, what follows will be of interest for its methodological implications for the study of subversion elsewhere in the Hebrew Bible. To the extent that arguments for the book's exilic origins have been entwined with arguments regarding the extraction of these subversive chapters from a deuteronomic whole, the critical implications of what follows will need to be absorbed and carried forward. Consideration of the ongoing interpretation and use of the book in the exilic and post-exilic periods will also be affected by the rejection of any subversive intent *vis-à-vis* the Assyrian empire.

It remains the reality of much scholarship on Deuteronomy, however, that the possibility of a pre-exilic date for some form of this text continues to be entertained. Further, there is a very strong correlation between these discussions and discussions of Judah's relationship with the Assyrian empire, of Josiah's relationship with the same, and of Deuteronomy's own relationship with both VTE in particular and Assyrian ideas more generally. It is to this thrust of the scholarly discussion that the current argument is primarily oriented, observing the numerous recent challenges to the traditional reconstructions of the Assyrian period in Judah and taking this as an

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Levinson and J. Stackert, "The Limitations of »Resonance«: A Response to Joshua Berman on Historical and Comparative Method," *JAJ* 4 (2013): 310–33.

The *editio princeps* for VTE is D. J. Wiseman, "The Vassal Treaties of Esarhaddon," *Iraq* 20 (1958): 1–99; the edition used here is the standard edition of S. Parpola and K. Watanabe, *Neo-Assyrian Treaties and Loyalty Oaths* (SAA 2; Helsinki: Helsinki University Press, 1988). On VTE as a loyalty oath rather than vassal treaty, see I. J. Gelb, Review of D. J. Wiseman, "The Vassal Treaties of Esarhaddon," *BO* 19 (1962): 159–62; M. Weinfeld, "The Loyalty Oath in the Ancient Near East," *UF* 8 (1976): 379–414; see also M. Liverani, "The Medes at Esarhaddon's Court," *JCS* 47 (1995): 57–58, with further references.

opportunity to interrogate one of the most entrenched elements of such reconstructions—that Deuteronomy represents a profoundly anti-Assyrian project—for those who continue to imagine some pre-exilic form of this book.

RECENT SCHOLARSHIP

Scholarship on the relationship of Deuteronomy to VTE and its relatives is divisible into various subcategories. One major focus concerns Deuteronomy's date: those who see the similarities to VTE as constitutive of the book's origin in the Assyrian period, as opposed to those who prefer a later, exilic date for the parts of Deuteronomy which incorporate these treaty and loyalty oath elements.[2] In the former

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[2] Among the former are included M. Weinfeld, "Traces of Assyrian Treaty Formulae in Deuteronomy," *Bib* 46 (1965): 417–27; idem, "Loyalty Oath"; R. Frankena, "The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy," *OTS* 14 (1965): 122–54; P. E. Dion, "Deuteronomy 13: The Suppression of Alien Religious Propaganda in Israel during the Late Monarchical Era," in *Law and Ideology in Monarchic Israel* (ed. B. Halpern and D. W. Hobson; JSOTSup 124; Sheffield: JSOT, 1991), 147–216; B. Halpern, "Jerusalem and the Lineages in the Seventh Century BCE: Kinship and the Rise of Individual Moral Liability," in *Law and Ideology in Monarchic Israel* (ed. B. Halpern and D. W. Hobson; JSOTSup 124; Sheffield: JSOT, 1991), 28 n. 20; H. U. Steymans, "Eine assyrische Vorlage für Deuteronomium 28:20–44," in *Bundesdokument und Gesetz: Studien zum Deuteronomium* (ed. G. Braulik; HBS 4; Freiburg: Herder, 1995), 119–41; idem, *Deuteronomium 28 und die adê zur Thronfolgeregelung Asarhaddons: Segen und Fluch im Alten Orient und in Israel* (OBO 145; Göttingen: Vandenhoeck & Ruprecht, 1995); E. Otto, "Treueid und Gesetz: Die Ursprünge des Deuteronomiums im Horizont neuassyrischen Vertragsrechts," *ZABR* 2 (1996): 1–52; idem, *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* (BZAW 284; Berlin: de Gruyter, 1999); R. D. Nelson, *Deuteronomy* (OTL; London: Westminster John Knox, 2004); B. M. Levinson, "Esarhaddon's Succession Treaty as the Source for the Canon Formula in Deuteronomy 13:1," *JAOS* 130 (2010): 337–48; idem, *"The Right Chorale": Studies in Biblical Law and Interpretation* (Winona Lake, Ind.: Eisenbrauns, 2011), 112–94. Among the latter are A. D. H. Mayes, *Deuteronomy* (NCB; London: Marshall, Morgan & Scott, 1981); T. Veijola, *Das 5. Buch Mose: Deuteronomium. Kapitel 1,1–16,17* (ATD 8,1; Göttingen: Vandenhoeck & Ruprecht, 2004); J. Pakkala, "Der literar- und religionsgeschichtliche Ort von Deuteronomium 13," in *Die deuteronomistischen Geschichtswerke: redaktions- und religionsgeschichtliche Perspektiven zur "Deuteronomismus"-Diskussion in Tora und Vorderen Propheten* (ed. M. Witte, et al.; BZAW 365; Berlin: de Gruyter, 2006), 125–37; C. Koch, *Vertrag, Treueid und Bund: Studien zur Rezeption des altorientalischen Vertragsrechts im Deuteronomium und zur*

