The Ethical Functions of Deuteronomic Laws in Early Second Temple Judaism

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THE ETHICAL FUNCTIONS OF DEUTERONOMIC LAWS
IN EARLY SECOND TEMPLE JUDAISM

by

Paul Cizek

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Marquette University,
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ABSTRACT
THE ETHICAL FUNCTIONS OF DEUTERONOMIC LAWS
IN EARLY SECOND TEMPLE JUDAISM

Paul Cizek
Marquette University, 2022

This study is about the ethical functions of Deuteronomic laws in the 3rd–1st centuries BCE: what they were and how to study them.

Since the 1980’s boom in Hebrew Bible ethics studies, at least eight theses regarding the ethical functions of Deuteronomic laws in antiquity have become prominent. Though the scholars who advance these theses employ diverse methods, they commonly make the Deuteronomic laws themselves their direct objects of analysis, basing conclusions about how the laws functioned on the structure, logic, form, or historical and literary contexts of the laws. As Henry McKeating noted in 1979, however, how a law actually functioned in antiquity might have differed from what the law’s literary appearance and context suggest. Nonetheless, such direct ethical analysis of Pentateuchal laws continues unabated.

Alternatively, I approach the ethical analysis of Deuteronomic laws indirectly. I demonstrate how Deuteronomy’s laws pertaining to testimony (Deut 19:15–21), kings (Deut 17:14–20), and vows (Deut 23:22–24) functioned ethically in early Second Temple period Jewish texts, including the Temple Scroll, Susanna, Daniel, Psalm of Solomon 17, the Damascus Document, Ecclesiastes, the Epistle of Jeremiah, and 1 Esdras. The eleven case studies I analyze each provide evidence of how one of the three Deuteronomic laws functioned ethically on the particular occasion an author used it.

On the basis of the case studies, I then make two types of arguments. First, I evaluate and nuance the eight surveyed theses, arguing that Deuteronomic laws functioned both as divine rules to be obeyed but also as a basis for reasoned action, that the laws functioned dynamically as a topically comprehensive law despite their topical gaps, that the laws’ prescriptive verbal formulations functioned both prescriptively and as the basis for descriptive ethical judgments, that the laws functioned to influence conduct and, to a limited extent, character, and that Deuteronomic laws could be conceived of as functioning in conceptual schemes other than YHWH’s covenant with Israel. Secondly, I argue for the insufficiency of direct analysis alone and the need for indirect analysis in historical ethics studies on Pentateuchal laws and other Judeo-Christian texts.
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Paul Cizek

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CHAPTER 1: DEFINING THE STUDY

This is a study in the history of ethics focused on the ethical functions of Deuteronomic laws in the early Second Temple period. I demonstrate how Deuteronomy’s laws pertaining to testimony (Deut 19:15–21), kings (Deut 17:14–20), and vows (Deut 23:22–24) functioned ethically in the writings of various Jewish authors from the 3rd–1st centuries BCE. Each of these three laws was employed by means of allusion two to five times in early Second Temple period texts. Each allusion provides evidence of how one of these laws functioned ethically on the particular occasion an author used it. Altogether, the eleven case studies I analyze provide a glimpse of how Deuteronomic laws functioned ethically in the early Second Temple period.

In this first chapter, I begin by surveying recent theories about the ethical functions of Deuteronomic laws and cast suspicion on such theories by calling into question a shared methodological feature in the studies that undergird the theories. I then turn to discuss my alternative approach for analyzing the ethical functions of Deuteronomic laws, beginning with a discussion of key terms and assumptions before describing my method. I conclude the chapter by addressing a limitation of the study and a possible objection to the study’s methods.

The Status of the Question

There is no shortage of recent studies related to ethics and Deuteronomic laws. Therein a number of common theses regarding the ethical functions of Deuteronomic laws have emerged. Here I detail eight of these theses, delineating them as three debates whose poles comprise six theses, one consensus position, and one implicit assumption.
The first debate concerns whether Deuteronomic laws functioned as divine rules to be obeyed simply because they were divine rules or as the basis for reasoned action.¹ The thesis that Deuteronomic laws functioned as divine rules to be obeyed simply because they were divine rules rests on three types of evidence.² First, the laws themselves take the form of prescriptions that come either directly from YHWH or are mediated through Moses, and the laws demand obedience. For example, “These are the statutes and ordinances that you must be careful to do in the land that YHWH, the God of your ancestors, has given to you to possess” (Deut 12:1).³ “This day, YHWH your God is commanding you to do these statutes and the ordinances, so you must carefully do them with all your heart and with all your soul” (Deut 26:16). Secondly, some laws take apodictic form, issuing prescriptions to be followed without regard for circumstances or consequences.⁴ For example, “A single witness shall not arise against a man concerning any guilt or any sin for any sin that may be sinned” (Deut 19:15a). Thirdly, blessings and curses from YHWH are contingent on whether or not Israel obeys the laws. “Cursed be whoever does not uphold the words of this law by doing them.’ And all the people will say ‘Amen.’ But if you carefully obey the voice of YHWH your God, by carefully doing all his commandments that I am commanding you today, YHWH your God will set you

¹ See John Barton, *Ethics in Ancient Israel* (Oxford: Oxford University Press, 2014), 127–56, and Joseph R. Kelly, “Orders of Discourse and the Function of Obedience in the Hebrew Bible,” *JTS* 64.1 (2013): 1–6, for an overview of this debate during the twentieth century. The debate is often framed to include all Pentateuchal laws, though Barton, ibid., 132, notes that the theme of obedience to God’s commands is especially strong in Deuteronomy.


³ All translations are my own unless otherwise noted.

⁴ Barton, *Ethics*, 129.
high above all the nations of the land. And upon you all these blessings will come and
take you, if you obey the voice of YHWH your God” (Deut 27:26–28:2). One
interpretation of such evidence is that Deuteronomic laws functioned as YHWH’s
commands that needed to be obeyed simply because they came from YHWH, whose
authority was presumed, irrespective of any other reason for or against obeying them
(e.g., consequences).

The alternative thesis, that Deuteronomic laws functioned as a basis for reasoned
action, depends on two types of evidence. First, the presence of motive clauses in the
legal material suggests that the laws functioned to persuade.5 For example, Deut 23:22a
prescribes the prompt payment of vows, and v. 22b functions to dissuade delayed
payment: “For YHWH your God will surely seek it from you and you will incur guilt.”
Likewise, purging the evil from the midst of the Israelite community is a recurring clause
that explains the motive for the actions prescribed in various laws (Deut 13:6b; 17:7b;
19:19b; 21:9a, 21a; 22:21b, 22b, 24b; 24:7b). Such motive clauses engage the reason of
the addressee, functioning to persuade the addresssee to take the action the law
prescribes.6 Second, the formulation of laws evokes images in the mind of the addresssee,
drawing the addresssee into a narrative world that goes beyond the literal meaning of the
law itself and becomes part and parcel of the law.7 For example, Deut 13:2–4a reads, “If
a prophet stands in your midst, or a dreamer of dreams, and puts before you signs and
wonders (and the signs and wonders that he spoke to you come), saying, ‘Let us go after

5 Barton, Ethics, 138, and Dale Patrick, Old Testament Law (Atlanta: John Knox, 1985), 102, note the
high frequency of motive clauses in Deuteronomistic laws.
7 See Barton, Ethics, 145–48, who builds on Bernard S. Jackson, Wisdom-Laws: A Study of the
Reading Law as Narrative: A Study in the Casuistic Laws of the Pentateuch (Atlanta: Society of Biblical
other gods’ (whom you have not known) ‘and serve them,’ do not listen to the words of that prophet or to that dreamer of dreams.” Just to the extent that the addressee envisions the scenario in her particular midst, envisions herself seeing particular signs and wonders, and is subjected by means of quotation to hearing (in a sense) the prophet’s words, the law functions by engaging imaginative particulars in the mind of the addressee that go beyond the literal meaning of the law and become part and parcel of how the law frames its prescription. Thus, the Deuteronomic laws’ motive clauses and narrative form function to catalyze the addressee’s reasoning regarding action. While the majority of scholars contend that Deuteronomic laws functioned both as divine rules to be obeyed and as the basis for reasoned action in complementary fashion, these two theses define the debate’s poles.

A second debate concerns whether Deuteronomic laws together functioned as a static, gap-ridden law or a dynamic, comprehensive law. Scholars on both sides of this debate acknowledge that Deuteronomic laws (and those in the wider Pentateuch) do not

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8 In a distinct but related manner, Patrick, Old, 189–90, 198–200, argues that Pentateuchal laws, prior to taking written form, functioned to point beyond themselves to YHWH’s unwritten law of justice and righteousness, which itself was the basis for reasoning.


address every conceivable or at least desirable topic. In other words, as a set of precepts, there are gaps. Some take the laws at face value and argue that the topical gaps limited the functionality of the law: if the law did not explicitly cover X, then the law was not useful regarding X. Others, on the basis of comparative legal analysis, argue that Deuteronomic laws implicitly reflect and/or contain the values and principles of the society that produced the law and that such embedded values and principles enabled the laws to function as the basis for addressing issues not explicitly covered by the law.

These scholars surmise that interpreters extended the applicability of laws by means of analogy, augmentation, or some other form of rationalization and so filled in the law’s gaps to make it functionally comprehensive. While some attempt to stake out an intermediate position in this debate, the terms of the debate necessitate scholars arguing

11 E.g., Wenham, Story, 80–82, characterizes biblical laws (with few exceptions; cf. ibid., 80, n. 25) as limited to defining behavioral minimums and punishments and finds more ethical potential in psalms and narratives. Richard B. Hays, The Moral Vision of the New Testament: Community, Cross, New Creation, A Contemporary Introduction to New Testament Ethics (San Francisco: HarperSanFrancisco, 1996), 446, argues that the Pentateuch is insufficient for discussions on abortion because “there is nothing in the context of the Decalogue, or indeed anywhere in the Torah, that offers an answer to” whether or not abortion is murder.


13 Patrick Miller’s thesis that the Covenant Code and Deuteronomic Code are the time and place bound derivations of the dynamic, timeless, and sufficient Decalogue entails that the codes functioned in particular time and place bound contexts, namely in the wilderness and in the land, respectively, and not beyond those. Cf. idem, “Sufficiency,” 23; idem “Constitution,” 261–62; idem, “The Good Neighborhood: Identity and Community through the Commandments,” in Character and Scripture: Moral Formation, Community, and Biblical Interpretation, ed. William P. Brown (Grand Rapids: Eerdmans, 2002), 61; idem, “That You May Live: Dimensions of Law in Deuteronomy,” in Concepts of Law in the Sciences, Legal Studies, and Theology, ed. Michael Welker and Gregor Erzelmüller, Religion in Philosophy and Theology 72 (Tübingen: Mohr Siebeck, 2013), 148. Birch, Let, 164–65, resists the conception of Pentateuchal law codes as “static, fixed, authoritative codes,” claiming instead that the law codes functioned as guidelines for the ever-evolving relationship between Israel and God.” Yet, Birch (ibid., 165–72) follows Miller’s thesis that only the Decalogue is dynamic and comprehensive, and attributes only ongoing relevance for the law codes proper.
for either the static and gap-ridden or dynamic and comprehensive functions of Deuteronomic laws.

The third and final debate concerns whether Deuteronomic laws functioned to influence conduct alone or also to influence character. There is good reason to think that Deuteronomic laws functioned to influence conduct, as the prescriptive form of the laws certainly suggests. For example, the formulation “If you go out for battle against your enemy and you see horses and chariots, a people more numerous than you, do not be afraid of them” (Deut 20:1a), certainly prescribes how the Israelites ought to conduct themselves in battle. Nobody doubts that such a law functioned to influence conduct but some scholars have argued that the law also functioned to influence the Israelites’ character.14 In the law just cited, the law’s motive clause, “for YHWH your God, who brought you up from the land of Egypt, is with you” (Deut 20:1b), is not formulated prescriptively, but rather makes an identity claim about the Israelites, thereby influencing their character. While early ethical studies tended to focus exclusively on the conduct that Pentateuchal laws were thought to influence,15 more recent studies have argued that Pentateuchal laws also functioned to form the character of the addressee.16

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14 In biblical studies, “character” is often employed as an umbrella term to cover concepts like virtue, moral progress, moral formation, moral vision, imagination, desire, and identity. Studies in character ethics consciously build on the work of Stanley Hauerwas and Alasdair MacIntyre. Regarding the formation and education of character, see Barton, *Ethics*, 161–69.


16 E.g., Barton, *Ethics*, 146–47, acknowledges that the narrative world evoked in casuistic formulations functioned to influence moral judgment. Reuschling, “Divine,” 243, 245, contends that the actions prescribed by divine commands have a role to play in humans achieving the end for which they were made. William P. Brown, “Preface,” in Brown, *Character*, xi, xiii, claims that Pentateuchal laws functioned to form identity. Miller, “Good,” 57, 62–63, 65, argues that identity clauses (e.g., Deut 5:6) and some motive clauses (e.g., Deut 5:9b–10, 15) functioned to form identity and that obedience to laws helped constitute a moral community and order desire. Whybray, *Good*, 47, contends that Deuteronomic laws functioned to help the Israelites achieve the “good life.” Birch, *Let*, 165–66, argues that the motive clauses
Regardless of what position one might take in these three debates, there is a consensus thesis that Deuteronomic laws functioned within the particular covenant established between YHWH and Israel, first at Sinai and again on the plains of Moab.\(^\text{17}\) The thesis is based on the final position of Deuteronomic laws between Moses’s exhortations that Israel should be loyal to and fulfill the statutes of YHWH, who brought them out of Egypt (Deut 4–5), and the later blessings and curses material (Deut 27:15–28:68) and covenant ratification ceremony (Deut 29:1–30:20). According to the thesis, the commandments and laws in Deuteronomy are predicated on YHWH’s good works on Israel’s behalf both in the past and in the future.\(^\text{18}\) For example, the prelude to the commandments—“I am YHWH your God who brought you out from the land of Egypt, from the house of slavery” (Deut 5:6)—recalls YHWH’s past deeds for Israel as the basis for the commands that follow. Elsewhere, Moses implores Israel’s obedience to Deuteronomy’s commandments and laws on the basis of their future with YHWH: that Israel may live to enter, possess, and thrive in the land that YHWH is giving to them (Deut 4:1, 40; 6:3) and may avoid the covenant curses and reap the covenant blessings (Deut 27:15–28:68). The covenant functionality of Deuteronomic laws, moreover, suggests to some that the law’s functionality was limited to a particular people, namely

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the Israelites and their descendants who entered into the covenant with the particular deity, YHWH.¹⁹ The Deuteronomic laws, thus, functioned as stipulations within YHWH’s particular covenant with the Israelites.

Finally, what is assumed in these three debates and the covenant thesis is that the prescriptive verbal formulations in Deuteronomic laws functioned prescriptively. Not all verbal formulations in Deuteronomic laws are prescriptive. There are also identity clauses (e.g., Deut 13:6a; 20:1b), motive clauses (e.g., Deut 17:19b–20; 22:5b), and conditional clauses in casuistic formulations (e.g., Deut 22:6a; 8α). Scholars typically argue that these types of clauses played non-prescriptive ethical functions, specifically in the formation of judgments and character. On the other hand, it is assumed that the prescriptive verbal forms in Deuteronomic laws functioned to prescribe action. Whether the laws functioned as divine rules simply to be obeyed or as the basis for reasoned action, and whether they functioned as a static, gap-ridden set of laws or a dynamic, comprehensive set of laws, the prescriptive verbal formulations in Deuteronomic laws are assumed to have functioned prescriptively. So too, in the covenant thesis, the prescriptive verbal formulations in Deuteronomic laws are assumed to have functioned prescriptively for the Israelites and their descendants. Even when it is acknowledged that the aim of Deuteronomic prescriptive verbal formulations was the formation of character (and not just action), it is assumed that these formulations functioned to prescribe an action that would form character. Indeed, form analysis alone of Deuteronomy’s prescriptive verbal formulations would suggest that they functioned prescriptively. In other words, what studies regarding the ethical functions of Deuteronomic laws do assume and what it

seems wholly reasonable to assume on the basis of form analysis is that Deuteronomy’s prescriptive verbal formulations functioned prescriptively.

These eight theses constitute prominent attempts in recent scholarship to describe the ethical functions of Deuteronomic laws in antiquity. The purpose of my study is to test these theses. Rather than engage them head-on, however, I will highlight and problematize a common methodological feature of the studies that support the theses and thereby indirectly call them into question.

Despite scholars employing a diversity of methods in the studies that support these eight theses, I contend that all of these studies share a common methodological feature that I describe as direct analysis. Scholars who argue that Deuteronomic laws functioned as divine commands simply to be obeyed depend on formal analysis of the laws’ prescriptive formulations and analysis of the laws’ logic, which makes obedience the determinant of consequences. Scholars who argue that Deuteronomic laws functioned as the basis for reasoned action likewise employ formal analysis of the laws’ non-prescriptive formulations, analysis of the logic contained in motive clauses, and analysis of the laws’ literary history. Scholars who argue for either the topically limited or comprehensive functions of Deuteronomic laws employ historical critical methods to contextualize the laws’ terms and concepts among other ancient near eastern law codes or within the wider Pentateuch. Those who argue that Deuteronomic laws functioned to form character analyze the laws according to their form and logic. Scholars who argue for the covenant functionality of Deuteronomic laws argue on the basis of the laws’ form, logic, and literary positioning in Deuteronomy. And, the assumption about the prescriptive functions of prescriptive verbal formulations in Deuteronomic laws would
need no more than a formal analysis, if in fact the assumption was ever defended. Despite this diversity of methods, however, all of the studies I have noted share a common methodological feature: the laws are the primary object of analysis even when the laws are examined in light of their historical, literary, or canonical contexts. I call this method direct analysis.

While a direct approach to Deuteronomic laws is not without value, Henry McKeating’s critique of such an approach remains persuasive.\textsuperscript{20} McKeating writes, "We are unwise to use the laws as a starting point for any discussion of Israelite ethics. The study of ethics must begin with an enquiry into actual behavior."\textsuperscript{21} “We need to know how readily it [the law] was resorted to, how rigorously it was applied, and whether the penalty prescribed was normally inflicted or merely a possible maxim."\textsuperscript{22} In other words, making the biblical laws themselves the primary object of analysis, as does direct analysis, is limited in value since the laws themselves do not evidence how the laws were actually used. Accordingly, McKeating turned to biblical narratives as the starting place for ethical inquiry. In narratives, McKeating expected to find “examples of actual behavior, often described in a quite unselfconscious way,”\textsuperscript{23} which could then provide historical context for assessing how biblical laws actually functioned.\textsuperscript{24} I am less

\begin{flushright}

\underline{21} Ibid., 66.

\underline{22} Ibid.

\underline{23} Ibid., 66. For a similar turn to narrative for its indirect evidence of ethical assumptions, see John Barton, “The Moral Vision of the Old Testament,” in \textit{Understanding}, 4–10. On the contrary, while Otto, “Aims,” 162, like McKeating, distinguishes the religious and ethical ideas expressed in the Hebrew Bible from the actual behavior of Israelites and Judeans, he rejects the possibility making actual behavior the object of analysis “because of the fragmentary sources we have for reconstructing how people really lived and acted.”

\underline{24} To my knowledge, McKeating did not pursue this line of inquiry systematically, i.e., moving between narrative evidence and legal evidence on a case by case basis.
\end{flushright}
confident than McKeating, however, that biblical narratives necessarily exemplify actual behavior, since at least some biblical narratives contain idealized or polemic depictions of characters and actions. Still, even without following McKeating’s turn to narrative, his critique of making legal formulations themselves the primary object of analysis remains persuasive and casts suspicion on the studies that support the eight theses I have surveyed. These studies may illumine features of the Deuteronomic laws themselves but do not provide evidence of how the laws were actually used in ancient Israel or Second Temple Judaism.25

One aim of my study is to investigate how Deuteronomic laws were actually used ethically and then assess the eight theses I have surveyed. To this end, I identify and analyze eleven cases in which one of three Deuteronomic laws was used ethically in early Second Temple Jewish literature.26 On the basis of these eleven cases, I then assess the

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26 See chapters 2–4. My own indirect ethical analysis of Deuteronomic laws is reminiscent but distinct from the indirect ethical analysis of the Decalogue by Richard A. Freund, “The Decalogue in Early Judaism and Christianity,” in The Function of Scripture in Early Jewish and Christian Tradition, ed. Craig A. Evans and James A. Sanders, JSNTSup 154 (Sheffield: Sheffield Academic, 1998), 124–41. Cf. idem, Understanding Jewish Ethics (Lewiston, NY: Mellen, 1990), 51–67. Freund argues that differences of order and content in the versions of the Decalogue as attested by various ancient Jewish and Christian texts and manuscripts evidence that the Decalogue was not understood by ancient Israelites or early Jews and Christians to be a fixed, one-time expression of ethical norms but a vehicle for ongoing ethical expression. While sympathetic to Freund’s method and conclusions, I am unconvinced that the textual variations to which Freund appeals evidence anything more than transmission variants (which I discuss below) motivated by the desire to harmonize Pentateuchal versions or aid scribal memory, both of which Freund suggests (idem, “Decalogue,” 135, 140). My own indirect analysis is also reminiscent and inspired by Michael Fishbane, Biblical Interpretation in Ancient Israel (Oxford: Clarendon, 1988), esp. 91–277, Bernard M. Levinson, Deuteronomy and the Hermeneutics of Legal Innovation (New York: Oxford University Press, 1997), and idem, Legal Revision and Religious Renewal in Ancient Israel (Cambridge: Cambridge University Press, 2008), though Fishbane and Levinson focus their analyses on Pentateuchal laws prior to their final literary development (which I discuss below) and on scribal interpretive techniques, while I focus on Deuteronomic laws after they achieved literary stability and on their ethical functions.
eight theses concerning the ethical functions of Deuteronomic laws. In so doing, I also aim to demonstrate the contribution of indirect analysis in historical ethics studies.

**Terms and Assumptions**

This study demonstrates how Jewish authors in the early Second Temple period used laws from the book of Deuteronomy by means of allusion to reason through their particular ethical concerns. Here, I clarify what I assume about the book of Deuteronomy in the early Second Temple period, what I mean by and assume about “Deuteronomic laws,” my assumptions about ethics generally and ethics in ancient Israel and Second Temple Judaism, and what I mean by “allusion.”

I make three assumptions about the book of Deuteronomy in the early Second Temple period. First, I accept the thesis that Deuteronomy’s literary development continued into the late Persian or early Hellenistic periods (i.e., late fifth to late fourth century BCE) with the redaction of the Pentateuch. Literary critical studies have demonstrated that the book of Deuteronomy developed in stages over an extended period

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27 See chapter 5.
28 I follow Emanuel Tov, *Textual Criticism of the Hebrew Bible*, 3rd ed. (Philadelphia: Fortress Press, 2012), 165–69, 220, 283–85, in distinguishing between literary variants and transmission variants. Tov proposes that biblical texts developed in a series of alternating literary developments and literary crystallizations. In periods of literary development, authors and scribes introduced sizable changes to a text’s content such that the text became a literary variant (i.e., a new edition) of the text from which it came. When periods of literary development ended, texts crystallized and were considered to be final versions. At some point, a new period of literary development could start the whole process again. In the periods of literary crystallization, scribes transmitted the text, intentionally and unintentionally introducing small variants conventionally called minuses and pluses. For example, some unintentional minuses appear to be due to homoioteleuton, while some intentional pluses appear to be due to harmonization. Unlike literary variants, however, transmission variants (even when they were intentional) were not intended to create a new version of the text, but were considered to be within the realm of scribal freedom in the process of textual transmission. Eugene Ulrich, “The Old Testament Text and Its Transmission,” in *The New Cambridge History of the Bible*, ed. James Carleton Paget and Joachim Schaper (Cambridge: Cambridge University Press, 2012), 84, makes a similar distinction between literary variants and textual variants, though rejects that there were discrete periods of composition and transmission. David M. Carr, *The Formation of the Hebrew Bible: A New Reconstruction* (Oxford: Oxford University Press, 2011), 34–36, 145, also distinguishes between major revisions and three other types of variants, specifically harmonizations, memory variants, and minor scribal glosses.
of time. There is considerable debate about whether Deuteronomy’s literary development began in the late eighth or seventh centuries BCE, during the reigns of kings Hezekiah (727/715–698/687 BCE), Manasseh (698/687–642 BCE), or Josiah (639–609 BCE), or alternatively during the sixth-century exilic period, but it is not necessary for the purposes of this study to take a position in the debate. For my purposes, dating Deuteronomy’s final literary development and crystallization requires more decisiveness. On literary-critical grounds, most agree that Deuteronomy’s literary development continued into the exilic period. An increasing number of scholars, moreover, argue that the literary development of Deuteronomy’s laws and narratives continued and concluded with the redaction of the Hexateuch and the Pentateuch between the late fifth and late fourth centuries BCE. Correspondingly, the Greek translations of Deuteronomy, stemming from the translation of the Pentateuch in the early third century BCE, display


31 Otto, “History,” 228–33; idem, Deuteronomium 1–11, 1:238–48; Nelson, Deuteronomy, 8; Weinfeld, Deuteronomy 1–11, 14.


no alternative (i.e., earlier) literary version of Deuteronomy, thereby providing text-critical confirmation of Deuteronomy’s final literary stability at that time, if not sooner.\footnote{34}{Eugene Ulrich, \textit{The Dead Sea Scrolls and the Developmental Composition of the Bible}, VTSup 169 (Leiden: Brill, 2015), 42; Stone, “Some,” 14; Carmel McCarthy, ed., \textit{Deuteronomy}, BHQ 5 (Stuttgart: Deutsche Bibelgesellschaft, 2007), 7; Carr, \textit{Formation}, 127. On the contrary, the Greek translation of the Pentateuch attests to versions of Genesis, Exodus, and Numbers that are literarily distinct from these books’ final forms (cf. Tov, \textit{Textual}, 136–37).} The evidence, thus, makes it reasonable to assume that Deuteronomy reached its final literary form between the late fifth and late fourth centuries BCE with the redaction of the Pentateuch.

Second, despite the book of Deuteronomy crystallizing in literary form between the late fifth and late fourth centuries BCE, textual variations of Deuteronomy not only existed but continued to multiply due to the process of textual transmission during the period that most concerns this study, the third to first centuries BCE.\footnote{35}{Regarding textual multiplicity among ancient manuscripts of Pentateuchal texts, see Ulrich, \textit{Dead}, 29–45; idem, “Old,” 90–92; Emanuel Tov, “The Textual Development of the Torah,” in \textit{Textual Criticism of the Hebrew Bible, Qumran, Septuagint: Collected Essays, Volume 3}, VTSup 167 (Leiden: Brill, 2015), 239–49; Sidnie White Crawford, \textit{Rewriting Scripture in Second Temple Times} (Grand Rapids: Eerdmans, 2008), 20–37; eadem, “The Qumran Pentateuch Scrolls: Their Literary Growth and Textual History,” in \textit{The Qumran Legal Texts between the Hebrew Bible and Its Interpretation}, ed. Kristen De Troyer and Armin Lange, CBET 61 (Leuven: Peeters, 2011), 3–16.} Such textual variations have long been evident from a comparison of the Masoretic text, the Samaritan Pentateuch, and the Septuagint, all of which are thought to have roots in the early Second Temple period. The twentieth century discoveries at Qumran and elsewhere in the Judean desert, which included 35 additional Deuteronomy manuscripts, however, revealed that a much greater textual diversity existed in the Second Temple period and that the Masoretic, Samaritan, and Septuagint texts at most attest to three texts, not three text
types, that existed alongside a multitude of other texts. While the manuscript evidence does not attest to any new literary developments to the book of Deuteronomy during the third to first centuries BCE, there are practically innumerable transmission variants.

Some such variants are simply orthographic and in no way alter the text’s meaning. Other textual variants harmonize Deuteronomy internally or with other Pentateuchal texts. The manuscript record, moreover, attests that earlier versions of Deuteronomy continued to exist and be used even after newer versions of Deuteronomy had taken shape.

Finally, the manuscript record also lends support to the literary critical conclusion that the book of Deuteronomy was incorporated into the Pentateuch in the early Second Temple period. Of the 35 Deuteronomy manuscripts discovered at Qumran and elsewhere in the Judean desert, all except one exclusively contain material from Deuteronomy, suggesting that the book of Deuteronomy was perceived to be a distinct text. Yet, the evidence of harmonization between Pentateuchal texts suggests that these texts were perceived to be and treated as if they comprised a single literary work. Thus, the textual

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record supports the conclusion that in the early Second Temple period the book of Deuteronomy was a discrete text that was understood to be part of the Pentateuch.

In summary, I assume that the book of Deuteronomy was a stable literary composition from the late fifth or late fourth centuries BCE onward, existed in manifold textual forms in the third through first centuries BCE, and was perceived at that time to be part of the so-called Pentateuch.

It is also important to note what I mean by the phrase “Deuteronomic laws” (and the like). Keeping with convention, I use the phrase “Deuteronomic laws” to refer to texts in the book of Deuteronomy that make up the so-called Deuteronomic code (Deut 12–26).41 I do not use the phrase, however, to indicate anything about the institutional status of Deuteronomic laws in ancient Israel or the Second Temple period.42 Whether Deuteronomic laws ever functioned in those periods as actual state or cultic laws and not simply moral, programmatic ideals does not impact the current study focused on the ethical use of these laws in the Second Temple period.43

Discussing the ethical functions of Deuteronomic laws, however, requires me to define what I assume about ethics generally and within ancient Israel and Second Temple


42 As noted by Wells, Law, 5, Stackert, Rewriting, 19, and Anne Fitzpatrick-Mckinley, The Transformation of Torah from Scribal Advice to Law, JSOTSup 287 (Sheffield: Sheffield Academic, 1999), 85, there is no evidence outside the Hebrew Bible that Deuteronomic laws ever functioned as civil or cultic laws in ancient Israel.

43 For introductions to the question regarding the actual legal functions of Deuteronomic laws, see Bernard M. Levinson, “Deuteronomy’s Conception of Law as an ‘Ideal Type’: A Missing Chapter in the History of Constitutional Law,” in “The Right Chorale”: Studies in Biblical Law and Interpretation, FAT 54 (Tübingen: Mohr Siebeck, 2008), 52–86, which focuses primarily on the monarchical period, and John J. Collins, The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul, Taubman Lectures in Jewish Studies 7 (Berkeley: University of California Press, 2017), esp. 27–113, which surveys evidence from the monarchical period through the Hellenistic period.
Judaism, as well as to clarify what I mean when I claim that Deuteronomic laws functioned ethically.

