

# The Ambivalence of Authority in Deuteronomy: Reaction, Revision, Rewriting, Reception

Dominik Markl

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**Abstract:** The book of Deuteronomy employs a variety of literary techniques to promote its own reception, which makes it a paradigmatic case of proto-canonical literature.

Deuteronomy's claim to authority is derived in two ways. It reacts to Neo-Assyrian rhetoric of hegemonial power and it revises a pre-existing collection of laws, transmitted in the Covenant Code. Deuteronomy was subversively rewritten and interpreted; but at the same time, its promotion of its own reception proved successful in its actual transmission. Deuteronomy is explored as an example of the productive ambivalence of Scriptural authority in its literary expression and its socio-historical contexts.

**Keywords:** Deuteronomy; Reception history; authority

The book of Deuteronomy is a paradigmatic case for studying the role of diverse modes of reception in the 'life' of a text<sup>1</sup>, from its emergence through the development of its influence. Since claims to and acceptance—or subversion—of authority are driving forces of reception, the relationship between authority and reception will be discussed at the outset. The central part of this article will be dedicated to exploring the dynamics of claims to, and subversion of, authority, from Deuteronomy's reaction to Assyrian imperial authority and revision of divine laws to the processes of Deuteronomy's rewriting and reception. A primary interest will be how Deuteronomy's claims to authority and its self-promotion relate to its actual reception. The analysis will show that textual authority produces a continuous ambivalence between claims to textual stability and the fluidity of subversive usurpations, adaptations, and interpretations.

## *1. Authority and Reception: Basic Conditions for Deuteronomy's Emergence*

Discussions of the reception of biblical texts frequently presuppose their canonical authority. The definitions of the diverse forms of the Jewish and Christian biblical canons in the first centuries CE<sup>2</sup>, however, are preceded by a millennium of the emergence, transmission and formation of the corpus of literature that eventually came to be considered 'biblical'. In order to understand the historical developments that led to the definition of the biblical canons, the sociological dynamics of the pre-canonical emergence of the respective writings as

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<sup>1</sup> For the metaphor of the 'life' of literature see D. Weidner, *Fort-, Über-, Nachleben. Zu einer Denkfigur bei Benjamin*, in *Benjamin-Studien* 2, 2011, pp. 161-178; R. Hendel, *The Life of Metaphor in Song of Songs: Poetics, Canon, and the Cultural Bible*, in *Biblica*, 100, 1, 2019, pp. 60–83.

<sup>2</sup> For a brief introduction see, e.g., E. Ulrich, *Canon. II. Formation of the Hebrew Bible/Old Testament*, in *Encyclopedia of the Bible and its Reception* 4, 2012, pp. 891-897; for a recent discussion of relevant issues see E. Mroczek, *The Literary Imagination in Jewish Antiquity*, New York, Oxford University Press, 2016, esp. pp. 114-184. For reception in and of the Hebrew Bible see D. Markl, *Reception History of the Hebrew Bible/Old Testament*, in *The Oxford Research Encyclopedia of Religion*, <https://oxfordre.com/religion/view/10.1093/acrefore/9780199340378.001.0001/acrefore-9780199340378-e-112> (9 July 2020).

authoritative ‘Scripture’ need to be taken into consideration<sup>3</sup>. Two aspects are fundamental to these dynamics; first, the sociological contexts in which the texts were produced, transmitted and promoted, i.e., their carrier groups and receiving communities; and, second, the quality of the texts themselves: their aesthetic attractiveness, their practical usefulness and, not least, their claims to authority. In the following, I shall treat these two aspects in the book of Deuteronomy in reverse order, proceeding from textual to historical considerations. I shall first look at the literary means through which Deuteronomy promotes its own authority. I shall then reflect on the sociological contexts of Deuteronomy’s emergence as an expression of cultural hegemony. Both aspects, the sociological context and the textual quality of claims to and attribution of authority will be seen as critical to processes of reception<sup>4</sup>.

### 1.1 Deuteronomy as Proto-Canonical Literature

The book of Deuteronomy lends itself to a study of the origins of ‘proto-canonical’ literature, since it employs a great diversity of claims to authority, which will be summarized here under three aspects: the claim to authority of its origin, the promotion of its own reception, and techniques of literary communication that involve diverse modes of psychological motivation.

First, Deuteronomy’s claim to ‘authorial’ authority is constructed through three interrelated voices, as it is presented as Moses’ teaching of divine revelation, mediated through the voice of an authoritative narrator<sup>5</sup>. Moses’ authority comes from his status as the people’s leader and saviour: the previous generation was condemned to die because of their disobedience to his divinely authorized command (Deut 1:6-2:15); and they had survived after their sin with the Golden Calf because of Moses’ intervention (Deut 9:7-29). The deepest foundation for the authority of Moses’ teaching is the divine revelation at Mount Horeb (4:9-14). While Moses quotes the Decalogue as direct revelation to the people (5:6-21), his teaching of “statutes and ordinances” (6:1; 12:1) is grounded in a revelation given exclusively to himself (5:22-31). The narrator’s voice, finally, echoes the style of Moses’ teaching, and is interwoven into the Mosaic discourse so that it is laden with ‘quasi-Mosaic’ authority. The narrator, for his part, claims that Moses wrote “this Torah” (31:9) and “this song” (31:22), and qualifies Moses as the greatest of all prophets (34:10-12). The central Torah-discourse (Deut 5-26) is thus supported by divine authority from revelation at Horeb, the framing discourses in Deut 1-4; 27-33 by the authority of the voice and writing of Moses<sup>6</sup>, and the narrative framework by the authority of the narrator. The narrative ends with the death of Moses, whose message and authority live on in his book of the Torah<sup>7</sup>.

Second, Deuteronomy claims authority in promoting its own reception. The “canon-formula” requires the conservation of textual integrity in its transmission: “The entire word

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<sup>3</sup> Cf. Ulrich, *Canon*, p. 896: “The reception of a work is normally envisioned as a post-compositional phenomenon, but reception was repeatedly important on the road to canon: from the origins of the scriptural traditions, down through the transmission process, and culminating in the final act of canon-decision.”

<sup>4</sup> For authority as critical to reception see H. R. Jauß, *Die Theorie der Rezeption – Rückschau auf ihre unerkannte Vorgeschichte*, Konstanz, Universitätsverlag, 1987. On “authorization as an act of reception” see F. Borchardt, *Influence and Power: The Types of Authority in the Process of Scripturalization*, in *Scandinavian Journal of the Old Testament* 29, 2015, pp. 182-196, esp. 196; J. Vroom, *The Authority of Law in the Hebrew Bible and Early Judaism. Tracing the Origins of Legal Obligation from Ezra to Qumran*, Leiden, Brill, 2018, esp. p. 78. For evidence of authoritative literature in its reception in the Dead Sea Scrolls and the New Testament see J. C. VanderKam, *The Dead Sea Scrolls and the Bible*, Grand Rapids, MI, Eerdmans, 2012, pp. 49-71.

<sup>5</sup> The first systematic treatment of the interrelatedness of the diverse voices in Deuteronomy was R. Polzin, *Moses and the Deuteronomist: A Literary Study of the Deuteronomistic History I. Deuteronomy, Joshua, Judges*, New York, The Seabury Press, 1980, esp. pp. 25-72.

<sup>6</sup> The introduction of the Moab Covenant discourse in Deut 28,69 claims that Moses made the covenant according to a divine command, without indicating when and where this command was given.

<sup>7</sup> J. L. Ska, *Qui est, dans le Deutéronome, le successeur de Moïse?*, in *Nouvelle Revue Théologique* 135, 2013, pp. 353-370; E. Otto, *Deuteronomium 23,16–34,12*, Freiburg i.Br., Herder, 2017, pp. 2281-2286.

that I am commanding you, you must observe to do. You must not add to it nor take away from it” (13:1, cf. 4:2). Deuteronomy’s commandments are supposed to be learned by heart (6:6-7; 11:19), to be taught to children within the family (6:7.20-25; 11:19) and publicly in festivals by the ‘Levitical priests’ (31:9-13)<sup>8</sup>. They are to be worn on the hand and between the eyes, and written on doors and gates (6:8-9; 11:18.20). The art of writing is thus ‘democratized’<sup>9</sup>. The king is required to have a copy of it to read “every day of his life” (17:18-19). Deuteronomy claims legal authority even beyond the power of the (imagined or potential) king<sup>10</sup>.

Third, Deuteronomy employs several techniques of literary pragmatics to communicate with addressees and to direct its reception<sup>11</sup>. The presentation of most of Deut 1-30 as direct discourses of Moses governed by the “you”-address and involving “we”-language lends rhetorical force to the texts and allows audiences to feel that they are being directly addressed – beyond the threshold of the narrated world. This rhetorical outreach to an audience is reinforced, especially, by Moses’ ‘prophetic’ reference to the historical experience of Israel in the ‘future’, that is, the present or even past of the book’s addressees: the conquest of and life in the land, worship at the “chosen place” (Deut 12), the emergence of the monarchy (17:14-20), the loss of the land, exile and the hope for restoration (esp. 4:23-31). Readers who recognise the relevance of Moses’ teaching for their own past and present have to acknowledge that he is indeed a great prophet<sup>12</sup>. Moses’ conditional blessings and curses encourage Israel to keep the commandments, and contain the most terrible threats as the consequence of disobedience (Deut 28). Moreover, “this book”, in which the curses are written, invades the world of its readers (29:19.20.26, cf. 28:61). The physical presence of the book in the readers’ real world materially proves the ‘real presence’ of Moses’ threats and blessings. Historical experience proves their efficacy. Deuteronomy thus works with a wide spectrum of literary means to bridge the gap between the narrated world and the world(s) of its target audience(s). Deuteronomy stirs its audience’s emotions, it evokes fear and hope to promote its authority.

Several of Deuteronomy’s claims to authority are found in other biblical texts as well. Prophetic texts, for example, frequently claim their origin in divine revelation. Some even reflect on the process of their writing (Jer 36)<sup>13</sup>. Its sheer diversity of literary means and their

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<sup>8</sup> On teaching and learning in Deuteronomy see K. Finsterbusch, *Weisung für Israel. Studien zu religiösem Lehren und Lernen im Deuteronomium und in seinem Umfeld*, Tübingen, Mohr Siebeck, 2005. On the “chain of teaching” from God via Moses to the Israelites see D. Markl, *Deuteronomy*, in *The Paulist Biblical Commentary*, edited by J. E. Aguilar Chiu et al., New York, Paulist Press, 2018, pp. 139–185, p. 152.

<sup>9</sup> In Deut 6:8, the command to write follows Moses’ report of the divine writing at Mount Horeb (5:22). “The people must do what God has done.” J.-P. Sonnet, *The Book within the Book: Writing in Deuteronomy*, Leiden, Brill, 1997, p. 52.

<sup>10</sup> B. M. Levinson, *The First Constitution: Rethinking the Origins of Rule of Law and Separation of Powers in Light of Deuteronomy*, in *The Cardozo Law Review* 27, 2006, pp. 1853–1888, esp. 1878-1882; R. Müller, *Israel’s King as Primus Inter Pares: The ‘Democratic’ Re-conceptualization of Monarchy in Deut 17:14–20, in Leadership, Social Memory and Judean Discourse in the Fifth–Second Centuries BCE*, edited by D. V. Edelman and E. Ben Zvi, Sheffield, Equinox, 2016, pp. 57–76, esp. 73; Sonnet, *The Book within the Book*, pp. 77-78; D. Markl, *Deuteronomy’s “Anti King”?: Historicized Etiology or Political Project?*, in *Changing Faces of Kingship in Syria-Palestine 1500-500 BCE*, edited by A. Gianto and P. Dubovský, Münster, Ugarit Verlag, 2018, pp. 165-186, 173–178.

<sup>11</sup> For an attempt to present such techniques systematically see D. Markl, *Gottes Volk im Deuteronomium*, Wiesbaden, Harrassowitz, 2012, pp. 47-87.