category are scholars from the earliest days of research through to more recent studies by Dion, Halpern, Steymans, Otto, and Levinson. Among the earliest to pursue the chronological implications of the similarities between VTE and Deuteronomy was Frankena, who explicitly applied himself to the question of when and how a Judahite scribe might have become familiar with VTE, arguing that such vassal treaties would have been pronounced orally in the presence of vassals assembled in Assyria. He points specifically to reports of an assembly (of Assyrians) in 672 B.C.E. in connection with the installation of Assurbanipal as crown prince as well as lists of western vassal kings, including Manasseh of Judah, that indicate their presence in Assyria for tribute purposes and that, according to Frankena, support the suggestion that they would have been present at the ceremony in 672.[3] More recently, Dion has argued that "the closer to 672 BC one places the composition of Deuteronomy 13, the easier to understand are its precise contacts with the vassal treaties of Esarhaddon," while also contending that the majority of Deuteronomy 13 is a deuteronomistic expansion from the reign of Josiah; he sees the similarities between Deuteronomy and VTE as reflecting the use of VTE by Deuteronomy, at the moment of Assyria's collapse, to articulate non-Yahwistic worship in terms of sedition.[4] Similarly, Levinson's several studies on the relationship between VTE and Deuteronomy suggest a deuteronomic text originating in the Josianic period and using VTE to articulate the concerns of the "historical crisis" of that period.[5] Drawing on some of the same texts as Frankena, Steymans has argued that Manasseh was bound by VTE and thereby the Judahite author(s) of Deuteronomy would have been familiar with it; elsewhere he argues that the elements of Deuteronomy that he traces to VTE should be identified as originating between the proclamation of

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Ausbildung der Bundestheologie im alten Testament (BZAW 383; Berlin: de Gruyter, 2008), 108–70.

[3] Frankena, "Vassal-Treaties," 124, 139, 150–51. The vassal lists are Esarhaddon 1 v 55 and Esarhaddon 5 vi 7' and the references to the succession of Assurbanipal are Esarhaddon 77 64B and Esarhaddon 93 40, as enumerated in E. Leichty, *The Royal Inscriptions of Esarhaddon, King of Assyria (680–669 BC)* (RINAP 4; Winona Lake, Ind.: Eisenbrauns, 2011).

[4] Dion, "Deuteronomy 13," 196–205, with the quotation from 204–205; he maintains that "the imitation of long-familiar Assyrian models remained as natural an option as under the empire" (198–99).

[5] Levinson, "Esarhaddon's Succession Treaty," 342; cf. idem, "'But You Shall Surely Kill Him!': The Text-Critical and Neo-Assyrian Evidence for MT Deuteronomy 13:10," in *Bundesdokument und Gesetz: Studien zum Deuteronomium* (ed. G. Braulik; HBS 4; Freiburg: Herder, 1995), 37–63.