I understand ethics to be a practical science whose primary subject matter is human action but includes various secondary subjects. That ethics is a science means that it aims to provide knowledge befitting its subject.\textsuperscript{44} That ethics is a practical science means, among other things, that it pertains to actions on particular occasions by particular agents.\textsuperscript{45} The primary subject matter of ethics is human action, by which I mean deliberative and free action. While both humans and non-human animals can act purposively and freely (e.g., to eat the cookie), it is widely thought that humans have capacities beyond non-human animals for deliberating about action (e.g., Should I eat the cookie?).\textsuperscript{46} Such deliberative and free actions, though, entail numerous secondary subjects. Among those subjects, most important for the present study are those pertaining to practical intelligence and practical reason, namely the ability to form judgments about the ends (i.e., aims, objectives, or goods) pursued in a particular action, the ability to make judgments about the relevant features of a particular circumstance, the ability to deduce what particular actions are fitting in a specific circumstance to achieve particular


\textsuperscript{46} Oliver O’Donovan, \textit{Self, World, and Time: Ethics as Theology I: An Induction} (Grand Rapids: Eerdmans, 2013), 3, contends that humans are able to think about action in ways that non-human animals are not. Herbert McCabe, \textit{On Aquinas}, ed. Brian Davies (London: Continuum, 2008), 29–31, identifies the capacity to use symbols and language to give an account of action as that which distinguish humans from other animals.
ends, and the ability to make judgments about how concepts and rules learned in general cases apply to a particular case. On occasion, this study also focuses on regulating passions, another secondary subject. Passions may become the basis of action, thereby displacing rational judgments about the ends of a particular action and distracting an agent from taking deliberative and free rational action. In summary, I understand ethics generally to be a science focused on deliberative, free, and particular actions, which entails a focus on (though is not limited to) practical intelligence, practical reason, and the regulation of passions.

It is clarifying, moreover, to distinguish between the formal discipline of ethics and everyday ethics, the latter of which has greater import for my study. The formal discipline of ethics attempts to give systematic reflections on human action. The discipline has roots in classical Greek philosophy, took shape in various philosophical

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47 My discussion here is based on MacIntyre’s account of phronēsis (φρόνησις) (i.e., practical intelligence) and practical reason according to Aristotle, the latter of which includes what is sometimes called, though not by Aristotle, the ‘practical syllogism’ (idem, Whose, 114–17, 125–31). I hasten to note, however, that the assumptions I make about ethics or practical rationality in this study could only misleading be characterized as Aristotelean. As MacIntyre, Whose, 136–37, 140–41, notes, for Aristotle there can be no practical rationality without the virtues of character and without an account of justice, both of which are absent in my study. For accounts of practical intelligence and practical reason that are complementary to MacIntyre’s, see O’Donovan, Self, 1–5, 29–34, and Hauerwas, Work, 13–19. Among biblical scholars, John Barton, “Reading for Life: The Use of the Bible in Ethics,” in Understanding, 55–64, esp. 57–58, has shown some interest in using heuristically Aristotle’s account of practical rationality for Old Testament Ethics, specifically the making of judgments about particulars in biblical narratives on the basis of general principles and rules found in biblical laws. In contrast, Ancselovits, “Second Temple Phronetic Jewish Law,” 152–89, with a titular reference to practical rationality, argues that Second Temple sages understood biblical laws to exemplify specific (not particular) applications of unwritten, general traditions and wisdom, and that sages accordingly “sought to apply Biblical law to cases that are similar to the situation implicit in the Biblical example” by applying not the words of the law itself but rather “the wisdom of, and unwritten lived traditions underlying, Biblical laws” (ibid., 158–59).


49 While O’Donovan, Self, 33, describes moral reasoning as a subset of practical reasoning, I follow Hauerwas, Work, 19, who argues against a hard and fast distinction between moral and non-moral reasoning since the “descriptions that form our worlds are various and interrelated.”

50 The distinction, however, must not be overdrawn. As O’Donovan writes, “Ideas and disciplines are attempts to get grappling irons on” the types of questions people ask themselves outside of formal intellectual endeavors (Self, ix).
academies in Athens, and has been transformed in subsequent times and various milieu, though even today the discipline often addresses topics befitting its Athenian origin, namely excellence (ἀρετή), the good (ἀγαθός), and justice (δίκη). In a distinct manner, it is possible to talk about everyday ethics, which refers to the type of informal and sometimes ad hoc deliberations about action universally undertaken by people throughout their lives. Sometimes people are conscious and intentional about such everyday deliberations, while other times such deliberations are unconscious, though no less capable of being accounted for if the question were to be raised, Why did you act that way? In this study, I am not interested in whether or not there was a formal discipline in Second Temple Judaism roughly analogous to Greek philosophical ethics, or discerning how Second Temple Jews might have addressed topics analogous to those posed within Greek philosophical ethics. Instead, I assume that Second Temple Jews, like all people in all times and places, engaged in what can be called everyday ethics. When asking about the ethical functions of Deuteronomic laws, then, I am asking about what role Deuteronomic laws played in everyday ethical deliberations.

Specifically, the primary object of analysis is the use of Deuteronomic laws by Second Temple Jewish authors on particular occasions. Importantly, the Deuteronomic laws themselves are not the primary object of analysis as they are in studies that employ direct analysis. Studies that focus on identifying the explicit or implicit ethical norms or principles in the laws themselves, even when such studies contextualize the laws within

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51 Cf. MacIntyre, Whose, 12–29.
53 MacIntyre, Whose, 131; Hauerwas, Work, 16.
historical, literary, and canonical contexts, are theoretical in the sense and to the extent that their discussions are abstracted from and at most prior to any particular circumstance or action. On the contrary, my study focuses in retrospect on particular uses of Deuteronomic laws by various Second Temple authors. Second Temple Jewish literature provides evidence of how Deuteronomic laws functioned in the ethical reasoning of particular Jewish authors (anonymous as they are) on particular occasions. On the basis of this literature, I discuss how authors applied Deuteronomic laws to their particular situations, specifically how they used the laws to characterize the relevant features of the circumstance, to identify what particular ends were at stake, to determine what particular actions were fitting, and to regulate the passions involved in the particular situation. I acknowledge that focusing on particular uses of Deuteronomic laws by particular authors is distinct from focusing on the ethical functions of Deuteronomic laws among the Second Temple Jewish populace more generally. But I do not know from where the evidence for such a study would come. Making the most of the evidence available in the preserved Second Temple literature, then, I analyze the uses of Deuteronomic laws by Second Temple authors on particular occasions, aiming to provide at least a glimpse of how Deuteronomic laws functioned ethically in the early Second Temple period.

Finally, because this study explores how early Second Temple authors used Deuteronomic laws by means of allusion, I describe here what I mean by the term

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55 Regarding theoretical inquiry on practical matters, see MacIntyre, Whose, 138–39; O’Donovan, Self, 30–31.
56 My retrospective approach is reminiscent of and inspired by MacIntyre’s account of how the Aristotelian concept of a moral precept was received by various medieval and enlightenment thinkers (After, 51–55).
“allusion.” I use the term “allusion” to refer to the phenomenon of an author intentionally evoking an earlier composition for the author’s own purposes.\textsuperscript{58} An author evokes an earlier composition by means of a marker, which is an identifiable element, pattern, or sign in one composition that is related to another independent composition.\textsuperscript{59} Such markers generally take one of three forms.\textsuperscript{60} One composition may explicitly cite another, either by naming the other (e.g., Dan 9:2 evokes “the prophet Jeremiah”), or employing a citation formula (e.g., ובאשרש אוצר [just as it says] in CD 7:8) or a catchword (e.g., ויסף הבריאה [but the principle of creation] in CD 4:21). Or, one composition may implicitly reference another by means of shared language (e.g.,Ἐν ἀρχῇ [In the beginning] in Jn 1:1 evokes Gen 1:1) or themes. Or one composition may evoke another by means of inclusion, i.e., including large portions of one composition within another (e.g., large portions from the books of Kings are included in the books of Chronicles). The markers of an allusion, however, refer not only to another independent composition but to a distinct referent in the alluding composition. The purpose of the allusion, in fact, is to bring the referent in the independent composition to bear on (in some manner) the referent in the alluding composition.\textsuperscript{61}


\textsuperscript{59} Sommer, \textit{Prophet}, 11, 17–18. Alternatively, Lester, \textit{Daniel}, 4–9, requires that allusions be “underdetermined,” meaning that the reader must contribute to the construction of meaning between the alluding composition and the independent composition. When an author has fully spelled out how the
It is helpful, moreover, to distinguishing the term “allusion” from the related terms “intertextuality,” “influence,” and “exegesis.” The study of allusions is a diachronic and primarily author-oriented inquiry, distinguishing it from the synchronic and primarily reader-oriented study of intertextuality. The diachronic study of allusions claims an order of compositional dependence, while synchronic intertextuality analyzes the literary associations between two texts without regard for questions of textual dependence. Moreover, the study of allusions focuses on how one author utilized a previous composition, while the study of intertextuality focuses on the sets of signifying systems that arise in the mind of a reader who knows both literary works. My study is exclusively concerned with the study of allusions, since it is allusions that provide evidence for how Second Temple Jewish authors used earlier laws from the book of Deuteronomy on particular occasions.

Allusions are also distinct from two related phenomena, “influence” and “exegesis.” “Influence” is a phenomenon in which an author clearly draws on well-known traditions, themes, genres, or styles, but does not allude to a specific text. For independent composition bears on the author’s own, the allusion is “overdetermined” and not a true allusion.


Alternatively, Kynes, *My Psalm*, 21–27, rejects the distinction between diachronic, author-oriented studies and synchronic, reader-oriented studies, claiming that “neither can exist alone” and arguing that an approach drawing on both methods “would offer powerful hermeneutical insight not available through either individually” (ibid., 24). It is simply an overstatement, however, that neither author-oriented nor reader-oriented studies can occur without the other. Moreover, that a combination of such diachronic and synchronic methods is more powerful than either method alone is undoubtedly true: methods are tools and a toolbox with a hammer and saw is undoubtedly more powerful than one with only a saw. Not every task, however, requires so much power. Why bring a hammer when the task is to prune a tree limb? For my study, the diachronic, author-oriented method is sufficient.

Sommer, *Prophet*, 14–18. Sommer also discusses a related phenomenon he calls “echo.” For Sommer, an echo is like an allusion insofar as it takes the form of a marker that evokes an independent composition. Unlike an allusion, however, in the case of an echo the reader is unable to bring elements of the evoked composition to bear on the latter composition. Since this phenomenon is more focused on a reader’s ability and less on the author’s intention, it is not pertinent for my study that focuses on authors.
example, in Jeremiah 31:31–34, the author clearly evoked the themes of covenant and exodus, but the author did not evoke a specific Pentateuchal text. Allusive markers, thus, evoke more specifically than textual markers that exhibit mere influence. “Exegesis,” on the other hand, is the phenomenon in which an author employed markers to evoke an earlier composition (as with allusions), but the author’s purpose is to serve the earlier composition, e.g., to explain it. As opposed to allusive markers that refer doubly and so function for the alluding author’s composition, exegetical markers refer singularly and only for the independent composition. While this definition of exegesis is admittedly narrow, it provides helpful conceptual clarity to how I use the terms exegesis and allusion.

**Statement of Method**

The study is structured around three Deuteronomic laws that were chosen somewhat randomly, for better or worse. Previous work on Daniel 1–6 MT, the Damascus Document, and the Temple Scroll (11Q19) had convinced me that the authors of these texts had each employed Deuteronomy’s Law of the King (Deut 17:14–21) and that the latter two both employed the Law of Vows (Deut 23:22–24 [vv. 21–23 in some English translations]) and the Law of Testimony (Deut 19:15–21). While there is no clear connection between the communities that composed Daniel 1–6 MT, the Damascus Document, and the Temple Scroll, nor are the three laws associated with each other in Deuteronomy, the opportunity to provide comparative analysis of how various authors utilized a common law drove the selection of these three laws. In the end, the use of the

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Law of Testimony in the Damascus Document proved to be a civil, not moral, use, however, so I set it aside, not wanting to burden the reader with a case that made no contribution to the final analysis.

Admittedly, structuring the study around a unified set of Deuteronomic laws or a unified set of Second Temple texts (or a single text) might have provided more controls or continuity for the study. At the same time, determining what constitutes a unified set of Deuteronomic laws or Second Temple texts potentially introduces significant subjectivity and might have lessened the opportunity to provide a comparative analysis of various authors using a common law. For better or for worse, then, my earliest observations about the use of the Law of Testimony, the Law of the King, and the Law of Vows in Second Temple texts led me to structure the study around these laws.

There is some evidence that Deut 17:14–20, 19:15–21, and 23:22–24 were composed as discrete pericopes and recognized in the Second Temple period as such. Primarily, thematic and lexical coherence suggests that the author of Deuteronomy composed Deut 17:14–20 to be a textual unit pertaining to kings (מלך), Deut 19:15–21 to be a unit pertaining to testimony (עד), and Deut 23:22–24 to be a unit pertaining to vows (נדר). Moreover, in Deuteronomy, conditional כי (if) almost always functions to mark the beginning of a new legal unit, so the occurrence of conditional כי in Deut 17:14; 20:1; 23:22 and 25 accords with the thematical and lexical evidence, although the occurrence of conditional כי in Deut 19:16 will require comment in due course. Additionally, texts

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67 See chapters 2, 3, and 4, respectively.
68 Regarding sense divisions by means of spacing in ancient Jewish texts, see Tov, Textual, 198–200.
69 In Deut 12–26, conditional or temporal כי (if; when) begins a new legal unit forty-two times: Deut 12:20, 21, 29; 13:2, 7, 13; 15:7, 12; 17:2, 8, 14; 18:9; 19:1; 20:1, 10, 19; 21:1, 10, 15, 18; 22:6, 8, 13, 22,
from Qumran contain vacancies before Deut 17:14 (2QDeut⁶), after Deut 19:21 (4QDeut⁶ 13–16), after Deut 23:21 (4QDeut⁶ 24–25), and after Deut 23:24 (4QDeut⁶ 6), although another manuscript contains no vacancy between Deut 23:24 and 25 (4QDeut⁴² 4).⁷⁰ The medieval Masoretic text, likewise, marks the three pericopes I analyze as discrete 

*sedarim*.⁷¹ While the evidence is admittedly sparse and not entirely consistent, I think it is reasonable to suppose that scribes in the Second Temple period would have recognized the three Deuteronomic laws I analyze as discrete pericopes in the book of Deuteronomy.

Each chapter begins with a direct analysis of the law’s theoretical ethical functions. I start with structural analysis of the law based on its grammatical features to identify clusters of verses that constitute parts of the law and argue for how those parts relate.⁷² I then analyze the law’s theoretical logic. The law’s logic is theoretical insofar as the law was formulated generally and prior to any particular action. Still, since the law pertains to action, my analysis is guided by a common form of practical deliberation, namely a three-part means-end deliberation.⁷³ This form of practical deliberation entails an agent in his/her present circumstance (part 1) with an objective (part 2) who acts in a

²³, ²⁸; ²³:¹⁰, ¹¹, ²², ²⁵, ²⁶; ²⁴:¹, ⁵, ⁷, ¹⁰, ¹⁹, ²⁰, ²¹; ²⁵:¹, ⁵, ¹¹; ²⁶:¹². In Deut ¹²–²⁶, conditional or temporal **וכי** or **והיה כי** (and if; and when) begins a clause that is dependent on a nearby preceding apodictic or casuistic provision eight times: Deut ¹⁴:²⁴; ¹⁵:¹³, ¹⁶, ²¹; ¹⁸:⁶, ²¹; ²³:²³; ²⁶:¹. The case regarding testimony in Deut ¹⁹:¹⁶, which I will discuss in chapter ², along with the cases in Deut ¹⁹:¹¹ and ²¹:²², prove ambiguous due to existing textual variants. While Bernard M. Levinson, *A More Perfect Torah: At the Intersection of Philology and Hermeneutics in Deuteronomy and the Temple Scroll*, Critical Studies in the Hebrew Bible ¹ (Winona Lake, IN: Eisenbrauns, ²⁴–²⁶, correctly notes that the particle **כי** functions in Deuteronomy to mark subordinate clauses, he has overlooked the distinct functions played by **וכי** or **והיה כי** as opposed to **כי**.


²⁶ McCarthy, *Deuteronomy*, ¹¹–¹²*. Regarding the antiquity of the paragraph divisions in Deuteronomy, see Lundbom, *Deuteronomy*, ⁵, and Tigay, *Deuteronomy*, xi.


²⁸ MacIntyre, *Whose*, ¹²⁹, ¹³², notes that scholars commonly describe Aristotle’s account of practical rationality as a practical syllogism with a means-end type of deduction. Beyond Aristotle, Wallace, “Practical,” contends that scholars widely accept means-end rationality as the most basic form of practical reason.
way befitting the circumstance to achieve the objective (part 3). Actions, thus, are the means to an end from a circumstance. In deductive terms, the action is a conclusion derived from premises about an agent’s circumstance and objectives: given a particular circumstance and objectives, particular actions are fitting. Moreover, in this three-part framework, actions are understandable according to two points of reference, namely the agent’s circumstances and objectives. I heuristically employ this three-part form of practical deliberation to analyze the theoretical logic of Deuteronomistic laws. What action does the law prescribe? Does the law specify a circumstance in which the action is fitting? Does the law relate the action to specific objectives? Finally, I give brief commentary on the law’s form and historical and literary contexts. In the formal analysis, I employ the conventional distinction between moral and civil laws on the basis of whether or not a law contains enforceable sanctions. The conclusions I draw, however,

74 Objectives may be ultimate or proximate.
75 Whether or not a law’s author conceived of its prescriptions as means to an end or conclusions from a chain of deductions is neither important nor the point. As noted, practical deliberations are often unconscious but can be accounted for and it is one of the tasks of ethical analysis to do so. To use Oliver O’Donovan’s image (Self, ix), I use terminology from the discipline of ethics to get “grappling irons” on the logic inherent in Deuteronomistic laws. I am optimistic about using this framework heuristically since practical reason is thought to be a general human capacity and means-end reasoning is thought to be a baseline feature in various accounts of practical reason (cf. Wallace, “Practical;” O’Donovan, Self, 1). Among biblical scholars engaging in ethical inquiry, heuristic use of existing ethics concepts is common (e.g., Barton, Ethics, 11–13). I am aware that some are wholly opposed to adopting explanatory categories that do not originate within the text being examined due to the potential for anachronism (e.g., Paris, “Moral,” 173–74) but I am equally skeptical about the prospects of discerning and employing only categories native to ancient texts themselves. For example, Tso, Ethics, 33–57, goes to considerable lengths to “piece together a mode of discourse … for talking about the ethics at Qumran in a way that is both faithful to its original contexts and cultural milieu and relevant to a contemporary, even postmodern, discussion of ethics” to “avoid inappropriate modern ethical categories on Qumran texts” (ibid., 33) but immediately and uncritically employs non-native terms like “goal,” “means” (ibid., 34), “ultimate concerns” (ibid., 35), “cosmogony,” “naturalism” (ibid., 36), “worldview,” “good life,” “dispositions,” “virtue,” and “self and group identity” (ibid., 37) to discuss the ethical discourse native to the Rule of the Community (1QS). In the end, Tso succeeds at discarding a number of unhelpful ethical concepts but his efforts demonstrate both the unlikelihood of altogether avoiding foreign concepts and as well as their potential heuristic value. Whether or not I have succeeded in using heuristically the ethical terminology I have employed, the reader will need to judge.
are purely formal since I do not assume that the form of the law reveals how the law was actually used. Altogether, these observations about each law’s structure, logic, form, and historical and literary contexts constitute my direct analysis of each law’s theoretical ethical functions.

Each chapter then continues with the indirect analysis of the Deuteronomic law. For each law, I analyze pericopes in which a Jewish author from the third to first centuries BCE used the law. In each case, I make two related arguments either in series or concurrently as needed. On the one hand, I make an argument about the particular situation the author confronted in composing the text. In some cases, the particular situation is clearly related to the author’s socio-political concerns. In other cases, the author’s socio-political concerns are less clear, so I focus on the author’s textual concerns. Either way, for each case I make an argument about the author’s objective in composing the text. When possible, I also make an argument about what circumstance the author intended the text to address. Together, the author’s objective and/or circumstance constitute the particular situation the author confronted in composing the text. On the other hand, I analyze how the author employed the relevant Deuteronomic law to address the author’s particular situation. This analysis includes an argument about where and how the author alluded to the Deuteronomic law (see the following discussion on allusion), whether the author employed the law as a whole or only employed part of the law, and whether the author’s use of the Deuteronomic material, in terms of its meaning and logical function, was in continuity with the material in its Deuteronomic context or innovative? The combination of these two arguments provides the basis for my

77 Regarding particular situations as the domain of practical reasoning, see MacIntyre, Whose, 115–16, and Wallace, “Practical.”
conclusions in each case study about the ethical functions of the Deuteronomic law on the particular occasion the author used it, especially in comparison to the law’s theoretical ethical functions as suggested by the direct analysis.

In order to establish that one of the early Second Temple authors I discuss employed a specific Deuteronomic law, I have utilized the following criteria.\(^7\) First, the composition of the Second Temple text must postdate the literary stability of the Deuteronomic law, thereby settling the potential direction of dependence. For this study, I have accepted the late dating of Deuteronomy’s literary stability sometime in the late fifth to late fourth centuries BCE and accordingly I have only analyzed allusions to Deuteronomic laws from texts composed after the fourth century BCE. Secondly, once the dating criterion is met, shared lexemes are the primary indicator that one author may have utilized an earlier text. The lexemes need not take the same verbal forms since the latter author’s purposes and designs may lead the author to alter their morphological and syntactical features, but the lexemes must have a common root or shared principal parts. By using shared lexemes as the primary indicator of an allusion, I reject using shared themes as the basis for identifying an allusion. Shared themes may and often do accompany shared lexemes but identifying themes is inherently subjective and, therefore, they do not provide strong enough criteria for establishing that a later author used an earlier text. Finally, the lexical evidence that a later author may have utilized an earlier text is strengthened in three ways. (a) Language that is distinctive of an earlier text is

stronger evidence of an allusion than language that is common (e.g., יומ, תורה, בַּל, אָמַר, prepositions, conjunctions, suffixes, stock vocabulary), since common language provides no basis for ruling out other potential base texts in which the language occurs. (b) Shared syntax or phrases are stronger evidence of an allusion than isolated lexemes. Shared, isolated lexemes may only be the result of a later author employing such terms by happenstance, while shared phrases and syntax suggests that an author is familiar with how the lexemes function together in an earlier text. (c) Repeated lexical ties to a single base text are stronger evidence of an intentional allusion than an isolated lexical link, since an isolated lexical link may be a coincidence but sustained lexical links suggest that the latter author intended to invoke the earlier text. While these criteria are not foolproof, they do provide guidelines for rendering reasonably sound judgments regarding one author’s use of an earlier text. 79

When arguing for how a later author changed or innovated on an earlier Deuteronomic law, I have based my arguments on a systematic comparison between the later text and all preserved textual variations of the law. It is insufficient to conclude that a later author innovated on an earlier Deuteronomic law simply because the later text contains lexemes or themes that somehow differ from the Masoretic version of the Deuteronomic law. On the contrary, the varied manuscript record of Deuteronomy (as discussed earlier) suggests that some instances of apparent innovation on the Deuteronomic law are actually in complete continuity with a textual variant of the

79 Hays, “Who,” 30, Leonard, “Identifying,” 264, and Sommer, Prophet, 32, n. 1, acknowledge that identifying allusions is not a certain science but requires reasoned judgments. Stackert, Rewriting, 26–27, opts against defining a set of criteria for identifying allusions on the front end of his study, arguing that systematic and mechanical criteria are an ill fit for evaluating particular allusions that occur in neither a systematic nor mechanical manner. While I sympathize with Stackert’s concern, I contend that criteria function as tools to help sift through the data, foster continuity of analysis between case studies, and need not be deployed mechanically or slavishly.
Deuteronomic law other than the Masoretic text. Given the multiple textual variants of Deuteronomy circulating in the early Second Temple period, I have consulted every preserved ancient manuscript of a relevant text to ensure that what appears in the later text has no potential precursor in a textual variant of the law. Specifically, I have consistently consulted (unless otherwise noted) the versions of Deuteronomy (and other biblical texts, as needed) contained in *Biblia Hebraica Quinta*, the Göttingen Septuagint, Abraham Tal’s edited version of the Samaritan Pentateuch, and the biblical Qumran manuscripts edited by Eugene Ulrich. Throughout the study, though, for convenience I will regularly employ the Masoretic and/or Septuagint versions of base texts in tables.

Finally, regarding my methodology, it is worth emphasizing that this study is descriptive and inductive, as opposed to being either prescriptive or deductive. I do not draw conclusions about the ethical functions of Deuteronomic laws based on any claim(s) about the nature of Deuteronomic laws. Rather, I draw conclusions about the ethical functions of Deuteronomic laws based on the eleven cases studies in which one Jewish author from the early Second Temple period used one of the three Deuteronomic laws. Thus, the study is inductive. I also do not draw any conclusions about what should be or should have been the ethical functions of Deuteronomic laws. Rather, I only attempt to describe how various Jewish authors in the early Second Temple period used one of three Deuteronomic laws in comparison to what direct analysis of the laws suggests. Thus, the

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80 McCarthy, *Deuteronomy*.
82 Abraham Tal, *The Samaritan Pentateuch: Edited According to MS 6 (c) of the Shekhem Synagogue* (Tel Aviv: Tel Aviv University Press, 1994), accessed through Accordance (version 12.3.6).
83 Ulrich, *Biblical*. 
study is strictly descriptive. I am certainly not opposed to either deductive or prescriptive studies regarding questions about ancient texts and ethics, and I will engage scholars who take such approaches. For myself and the reader, however, it is important to define my approach here to questions about ancient texts and ethics as descriptive and inductive.

**A Limitation and an Objection**

To conclude this chapter, I note one of the study’s limitations and address one potential objection to the study’s methods.

First, the focus exclusively on Deuteronomic laws should not be interpreted to mean that the ethical functions I attribute to those laws are exclusive to those laws. The focus exclusively on Deuteronomic laws only functions to limit the scope of the study. It may be the case that the ethical functions I attribute to Deuteronomic laws are also the ethical functions of other Pentateuchal laws. Whether or not other Pentateuchal laws functioned similarly or distinctly as Deuteronomic laws, however, is beyond the scope of this study.

Secondly, some might object that I am comparing apples and oranges by using evidence from the Second Temple period to formulate conclusions about the ethical functions of Deuteronomic laws that took shape during the 8th–4th centuries BCE. Such an objection might arise from those who associate Deuteronomic laws with the monarchic and exilic periods, and especially from those who explicitly distinguish the ethical functions of these laws in the earlier periods from the later Second Temple period. However, like the vast majority of ethical studies on Deuteronomic laws, my

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study focuses on the final form of Deuteronomic laws, which I date to sometime in the late fifth to late fourth centuries BCE. This dating of the final form makes the Second Temple period the appropriate period in which to look for evidence of how the laws in their final forms functioned ethically. Moreover, this dating also problematizes the ethical analysis of Deuteronomic laws in their final form in prior historical contexts, insofar as such a dating is accepted. Thus, using evidence from the Second Temple period as the basis for analyzing the ethical functions of Deuteronomic laws is reasonable.

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86 Echart Otto’s *Theologische Ethik des Alten Testaments* [Stuttgart: Kohlhammer, 1994], 12) approach to analyze earlier and later forms of discrete laws in their respective historical contexts is exceptional.

87 E.g., Block, “Deuteronomic,” 1:185.
CHAPTER 2: THE ETHICAL FUNCTIONS OF THE LAW OF TESTIMONY

In this chapter, I will demonstrate how the authors of the Temple Scroll (11Q19) 61:6–12a and Old Greek Susanna employed Deut 19:15–21, commonly called the Law of Testimony, for their own particular purposes.¹

To establish the direction of dependence between the Law of Testimony and the two other texts, it is sufficient to note that literary growth of the Law of Testimony was completed prior to the composition of the other two. Scholars agree that Deut 19:15–21 reached its final literary stability prior to the Hellenistic period, with most dating the final form of the law to the pre-exilic period and a minority arguing for small revisions into the Persian period.² The other two texts I analyze are thought to have been composed later. The Temple Scroll lacks decisive dating clues but is typically thought to have been composed sometime during the second or early first centuries BCE in part based on the paleographic dating of its earliest textual witness (4Q524) to the second half of the second century.³ While it is widely accepted that the author utilized pre-existing source

¹ Throughout the study, unless otherwise specified, I will refer to Temple Scroll manuscript 11Q19.
materials, the author’s integration and adaptation of these sources for the final composition is evident throughout.⁴ Even scholars who argue for an earlier dating, perhaps as early as the late-fifth century, argue that the text’s composition post-dates Pentateuchal texts achieving their final or late (i.e., Septuagintal) literary forms, which, in the case of Deuteronomy, are the same.⁵ Likewise, Old Greek Susanna lacks clear internal dating clues and its Semitic Vorlage may have roots in the Persian period, but scholars regularly date it to the second half of the second century BCE.⁶ Such dating is sufficient for establishing the direction of dependence of these two texts on Deut 19:15–21 and not vice versa.

The remainder of the chapter proceeds as follows. I begin with a direct analysis of the Law of Testimony based on its structure, logic, form, and historical and literary contexts. The conclusions I draw here are provisional since the evidence I consider

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reveals only how the Law of Testimony could have functioned in theory, not how the law actually functioned on particular occasions. I then turn to the indirect analysis of the law, demonstrating how the authors of the Temple Scroll and Old Greek Susanna, in that order, employed the law for their own particular ethical purposes. This ordering of cases is heuristic, not historical, since I see no evidence that either of these texts is dependent on the other. Each case study concludes with a summary of how the Law of Testimony functioned on that particular occasion, with an eye towards how these functions compare to the provisional, theoretical functions of the law discerned through direct analysis. In the end, I argue that the two case studies evidence that the Law of Testimony had a diversity of ethical functions but none of which were in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts.

**Direct Analysis of the Law of Testimony**

The Law of Testimony in Deut 19:15–21 is a discrete pericope concerning judicial testimony.7 Despite some structural ambiguities, the linguistic features and content suggest that the law has two basic parts. Verse 15 constitutes the first part. It contains two apodictic clauses that rule out the sufficiency of a single witness for court cases of all types and require instead two or three witnesses. Verses 16–21 comprise the second part, initially shifting the law into casuistic formulations though united throughout by a concern for dealing with an הֶזֶן (malicious witness). The conditional כי (if) in v. 16a both signals the beginning of the new legal unit and begins a protasis pertaining to a

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7 See Wells, Law, 16–53, for an introduction to the Law of Testimony and related judicial concepts.
malicious witness bringing a case against another.\textsuperscript{8} It is clear that the \textit{waw}-relative perfective \textit{ועשיתם} (you shall do) in v. 19a marks the beginning of an apodosis, as is common in biblical Hebrew.\textsuperscript{9} It is unclear, however, how the serial \textit{waw}-relative perfectives in vv. 17–18 function since they may either mark the beginning of an apodosis or extend either a protasis or an apodosis.\textsuperscript{10} Moreover, it is unclear whether the \textit{waw}-relative perfective in v. 19b, \textit{ובטר}, prescribes, “and you shall sweep,” or states a result, “so, you shall sweep.”\textsuperscript{11} Nevertheless, the casuistic formulations end in v. 20 when the chain of \textit{waw}-relative perfects is broken by the grammatical subject of v. 20 that precedes three imperfect verbs. The verse still pertains, though, to \textit{הרע} (the evil) caused by the malicious witness. Lastly, the apodictic formulation in v. 21 details how the action(s) prescribed in v. 19 ought to be fulfilled. Overall, then, v. 15 and vv. 16–21 constitute the two basic parts in the law.