<sup>12</sup> See D. Markl, *The Efficacy of Moses’ Prophecies and the Scope of Deuteronomistic Historiography*, in *Collective Identity and Collective Memory. Deuteronomy and the Deuteronomistic History in Their Context*, edited by J. U. Ro and D. V. Edelman, forthcoming (2021).

<sup>13</sup> On Jer 36 see G. J. Venema, *Reading Scripture in the Old Testament. Deuteronomy 9–10; 31–2 Kings 22–23—Jeremiah 36—Nehemiah 8*, Leiden, Brill, 2004, pp. 95-137; F.-E. Focken, *The Economy of Synchronically and Diachronically Oriented Interpretations of Complex Old Testament Texts: The Example of the Narrative of Jeremiah’s Scrolls (Jer 43 LXX/Jer 36 MT)*, in *Biblische Notizen* 181, 2019, pp. 63-78.

systematic employment to promote reception, however, are unique to Deuteronomy within the Hebrew Bible. Deuteronomy can thus be seen as a prime example of ‘proto-canonical’ literature.

## 1.2 Deuteronomy and Cultural Hegemony

Who are the carrier groups behind Deuteronomy’s forceful claims to authority? Deuteronomy probably emerged between the late pre-exilic period and the first centuries of the postexilic period, that is, roughly between the 7th and the 4th centuries BCE. Three imperial contexts – the Neo-Assyrian, the Neo-Babylonian and the Persian empires – form the larger political framework for Deuteronomy’s emergence. The external pressure from these hegemonic powers influenced its development. At the same time, Deuteronomy advances claims on the identity of its audience, taking strong positions in societal conflicts, and thus represents a form of what Antonio Gramsci called “cultural hegemony”<sup>14</sup>. Given the extended timeframe of the growth of the book, the carrier group(s) that wrote, transmitted, and redacted Deuteronomy developed over time.

It is matter for debate as to what should be seen as the carrier group – the Deuteronomistic ‘movement’ or ‘school’ – of the hypothetical pre-exilic form of Deuteronomy and its exilic and post-exilic redactions<sup>15</sup>. If the narrative of the finding of the Torah book under King Josiah (2 Kgs 22) is read as a symbolic etiology of pre-exilic Deuteronomy<sup>16</sup>, it seems to suggest close interaction between priestly and royal interests. The book is found in the temple, given by the priest Hilkiah to the scribe Shaphan (v. 8), who reads it to the King (v.10)<sup>17</sup>. The King convokes the assembly of the covenant ceremony, which is held at the temple (23:2-3). The cult centralization promoted in Deuteronomy probably served both priestly and royal interests. It seems plausible, then, to assume that “Hilkiah and especially Shaphan and his family belonged to the Deuteronomistic group”<sup>18</sup>. Priestly scribes who interacted closely with agents of the royal administration were probably the authors and carrier group of pre-exilic Deuteronomy.

The situation changed critically with the demise of the Judean monarchy and the destruction of Jerusalem, including the temple, in 587 BCE. Deuteronomy was literally carried to Babylonia by priestly scribes, who had, from then on, the power to revise and redact the text without any royal approval. In this context, the importance attributed to the Levites in the text of Deuteronomy is of special interest. In the following, I shall consider some key passages for this issue (esp. 10:8-9; 17:18-19; 31:9-13.24-26).

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<sup>14</sup> See T. J. J. Lears, *The Concept of Cultural Hegemony: Problems and Possibilities*, in *American Historical Review* 90, 1985, pp. 567-593. I owe the idea of relating Deuteronomy to Gramsci’s concept of cultural hegemony to Benedetta Rossi and Danilo Verde, who initiated a research group on *Cultural Hegemony and the Power of Sacred Texts* at the European Association of Biblical Studies (Warsaw, 14 August 2019).

<sup>15</sup> See, e. g., N. Lohfink, *Gab es eine deuteronomistische Bewegung?*, in *Jeremia und die “deuteronomistische Bewegung”*, edited by W. Groß, Weinheim, Beltz Athenäum, 1995, pp. 313-382 [republished in *Studien zum Deuteronomium und zur deuteronomistischen Literatur III*, Stuttgart, Katholisches Bibelwerk, 1995, pp. 65-142]; R. Albertz, *Wer waren die Deuteronomisten? Das historische Rätsel einer literarischen Hypothese*, in *Evangelische Theologie* 57, 1997, pp. 319-338 [republished in: *Geschichte und Theologie. Studien zur Exegese des Alten Testaments und zur Religionsgeschichte Israels*, Berlin, Walter de Gruyter, 2003, pp. 279-301].

<sup>16</sup> On the Torah book as a leitmotif in Deuteronomy in connection with 2 Kgs 22 and book finding as a literary topos see T. Römer, *Transformations in Deuteronomistic and Biblical Historiography: On ‘Book Finding’ and other Literary Strategies*, in *Zeitschrift für die Alttestamentliche Wissenschaft* 109, 1997, pp. 1-11, esp. 5-10; on the historical context see M. Pietsch, *Die Kultreform Josias*, Tübingen, Mohr Siebeck, 2013, esp. pp. 56-108; for textual analysis see Venema, *Reading Scripture in the Old Testament*, pp. 47-94.

<sup>17</sup> Shaphan is presented “as the king’s liaison with the Temple”: W. B. Barrick, *Dynastic Politics, Priestly Succession, and Josiah’s Eighth Year*, in *Zeitschrift für die Alttestamentliche Wissenschaft* 112, 2000, pp. 564-582, here 570.

<sup>18</sup> T. Römer, *The So-Called Deuteronomistic History: A Sociological, Historical and Literary Introduction*, London, T&T Clark, 2007, p. 55

First, Deuteronomy claims that, at Horeb, “Yhwh set apart the tribe of Levi to carry the ark of the covenant of Yhwh” (10:8) which contained the stone tablets inscribed by God with the “ten words” (10:1-5). This is the tribe’s primary office – besides ministering and blessing in the name of Yhwh – which pertains to Levi “unto this day” (10:8). “Unto this day” is used by the voice of the narrator and, therefore, refers to the “day” of the addressees<sup>19</sup>. Although the ark came to a final standstill with its placement in the Solomonic temple (1 Kgs 8:1-9), the office of ‘carrying’ the ark did not expire with this last physical movement, but continued into the time even of exilic or postexilic addressees, when the ark had long been lost. Carrying the ark containing the central symbol of revelation is, symbolically, a duty without a date of expiration.

The symbolic dimension of the foundational scene at Horeb is reinforced as Moses entrusts the written Torah to “the priests, the sons of Levi who carry the ark of the covenant of Yhwh” (31:9). Their duty of carrying the ark predisposes them to carry the Torah of Moses as well. While the elders are mentioned in this scene together with the priests (31:9), it is exclusively the “Levites, the carriers of the ark of the covenant of Yhwh” (31:25)<sup>20</sup> who are entrusted with the Torah when it is supplemented by the Song (31:22-24)<sup>21</sup>. The “Torah book” is to be placed beside the ark (31:26). The two objects of revelation are seen in spatial proximity, just as the Decalogue and the “statutes and ordinances” stand next to each other within the book of Deuteronomy. The Levites are twice commissioned, by Yhwh at Horeb and by Moses in Moab, to bear responsibility for divine revelation and Mosaic teaching. The Levites are supposed to proclaim and teach the Torah at the festival of booths in the year of remission (31:10-13), which entails the responsibility for education and the transmission of Deuteronomy’s Torah to the entire people<sup>22</sup>.

The most explicit reference to the Levitical priests as caretakers of the written Torah of Deuteronomy is the law of the king, which requires that he produce a copy of “this Torah”, literally “from before the Levitical priests” (17:18). This condensed and somewhat cryptic expression is generally understood to mean that the ‘master copy’ of the Torah was in the possession of the Levitical priests. They “appear as the ones from whom the standard copy emanates, the ones in charge of the *Urschrift*”<sup>23</sup>. The received forms of Deuteronomy thus portray the tribe of Levi as having a special responsibility for the divine revelation from Horeb, transmitting the Mosaic teaching from Moab and, in material terms, keeping and handing on the written Torah of Deuteronomy. It is difficult to imagine that the carrier group who actually authored the relevant passages did not reflect their own responsibility in the role they portrayed for the Levites and, especially, the subsegment of the “Levitical priests”, or identify with this group<sup>24</sup>. Since the “levitical priests” in charge of Deuteronomy’s written

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<sup>19</sup> Deut 10:6-9 is usually considered to be an interruption of the Mosaic discourse by the voice of the narrator (see, esp., Polzin, *Moses and the Deuteronomist*, 33). This assumption is complicated by “your God” at the end of v.9, since the use of the second person by the narrator would be unusual. “Your God” is (untypically) missing in LXX, which may be the more original reading, while the plus in MT may be a harmonizing addition.

<sup>20</sup> The phrase “carry(ing) the ark of the covenant of Yhwh” occurs in the Pentateuch exclusively in Deut 10,8; 31,9,25, and thus connects these passages in a strong line of common significance. Elsewhere in the Hebrew Bible, the phrase occurs only in Josh 3,3,17; 4,18; 8,33 (cf. 6,6); 1 Chr 15,26.

<sup>21</sup> Cf. Sonnet, *The Book within the Book*, pp. 156-167.

<sup>22</sup> This responsibility is attributed to the entire tribe of Levi in Moses’ blessing: “They teach Jacob your ordinances, and Israel your Torah” (33:10).

<sup>23</sup> Sonnet, *The Book within the Book*, pp. 74-75. This interpretation is already visible in ancient versions. LXX has “from [παρά] the Levitical priests”. The Vulgate explains, “accipiens exemplar a sacerdotibus leviticae tribus”, “receiving the original / a copy from the priests of the levitical tribe.”

<sup>24</sup> The probability of this hypothesis is strengthened by the great attention paid to securing the economic security of Levites in Deuteronomy. Since the Levites had not received any land (10:9), they are supposed to be sustained by the land-owning population together with other groups in need (12:12,18,19; 14:27,29; 16:11,14; 26:11,12,13). The Levitical priests’ economic sustenance are the sacrifices (18:1), from which the members of their tribes in the countryside should benefit as well (18:6-7).

Torah (17:18) are identical with the holders of juridical office at the central sanctuary (17:9; cf. 24:8), the temple<sup>25</sup> is seen as the Torah book's scriptorium, which corresponds with the legend of its origin 2 Kgs 22:8.

The received form of Deuteronomy leaves little doubt that its (post)exilic carrier group identified with the "levitical priests" (of 17:9.19; 24:9; 31:9.25), who share their responsibility with their tribe of Levi (10:8; 33:8). The office of carrying the ark of the law may well be a symbolic representation of their historical task of safeguarding and transporting sacred texts from Jerusalem to Babylonia and back. In the exilic and postexilic periods this group did not depend any longer on royal approval, but submitted any potential king to the authority of their own law (17:19). Deuteronomy represents the cultural hegemony exercised by a priestly carrier group within Second Temple Judaism. The following analyses will address the literary techniques employed by this carrier group in Deuteronomy and their consequences for its subsequent reception.

## 2. Reaction, Revision, Rewriting, and Reception in and of Deuteronomy

Deuteronomy's emergence as an authoritative text is illuminated by four diverse processes of literary dependence and reception in the widest sense of these terms. In what follows, I shall consider examples of these processes from Deuteronomy's origins in the Neo-Assyrian period to its early reception in the Hellenistic and Roman periods. It is not by coincidence or for the sake of stylistic ornament that each of the four processes – reaction, revision, rewriting, reception – is prefixed by *re-*: this prefix expresses the issue at stake. All these processes imply the production of new texts against the background of pre-existing ones to which they respond in diverse ways.