VTE in 672 and Josiah's reform in 622.[6] A similar case for a Josianic origin for Deuteronomy's treaty affinities has also been made by Otto, relying heavily on the work done by Steymans, though Otto contends that the material derived from VTE was combined with the rest of the deuteronomic text at a later date.[7] In the commentaries one may readily see the acceptance of variations of these arguments; thus, for example, the similarity between VTE and Deuteronomy "offers nearly conclusive evidence that a form of Deuteronomy that included most of ch. 28 emerged in the period of Assyrian ascendancy over Judah."[8]

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[6] H. U. Steymans, "Die literarische und historische Bedeutung der Thronfolgevereidigungen Asarhaddons," in *Die deuteronomistischen Geschichtswerke: redaktions- und religionsgeschichtliche Perspektiven zur "Deuteronomismus"-Diskussion in Tora und Vorderen Propheten* (ed. M. Witte, et al.; BZAW 365; Berlin: de Gruyter, 2006), 331–49; idem, *Deuteronomium 28*, 380. Elsewhere he allows the possibility of a date as late as 597 (idem, "Eine assyrische Vorlage," 140–41).

[7] Otto, "Treueid und Gesetz."

[8] Nelson, *Deuteronomy*, 326 n. 1. As the work of several of these makes obvious, there has been a particular focus on the reign of Josiah as the most historically appropriate context for this adaptive project. This conception of Josiah's reign and his reforms bears the profound influence of scholars such as McKay and Spieckermann, whose depictions of Assyrian religious imperialism provided the background for an interpretation of Josiah as regent over an era of new-found Judahite nationalist fervor, with both the reform as recounted in 2 Kings and the book of the law, identified as Deuteronomy, understood as expressions of this fervor (J. W. McKay, *Religion in Judah under the Assyrians, 732–609 B.C.* [SBT 26; London: SCM, 1973]; H. Spieckermann, *Juda unter Assur in der Sargonidenzeit* [FRLANT 129; Göttingen: Vandenhoeck & Ruprecht, 1982]). The historiographical issues of Kings are too numerous to recount in detail and, in any event, have been capably addressed by others (E. Ben Zvi, "Prelude to a Reconstruction of Historical Manassic Judah," *BN* 81 [1996]: 31–44; F. Stavrakopoulou, *King Manasseh and Child Sacrifice: Biblical Distortions of Historical Realities* [BZAW 338; Berlin: de Gruyter, 2004]; E. A. Knauf, "The Glorious Days of Manasseh," in *Good Kings and Bad Kings: The Kingdom of Judah in the Seventh Century B.C.E.* [ed. L. L. Grabbe; LHBOTS 393; London: T&T Clark, 2005], 164–88), while the idea of Assyrian religious imperialism has been thoroughly refuted (S. W. Holloway, *Aššur is King! Aššur is King!: Religion in the Exercise of Power in the Neo-Assyrian Empire* [CHANE 10; Leiden: Brill, 2001]; D. R. Miller, "The Shadow of the Overlord: Revisiting the Question of Neo-Assyrian Imposition on the Judaean Cult during the Eighth-Seventh Centuries BCE," in *From Babel to Babylon: Essays on Biblical History and Literature in Honor of Brian Peckham* [ed. J. R. Wood, J. E. Harvey, and M. Leuchter; LHBOTS 455; London: T&T Clark, 2006], 146–68; A. Berlejung, "The Assyrians in the West: Assyrianization, Colonialism, Indifference, or Development Policy?," in *Congress Volume Helsinki 2010* [ed. M. Nissinen; VTSup 148; Leiden: Brill, 2012], 21–60; idem, "Shared Fates: Gaza and Ekron as Examples for the Assyrian Religious Policy in the