Each part of the law has its own logic. The apodictic formulations in v. 15 have a two-part logic. The law prescribes against the sufficiency of a single witness and for the necessity of two or three witnesses. No rationale is given for the prescriptions like a motive clause or a result clause detailing some desirable objective.\textsuperscript{12} Moreover, the law does not specify a circumstance in which the law’s prescriptions are applicable. Rather,
the clause (for any iniquity and any sin, with any sin that he commits) suggests that the prescriptions are applicable in every circumstance involving testimony. Thus, v. 15 has a two-part logic: in any circumstance, the law’s prohibition and prescription apply.

Alternatively, vv. 16–21 have a means-end, three-part logic. The protasis in vv. 16–18 details a hypothetical and undesirable circumstance. At the minimum, this circumstance includes the arising of an (malicious witness) who testifies against another (v. 16). The objective of the law is given in v. 20: that such an evil, namely, the arising of a malicious witness who testifies falsely against another (v. 16, 18b), will not again occur among the people. If v. 19b functions as a result clause, then sweeping evil from the midst of the Israelites is also part of the law’s objective. The apodosis in vv. 17–19, then, prescribes action that both addresses the circumstance and aims to achieve the goal. At the minimum, this prescription includes doing to the false witness just as he planned to do to his brother (v. 19a). This prescription might also direct those with a dispute to stand trial before YHWH, the priests, and the judges (v. 17), for the judges to examine the matter thoroughly (v. 18), and to sweep away the evil from the midst of the people (v. 19b). The final apodictic formulation in v. 21 details how the prescription in v. 19 is to be carried out. Thus, there is a means-end logic to vv. 16–21: given an undesirable circumstance (v. 16), there are actions to take (vv. 17–19, 21, esp. 19a) to achieve the objective (vv. 19b–20).

13 Tigay, Deuteronomy, 183; Biddle, Deuteronomy, 308; Lundbom, Deuteronomy, 540; Otto, Deuteronomium 12–34, 1:1525. On the contrary, Nelson, Deuteronomy, 242, describes vv. 19b–21 as motive clauses.

There is some ambiguity, however, regarding when the second part of the law comes into effect. Ostensibly, the second part of the law comes into effect when an עד חמס (a malicious witness) arises to testify (v. 16), but what is an עד חמס? One possibility is that the phrase anticipates that which the court will discover in v. 18: that the testimony is false. This interpretation is suggested in the Septuagint and Aramaic versions that use the same terms to translate אם זכר (v. 16) and אם שקר (false witness) (v. 18). On this interpretation, the procedures in vv. 16–21 come into effect only when the testimony is suspected to be false, perhaps due to vacillating or conflicting testimonies. The other possibility is that the phrase עד חמס characterizes not the testimony itself but the person who testifies: a person known to be malicious. This interpretation gains some support from the Masoretic text in so far as vv. 16 and 18 use distinct terms to describe the witness: the known-to-be malicious witness (עד חמס) arises and the judges discern that the witness is a false witness (עד שקר). This interpretation is also attested in early rabbinic

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15 Beyond the two interpretations I detail, two other interpretations have been proposed but I find each unpersuasive. Wells, Law, 104, 151–52, argues that the legislation in vv. 16–21 comes into effect only when the requirement from v. 15 for two or more witnesses cannot be met. In cases of insufficient testimony, Wells argues that a judge might consult other types of evidence, like a document. Wells finds evidence in ancient Babylonian trial records for such a combination of singular testimony and documentary evidence. I am unconvinced, however, since the condition set out in v. 16a pertains to the arising of an עד חמס, not an עד אחד (a single witness). Shlomo Naeh and Aharon Shemesh, “Deuteronomy 19:15–19 in the Damascus Document and Early Midrash,” DSD 20.2 (2013): 180–83, contend that vv. 16–19 pertain to a situation in which a single witness rises up against another and the witness’s character is disreputable, as signaled by the phrase עד חמס (malicious witness). In this case, the veracity of the testimony is determined by the judges (Deut 19:18) and only a single witness is needed. Alternatively, in v. 15, two witnesses of presumably reputable character corroborate each other’s testimony. I object, however, to the part of their thesis that pertains to the number of witnesses. In Deuteronomy, alternative legal provisions explicitly negate either a condition set forth in a preceding casuistic provision (e.g., Deut 20:12 compared to v. 11; Deut 23:23 compared to v. 22), or a prescription in an apodictic or casuistic provision (e.g., Deut 14:24 compared to v. 23; Deut 21:14 compared to vv. 12–13). Accordingly, if Deut 19:16 were to provide an alternative to the apodictic prescription in v. 15, v. 16 would need to negate explicitly the prescription from v. 15 regarding the necessity of two or three witnesses. Since v. 16 does not negate the prescription in v. 15, Naeh and Shemesh’s thesis strains the evidence of how alternatives function in Deuteronomy.

16 Patrick, Old, 125; Nelson, Deuteronomy, 242; Otto, Deuteronomium 12–34, 1:1526; Lundbom, Law and Covenant, 119; Wells, Law, 145.

literature, which interprets עד חמס (a thief) (Sipre Deut 189). So, the procedures in vv. 16–21 would come into effect only when a disreputable or unreliable witness arises.\(^\text{18}\) In the end, however, whether an עד חמס refers to suspect testimony or a suspect testifier is unclear.

The form of the law and its historical and literary contexts suggests that the law would have functioned as a civil law, though there is no evidence that it ever did within ancient Israel. Insofar as the law’s sanctions (vv. 19, 21) could feasibly be enacted by a civil judiciary, the law has the form of a civil law and not a moral law. Ancient Babylonian trial records, moreover, evidence that Israel’s neighbors required two or more witnesses to render a judicial ruling, as prescribed in Deut 19:15b, and punished false testimony according to the principle of talion, as prescribed in Deut 19:19a, 21.\(^\text{19}\) While there is no evidence external to the Hebrew Bible that the Law of Testimony actually functioned as law in the land of Israel, the narrative of Naboth’s vineyard assumes the necessity of two witnesses for achieving a ruling against Naboth (1 Kgs 21:9–13). Thus, the form and historical and literary contexts suggest the Law of Testimony would have functioned as a civil law.

It is also helpful to note here that the Law of Testimony has thematic and lexical ties with two laws in Deuteronomy that pertain to judicial matters, Deut 17:2–7 and Deut 17:8–13, though also salient and significant differences. Deuteronomy 17:4 requires thorough investigation (ודרשת היטב) using the same lexemes as Deut 19:18a. Deuteronomy 17:6 rules out the sufficiency of a single witness and requires two or three witnesses.

\(^\text{18}\) For the notion of a reliable witness, see Isa 8:2, Jer 42:5, and Ps 89:38. Josephus (Ant 4.8.15 §219) says the evidence of witnesses should be accredited by their past lives.

witnesses using the same lexemes as Deut 19:15. And Deut 17:7, 12b, and 19:20 share
the refrain about purging evil from the midst of Israel. So, there are lexical and thematic
continuities between the Law of Testimony and the laws in Deut 17:2–13. A notable
difference between Deut 17:2–7 and the Law of Testimony, however, is that the former
pertains only to cases that warrant capital punishment and Deut 19:15 is formulated to
encompass all types of wrongdoing. Most scholars, thus, interpret Deut 19:15 as referring
to all types of cases, including the types of cases that warrant capital punishment
addressed in Deut 17:2–7.20

Another notable difference pertains to who oversees the trial, especially in Deut
17:8–13 and the Law of Testimony. In the former, the Levitical priests and the judge
oversee the trial. In the latter, the trial takes places before YHWH, the priests, and the
judges. However, the discontinuity between the “Levitical priests” (Deut 17:9) and “the
priests” (Deut 19:17) is only apparent, at least in the final form of Deuteronomy, for two
reasons. First, as opposed to Leviticus and Numbers, which characterize the priests as
sons of Aaron and distinguish them from other non-Aaronide Levitical descendants,
namely, the Levites (e.g., Lev 1:5–7; 2:2; 7:31; 25:32–33; Num 1; 3; 16–18),
Deuteronomy makes no intra-Levitical distinction and characterizes all priests as
Levitical (cf. 17:9, 18; 18:1; 21:5; 24:8; 27:9; 31:9).21 Secondly, a third text referring to

20 Tigay, Deuteronomy, 184; Nelson, Deuteronomy, 242; Lundbom, Deuteronomy, 573; Sarah J. K.
Pearce, “Philo and Temple Scroll on the Prohibition of Single Testimony,” in The Hebrew Bible in Light of
the Dead Sea Scrolls, ed. Nóra Dávid et al., FRLANT 239 (Göttingen: Vandenhoeck & Ruprecht, 2012),
324–26; Wells, Law, 103.
21 Jeffrey Stackert, “The Cultic Status of the Levites in the Temple Scroll: Between History and
Hermeneutics,” in Levites and Priests in Biblical History and Tradition., ed. Mark Leuchter and Jeremy
Michael Hutton, AIL 9 (Atlanta: Society of Biblical Literature, 2011), 202; Moshe Weinfeld, Deuteronomy
and the Deuteronomistic School (Oxford: Clarendon, 1972), 228; Tigay, Deuteronomy, 169–70; Lundbom,
Deuteronomy, 535. There are only six occurrences in Deuteronomy in which a reference to a priest(s) is
unmodified by either “Levitical” or “the sons of Levi”: 17:12; 18:3; 19:17; 20:2; 26:3, 4. The context of the
first two of those references suggests that they refer to Levitical priests (cf. Deut 17:9; 18:1).
judicial matters, Deut 21:1–9, indicates that YHWH has chosen הכהנים בני לוי (the priests, the sons of Levi) to oversee all disputes (v. 5). So, the discontinuity between Deut 17:9 and 19:17 proves insignificant in the final form of Deutero

A final notable difference between these Deuteronomic laws pertains to the necessity for thorough judicial investigation. Deuteronomy 17:2–7, which pertains to capital cases, requires two or three witness and the thorough judicial examination of the testimony. The Law of Testimony likewise requires two or three witnesses in all cases and, in circumstances when an עד חמס arises, thorough judicial examination, thus making the latter prescription conditional. There is some potential (not necessary) conflict, then, between these laws insofar as both can pertain to capital cases and the former law necessitates thorough judicial investigation while the latter makes it conditional. These similarities and three difference between the Law of Testimony and the laws in Deut 17:2–13 are significant for understanding how the Second Temple period authors I analyze used the Law of Testimony.

Altogether, the direct analysis of the Law of Testimony suggests that it would have functioned as a two-part civil law. The law’s first part rules out the sufficiency of a single witness for court cases of all types and requires instead two or three witnesses. These prescriptions are formulated absolutely for all circumstances with no explicit motive or warrant for action. The second part of the law has a three-part, means-end logic, conditionally prescribing action for circumstances in which an עד חמס (malicious

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23 Patrick, Old, 118; Tigay, Deuteronomy, 134.

24 Patrick, Old, 125; Lundbom, Deuteronomy, 458.
witness) arises and for the purpose of dissuading false testimony in the future (and, perhaps, sweeping away evil from the midst of the Israelites). From this direct analysis of the Law of Testimony’s theoretical functions, I turn now to analyze how the law functioned for two authors on two particular occasions.

**The Law of Testimony in the Temple Scroll**

The author of the Temple Scroll alluded by means of inclusion to the Law of Testimony in 11Q19 61:6–12a, though not without making significant alterations to the Deuteronomic material.\(^{25}\) I argue that the author reused, re-contextualized, and revised the Law of Testimony material in ways that cohere with the author’s broadly employed strategies for composing what Bernard M. Levinson has described as “a more perfect Torah: a Torah that is self-consistent and clearly organized.”\(^{26}\)

The author’s placement of the Law of Testimony material in col. 61:6–12a aligns with the author’s broader aim to rewrite a selection of laws from Deut 12–25 in cols. 51:11–66:12, which is a subsection of the Temple Scroll pertaining to life in the land (cols. 48–66).\(^{27}\) *Vacats* in col. 61:5 and 12 suggest that the author composed lines 6–12a

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\(^{26}\) Levinson, *More*, 14, and similarly, Crawford, *Rewriting*, 87. I am not yet persuaded by Levinson, ibid., 15, that the author intended the Temple Scroll “to trump the Pentateuch,” a claim that I think goes beyond the evidence.

\(^{27}\) Regarding the author’s rewriting of Deuteronomic laws in cols. 51:11–66 (minus cols. 57–59), see Lawrence H. Schiffman, “The Deuteronomic Paraphrase of the Temple Scroll,” in García Martínez,
as a unit. The preceding textual unit, col. 61:2b–5, is based upon Deut 18:21–22 and the subsequent textual unit is based upon Deut 20. Apart from the absence of material from Deut 19:1–14, the author’s placement of the Law of Testimony material aligns well with its ordering in Deuteronomy. Therefore, the position of the Law of Testimony material in col. 61:6–12a aligns with the author’s broader aim to rewrite a selection of Deuteronomic laws in cols. 51:11–66.

The author’s use of the Law of Testimony material was wholesale, with no major additions nor omissions. Yet, the author made numerous small alterations to the Deuteronomic law that are reminiscent of the types of changes the author made to base texts used elsewhere in the text. These changes go beyond orthographic variations characteristic of Dead Sea Scrolls Hebrew and should not be confused with those parts of

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28 Alternatively, Yadin, _Temple_, 2:277–78, argued that the author passed over material from Deut 19:1–14 to create a thematically coherent unit (i.e., cols. 61:07b–12a) pertaining to the judgment of capital crimes, keeping with the author’s general strategy to merge legal material on the same subject (cf. ibid., 1:73), in this case Deut 18:20–22 and 19:15–21. The proposal is unconvincing, however, since Deut 19:15–21 does not pertain exclusively to capital cases and a textual unit on capital crimes surely would include material from Deut 17:2–13, which the author used in col. 56:1–11. Pearce, “Philo,” 334–35, argues that the author passed over material from Deut 19:1–14 to create a section (col. 60:16–61:12) pertaining to false utterances, drawing together material from Deut 18:9–14, 20–22, and 19:15–21. The thesis is strained, however, by the author’s use of Deut 18:10, which pertains not to false utterances but making a child pass through fire (col. 60:17b–18a) and because author addressed false utterances elsewhere (col. 54:8–18), adapting material there from Deut 13:2–6.

29 I follow Crawford, _Rewriting_, 10–13, esp. 13, and others who describe rewritten texts (in part) as texts that follow the order of their base texts.

30 Regarding Table 2.1 and all tables throughout the study: Black text indicates lexical overlap and hollow text indicates lexical variation. In line 11, I include the adjective _evil_ (evil) in the phrase כדבר הרע הזה, following Schiffman, Gross, and Rand, “Text,” 158, and Qimron, _Temple_, 86, contra Yadin, _Temple_, 2:279, who omitted the term, which is clearly visible in photographs.
the text that differ from Deut 19:15–21 MT but accord with other ancient manuscripts and therefore may not evidence an alteration.\textsuperscript{31}

\begin{tabular}{|c|c|}
\hline
11Q19 61:6–12a & Deut 19:15–21 MT \\
\hline
לא יקום עד אחד באיש לכול עון ולכול חט어 & לא יקום עד אחד באיש לכול עון ולכול חט어 \\
אשר יקום עד פנים עד פנים עד פנים & זאת אשר יקום עד פנים עד פנים עד פנים \\
עד כי יקום חברו & כי יקום חברו \\
םוותהו ובしましたו והשם עמו &םוותהו וב сниженו והשם עמו \\
hיה לוח בידם לענות בביתו & היה לוח בידם לענות בביתו \\
ולפני הכוהנים והשופטים וה-navbarונים ואתו & לפני הכוהנים והשופטים וה-navbarונים ואתו \\
והנה עד שקר & והנה עד שקר \\
ענה באחיו ועשה לו &ענה באחיו ועשה לו \\
והנשארים ישמעו ויראו & והנשארים ישמעו ויראו \\
ולא יקום עד אחד באיש לכול עון ולכול חט어 & ולא יקום עד אחד באיש לכול עון ולכול חטאר \\
ושארו ושארו והשם עמו &ושארו ושארו והשם עמו \\
והנה עד שקר & והנה עד שקר \\
ענה באחיו (before me) &ענה באחיו (before me) \\
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Table 2.1: 11Q19 61:6–12a Compared to Deut 19:15–21 MT

As is common throughout the Temple Scroll, the author reformulated the Law of Testimony material in first-person speech rather than third-person speech so that the legislation appears to be spoken by God rather than Moses.\textsuperscript{32} Here, this change is consistent throughout but limited to line 8, where the litigants are instructed to stand \textit{לפני} (before me) as opposed to \textit{לפני יהוה} (before YHWH) as in the base text.\textsuperscript{33} The result is that


\textsuperscript{32} Crawford, \textit{Rewriting}, 85–6; Maier, \textit{Temple}, 3; Yadin, \textit{Temple}, 1:71–73. Elledge, \textit{Statutes}, 88–89, proposes that the alteration might also have been employed to avoid repeatedly writing the divine name or to bring the Deuteronomic material into harmony with the material from Exodus and Leviticus.

\textsuperscript{33} Contra Pearce, “Philo,” 334.
col. 61:6–12a, as with the rest of the Temple Scroll, appears to have come directly from and carry the authority of YHWH.

The author also brought the Law of Testimony’s casuistic legal terminology into line with the wider text. Levinson has demonstrated that the author attempted to harmonize the diverse systems for casuistic formulations inherent in the material that the author used from the Pentateuch. In the harmonized system, the author reserved conditional כי to mark new legal units and used conditional אם in a less restrictive manner, sometimes to mark a new legal unit and sometimes in a subordinate clause. That the author changed the conditional כי, or perhaps the conditionalוכי depending on the author’s base text, from Deut 19:16 to אם in col. 61:7b suggests that the author intended the material from Deut 19:16–21 to be understood not as a distinct legal unit but rather as subordinate to the material from Deut 19:15 in col. 61:6–7b.

In a further effort to harmonize diverse Pentateuchal materials, in col. 61:8b, the author inserted the phrase והלויים (and the Levites) into the material from Deut 19:17 and altered the referent of the preceding term, הכוהנים (the priests). Instead of the litigants standing before YHWH, the priests, and the judges (Deut 19:17), the author prescribed that the litigants stand before “me,” i.e., God, the priests, the Levites, and the judges. I contend that the author’s motive for the insertion was likely to harmonize the Law of Testimony material with Pentateuchal materials the author adopted elsewhere. On the

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34 Levinson, More, 16–43, esp., 18–20. Alternatively, Yadin, Temple, 2:247, contends that the author made no significant distinction between כי and אם.


36 For alternative accounts of the textual motivations behind this insertion, see Stackert, “Cultic,” 209–11; Crawford, Temple, 56; Jacob Milgrom, “The Qumran Cult: Its Exegetical Principles,” in Brooke, Temple, 173–74, and Yadin, Temple, 1:350. Apart from textual motivations, some have argued that the author’s ideological concern to promote the interests of the Levites motivated this insertion (cf. Stackert, ibid., 211–13; Crawford, ibid., 56; Jacob Milgrom, “Studies in the Temple Scroll,” JBL 97.4 [1978]: 503–4). The textual motivations thesis, however, sufficiently explains the evidence. See the related discussion in
one hand, as noted earlier, Deut 17:9 grants judicial oversight, Deut 21:5 grants judicial oversight to the priests, the sons of Levi, and both texts refer to the same singular people group. The author of the Temple Scroll adopted these two texts in cols. 56:07 and 63:3, respectively. Unfortunately, how the author used the material from Deut 17:9 is unknown given the damage to col. 56. It is evident, though, that the author made no significant alterations to the Deuteronomic material in col. 63:3. There is good reason to think, however, that the author intended this re-contextualized Deut 21:5 material to refer to two distinct groups, the priests (כהנים), who are descendants of Aaron, and the other sons of Levi (בני לוי), i.e., the Levites.

Elsewhere, the author adopted the intra-Levitical distinction between priests, who are the sons of Aaron, and the Levites (cols. 22:4–5, 10–12; 34:13; 35:5; 44:4–5, 14; 45:01–04; 57:12; 58:13; 60:04–15; 61:8). Two of these places deserve comment. Column 22:4–5 is the only text, other than col. 63:3, to contain the phrase בני לוי (the sons of Levi) and there these Levites are distinguished from כוהנים בני אהרון ([the] priests, the sons of Aaron), likely under the influence of Lev 3. Moreover, regarding the composition of the judiciary in Jerusalem, col 57:12–13 distinguishes between הכהנים (the priests) and הלויים (the Levites). Given the author’s consistent adherence to the intra-Levitical distinction between Aaronide priests and Levites prior to col. 63, it is unlikely that author intended col. 63:3 suddenly to conflate the priests and the Levites. It is more likely that the author intended the material from Deut 21:5 to take on new referents in col. 63:3: God has chosen the Aaronide priests and the other Levites to oversee judicial disputes.37 This new

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37 The interpretation of כוהנים בני לוי as referring to “the priests and the Levites” is grammatically possible (cf. Waltke and O’Conner, *Introduction*, 648). Notably, the related phrase הכהנים הלוים (Levitical priests)
use of the material from Deut 21:5 in col. 63:3, and perhaps a similar use of the material from Deut 17:9 in col. 56:07, then, would have conflicted with the material from Deut 19:17 in col. 61:8. Deuteronomy 19:17 prescribed that the litigants stand before the priests (הכהנים), meaning the Levitical priests. But by inserting the phrase והלויים (and the Levites), the author simultaneously altered the referent of הכהנים to be the Aaronide priests and harmonized the Law of Testimony material with the wider intra-Levitical distinction in the text and its judicial material.

The author’s change to the material from Deut 19:15 in col. 61:6 both improved the material and harmonized it with the wider text. Instead of employing the Law of Testimony’s three variant references to sin, עון (iniquity), חטאת (sin), and חטא (sin), and two distinct prepositional phrases, לכל (regarding any) and בכל (for any), the author streamlined the material to two references to sin, עון and חטא, and one prepositional phrase, לכל. The net result is similar but distinct from the textual variants of the Law of Testimony in the Septuagint, which harmonized the prepositions, and the Samaritan Pentateuch, which harmonized חטאת as חטא. Rather than harmonize variant terms, however, the author the Temple Scroll dropped variant and redundant terms. Still, why the author opted for חטא instead of חטאת only becomes clear in the light of the wider text. Elsewhere, the author tended to employ the term חטאת (sin) to refer to a wrongful act (cols. 57:10; 61:6; 64:9; 66:6) and the term חטאת to refer to a sin offering (cols. 16:12, 18; found in Deut 17:9 is used in later texts that make the intra-Levitical distinction between priests and Levites to refer to “the priests and the Levites”: Neh 11:20; 2 Chron 5:5; 23:18; 30:27 (cf. Neh 10:29, 35; 1 Chron 9:2). In fact, in 2 Chron 5:5 and 23:18 the Septuagint translator even supplied the conjunction. Milgrom, “Qumran,” 172, likewise notes that the author of CD 3:21 interpreted the phrase Priest and Levite (Levitical priests) in Ezek 44:15 as Priest and Levite (the priests and the Levites).

38 Levinson, More, 88, n. 30; Yadin, Temple, 2:278; McCarthy, Deuteronomy, 107*. McCarthy, Ibid., notes that similar variants in multiple manuscripts might be combined with 11Q19 61:6 to evidence an underlying textual variant.
Accordingly, the author opted for the term חטא in the rewriting of the Deut 19:15 material. Altogether, the author’s alterations to the material from Deut 19:15 improved the material for and harmonized the material with the author’s new law book.

Two further changes to the Law of Testimony material are evident in col. 61:9b and 10b, one that improved the material and another that appears to be a mistake. The author improved the material from Deut 19:19a in col. 61:10b. By changing the verb from the Deut 19:19a material from plural to singular, the author harmonized the verb with the singular verb in the Deut 19:19b material. This type of change is part of the author’s broader effort to compose a more perfect Torah. In col. 61:9b, however, the author appears to have omitted the word ישב (thoroughly) by mistake from the Deut 19:18 material. The omission does not significantly change the meaning of the base text. Moreover, the author elsewhere adopted a similar phrase from Deut 17:4 and there retained the term ישב (col. 55:19). Yadin’s conclusion that the omission may be a mistake is plausible.

Apart from the plain alterations the author made to the Law of Testimony material, it is also possible that the author intended the material from Deut 19:19b–20 to take on new meaning pertaining to the purity of the temple. In col. 51:11–16a, the author indicated that judiciaries have a specific role to play in helping the people maintain the purity of the temple. The author adapted material prohibiting judicial bribes

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39 The sole exception to this otherwise consistent trend is 11Q19 35:13b–15a, where the author employed קרה in reference to moral defilement and not an act. See chapter 4 for a discussion on moral defilement ( הבאים) in the Temple Scroll.
40 Yadin, Temple, 2:278.
41 Yadin, ibid.
42 Similarly, Swanson, Temple, 5, contends that “the Scroll’s structure recasts Deuteronomy from a priestly perspective.”
primarily from Deut 16:18–20 but inserted an additional motive clause that appears to be the author’s composition in 11Q19 51:14b–15a: ורשה אשם הגדולה והמסמה הבית בעון החטאה (causing great guilt and making impure the house with the iniquity of sin). With this insertion, the author indicated that the judiciary has a role to play in protecting the purity of the temple.43 Though the author did not make such an explicit connection between the Law of Testimony material in col. 61 and the purity of the temple, it is possible the author intended the material from Deut 19:19b–20 to be understood in the context of the Temple Scroll’s wider concern for the temple’s purity and the related role of the judiciary: You shall purge the evil of a malicious witness from your midst so that such a one will not rise again and so that this evil will not make impure the temple. Such a combination of the material from Deut 19:19b with v. 20 to formulate an objective would accord with the earlier observation that v. 19b could function as a result clause and thereby part of the law’s objective instead of as a prescription. While it is not possible to prove that the author intended the material from Deut 19:19b–20 to take on significance regarding the temple’s purity, it is a possible consequence of the author re-contextualizing the Law of Testimony material in the Temple Scroll.

Overall, the evidence suggests that the author reused, re-contextualized, and revised the Law of Testimony material to function as a textual unit in the author’s new and improved law book. The author’s reuse of the Law of Testimony in col 61:6–12a is wholesale with no major additions. Moreover, the surrounding vacats and casuistic legal

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terminology suggest the author intended the Law of Testimony material to function as a textual unit in the author’s composition. Specifically, it is a unit pertaining to judicial testimony that may have ramifications for preserving the purity of the temple. The author reformulated the Law of Testimony material in first-person speech rather than third-person speech so that the legislation appears to be spoken by God rather than Moses, as the author does throughout the text. The author also harmonized the Law of Testimony material with material adopted from elsewhere in the Pentateuch, including other parts of Deuteronomy, as well as with the Temple Scroll’s wider patterns of syntax and diction. Finally, despite one mistaken omission, other changes to the Law of Testimony material streamlined its redundancies and harmonized its variants of diction and syntax. In all these ways, the author reused, re-contextualized, and revised the Law of Testimony to function as a textual unit in the author’s new and improved law book.

Based on my analysis, I conclude with five observations about how the author of the Temple Scroll used the Law of Testimony in comparison to the law’s theoretical ethical functions. First, the author used the Law of Testimony as a discrete, two-part law in accordance with its presentation in Deuteronomy. The author made no major additions to the law, nor omitted major parts. Moreover, the author set off the Law of Testimony material from the surrounding text by means of **vacats** and signaled that material from Deut 19:16–21 in 11Q19 61:7b–12 was part of the legal unit that began with the material from Deut 19:15 in 11Q19 61:6–7a by altering the conditional כִּי (or כִּי) from v. 16 to אָּ֖ש (11Q19 61:7b). In these ways, the author used the Law of Testimony material as a complete, two-part law in accordance with how the law in Deuteronomy appears to function.
Secondly, while the form as well as the literary and historical contexts of the Law of Testimony suggest that the law functioned as a civil law, the author of the Temple Scroll used the law for an ethical purpose. The author used the law as part of a wider project to create a law book that was more self-consistent and clearly organized than the Pentateuch. While the author’s use of the Law of Testimony takes the form of a civil law, as in the book of Deuteronomy, not a moral law, there is no evidence that this new and improved legal unit ever actually functioned as a civil law. Moreover, the incorporation of the law into the Temple’s Scroll’s unit on life in the land (cols. 48–66) suggests that the author intended the material to pertain to the text’s wider concerns for the temple’s purity and the related role of the judiciary, both of which go beyond civil judicial processes per se. Thus, the evidence from the Temple Scroll suggests that the author employed the law for an ethical purpose, not as the type of civil law it appears to be in Deuteronomy.

Thirdly, in terms of subject matter and objective, there is continuity and variance between what the direct analysis of the Law of Testimony suggests and how the author of the Temple Scroll employed the law. Regarding subject matter, the author employed the law to address the matter of judicial testimony, just as the direct analysis of the law suggests that it would function. Similarly, regarding objective, the author adopted the Law of Testimony’s objective (Deut 19:20) wholesale as part of the law’s inclusion. However, given the Temple Scroll’s wider concern for the temple’s purity and conception of how the judiciary impacts the temple’s purity, it is also possible that the author employed the Law of Testimony for the further purpose of preserving the temple’s purity, thus employing v. 19b (“and you shall sweep the evil from your midst”) along
with v. 20 to define objectives. While the combination of vv. 19b and 20 to comprise the law’s objectives was a theoretical possibility, as seen in the direct analysis of the law’s structure and logic, any concern for the temple’s purity goes beyond what is suggested by the law itself in Deuteronomy.

Fourthly, beyond the matters of subject and objectives, the author altered the Law of Testimony material so that it took on meanings not explicit in the law itself. In col. 61:8, the author omitted the divine name from the Deut 19:17 material, thereby recasting the Deuteronomic material as divine speech. In the same place, the author added והלויים (and the Levites), which functionally altered the referent of the preceding term,法师 (the priests), to be the Aaronide priests. The insertion thereby introduced the intra-Levitical distinction between Aaronide priests and Levites into the Deuteronomic material, bringing the material into harmony with the wider text, which maintains the intra-Levitical distinction. In these ways, the author altered the Law of Testimony material to take on new meanings not explicit in the law itself in Deuteronomy.

Finally, the author used each part of the law in correspondence with its logical function in Deuteronomy. The author used the law’s prescriptive material (Deut 19:15, 17–19a, and 21) to prescribe in the Temple Scroll, the law’s motive clauses (Deut 19:19b–20) as motives for the author’s prescriptions, and the law’s circumstantial clause (Deut 19:16) to detail the circumstance befitting the author’s prescriptions. Thus, the author used the Law of Testimony material in exact accordance with its theoretical logical functions in the book of Deuteronomy.

Overall, the Law of Testimony functioned in the Temple Scroll in accordance with what direct analysis suggests about its structure, subject matter, and logic, but
otherwise in ways that differ from what direct analysis suggests. I turn now from the laws in the Temple Scroll to the narrative in Old Greek Susanna.