### 2.1. Deuteronomy's Reaction to Assyrian Imperial Authority

Esarhaddon's Succession Treaty (EST) is an elaborate oath by which King Esarhaddon had all major officials of his empire swear loyalty to his designated crown prince, Ashurbanipal, in 672 BCE<sup>26</sup>. In a so far unparalleled effort of textual mass production, a minimum number of 110 tablets must have been produced, that is, one for each of 71 provinces and one for each of 39 known client kingdoms<sup>27</sup>. Esarhaddon's *adê* was discovered in 1955 in the temple of Nabu at Kalhu<sup>28</sup>. More than 300 fragments of nine copies were scattered in and around the throne room, perhaps deliberately destroyed when the Medes sacked the city, presumably in 612 BCE<sup>29</sup>. In 2009, a well preserved copy of EST was unearthed *in situ* in a neo-Assyrian temple on the citadel mound at Tell Tayinat<sup>30</sup>. This discovery strengthened the hypothesis that a copy

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<sup>25</sup> For Judean scribes and readers, the chosen place of Deuteronomy is the temple of Jerusalem, but for the carrier group of the Samaritan Pentateuch, it was seen in the temple on Mount Gerizim.

<sup>26</sup> On the historical context of Neo-Assyrian imperialism see M. Liverani, *Assiria. La preistoria dell'imperialismo*, Roma, Laterza, 2017.

<sup>27</sup> J. 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*, edited by P. Delnero and J. Lauinger, Berlin, De Gruyter, 2015, 285–314.

<sup>28</sup> Cf. the *editio princeps*, D. J. Wiseman, *The Vassal-Treaties of Esarhaddon*, London, The British School of Archaeology in Iraq, 1958 [= *Iraq* 20/1, 1958]. The most commonly used edition is S. Parpola and K. Watanabe, eds., *Neo-Assyrian Treaties and Loyalty Oaths*, SAA 2, Helsinki, University Press, 1988, pp. 28-58.

<sup>29</sup> Wiseman, *The Vassal-Treaties of Esarhaddon*, pp. 1-3; Lauinger, *Neo-Assyrian Scribes*, p. 288.

<sup>30</sup> Cf. T. P. Harrison and J. F. Osborne, *Building XVI and the Neo-Assyrian Sacred Precinct at Tell Tayinat*, in *Journal of Cuneiform Studies* 64, 2012, pp. 125-143. J. Lauinger, *Esarhaddon's Succession Treaty at Tell Tayinat: Text and Commentary*, in *Journal of Cuneiform Studies* 64, 2012, pp. 87-123. On the importance of this discovery see F. M. Fales, *After Ta'yinat: The New Status of Esarhaddon's adê for Assyrian Political History*, *Revue d'Assyriologie* 106, 2012, 133-158; T. P. Harrison, *Recent Discoveries at Taynat (Ancient Kunulua /*

of the treaty was exposed in the temple of Jerusalem and that King Manasseh of Judah and his officials had to swear the loyalty oath of EST<sup>31</sup>. If this is the case, EST was well known among the intellectual elite of Jerusalem from 672 BCE and during the long reign of Ashurbanipal (669-627 BCE), but probably not after the demise of the Neo-Assyrian empire (612 BCE).

The structure of EST is relatively simple. It is framed by a preamble with a list of gods and a colophon. The basic stipulations are followed by two curse sections that frame the central oath. While most of the treaty text, except for the preamble and the colophon, is formulated as a direct address in the second person plural, only the oath is worded in the first person plural and was probably to be recited by the persons taking the oath in a public ceremony.

Preamble	§ 1
List of gods	§ 2-3
Stipulations	§ 4-36
Curses I	§ 37-56
Oath	§ 57
Curses II	§ 58-106
Colophon	§ 107

Several scholars have argued that certain sections of Deuteronomy reflect direct dependence on EST. Hans Ulrich Steymans has presented the most elaborate argument for the dependence of the sequence of curses in Deut 28:25-33 on EST §§ 38A-42<sup>32</sup>. Eckart Otto has argued that the pre-exilic core of the law against the apostate prophet in Deut 13:2-10 depended on the regulations against high treason in EST § 10<sup>33</sup>. Bernard Levinson considers the canon formula in Deut 13:1 as a direct reception of EST § 4<sup>34</sup>. Several other features of the rhetoric of power in EST and Deuteronomy can be compared<sup>35</sup>: the predominance of direct address in the second person, the metatextual reference to the document itself and the requirement for its reception and transmission to the next generation (EST § 25 and 34; Deut 6:7.20-25); and the

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*Calno) and Their Biblical Implications*, in *Congress Volume Munich 2013*, edited by C. M. Maier, Leiden, Brill, 2014, 396-425.

<sup>31</sup> Cf. H. U. Steymans, *Deuteronomy 28 and Tell Tayinat, Verbum et Ecclesia* 34, 2013, Art. #870, 13 pp. <http://www.ve.org.za/index.php/VE/article/view/870/1867>; idem, *DtrB und die adê zur Thronfolgeregelung Asarhaddons*, in *Deuteronomium – Tora für eine neue Generation*, edited by G. Fischer, D. Markl and S. Paganini, Wiesbaden, Harrassowitz, 2011, pp. 161-192, esp. 180-183.

<sup>32</sup> H. U. Steymans, *Deuteronomium 28 und die adê zur Thronfolgeregelung Asarhaddons. Segen und Fluch im Alten Orient und in Israel*, Freiburg Schweiz, Universitätsverlag, 1995; see also K. 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*, edited by M. Witte et al., Berlin, Walter de Gruyter, 2006, 351-378. The most recent study on the relationship between Deut 28 and ancient Near Eastern curses is L. Quick, *Deuteronomy 28 and the Aramaic Curse Tradition*, Oxford, Oxford University Press, 2018.

<sup>33</sup> E. Otto, *Deuteronomium 12,1–23,15*, Freiburg i.Br., Herder, 2016, 1226-1234; idem, *Das Deuteronomium. Politische Theologie und Rechtsreform in Juda und Assyrien*, Berlin, Walter de Gruyter, 1999, esp. pp. 57-90.

<sup>34</sup> B. M. Levinson, *Die neuassyrischen Ursprünge der Kanonformel in Deuteronomium 13,1*, in *Viele Wege zu dem Einen: Historische Bibelkritik – Die Vitalität der Glaubensüberlieferung in der Moderne*, edited by S. Beyerle, A. Graupner and U. Rütterswörden, Neukirchen-Vluyn, Neukirchener, 2012, pp. 23-59, esp. 41-43; for other parallels in antiquity see also the titles listed in idem, *Legal Revision and Religious Renewal in Ancient Israel*, Cambridge, Cambridge University Press, 2008, p. 13.

<sup>35</sup> Cf. my paper *The Rhetoric of Power in Esarhaddon's Succession Treaties and in Deuteronomy*, held at the Rencontre Assyriologique Internationale in Innsbruck (17 July 2018), in preparation for publication. For a comparison of many rhetorical features in EST and Deuteronomy see H. U. Steymans, *Die neuassyrische Vertragsrhetorik der "Vassal Treaties of Esarhaddon" und das Deuteronomium*, in *Das Deuteronomium*, edited by G. Braulik, Frankfurt a. M., Peter Lang, 2003, 89-152.

self-obligation in the first person plural to keep the stipulations of the document (cf. “we and our children” in EST § 57; Deut 29:28).

It seems likely, therefore, that an early form of Deuteronomy was influenced by the rhetoric of EST, which was employed to secure the dynastic continuity of imperial dominion. But Deuteronomy subversively transforms the techniques of the Assyrian rhetoric of power<sup>36</sup>. It requires loyalty to Yhwh and Moses’ Torah, not to the Assyrian king. It is trying to strengthen the inner coherence and identity of Israel instead of its loyalty to the empire<sup>37</sup>. Deuteronomy presents a reaction, not in the sense of a direct response addressed to the Assyrians, but a psychological and intellectual response addressed *ad intra*, to its audience in Judah. Deuteronomy’s authority is partly derived from the Assyrian imperial imposition of authority. Ironically, the Neo-Assyrian empire disappeared from the stage of history only six decades after EST, while Deuteronomy has exercised its influence for two and a half millennia.

## 2.2. Deuteronomy’s Revision of Divine Laws

Deuteronomy’s authority is derived, not just from Assyrian rhetoric, but also from its self-presentation as Moses’ teaching of laws that were originally revealed to him at Mount Horeb (see above, 1.1). This self-presentation is a narrative symbolization of an actual process of legal revision, since several laws of Deuteronomy reformulate laws from the Covenant Code, especially in Exod 21-22, the most ancient collections of law that have come down to us in the Hebrew Bible<sup>38</sup>. Deuteronomy’s techniques of legal revision have been explored in detail by Bernard Levinson and Eckart Otto<sup>39</sup>. One of the basic areas that required revision was Deuteronomy’s programme of cult centralization, which had consequences, e.g., for sacrifices (Deut 12), religious festivals (Deut 16), and the judiciary (Deut 16:18-17:13)<sup>40</sup>. A clearly recognisable example is the revision of the slave laws from the beginning of the Covenant Code (Exod 21:2-11) in Deut 15:12-18<sup>41</sup>. While Exod 21:2-11 is worded – except for the first verbal form – in the third person, and thus represents the style of classical casuistic law, Deut

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<sup>36</sup> The similarities between Assyrian rhetoric of power from the period of Ashurbanipal and Deut 29:21-27 have been interpreted as attesting to the same literary genre in D. E. Skweres, *Das Motiv der Strafgründerfragung in biblischen und neuassyrischen Texten*, *Biblische Zeitschrift* 14, 1970, pp. 181-197. The possibility that Deut 29:21-27 depends on Assyrian rhetoric deserves reconsideration.

<sup>37</sup> Cf. Otto, *Deuteronomium 12,1–23,15*, p. 1271. On definitions of “subversion” see C. Crouch, *Israel and the Assyrians. Deuteronomy, the Succession Treaty of Esarhaddon, and the Nature of Subversion*, Atlanta, GA, SBL, 2014, pp. 15-16. I do not see any necessity that “Deuteronomy’s audience would have needed to recognize Deuteronomy’s relationship with the source it intended to subvert” (p. 45), as Crouch claims at the end of her chapter on “the nature of subversion”. If there was any “intention” to act subversively, it was not the text’s, but its authors’.

<sup>38</sup> On the redaction history of the Covenant Code see, esp., E. Otto, *Wandel der Rechtsbegründungen in der Gesellschaftsgeschichte des Antiken Israel: Eine Rechtsgeschichte des “Bundesbuches”*. Ex XX,22–XXIII,13, Leiden, Brill, 1988; L. Schwienhorst-Schönberger, *Das Bundesbuch (Ex 20,22-23,33). Studien zu seiner Entstehung und Theologie*, Berlin, Walter de Gruyter, 1990; R. Rothenbusch, *Die kasuistische Rechtssammlung im ‘Bundesbuch’ (Ex 21,2-11.18-22,16) und ihr literarischer Kontext im Licht altorientalischer Parallelen*, Münster, Ugarit Verlag, 2000; D. Markl, *The Redactional Theologization of the Book of the Covenant: A Study in Criterionology*, in *Biblische Notizen* 181, 2019, pp. 47-61.

<sup>39</sup> B. M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation*, New York, Oxford University Press, 1997; Otto, *Das Deuteronomium. Politische Theologie und Rechtsreform in Juda und Assyrien*, esp. chapter IV.3 (pp. 217-364), “Die Reformulierung des Bundesbuches im Deuteronomium als Programm einer Rechtsreform.” More recent studies that involve discussion of legislation in Leviticus and Numbers include J. Stackert, *Rewriting the Torah. Literary Revision in Deuteronomy and the Holiness Legislation*, Tübingen, Mohr Siebeck, 2007; B. Kilchör, *Mosetora und Jahwetora. Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, Wiesbaden, Harrassowitz, 2015.

<sup>40</sup> See chapters 2-4 in Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation*.

<sup>41</sup> J. L. Ska, *Introduction to Reading the Pentateuch*, trans. P. Dominique, Winona Lake, Eisenbrauns 2006, pp. 43.