Despite the certainty among a large number of scholars that Deuteronomy's connections to VTE indicate the origins of Deuteronomy in the pre-exilic period, this does not hold the status of consensus. Rejections of this point are usually connected to arguments against the exclusivity of the VTE-Deuteronomy relationship and are sometimes also linked to arguments against the originality of Deut 13 and 28 to the deuteronomic text. Pakkala is characteristic of both of these trends; he contends that Deut 13 is alien to the deuteronomic material of Deut 12; 14–16 and proposes that it constitutes a late addition to the book, characterized by language he associates with a deuteronomistic redaction after 586. He then goes on to argue that, in any case, the relationship between Deut 13 and VTE is illusory; because of the large number of treaties and loyalty oaths in circulation in the ancient Near East in antiquity it is implausible to require VTE to be Deuteronomy's specific *Vorbild*. He concludes, therefore, that Deut 13 surely draws upon a treaty tradition other than VTE and that it therefore need not be directly tied to the chronological parameters of VTE—coinciding with his contention that Deut 13 is in any case exilic.[9] Similarly, Koch locates the form and function of Deut 13 and 28 in the exilic period, focusing especially on Deuteronomy's articulation of covenant theology as a response to the exilic experience. In order to enable this focus, Koch is obliged to extract Deuteronomy from the chronological framework of VTE; he achieves this by identifying a "mixed" tradition behind the chapters, comprised of discrete West Semitic and Assyrian elements, and

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West," in *Iconoclasm and Text Destruction in the Ancient Near East and Beyond* [ed. N. N. May; Oriental Institute Seminars 8; Chicago, Ill.: The Oriental Institute of the University of Chicago, 2012], 151–74; A. M. Bagg, "Palestine under Assyrian Rule: A New Look at the Assyrian Imperial Policy in the West," *JAOS* 133 [2013]: 119–44; following in the footsteps of M. D. Cogan, *Imperialism and Religion: Assyria, Judah and Israel in the Eighth and Seventh Centuries B.C.E.* [SBLMS 19; Missoula, Mont.: Scholars Press, 1974]; idem, "Judah under Assyrian Hegemony: A Reexamination of Imperialism and Religion," *JBL* 112 [1993]: 403–14). I have discussed both the geo-political realities of this period and the problems associated with using the language of nationalism in this context in C. L. Crouch, *The Making of Israel: Cultural Diversity in the Southern Levant and the Formation of Ethnic Identity in Deuteronomy* (VTSup 162; Leiden: Brill, 2014), 90–93, 107–12, and point the interested reader to the much fuller analysis there. Here it must suffice to emphasize that the historical premises of this association between the reign of Josiah and a subversive Deuteronomy are deeply flawed.

[9] Pakkala, "Deuteronomium 13," 125–37. His arguments regarding the date of Deuteronomy more generally may be found in idem, "The Date of the Oldest Edition of Deuteronomy," *ZAW* 121 (2009): 388–401 and idem, "The Dating of Deuteronomy: A Response to Nathan MacDonald," *ZAW* 123 (2011): 431–36.

concludes that this disallows the possibility that the Deuteronomy material could be based on a single treaty or loyalty oath text. Of particular interest, in light of the present focus, is his identification of Deut 28:25–34* as a palindromic reflection of the Assyrian deity hierarchy.[10]

As some of this hints, another focus concerns the technical classification of the perceived literary relationship between Deuteronomy and VTE; nearly fifty years of scholarship on the subject has produced assertions ranging from claims that Deuteronomy directly translated large sections of VTE to arguments that the similarities between these texts derive from a common tradition and have been subject to excessive attention merely because of the particular familiarity