The Law of Testimony in Old Greek Susanna

The story of Susanna is preserved in the book of Daniel in two versions commonly called the Old Greek (OG) version and the Theodotian version. I focus primarily on the Old Greek version, which I believe to be the earlier of the two. It is generally accepted that the Susanna narrative is dependent on the Law of Testimony to which the author explicitly alluded in vv. 60–62 and with which the narrative generally accords. I contend, however, that the author’s use of the Law of Testimony is far more pervasive and purposeful. Specifically, I demonstrate how the author employed the Law of Testimony’s themes and lexemes to satirize an interpretation of this law that would excuse supposedly reliable witnesses in cases that warrant capital punishment from undergoing the judicial examination prescribed in Deut 19:18.


46 There are two prominent, alternative interpretations of Old Greek Susuanna. The first thesis was originally put forth by Nehemiah Brüll, “Das apokryphische Susanna-Buch,” Jahrbucher für jüdische Geschichte 3 (1877): 1–69, who argued on the basis of tannaitic rabbinic literature that the Susanna narrative contains a pro-Pharisaic legal polemic against the Sadducees. The thesis enjoyed some prominence in the early twentieth century and still garners some support today. Recently, however, the
There are four main parts to the Susanna narrative along with an introduction and conclusion. The introduction in vv. 5b–6 sets the narrative scene in the exile with the author highlighting that therein certain elder judges were a source of lawlessness (ἀνομία). The first part of the narrative (vv. 7–12) introduces those judges and Susanna. Befitting the description of the judges in v. 5b, the author characterized the judges as having turned their minds and their eyes so as to not see heaven nor righteous judgments (v. 9) when they saw and became smitten with Susanna, the wife of Ioakim. The second part of the narrative (vv. 13–28a) tells of the elders’ attempt to force themselves upon Susanna. When she refuses, the men, to whom the author referred as unlawful ones (παράνομοι), depart, plotting her death (v. 28a). The judicial elders enact their plot in the third part of the narrative (vv. 28b–41) by means of a judicial trial. Calling for Susanna to stand in the synagogue, the two elders, to whom the author again referred as unlawful ones (παράνομοι, v. 32), place their hands upon her head (vv. 28b–34) and testify that they saw Susanna having intercourse with some man in her husband’s garden (vv. 36–41). The trial ends with the people of the synagogue believing the elders’ testimony. In the fourth part of the narrative (vv. 44–62), the Lord gives a youth named Daniel a spirit of understanding (v. 44), Daniel rebukes the people who have condemned Susanna (v. 48) and examines the judicial elders (vv. 51–59), proving to the people that the judicial elders are in fact false witnesses. The people then put the judges to death, which the majority of scholars defend a less exacting thesis: that the author of Old Greek Susanna aimed to critique Jewish judicial authorities and processes generally. I have argued against these interpretations in Paul Cizek, “Resolving Ancient and Modern Judicial Ambiguities in Old Greek Susanna” (paper presented at the Society of Biblical Literature Annual Meeting, 7 December 2020), in which I advance the same line of interpretation that I advance here.  

author noted accorded with the Deut 19:19 (vv. 60–62): καὶ ὡς ὁ νόμος διαγορεύει,
ἐποίησαν αὐτοῖς, καθὼς ἐπονηρεύσαντο κατὰ τῆς ἀδελφῆς (and as the law declares, they
did to them just as they wickedly intended against the sister). 48 The narrative ends with an
epilogue in vv. 62a–62b extolling pious young men.

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The author’s use of the Law of Testimony, however, is not limited to vv. 60–62.

Throughout the third and fourth parts of the narrative, the author recurrently alluded to
the Law of Testimony by means of a unique combination of lexemes that only occurs in
the Law of Testimony and the Susanna narrative, and by means of thematic links.

48 Regarding the link to Deut 19:19, see Hartman and Di Lella, “Daniel,” 420, Collins, Daniel, 435,
Pietersma, rev. ed. (Oxford: Oxford University Press, 2009), 990, and Moore, Daniel, 113. Alternatively,
Collins, Ibid., 424, translates as “They did to them as the law states, as they had acted maliciously against a
sister,” but this overlooks the fact that the lexemes in Sus 60–62 are modeled on the lexemes in Deut
19:19a, beginning with the word, ἐποίησαν (they did).
In part three, the author portrayed the initial trial proceeding in accordance with Deut 19:15. The testimony of the two elders (v. 29) and the resulting ruling by the members of the synagogue (v. 41) accords with the prescription given in Deut 17:6 and 19:15 for a minimum of two witnesses to warrant full conviction. Moreover, the elders’ declaration in v. 41, ταῦτα μαρτυροῦμεν (these things we testify), lexically ties to language regarding witnesses and witnessing in Deut 17:6 and 19:15 (μάρτυς; μαρτυρέω). Finally, the absence of judicial examination of the testimony in the narrative, as noted by Daniel in v. 48, conflicts with the legislation in Deut 17:2–7, which necessitates judicial examination, but accords with Deut 19:15, which does not necessitate judicial examination. The lexical and thematic evidence thus suggests that the author composed the initial trial to accord with Deut 19:15.

In Susanna’s response to the initial trial, however, the author tied the narrative to the second part of the Law of Testimony (Deut 19:16–21). Susanna’s prayer in vv. 35–35a ties thematically to Deut 19:17, which requires those who have a judicial controversy to stand before YHWH, the priest, and the judges who are in office. Some commentators note that vv. 35–35a is an awkward position in the narrative for Susanna’s prayer since it occurs while the trial is in progress and before the ruling. Some even contend that Theodotion smoothed out the matter by transposing Susanna’s prayer to after the verdict is rendered (vv. 42–43 Th). However, the transposition may actually obscure what is at stake in the Old Greek narrative. By placing Susanna’s prayer in the midst of the trial, the author illustrated the trial occurring not only before those in the synagogue but also

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50 Collins, Daniel, 432. Alternatively, Moore, Daniel, 103, contends the position of the prayer in either version is suitable.
before God, in accordance with Deut 19:17. Moreover, in her prayer, Susanna declares that she has not done what the elders are wickedly alleging (πονηρεύομαι) against her (v. 35a), thereby characterizing the elders just as the Law of Testimony describes a false witness: καὶ ποιήσετε αὕτῳ ὅν τρόπον ἐπονηρεύσατο ποιῆσαι κατὰ τοῦ ἀδελφοῦ αὐτοῦ (and you shall do to him in the manner which he wickedly intended to do to his brother).

In these ways, the author tacitly depicted the initial trial occurring in accordance with the circumstance Deut 19:16–21 aims to address, namely, the arising of a malicious witness, which would then warrant the need for the thorough inquiry prescribed in v. 18.

Such thorough inquiry, however, is bypassed in v. 41b when the people accept without inquiry the testimony of the elder judges. The people’s acceptance of the elder judges’ testimony is explained twice. Verse 41b explicitly states that the people accepted the elder judges’ testimony because of the elder judges’ social standing. In v. 51a, Daniel explicitly urges the people to reconsider the case without presuming the elder judges’ reliability: μὴ βλέψητε ὅτι οὗτοί εἰσί πρεσβύτεροι, λέγοντες Ὡς μὴ ψεῦσονται (do not see that they are elders and say, surely they will not lie). In other words, those in the synagogue accept the testimony of the two elder judges without thorough inquiry because they presume the elder judges are reliable. Such a process accords precisely with the interpretation of Deut 19:15–21 that sees v. 15 as sufficient in circumstances in which reliable witnesses arise and vv. 16–21 as prescribing an alternative judicial process for less reliable witnesses.

In the fourth part of the narrative, then, the author lexically and thematically tied Daniel’s interrogation of the elder judges to Deut 19:16–21. Daniel rebukes the people

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51 Collins, Daniel, 432, 437; Moore, Daniel, 77–78, 103.
for condemning Susanna to die without examining her case (v. 48) and declares that he will test (ἐτάσω) the elders (v. 51). This rebuke and declaration ties thematically and lexically to the prescription in Deut 19:18 LXX, that the judges should make a thorough examination (ἐξετάσωσιν οἱ κρῖται ἁκριβῶς). Daniel’s examination of each elder begins by accusing the elder of sinful behavior that predates the incident with Susanna (vv. 52b–53; 56b–57), describing some such behavior as lawless (ἀνομίᾳ, v. 57). How Daniel knows about their sinful pasts is not wholly clear but presumably relates to the spirit of understanding God gives him in vv. 44–45. Daniel’s accusations, though, are thematically in accord with the narrator’s consistent characterizations of the elders as lawless (cf. vv. 5b, 28a, and 32). Some commentators, however, have been puzzled or disturbed by Daniel’s accusations, since they see Daniel rendering judgment on the elders even before testing them. In reality, Daniel does not render his judgments until vv. 55 and 59, where it makes sense to see Daniel’s judgments as his response to the elders’ testimony (vv. 54b; 58b). So, the accusations of prior sinfulness themselves are not the basis of Daniel’s judgment. On the contrary, Daniel’s accusations concerning the elders’ previous iniquities function to make known the folly of all those who presumed the elder judges were reliable and therefore beyond the need for examination (v. 48). Had the people not been distracted by the elder judges’ social status or known the extent of their past iniquities, perhaps they might not have accepted their testimony without thorough inquiry. The accusations, thus, seem to function as the author’s direct but implicit critique of not subjecting supposedly reliable witnesses to judicial examination, and thereby an

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52 The parallel legislation in Deut 17:4 uses a distinct verb, ἐκζητάω (seek out).
indirect critique of one interpretation of Deut 19:15–21. Daniel’s speech in v. 48 (“Are you such fools?”) suggests, in fact, that the author found such an interpretation of the Law of Testimony to be foolish, at least in cases that warrant capital punishment.

In summary, the author of Old Greek Susanna employed the Law of Testimony’s themes and lexemes to compose a narrative that satirized an interpretation of this law that excused supposedly reliable witnesses in cases that warrant capital punishment from undergoing the judicial examination detailed in Deut 19:18. The judicial elders and the people play the part of those who consider thorough judicial inquiry only necessary for unreliable witnesses and Deut 19:15 to be sufficient for reliable witnesses. Daniel’s questions in v. 48, “Are you such fools?... Without examination... do you condemn a daughter of Israel to die?” implicitly suggests that such an interpretation is foolish in cases that warrant capital punishment. The speeches of Susanna and Daniel together demonstrate that even those with reliable appearance may be unreliable, necessitating, therefore, thorough judicial inquiry for all witnesses. Fittingly, when the elder judges are found to be false witnesses, the author noted that the assembly punished the elder judges ὡς ὁ νόμος διαγορεύει (as the law declares), specifically as Deut 19:19 declares. In this way, the author reduced to absurdity an interpretation of the Law of Testimony that allowed supposedly reliable witnesses in capital cases from undergoing judicial examination.

On the basis of the preceding analysis, I make five observations about how the author of Old Greek Susanna employed the Law of Testimony in comparison to the law’s theoretical ethical functions. First, the author employed the Law of Testimony as a two-part law, as the law appears in the book of Deuteronomy, but employed only select
portions, not the law as a whole. The author was aware of the law’s two-part division, depicting the original trial happening in accordance with the first part of the law (Deut 19:15) and demonstrating the folly of employing those prescriptions without those in the second part (Deut 19:16–21). In Susanna’s and Daniel’s responses to the original trial and the re-trial, however, the author only used material from Deut 19:16–19, not vv. 20–21. Why the author did not employ material from v. 21 is not entirely clear, but presumably the prescription in v. 19 for dealing with false witnesses was sufficient without the specifications from v. 21. The selection against v. 20, however, requires further discussion. For now, though, it is enough to note that the author employed material from the Law of Testimony in accordance with the law’s two-part division in Deuteronomy, but only used select verses from the second part of the law, not the law as a whole.

Secondly, while the form as well as the literary and historical contexts of the Law of Testimony suggest that the law functioned as a civil law, the author of Old Greek Susanna employed the law for an ethical purpose. Specifically, the author employed the law to compose a narrative that portrays as foolish those who interpret the law in a certain way. Certainly, within the narrative itself, the author portrayed the Jewish exiles using the Law of Testimony as the basis for judicial process (vv. 60–62). But what happens in a narrative does not prove how the law ever actually functioned. Instead, the case demonstrates that on this particular occasion the author employed the Law of Testimony for an ethical purpose.

Thirdly, in terms of subject matter and objective, there is continuity and variance between what the direct analysis of the Law of Testimony suggests and how the author of Old Greek Susanna employed the law. On the one hand, the author employed the Law of
Testimony to address a particular concern regarding judicial testimony, just as direct analysis of the law suggests that it would function. On the other hand, the author aimed to address a circumstance not exactly covered by the law: not simply the arising of a malicious witness (cf. Deut 19:16) but rather a judicial failure to detect a malicious witness arising. Accordingly, the author’s objective for employing the Law of Testimony shifted. The author was still concerned with preventing malicious witnesses, as the direct analysis of the law’s objective suggests, but further specified that this objective was for the purpose of preventing the shedding of guiltless blood (Sus 60–62). Moreover, part and parcel to pursuing this objective was the author’s aim to satirize as foolish those who interpret the Law of Testimony in a manner that allowed the new and problematic circumstance to arise. On the whole, then, the author used material from the Law of Testimony in accordance with its subject matter in Deuteronomy but also employed it to address a circumstance and achieve an objective not suggested by the law itself in Deuteronomy.

Fourthly, the author innovated on the meaning of Law of Testimony material by employing it in accordance with the related legislation in Deut 17:2–7. Despite the fact that the Law of Testimony only prescribes thorough judicial examination in circumstances in which a malicious witness arises, the author constructed the narrative to demonstrate the need for the type of judicial examination prescribed in Deut 19:18 in all capital cases. This use of the law accords with the related legislation in Deut 17:2–7, esp. v. 4, which prescribes judicial examination in all capital cases. Thus, the author altered the meaning of the Law of Testimony material by employing it in accord with its related Deuteronomic legislation.
Finally, the author employed material from the Law of Testimony in ways that both accord and do not accord with the logical functions of that material in Deuteronomy. While the Law of Testimony in Deuteronomy contains a mixture of prescriptive material (i.e., Deut 19:15, 17–19, 21) and material that describes a circumstance or objective (i.e., vv. 16, 20), the author used this material only for descriptive purposes in the narrative. The author described the original trial in accordance with Deut 19:15. The author described Susanna’s and Daniel’s responses to the original trial in accordance with Deut 19:16–19. Even when the narrator describes the punishment of the elder judges as according with Deut 19:19 (Sus 60–62), the author employed the Deuteronomic material descriptively. The author’s use of Deut 19:16 thus accords with its descriptive function in Deuteronomy, but the author otherwise employed prescriptive material from the Law of Testimony for descriptive purposes in the narrative.

Overall, then, the Law of Testimony functioned in Old Greek Susanna in accordance with what direct analysis suggests about its subject matter, but otherwise functioned in ways that differ from what direct analysis suggests.

Conclusions

The two case studies I have analyzed demonstrate that the Law of Testimony functioned ethically in diverse ways. In the Temple Scroll, the author reused, re-contextualized, and revised the Law of Testimony material to make it part of the author’s new law book with its concern for the holiness of the temple, Jerusalem, and the land. In Old Greek Susanna, the author employed the Law of Testimony’s themes and lexemes to satirize an interpretation of the law that would excuse supposedly reliable witnesses in cases that warrant capital punishment from undergoing judicial examination.
In no case, however, did the Law of Testimony function in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts. In both case studies, the Law of Testimony did function as a discrete, two-part law in accordance with its presentation in Deuteronomy, but in Old Greek Susanna the author selectively employed pieces of the law, not the law as a whole. Moreover, while the form as well as the literary and historical contexts of the Law of Testimony suggest that the law functioned as a civil law, in both cases the authors employed the law not as a civil law but for ethical purposes.55 Furthermore, while both authors did employ the Law of Testimony to address their particular concerns regarding judicial testimony, as direct analysis of the law suggests, they each pursued objectives that are distinct from the law’s objective in Deuteronomy, namely, to prevent the arising of a malicious witness who testifies falsely. Each case study author also altered the Law of Testimony material so that it took on meanings not explicit in the law itself. And finally, while the author of the Temple Scroll employed the Law of Testimony material in correspondence with its logical functions in Deuteronomy, the author of Old Greek Susanna only employed material from the law for descriptive purposes, thereby innovatively employing the law’s prescriptive material. Thus, the case studies show that the Law of Testimony’s actual ethical functions were only partly in continuity with what direct analysis of the law suggests.

55 In a future study, however, I will show how the author of CD 9:16b–10:3a employed the Law of Testimony for a civil purpose.
CHAPTER 3: THE ETHICAL FUNCTIONS OF THE LAW OF THE KING

In this chapter I demonstrate how the authors of Dan 5 MT, 11Q19 56:12–59:21, Ps. Sol. 17, and CD 4:20b–5:6a employed Deut 17:14–20, commonly called the Law of the King, for their own particular purposes.

To establish the direction of dependence between the Law of the King and the four other texts, it is sufficient to note that literary growth of the Law of the King was complete prior to the composition of the other four. Scholars agree that the law reached its final stage of literary growth by the late fifth or early fourth century BCE.¹ The Belshazzar story in Dan 5 MT is often dated to the early Hellenistic period prior to Antiochus Epiphanes, between the late fourth and early second centuries BCE.² As noted in the previous chapter, the Temple Scroll’s composition is commonly dated sometime during the second or early first centuries BCE. Scholars typically date the Damascus Document to the late-second or early-first centuries BCE based on the paleographic dating of its earliest manuscript (4Q266) to the first half of the first century BCE.³ Finally, Ps. Sol. 17 was composed during the first century BCE.⁴ Such dating is sufficient

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for establishing the direction of dependence of these four texts on Deut 17:14–20 and not vice versa.

My analysis will proceed as follows. I begin with a direct analysis of the Law of the King’s ethical functions based on the law’s structure, logic, form, and historical and literary contexts. The conclusions I draw here reveal how the Law of the King could have functioned in theory, not how the law actually functioned on particular occasions. I then indirectly analyze the ethical functions of the Law of the King, demonstrating how the authors of Dan 5 MT, 11Q19 56:12–59:21, Ps. Sol. 17, and CD 4:20b–5:6a utilized the law for their own particular purposes. I start with the two texts whose authors heavily drew upon the Law of the King, namely Daniel 5 MT and Temple Scroll 56:12–59:21, and then turn to two texts whose authors drew selectively upon the Law of the King, first Psalm of Solomon 17 and then Damascus Document 4:20b–5:6a. The ordering of the cases is heuristic, with the case of the Damascus Document coming last since the authors of the first three address issues regarding kings while the author of the Damascus Document used the Law of the King to address not kingship issues but a marriage issue. Each case study concludes with a summary of how the Law of the King functioned on that particular occasion, with an eye towards how these functions compare to the provisional, theoretical functions of the law discerned through direct analysis. In the end, I argue that the four case studies evidence that the Law of the King had a diversity of

ethical functions but none that were in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts.

Direct Analysis of the Law of the King

The Law of the King is a discrete legal unit among a series of laws in Deuteronomy primarily pertaining to civil and religious offices and processes (Deut 16:18–18:22). Structurally, the law has four parts. Verses 14–15 contain a conditional formulation, with a temporal clause in v. 14, an apodosis in v. 15, and second-person verbs throughout. The speaker, Moses, details that the people may set a king over themselves when they come into the land, insofar as the king is chosen by YHWH and is not a foreigner. A shift occurs in vv. 16–17 with a series of prohibitions using third-person imperfect verbs with modal nuance. Three of the prohibitions contain the phrase ולא ירבו לו (he shall not multiply for himself) and limit the king’s acquisition of horses, wives, silver, and gold. A fourth prohibition is sometimes noted in v. 17a, ולא יסור לבבו (and he shall not turn his heart), though this prohibition is often interpreted to be part of the second prohibition. Another shift occurs in vv. 18–19, which contain a series of positive prescriptions (vv. 18b–19a) and a final clause (19b), with the verbs continuing to be third-person verbs pertaining to the king. Moses instructs the king to write out משנה התורה הזאת (this second law), to keep it with him, and to read it daily.

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6 Nelson, *Deuteronomy*, 224.
7 Lundbom, *Deuteronomy*, 540, notes that v. 17a contains a double prohibition. The NRSV and NJPS treat the second prohibition as a result of the first prohibition.
9 Tigay, *Deuteronomy*, 168; Weinfeld, *Deuteronomy 1–11*, 1. Alternatively, McCarthy, *Deuteronomy*, 104*, argues “the basic idea conveyed by משנה is that of a copy or duplicate.” Elsewhere in the Hebrew Bible, however, משנה means “double” or “second” and the only two supposed instances of the term meaning “copy” occur here in Deut 17:18 and a similar phrase in Josh 8:23.
clause in v. 19b begins with the telic particle למשה (in order to), which governs three successive infinitive constructs, specifying that the purposes of the prescriptions in 18b–19a are that the king learns to fear YHWH, to keep all the words of this torah (תורה) and to do these statutes (חקים אלה). Verse 20 contains three more final clauses pertaining to the king. The first two clauses begin with the telic particle לעבלתי (lest) and the third clause begins with the telic particle למשה (in order to). It is possible to interpret these three clauses as either further specifying the purpose of the prescriptions in vv. 18b–19a or specifying the purpose of all the negative and positive prescriptions in vv. 16–19a. Either way, the law specifies that the purpose of the preceding prescriptions (some or all) is that the king will not exalt his heart over his fellow Israelites nor turn from the commandment (מצוה), and that the king and his descendants will reign long over Israel.

Corresponding with its structure, the Law of the King contains a three-part, means-end logic. Verses 14–15 constitute the first part, specifying the circumstance under consideration: when the Israelites have entered the land and set over themselves a king. The speaker gives two prescriptions: that the king be one whom YHWH chooses (v. 15a) and that the king be an Israelite (v. 15b). These prescriptions, however, are not the law’s primary prescriptions but rather prerequisites for the monarchy in the circumstance presumed by the law. The third part of the law in vv. 19b–20 specifies objectives for the potential king: that the king learns to fear YHWH, to keep and do YHWH’s statutes, to not exalt his heart over his fellow Israelites, and to not turn from the commandment so

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10 Whybray, Good, 53, and Tigay, Deuteronomy, 169, take the latter option. Nelson, Deuteronomy, 225, Albertz, “Possible,” 279, and Otto, Deuteronomium 12–34, 1:1455, argue that vv. 18–19 are a secondary addition.
that his kingdom may endure.\textsuperscript{11} The prohibitions (vv. 16–17) and the positive prescriptions (vv. 18–19a) comprise the second part of the law, functioning as means to help the potential king (vv. 14–15) reach the desired goals (19b–20).\textsuperscript{12} The prohibitions against the multiplication of horses, wives, silver, and gold curtail what the author presumed to be normal behavior for kings at the author’s time: despotism, self-aggrandizement, and aggressive foreign policy at the expense of the king’s own people.\textsuperscript{13} Likewise, the prescriptions in vv. 18–19a for torah instruction are specifically crafted for a king. The law sets the king under the authority of \(משנה התורה הזאת\) (this second law), implicitly prohibiting the king from acting without regard for the law. Such a prescription is only fitting for someone who might imagine him/herself to be above the law, like a king or others of high rank.\textsuperscript{14} The prescriptions also necessitate considerably more wealth—enough to produce a personal law book—than the regimen of \textit{torah} instruction for the wider populace (cf. Deut 6:6–9; 31:9–13). Thus, the prohibitions and prescriptions (vv. 16–19a) function as a means for a potential king (vv. 14–15) to achieve the detailed objectives (vv. 19b–20).

Formal and historical critical analyses of the Law of the King suggest that it functioned as a moral law, not as a civil law, providing an ideal of kingship. Formally, the prohibitions (vv. 16–17) lack sufficient specificity to function in a legal context. How

\textsuperscript{11} Similarly, Nelson, \textit{Deuteronomy}, 225, and Tigay, \textit{Deuteronomy}, 169, describes v. 20 as the law’s objective.
many horses or wives are permissible for a king? How much silver and gold are permissible? Similarly, the law lacks any sanctions that could be carried out by a court and, in fact, any sanctions at all. Such formal lack of prohibitive specificity and sanctions lead scholars to conclude that the Law of the King did not originally function as a civil law, but rather as a moral law.\textsuperscript{15}

The idealistic function of the law is suggested by the limited positive role it prescribes for the king.\textsuperscript{16} The law’s positive prescriptions for the king amount to one: to study daily his own copy of the law given by Moses (vv. 18–19a). By contrast, kings in the ancient Near East often played roles in the administration of justice, the cult, and the military, as is often assumed by the authors of the so called Deuteronomistic History and certain psalms of the Hebrew Bible.\textsuperscript{17} In Deuteronomy, however, no mention is made of the king in matters of justice (cf., Deut 16:18–20; 17:2–13), the cult (cf., 14:22–28; 15:19–23; 16:1–17; 23:9–14), or the military (cf., 20:1–20; 21:10–14). Levinson describes such blatant omissions in the Law of the King and throughout Deuteronomy as “exegetical silence” and “polemical silence,”\textsuperscript{18} and Richard D. Nelson concludes, “Here the flavor of utopian idealism in strong.”\textsuperscript{19} Thus, formal and historical analyses of the Law of the King suggest that the law functioned as a moral law that provided a moral ideal of kingship.

\textsuperscript{15} Cf. Tigay, \textit{Deuteronomy}, 167.
\textsuperscript{16} Barton, \textit{Ethics}, 133; Knoppers, “Deuteronomist,” 335; Levinson, “Reconceptualization,” 511–24; Lundbom, \textit{Deuteronomy}, 541; Nelson, \textit{Deuteronomy}, 222; Tigay, \textit{Deuteronomy}, 166. Alternatively, Nelson, ibid., 222, and Wright, \textit{Old}, 232, 248, contend vv. 18–19 depict the kings as a model or ideal Israelite, but there is no suggestion in the text that the king functions as such a model for other Israelites.\textsuperscript{17} Levinson, “Reconceptualization,” 512–19.
\textsuperscript{19} Nelson, \textit{Deuteronomy}, 222.
Finally, beyond the ambiguity concerning the specific numbers or amounts of horses, wives, and silver and gold that a king is permitted, there are also ambiguities of meaning within vv. 16–17 that are helpful to flag at this point in the chapter. First, it is unclear whether the phrase יישיב את העם מצריםה لنמען הרבות סוס (return the people to Egypt in order to multiply horses) in v. 16aβ refers to sending people to Egypt in exchange for horses or to sending a trade delegation to acquire horses or something else. Second, it is unclear from the phrase ולא יסור לבבו (and he shall not turn his heart) in v. 17aβ from what a king might turn his heart. This is the only occurrence in Deuteronomy in which לבב (heart) is the object of the verb סור (turn). Elsewhere in Deuteronomy, Moses warns the people about turning (סור) from the commandments (מצות) (Deut 5:32; 9:12, 16; 17:20; 31:29), and turning from YHWH to serve other gods (7:4; 11:16), and sometimes combines both motifs (11:28; 28:14). But the matter is not wholly clear in Deut 17:17aβ. These two ambiguities inherent to vv. 16–17 influence the manner in which the authors of Dan 5 MT, the Temple Scroll, and Ps. Sol. 17 employed the law.

Altogether, the direct analysis of the Law of the Kings suggests that it would have functioned as a four-part moral law with a three-part means-end logic. The first part defines the law’s presumed circumstance, namely when the nation of Israel dwells in the promised land and an Israelite king sits on the throne. The final part of the law details the law’s objectives: that the king learns to fear YHWH, to keep the commandments, and to avoid exalting himself over his fellow Israelites, thereby maintaining his royal dynasty. The second and third parts of the law, then, prescribe behavioral ideals for a king, detailing how a potential Israelite king ought to act to achieve the law’s goals. From this

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20 Tigay, Deuteronomy, 167.
direct analysis of the Law of the King’s ethical functions in theory, I turn now to analyze how the law functioned for four authors on four particular occasions.

The Law of the King in Daniel 5

The story of King Belshazzar in Daniel 5 MT contains no explicit or obvious allusions to the Law of the King, but the author’s dependence upon the law is evident, especially when compared to the Old Greek version(s). I demonstrate how the author of Dan 5 MT coordinated the stories of Belshazzar (Dan 5) and Nebuchadnezzar (Dan 4) so that both kings are culpable of exalting their hearts against the Most High God and so that the former king’s demise and restoration functions as ethical instruction for the latter. Correspondingly, I show how the author embellished the Belshazzar narrative with thematic and lexical allusions to the Law of the King to characterize Belshazzar as a king with an exalted heart (cf. Deut 17:20).

The Masoretic Belshazzar narrative unfolds in three parts with lexical repetitions signaling the development and resolution of the narrative’s problem. The first part sets the scene and details the narrative’s problem. Verses 1–4 summarize the festivities that

21 André Lacocque, Daniel and His Time, Studies on the Personalities of the Old Testament (Columbia: University of South Carolina Press, 1988), 40; Collins, Invention, 65. However, I have put forth an argument for Deuteronomic dependence in Dan 4–5 MT in Cizek, “Extent.”

22 There are four textual versions of the Belshazzar narrative: Dan 5:1–6:1 MT, Dan 5:1–31 OG, Dan 5:1–31 Th, and the preface to Dan 5 OG. The relevant manuscripts from Qumran, 4QDan⁴ and 4QDan⁵, are in continuity with the Masoretic version with no significant variants. I focus primarily on the Masoretic version and the longer Old Greek version. I have consulted the Old Greek text in Ziegler and Munnich, Susanna. I understand the Masoretic text and the longer Old Greek text to be distinct literary developments of a common Semitic Vorlage and therefore one text cannot simply be treated as the Vorlage of the other (cf. Newsom, Daniel, 5; Collins, Daniel, 24, 33, 38, 219–20). My analysis, however, is often based on parts of the versions in which I think the Old Greek is a better witness to the Vorlage, following Wills, Jew, 87–128, 144–52. Alternatively, Emanuel Tov, “Daniel 4,” in Feldman, Kugel, and Schiffman, Outside, 115, n. 2, argues that the Old Greek version is a free translation of a text that was similar to the Masoretic version.

occur over some period of time, while vv. 5–6 detail the disruption to the feast, namely, fingers writing upon the wall. Notably, as Belshazzar watches the fingers, his countenance changes (רָעֹנִי יְבַהֲלָנֵךְ) and his thoughts terrify him (v. 6a). The second stage of the narrative in vv. 7–29 details two attempts to resolve the disruption. The king addresses his wise men and issues a reward for reading and interpreting the writing on the wall, but the wise men fail (vv. 7–9). Notably, the king decrees that the successful reader and interpreter will be clothed in purple (אָרָגִּיַּת בֵּיתַךְ), have a gold chain put around his neck (וֹהַמְנִיָּה דָּי דְּבָא עַל תָּאָרַי), and rank third in the kingdom (וְהָלֵלֵי בֵּמְלָכָא יוֹשֵׁל). After the wise men fail, though, the author repeated the terms from v. 6, noting that the king was increasingly alarmed (שָׁנָה מַחַבֶּךְ) and that his countenance changed (רָעֹנִי), signaling that the disruption is not yet resolved. In vv. 10–12, the queen advises the king to call Daniel, suggesting that Daniel can resolve the king’s alarmed thoughts and changed countenance (אַל יּוֹבֵלָךְ וְיַעֲקֹב וֹויִיַּךְ אַל יָשְׁנַי) (v. 10), repeating the terms from v. 6. The king addresses Daniel (vv. 13–16), repeating in v. 16 the terms of reward promised in v. 7b. Daniel rejects the king’s gifts and rebukes him (vv. 17–23), then successfully reads and interprets the writing on the wall (vv. 24–28). Belshazzar then rewards Daniel according to the terms set forth in v. 7b (vv. 24–29), signaling thereby the narrative’s resolution. The narrative concludes in Dan 5:30–6:1 [5:30–31 ET] with the demise of Belshazzar and his dynasty.