15:12-18 transposes its formulation into a direct address in the second person, to adapt it to its literary context. While the Covenant Code distinguishes regulations for male and female slaves (Exod 21:2-6.7-11), Deuteronomy explicitly applies the law for male slaves to female slaves as well (Deut 15:17).

While such revisions may have been produced at a stage when the law collections of the Covenant Code and Deuteronomy existed independently from each other, their compositional integration into the master narrative of the Pentateuch required reflection on how these partially conflicting laws related to each other. The narrative of the Pentateuch provides a basic framework to relate these law collections together hermeneutically. While the Sinai pericope presents the Covenant Code (Exod 20:22-23:33) as direct divine revelation, Deuteronomy is presented as Moses' teaching of laws from Horeb for the next generation in Moab. The Sinai pericope and Deuteronomy share structural analogies:

	<i>Decalogue</i>	→	<i>Law collection</i>	→	<i>Moses writes</i>
<i>Exodus</i>	20:2-17	→	20:22-23:33	→	24:4, 7 “the book of the covenant”
<i>Deuteronomy</i>	5:6-21	→	(6-11)12-26	→	31:9 “this Torah”

Although the Decalogue, as Moses repeatedly emphasizes, was written by God himself on the tablets of stone (Deut 4:13; 5:22; 9:10; 10:2, 4)<sup>42</sup>, Deuteronomy's version of the Decalogue differs in several significant details from the one presented in Exodus. This suggests that Moses is presented as an authoritative interpreter who dares to revise even these most sacred words<sup>43</sup>. While Deuteronomy acknowledges the written documents of the stone tablets, the “Book of the covenant” that was written by Moses at Sinai according to Exod 24:4, 8 is never mentioned in Deuteronomy. When Moses writes down “this Torah” (Deut 31:9)<sup>44</sup>, it seems to replace the “Book of the covenant”. Deuteronomy seems to usurp the authority of divine revelation at Sinai/Horeb, but surpasses and even replaces it through Moses' authoritative interpretation and, in fact, revision of this revelation. Both in relation to the Decalogue and to the Book of the Covenant, Deuteronomy portrays Moses as an authoritative interpreter of divine revelation. The Septuagint's rendering of “copy of this Torah” that the king is supposed to have (Deut 17:18) as “this second law” (*τὸ δευτερονόμιον τοῦτο*) is open to be read as a programmatic qualification of Deuteronomy as law that is derived from another, pre-existing law<sup>45</sup>.

The hermeneutical implications of the relationship between the Covenant Code and Deuteronomy within the Pentateuch, however, are controversial. Bernard Levinson proposed that Deuteronomy “sought to displace the prestige and authority of the literary compositions that preceded them”<sup>46</sup>. Moses' claim that Yhwh “did not add anything” after proclaiming the Decalogue (Deut 5:22) is seen as “a deliberate textual polemic”, an “attempt to divest the Covenant Code of its authority by rejecting its Sinaitic pedigree”<sup>47</sup>. Eckart Otto, in contrast, argues that Deuteronomy presupposes the continuing validity of the Book of the Covenant

<sup>42</sup> See the analysis in Sonnet, *The Book within the Book*, pp. 59-68.

<sup>43</sup> See E. Otto, *Deuteronomium 1,1-4,43*, Freiburg i.Br., Herder, 2012, pp. 270-272; D. Markl, *The Ten Words Revealed and Revised: The Origins of Law and Legal Hermeneutics in the Pentateuch*, in *The Decalogue and its Cultural Influence*, edited by idem, Sheffield, Phoenix, 2017, pp. 13-27.

<sup>44</sup> Within the narrated world of Deuteronomy, “this Torah” seems to refer to texts in Deut 5-30, eventually Deut 1-30, but not beyond. See Sonnet, *The Book within the Book*, esp. pp. 246-250.

<sup>45</sup> Carmel McCarthy suggests that “the translator was trying to be faithful to the concept contained in M of making a copy or a duplicate of the law, but the ambiguity in the neologism thus created permitted later Greek-speaking Christians so understand the word as a ‘second’ law” (~yrbdh hla *Deuteronomy*, *Biblia Hebraica Quinta* 5, Stuttgart, Deutsche Bibelgesellschaft, 2007, p. 104\*).

<sup>46</sup> Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation*, 152.

<sup>47</sup> *Ibidem*.

and supplements it<sup>48</sup>. A paradigmatic case is, in Otto's view, the centralization law of Deut 12, formulated as an authoritative interpretation of the altar law of Exod 20:24<sup>49</sup>. Kevin Mattison recently proposed a mediating model, employing the concept of legal amendment<sup>50</sup>. It is not my task here to resolve these hermeneutical tensions, but to note that they show structural analogies with discussions on the rewriting of Deuteronomy in Second Temple Judaism.

### 2.3. The Rewriting of Deuteronomy in Second Temple Judaism

The Temple Scroll and Jubilees, both texts that engage intensively with the Pentateuch<sup>51</sup>, have been labelled "Rewritten Bible"<sup>52</sup>, but this term is anachronistic and somewhat misleading, since the Bible in the strict sense of the term, a clearly defined corpus, did not exist in this period<sup>53</sup>. "Rewritten Scripture" is a more appropriate term to designate these texts<sup>54</sup>. Chronicles is an example of rewriting (of parts of Genesis, 1/2 Samuel and 1/2 Kings) that found its way into the biblical canon, while the Temple Scroll and Jubilees are examples of Rewritten Scripture that were not accepted in the standard canons of Judaism and Christianity<sup>55</sup>. Both texts are dated to the second century BCE<sup>56</sup>. Both engage with Deuteronomy, but in hermeneutically distinct ways<sup>57</sup>.

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<sup>48</sup> See esp. Otto, *Deuteronomium 1,1–4,43*, pp. 258-282, on Deuteronomy within the legal hermeneutics of the Pentateuch. For Otto's view of the diachronic development see pp. 231-257, and idem, *The History of the Legal-Religious Hermeneutics of the Book of Deuteronomy from the Assyrian to the Hellenistic Period*, in *Law and Religion in the Eastern Mediterranean. From Antiquity to Early Islam*, edited by A. C. Hagedorn and R. G. Kratz, Oxford, Oxford University Press, 2013, pp. 211-250.

<sup>49</sup> Otto, *Deuteronomium 12,1–23,15*, p. 1103.

<sup>50</sup> K. Mattison, *Rewriting and Revision as Amendment in the Laws of Deuteronomy*, Tübingen, Mohr Siebeck, 2018.

<sup>51</sup> On the following see, esp., H. Najman, *Seconding Sinai. The Development of Mosaic Discourse in Second Temple Judaism*, Leiden, Brill, 2003; J. J. Collins, *Changing Scripture*, in *Changes in Scripture. Rewriting and Interpreting Authoritative Traditions in the Second Temple Period*, edited by H. von Weissenberg, J. Pakkala and M. Marttila, Berlin, De Gruyter, 2011, pp. 23-45. Other interesting examples of Rewritten Scripture are seen in the 4QReworked Pentateuch manuscripts: M. Zahn, *Rethinking Rewritten Scripture. Composition and Exegesis in the 4QReworked Pentateuch Manuscripts*, Leiden, Brill, 2011.

<sup>52</sup> The concept was coined by G. Vermes, *Scripture and Tradition in Judaism. Haggadic Studies*, Leiden, Brill, 1961 (2nd ed. 1973), esp. "Part II: The rewritten Bible", pp. 67-126; for more recent critical discussions of the term see G. Brooke, *Rewritten Bible*, in *Encyclopedia of the Dead Sea Scrolls*, edited by L. H. Schiffman and J. C. VanderKam, New York, Oxford University Press, 2000, vol. 2, pp. 777-781; M. Segal, *Between Bible and Rewritten Bible*, in *Biblical Interpretation at Qumran*, edited by M. Henze, Grand Rapids, 2005, 10-28; M. J. Bernstein, "Rewritten Bible": A Generic Category Which Has Outlived Its Usefulness?, in *Textus* 22, 2005, pp. 169-196 [reprinted in idem, *Reading and Re-Reading Scripture at Qumran I*, Leiden, Brill, 2013, pp. 39-62].

<sup>53</sup> S. W. Crawford, The 'Rewritten Bible' at Qumran: A Look at Three Texts, in *Eretz-Israel* 26, 1999, pp. 1\*-8\*, p. 1\*.

<sup>54</sup> J. C. VanderKam, *The Wording of Biblical Citations in Some Rewritten Scriptural Works*, in *The Bible as Book. The Hebrew Bible and the Judaean Desert Discoveries*, edited by E. D. Herbert and E. Tov, London, British Library, 2002, pp. 41-56, esp. 42-43; A. K. Petersen, *Rewritten Bible as a Borderline Phenomenon – Genre, Textual Strategy, or Canonical Anachronism?*, in *Flores Florentino. Dead Sea Scrolls and Other Early Jewish Studies in Honour of Florentino García Martínez*, edited by A. Hilhorst, É. Puech and E. Tigchelaar, Leiden, Brill, 2007, pp. 285-306, esp. 287; Zahn, *Rethinking Rewritten Scripture*, p. 1; Collins, *Changing Scripture*, p. 31.

<sup>55</sup> The Ethiopic Church is a notable exception, where Jubilees enjoys, to a certain degree, canonical status, which is the reason why the book has come down to us in Ge'ez; on the history of its rediscovery see J. VanderKam, *The Book of Jubilees* (Guides to Apocrypha and Pseudepigrapha), Sheffield, Sheffield Academic Press, 2001, pp. 13-17.

<sup>56</sup> See Y. Yadin, *The Temple Scroll. Vol. 1 Introduction*, Jerusalem, Israel Exploration Society, 1983, pp. 386-390; J. C. VanderKam, *Jubilees*, 2 vols., Minneapolis, Fortress, 2018, esp. 37-38.

<sup>57</sup> For a more detailed presentation of the following see D. Markl, *Sinai: The Origin of Holiness and Revelation in Exodus, Deuteronomy, the Temple Scroll and Jubilees*, in *Holy Places in Biblical and Extrabiblical*

The Temple Scroll (TS), best preserved in 11Q19, presents itself as divine revelation to Moses from Mount Sinai and rewrites significant parts of the sanctuary texts in Exodus and from Deuteronomy's laws. TS 45-66 rearranges Moses' teaching from Deut 12-25 and renders it as direct divine speech. Several details are modified to enhance precision.<sup>58</sup> TS is thus presented as "a more perfect Torah"<sup>59</sup>. TS 54,5-7 renders a modified version of the canon formula from Deut 13:1<sup>60</sup>, but does not hesitate to add significantly to Deuteronomy's legislation. After TS's version of the law of the king from Deut 17:14-20 (TS 56:12-20), TS 57:1-59:20 presents a long expansion that significantly differs from Deuteronomy's view of the king's (imagined) role<sup>61</sup>. While TS adopts and modifies many texts from Deuteronomy, it disregards Deuteronomy's claim to unchangeable authority. TS thus offers "valuable empirical evidence, not only for the way that scribes worked with texts in antiquity, but for the hermeneutical issues they confronted in seeking to integrate originally inconsistent sources into a unified document."<sup>62</sup>

Jubilees is staged as divine revelation to Moses on Mount Sinai as well. The Angel of the Presence dictates what is written on the heavenly tablets (Jub 1:29-2:1)<sup>63</sup>, which is a rewritten version of Genesis and, if very briefly, Exod 1-18<sup>64</sup>. Jubilees employs motifs from Deuteronomy in its narrative staging, not in terms of rewriting, but in punctual reference to narrative key elements. Embedded into the setting of revelation of Exod 24:12-18 (cf. Jub 1:1-4), God explains to Moses the reason for his revelation, which is drawn from the announcement of future judgement in the theophany of Deut 31:16-21 and motifs from Deut 30<sup>65</sup>. Jubilees' references to Deuteronomy are of great hermeneutical significance, since "Jubilees in a sense models itself on it"<sup>66</sup> and adopts the "testimonial role"<sup>67</sup> from Deuteronomy's Song and the Torah (Deut 31:19, 21, 26, cf. Jub 1:8).