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[10] The core of the technical work on Deut 13 and 28 is at Koch, *Vertrag*, 106–247; the historical reconstruction is at 315–23. Unfortunately, Koch's identification of discrete West Semitic and Assyrian components—especially prominent in his analysis of Deut 28—does not favor his interpretation of these components as part of a diffused cultural milieu on which the exilic scribes were drawing. Indeed, the depiction of Deut 28:25–36 as a palindromic manipulation of the Assyrian deity hierarchy rather suggests a deliberate engagement with the very Assyrian source material that Koch needs to deny in order to escape the seventh century. The identification of the major locus of the West Semitic material in Deut 28:1–6*, 15–19 also leaves him subject to debates regarding the origins of this section of the chapter that, whatever its exact redactional relationship to Deut 28:20–44 (and beyond), is widely agreed to stem from a different hand than the latter (note especially the common view that the syntax of these verses indicate their origins in a liturgical rather than political background, rendering their relationship to the objectives of the subsequent curses problematic). In identifying discrete West Semitic and Assyrian components to the treaty, loyalty oath, and curse tradition employed by Deuteronomy, Koch thus undermines his overall argument, which relies on the general "acculturation" of these materials into the Judahite scribal repertoire in the eighth and seventh centuries B.C.E., such that they were available for exilic scribes' use in the articulation of a post-monarchic covenant theology. The precision of the analysis also poses the question of why, in the scenario Koch envisions, an author living in Babylonian exile would have chosen an Assyrian textual form to express his purposes (on the basis of the deity hierarchy involved Koch insists that it is Assyrian, not Babylonian) and how that author would have been familiar with this material. With regard to the former Koch makes no answer (and no real attempt to account for how or why such material might have been rendered in Hebrew in such a form); with regard to the latter, Koch is obliged to suggest—on the basis of evidence that the writers of the Assyrian royal correspondence were familiar with the *adê* tradition— that Deuteronomy's *Vorbild* was a Judahite loyalty oath whose contents were preserved by the Judahite scribal elites who were also responsible for the articulation of Deuteronomy's covenant theology.

of VTE within modern scholarship.[11] Unsurprisingly, conclusions on this point are often related to conclusions about the importance of the VTE-Deuteronomy relationship to the matter of Deuteronomy's date.

The contention that there is a very close textual and literary relationship between these texts may be traced directly to the earliest observers of their similarities. Frankena speaks of an "Assyrian 'Vorlage'" followed by the author of Deut 28, familiarity with which he attributes to the author's presence at a vassal ceremony in Assyria in connection with the appointment of Assurbanipal as Assyrian crown prince in 672, and to which the author appears also to have had written access.[12] Weinfeld suggests that the similarities between the texts arose as a result of parts of Deuteronomy having been "literally transcribed from a Mesopotamian treaty copy to the book of Deuteronomy"; while he does not demand that this text is VTE itself—he was at the time unwilling to make such a claim in light of the small number of treaty exemplars to which Deuteronomy could then be compared—he is very clear in his assertion of a Judahite scribe in possession of one or more Assyrian treaty documents from which he "transposed an entire and consecutive series of maledictions."[13] The diffusion of this research continues to be felt; thus "the deuteronomic editor, it seems, has simply compiled his collection of curses according to the model of the treaty text from the city or temple archive in Jerusalem."[14]

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[11] In favor of a direct relationship are Weinfeld, "Traces"; Frankena, "Vassal-Treaties"; Steymans, *Deuteronomium 28*; idem, "Eine assyrische Vorlage"; Otto, "Treueid und Gesetz"; B. M. Levinson, "Textual Criticism, Assyriology, and the History of Interpretation: Deuteronomy 13:7a as a Test Case in Method," *JBL* 120 (2001): 236–41; idem, "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* (ed. D. A. Green and L. S. Lieber; Oxford: Oxford University Press, 2009), 25–45; idem, "Esarhaddon's Succession Treaty"; idem, "'But You Shall Surely Kill Him!'" In favor of a more general relationship are Pakkala, "Deuteronomium 13"; Koch, *Vertrag*; K. Radner, "Assyrische *ṭuppi adê* als Vorbild für Deuteronomium 28,20–44?," *Die deuteronomistischen Geschichtswerke: redaktions- und religionsgeschichtliche Perspektiven zur "Deuteronomismus"-Diskussion in Tora und Vorderen Propheten* (ed. M. Witte, et al.; BZAW 365; Berlin: de Gruyter, 2006), 351–78.

[12] Frankena, "Vassal-Treaties," especially 145, 150–51.

[13] Weinfeld, "Traces," 422–23.

[14] E. Nielsen, *Deuteronomium* (HAT I/6; Tübingen: Mohr Siebeck, 1995), 256 ("Die dt Redaktion hat, so scheint es, einfach ihre Kompilation von Verfluchungen nach dem Modell von Vertragstexten aus dem damaligen Stadt- oder Tempelarchiv Jerusalems zusammengestellt").