Notably, two aspects of Daniel’s rebuke of Belshazzar (vv. 17–23) are unique to the Masoretic version and both contribute to understanding the author’s objective in

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24 The repetition on these terms in the subsequent narrative only occurs in the Masoretic version, not the Old Greek.
25 The repetition of these terms in the subsequent narrative occurs in the Masoretic and Old Greek versions.
composing the narrative. In both Old Greek and Masoretic Dan 5:23, Daniel rebukes Belshazzar for the particular acts performed earlier in the narrative. However, in the Masoretic version, Daniel levels two additional rebukes. He alleges that Belshazzar has exalted his heart against the Lord of heaven and, secondly, that this act is especially egregious since he knew how the Most High God humbled Nebuchadnezzar when the former king had exalted his heart (vv. 18–23α).26 These two rebukes are significant for understanding the author’s aims in composing the narrative and require further comment.

Prior to Dan 5, the author indicated that the demise and restoration of Nebuchadnezzar (Dan 4) are “signs” and “wonders” done by the Most High God to bring knowledge and warrant action. At the beginning of the narrative in Dan 4 MT, the author twice put the paired terms “signs” and “wonders” into the mouth of Nebuchadnezzar (Dan 3:32–33 [4:2–3 ET]), thereby describing up front the events of the king’s demise and restoration as the “signs” and “wonders” of the Most High God.27 Throughout the

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27 There is debate about when and why the proclamation and doxology in Dan 3:31–33 was positioned at the beginning of Dan 4 MT. I follow Wills, *Jew*, 96, 104, 117–18, who argues that the early, independent version of Dan 4 contained a concluding doxology, that the earliest collection of Daniel narratives was comprised of early versions of Dan 4–6, and that the material in Dan 3:31–33 was an addition to the text that became the Masoretic version. Alternatively, Collins, *Daniel*, 37–38, 220, and Newsom, *Daniel*, 134, argue that the positioning of Dan 3:31–33 occurred in the original redaction of Dan 4–6 to form an *inclusio* with the proclamation and doxology in Dan 6:26–27 and that the Masoretic and Old Greek versions developed from this common *Vorlage*. The Masoretic version retained the position of Dan 3:31–33 and the Old Greek version moved the proclamation and doxology to the end of Dan 4 to parallel the concluding doxologies in the other court narratives. It is unclear whether Collins thinks that the redactor of the original Dan 4–6 collection composed the doxology and proclamation in Dan 3:31–33 or repositioned it from the end of the originally independent Dan 4 narrative. It is clearer that Newsom thinks the original independent narratives included a concluding confession of the Most High God’s power, citing Dan 4 specifically (ibid., 9–10). Collins’s and Newsom’s arguments, however, are unconvincing for three reasons. First, if the Old Greek author had wished to create a concluding proclamation and doxology in Dan 4:34 OG that paralleled those in the other court narratives, it seems likely that author would have retained the lexemes “signs” and “wonders” in the concluding doxology in Dan 6, but the terms only occur in Dan 6:28 MT and not Dan 6:26–27 OG. Secondly, it seems more likely that the motif of “signs” and “wonders” would have developed from being a generalized reference to the deeds of God Most High (Dan 4:34 OG) into a more specific reference to the deeds of God on behalf of particular characters (Dan 3:32, 6:28 MT), rather than the inverse. Finally, if the Dan 4 narrative originally contained a concluding proclamation and doxology, then
Hebrew Bible, these paired terms consistently refer to events that function to bring knowledge or warrant action among the Israelites as well as gentiles.\textsuperscript{28} Likewise, in Dan 4 MT, the “signs” and “wonders” that the Most High God does in the humbling and restoring Nebuchadnezzar function to bring knowledge to (vv. 14, 22, 29) and to warrant action (v. 31) from the king.\textsuperscript{29} Observing this use of the terms “signs” and “wonders” in Dan 4 MT, then, adds clarity to Daniel’s appeal to Nebuchadnezzar’s demise and restoration as a warrant for Belshazzar’s actions (Dan 5:18–22): the Most High God did signs and wonders with King Nebuchadnezzar to which Belshazzar should have attended. This failure to attend to the Most High God’s instruction constitutes one aspect of the rebuke of Belshazzar that is unique to the Masoretic version.

The other rebuke unique to the Masoretic version is Daniel’s charge that Belshazzar exalted his heart against God Most High. In the \textit{Vorlage}, as attested by Dan 4:19 OG,\textsuperscript{30} only Nebuchadnezzar is judged to have a pridefully exalted heart: ὑψώθη σου ἡ καρδία (your heart was exalted) (cf. Dan 4:20–22 MT).\textsuperscript{31} Belshazzar, on the other hand, is rendered culpable for profaning the vessels of the temple and worshiping idols rather than God (Dan 5:2–4, 23 OG).\textsuperscript{32} The Masoretic author, however, transposed the paired terms “exalt” (iflower) and “heart” (ześ) into Daniel’s rebuke of Belshazzar, thereby...

\textsuperscript{28} Among the Israelites, see Deut 4:34–35; 6:22–25; 7:19; 13:2–3; 26:8; 28:46; 29:2–3; 34:10–12; Isa 8:18; Jer 32:20–23; Ps 78:43, and perhaps Neh 9:10. Among the gentiles, see Exod 7:3–6; Isa 20:3–4; Jer 32:20; Pss 105:27; 135:9; Dan 3:32–33; 6:27–28, and perhaps Neh 9:10. Newsom, \textit{Daniel}, 134, and Seow, \textit{Daniel}, 65, contend that the paired terms are meant to invoke the Exodus tradition. However, they overlook the numerous other occurrences of these paired terms and provide no rationale for restricting the evocation to Exodus.

\textsuperscript{29} The Masoretic version emphasizes more than the Old Greek version that God’s humbling and restoration function to bring knowledge (cf. vv. 14, 23, 28 OG).


\textsuperscript{31} The reference in Dan 5:2 to Belshazzar having an exalted heart pertains to drunkenness, not pride.

\textsuperscript{32} Wills, \textit{Jew}, 124.
deploying the terms to describe Nebuchadnezzar directly (Dan 5:20) and Belshazzar by analogy (vv. 22–23α). Belshazzar’s exalted heart against the Lord of Heaven thus constitutes the second rebuke of Belshazzar unique to the Masoretic version.

The specifics of Daniel’s rebuke of Belshazzar reveal the author’s objective in composing the narrative. Daniel explains that Belshazzar’s demise is the result of the actions for which Daniel rebukes the king (v. 24α). That the author expanded Daniel’s rebuke beyond Belshazzar’s use of the temple vessels and idolatry suggests that the author aimed to give an alternate, expanded explanation of Belshazzar’s demise. As I will show, Daniel’s initial rebuke that Belshazzar exalted his heart against the Lord of Heaven (vv. 22α, 23α) has become the primary rebuke,33 which gives conceptual coherence to Daniel’s other rebukes. It is my contention that recharacterizing Belshazzar as having exalted his heart against the Lord of Heaven constitutes the author’s purpose in crafting the Belshazzar narrative and it is by means of and for this purpose that the author reworked the Vorlage to allude to the Law of the King.

The author reworked the Belshazzar narrative in two ways to allude to the Law of the King. First, the author retained and/or highlighted four features of the narrative that allude lexically and thematically (though often inversely) to the Law of the King. The Masoretic and Old Greek versions agree in referring to Belshazzar as a king (מלך; βασιλεύς), suggesting that the Masoretic author retained this feature that lexically ties to the Law of the King (Deut 17:14–15). Likewise, both versions tell of God establishing kings (vv. 23β, 28) and ending Belshazzar’s kingdom (מלך, βασιλεία) (Dan 5:26–28, 30–

33 Similarly, Newsom, Daniel, 127, 158, and Barton, “Theological,” 156–58, argue that the author crafted the Dan 1–6 narratives to show the need for gentile kings to acknowledge the sovereignty of God Most High.
31), suggesting that the Masoretic author retained these features that thematically tie to the Law of the King’s presumption that God chooses a king (Deut 17:15), and lexically and thematically, though inversely, tie to the law’s aim to prolong a king’s kingdom (Deut 17:20b). The Masoretic author, however, further emphasized God’s sovereignty over kings by inserting additional references to God establishing (Dan 5:18–19αα, 21b MT) and deposing (Dan 5:20 MT) Nebuchadnezzar, the latter of which created a further lexical tie to the Law of the King with the terms כרשא מלכותה (throne of his kingdom) (Deut 17:18). Moreover, both the Masoretic and Old Greek versions mention Belshazzar flaunting the gold (דָּהָב) and silver (כסף) vessels of the Jerusalem temple (Dan 5:2) but the Masoretic author repeated and thereby emphasized the materials of these vessels (Dan 5:3, 4, 23), which tie lexically, though thematically in inverse fashion, to the Law of the King’s prohibition on kings amassing silver (כסף) and gold (זֶהָב) (Deut 17:17b). Similarly, both the Masoretic and Old Greek versions tell of Belshazzar’s idolatry (Dan 5:4, 23), but the Masoretic author expanded the description of the idols (i.e., דָּהָב וּכְסֶפֶּה נַחַשָּׁא פְּרֶזָּא אַע אַבָּא וּבָּטָא [gold and silver, bronze, iron, wood, and stone]) and thereby emphasized this feature. The expanded description of idols ties lexically and thematically in inverse fashion to the Law of the King’s prohibition on acquiring much silver and gold (Deut 17:17b) and thematically in inverse fashion to the


35 Dan 5:3 MT only states that the vessels of gold (זֶהָב) were brought, though it seems reasonable that the text might have once read “vessels of gold and silver” as in v. 2 (זֶהָב וּכְסֶפֶּה), with “and silver” (כְּסֶפֶּה) dropping out in transmission, perhaps due to homoioteleuton. Cf. Newsom, Daniel, 159, 161. Alternatively, Goldingay, Daniel, 101, suggests, silver vessels are assumed to accompany the gold ones.

36 The emphasis on the crafted nature of the gods in Dan 5:4, 23 OG (i.e., “the handmade idols”) and the proem version (i.e., “the cast and carved gods of the nations”) suggests that the focus upon the materials of the gods in vv. 4, 23 MT is a latter development. Cf. Wills, Jew, 122–25.
law’s prohibition against a king turning his heart (Deut 17:17aβ), which could reasonably be understood within Deuteronomy as a reference to idolatry, as noted earlier. In these ways, then, the Masoretic author retained and/or highlighted four features of the narrative that link lexically and thematically, though often inversely, to the Law of the King.

Secondly, the Masoretic author bolstered the lexical and thematic links to the Law of the King with four additional narrative features. The presence of wives and concubines ( ******************************************************** ) at Belshazzar’s feast is a unique development in the Masoretic version, which ties thematically in inverse fashion to the Law of the King’s prohibition on the multiplication of wives (Deut 17:17aα).37 Additionally, both the Masoretic and Old Greek versions recount the writing ( ******************************************************** , γράφω, γραφή) on the wall, but only the Masoretic version recounts the king’s need for someone to read ( ******************************************************** ) the text for him (Dan 5:7, 15, 16) and contrasts the wise men’s inability to read with Daniel’s literacy (vv. 8, 17). This feature ties lexically and thematically in inverse fashion to the prescription in Deut 17:18–19a, which presumes a king’s ability to read ( ******************************************************** ) the law book he writes ( ******************************************************** ). Furthermore, Daniel’s critique of Belshazzar’s failure to attend to God’s instruction in the “signs” and “wonders” (Dan 3:32–33) that God worked before his eyes (Dan 5:22) ties thematically in inverse fashion to the Law of the King’s prescription that the king daily study God’s law (Deut 17:19a), in so far as both signs and wonders, and God’s law constitute divine instruction. And finally, the Masoretic version’s added characterization of Belshazzar as having exalted ( ******************************************************** ) his heart ( ******************************************************** ) against the Lord of

37 Collins, Daniel, 242, concludes that the women are an insertion. Some scholars explain the reference historically, noting that among the Persians the presence of women at banquets was normal (cf. Lacocque, Book, 93; Collins, ibid., 245). More in line with my thesis, others argue that the author intended to depict the festivities as including debaucheries (cf. Goldingay, Daniel, 108, 113; Seow, Daniel, 78; Pace, Daniel, 170; Newsom, Daniel, 167).
heaven (Dan 5:20, 22–23α) ties lexically and thematically in inverse fashion to the Law of the King’s objective to help kings learn to fear ‚(Deut 17:19bα) and to prevent kings from exalting their hearts (v. 20aα), innovatively merging those objectives. With these four features, then, the Masoretic author strengthened the lexical and thematic ties from the Belshazzar narrative to the Law of the King.

Admittedly, few of these supposed allusions from Dan 5 MT to the Law of the King are by themselves strong evidence for intentional allusions, for most employ common lexemes and themes. The discrete allusions, however, combine to provide cumulative evidence of sustained allusion to the Law of the King, and stronger evidence still when it is seen that they are unique developments within the Masoretic textual tradition.

The payoff of the preceding analysis is that it enables us to see how the Masoretic author employed the Law of the King to characterize Belshazzar’s culpability. Belshazzar’s sin is that he exalted his heart against the Lord of Heaven (Dan 5:22–23α), which the Law of the King aims to prevent (Deut 17:19b–20aβ). This sin is the result, in part, of Belshazzar indulging his appetite for silver and gold, as well as women, and turning to idols (Dan 5:2–4, 23), all of which the Law of the King prohibits (Deut 17:17). This sin is also the result of Belshazzar failing to learn from the instructional “signs” and “wonders” done by the Most High God (Dan 5:22b), which thematically relates to the Law of the King’s prescription for a king to study God’s law daily (Deut 17:18–19α). By Belshazzar’s action and inaction, then, he exalted himself against the Lord of Heaven and

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39 Ibid., 253.
40 The cumulative evidence for Deuteronomic allusions is even stronger when Dan 4 is also considered. Cf. Cizek, “Extent,” 5–15.
his kingdom and dynasty quickly fail, which is precisely what the Law of the King aims to prevent (Deut 17:20).  

Based on my analysis, I conclude with five observations about how the author of Dan 5 MT used the Law of the King in comparison to the law’s theoretical ethical functions. First, the author used material from the Law of the King in ways that reflect its structure and logic in Deuteronomy, but employed material from the law selectively. In terms of usage, the author retained and emphasized themes and lexemes from the Vorlage that relate to God establishing kings and kingdoms, the gold and silver of the temple vessels, and the king’s idolatry, thereby drawing on Deut 17:15a and 20b relating to God’s sovereignty over kings and the prohibitions in v. 17 regarding idolatry, gold, and silver. The author also added details related to the king’s harem, the king’s illiteracy, and the king’s exalted heart, thereby drawing on the prohibition regarding women in Deut 17:17, the prescription regarding the king’s instruction in v. 18, and the telic clause regarding the king’s heart in v. 20a. Moreover, I have argued that the author drew on the law’s theme concerning a king’s divine instruction (v. 18). On the other hand, the narrative never calls into question the legitimacy of Belshazzar’s kingship because he is gentile and in this way the author selected against Deut 17:15b, which makes Israelite kinship a prerequisite for kingship. Moreover, given the narrative’s Babylonian context, the author made no use of Deut 17:14, which contextualizes the kingship legislation in

41 My analysis of Belshazzar’s culpability provides an alternative to existing theses concerning the nature of the king’s sin. Some see two distinct sins: profaning the temple vessels by drinking from them and idolatry (cf. Wills, Jew, 122–24; Collins, Daniel, 245–46, 254; Newsom, Daniel, 166, 168; Pace, Daniel, 164, 177). Others interpret those sins as one (cf. Lacocque, Book, 92, 94–95; Hartman and Di Lella, Book, 186–87; Goldingay, Daniel, 113; Seow, Daniel, 78). Commentators have also identified Belshazzar’s sin as his arrogance and self-indulgence in vv. 1–4 (cf. Goldingay, ibid., 113, 115; Collins, ibid., 245; Seow, ibid., 78. Cf. Pace, ibid., 161–63) or his self-exaltation against the Lord (vv. 22–23αα) (cf. Seow, ibid., 82; Pace, ibid., 176–77; Newsom, ibid., 175) or his failure to learn from the example of Nebuchadnezzar’s demise and restoration (vv. 18–22) (cf. Collins, ibid., 250; Seow, ibid., 77, 82; Pace, ibid.).
the promised land. Finally, the author did not employ the prohibition regarding horses from Deut 17:16, perhaps because horses did not fit as well into Belshazzar’s festivities (Dan 5:1–4). Overall, then, the author selectively used material from the Law of the King. However, the author used that material largely in accord with the law’s cohesive logic. Recall that direct analysis suggests that the law is structured so that the prohibitions (vv. 16–17) and the prescriptions (vv. 18–19a) function as means to help a potential king (vv. 14–15) reach the desired goals (19b–20). In similar but antithetical fashion, the author composed Dan 5 so that Belshazzar does what the Law of the King prohibits, fails to do what the law prescribes, and becomes what the law aims to prevent. Thus, the author used material from the law of the king in ways that reflect its structure and cohesive logic, but employed the material selectively.

Secondly, just as the Law of the King in Deuteronomy takes the form of a moral law with no sanctions that a civil judiciary could enact, the law functioned as a moral law in Dan 5. The author used the law to embellish an existing story about King Belshazzar so that the king does the opposite of what the law prohibits and prescribes, and becomes what the law aims to prevent kings becoming. For the author’s purpose, then, the law functioned as a moral law, not a civil law, since composing a narrative is not part a civil judicial process. Even in the narrative itself, the law is not appealed to as a civil law and punishment for transgressing the law is doled out by God, not a civil judiciary (Dan 5:24–30). Thus, the author of Dan 5 employed the Law of the King just as the direct analysis of the law suggests it would function, namely as a moral law.

Thirdly, in terms of subject matter and objective, the Law of the King functioned in Dan 5 MT just as direct analysis of the law suggests it would. Specifically, in
Deuteronomy the Law of the King’s subject matter appears to be kingship and its objective appears to be ensuring that a king will learn to fear YHWH, to keep and do YHWH’s statutes, to not exalt his heart over his fellow Israelites, and to not turn from the commandment so that his kingdom may endure (Deut 17:19b–20). Similarly but in antithetical fashion, the author of Dan 5 MT employed the Law of the King to characterize King Belshazzar as doing what the law prohibits and not doing what the law prescribes, as well as exalting his heart against God and meeting a quick demise, contrary to what the Law of the King aims to prevent. Thus, in terms of subject matter and objective, the Law of the King functioned in Dan 5 MT in accord with what its direct analysis suggests.

Fourthly, the author altered the Law of the King material in three ways so that it took on relevance for a gentile king in ways not explicit in the law itself and even sometimes contrary to the law in Deuteronomy.\(^\text{42}\) First, rather than adopt the law’s personal name for Israel’s God (Deut 17:14, 15, 18), the author employed more generic and universal terms. When Daniel addresses Belshazzar, it is אלהי עליא (the Most High God) and אלהי (God) who is sovereign over kings and kingdoms (Dan 5:18–19, 21, 26), it is מרא שמיא (the Lord of Heaven) against whom Belshazzar exalted himself (v. 23a), and it is אלהי (the God) who holds power over Belshazzar’s life whom the king has failed to honor (v. 23b). That the author still has Israel’s God in mind as the referent behind these alternative terms is suggested by v. 3, which indicates that the temple vessels belonged to אלהי ירושלם (the God who is in Jerusalem), the same deity presumed

\(^\text{42}\) Alternatively, Barton, “Theological,” 158–61, argues that gentile ethical obligations in Dan 1–6 are rooted in prophetic texts that require both Israelite and gentile leaders to submit to Israel’s God, not the law of Moses to which only Jews in Dan 1–6 are beholden.
elsewhere in the narrative. Thus, the author adopted material from the Law of the King to the narrative’s gentile milieu by employing generic terms for God rather than the personal name for Israel’s God.

Moreover, the author employed material from the Law of the King in the case of a gentile king despite the fact that the law is only explicitly concerned with Israelite kings (v. 15b). Nowhere in Dan 5 does the author make Belshazzar’s standing as a gentile part of the polemic. In fact, the narrative emphasizes God’s sovereignty over the kings of the world, making no distinction between Israelite or gentile kings. Correspondingly and as noted, the author simply did not employ material from the Law of the King that restricted its applicability to an Israelite king (Deut 17:15b). Thus, the author’s selection against one part of the law enabled the author to extend its applicability to a gentile in a way that the law itself does not.

Also, whereas the Law of the King prescribes that the king has a copy of and studies God’s law for Israel (Deut 17:18–19a), Daniel never critiques Belshazzar’s presumed ignorance of this law. Rather, Daniel critiques Belshazzar’s failure to learn from the demise and restoration that God worked in the life of Nebuchadnezzar (Dan 5:18–22), which the author elsewhere referred to as the “signs” and “wonders” of the Most High God. That God instructs the nations by means of “signs” and “wonders” is not a new idea (cf. Exod 7:3–5; Jer 32:20; Isa 20:3). But swapping God’s law for Israel with God’s “signs” and “wonders” is a third way that the author adapted the Law of the King for the case of a gentile king. Together, these three alterations attest to how the author altered the Law of the King material to take on meaning not explicit in and even contrary to the law itself in Deuteronomy.
Finally, the author employed the Law of the King not to prescribe action but to
describe Belshazzar and his actions. Throughout Dan 5, there are no commands or
prohibitions issued on the basis of the Law of the King. Instead, the author crafted the
narrative so that Belshazzar does what the law prohibits (Dan 5:2–4; cf. Deut 17:17), fails
to attend to divine instruction in contradistinction to what the law prescribes (Dan 5:18–
22; cf. Deut 17:18–19a), and both exalts himself against the Lord of Heaven and is
quickly usurped (Dan 5:23, 30), which is precisely what the law aims to prevent (Deut
17:20). In these ways, the author used material from the Law of the King that direct
analysis identifies as descriptive and prescriptive solely for the purpose of describing
Belshazzar.

Overall, then, the Law of the King functioned in Dan 5 MT in accord with what
direct analysis of the law suggests about its overall logic, subject matter, objective, and
moral (not civil) function, but otherwise functioned in ways that are distinct from what
direct analysis suggests. I turn now to the case of the Temple Scroll, whose author, like
the author of Dan 5 MT, employed wide swaths of the Law of the King to navigate the
author’s particular concerns regarding kingship.

The Law of the King in the Temple Scroll

The Temple Scroll alludes to the Law of the King throughout cols. 56:12–59:21,
which are also commonly called the Law of the King, though I reserve the epithet for the
Deuteronomistic text.43 I argue that the author re-contextualized and revised the Law of the
King material, supplemented it, and innovatively redeployed its themes and lexemes to

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43 In addition to the critical texts I employed in chapter 2, I have consulted the critical texts in Elledge,
*Statutes*, 72, 106–8, 162–64, 198, and the manuscript evidence paralleling 11Q19 58:11–13 and 59:16–21
construct new kingship legislation, all of which was part of the author’s overall aim to compose a new and improved law book.

The Temple Scroll’s kingship legislation has two parts.\textsuperscript{44} The evidence suggests that the first part, cols. 56:12–57:07, contained an inclusion of the Law of the King. Column 56:12–21 contains material from Deut 17:14–18. Most scholars suppose that the inclusion continued at the top of col. 57, which has lost seven lines off its top, providing more than sufficient space for Deut 17:19–20.\textsuperscript{45}

The second part of the legislation unfolds between a heading referencing the king’s inauguration (11Q19 57:1–2a) and a textual unit referencing the end of the king’s reign (59:13b–21), which together frame a series of laws for a king (57:2b–58:21).\textsuperscript{46} Line 57:1 preserves the phrase זוזאכ התוֹלה (This is the law), which often functions as an introductory formula in the books of Leviticus and Numbers (e.g., Lev 6:2, 7, 18; 7:1; Num 6:13, 20; 19:14). Casey D. Elledge argues convincingly that the heading continues through the phrase יָאָלְפָא אָלָה (they make him king) in 57:2a.\textsuperscript{47} Much of the heading, however, has been lost, so it is impossible to know if it introduced the remainder of the kingship legislation (i.e., cols. 57:2b–59:21) or only a more immediate textual unit (e.g.,


\textsuperscript{46} As noted in the previous chapter, the majority of scholars believe that the author of the Temple Scroll used, integrated, and adapted pre-existing source material. Most maintain that 11Q19 57–59, which I analyze here, was one such source or part of a larger source. E.g., Crawford, Temple, 22–23; Schiffman, “Deuteronomic,” 468; Wise, Critical, 101; Stegemann, “Literary,” 141–42.

\textsuperscript{47} Elledge, Statutes, 113. Alternatively, Charlesworth and Milgrom, “English Translation,” 147, and Yadin, Temple, 2:255, limit the heading to line 1.
Either way, the legislation ends in col. 59:13b–21, which details two alternative endings for the king’s reign. The king who lusts in his heart and with his eyes away from God’s commandments will lose his kingdom to someone who is not his heir, but the king who walks according to God’s statutes and keeps God’s commandments will reign many days, as will his descendants after him. The author contextualized these potential endings for the king’s reign with the preceding material in col. 59:1–13a, which invokes the past exiles of the people from the land and their eventual return. Just as the people’s dwelling in the land was conditioned on their adherence to “this teaching” (col. 59:10), so too the king’s time on the throne and his dynasty are conditioned on his adherence to “my statutes” and “my commands” (col. 59:16).

While there is some debate about how precisely the author structured the material between the heading (col. 57:1–2a) and the final unit (col. 59:13b–21), there is consensus regarding the topical units therein. Column 57:2b–6a pertains to the mustering of Israelite males ages 20–60 (lines 2b–3a), the appointing of military officers stationed in

50 Column 57:2b–6a pertains to the mustering of Israelite males ages 20–60 (lines 2b–3a), the appointing of military officers stationed in

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48 Paganini, Nicht darfst, 149. For proposed reconstructions of 11Q19 57:1, see Elledge, Statutes, 106, Qimron, Temple, 82, and Yadin, Temple, 2:255.

49 Alternatively, Yadin, Temple, 1:346, 362, limits the conclusion to 59:16–21. Elledge, Statutes, 206, and Moshe Weinfeld, “The Temple Scroll or ‘The Law of the King,’” in Normative and Sectarian Judaism in the Second Temple Period, LSTS 54 (Edinburgh: T&T Clark, 2005), 169–70, argue that 11Q19 59:1–13a and 13b–21 contain reciprocal sets of obligations and consequences (i.e., blessings and curses) for the people and the king, functioning as a mutually binding covenant-making procedure. This interpretation, however, overlooks two differences between the textual units. First, the former unit pertains to exile, while the latter unit pertains to succession. Second, the former shifts from curses to blessings with a temporal phrase, אחר ישובו (Afterwards, they will turn), giving the unit a predictive sense, but the case of the king shifts on a conditional phrase, ואם בחוקותי ילך (but, if he walks according to my statutes), giving the unit a legislative sense. While col. 59 is influenced by Pentateuchal blessings and curses material (cf., Elledge, ibid., 213–20; Swanson, Temple, 166–68; contra Paganini, Nicht darfst, 151–52), I’m unconvinced that col. 59 takes the form of a covenant conclusion. Alternatively, Elledge, ibid., 206, 214, describes better the relationship between lines 1–13a and 13b–21 as “complementary,” noting how the former functions “retrospectively” in the Temple Scroll.

50 Cf. Crawford, Rewriting, 100; Maier, Temple, 16–17; Elledge, Statutes, 111, 167, 205; Schiffman, “King,” 489; Yadin, Temple, 1:346.
cities (lines 3b–5a), and the king’s guard (lines 5b–6a), with a description of the guard in lines 6b–11a. The topic shifts in lines 11b–15a to the make-up and function of a council who sits with the king, shifts again in lines 15b–19a to marriage legislation, and shifts again in line 19b to a series of prohibitions pertaining to judgment and property, which perhaps extended until a scribal interval in col. 58:2. Column 58:3–21 pertains to military invasions, describing procedures for a king when defending the land of Israel from other nations (58:3–15a) and for when a king instigates war (lines 15b–21).

Altogether, the heading (57:1–2a), final textual unit (59:13b–21), and the intervening legislation constitute the second part of the Temple Scroll’s kingship legislation.

The author positioned the legislation on kingship within the Temple Scroll to continue the author’s rewriting of Deuteronomic laws according to their Pentateuchal ordering in cols. 51:11–66:12. Line 56:12 is preceded by a vacat at the end of line 11, dividing the new section on the king from the preceding material on judicial matters, drawn from Deut 17:9–13. Following line 59:21, the topic shifts in col. 60 from kingship to priestly dues, presumably drawing upon Deut 18:1–4. Thus, the author positioned the kingship legislation rooted in Deut 17:14–20 in the Temple Scroll to continue the author’s rewriting of Deuteronomic laws according to their Pentateuchal order.

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51 Elledge, Statutes, 111; Maier, Temple, 17.
52 See n. 27 in the previous chapter in addition to Levinson, Deuteronomy, 108. Alternatively, Elledge, Statutes, 22–23, contends that the author created a series of laws regarding office bearers within Israel’s political constitution in cols. 56–61: priestly offices (56:[1]–11; cf. Deut 17:8–13); kings: (56:12–59:21; cf. Deut 17:14–20); priestly provisions (60:1–15; cf. Deut 18:1–8); prophets (60:16–61:5; cf. Deut 18:9–22); judicial witnesses (61:6–12; cf. Deut 19:15–21). This thesis, however, obscures the role of judges in 11Q19 56:[1]–11, mischaracterizes the content of 56:1–11 and 60:16–21, which are about judicial procedure and the types of people who should not be in the land, and mischaracterizes judicial witnesses as offices bearers (cf. Levinson, ibid., 101).
53 Elledge, Statutes, 74, n. 1; Schiffman, Gross, and Rand, “Text,” 144, n. 867.
Both the first and second parts of the Temple Scroll’s kingship legislation are
influenced by the Law of the King, though in distinct manners. The inclusion of Deut
17:14–18 in 11Q19 56:12–21 differs from the Deuteronomic legislation in subtle, more
or less important ways. Some of the changes to the Deuteronomic material are simply
characteristic of Dead Sea Scrolls Hebrew and in no way impact the meaning of the
incorporated material.55 Elsewhere, the Deuteronomic material differs in form from the
Masoretic text but aligns with the Septuagint version and therefore may simply reflect the
author’s base text and not an authorial innovation.56 Numerous changes, however, reflect
the author’s overall aim to create a new law book and each change warrants comment.57

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55 The author employed the plene spelling of words and long suffixes (cf. Qimron, Hebrew, 17–18, 23), mistakenly rendered the vowel in the term ἕ (for himself) from Deut 17:17 with a digraph, קה, in col. 56:19 (cf. Qimron, ibid., 21; contra, Elledge, Statutes, 74, n. 18, who attributes the error to homoioiteleuton), and changed the prefix on the temporal infinitive construct in Deut 17:18 from kaph to bet in col. 56:20 (Qimron, ibid., 72, n. 12; contra Elledge, ibid., 74, n. 20, who attributes the change to a copyist’s error, and Paganini, Nicht darfst, 146, who argues that the change specifies the timing of the prescribed acts). Additionally, the loss of the locative he in col. 56:16 from the term ἑλθετε (Egypt) in Deut 17:16 and the addition of the locative he in col. 56:19 to the term ἐστι (greatly) from Deut 17:17 may reflect the loss of the locative he’s syntactical function in Dead Sea Scroll Hebrew (cf. Qimron, ibid., 69).