Through different literary strategies, both the Temple Scroll and Jubilees usurp authority from Deuteronomy and even try to surpass it: the Temple Scroll by presenting itself as a "more original" version of divine revelation from Horeb<sup>68</sup>; Jubilees by adopting Deuteronomy's critical role as etiology for a future catastrophe, containing the instructions that need to be kept to avoid that catastrophe (Jub 1:5-18). In both cases, the texts' stance towards Deuteronomy's authority is ambiguous. On the one hand, they presuppose that

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*Traditions. Proceedings of the Bonn-Leiden-Oxford Colloquium on Biblical Studies*, edited by J. Flebbe, Göttingen, V&R unipress, 2016, 23-43.

<sup>58</sup> For a detailed analysis of the technique of legal revision in the Temple Scroll see S. Paganini, »Nicht darfst du zu diesen Wörtern etwas hinzufügen«. *Die Rezeption des Deuteronomiums in der Tempelrolle: Sprache, Autoren, Hermeneutik*, Wiesbaden, Harrassowitz, 2009.

<sup>59</sup> B. M. Levinson, *A More Perfect Torah. At the Intersection of Philology and Hermeneutics in Deuteronomy and the Temple Scroll*, Winona Lake, IN: Eisenbrauns, 2013.

<sup>60</sup> Paganini, »Nicht darfst du zu diesen Wörtern etwas hinzufügen«, esp. pp. 100, 288, suggested that the consistent formulation of the canon formula in second person singular in TS 54,5-7 specifically address Moses; see however, the critique based on the evidence of other ancient versions in Levinson, *A More Perfect Torah*, 89-90.

<sup>61</sup> L. H. Schiffman, *The King, His Guard, and the Royal Council in the Temple Scroll*, in *The Courtyards of the House of the Lord: Studies on the Temple Scroll*, edited by F. García Martínez, Leiden, Brill, 2008, pp. 487-504; S. D. Fraade, "The Torah of the King" (Deut 17:14-20) in the Temple Scroll and Early Rabbinic Law, in *Legal Fictions Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarians and Sages*, Leiden, Brill, 2011, 285-319, esp. 290-299.

<sup>62</sup> Levinson, *A More Perfect Torah*, 92.

<sup>63</sup> On the construction of authority in Jubilees see D. Hamidović, *Securizing the Straight Line from Heaven to Earth: The Written Authoritative Catena in the Book of Jubilees*, in *Between Canonical and Apocryphal Texts. Processes of Reception, Rewriting, and Interpretation in Early Judaism and Early Christianity*, edited by J. Frey, C. Clivaz, and T. Nicklas, Tübingen, Mohr Siebeck, 2019, pp. 153-183.

<sup>64</sup> Cf. VanderKam, *The Book of Jubilees*.

<sup>65</sup> For details see Markl, *Sinai*, pp. 31-38.

<sup>66</sup> VanderKam, *Jubilees 1*, p. 86.

<sup>67</sup> *Op. cit.*, p. 87.

<sup>68</sup> Markl, *Sinai*, p. 30.

authority – otherwise no further authority could be derived from it. At the same time, they question, undermine and override Deuteronomy’s authority, which needs to be seen in the context of conflicting views of revelation among diverse groups in early Judaism<sup>69</sup>. Revision as authoritative interpretation, the technique employed by Deuteronomy within the Pentateuch, seems also to be adopted by texts that subvert Deuteronomy.

#### 2.4. Deuteronomy’s Self-Promotion and its Actual Reception

Deuteronomy was subversively rewritten in the Second Temple period, as shown in the preceding paragraph, but it was also transmitted as authoritative Scripture. The following arguments will compare Deuteronomy’s self-promotion (see above, 1.1) with its actual early transmission and reception. While all the processes previously discussed as reaction, revision, and rewriting may be seen as forms of “reception” in a wide sense of the term, I am here using “reception” in a more narrow sense: types of transmission, translation and interpretation that presuppose a form of Deuteronomy as authoritative Scripture. This does not preclude textual variation in the early stages of transmission.

##### 2.4.1 “A copy of this Torah”: from Variation to Standardization

Deuteronomy envisions its own textual transmission, especially with the requirement that the king have a “copy of this Torah” received “from before the Levitical priests” (Deut 17:18) and in the canon formula that prohibits any additions and omissions (Deut 4:2; 13:1). Such self-reflexivity and ‘metapragmatic’<sup>70</sup> self-promotion is unique to Deuteronomy within the Pentateuch. A system of references within Deuteronomy identifies “this Torah” as referring to Moses’ teaching in Deuteronomy itself (see supra, note 44), but the reference to “this Torah” in Deut 31:9 was open to being read as referring to Moses’ authorship of the entire Pentateuch<sup>71</sup>. The history of the early transmission of Deuteronomy and the Pentateuch reflects the growing authority of Deuteronomy’s requirements in a development from textual variation to standardization, which is seen both in the early transmission of the Hebrew text and in the appearance of early translations<sup>72</sup>.

The employment of diverse forms of the canon formula in Deuteronomy and many other texts is indirect evidence that “alterations were the rule and not the exception in the ancient Near Eastern and ancient Greek societies”<sup>73</sup>. The *Letter of Aristeas* (*Let. Aris.*), dated to the second half of the second century BCE<sup>74</sup>, provides ample evidence for the concern for textual standardization. The text seems to imply that the Hebrew text of the Pentateuch found in Egypt at the time of Ptolemy II was not satisfactory, since the manuscripts “have been written rather carelessly and not as is proper, just as it has been reported by the experts” (*Let.*

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<sup>69</sup> See Collins, *Changing Scripture*, pp. 40-41.

<sup>70</sup> On the notion of ‘metapragmatics’ in Deuteronomy see Markl, *Gottes Volk im Deuteronomium*, p. 15.

<sup>71</sup> E. Blum, *Studien zur Komposition des Pentateuch*, Berlin, Walter de Gruyter, 1990, p. 207, argued that the “Torah book” was meant to refer to the Pentateuch as a whole already at late compositional stages.

<sup>72</sup> See esp. A. Lange, “They Confirmed the Reading” (y. Ta’an. 4.68a). *The Textual Standardization of Jewish Scriptures in the Second Temple Period*, in *From Qumran to Aleppo. A Discussion with Emanuel Tov about the Textual History of Jewish Scriptures in Honor of his 65<sup>th</sup> Birthday*, edited by A. Lange, M. Weigold, and J. Zsengellér, Göttingen, Vandenhoeck & Ruprecht, 2009, pp. 29-80.

<sup>73</sup> Lange, “They Confirmed the Reading”, 30.

<sup>74</sup> B. G. Wright, *The Letter of Aristeas: “Aristeas to Philocrates” or “On the Translation of the Law of the Jews”*, Berlin, De Gruyter, 2015, esp. pp. 21-30; E. Bickerman, *The Dating of Pseudo-Aristeas*, in *Studies in Jewish and Christian History. A New Edition in English including The God of the Maccabees*, Vol. 1, edited by A. Tropper, Leiden, Brill 2007, pp. 108-133 [German original: *Zur Datierung des Pseudo-Aristeas*, in *Zeitschrift für die Neutestamentliche Wissenschaft* 29, 1930, pp. 280-296]. Lange argues for a date in the 1st c. BCE; cf. Lange, “They Confirmed the Reading”, 68-69.

*Aris.* 30)<sup>75</sup>. The account of the delegation sent to the high priest Eleazar in Jerusalem to have a reliable copy brought to Egypt (esp. *Let. Aris.* 32-51) and the description of the luxurious manuscripts on fine parchment in letters of gold (*Let. Aris.* 176) portrays the temple of Jerusalem as a richly equipped scriptorium taking care of an authoritative version of the Hebrew text<sup>76</sup>. The text is greatly concerned that the Greek translation should be accurate. Its production and its public presentation are described minutely (*Let. Aris.* 301-311). The translation is approved and protected by a curse with an allusion to Deuteronomy's canon formula: "a curse should be laid, as was their custom, on anyone who should alter the version by any addition or change to any part of the written text, or any deletion either" (*Let. Aris.* 311)<sup>77</sup>. The preoccupation with textual standardization in the *Letter of Aristeas* can be explained as "instigated and motivated by the role model of the editorial work in the Alexandrian library"<sup>78</sup>.

The "biblical" texts among the Dead Sea Scrolls show evidence of textual variation and a tendency towards standardization in the first century CE<sup>79</sup>. Evidence of standardization is also seen in a Greek manuscript from Naḥal Ḥever from the late first century CE (8ḤevXII gr) and other Greek recensions towards the proto-Masoretic text<sup>80</sup>.

At the end of the first century CE, Flavius Josephus claims that

"among us there are not thousands of books in disagreement and conflict with each other, but only twenty-two books.... which are rightly trusted... It is clear in practice how we approach our own writings. Although such a long time has now passed, no-one has dared to add, to take away, or to alter anything." (*Ag. Ap.* 1.38, 42)<sup>81</sup>

The apologetic context suggests that Josephus presents an ideal rather than a reality. The ideal is, again, expressed through allusion to Deuteronomy's canon formula<sup>82</sup>. Moses is seen as the author of the Pentateuch (*Ag. Ap.* 1.39), and as one of the prophets who "learned, by inspiration from God, what had happened in the distant and most ancient past" (*Ag. Ap.* 1.37). Josephus witnesses the idea that the divine character of the Scriptures should go with textual stability. The growing authority and stability of the proto-Masoretic is visible in the few biblical manuscripts extant from late antiquity and in the great effort at standardization visible in the work of the Masoretes, best preserved in the Ben Asher master codices<sup>83</sup>. It seems

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<sup>75</sup> Wright, *The Letter of Aristeas*, p. 142. On the difficulty of translating and interpreting the passage see pp. 145-148.

<sup>76</sup> Lange, "They Confirmed the Reading", p. 71, claims that "the legendary nature of the report in the *Letter of Aristeas* and the discrepancies between the *Letter of Aristeas*' depiction of the story and the one found in Philo's *On the Life of Moses* (2.25-44) forbids to claim *Let. Aris.* 176 as evidence for the existence of master copies of the Pentateuch in the Jerusalem temple." For rabbinic references to manuscripts at the Second Temple see Lange, *Ancient and Late Ancient Hebrew and Aramaic Jewish Texts*, in *Textual History of the Hebrew Bible 1A*, pp. 112-166, esp. pp. 151-158.

<sup>77</sup> A comparable version of the canon formula is used in Philo's account of the translation: *Life of Moses* 2.34.

<sup>78</sup> Lange, "They Confirmed the Reading", 71.

<sup>79</sup> Lange, "They Confirmed the Reading", esp. 45-56. For the evidence of Deuteronomy in the Dead Sea Scrolls see U. Dahmen, *Das Deuteronomium in Qumran als umgeschriebene Bibel*, in *Das Deuteronomium*, edited by G. Braulik, Frankfurt a. M., Peter Lang, 2003, pp. 269-309; J. A. Duncan, *Deuteronomy, Book of*, in *Encyclopedia of the Dead Sea Scrolls* 1, pp. 198-202; E. Ulrich, *The Biblical Qumran Scrolls: Transcriptions and Textual Variants*, Leiden, Brill, 2010, pp. 175-246.

<sup>80</sup> Lange, "They Confirmed the Reading", pp. 56-61.

<sup>81</sup> This and the following translation according to John M. G. Barclay. See S. Mason, ed., *Flavius Josephus. Translation and Commentary*. Vol. 10: *Against Apion. Translation and Commentary* by J. M. G. Barclay, Leiden, Brill, 2007. The text dates between 94 CE and Josephus' death ca. 100 CE (pp. xxvi-xxviii).

<sup>82</sup> Cf. Lange, "They Confirmed the Reading", p. 30.