Subsequent discussions of the particularities of this relationship have attempted to nuance these early reconstructions somewhat. Both Dion and Levinson, for example, have acknowledged that the texts in Deuteronomy do not seem to be quite the simple translations which Frankena and Weinfeld imagined. Thus Dion allows that Deut 13 is not a mechanical calque of VTE, while nevertheless observing "precise contacts with the vassal treaties of Esarhaddon"; Levinson acknowledges that a direct translation is beyond the evidence and suggests instead a process of "selective adaptation and creative transformation."[15] Both, however, remain clear about envisioning the possession of a copy of an Assyrian treaty text by the deuteronomic author, to which the latter makes deliberate reference; Levinson describes Deuteronomy's use of VTE as "citation," albeit creative, and suggests that specific terminology in Deuteronomy derives from VTE.[16] More recently, Steymans and Otto have produced arguments for the specific and extensive literary citation and revision of significant portions of VTE, with the former in particular arguing for the complex literary usage of VTE §56 to structure Deut 28.[17]

Recently, however, there have also been voices arguing against the traditional conclusion that Deuteronomy reflects some kind of "citation" or "creative transformation" of VTE, often picking up on the uncertainty—already noted by Weinfeld—as to whether VTE itself constituted the specific source for Deuteronomy. Koch, for example, makes an extended case that, while Deut 13 and 28 reflect knowledge of Assyrian treaty rhetoric, this is not necessarily the same as evidence of knowledge of VTE specifically; he suggests that there is not a single text behind Deuteronomy but rather a shared scribal culture across the ancient Near East, comprised in turn of West Semitic and Assyrian treaty and loyalty oath traditions.[18] Pakkala argues that "literary dependence between Deut 13 and VTE is improbable" and suggests that it might be based on another, unknown treaty; one of the reasons he cites as contrary to the connection between Deuteronomy and VTE in particular is the

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[15] Dion, "Deuteronomy 13," 196, 205; Levinson, "Esarhaddon's Succession Treaty," 341.

[16] Levinson, "Esarhaddon's Succession Treaty," 343; cf. idem, "'But You Shall Surely Kill Him!'," 60–61; idem, "Textual Criticism," 236–41.

[17] Steymans, "Eine assyrische Vorlage," 119–141; idem, *Deuteronomium 28*, especially 129–49, 221–383; Otto, "Treueid und Gesetz," 44; idem, *Das Deuteronomium*, 57–88.

[18] Koch, *Vertrag*, 106–247, 284–86.

number of such treaties in existence in the ancient Near East.[19] Similar reservations have been voiced by Radner, who observes that most examples of treaties and loyalty oaths from the ancient Near East have been poorly preserved and that these are likely only a few of those originally extant. She concludes that "I would certainly be very cautious about regarding a specific oath—or even only its curse section—as *the* prototype for passages in the book of Deuteronomy."[20] As noted above, some of these arguments (on both sides) are related to contentions regarding the appropriate dating of the relevant deuteronomic texts, particularly with regard to their pre-exilic or exilic origins: scholars arguing against Deuteronomy's direct citation of VTE have tended to have an interest in Deuteronomy's origins in the exilic or post-exilic period.

Regardless of the technical literary conclusions of these various interpretations, scholars have consistently identified the book's ideological intent as an attempt to subvert Mesopotamian imperial power. Smith, for example, is able to take this for granted in his analysis of the development of Israelite monotheism, asserting that "[i]f the core of Deuteronomy is any indication, it may be said that Judean monotheism also served as an expression of religious resistance against this empire power"; he links this explicitly to the connections between Deuteronomy and Assyrian treaty materials and concludes that these suggest "a form of literary resistance to Assyria."[21] Parpola unpacks this by suggesting that "*in the mind of the writer of Deuteronomy 13, the God of Israel has taken the place previously occupied in the collective mind of the nation by the feared, almighty king of Assyria,*" calling on an underlying logic common to such assertions that, if VTE constitutes an Assyrian loyalty oath, then the use of VTE in the deuteronomic discussion of Israelite loyalty to YHWH constitutes the subversion of Assyrian royal authority.[22]

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[19] Pakkala, "Deuteronomium 13," 129, 133–34 ("die literarische Abhängigkeit zwischen Dtn 13 und VTE unwahrscheinlich [ist]").