56 Col. 56:14 reads, χήσετε καὶ (when setting up you shall set), employing a circumstantial-participle-plus-verb construction as opposed to the complementary-infinitive-absolute-plus-verb construction from Deut 17:15 (καὶ ἐστις, you shall certainly set). The former construction is similar to Deut 17:15 LXX, καθίσεως καταστήσεις (when appointing, you will appoint), while the latter construction is rare in late biblical and Samaritan Hebrew, and absent in Mishnaic Hebrew (cf. Qimron, Hebrew, 47; Moses H. Segal, A Grammar of Mishnaic Hebrew [Oxford: Clarendon, 1958], 165–66). Alternatively, Charlesworth and Milgrom, “English Translation,” 145, and Paganini, Nicht darfst, 140, translate שֶׁזֶּה as the adverb “there,” and Elledge, Statutes, 73, translates שֶׁזֶּה as an infinitive absolute, as in the Masoretic version. The plural form of “horses” (סוסים) from Deut 17:16a MT is rendered in the singular (סוס) in col. 56:16, in harmony with the singular form of the noun in Deut 17:16b MT, which was adopted without change in col. 56:16. Similarly, in Deut 17:16a LXX, both nouns occur in the singular (ἵππων). Cf. Elledge, ibid., 74; Paganini, ibid., 143–44.

Additionally, col. 56:17 rewrites Deut 17:16b with a pronoun, ἐστι (to multiply for himself horses), in harmony with the use of the pronoun in Deut 17:16a, which the author adopted without change, and also with Deut 17:16b LXX (ἡλθετε ἐπετρεπτε ἵππων) (cf. Crawford, Rewriting, 98; McCarthy, Deuteronomy, 104*; Elledge, ibid., 74; Paganini, ibid., 429). Finally, the masculine demonstrative pronoun οὗτος (this) from Deut 17:16b occurs in feminine form in 11Q19 56:18a (ἡ γυναῖκα), similar to the feminine form of the demonstrative in Deut 17:16b LXX (ἡ αὐτή) (cf. Crawford, ibid., 98; Paganini, ibid., 141).

57 In Table 3.1, regarding the suspended ἦ in line 13, Schiffman, Gross, and Rand, “Text,” 144, n. 869, Yadin, Temple, 2:253, and Qimron, Temple, 81, contend that it goes with the ἐστι, as in Deut 17:14b. Regarding the phrase that I will choose suspended over line 14, Yadin, ibid., 1.22–23, concludes the scribed intended the words to follow the word ἡ βασιλεία (king) in col. 56:14 (cf. Deut 17:15).
In two places the author improved the Deuteronomic material without significantly changing its meaning. In line 15, the author simplified the clunky prohibition לא תוכל לתת (you shall not be able to set) from Deut 17:15b to לוא תתן (you shall not set). In lines 17b–18a, the author rendered the plural pronominal suffix לכם (to you) and the plural verb לא תספון (you shall not again) from Deut 17:16b as singular, thereby bring the material from Deut 17:16b into harmony with the material from 17:14–15, in which the addressee is a singular entity. Both of these changes improved the Deuteronomic material but did not significantly alter its meaning.

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58 Elledge, Statutes, 74. Alternatively, Crawford, Rewriting, 98, suggests the change may be a modernization either in the base text or by the author of the Temple Scroll, but there is no manuscript evidence to support the former claim and elsewhere in the Temple Scroll (11Q19 66:11) the author has retained a similar construction when appropriating material from Deut 22:29. Paganini, Nicht darfst, 139–40, 153, is correct that the alteration strengthens the model sense of the legislation, but is unconvincing that the Deuteronomic version of the law might have otherwise been interpreted to permit a non-Israelite king. Schiffman, “King,” 491, and Paganini, ibid., 139, n. 422, argue unconvincingly that dropping תוכל from Deut 17:15b clarifies the modal sense of the verb תשים adopted from Deut 17:15a in col. 56:14.

59 Alternatively, Schiffman, “King,” 492, and Paganini, Nicht darfst, 143, contend that the alteration makes the king, not the whole Israelite community, the addressee but this argument is unconvincing since the addressee in 11Q19 56:12–15 is also a singular entity but not the king.
More often, the author significantly altered the meaning of the Deuteronomic material. Characteristic of the Temple Scroll, the author rendered the Deuteronomic material as if it was spoken by God, resulting in two references to YHWH in Deut 17:14 and 16 being changed to first-person pronouns in col. 56:12 and 17, and third-person verbs from Deut 17:15 and 16 being re-conjugated in the first person in col. 56:14 and 17.60 This change to first-person speech as if spoken by YHWH functionally though indirectly authorized the author’s other changes.

In 11Q19 56:16b–17a, the author added the words למלחמה (for war) and כוסף וזהב (and silver and gold) to specify Deut 17:16, though with mixed results.61 As noted, it is unclear whether v. 16aβ refers to sending people to Egypt in exchange for horses, sending a trade delegation to acquire horses, or something else. Most contend that the author added למלחמה to limit the prohibition to matters of warfare, thereby permitting the king to send people to Egypt for trade.62 Correspondingly, the addition of כוסף וזהב expands the reasons for which a king might return the people to Egypt: not merely to acquire horses but also to gain silver and gold. Still, whether the addition “for war” refers to sending the people to Egypt as mercenaries or for waging war is unclear.63 What is clear, however, is that the author specified the prohibition in a way that the Deuteronomic law does not.

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60 Crawford, Rewriting, 98; Paganini, Nicht darfst, 138, 148; Yadin, Temple, 1:344; Rosen and Salvesen, “Qumran,” 99.
61 Maier, Temple, 124; Elledge, Statutes, 63, 94. Alternatively, Rosen and Salvesen, “Qumran,” 100–101, argue that the authors of the Temple Scroll and Ps. Sol. 17:33 both possessed a base text that contained the phrase למלחמה, since both authors included the phrase in their redeployment of the Law of the King. No such manuscript, however, is known. This thesis, moreover, is strained by the fact that the author of the Temple Scroll inserted the term into the material from Deut 17:16 while the author of Ps. Sol. 17:33 made the insertion into material from Deut 17:17. More likely, both authors were familiar with an interpretive tradition of the Law of the King that presupposed the king had a role in battle (cf. Sipre Deut 158–159 and m. Sanh. 2:4).
62 Yadin, Temple, 2:253; Crawford, Rewriting, 98; Paganini, Nicht darfst, 144; Schiﬃman, “King,” 492. Crawford, however, considers the addition of כוסף והذهب (and silver and gold) to be a scribal error.
63 For warring and plundering, see Crawford, Temple, 58, and Elledge, Statutes, 94. For mercenaries, see Rosen and Salvesen, “Qumran,” 100.
In 11Q19 56:19, the author made two changes that clarify the ambiguities in Deut 17:17a. The author changed the qal singular verb (יסור) into a hiphil plural, making the wives the subject of the verb and thereby clarifying what the multiplication of wives has to do with the turning of the king’s heart. Further, the author clarified that the wives turn the king’s heart “from after me” (מאחרי), which is at most implied in the Deuteronomic text, as noted earlier. Thus, the author clarified ambiguities inherent to Deut 17:17a.

In 11Q19 56:20, the author altered the production process for the king’s law book as prescribed in Deut 17:18. The author changed the singular verb (כתב) (and he shall write) into a plural, thereby prescribing that “they” shall write the law book for the king instead of the king writing it for himself. Some contend that “they” refers to the priests referenced at the end of line 21 and that the change, therefore, subordinates the king to the priesthood. Line 21, however, only indicates that the writing is done in the presence of the priests, not by the priests. Therefore, who will write the law remains unclear and it is not evident that the author subordinated the king to the priesthood. It is only evident that the new legislation altered the production process described in the older law.

Related to the law book’s production, in 11Q19 56:21, the author brought the material regarding priestly oversight in Deut 17:18 into harmony with the intra-Levitical distinction the author maintained throughout the text. In the Law of the King, (the Levitical priests) oversee the law book production. As discussed in the prior chapter, however, this Deuteronomic formulation is at odds with the intra-Levitical distinction

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64 Maier, Temple, 124; Crawford, Rewriting, 98–99; Elledge, Statutes, 89–90; Paganini, Nicht darfst, 145.
between Aaronide priests and Levites that the author adopted throughout the Temple Scroll. Thus, the Deuteronomic phrase in its new literary context would have indicated that the law book production was overseen by the Aaronide priests and the other Levites. The author, however, omitted the term הלוים (the Levitical), thereby indicating that only the Aaronide priests oversee the production of the king’s law book.\(^6\) The author’s rationale for the alteration is not wholly clear but I contend that it is most likely the result of a harmonizing interpretation of Deut 31:9, 25 with Num 3:27–32.\(^6\) In the former, Moses gave the written law to הכהנים בני לוי הנשאים את ארון (the priest, the sons of Levi, who carry the ark) (Deut 31:9) and הלוים נשאי ארון (the Levites who carry the ark) (Deut 31:25). While such distinct formulations are not in tension in Deuteronomy, they would be difficult to reconcile with texts that maintain the intra-Levitical distinction, like Leviticus and Numbers. In a distinct manner, Num 3:27–32 indicates that the Kohathites (one branch of the non-Aarronide Levites) carry the ark but that the Aaronide priest, Eleazar, oversees their work. Correspondingly, I contend that the author might have omitted the term הלוים to clarify that the law book production should be overseen by one group, not two, and that the author assigned oversight to the priests, who, according to Numbers 3, oversee the work of the Levites who are responsible for conveying the most holy things.

\(^6\) Maier, *Temple*, 124; Yadin, *Temple*, 2:254; Paganini, *Nicht darfst*, 147; Qimron, *Temple*, 81. Alternatively, Crawford, *Rewriting*, 99, and Yadin, ibid., 2:255, propose the term appeared at the top of col. 57:01. However, the characters of the term הכהנים (the priests) are oversized and space still remains on line 56:21, suggesting that the author could have included the term הלוים (the Levitical).

\(^6\) Alternatively, Maier, *Temple*, 124, puts forth a limited textual explanation: “probably to avoid misunderstanding that they [the Levites] might be included.” Paganini, *Nicht darfst*, 147, puts forth a historical explanation, namely that the author sought to distance the procedure from a classical form of the priesthood in which the Levites carried out temple services. The king’s law book production, however, is not a temple affair and the author assigned temple work to the Levites elsewhere in the text (e.g., cols. 22:4).
Finally, in 11Q19 56:21, the omission of the term משנה (second) from Deut 17:18b resulted in an assertion of legislative authority. In Deuteronomy, the legislation suggests that the king has his own copy of Deuteronomy. In the Temple Scroll, however, context suggests that the referent of התורה הזואת (this law) in line 56:21 is either the Temple Scroll as a whole, or the kingship legislation in cols. 57–59, based upon the lexical tie to col. 57:1: either way, the omission of the term משנה serves to assert an authoritative role for the author’s new legislation.

Throughout cols. 57–59, lexical and thematic ties to the Law of the King show how the author employed the Law of the King to set bounds and restrictions for a king. When composing the legislation’s objective (11Q19 59:13b–21), the author employed and innovated on the law’s objective pertaining to dynastic succession. Regarding the righteous king, the law states, ויארך ימים על מלכותו הוא ובניו אחריו (and he will continue many days over his kingdom, he and his sons after him) (59:21b), which ties lexically to Deut 17:20b: (in order that he will extend the days over his kingdom, he and his sons, in the midst of Israel). In this way, the author employed the law’s monarchical succession objective. The author’s concern with succession is further highlighted by the fact that the author only incorporated the telic phrase pertaining to succession (Deut 17:20b) and not the others pertaining to the king’s character and actions (vv. 19b–20a). Moreover, the author altered the Deuteronomic

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68 Elledge, Statutes, 91; Paganini, Nicht darfst, 154; Hengel, Charlesworth, Mendels, “Polemical,” 31.
69 Yadin, Temple, 1:345; Crawford, Rewriting, 99; Elledge, Statutes, 35, 85; Paganini, Nicht darfst, 147; Schiffman, “King,” 494; Swanson, Temple, 117.
70 Swanson, Temple, 160, Elledge, Statutes, 220, Crawford, Rewriting, 100, and Paganini, Nicht darfst, 152. Swanson, ibid., 158, contends that there are further lexical ties between לא יהיו איש נשב ונ)>= ממלכת ישראל (a man from his sons will not be cut off for him from sitting upon the throne of Israel) (col. 59:17b–18a) to Deut 17:18a, but the lexical ties to other parts of the Hebrew Bible are stronger (e.g., 1 Kgs 2:4; 8:25; 9:5; Jer 33:17; 2 Chron 7:18). Cf. Yadin, Temple, 2:269; Elledge, ibid., 217–19.
objective by positioning it after textual units that detail alternative and foreboding outcomes for the king and his people (11Q19 59:2–9a, 13b–15). In this way, the author made explicit what the Deuteronomic law only implies, namely that a king’s reign and dynasty is not guaranteed but conditioned upon his obedience to God’s statutes and commands.\(^{71}\)

The author further used Deut 17:20 in 11Q19 57:14, redeploying the telic material pertaining to the king’s heart as a prohibition. The text states, (and he [the king] shall not exalt his heart from over them [the council]), which ties lexically to Deut 17:20a: (lest he exalt his heart over his brothers).\(^{72}\) The author narrowed the concern for exaltation over the Israelite populace generally to the king’s council and employed the telic clause as a prohibition. In this way, the author redeployed a Deuteronomic telic phrase with general applicability as a prescription prohibiting the king from acting unilaterally apart from his council.\(^{73}\)

The concern regarding the king’s heart is not isolated to col. 57:14 but occurs throughout the legislation. The law prohibits the king from waging an offensive war (from the counsel of his heart) (col. 58:20) and warns against the king who (fornicates with his heart and his eyes from my commandments) (col. 59:14). Altogether, the legislation explicitly expresses concern about the king’s heart (לב or לב) five times (cols. 56:19; 57:1–7; 57:14; 58:20; 59:14; cf. 59:10), which expands upon the two references to the king’s heart in the Law of the King (Deut 17:17a, 20a).

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\(^{73}\) Swanson, *Temple*, 130. Alternatively, Swanson, ibid., 135, Schiffman, “King,” 499, Hengel, Charlesworth, and Mendels, “Polemical,” 32, and Elledge, *Statutes*, 52, conclude that scroll makes the king subservient to the council, but this an overstatement.
A further attempt to set bounds for a king’s heart may occur in the marriage legislation (11Q19 57:15b–19a), which expands on the prohibition in Deut 17:17a in accordance with its rewritten version (11Q19 56:18b–19a).\(^74\) The term אשה (wife), occurring thrice in col. 57:15–17, lexically links to Deut 17:17a. The author expanded on the law by prohibiting a foreign wife, prescribing that the king’s wife must come from his ancestral house, and specifying that the king may not take another wife unless his one wife dies. Whether the law prohibits divorce is debatable but the prohibition would be indirect at most.\(^75\) The author gave no rationale for prohibiting a foreign wife but the rewritten version of the law in col. 56 may provide a clue. Just as multiple wives would turn a king’s heart from after God, so too foreign wives would turn a king’s heart from following after God, as happened in the case of Solomon (1 King 11:1–5).\(^76\) If this interpretation is correct, then the prohibition against foreign wives is further legislation aiming to set bounds on the king’s heart.

Finally, the legislation in cols. 57:19b–58:2 thematically expands on Deut 17:16–17 by further restricting the king’s personal acquisitions. The new prohibitions against distorting judgment for personal gain and coveting (cols. 57:19b–58:2) have no precursors in the Law of the King. These prohibitions, however, thematically complement the law’s prohibitions, which aim to curb a king’s personal acquisitions. In this way, the author expanded on the older law’s concern for a king’s self-indulgent acquisitions.

\(^74\) Elledge, Statutes, 28, 148; Yadin, Temple, 1:353.
\(^75\) Maier, Temple, 127; Crawford, Temple, 60. Elledge, Statutes, 148, maintains that the scroll prohibits divorce.
Altogether, the lexical and thematic ties between cols. 57–59 and the Law of the King or its rewritten version in cols. 56–[57] show how the author employed the law to legislate restrictions upon a king.\footnote{Swanson, Temple, 122, argues that the combination of the verb התייה (to be) and suffixed preposition עמו (with him) in cols. 57:6, 9, 18; 58:5 (cf. 57:12[–13]) are used to describe people who functionally take the place of the law book, which Deut 17:19 stipulates shall be with him [the king] (והיתה עמו) all the days of his life. This argument, however, overlooks the fact that the Temple Scroll maintains a role for the king’s law book (56:20–57:01[–06]). Moreover, the verbal and prepositional link to Deut 17:19 is based upon words that are too common to serve as markers of an allusion (cf. Leonard, “Identifying,” 251).} Not all aspects of cols. 57–59, however, are influenced by the law.

In fact, the author supplemented the Law of the King material on issues about which the law was silent. The Temple Scroll refers to the threat of the nations against the life of the king (57:7, 11; 58:10; cf. 59:18b–20a) and against the people (58:3–11; 59:2, 5, 11). Such a concern for violent foreigners is not addressed in the Law of the King or its rewritten version in the Temple Scroll. The Temple Scroll also grants the king a military role, legislating at length about the king’s role in appointing military leadership (col. 57:3b–5a), defending the land against foreign invasion (col. 58:3–13), and waging offensive military campaigns (col. 58:15b–21),\footnote{Hengel, Charlesworth, and Mendels, “Polemical,” 33–34; Elledge, Statutes, 54, 115–16.} as well as a judicial role (col. 57:13–14). As noted, however, the Law of the King in its Deuteronomic context is silent about any military or judicial roles for a king.\footnote{Levinson, More, 38. Elledge, Statutes, 25, 34, 83, may be correct that the addition of לשלחם (for war) to the material from Deut 17:16 (col. 56:16) is meant to introduce a theme into the earlier law that the author then expands upon in col. 57–59.} Finally, the Temple Scroll prescribes a guard (57:5b–11a) and a legislative council (57:11b–15a) for the king but the Law of the King suggests no such bodies. In these ways, the author supplemented the Law of the King material on matters about which the law was silent.
In summary, the author re-contextualized and revised the Law of the King material, supplemented it, and innovatively redeployed its themes and lexemes to construct new kingship legislation as part of the author’s overall aim to compose a new and improved law book. The text’s kingship legislation functions as a discrete unit as does the Law of the King in Deuteronomy. Likewise, the positioning of the kingship legislation between judicial material based in Deut 17:1–13 and material on priestly dues based in Deut 18:1–8 fits the author’s wider objective to rewrite Deuteronomic laws according to their Pentateuchal order in cols. 51:11–66. In col. 56, the author incorporated the Law of the King wholesale but altered it in ways that authorized it, improved it, specified it, and harmonized it with the wider text. Both recasting the law as divine speech and altering the referent of the phrase התורה הזואת functionally asserted the authority of the author’s legislation. Changes that resolved inconsistencies or clunky formulations improved the Deuteronomic material without altering its meaning. Changes to the prohibitions from Deut 17:16–17 specified and clarified ambiguities in the Deuteronomic material. And changes to the material from Deut 17:18 regarding the production of the king’s law book altered the process the law prescribed and harmonized it with the intra-Levitical distinction the author maintained elsewhere in the text. Finally, in cols. 57–59, the author redeployed the Law of the King’s themes and lexemes to compose new kingship legislation and additionally supplemented the law with new legislation on matters that the law does not address. Altogether, the evidence suggests that the author re-contextualized, revised, supplemented, and innovatively redeployed the Law of the King material as part of the author’s work to compose a new and improved law book.
Based on the preceding analysis, I conclude with five observations about how the author of the Temple Scroll used the Law of the King in comparison to the law’s theoretical ethical functions. First, the author used the Law of the King material as a textual unit as it appears in Deuteronomy, not selectively, but transformed that material into a piece of a larger legislative unit. The preserved evidence suggests that the author incorporated the Law of the King material wholesale in cols. 56:12–57:07, with no major additions nor omissions to the material. Whereas in Deuteronomy that material functions as a complete and sufficient piece of legislation, the author transformed that material into the first part of a more expansive legislative unit on kingship. Thus, the author used the Law of the King material as a cohesive unit, as direct analysis of the law suggests it would function, but transformed it into the first part of a more extensive kingship legislation.

Secondly, just as direct analysis of the Law of the King suggests, the author of the Temple Scroll employed the law as a moral law, not a civil law. While the author used the law as part of a wider project to create a law book that was more self-consistent and clearly organized than the Pentateuch, there is no evidence that this new and improved law book, nor even the unit on kingship alone, ever functioned as a civil law. Moreover, while the author did add something like a sanction by making explicit what the Deuteronomic law only implies, namely that a king’s reign and dynasty is not guaranteed, the law is clear that God and not a civil judiciary will bring about the demise of an unfaithful king’s line (11Q19 59:13b–15). Thus, in accord with what direct analysis suggests, the Law of the King functioned in the Temple Scroll as a moral law.

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80 Elledge, Statutes, 87; Paganini, Nicht darfst, 138, 148.
Thirdly, in terms of subject matter and objective, the author of the Temple Scroll used the Law of the King just as direct analysis of the law suggests it would function. The author employed the law to construct new and improved kingship legislation with the objective that a king’s dynasty will endure if he keeps God’s statutes (11Q19 59:16–21). Innovatively, the author made explicit what is only implicit in Deuteronomy, namely the conditionality of dynastic succession (11Q19 59:13b–15), but this innovation still accords with the objective of the law in Deuteronomy. Thus, in terms of subject matter and objective, the Law of the King functioned in the Temple Scroll in accord with how direct analysis of the law suggests it would.

Fourthly, beyond subject matter and objectives, the author altered the meaning of the Law of the King material by means of revision, expansion, omission, harmonization, and re-contextualization so that it took on manifold meanings not explicit in Deuteronomy. In the first part of the legislation (56:12–57:07), the author revised references to YHWH from the Deut 17:14–16 material so that the new legislation appears to be spoken by God, not Moses; added the words למלחמה (for war) and כסף וזהב (and silver and gold) to the material from Deut 17:16 to specify its prohibition; revised the material from Deut 17:17a to clarify the relationship between multiple wives and a king’s wayward heart; revised the production process for the king’s law book (Deut 17:18) so that not the king but some unspecified others write out the text (col. 56:20b–21); brought the material regarding priestly oversight of the king’s law book into harmony with the intra-Levitical distinction the author maintained elsewhere by omitting the term מקלאים (the Levitical) from the Deut 17:18 material; and omitted the term משנה (second) from the Deut 17:18b material so that the new legislation prescribes its own study by a king rather
than the study of Deuteronomy. In the second part of the legislation (57:1–59:21), the author expanded and tightened the marriage prescriptions, expanded the prohibitions on acquisition, expanded the Deuteronomic concern for a king’s wayward heart, prohibited the king from acting unilaterally apart from a council of other civil and religious leaders, addressed the threat of foreign nations, and created a guard and judicial council to support the king. Moreover, to the sole Deuteronomic prescription that the king devotes himself to the study of God’s law (Deut 17:18), the author gave the king a prominent military role and a place in the judiciary, neither of which were roles given to a king in Deuteronomy. Thus, by means of revision, expansion, omission, harmonization, and recontextualization, the author altered the meaning of the Law of the King material to take on a multitude of meanings beyond what direct analysis of the law suggests.

In a distinct manner, though related to the innovations of meaning, the author rewrote and positioned the inclusion of the Law of the King to authorize the additional legislation in cols. 57–59. By positioning the inclusion at the beginning of the new kingship legislation, the author ensured that the legislation in the second part (cols. 57–59) is read in the light of the inclusion. In this way, legislation in cols. 57–59 sharing themes, lexemes, or logic with the inclusion shares in the authority of the base law, as when the objective in col. 59:13b–21 shares the themes, lexemes, or logic of Deut 17:20 and even in col. 57:14 when the prohibition לא ירום לבבו (and he shall not exalt his heart) shares the lexemes of the telic phrase לא י糧 ויה י럼 לבבו (lest he exalt his heart) from Deut 17:20α. In these ways, the author used the Law of the King’s inclusion to authorize the author’s new kingship legislation, which goes well beyond what the Law of the King itself in Deuteronomy legislates.
Finally, the author employed materials from the Law of the King in ways that cohered with and innovated on the logical functions of those materials suggested by the law’s direct analysis. In the inclusion of the law in cols. 56–57, the author employed that material in coherence with its logical functions in Deuteronomy. Moreover, in the employment of material from Deut 17:20 to compose the new legislation’s objective and the employment of the lexemes and themes from Deut 17:16–17 to formulate a prescription regarding the king’s marriages (col. 57:15b–19a) and self-aggrandizement (col. 57:19b–58:2), the author used the Law of the King materials in ways that cohere with their logical functions in Deuteronomy. However, when the author employed the lexemes of the telic phrase לבלתי רום לבו (lest he exalt his heart) from Deut 17:20 to compose the prohibition ولוא יروم לבו (and he shall not exalt his heart) in col. 57:14, the author used descriptive material to prescribe. Thus, the author employed the Law of the King material in ways that mostly cohered but differed somewhat with the logical functions of the material suggested by its direct analysis.

Overall, then, the Law of the King functioned in the Temple Scroll in accord with what direct analysis of the law suggests about its subject matter, objective, and moral (not civil) function, but also functioned in ways that go beyond what direct analysis suggests. I turn now to the case of Ps. Sol. 17, whose author, like the authors of Dan 5 MT and the Temple Scroll, employed the Law of the King to navigate concerns regarding a king. Unlike the previous two authors who drew on wide swaths of the law, however, this author only employed half a verse.
The Law of the King in Psalm of Solomon 17

Psalm of Solomon 17 describes the political and religious strife that beset Jerusalem in the middle of the first century BCE, as well as an eschatological Davidic king whom the author expected God to raise up to purify Jerusalem, its people, and the land.81 I argue that the author’s aim in crafting the psalm was to instruct those who recited the psalm on how to conceptualize both Jerusalem’s current circumstance and their objectives for the future. Accordingly, I demonstrate how the author employed the Law of the King in the description of Jerusalem’s future, specifically to portray the awaited Davidic king as one who will trust in God to fight for God’s people in war.

Structurally, the psalm has two main parts and a frame.82 The author framed the psalm with declarations of hope in the Lord. The psalm begins by connecting the themes of hope and the Lord’s enduring kingship (vv. 1–3). Both vv. 1 and 3 describe the Lord’s kingship as enduring forever. Sandwiched between these declarations is a description of a person’s life upon earth as limited. Hope is fitting, the psalm suggests, in proportion to the longevity of the one in whom hope is put (v. 2).83 Implicitly, then, the psalm advises limited hope in human agency and explicitly expresses hope in the Lord whose kingdom

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83 Similarly, Atkinson, “Psalms of Solomon,” 1918.
and might are eternal. This theme of the Lord’s eternal kingship occurs again in the
psalm’s final verse (v. 46) thereby sandwiching the body of the psalm (vv. 4–45) between
declarations that the Lord is “our king” forever.

The psalm’s first main part (vv. 4–20) details Jerusalem’s political and religious
strife, which constitutes the circumstance the author addressed. Verse 4 alludes to God’s
oath that David’s offspring would sit upon his throne forever. Verses 5–6, however,
detail how “sinners” took possession of and laid waste to the throne of David, alluding to
the Hasmoneans who served as high priests and rulers in Jerusalem from the mid-second
century BCE until 37 BCE. Implicitly, the author characterized the Hasmoneans as
illegitimate rulers since they were not Davidic descendants but rather Levites. Verses 7–
14, then, express confidence that God will certainly repay the “sinners” when a foreigner
rises up and removes them from the earth. Here, the author alluded to either the Roman
general Pompey, who conquered Jerusalem in 63 BCE, executed some priests and other
leaders, exiled the Hasmonean ruler Aristobulus II and others to Rome, and installed his
brother Hyrcanus II as high priest, or Herod the Great, who reigned in Jerusalem from

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84 Atkinson, Intertextual, 337; Sam Janse, “You Are My Son”: The Reception History of Psalm 2 in Early
Judaism and the Early Church, CBET 51 (Leuven: Peeters, 2009), 61–62; Nickelsburg, Jewish, 242;
Matthew E. Gordley, “Creating Meaning in the Present by Reviewing the Past: Communal Memory in the
John J. Collins, “The Interpretation of Psalm 2,” in Echoes from the Caves: Qumran and the New
Testament, ed. Florentino García Martínez, STDJ 85 (Leiden: Brill, 2009), 56; Young S. Chae, Jesus as the
Eschatological Davidic Shepherd: Studies in the Old Testament, Second Temple Judaism, and in the

from Psalm of Solomon 17,” JBL 118.3 (1999): 441–42; idem, “On the Use of Scripture in the
Development of Militant Davidic Messianism at Qumran: New Light from Psalm of Solomon 17,” in The
Interpretation of Scripture in Early Judaism and Christianity: Studies in Language and Tradition, ed. Craig
A. Evans, SSEJC 7 (Sheffield: Sheffield Academic, 2000), 108; idem, I Cried to the Lord: A Study of the
Psalms of Solomon’s Historical Background and Social Setting, JSJS 84 (Leiden: Brill, 2004), 135;
idem, “Psalms of Solomon,” 1918; Chae, Jesus, 116; Collins, Scepter, 52–53; idem, “Interpretation,” 57;
Nickelsburg, Jewish, 242.
37–4 BCE and executed the Hasmonean heirs around 30 BCE, or perhaps both. God’s action, however, only partially resolves Jerusalem’s strife since David’s throne is still occupied by a non-Davidic ruler. Verses 14–20 then describe how the people of Jerusalem, from the least to the greatest, lived in lawlessness like foreigners, with the exception of those who resisted and fled to the wilderness (v. 16). Altogether, the first main part of the psalm depicts Jerusalem’s leaders as illegitimate and its leaders and people as sinful. Such political and religious strife constitute the circumstance the author aimed to address in composing the psalm.