<sup>83</sup> See A. Lange, *Ancient and Late Ancient Hebrew and Aramaic Jewish Texts*, pp. 117-123 and 158; E. Tov, *The Scribal and Textual Transmission of the Torah Analyzed in Light of Its Sanctity*, in *Pentateuchal Traditions in the Late Second Temple Period. Proceedings of the International Workshop in Tokyo, August 28-31, 2007*, edited by A. Moriya and G. Hata, Leiden, Brill, 2012, pp. 57-72.

possible – while this issue would merit further investigation – that interpretations of Deuteronomy’s canon formula in the late Second Temple period contributed to the ideological underpinning of textual standardization.

#### 2.4.2 “Wisdom in the eyes of the peoples”: from Torah to Nómos

If the *Letter of Aristeas* does not hide its ideological proclivities, what were the actual reasons for the Torah’s translation into Greek in the third century BCE<sup>84</sup>? The translation may have responded to the practical needs of the Jewish community in Alexandria<sup>85</sup>. Jews may have sought royal patronage for the sake of prestige and for pragmatic reasons<sup>86</sup>. Adrian Schenker proposed that the motivation for such cultural transfer may have been found in Deuteronomy itself<sup>87</sup>:

See, I teach you statutes and ordinances... Keep them and practice them, for this is your wisdom and your understanding in the eyes of the peoples who will hear all these statutes and say: “Indeed, a wise and discerning people is this great nation!”... And who is a great nation that has just statutes and ordinances like this entire Torah that I am setting before you today? (Deut 4:5-8)

This passage claims – uniquely – that the nations will be in direct relationship with the Torah – they will hear “all these statutes”<sup>88</sup>. Jews of the 3rd c. BCE, argues Schenker, were convinced of the truth of this claim, so that Moses’ prophecy amounted to a command to produce a translation<sup>89</sup>. While Schenker’s hypothesis is daring and attractive, the origins of the LXX are likely to produce much further discussion since the currently available evidence is scarce.

The rendering of “Torah” (“instruction”) as “Nómos” (“law”) was a fundamental step of cultural transformation and inculturation in the Hellenistic world<sup>90</sup>. The account of the *Letter of Aristeas* and its early reverberations<sup>91</sup>, however, show that Jews in the Hellenistic and Roman period liked to imagine their “law” as an object of cultural pride and distinction in the eyes of Hellenistic contemporaries<sup>92</sup>. It is described in excellent Greek terms as “divine” and

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<sup>84</sup> For the dating see E. Tov, *Septuagint*, in *Textual History of the Bible. Vol. 1 The Hebrew Bible. Vol. 1A Overview Articles*, edited by A. Lange and E. Tov, Leiden, Brill, pp. 191-211, esp. 193; S. Kreuzer, *Entstehung und Entwicklung der Septuaginta im Kontext alexandrinischer und frühjüdischer Kultur und Bildung*, in *Septuaginta Deutsch. Erläuterungen und Kommentare zum griechischen Alten Testament. Band I Genesis bis Makkabäer*, edited by M. Karrer and W. Kraus, Stuttgart, Deutsche Bibelgesellschaft, 2011, pp. 3-39, p. 19.

<sup>85</sup> See Wright, *The Letter of Aristeas*, 10.

<sup>86</sup> S. Honigman, *The Septuagint and Homeric Scholarship in Alexandria. A study in the narrative of the Letter of Aristeas*, London, Routledge, 2003, esp. pp. 137-138; T. Rajak, *Translation and Survival. The Greek Bible of the Ancient Jewish Diaspora*, Oxford, Oxford University Press, 2009, esp. pp. 86-88.

<sup>87</sup> A. Schenker, *Wurde die Tora wegen ihrer einzigartigen Weisheit auf Griechisch übersetzt? Die Bedeutung der Tora für die Nationen in Dt 4,6-8 als Ursache der Septuaginta*, in *Anfänge der Textgeschichte des Alten Testaments. Studien zu Entstehung und Verhältnis der frühesten Textformen*, Stuttgart, Kohlhammer, 2011, pp. 201-224 [reprint of *Freiburger Zeitschrift für Philosophie und Theologie* 54, 2007, pp. 327-347]. Schenker gives a review of previous explanations for the origin of the LXX on pp. 203-213.

<sup>88</sup> Schenker, *Wurde die Tora wegen ihrer einzigartigen Weisheit auf Griechisch übersetzt?*, p. 214.

<sup>89</sup> Schenker, *Wurde die Tora wegen ihrer einzigartigen Weisheit auf Griechisch übersetzt?*, p. 215.

<sup>90</sup> M. Rösel, *Nomothese: Zum Gesetzesverständnis der Septuaginta*, in *Im Brennpunkt: Die Septuaginta, Band 3: Studien zur Theologie, Anthropologie, Ekklesiologie, Eschatologie und Liturgie der Griechischen Bibel*, edited by S. Kreuzer et al., Stuttgart, Kohlhammer, 2007, pp. 132-150; L. Monsengwo Pasinya, *La notion de nomos dans le Pentateuque grec*, Rome, Biblical Institute, 1973.

<sup>91</sup> See A. Wasserstein and D. J. Wasserstein, *The Legend of the Septuagint. From Classical Antiquity to Today*, Cambridge, Cambridge University Press, 2006, esp. pp. 27-50.

<sup>92</sup> On “The Law in the Diaspora” see J. J. Collins, *The Invention of Judaism. Torah and Jewish Identity from Deuteronomy to Paul*, Oakland, CA, University of California, 2017, pp. 134-158; on the relationship between

“philosophical” legislation (*Let. Aris.* 31)<sup>93</sup>. These claims may well be a Hellenizing reflection of Moses’ praise of the Torah in Deut 4<sup>94</sup>. Even more so, Philo claims that the “translation of the Mosaic Law was made so that it would be available for the benefit of all human beings, not just the Jews”<sup>95</sup> (see Philo, *Life of Moses* 2.41-44). This reflects the idea that the nations would hear “these statutes” (Deut 4:6).

#### 2.4.3 “You shall set up these stones on Mount Gerizim”: Samaritanus

Moses and the elders command Israel to erect large stones in the land (Deut 27:2, cf. v. 4), to “write upon them all the words of this Torah” (v. 3 cf. v. 8), and to build an altar in the same place (v. 5). Where exactly this should take place, however, is disputed among the versions. While the Masoretic tradition, LXX and most other versions locate the altar and the stones on Mount Ebal (v. 4), the Samaritan Pentateuch (SP) reads “Mount Gerizim”. Since 4QDeut<sup>f</sup>, Codex Ludgunensis (Vetus Latina), and Papyrus Giessen 19 support SP’s reading, several scholars consider it original, while proto-MT may present an early anti-Samaritan variant that transfers the Samaritan sanctuary from the mountain of blessing to the mountain of curse (cf. Deut 27:12-13)<sup>96</sup>. Indisputably, SP imagines both the altar, the etiological justification of their temple, and the monumental display of the Torah at Mount Gerizim<sup>97</sup>.

The Samaritans adopted a slightly expanded textual tradition of the Pentateuch, probably in the second century BCE<sup>98</sup>, but may have cemented their view of Gerizim as the legitimate sanctuary in additions to the Decalogue only after the destruction of their temple by John Hyrcanus in 112-111 BCE<sup>99</sup>. Deuteronomy’s references to Gerizim (SP Deut 11:29; 27:4, 12) were a pivotal point of identification for the Pentateuch’s carrier group at this place. The instruction to place a monumental inscription of the Torah on Mount Gerizim connected place and written text through the voice of Moses himself. If Temple and Torah were the two focal points of Samaritan identity, the Torah gained even more importance after the temple’s destruction. While Deuteronomy’s claim to cult centralization probably was the ideological underpinning of this destruction<sup>100</sup>, Jews shared the Samaritans’ fate in 70 CE.

#### 2.4.4 “A sign on your hand”: Phylacteries

“These words that I am commanding you today shall be in your heart. Instil them in your children, and recite them when you sit in your house and when you walk on the way and when you lie down and when you rise. Bind them as a sign on your head, and they shall be as an

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Jews and gentiles see idem, *Between Athens and Jerusalem. Jewish Identity in the Hellenistic Diaspora*, Second Edition, Grand Rapids, MI, Eerdmans, 2000, pp. 261-272.

<sup>93</sup> See Wright, *The Letter of Aristeas*, pp. 149-150, 155.

<sup>94</sup> LXX Deut 4:6 “wisdom” (σοφία) and “wise” (σοφός) are reflected in “philosophical” (φιλοσοφωτέρος). On the implication of the monotheistic claims in on the conception of divine law in Deut 4:32-40 see D. Markl, *Gottes Gesetz und die Entstehung des Monotheismus*, in *Ewige Ordnung in sich verändernder Gesellschaft? Das göttliche Recht im theologischen Diskurs*, edited by M. Graulich and R. Weimann, Freiburg i.Br., Herder, 2018, pp. 49-67, esp. 56-58.

<sup>95</sup> B. G. Wright III, *Translation as Scripture: The Septuagint in Aristeas and Philo*, in *Praise Israel for Wisdom and Instruction. Essays on Ben Sira and Wisdom, the Letter of Aristeas and the Septuagint*, Leiden, Brill, 2008, pp. 297-314, here 309.

<sup>96</sup> On this discussion see Otto, *Deuteronomium 23,16–34,12*, pp. 1920-1921; McCarthy, -yrbdh hla *Deuteronomy*, pp. 122\*-123\*.

<sup>97</sup> For a comparison of these Torah inscriptions on stones with ancient Near Eastern inscriptions, see Sonnet, *The Book within the Book*, pp. 92-94; Otto, *Deuteronomium 23,16–34,12*, pp. 1937-1939.

<sup>98</sup> See S. W. Crawford, *Samaritan Pentateuch*, in *Textual History of the Hebrew Bible 1A*, pp. 166-175, esp. 169; for a list of the expansions in SP see M. Kartveit, *The Origin of the Samaritans*, Leiden, Brill 2009, 310-312.

<sup>99</sup> See G. N. Knoppers, *Jews and Samaritans. The Origins and History of Their Early Relations*, Oxford, Oxford University Press, 2013, esp. pp. 212-214.

<sup>100</sup> *Ibidem*.

emblem between your eyes. And write them on the doorposts of your house and on your gates.” (Deut 6:6-9; cf. 11:18-20)

Deuteronomy thus prescribes both the interiorization and exteriorization of its text. The text is open to figurative readings (cf. Prov 3:3; 6:21). Given the widespread use of textual amulets since the second millennium BCE, however, a literal understanding suggested itself in the cultural context of Deuteronomy’s emergence<sup>101</sup>. While the signs on the hand and between the eyes in Deut 6:8; 11:18 have parallels in Exod 13:9, 16, the motif of writing on the doorposts is unique to Deuteronomy (6:9; 11:20). The earliest literary reflection of the application of both requirements is the *Letter of Aristeas* (*Let. Aris.* 158-159)<sup>102</sup>. The most ancient material evidence of such practices are the phylacteries (*tefillin*) and *mezuzot* found in the caves of the Judean desert and, possibly, Papyrus Nash, which date from between the second century BCE and the second century CE<sup>103</sup>. Some of the phylacteries contain the standard texts later prescribed in Rabbinic sources (Exod 13:1-10, 11-16; Deut 6:4-9; 11:13-21)<sup>104</sup>; some include other texts such as the Decalogue<sup>105</sup>. The material reception that is clearly seen in *tefillin*, went together with the practice of oral recitation of the Shema Yisrael<sup>106</sup> in fulfilment of Deut 6:7; 11:19.