[20] Radner, "Assyrische *ṭuppi adê*," 375 ("Ich wäre allerdings doch sehr vorsichtig, wenn es darum geht, eine bestimmte Vereidigung—oder eigentlich ja nur deren Fluchsektion—als *das* Vorbild im Buch Deuteronomium anzusehen").

[21] M. S. Smith, *God in Translation: Deities in Cross-Cultural Discourse in the Biblical World* (Grand Rapids, Mich.: Eerdmans, 2010), 160.

[22] S. Parpola, "Assyria's Expansion in the 8th and 7th Centuries and Its Long-Term Repercussions in the West," in *Symbiosis, Symbolism, and the Power of the Past: Canaan, Ancient Israel, and Their Neighbors—From the Late Bronze Age through Roman Palaestina* (ed. W. G. Dever and S. Gitin; Winona Lake, Ind.: Eisenbrauns, 2003), 99–111, here 105 (italics original); cf. Dion, "Deuteronomy 13," 197; Weinfeld, "Loyalty Oath," 383–87. On the relationship of the entity that Deuteronomy describes as

This logic is made more explicit by Otto, who writes: "Not only is the genre of the Neo-Assyrian loyalty oath used to express a comparable loyalty to YHWH, the Judean God, but, through the direct transference of the Neo-Assyrian texts, the Assyrian Great King's claims to loyalty are reassigned to YHWH."[23] Though naturally more prominent in the pre-exilic discussions, this understanding of Deuteronomy's relationship with the treaty and loyalty oath tradition is apparent on both sides of the dating divide and on both sides of the argument over the literary nature of these texts' relationship. Pakkala describes Deuteronomy as the modification of a Mesopotamian political document for theological purposes, while Schmid calls it "a subversive reception of Neo-Assyrian vassal-treaty theology"; Levinson declares that Deuteronomy "subverted its source" and that "[t]he instrument of Neo-Assyrian imperialism, as transformed by the Judean authors of Deuteronomy, thereby supported an attempt at liberation from imperial rule; the literary reworking came in the service of a bid for political and cultural autonomy."[24]

"Israel" to the population of Judah, see chapter six and Crouch, *The Making of Israel*, 4–7 *et passim*.

[23] Otto, "Treueid und Gesetz," 45 ("Wird nicht nur die Gattung des neuassyrischen Loyalitätseides genutzt, um die Loyalität JHWH, dem judäischen Gott, gegenüber auszudrücken, sondern geschieht dies durch direkte Übertragung des neuassyrischen Textes, so wird damit dem assyrischen Großkönig der Anspruch auf Loyalität ab-, JHWH aber zugesprochen"). He speaks elsewhere in slightly more generalized terms of Deuteronomy as part of "*the revolt against Assyrian sovereign and royal ideology*" and as containing "*covenant theology formed … in opposition to hegemonic Neo-Assyrian power*" (idem, *Das Deuteronomium*, 86 ["*die Revolte gegen die assyrische Herrschafts- und Königsideologie*"], 88 ["*Die Bundestheologie formiert … im Gegenwurf gegen die neuassyrische Hegemonialmacht*"] [italics original]).

[24] Pakkala, "Deuteronomium 13," 135; K. Schmid, *The Old Testament: A Literary History* (transl. L. M. Maloney; Minneapolis, Minn.: Fortress, 2012), 101; Levinson, "Esarhaddon's Succession Treaty," 342 (though note that he has recently retreated from this view, in B. M. Levinson and J. Stackert, "Between the Covenant Code and Esarhaddon's Succession Treaty: Deuteronomy 13 and the Composition of Deuteronomy," *JAJ* 3 [2012]: 123–40, especially 137); note too the presuppositions of, among others, P. Altmann, *Festive Meals in Ancient Israel: Deuteronomy's Identity Politics in Their Ancient Near Eastern Context* (BZAW 424; Berlin: de Gruyter, 2011), 5–36; M. W. Hamilton, "The Past as Destiny: Historical Visions in Sam'al and Judah under Assyrian Hegemony," *HTR* 91 (1998): 215–50. A rare exception is Koch, but this is a matter of omission rather than opposition; he is focused on the presentation of Deuteronomy's covenantal theology as exilic and does not explore Deuteronomy's rationale in using the treaty, loyalty oath, and curse material.