The second part of the psalm (vv. 21–45) takes the form of a petition, imploring God to restore David’s throne and describing God’s agent of redemption as superior to Jerusalem’s present and recent rulers in terms of legitimacy, righteousness, and permanence. The psalm urges the Lord to raise up a new legitimate “king,” a “son of David” (v. 21). The psalm envisions that this new king will be righteous, taught by God, and pure from sin (vv. 32, 36). He will rid Jerusalem of unrighteous rulers and sinners and reestablish the people according to their tribes throughout the land (vv. 21–29). And because the new king trusts in the Lord, his kingdom will be strong and prevail (vv. 37–39). In these ways, the author petitioned God to raise up a king who will be superior to Jerusalem’s current and recent leaders in terms of legitimacy, righteousness, and permanence.

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I argue that the author composed the psalm’s two parts and frame to (re)describe Jerusalem’s present and the future in a hopeful manner for those who recite the psalm. The author acknowledged in the psalm’s first part that political and religious strife beset Jerusalem and its people. By petitioning God in the second part of the psalm to raise up a Davidic king who will set Jerusalem right, however, the author characterized Jerusalem’s strife as temporary: vicious and deadly, but impermanent. Correspondingly, by framing both parts of the psalm between declarations of God’s enduring kingship (vv. 1–3, 46), the author expressed confidence in God to rectify Jerusalem’s current strife and re-establish the throne of David in the future. In this way, the author crafted the psalm to re-describe for those who recite the psalm Jerusalem’s present and future in a hopeful manner.

The author used the Law of the King in the second part of the psalm to describe the coming Davidic king. Specifically, the author alluded to Deut 17:17b in the second of three cola in Ps. Sol. 17:33 by means of shared themes, lexemes, and syntax. Thematically, both verses pertain to kings acquiring silver and gold. Lexically, both Ps. Sol. 17:33 and Deut 17:17b contain the terms χρυσίον (gold), ἀργύριον (silver), the negative adverb (οὐ), the verb πληθύνω (multiply), and the pronoun αὑτῷ (himself) or its synonym ἑαυτῷ. The author, however, rewrote Deut 17:17b so that the verb (πληθύνω)

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precedes the objects (χρύσιον οὐδὲ ἀργύριον) instead of vice versa, reflecting the syntax in Deut 17:16a and 17a in which the verb πληθύνω precedes its objects.89

<table>
<thead>
<tr>
<th>Deut 17:17 MT</th>
<th>Ps. Sol. 17:33</th>
<th>Deut 17:17 LXX</th>
</tr>
</thead>
</table>
| אל ריבת וֹא נָשְׂפָה וֹא תֹּר | οὐ γὰρ ἐλπιεὶ ἐπὶ ἵππον καὶ ἀναβάτην καὶ τόξον
οὐδὲ πληθυνεῖ αὐτῷ
χρυσίον οὐδὲ ἀργύριον εἰς
πόλεμον
καὶ πολλοῖς λαοῖς οὗ
συνάξει ἐλπίδας εἰς ἡμέραν
πολέμου. | καὶ οὐ πληθυνεῖ έαυτῷ
γυναίκας, οὐδὲ
μεταστήσει αὐτοῦ ἢ
καρδίας καὶ ἀργύριον καὶ
χρυσίον οὐ πληθυνεῖ
έαυτῷ σφόδρα, |

Table 3.2: Ps. Sol. 17:33 Compared to Deut 17:17 MT and LXX

The author positioned the material from Deut 17:17b between what appears to be the author’s own composition and a subtle allusion to Deut 20:1. The first colon in Ps. Sol. 17:33 appears at first glance to contain an allusion to Deut 17:16: both verses contain the direct object ἵππον (horse) and precede material known from Deut 17:17.90 On the contrary, the colon lists horses alongside ἀναβάτην (rider) and τόξον (bow), all of which function as the objects of the verb ἑλπιεῖ (hope), whereas horses are the sole object of the verb πληθύνω (to multiply) in Deut 17:16. So, the lexical ties between the first colon of Ps. Sol. 17:33 and Deut 17:16 are meager, suggesting that the author of the former did not allude to the latter. Nor does the first colon link lexically and syntactically to other texts from the Hebrew Bible, Septuagint, Dead Sea Scrolls, or the so-called

89 Deuteronomy 17:17b uses the idiom “silver and gold,” whereas the author used the idiom “gold and silver,” as was common in the Persian period and does not significantly impact the meaning of the Deuteronomistic material.

Pseudepigrapha. Presumably, then, the first colon of Ps. Sol. 17:33 is the author’s own composition.

<table>
<thead>
<tr>
<th>Deut 17:16 MT</th>
<th>Ps. Sol. 17:33</th>
<th>Deut 17:16 LXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>לֹא אֲנַשֶּׁהָ רַעָ הֻלָּלֶ֖יָּה</td>
<td>οὐ γὰρ ἐπὶ ἑαυτῷ ἰππὸν καὶ ἀναβάτην καὶ τόξον</td>
<td>διότι οὐ πληθυνεὶ ἑαυτῷ ἰππὸν οὐδὲ μὴ ἀποστρέψῃ τὸν λαὸν εἰς Ἀἰγυπτόν, ὅπως πληθυνῇ αὐτῷ ἰππὸν, ὦ δὲ κύριος εἶπεν ημῖν Οὐ προσήησετε ἀποστρέψαι τῇ ὁδῷ ταύτῃ ἑτε.</td>
</tr>
<tr>
<td>מָרַת אֲנַשֶּׁהָ רַעָ הֻלָּלֶ֖יָּה</td>
<td>ὡς καὶ τοῦ πόλεμον καὶ πολλοίς λαῷς οὐ συνάξει ἐλλίδας εἰς ἡμέραν πόλεμον.</td>
<td></td>
</tr>
</tbody>
</table>

Table 3.3: Ps. Sol. 17:33 Compared to Deut 17:16 MT and LXX

The third colon of Ps. Sol. 17:33 ties thematically and lexically to Deut 20:1. Lexically, both verses pertain to going out for war (πόλεμος) and a multitude of people (πολὺς λαός), referring to a larger army. Thematically, Deut 20:1 advises Israel that when they go out for war they should not fear horse, rider, or a larger group of people because YHWH their God is with them. Ps. Sol. 17:33–34 similarly maintains that the future king will not hope in a multitude of people in the day of war, but instead will hope in God.

The combination of these lexemes and the theme of trusting in God is unique to Deut 20:1 within the Hebrew Bible, suggesting that the author may have alluded to it. Moreover, the preceding allusion to Deut 17:17b strengthens the case for an allusion to Deut 20:1, since recurring allusions to a single base text strengthen the evidence of an

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91 There is significant lexical overlap between Ps. Sol. 17:33 and Jdt 9:7 in which Judith contrasts the strength of the Lord with the Assyrians, who increased themselves (ἐπλήθυνθησαν) and who hope (ηλπίσαν) in shield, javelin, and bow (τόξο) and are exalted by horse and rider (ἵππῳ καὶ ἀναβάτῃ). The distinct coordination of objects and verbs in these verses, however, suggests the lexical overlap is coincidental, not intentional. There is also lexical and thematic overlap between the first cola of Ps. Sol. 17:33 and Hos 1:7 and Zech 9:10, but not enough to indicate an allusion from the psalm to either of the other two.

92 The Greek lexemes also occur in Joel 2:5 and 2 Sam 1:4 LXX, but these texts lack the theme of trusting in God. The corresponding Hebrew terms מלחמה (war), בְּעָם (a multitude of people) occur in Isa 2:4; 13:4, and Mic 3:4, but these texts also lack the theme of trusting in God.
intentional allusion. Overall, then, the author positioned the material from Deut 17:17b between what appears to be the author’s own composition and an allusion to Deut 20:1.

<table>
<thead>
<tr>
<th>Deut 20:1 MT</th>
<th>Ps. Sol. 17:33</th>
<th>Deut 20:1 LXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>כי תצא למלחמה על ייבך וראית סוס ורכב עם רב ממך לא תירא מהם כי יהוה אלהיך עמך המעלך מארץ מצרים</td>
<td>οὐ γὰρ ἐλπὶς ἐπὶ ἵππων καὶ ἀναβάτην καὶ τόξων οὐδὲ πληθυνεὶ αὐτῷ χρυσίον οὐδὲ ἄργυριον εἰς πόλεμον καὶ πολλοῖς λαοῖς οὐ συνάξει ἐλπίδας εἰς ἡμέραν πόλεμου.</td>
<td>Εὰν δὲ ἐξέλθῃς εἰς πόλεμον ἐπὶ τοὺς ἐχθροὺς σου καὶ ίδῃς ἵππων καὶ ἀναβάτην καὶ λαὸν πλείονα σου, οὐ φοβηθῇς ἀπ’ αὐτῶν, ὅτι κύριος ὁ θεός σου μετὰ σου ὁ ἀναβιβάσας σε ἐκ γῆς Αἰγύπτου.</td>
</tr>
</tbody>
</table>

Table 3.4: Ps. Sol. 17:33 Compared to Deut 20:1 MT and LXX

The author however made three sets of changes to the material from Deut 17:17b. First, the author employed the Deuteronomic material to comment upon the future king’s source of hope. Whereas in Deuteronomy, the fourfold repetition of the verb πληθύνω (multiply) emphasizes the theme of acquisition, the author downplayed that theme by positioning the one occurrence of the verb πληθύνω between two references to hope. The king will not hope (ἐλπὶς) in horse, rider, or bow; nor multiply (πληθύνω) gold or silver, nor gather hope (ελπὶς) from a multitude of people in the day of war. Thus, the author employed the material from Deut 17:17b to comment upon the future king’s source of hope.

Second, the author made a number of changes to the material from Deut 17:17b to use it to comment on the future king’s conduct in war. The author substituted the phrase εἰς πόλεμον (for war) in place of the Deuteronomic adverb ἔναξ (greatly), thereby

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changing a remark about general acquisition into a remark about acquisition for battle. Moreover, the author positioned the material from Deut 17:17b between an implicit and explicit reference to war. The first colon refers to implements of war (i.e., horse, rider, and bow) and the third colon explicitly refers to the “day of war.” Lastly, the author selectively used Deut 17:17b from the Law of the King, bypassing material pertaining to other topics, e.g., trade (Deut 17:16) or marriage (Deut 17:17a). Together, the selective usage, lexical substitution, and positioning of Deut 17:17b evidence how the author altered the Deuteronomic material to describe the future king’s military conduct.

Finally, through a subtle grammatical change, the author deployed Deut 17:17b, which was originally a prohibition, to describe the future. The Hebrew verbs prohibiting acquisition in Deut 17:16–17 are imperfects with modal nuance. In the Septuagint, these verbs are formally future indicatives but function prescriptively as jussive futures. Likewise, Ps. Sol. 17:33 employs a future indicative of the verb, πληθυνεῖ. This future indicative, however, does not function prescriptively but rather denotes an action that will happen in the future. This verb is part of a string of future indicatives in vv. 26–43 that likewise describe future acts. The alteration in the verb’s grammatical function (not conjugation), then, results in the Deuteronomic prohibition functioning in the psalm to describe. Together, these three sets of changes show how the author adopted Deut 17:17b to describe the coming king as one who hopes in God in the day of war.

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94 Atkinson, *I Cried*, 143, notes a similar addition made to the material from Deut 17:16 in 11Q19 56:16, and suggests that both authors may have been aware of an interpretative tradition of the Law of the King that presumed a military role for the king.

Moreover, the author’s selective usage of Deut 17:17b is evident based upon the roles the author envisioned for the coming king. As noted, the author granted the king a military role in v. 33. Elsewhere, the author envisioned the king having a role in purging Jerusalem of sinners (Ps. Sol. 17:22–25), in judicial matters and the establishment of justice (vv. 26–29, 41, 43), in teaching (v. 42), in purifying Jerusalem (vv. 30, 45), and speaking words reminiscent of God’s own (v. 43).\footnote{Nickelsburg, \textit{Jewish}, 242–43; Collins, \textit{“Interpretation,”} 57–58; H. Daniel Zacharias, \textit{“The Son of David in Psalms of Solomon 17,”} in \textit{“Non-Canonical” Religious Texts in Early Judaism and Early Christianity}, ed. Lee Martin McDonald and James H. Charlesworth, Jewish and Christian Texts in Contexts and Related Studies 14 (New York: T&T Clark, 2012), 77–81.} However, as noted, in the Law of the King the only positive role for the king is to write and read the law, with others receiving roles in judicial, teaching, cultic, prophetic, and military activities. Thus, the distinct conceptions of a king in the psalm and Deuteronomy highlight the author’s selective usage of material from the law.

Overall, then, the author employed material from the Law of the King to describe the coming king as one who will depend on God to fight for God’s people in war. The king will not hope in horse, rider, bow, or a multitude of people for war, nor multiply gold and silver to prepare for war. Rather, the king’s hope in the day of war is in God’s deliverance (vv. 33–34). This use of Deut 17:17b was one component of the author’s effort to re-describe for those who recite the psalm Jerusalem’s present and future in a hopeful manner.

Based on the preceding analysis, I conclude with five observations about how the author of Psalm of Solomon 17 used the Law of the King in comparison to the law’s theoretical ethical functions. First, rather than employ the Law of the King as a discrete and cohesive unit including conditional circumstances, prescriptions, and corresponding
objectives, the author selectively employed only a discrete prohibition from the law. The Law of the King provides guidance regarding a king’s trade affairs, marital matters, and instruction, but the author of Ps. Sol. 17 only employed the material regarding the king’s acquisition of gold and silver (Deut 17:17b). Moreover, the author used the selected material to grant the king a military role given to others in Deuteronomy, further highlighting the selective manner in which the author employed the material from Deut 17:17b apart from its literary context. While direct analysis suggests the prohibition in Deut 17:17b functions as one among others that help a potential king (vv. 14–15) reach a determined objective (vv. 19b–20), the author of Ps. Sol. 17 only employed the half-verse, without its Deuteronomic context.

Secondly, as direct analysis of the Law of the King suggests, the law functioned in Ps. Sol. 17 as a moral law, not a civil law. Composing a psalm that instructs those who recite it on how to conceptualize both Jerusalem’s current strife and their objectives for the future is not a civil judicial undertaking. So, by using the Law of the King to characterize Jerusalem’s awaited king, the author used the law as a moral law, not a civil law, which accords with what the law’s direct analysis suggests.

Thirdly, in terms of subject matter and objective, the author of Ps. Sol. 17 used the Law of the King partially in accordance with what direct analysis suggests about the law’s subject matter but not its objective. The author employed material from the law to address a matter pertaining to kingship, namely Jerusalem’s coming Davidic king, just as direct analysis of the law suggests it would function. Specifically, however, the author used the law to describe the actions of an eschatological king in military affairs, even though the law itself says nothing about an eschatological king nor a king’s military
actions. Moreover, the author employed the law not to help some king achieve an
objective, as direct analysis of the law suggests, but rather to conceptualize for those who
recite the psalm what the future king will be like. Thus, the author of Ps. Sol. 17 used the
Law of the King partially in accord with what direct analysis suggests about the law’s
subject matter but not in accord with what direct analysis suggests about the law’s
objective.

Fourthly, beyond subject matter and objectives, the author of Ps. Sol. 17 altered the
Law of the King material so that it took on meanings not suggested by direct analysis
of the law. Specifically, the author used material from Deut 17:17b to craft a description
of a future king’s sources of hope in war, even though the law itself says nothing about a
king engaging in war. To this end, the author re-contextualized the material from Deut
17:17b in a way that downplayed the material’s concern for a king’s personal acquisition
and introduced a concern for a king’s source of hope. The author also re-contextualized
the material between implicit and explicit references to war and revised the adverb ἡ
(greatly) to the phrase εἰς πόλεμον (for war). Thus, the author altered the Law of the King
materials so that it took on meanings not suggested by direct analysis of the law.

Finally, the author adapted material from the Law of the King, which direct
analysis identifies as functioning prescriptively, to describe the coming king, not to
 prescribe action. Specifically, Deut 17:17b prohibits a king’s self-interested acquisition.
In Ps. Sol. 17:33, however, the author employed this prescription to describe the awaited
king. Thus, contrary to what direct analysis of the law suggests, the author employed
prescriptive material from the law to describe.
Overall, then, the Law of the King functioned in Ps. Sol. 17 in accordance with what direct analysis suggests about its moral function and partially in accord with what direct analysis suggests about its subject matter, but otherwise in ways that differ from what direct analysis suggests. I turn now to the case of the Damascus Document 5:1–2, whose author, like the author of Psalm of Solomon 17, selectively employed material from the Law of the King. Unlike the previous three cases, however, this final author employed material from the law to navigate a concern regarding marriage and fornication rather than kingship.

The Law of the King in the Damascus Document

The author of the Damascus Document employed the Law of the King in CD 5:1–2, which is part of the text’s so-called Admonition (CD 1–8; 19–20), specifically in a polemical unit (CD 4:12b–5:15a) concerning a group the author called “the builders of the wall” (4:19). The text claims that in the present age Belial deploys three nets with which to snare people: fornication, wealth, and defilement of the temple (4:12b–19a). The text claims that “the builders of the wall” have been captured by two of the nets (4:19b–20a), namely fornication (4:20b–5:6a) and defilement (5:6b–14a).

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concludes by warning of punishment and guilt for those who go near the “builders of the wall” (5:14b–15a). My analysis focuses on the unit pertaining to fornication in which the author employed the Law of the King. I argue that the author selectively employed material from the law as a premise alongside the narratives about creation, the flood, and King David to define fornication in a way that implicated the author’s opponents, “the builders of the wall,” in fornicating.

The unit on fornication has three parts. In the first part (4:20–21a), the author leveled an accusation against the “builders of the wall,” namely, that by “taking two wives in their lives” the “builders of the wall” have fornicated. In the second part (4:21b–5:2a), the author quoted and juxtaposed portions of the Genesis creation and flood narratives and the Law of the King to support the author’s specification of fornication as “taking two wives in their lives.” In the third part (5:2b–6a), the author harmonized the specification of fornication with the narratives concerning King David. Each part of the polemic requires comment to elucidate the function of the Law of the King in the polemic as a whole.

_Ancient Judaism in Honor of Steven Fraade_, ed. Michael Bar-Asher Siegal, Tzvi Novick, and Christine Elizabeth Hayes, Journal of Ancient Judaism Supplements 22 (Göttingen: Vandenhoeck & Ruprecht, 2017), 22. Alternatively, Chaim Rabin, _The Zadokite Documents_ (Oxford: Clarendon, 1954), 17, García Martínez and Tigchelaar, _Dead_, 557, Schremer, “Qumran,” 150, and Cecilia Wassen, “The Importance of Marriage in the Construction of a Sectarian Identity in the Dead Sea Scrolls,” in _Social Memory and Social Identity in the Study of Early Judaism and Early Christianity_, ed. Samuel Byrskog, Raimo Hakola, and Jutta Jokiranta, NTOA 1166 (Göttingen: Vandenhoeck & Ruprecht, 2016), 143–44, interpret CD 4:20 to mean that the builders of the wall fornicate twice, by taking two wives (4:20–5:6) and by taking a niece in marriage (5:7–11). Two pieces of evidence, however, stand against this thesis. First, there are lexical repetitions between two of the nets of Belial ([fornication ... defilement of the sanctuary]) [4:17–18] and the author’s accusations against the builders of the wall ([In fornication.... They are defiling the sanctuary... they defiled their holy spirit] [4:20; 5:6, 11]). This suggests that the author grouped the accusations of defilement in 5:6b–15a. Correspondingly, the author linked the accusation regarding marriage to a niece (5:7–11) to Lev 18:13, which is explicitly linked to defilement in the summary statement in Lev 18:24.
In the first part (4:20b–21a), the author accused the “builders of the wall” of fornicating and specified that they had fornicated by “taking two wives in their lives.”

Because the term זנות (fornication) and its verbal root זנה, when not referring to prostitution, refer to illicit sex generally,\(^{100}\) it was insufficient for the author to accuse the “builders of the wall” of fornicating without specifying the manner in which they had done so. Fittingly, the author immediately specified the illicit act as לקחת שתי נשים בחייהם (taking two wives in their lives). While it was once thought that this phrase might refer to either polygamy, divorce, marriage after divorce, or marriage after a wife’s death,\(^{101}\) the publication of 4Q266 and 4Q271 revealed that elsewhere the Damascus Document permitted divorce and remarriage in at least some cases, making the polygamy thesis most likely.\(^{102}\)

The author’s accusation that the “builders of the wall” fornicated by means of polygamy, however, would not have been uncontroversial among Jews in late second or early first centuries BCE. There is no prohibition in the Hebrew Bible against polygamy and plenty of narratives (e.g., Gen 5:19; 29; 1 Sam 1:2; 25:43; 2 Sam 12:8) and at least one law (Deut 21:15–17) that presumes the practice.\(^{103}\) So, polygamy was not obviously fornication. Moreover, while the Temple Scroll’s prohibition against a king taking

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\(^{100}\) Wassan, Importance, 141; Gary H. Hall, “זנות,” *NIDOTTE*. 1:1122–25.

\(^{101}\) See Schremer, “Qumran,” 148–49, nn. 3–6, for the relevant bibliography.


another wife while his wife lives (11Q19 57:17b–18a) attests to some disapproval of polygamy just prior to the writing of the Damascus Document, Josephus (Ant. 17.14; cf. J.W. 1.477) and early rabbinic literature (Sipre Deut 159; m.Yebam. 1:2) provide evidence that polygamy was practiced during the Second Temple period and beyond. So, accusing the “builders of the wall” of fornicating by means of polygamy would not have been universally accepted among Second Temple Jews. It is fitting, then, that the author attempted to justify the accusation in the second and third parts of the polemic.

In the second part of the polemic, the author selectively quoted and juxtaposed portions of Gen 1:27; 7:9, and the Law of the King, combining these Pentateuchal texts to support the author’s characterization of polygamy as fornication. The lexical and syntactical evidence in CD 4:21b suggests that the author quoted Gen 1:27c. The lexical and syntactical evidence in CD 5:1a suggests that the author selectively quoted Gen 7:9a, only dropping the phrase נִחָּ (to Noah). Lastly, lexical and syntactical evidence in 5:1b–2a suggests that the author selectively quoted Deut 17:17a, only dropping the waw conjunctive at the start of the verse. The author introduced this

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105 Rabin, Zadokite, 17–18; Campbell, Use, 125.

106 Contra Wacholder, New, 190, who describes CD 5:1 “not as a direct quote of Gen 7:9, but a slight amplification of it,” but misinterprets the phrase נָבְא אֶת הַבַּה (and entering the ark) as part of the quotation itself and not as an introductory phrase.

107 Cf. Moshe J. Bernstein, “Pentateuchal Interpretation at Qumran,” in Flint and VanderKam, Dead, 144; Moshe J. Bernstein and Shlomo A. Koyfman, “The Interpretation of Biblical Law in the Dead Sea Scrolls: Forms and Methods,” in Reading and Re-Reading Scripture at Qumran, STDJ 107 (Leiden: Brill, 2013), 2:466–67; Campbell, Use, 123–25; Baumgarten and Schwartz, “Damascus;” 21; Baumgarten, Damascus, 12; Lawrence H. Schiffman, “The Relationship of the Zadokite Fragments to the Temple Scroll,” in Baumgarten, Chazon, and Pinnick, Damascus, 138; Rabin, Zadokite, 18. Alternatively, Wacholder, New, 191, contends that the author quoted 11Q19 56:18b, since (1) CD 5:2a contains the exact lexemes found in 11Q19 56:18b; (2) CD 4:20b–21a prohibits bigamy, which is permitted in Deut 21:15 but prohibited in Temple Scroll 57:17b–18a; and (3) because CD 5:1 uses the term נָבְא (leader), which is favored in the Temple Scroll (e.g., 11Q19 57:11–12) and not attested in Deut 17:15 MT, which uses מָלֶך (king). While Wacholder is correct about the lexical overlap between CD 5:2a and 11Q19 56:18b, he overlooks the fact that the author of the Temple Scroll rewrote Deut 17:17a in 11Q19 56:18b–19a to connect more strongly
quotation of the law with a topical heading (ועל הנשיא) combined with a citation formula (כתוב). The author’s usage of the generic term נשיא (leader) in the heading as opposed to the term מלך (king) suggests that the author either had a variant version of Deut 17:14–20 that employed the former term, similar to the use of the generic term ἀρχων (ruler) instead of βασιλεύς (king) in Deut 17:15 LXX, or more likely that the author employed the generic term in keeping with the well-attested Second Temple-era convention.108

<table>
<thead>
<tr>
<th>Gen 1:27 MT</th>
<th>CD 4:21b–5:2a</th>
</tr>
</thead>
<tbody>
<tr>
<td>לברא אלהים את האדם בצלמו בצלם אלהים ברא אתו זכר ונקבה ברא אתם</td>
<td>רימוד המפריא זכר וננקבה בא טובות ומאוהב אино זכר וננקבה בר אוח</td>
</tr>
<tr>
<td>Gen 7:9 MT</td>
<td>5:1a</td>
</tr>
<tr>
<td>שנים שנים באו אל לחנה זכר וננקבה נקראה זאתreads כה ברא</td>
<td>רבייה והחנה שנים שנים באו אל החנה</td>
</tr>
<tr>
<td>Deut 17:17 MT</td>
<td>2b</td>
</tr>
<tr>
<td>ואלא ירבה לו נשים ואלא יסירו לבבו מאחרי</td>
<td>על הנשיא כתוב לא ירבח וلنשים</td>
</tr>
</tbody>
</table>

Table 3.5: CD 4:21b–5:2 Compared to Gen 1:27, 7:9, and Deut 17:17 MT

By juxtaposing these selective quotations, the author combined their content and logic to support the author’s claim that polygamy is fornication.109 The legal material from Deuteronomy prohibits multiplying wives but does not specify the number of wives

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109 Cf. Campbell, Use, 177, n. 7; Wachholder, New, 190; Baumgarten and Schwartz, “Damascus,” 7; Rabin, Zadokite, 17; Bernstein, “Pentateuchal,” 144; Bernstein and Koyfman, “Interpretation,” 466; Alexander, “Reading,” 22.
a king may have. The specification of two wives comes from the narrative material from Genesis, implicitly from the pairing of “male and female” in Gen 1:27c and explicitly from the “two by two” in Gen 7:9a. The Genesis narratives, however, contain no prohibition against a man taking more than one wife. Together, though, the narrative exemplars of “two” plus the legal prohibition against the multiplication of wives support the author’s claim that “taking two wives in their lives” is fornication. But the polemic is not yet complete.

In the final part of the polemic, the author harmonized the first two parts of the polemic with the summary statement in 1 Kgs 15:5 (MT, not LXX) that David did what was right in the eyes of YHWH except in the matter of Uriah the Hittite.¹¹⁰ David, of course, is a problem for the author’s claim that polygamy is fornication. David was polygamous (cf. 1 Sam 18:20–27; 25:42–43; 2 Sam 3:2–5; 5:13) but the summary statement of David’s life in 1 Kgs 15:5 implies that David’s polygamy was permissible, even “right” (ישר). The author addressed this potential problem in two steps. First, the author explained that David could not have known that polygamy is fornication because the law book through which David would have learned about fornication was inaccessible for him (CD 5:2b–5a).¹¹¹ Second, the author noted in accordance with 1 Kgs 15:5 that

¹¹⁰ Campbell, Use, 129, n. 70; Alexander, “Reading,” 21. Alternatively, James C. VanderKam, “Zadok and the SPR HTWRH HḤ’TWM in Dam. Doc. V, 2–5,” RevQ 11.4 (1984): 565, 569, characterizes the function of CD 5:2–6 as an attempt to exonerate David’s polygamy, thereby missing the function of these lines within the wider polemic. Harrington, “Biblical,” 1:172, overlooks the discussion of King David all together, concluding that the author “conspicuously omits any discussion of the many examples and laws of polygamy to be found throughout the Bible (cf. Deut 21:13).”

¹¹¹ For the purpose of my study, it is not necessary to settle whether “Zadok” (CD 5:5) refers to a priest among King David’s officials (2 Sam 8:17), to Hilkiah, who was the grandson of Zadok (1 Chron 5:38) and finder of the ספר התורה (book of the law) (2 Kgs 22:8), or to a latter Second Temple personage. See Vanderkam, “Zadok,” 562–64, for an overview of the debate. In each case, David’s polygamy, except in the case of Bathsheba, would have occurred prior to the accessibility of the law book (contra Wacholder, New, 192). Likewise, whether the referent of ספר התורה החתום (the sealed book of the law) is the book of Deuteronomy (cf. Vanderkam, ibid., 565), the Pentateuch (cf. Campbell, Use, 125; Ginzberg, Unknown, 21;
God only held David liable for the blood of Uriah and not for any of his other deeds (5b–6a).\(^{112}\) The logical implication, then, is that David’s polygamy was forgiven because he had no access to the law book that would have taught him that polygamy is fornication. In this manner, the author harmonized the summary statement on David’s life in 1 Kgs 15:5 with the first and second parts of the polemic. Altogether, the second and third parts of the polemic work together to justify the author’s claim that polygamy is fornication.

Overall, then, the author employed the Law of the King for two logically successive ends. For the penultimate end, the author employed the Law of the King along with the narratives of creation (Gen 1), the flood (Gen 7), and King David (1 Kgs 15) to support the author’s claim that polygamy is fornication. Ultimately, though, the claim that polygamy is fornication enabled the author to characterize the author’s opponents as fornicators: by means of “taking two wives in their lives” the “builders of the wall” have fornicated.\(^ {113}\)

Based on my analysis, I conclude with five observations about how the author of CD 4–5 used the Law of the King in comparison to the law’s theoretical ethical functions. First, the author did not employ the Law of the King as a cohesive legislative unit, but rather selectively employed Deut 17:17α. Whereas in the Law of the King Deut 17:17α is intelligible as one means among others (vv. 16–19a) for a potential king (vv. 14–15) to achieve specific kingly goals (vv. 19b–20), the author employed the material from Deut

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\(^{113}\) Regarding the role that implicating the “builders of the wall” in fornication might have played in forming the social identity of the author’s community, see Wassan, “Importance,” 139–40, 145–46, and Alexander, “Reading,” 23.
17:17aα apart from its Deuteronomistic context. Instead, the author used this material alongside and in light of narrative material from Gen 1 and 7. Thus, the author selectively employed material from the Law of the King, contrary to how direct analysis suggests the law or Deut 17:17aα would function.

Secondly, just as the Law of the King in Deuteronomy takes the form of a moral law with no sanctions that a civil judiciary could enact, so, too, the author of CD 4–5 employed the law for a moral purpose, not a civil end. Though the author used the Law of the King to construct a charge of fornication against the “builders of the wall,” the charge served a moral function, namely to portray the author’s opponents as caught in one of Belial’s nets. Thus, the Law of the King functioned in CD 4–5 as direct analysis of the law suggests it would, as a moral law.

Thirdly, the author of CD 4–5 used the Law of the King to address a subject and achieve objectives distinct from what direct analysis of the law suggests. In terms of subject matter, the author employed Deut 17:17aα in an argument regarding a marital matter for all Jewish males, not kings specifically. Accordingly, the author did not employ the law to help a potential king achieve a desired objective, but rather for the twofold purpose of defining fornication in a way that implicated the author’s opponents in fornicating. Thus, the author of CD 4–5 used the Law of the King to address a subject and pursue objectives that are distinct from what direct analysis of the law suggests.