#### 2.4.5 “Write them on the doorposts of your house”: Mezuzot

While the evidence from the Judean Desert includes some *mezuzot* capsules<sup>107</sup>, Philo of Alexandria attests to a different understanding of the requirement to write “these words” on doorposts and gates. Philo expounds, with reference to Deut 6:9; 11:20,

It [the law] commands also write and set them [the just ordinances] forth in front of the door posts of each house and the gates in their walls, so that those who leave or remain at home, citizens and strangers alike, may read the inscriptions engraved on the face of the gates and keep in perpetual memory what they should say and do... and when they enter their houses and again when they go forth. (Philo, *Spec. leg.* 4.142)<sup>108</sup>

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<sup>101</sup> Cf. O. Keel, *Zeichen der Verbundenheit: Zur Vorgeschichte und Neudeutung der Forderung von Deuteronomium 6,8f und Par.*, in *Mélanges Dominique Barthélemy*, edited by P. Casetti, O. Keel and A. Schenker, Fribourg, Éditions Universitaires, 1981, pp. 159-240, esp. pp. 165, 212-214.

<sup>102</sup> Other textual references to *tefillin* and *mezuzot* include Philo of Alexandria (*Spec. leg.* 4.137-139, 142), Josephus (*Ant.* 4.212f.) and early Christian sources, starting with Mt 23:5. For references in Justin Martyr, Origen and Jerome see Keel, *Zeichen der Verbundenheit*, 173-174.

<sup>103</sup> See the helpful overview in N. Jastram, *Other Sources*, in *Textual History of the Hebrew Bible IB*, pp. 105-125, esp. pp. 105-111 (*Tefillin* and *Mezuzot*) and pp. 111-115 (Nash Papyrus). L. H. Schiffman, *Phylacteries and Mezuzot*, in *Encyclopedia of the Dead Sea Scrolls 2*, pp. 675-677, presents the evidence from the perspective of the Rabbinic prescriptions. For the wider context, see Y. B. Cohn, *Tangled Up in Text. Tefillin and the Ancient World*, Providence, RI, Brown University, 2008.

<sup>104</sup> Relevant rules are summarized in the Talmud tractate *Soferim* (8th century CE).

<sup>105</sup> Jerome, commenting on Mt 23:5 around 400 CE, claims that the Decalogue is still worn in head phylacteries in the East; cf. Keel, *Zeichen der Verbundenheit*, 173-174. For the textual form of Deut 5-6 in the DSS phylacteries see G. Brooke, *Deuteronomy 5-6 in the Phylacteries from Qumran Cave 4*, in *Emanuel. Studies in Hebrew Bible Septuagint and Dead Sea Scrolls in Honor of Emanuel Tov*, edited by S. M. Paul et al., Leiden, Brill, 2003, 57-70.

<sup>106</sup> See the helpful compilation of relevant sources in A. Lange and M. Weigold, *The Text of the Shema Yisrael in Qumran Literature and Elsewhere*, in *Textual Criticism and Dead Sea Scrolls. Studies in Honour of Julio Trebolle Barrera. Florilegium Complutense*, edited by A. Piquer Otero and P. A. Torijano Morales, Leiden, Brill, 2012, pp. 147-177.

<sup>107</sup> Jastram, *Other Sources*, pp. 105-111.

<sup>108</sup> Cf. Philo. *With and English Translation* by F. H. Colson. In *Ten Volumes VIII*, Cambridge, MA, Harvard University Press, 1954. I modified Colson’s translation at the beginning of the quotation. I consider “the law” (*ho nómos*) and “the just ordinances” (*tà díkaia*) as the subject and object of the phrase as in *Spec. leg.* 4.137.

Philo suggests that the law inscribed on gates and doors can be read in passing; that is, the inscriptions cannot be encapsulated, but should be publicly visible<sup>109</sup>. Evidence of this interpretation of Deuteronomy's requirement seems to be found in Samaritan inscriptions of the Decalogue and the Shema Yisrael on lintels<sup>110</sup>. Indeed, Hebrew and Greek inscriptions of and allusions to the Shema Yisrael are found on Jewish, Christian, and Samaritan lintels in the Levant<sup>111</sup>. This evidence suggests that Deuteronomy's allusive instructions to write "these words" on doors and gates were applied in diverse modes by Jews, Samaritans, and Christians in late antiquity.

#### 2.4.6 "Written in this book": Amulets and Apotropaic Inscriptions

Although Deuteronomy is notorious for prohibiting magical practices (esp. Deut 18:9-14), the magical power of written texts remained attractive to Jews, Samaritans and Christians alike<sup>112</sup>. The dividing line between phylacteries and other forms of textual amulets with magical use is thin, which is seen in amulets that employ the Shema Yisrael<sup>113</sup>. A particularly interesting example is an amulet found in a 3<sup>rd</sup> century CE child burial in the then province of Pannonia<sup>114</sup>. The amulet contained a gold foil inscribed with a Greek transcription of the Shema Yisrael: ΣΥΜΑ ΙΣΤΡΑΗΛ ΑΔΩΝΕ ΕΛΩΗ ΑΔΩΝ Α. The amulet was worn by a girl, most likely from a Jewish family<sup>115</sup>. Comparable use of the Shema Yisrael is known from rings, amulets and magic bowls<sup>116</sup>.

Deuteronomy's curses that invade the readers' world as "written in this book" (Deut 28:61; 29:20, 26) were especially attractive for apotropaic use<sup>117</sup>. They were invoked on grave

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This interpretation is also found in I. Heinemann's German translation in *Die Werke Philos von Alexandria*. Vol. 2, edited by L. Cohn, Breslau, Marcus, 1910 [reprint Berlin, Walter de Gruyter, 1962].

<sup>109</sup> Keel, *Zeichen der Verbundenheit*, p. 168; Cohn, *Tangled Up in Text*, p. 86.

<sup>110</sup> See Keel, *Zeichen der Verbundenheit*, 175-178. The most ancient of the 16 inscriptions listed by Keel are dated to the 3<sup>rd</sup> century CE. See also F. Dexinger, *Das Garizimgebot im Dekalog der Samaritaner*, in *Studien zum Pentateuch*. FS W. Kornfeld, edited by G. Braulik, Wien, Herder, 1977, pp. 111-133, esp. 122-123; M. Gaster, *Samaritan Phylacteries and Amulets*, in *Studies and Texts in Folklore, Magic, Mediaeval Romance, Hebrew Apocrypha and Samaritan Archaeology I*, New York, Ktav, 1971, pp. 399-408, esp. 399-401; Gaster's view was confirmed in J. Naveh, *Did Ancient Samaritan Inscriptions Belong to Synagogues?*, in *Ancient Synagogues in Israel. Third – Seventh century C.E.*, edited by R. Hachlili, Oxford, BAR, 1989, 61-63. The Mount Gerizim excavations have yielded a probably medieval *mezuzah* inscription with a fragment of the Shema Yisrael: Y. Magen, H. Misgav, and L. Tsfania, *Mount Gerizim Excavations*. Vol. 1: *The Aramaic, Hebrew and Samaritan Inscriptions*, Jerusalem, Israel Antiquities Authority, 2004, p. 262; another inscription that combines the Decalogue with Deut 4:35, 39; 6:4; 10:17, is of a different kind (pp. 263-264).

<sup>111</sup> For a Hebrew inscription of the Shema in Palmyra see D. Noy and H. Bloedhorn, eds., *Inscriptiones Judaicae Orientis. III Syria and Cyprus*, Tübingen, Mohr Siebeck, 2004, pp. 70-73; the same doorway has inscriptions of the blessings of Deut 7:14, 15; 28:5 (pp. 73-75). For the Greek inscriptions see, esp., L. Di Segni, Εἰς θεός in Palestinian Inscriptions, in *Scripta Classica Israelica*, 13, 1994, 94-115 W. K. Prentice, *Magical Formulae on Lintels of the Christian Period in Syria*, in *American Journal of Archaeology* 10, 1906, pp. 137-150, esp. 139-140.

<sup>112</sup> On Jewish magic see D. Lincicum, *Scripture and Apotropaism in the Second Temple Period*, in *Biblische Notizen* 138, 2008, pp. 63-87, esp. 63-66; on the use of Scriptural texts in amulets, incantation bowls and magical papyri pp. 67-74.

<sup>113</sup> See Cohn, *Tangled Up in Text*, pp. 21-24.

<sup>114</sup> See E. Eshel, H. Eshel, and A. Lange, "Hear, O Israel" in *Gold: An Ancient Amulet from Halbtorn in Austria*, in *Journal of Ancient Judaism* 1 (2010) 43-64.

<sup>115</sup> Eshel, Eshel, and Lange, "Hear, O Israel" in *Gold*, pp. 62-63. Christian textual amulets mostly contain texts from the Psalms and the gospels: T. de Bruyn, *Papyri, Parchments, Ostraca, and Tablets Written with Biblical Texts in Greek and Used as Amulets: A Preliminary List*, in *Early Christian Manuscripts. Examples of Applied Method and Approach*, edited by T. J. Kraus and T. Nicklas, Leiden, Brill, 2010, pp. 145-189.

<sup>116</sup> See Eshel, Eshel, and Lange, "Hear, O Israel" in *Gold*, pp. 46, 56-57.

<sup>117</sup> D. Lincicum, *Greek Deuteronomy's "Fever and Chills" and Their Magical Afterlife*, in *Vetus Testamentum* 58, 2008, 544-549.

stones in the first centuries CE to deter tomb violators: “there shall be on him the curses of Deuteronomy”<sup>118</sup>. Two epitaph inscriptions from the Greek island of Rheneia, dated to the 2<sup>nd</sup>-1<sup>st</sup> c. BCE, call on God to avenge the murdered women Heraclea and Martina. While these curse formulations do not use Deuteronomy’s curses, the phrase “spilled her innocent blood” seems to allude to Deut 19:10<sup>119</sup>.

#### 2.4.7 “Moses began to expound this Torah”: Deuteronomy’s Early Interpretation

The precise meaning of the rare verb that refers to Moses presentation of “this Torah” in Deut 1:5 is notoriously difficult to determine. If, indeed, it presents Deuteronomy’s Torah as an explanation of the one at from Sinai<sup>120</sup>, it characterizes Deuteronomy as an act of interpretation. Deuteronomy itself became the object of literary use and interpretation soon, and in diverse forms, which is strong evidence for Deuteronomy’s proto-canonical authority. The curses of Deut 28 may have been alluded to in Jeremiah<sup>121</sup> at an early stage of Deuteronomy’s development. 2 Kgs 14:6 explicitly quotes Deut 24:16. Ezra claims that the expulsion of foreign wives and children (Ezra 9-10) is done “according to the Torah” (10:3), an idea that seems to be derived mainly from Deut 7:1-4, which, however, concerns exclusively the prohibition of marrying Canaanite wives<sup>122</sup>. Deuteronomy’s laws on the judiciary (Deut 16:18-17:13) provide a background for the Chronicler’s narrative of the institution of judiciaries under King Jehoshaphat of Judah (2 Chr 19:4-11)<sup>123</sup>. The Septuagint translated the laws of Deuteronomy as “living laws to be updated and adapted for new generations”<sup>124</sup>. The evidence of the Dead Sea Scrolls shows that “Deuteronomy was one of the most popular religious texts in the Second Temple period”<sup>125</sup>. “Along with the Book of Psalms and Isaiah, Deuteronomy is the book most often quoted from and alluded to” in the New Testament<sup>126</sup>. Jesus is presented as a teacher of Torah who considers the Shema Yisrael, combined with Lev 19:18, the greatest of all commandments (Mk 12:28-34 and parallels)<sup>127</sup>. Deuteronomy features prominently in the works of Philo and Josephus<sup>128</sup>. The most ancient commentary that has come down to us is *Sifre Deuteronomy* (redacted probably in the 3<sup>rd</sup> c. CE<sup>129</sup>).

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<sup>118</sup> D. Lincicum, *The Epigraphic Habit and the Biblical Text: Inscriptions as a Source for the Study of the Greek Bible*, in *Bulletin of the International Organization for Septuagint and Cognate Studies* 41, 2008, pp. 84-92, esp. 88-90.