THE WAY FORWARD

The current study aims to consider the question of Deuteronomy's relationship to the treaty and loyalty oath traditions from a different perspective. Rather than another contribution to the argument over the extent of the textual relationship between Deuteronomy and VTE, it focuses on Deuteronomy's supposedly subversive intent, asking what would be required in order for Deuteronomy to successfully subvert either a specific Assyrian source or Assyrian ideology more generally. By investigating the nature and requirements of subversion, and by considering Deuteronomy's ability to fulfil those requirements, it tests the theory of Deuteronomy's subversive intent against the social context in which it would have functioned. By extension, it reconsiders the nature of the relationship between Deuteronomy and Assyria; its relationship to ancient Near Eastern and biblical treaty and loyalty oath traditions; and the relevance of its treaty affinities to discussions of its date.

Chapter one addresses the nature and requirements of subversion, drawing on discussions of adaptation in contemporary literary and film studies and allusion in biblical studies. It argues that successful subversion requires an audience to recognize the relationship between the subversive text and the source which it intends to subvert. If the audience is either unaware of the source or unable to recognize the new text's use of the source, the subversive efforts will fail.

Chapters two and three take these criteria under consideration with respect to Deuteronomy. Chapter two addresses the proposed subversion of VTE specifically by assessing whether Deuteronomy uses material that is recognizable as specific to that text and that is distinguishable from the wider Assyrian treaty, loyalty oath, and curse tradition. It argues that neither Deut 13 nor 28 use words or phrases from VTE with the precision necessary to render such a relationship recognizable. The claim that the Deuteronomy text is alluding to VTE as part of an adaptation imbued with subversive intent is therefore impossible to justify.

Chapter three asks whether Deuteronomy may nevertheless be understood to be subverting Assyrian ideology, referring to the Assyrian treaty, loyalty oath, and curse tradition as a whole by using ideas and concepts that distinguish the Assyrian form of this tradition from other ancient Near Eastern variants. The chapter considers Deuteronomy against the background of known treaties, loyalty oaths, and curses from the ancient Near East. It argues, first, that this tradition is not exclusive to Assyria and, second, that Deuteronomy's use of this tradition is not

specific or distinctive enough to indicate a relationship with the Assyrian version of it. There is therefore no basis for interpreting Deuteronomy's use of treaty and loyalty oath traditions as intending to subvert the Assyrian empire.

Bearing in mind, however, that audience knowledge (or lack thereof) will have affected the way in which Deuteronomy's use of treaty, loyalty oath, or curse traditions was interpreted, chapters four and five consider Deuteronomy's subversive potential from the perspective of audience knowledge. Chapter four does this with regard to the specific text of Deut 13 and 28, using the wider biblical tradition to imagine the linguistic and conceptual framework in which interpretation of this material would have occurred. It concludes that there is little, if anything, that would have stood out against the background of a native tradition of treaties, expressions of loyalty, and curses, and that might have suggested to its audience that Deuteronomy intended to signal to an Assyrian context for its interpretation.

Chapter five then asks whether—if some aspect of these chapters did pique audience interest—Deuteronomy's audience would have had the knowledge necessary to recognize an Assyrian source for such material. Recalling the caveat, noted in chapter one, that an adaptation that succeeds in signaling a relationship with a particular source will nevertheless fail to be read as an adaptation if the audience is unfamiliar with the source, the chapter considers the social function of ancient Near Eastern treaty and loyalty oath texts and the social and linguistic capacities of Deuteronomy's audience, concluding that the evidence weighs heavily against Deuteronomy's audience having had the knowledge necessary to recognize use of an Assyrian treaty and loyalty oath tradition.

Finally, chapter six addresses the relationship of Deut 13 and 28 to the deuteronomic text overall. It observes that a non-subversive interpretation of these chapters is consistent with the interests and focus of the rest of the deuteronomic material, in which a negative, subversive attitude toward Assyria is similarly absent.