<sup>119</sup> D. Noy, A. Panayotov, and H. Bloedhorn, eds., *Inscriptiones Judaicae Orientis. I Easter Europe*, Tübingen, Mohr Siebeck, 2004, pp. 235-242, esp. 238.

<sup>120</sup> Otto, *Deuteronomium 1,1-4,43*, pp. 319-321; see also the discussion pp. 303-304.

<sup>121</sup> Cf. G. Fischer, *Fulfilment and reversal: the curses of Deuteronomy 28 as a foil for Jeremiah*, in *Semitica et Classica* 5, 2012, 43-49.

<sup>122</sup> See Vroom, *The Authority of Law*, pp. 187-188.

<sup>123</sup> S. J. K. Pearce, *The Words of Moses. Studies in the Reception of Deuteronomy in the Second Temple Period*, Tübingen, Mohr Siebeck, 2013, esp. pp. 57-68, 252-263, 329-330.

<sup>124</sup> Pearce, *The Words of Moses*, 330.

<sup>125</sup> S. W. Crawford, *Reading Deuteronomy in the Second Temple Period*, in *Reading the Present in the Qumran Library. The Perception of the Contemporary by Means of Scriptural Interpretations*, edited by K. de Troyer and A. Lange, Atlanta, SBL, 2005, 127-140, here 127; see also J. A. Duncan, *Deuteronomy, Book of*, in *Encyclopedia of the Dead Sea Scrolls* 1, pp. 198-202.

<sup>126</sup> S. Fuhrmann, *Deuteronomy, Book of. II. New Testament*, in *Encyclopedia of the Bible and its Reception* 6, 2013, pp. 658-665, here 658. See also S. Moyise and M. J. J. Menken, eds., *Deuteronomy in the New Testament. The New Testament and the Scriptures of Israel*, London, T&T Clark, 2007; D. Lincicum, *Paul and the Early Jewish Encounter with Deuteronomy*, Tübingen, Mohr Siebeck, 2010.

<sup>127</sup> On the quest for the historical Jesus as halakhic teacher see, esp., J. P. Meier, *A Marginal Jew. Rethinking the Historical Jesus 4: Law and Love*, New Haven, 2009; on the commandments of love pp. 478-646.

<sup>128</sup> T. Lim, *Deuteronomy in the Judaism of the Second Temple Period*, in *Deuteronomy in the New Testament*, pp. 6-26, esp. 23-25; Lincicum, *Paul and the Early Jewish Encounter with Deuteronomy*, pp. 100-116, 169-183.

<sup>129</sup> See G. Stemmerger, *Einleitung in Talmud und Midrasch*, München, Beck, 2011, p. 302.

I shall here single out just two momentous examples of how Deuteronomy's authority was invoked in the New Testament – in order to relativize it. Paul's letter to the Galatians (written in the 50's CE) presents – besides his letter to the Romans – his most thorough reflection on the "law" (νόμος). In his argument against "works of the law" and for faith in Christ, Paul presents Abraham as an example of faith (Gal 3:6-9) and then quotes twice from Deuteronomy. First, he proves that those who rely on the works of the law are under a curse by quoting from Deut 27:26: "Cursed is everyone who does not observe and obey all the things written in the book of the law" (Gal 3:10). He then interprets "cursed is everyone who hangs on a tree" (Gal 3:13, cf. Deut 21:23) as referring to Christ's redemption<sup>130</sup>. Through his death on the cross, Christ himself became a curse to liberate the faithful from the curse of the law. The quotation from Deut 27:26 is actually amplified by the phrase "written in the book". The resulting phrase "written in the book of the law" is inspired by passages in Deuteronomy that refer to curses (Deut 28:61; 29:20; in 28:59, the phrasing is expanded) and to the statutes and ordinances (30:10)<sup>131</sup>. Deuteronomy's self-authorization through the threat of curses is thus taken up by Paul in order to overcome those curses by quoting and interpreting another passage from Deuteronomy itself. The introduction of the quotation in Gal 3:10, "for it is written [γέγραπται γάρ]"<sup>132</sup> is mirrored in the (expanded) quotation itself: "all that is written [πᾶσιν τοῖς γεγραμμένοις] in the book of the law." The authority claimed by Deuteronomy provokes Paul's struggle with its curse.

Another interesting example is the Pharisees' question on divorce in the gospels of Mark and Matthew (Mk 10:2-12 // Mt 19:3-9)<sup>133</sup>. In this scene, certain Pharisees argue – against the background of Deut 24:1 – that Moses allowed divorce. Jesus, in his response, claims that Moses made this concession because of "your hardheartedness" (*πρὸς τὴν σκληροκαρδίαν ὑμῶν*). This word is drawn from LXX Deut 10:16, where the Hebrew text reads "circumcise the foreskin of your heart", which the Septuagint renders "circumcise your hardheartedness", making the metaphor more easily comprehensible and maybe less offensive to Hellenistic ears. The motif of the circumcision of the heart reappears again in Deut 30:6, where Moses announces that God himself will circumcise the hearts of Israel at their return from exile. Jesus' argument implies that this envisioned 'eschatological' state is now realised and refers back to the 'protological' ideal of creation (Gen 1:27; 2:24; cf. Mk 10:6-8) to argue against divorce. The gospel thus employs a theological motif from Deuteronomy itself to formulate an argument that revises a legal view expressed in Deuteronomy. Jesus appears as an authoritative interpreter of Torah<sup>134</sup>, acting as the "prophet like Moses" whom Moses himself had announced (Deut 18:15-18).

These two examples from the New Testament may suffice to show the tension between the authority of Sacred Scriptures of early Judaism – which early Christians accepted –, and

<sup>130</sup> On the rationale and inner tensions of this text see, e.g., R. E. Ciampa, *Deuteronomy in Galatians and Romans*, in *Deuteronomy in the New Testament*, pp. 99-117, esp. 101-105.

<sup>131</sup> While the respective formulations in Deuteronomy always use the self-referential deixis "this book of the Torah", Paul avoids such deixis and uses simply the definite article to refer to "the book of the law" as a text external to his letter.

<sup>132</sup> On the form and function of citation formulae as reference to authoritative Scriptures see, e.g., J. A. Fitzmyer, *The use of explicit Old Testament quotations in Qumran literature and in the New Testament*, in *Essays on the Semitic Background of the New Testament*, London, Geoffrey Chapman, 1971, pp. 3-58; M. J. Bernstein, *Introductory Formulas for Citation and Re-citation of Biblical Verses in the Qumran Pesharim*, in *Dead Sea Discoveries* 1, 1994, pp. 30-70; K. L. Spawn, "As It Is Written" and Other Citation Formulae in the Old Testament. Their Use, Development, Syntax, and Significance, Berlin, Walter de Gruyter, 2002.

<sup>133</sup> For details on the following see D. Markl, *Jesu Argumentation gegen die Institution der Ehescheidung nach Mk 10,2-12; Mt 19,3-9 als angewandte Rechtshermeneutik der Tora*, in *Zwischen Jesu Wort und Norm. Kirchliches Handeln angesichts von Scheidung und Wiederheirat*, edited by M. Graulich and M. Seidnader, Freiburg i.Br., Herder, 2014, pp. 26-47.

<sup>134</sup> On the relationship between Christology and authoritative interpretation of divine law see Markl, *Gottes Gesetz und die Entstehung des Monotheismus*, pp. 64-67.

these Scriptures' claim to authority in ethical and practical matters, which some early Christians sought to revise. References to Deuteronomy and its interpretation were among the principle means to relativize Deuteronomy's authority – through recourse to that very same authority.

### 3. *The Ambivalence of Authority in Deuteronomy*

The preceding considerations cover examples of diverse processes of reception through the first millennium from Deuteronomy's emergence to its early transmission and interpretation, from the 7<sup>th</sup> century BCE to late antiquity. In the following, I shall evaluate the findings against the background of the considerations on Deuteronomy as protocanonical literature and as an expression of cultural hegemony (see above, 1.1-2).

Deuteronomy's claim to authority is derived in two ways. It reacts to and transforms Neo-Assyrian rhetoric of hegemonial power and it revises a pre-existing collection of laws that has been transmitted in the Covenant Code. Deuteronomy's 'secondary' nature as legal revision may be one of the principal reasons why the book employed such a great diversity of literary techniques to promote its own authority and reception. Revising a more ancient and venerable law collection, it required justification and self-promotion to motivate acceptance. Deuteronomy's technique of revision was subverted in the Temple Scroll's rewriting that claimed to be "more original" Torah, and in Jubilees' usurpation of Deuteronomy's role as a "witness"<sup>135</sup>. At the same time, Deuteronomy's promotion of its own reception played out through actual textual transmission in scrolls, phylacteries, amulets and *mezuzot*. Although termed 'second law', Deuteronomy "attained first place in Second Temple Judaism."<sup>136</sup> Deuteronomy's authority is seen, especially, in its early interpretation, since interpretation presupposes authority and seeks to "transfer the authority of the interpreted object to the interpretation"<sup>137</sup>. Growing authority is also seen in the processes of textual standardization that developed in the context of Hellenistic and Roman cultural influence, but also involved certain interpretations of Deuteronomy's canon formula.

The sociological contexts and dynamics behind Deuteronomy's early transmission and interpretation can be drawn in a rough sketch. There is little reason to doubt that the temple in Jerusalem continued to be a centre of scribal activity until its destruction in 70 CE. Deuteronomy's self-envisioning in the hands of the "Levitical priests" in the central sanctuary (Deut 17:9, 18) continued to have its institutional and social realization throughout the Second Temple period. At the same time, Deuteronomy's attempt to 'democratize' scribal culture, to have 'these words' written throughout 'Israel' (Deut 6:8-9) and entrusted to the elders of the people (31:9), also played out in decentralized contexts of reception. An important secondary centre of Torah reception emerged with its translation into Greek in Ptolemaic Alexandria. The Samaritan temple on Mount Gerizim and its scribes became another institution and carrier group of their expanded version of the Torah. The textual finds from the Judean desert attest to decentralized use of Scripture scrolls. The writings of the Sectarian group at Qumran and of early Christians are comparable in that they both continued to appreciate the authority of Deuteronomy (and the Torah as a whole, among other writings) and engaged with this authority by producing interpretative literature that claimed authority on its own part. Besides the priesthood of Jerusalem, Torah writings were transmitted by secondary carrier groups in Judea, Samaria, Alexandria, and other centres and peripheries of the diaspora. After the destructions of the temples of Gerizim and Jerusalem, surviving carrier groups probably even

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<sup>135</sup> The resulting conflict of authority was probably one of the reasons why the Temple Scroll and Jubilees were not accepted as part of the standard canons in Judaism and Christianity.

<sup>136</sup> Crawford, *Reading Deuteronomy in the Second Temple Period*, p. 140.

<sup>137</sup> Vroom, *The Authority of Law*, p. 207.

intensified their efforts in textual transmission, since the writings were their surviving heritage of religion.

Deuteronomy can thus be seen as an instructive example of the productive ambivalence of Scriptural authority. Deuteronomy claims – as many other biblical texts do – the ultimate authority of the one and only God, and this notion has been extended to the entire biblical canon through the doctrine of inspiration. The notion of divine authority is critical to reception, since this claim, if accepted, leads to great intensity of reception and a fundamental hermeneutical problem. Divine authority easily implies the claim to eternal and immutable truth, while cultural developments and the Bible's migration to diverse cultures with an ever growing number of carrier groups and receiving communities has constantly required interpretation and adaptation. The tension between textual authority and changing circumstances gave rise to a variety of hermeneutical procedures that tried to justify both: the divine truth of the sacred texts and the flexibility and adaptability of their meaning. In Rabbinic Judaism, Deuteronomy was transformed through in Halakhic re-interpretation, while Christians preferred to interpret the book in ethicised and allegorical modes. Notwithstanding a long history of polemics and violent conflicts between Jews and Christians, Deuteronomy's Torah spread "across the sea" (Deut 30:13) as "wisdom and understanding in the eyes of the nations" (4:6).