Fourthly, beyond subject matter and objectives, the author altered the employed Deuteronomistic material so that it took on meaning distinct from what direct analysis of the law suggests. Specifically, Deut 17:17aα lacks specificity about the number of wives a king is permitted. The author of the Damascus Document, however, contextualized this
material alongside the narrative material from Gen 1 and 7, and thereby imputed that the Deuteronomistic material referred to the multiplication of wives beyond one. Thus, in CD 4–5 the material from Deut 17:17α took on meaning distinct from what its direct analysis suggests.

Finally, the author of CD 4–5 used material from the Law of the King in a way that did not cohere with what direct analysis suggests about the material’s logical function. In the Law of the King, Deut 17:17α functions prescriptively. In the Damascus Document, though the author’s quotation of Deut 17:17α captured the prescriptive nature of the material, the author used this material not to prescribe an action but to describe polygamy as fornication and ultimately to describe the “builders of the wall” as fornicators. Thus, the author deployed material from the Law of the King to give ethical descriptions of particular aspects of the author’s world, contrary to what direct analysis suggests about the prescriptive functions of that material.

Overall, then, the Law of the King functioned in CD 4–5 in accord with what direct analysis of the law suggests about its moral (not civil) function, but otherwise functioned differently than what direct analysis suggests about the law’s ethical functions.

Conclusions

The four case studies I have analyzed demonstrate that the Law of the King functioned ethically in diverse ways. In Dan 5 MT, the author embellished the narrative with thematic and lexical allusions to the Law of the King to characterize Belshazzar as a king with an exalted heart. In the Temple Scroll, the author re-contextualized, revised, and supplemented the Law of the King material, as well as innovatively redeployed its
themes and lexemes to construct new kingship legislation for the author’s new law book. In Ps. Sol. 17, the author used material from the Law of the King to describe the coming king as one who will depend on God to fight for God’s people in war as part of the author’s aim to teach those who recite the psalm how to conceive of Jerusalem’s present and future in a hopeful manner. And in CD 4–5, the author selectively employed material from the law as a premise alongside the narratives about creation, the flood, and King David to define fornication in a way that implicated the author’s opponents in fornicating.

In no case, however, did the law function in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts. The case studies illustrate that the Law of the King was sometimes employed as a cohesive whole, as in the Temple Scroll and, to some extent, in Dan 5, just as direct analysis of the law suggests the law would function. However, pieces of the law were also selectively employed, as in Ps. Sol. 17 and in CD 4–5, and to some extent Dan 5. Moreover, while the authors of Dan 5, the Temple Scroll, and Ps. Sol. 17 employed the Law of the King to address matters concerning kingship, as direct analysis of the law suggests, the author of Ps. Sol. 17 shifted the subject matter beyond what direct analysis suggests, specifically to the military activities of an eschatological king, and the author of CD 4–5 further shifted the subject matter to the marital practices of all Jewish men, not just kings. Furthermore, while the authors of Dan 5 and the Temple Scroll employed the law to pursue an objective concerning the wellbeing of a king, as direct analysis suggests the law would function, the authors of Ps. Sol. 17 and CD 4–5 employed the law to pursue objectives that have nothing to do with a king’s wellbeing. Each case study author also diversely altered the Law of the King material so that it took on meanings not
explicit in the law itself. Finally, while the Law of the King material was sometimes used in correspondence with its logical functions in Deuteronomy, as at points in Dan 5 and the Temple Scroll, the material was also used in ways that differ from what direct analysis suggests about its logical functions, as when prescriptive material from the law was used for descriptive purposes in Dan 5, Ps. Sol. 17, and CD 4–5, or when descriptive material (i.e., a telic phrase) was used to compose a prohibition in the Temple Scroll. In fact, the only conclusion from the law’s direct analysis that consistently reflected how the law actually functioned was based on the law’s form, which suggests the law would function as a moral law, not a civil law. Thus, the case studies show that the Law of the King’s actual ethical functions were only partly in continuity with what direct analysis of the law suggests.
CHAPTER 4: THE ETHICAL FUNCTIONS OF THE LAW OF VOWS


To establish the direction of dependence between the Law of Vows and the other five texts, it is sufficient to note that literary growth of the law was complete prior to the composition of the other five texts. Scholars agree that the Law of Vows reached its final stage of literary growth by the fourth century BCE or perhaps sooner.1 As noted previously, the Temple Scroll’s composition is commonly dated during the second or early first centuries BCE and the Damascus Document is dated to the late second or early first centuries BCE. Ecclesiastes lacks decisive dating clues but the majority of scholars date it to the Hellenistic period, specifically the third century BCE, based on linguistic evidence and Qumran manuscript evidence.2 The Epistle of Jeremiah is conservatively dated between the late fourth and the late second centuries BCE based on its reference to “seven generations” in exile (Ep Jer 3), an allusion to the epistle from 2 Macc 2:2, and Qumran manuscript evidence, though a narrower range in the third or second centuries is

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1 Nelson, Deuteronomy, 7, esp. n. 9, and Weinfeld, Deuteronomy I–II, 63–64, 83, date Deut 23:22–24 to the seventh century BCE. Otto, Deuteronomium 12–34, 2:1785, argues that the law is a fifth century BCE addition. Levinson, More, 47–79, esp. 74–78, argues that v. 23 is a fifth or fourth century BCE insertion.

Finally, 1 Esdras is typically dated to the third or second centuries BCE. Such dating is sufficient for establishing the direction of dependence of the five texts upon the Law of Vows and not vice versa.

Similarly to the previous two chapters, I begin with a direct analysis of the ethical functions of the Law of Vows based on the law’s structure, logic, form, and historical and literary contexts. The provisional conclusions I draw reveal how the Law of Vows could have functioned in theory, not how the law actually functioned on particular occasions. I then indirectly analyze the ethical functions of the law, demonstrating how the authors of 11Q19 53:9–54:5, Eccl 4:17–5:6, the Epistle of Jeremiah, CD 16:6b–20, and 1 Esd 4:43–46 used the law for their own particular purposes. The ordering of the case studies is heuristic. I begin with the Temple Scroll, whose author incorporated the entire Law of Vows, and then turn to Eccl 4:17–5:6, whose author selectively drew upon lexemes and themes from all three verses of the law. I then analyze the Epistle of Jeremiah, whose author utilized Deut 23:22, and end with CD 16:6b–20 and 1 Esd 4:43–46, whose authors

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utilized the first and second halves of Deut 23:24, respectively. Each case study concludes with a summary of how the Law of Vows functioned on that particular occasion, with an eye towards how these functions compare to the provisional, theoretical functions of the law discerned through direct analysis. Overall, I argue that the five case studies demonstrate that the Law of the Vows had a diversity of ethical functions but none that are in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts.

**Direct Analysis of the Law of Vows**

The Law of Vows in Deut 23:22–24 is a discrete legal unit among the miscellaneous laws found in Deut 23:10–25:19. Structurally, the law has two or three parts, all of which require some comment on their structural ambiguities. Casuistic formulations characterize vv. 22–23, though the conditional markers in v. 22 (כי) and v. 23 (וכי) create some ambiguity regarding the verses’ relationship. In Deuteronomy, וכי sometimes marks a subordinate clause that spells out some possibility within a previously given apodictic or casuistic main clause (e.g., Deut 15:12–13; 18:20–21). According to this pattern, v. 23 would presume v. 22 and the sense of v. 23 would be that had the vow in v. 22 not been made, guilt would not have been incurred. Verses 22–23 would thus constitute a single part of the law. On the other hand, in Deuteronomy, HttpStatusCodeResult (and

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5 Nelson, *Deuteronomy*, 282, contends that the law has a concentric structure but his proposal does not account for v. 23a nor v. 24b).

6 Levinson, *More*, 47–50, 65–69. Variance among the ancient versions contributes to the ambiguity. In one Samaritan manuscript, vv. 22 and 23 identically begin with כי but another Samaritan manuscript is identical to the Masoretic version. In the Septuagint, vv. 22 and 23 begin identically with Εαν δε, though the Septuagint translator generally levels all occurrences of כי and כי with Εαν δε (e.g., Deut 12:20, 21; 13:2; 14:24; 15:21) with few exceptions (Deut 13:18; 15:6, 13; 19:9; 23:10; 24:10). In the Syriac, v. 22 begins with the conjunction as in v. 23. Regarding the legal functions of conditional and temporal כי and כי in Deuteronomy, see chapter 1, n. 69.

if) sometimes marks a provision that is an explicit alternative to an apodictic or casuistic provision (e.g., Deut 14:22–24; 15:19–21). Accordingly, most recent commentators and standard translations render v. 23 as an alternative to v. 22, thereby rendering vv. 22 and 23 as discrete parts of the law: “If you vow…. But if you cease to vow…..”\(^8\) Thus, it is unclear whether vv. 22 and 23 constitute one part or two parts of the law.

Verse 24 with its apodictic formulation constitutes an additional and final part of the law, though there is ambiguity concerning its midpoint. The Masoretes put the *atneh* under the term *ועשית* (you shall do), setting up a comparison between the two halves of the verse hinging upon the term *כאשר*: That which comes from your lips (מוצאו שפתיך) you must guard and do, just as (asca) you vowed to YHWH your God. In this manner, the fulfilment of מוצאו שפתיך (that which comes from your lips) is compared to the fulfilment of vows. It is unclear, however, if the expression מוצאו שפתיך is intended to refer to speech generally or a specific verbal formulation like a vow or an oath.\(^9\) But, since the comparison is made to vows in v. 24b, it would be odd if v. 24a also referred to vows. It is also possible, however, to mark the verse’s midpoint at the term תשמר, resulting in a verse with two distinct commands that could both pertain to vowing: That which comes from your lips you must guard and do just as you vowed to YHWH your God. In this manner, there is no need to question whether the topic shifts from vows in vv. 22–23 to other verbal formulations in v. 24a; the latter simply extends the former. Grammatically, though, both midpoints are two possible.


\(^9\) Num 30:13 modifies a related expression to refer to vowing and Ps 89:34 has a similar expression paraling a covenant formulation (i.e., an oath). Nelson, *Deuteronomy*, 276, and Lundbom, *Deuteronomy*, 667, contend the expression is an idiom for a promise. Levinson, *More*, 47, paraphrases the expression in a manner that makes it about vows.
Building on this structural analysis, I contend that vv. 22–23 and v. 24 each have their own logic. Verses 22–23 aim to prevent incurring guilt because of a vow. Verse 22 has a three-part logic. The conditional in v. 22α addresses the possibility of a person vowing a vow to YHWH, v. 22β instructs against delaying the payment of the vow, and v. 22b provides a motive for the action: YHWH will surely seek the vow and you will incur guilt.\(^{10}\) In other words, if you vow (i.e., the circumstance) and you want to avoid incurring guilt (i.e., the objective), don’t delay payment (i.e., the prescription). Verse 23 describes an alternative possibility whereby the same objective is met: If you cease to vow (circumstance), you will not incur guilt (objective). Notably, the verse gives no prescription. Instead, the verse implicitly renders vowing as voluntary and not vowing as an alternative way to achieve the same objective delineated in v. 22b.\(^{11}\)

The logic inherent in v. 24 is distinct from the preceding verses though partially muddled because of two ambiguities. First, while it is clear that v. 24a prescribes action, there are at least three possibilities of what is prescribed depending on the interpretation of the phrase נשמר ועשה. One interpretation assumes that the two verbs function together to convey the sense “you must diligently perform.”\(^{12}\) But while these two verbs often function together in this order and in this manner throughout Deuteronomy, the combined

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\(^{10}\) The translation of והיה בך חטא as “you will incur guilt” is common (e.g., NRSV; NJPS; Lundbom, *Deuteronomy*, 492; Otto, *Deuteronomium 12–34*, 2:1779; Nelson, *Deuteronomy*, 275). Weinfield, *Deuteronomy*, 356, and Tigay, *Deuteronomy*, 219, identify the phrase as an idiom meaning roughly the equivalent of the Priestly idiom נשא עון (bearing guilt). Tigay, ibid., 147, contends that in Deuteronomy guilt builds up and leads to punishment. In the Priestly literature, Jacob Milgrom, *Leviticus: A Book of Ritual and Ethics*, Continental Commentaries (Minneapolis: Fortress, 2004), 171–72, contends that guilt (עון) refers to the effects of sin upon the sinner: just as impurities defile the God’s sanctuary, guilt defiles those who sin. Similarly, Weinfield, ibid., 242–43.


\(^{12}\) Cf. NRSV; Lundbom, *Deuteronomy*, 238, 667; Levinson, *More*, 47.
verbal forms in v. 24a, namely an imperfect followed by a waw perfective, is unique. So, it unclear that these two verbs here convey the sense these two verbs together convey elsewhere. The two verbs within the phrase might also be rendered as independent but synonymous, “you must fulfill and perform,” or independent and semantically distinct, “you must guard and do,” as in the Septuagint, φυλάξῃ καὶ ποιήσεις. On the minimum, then, the verse prescribes the necessary fulfillment of vows. The verse might also prescribe guarding one’s lips. Regardless of how these ambiguities are interpreted, however, v. 24 does not specify a circumstance in which the prescription(s) apply, thereby making the prescription(s) absolute for all circumstances.

The second relevant ambiguity pertains to the coordination of the prescription(s) in v. 24a with a specific objective. There are three interpretive possibilities. The verse’s final clause (v. 24β) might function as a relative clause meaning “which you spoke,” thereby modifying some or all of v. 24α. On this reading, v. 24b elaborates on “that which comes from your lips” (v. 24a) but provides no objective or warrant for the verse’s prescriptions. One interpretive possibility, then, is that the prescriptions in v. 24 have no defined objective and the verse is mere prescription. Another interpretive possibility is to read v. 24 in light of vv. 22–23 and allow the objective in the former verses to fill the void in the latter verse: guard your lips, lest you use them to vow and open up the possibility of incurring guilt; fulfill what you vow, lest you incur guilt. The context of v. 24 following vv. 22–23 favors such an interpretation. On the other hand, the prescription

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13 Elsewhere in Deuteronomy, the two verbs occur together in the same conjugation (e.g., Deut 4:6; 7:12) or both in infinitive form (e.g., 15:5; 28:1) or with a conjugated form of שָׁמַר followed by עָשַׂה in the infinitive (e.g., Deut 5:1; 6:3).
14 Nelson, Deuteronomy, 275; NJPS.
15 Levinson, More, 47; Nelson, Deuteronomy, 275; Lundbom, Deuteronomy, 661, Otto, Deuteronomium 12–34, 2:1779; LXX.
in v. 24 to fulfill one’s vows is somewhat redundant with v. 22 that presumes the necessity of vow fulfillment in its prescription not to delay vow fulfillment, suggesting that these two parts of the law stand on their own. Alternatively, the verse’s final clause, v. 24bβ, might function as a causal clause meaning “for you spoke.” On this reading, v. 24bβ would supply a motive for fulfilling the prescription is v. 24a: because your own mouth made a vow, you should do it. Contrary to the warrant for action in v. 22 that is based on an objective, this warrant would convey a generally applicable duty: do what one says one will do. Thus, v. 24 clearly prescribes action but its logic is distinct from the conditioned logic inherent in vv. 22–23 and its prescription is possibly but not necessarily directed towards the objective in vv. 22–23.

Evidence from the law’s literary and historical contexts suggest that the vow (נדר) to which the law refers was a type of conditional promise with cultic implications and is distinguishable from a related but distinct verbal formulation, an oath (שביע). In the Hebrew Bible and the ancient Near East, a vow (נדר) is a verbal promise made to a god, conditioned upon the god’s favorable response to a petition and fulfilled by means of a votive offering (נדנ) in a public sanctuary of the god. In the narratives of the Hebrew

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16 NJPS.
17 Cartledge, Vows, 12–14, 25, 134–35; Tigay, Deuteronomy, 218; Lundbom, Deuteronomy, 666; Otto, Deuteronomium 12–34, 2:1799; Jacob Milgrom, Numbers: The Traditional Hebrew Text with the New JPS Translation, JPS Torah Commentary (Philadelphia: Jewish Publication Society of America, 1990), 488–89. Alternatively, Hubert Tita, Gelübde als Bekenntnis: Eine Studie zu den Gelübden im Alten Testament, OBO 181 (Freiburg: Universitätsverlag; Göttingen: Vandenhoeck & Ruprecht, 2001), 226–27, characterizes vows in the Hebrew Bible as confessions of thanks, thereby making vow fulfillment verbal. Tita admits, however, that this definition is most influenced by references to vows in the psalms (ibid., 2). In the Hebrew Bible’s legal literature, votive offerings are consistently non-verbal offerings (e.g., Lev 7:16; 22:21; 27:2; Num 15:3, 8; Deut 12:6, 11, 17, 26; 23:28). Alternatively, Micha Roi, “Conditional Vows—Where They Are Made and Paid,” BN 167 (2015): 3–24, argues that two central aspects of a vow are a desire to return home and the necessity of paying the vow at the place where the vow was made. The argument, however, is unpersuasive. The case of Hannah’s vow (1 Sam 1) does not conform to Roi’s thesis as Roi admits (ibid., 6). Roi also dismisses the evidence of the legal literature (ibid., 12), claiming (without argument) that it postdates the narratives (contra, e.g., Thomas C. Römer, “Why Would the Deuteronomists
The Bible, a diversity of needs prompts vows to be made and what is promised to God in exchange for God’s help is equally diverse, but vows are always promissory and conditional (e.g., Gen 28:20–22; Num 21:2; Jdg 11:30–31; 1 Sam 1:11; 2 Sam 15:7–8). While not all vows attested in the Hebrew Bible were fulfilled in a sanctuary (e.g., Num 21:2), more often cultic practices played a role in vow fulfillment. On the other hand, an oath (שבעה) is also promissory but its fulfillment is required unconditionally and neither the making nor fulfilling of an oath is necessarily related to a cult (e.g., Gen 14:23–24; 21:23–23). Deuteronomy likewise distinguishes between vows and oaths, consistently listing vow offerings alongside various offerings, sacrifices, and gifts that were brought to YHWH at YHWH’s chosen dwelling (Deut 12:6, 11, 17, 26; 23:19, 22–24) and linking oaths to loyalty to YHWH but not particular cultic acts (6:13; 10:20). Deuteronomy is silent on the conditional nature of vows but given the wider evidence in the Hebrew Bible and ancient Near East it is reasonable to assume that the Deuteronomic author understood vows to be conditional.

The content, literary context, and formal features of the law suggest that it was a moral law pertaining to cultic vows. Since the law’s punitive content regarding the incurring of guilt is not the type of punishment that a civil judiciary could carry out, the law’s form suggests that the law was a moral law and not a civil law. That the law is concerned with cultic vows and not conditional promises generally is evident by the law’s explicit concern with נדר ליהוה אלהיך (a vow to YHWH your God) (v. 22). And, as
already noted, the root נָדַב elsewhere in Deuteronomy is consistently associated with cultic matters. Thus, the content, literary context, and formal features of the law suggest that it was a moral law pertaining to cultic vows.

The law’s literary context also suggests that the term נָדַב (v. 24a) functions as an adverb meaning “freely” and modifying עַשֶּׂית (you shall do) and not as a noun referring to a freewill offering.21 Favoring the interpretation “freely” is the fact that vows and freewill offerings are distinct in Deuteronomy and the wider Pentateuch (e.g., Lev 22:18, 21; Num 15:3; Deut 12:6, 17). Only later rabbinic texts attest to the view that freewill offerings can be a type of vow.22 Moreover, throughout the Hebrew Bible, the verb נָדַר (to vow) only takes the noun נָדַב (vow) as an object.23 Thus, the Law of Vows literary contexts suggests that the term נָדַב (v. 24a) functions as an adverb (freely) and not as a noun (freewill offering).

Overall, direct analysis of the Law of Vows suggests that it would have functioned as a two or three-part moral law regarding cultic vows. The first part (v. 22) has a three-part, means-end logic, prescribing against delayed vow repayment to avoid incurring guilt when a vow has already been made to YHWH. The second part (v. 23) shares the objective of the first part to avoid incurring guilt due to a vow. Instead of prescribing an action, however, this part of the law simply notes that guilt will not be incurred if the circumstance considered in v. 22 (a vow is made) never arises. Verse 23, thus, renders vow-making as voluntary. The final part of the law (v. 24) contains an

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absolute prescription to fulfill one’s vows and possibly also to guard one’s lips. Whether or not the prescription(s) is warranted by the aim to avoid incurring guilt as in vv. 22–23, the keeping of one’s word (v. 24bβ), or at all, is unclear.

From this direct analysis of the law’s theoretical ethical functions, I turn now to analyze how the law functioned for five authors on five particular occasions.

The Law of Vows in the Temple Scroll

The author of the Temple Scroll incorporated the Law of Vows alongside legislation from Deut 12:26 and Num 30:3–16 to create a new legal unit regarding things due to YHWH (11Q19 53:9–54:5a). I argue that the author reused, re-contextualized, and revised the Law of Vows material as part of the author’s overall work to compose a new and improved law book.

The author of the Temple Scroll incorporated the Law of Vows into a legal unit pertaining to things due to YHWH (11Q19 53:9–54:5a) as part of the author’s rewriting of a selection of laws from Deut 12–25 in cols. 51:11–66:12.24 Following the expansion and condensation of material from Deut 12:20–25 in col. 53:1–8,25 the author rewrote Deut 12:26 in col. 53:9–10a.26 In col. 53:11–14a, the author incorporated and rewrote the vows legislation from Deut 23:22–24.27 The author linked the material from Deut 12:26

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24 On the positioning of the Law of Vows material, see Maier, Temple, 122. Yadin, Temple, 2:237, and Bernstein, “Pentateuchal,” 158. Maier, ibid., 14–16, contends that 11Q19 51:19–54:7 constitute a larger grouping of laws pertaining to the cult but this thesis cannot account for the material in 53:1–8, which pertains to secular slaughter. Paganini, Nicht darfst, 90, mischaracterizes the Deuteronomic material in 11Q19 53:9–54:7 as being used to frame the material from Num 30.

25 Yadin, Temple, 2:238. Schiffman, Gross, and Rand, “Text,” 130, 132, observe the rewriting of Deut 12:20–24 in 11Q19 53:1–6a but contend that 11Q19 53:6b–8 is dependent on Deut 12:28, not v. 25. As they observe, however, vv. 25 and 28 are parallel. Given the author’s Deuteronomic ordering of material in cols. 53:1–55:14, however, it is more likely the author used Deut 12:25 as the base text, omitted its first two words, לא תאכלנו (you shall not eat), and inserted the phrase עד עולם (forever) from v. 28.


27 Yadin, Temple, 1:73, 2:239; Maier, Temple, 122; Schiffman, “Law,” 206; Crawford, Rewriting, 93; Paganini, Nicht darfst, 96; Levinson, More, 33; Cizek, “Legislating,” 80. Alternatively, Wise, Critical, 38,
to the material from Deut 23:22–24 by means of the author’s own composition in col. 53:10b (just as you consecrated or vowed with your mouth), which incorporated lexemes from Deut 12:26 regarding consecrating and vowing, and lexemes from Deut 23:22–24 regarding vowing along with the phrase בפיכה (with your mouth) (Deut 23:24). The author finished the unit (col. 53:14b–54:5a) by rewriting Num 30:3–16, which pertains to the fulfillment and annulment of vows and bindings (אסר), the latter of which are self-imposed obligations made by means of an oath. Following the material from Num 30, the author continued rewriting Deut 12–25, beginning in 11Q19 54:5b–7 with material from Deut 13:1, omitting material from Deut 12:27–31. The grouping of discrete laws pertaining to consecrations, vows, and bindings results in a textual unit that pertains to things that are due to YHWH: the consecrations and votive offerings are for YHWH (col. 53:9b–10a), the vows are to YHWH (col. 53:11b–12a), and the vows and bindings are implicitly for YHWH, since a failure to fulfill either offends against YHWH (col. 53:21; 54:3).
Apart from orthographic alterations that are characteristic of Dead Sea Scrolls Hebrew, the author made numerous changes to the Law of Vows material that reflect the author’s overall aim to compose a new and improved law book. First, the author rewrote the conditional כי from Deut 23:22 as כי in col. 53:11. The author reserved conditional כי without the copulative for the beginning of new legal units, so the alteration here reflects the author subordinating the Law of Vows material to the material from Deut 12:26. Correspondingly, while the author retained the law’s basic structure by incorporating it wholesale, the author augmented the law’s structure by making it a piece of a larger legal unit on things due to YHWH, not a discrete unit on its own. Moreover, as characteristic of the Temple Scroll, the author completely rewrote the Law of Vows in first-person speech as if it came from the mouth of YHWH. Specifically, in col. 53:11 and 13, the author omitted three third-person references to “YHWH your God” from Deut

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30 Schiffman, Gross, and Rand, “Text,” 132, n. 775; Paganini, Nicht darfst, 90. The Septuagint’s leveling of כ (if) and כי (if) with ἐὰν δὲ makes it unhelpful for discerning whether or not the presence of the copulative here in the Temple Scroll is an addition. Levinson, More, 36–38, concludes the phrase כי in col. 53:11 is a pleonasm, translated “if, if” and the mistaken result of the author attempting to combine three distinct laws, each of which has its own distinct legal syntax. Alternatively, Paganini, ibid., 92, contends the insertion of כי in col. 53:11 served to clarify the preceding כי, giving it a clear conditional sense. Unfortunately, the occurrences of כי in the Temple Scroll are limited (cols. 53:11; 58:10), so there is little evidence upon which to make claims.

31 I depart somewhat from Levinson, More, 18–19, 27, who argues that in the Temple Scroll conditional כי only occurs at the start of new legal units but fails to note the distinct role of conditional כי in the text. I contend, but cannot demonstrate here, that כי in 11Q19 45:7; 11; 49-5; 53:11, 14, 16; 58:3, 10; 60:12; and 61:2 does not occur at the start of a legal unit but rather at the start of a subunit within a larger unit.
23:22 and 24 and in col. 53:11 the author re-conjugated the verb ידרשו (he shall seek) from Deut 23:22 as אדרשו (I shall seek).³²

The author also twice replaced the term חטא (sin) from Deut 23:22 and 23 with the synonym חטאה (sin) in col. 53:12 to harmonize the legislation’s terminology with the author’s use of these terms elsewhere. The change does not impact the meaning of the Deuteronomistic material, which still indicates that those who fail to fulfill a vow in a timely manner bear guilt. The alteration, however, brings the Law of Vows material into accord with the author’s terminology regarding sin in the wider text. The author tended to employ the term חטא (sin) to refer to a wrongful act (cf. cols. 57:10; 61:6 [cf. Deut 19:15]; 64:9 [cf. Deut 21:22]; 66:6 [cf. Deut 22:26]) and the term חטאה (sin) when referring to the defilement or pollution of persons or things (cf. cols. 26:12 [cf. Lev 16:21]; 51:14b–15a; 53:12 [cf. Deut 23:22–23]).³³ That the author altered the term חטא to חטאה suggests that the author recognized the Deuteronomic idiom (i.e., והיה בך חטא) referring to incurring guilt and sought to harmonize the Deuteronomistic terminology with the wider scroll.

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³² Cizek, “Legislating,” 80; Paganini, Nicht darfst, 94; Schiffman, “Law,” 207. Alternatively, Yadin, Temple Scroll, 2:239, curiously overlooks the characteristic shift from third to first-person speech, concluding instead that the omitted references were redundant given the content of lines 9–10. Paganini, ibid., 94, 100, additionally contends that the alteration not only serves its characteristic function in the scroll but also functions to generalize the legislation from vows made to YHWH to vows generally. However, the positioning of the Law of Vows in a legal unit pertaining to things due to YHWH undercuts Paganini’s thesis. See Levinson, More, 88, for an alternative critique of Paganini’s thesis.

³³ The author consistently used the term חטאת elsewhere to refer to a sin offering (11Q19 16:12, 18; 17:14; 18:4; 25:14, 15; 26:9, 10; 28:4[4], 8, 11; 35:11, 14; 37:14). The sole exception to this otherwise consistent trend is 11Q19 35:13b–15a, which reads לא יפר תנאו (the priest shall not err… incurring a sin of guilt), thus employing חטאת in reference to moral defilement and not an act. Alternatively, Paganini, Nicht darfst, 93, argues that the author of the Temple Scroll intentionally avoided the term חטא, which supposedly has a harsh meaning in Deuteronomy, for the supposedly more neutral term חטאת. See Levinson, More, 86–87, and Cizek, “Legislating,” 80, n. 13, for critiques of Paganini’s argument. Levinson, ibid., 87, sees no significant semantic difference between חטא and חטאת in the Temple Scroll.
The author modernized the Deuteronomic material in col. 53:11 by substituting the term מדרתה (from your hand) for the synonymous term מעמך (from with you) from Deut 23:22. The absence of the latter term in Second Temple texts, like Daniel, Ezra, Nehemiah, and the Temple Scroll, or its rare occurrences in Chronicles (1 Chron 17:13; 2 Chr 10:15) and at Qumran (1QpHab X, 7 [cf. Hab 2:13]; 2Q28 2, 2; 4Q175 I, 8 [cf. Deut 18:19]), contrasts sharply with the occurrences of the former term in Daniel (8:4, 7; 11:41), Nehemiah (9:27), Chronicles (1 Chron 11:23; 18:1; 28:19; 29:14, 16; 2 Chron 16:7; 25:15; 30:6, 16; 31:13; 32:13, 14 (2x), 16 (3x), 17 (2x), 22 (2x); 34:9; 35:11), the Temple Scroll (53:11; 59:11, 18 (2x)), and at Qumran generally (e.g., 1QS V, 16; XI, 10; 1QHa VI, 38; X, 37 (2x); 1Q22 46, 1; 1Q25 7, 2; 4Q166 II, 11 [cf. Hos 2:12]; 4Q171 II, 20; IV, 21; 4Q176 1–2 I, 6 [cf. Isa 40:2]). The evidence suggests, therefore, that the synonymous substitution is a modernization.

The author made two changes to the material from Deut 23:23, clarifying thereby the ambiguity that had existed between vv. 22 and 23 and emphasizing the viability of not vows. In col. 53:12b, the author changed the initial word in the material from Deut 23:23 from conditional כי (but if) to אם (but if). The distinct lexemes are semantically equivalent but the author of the Temple Scroll only used כי at the beginning of subunits within larger textual units, while the use of אם and היא was more diverse. The change to היא, then, suggests that the author intended the material from Deut 23:23 to be read as

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34 Cizek, “Legislating,” 80; Paganini, Nicht darfst, 93; Yadin, Temple, 2:239.
35 The term יתכן may also occur in 4Q169 3–4 II, 10, but the mem is not preserved.
36 Contra, Paganini, Nicht darfst, 93, who concludes that the author substituted the term יתכן for the term יי for the term יי because the former term corresponded more closely to the Deuteronomic vocabulary. I have argued elsewhere, however, that the evidence Paganini cites, i.e., that יתכן occurs once in Deuteronomy (Deut 26:4) while יי occurs six times (Deut 10:12; 15:12, 13, 16, 18; 23:22), is too narrow and actually contradicts Paganini’s conclusion (Cizek, “Legislating,” 80, n. 13).
37 Cf. Levinson, More, 18.
part of the subunit that began in col. 53:11 with the material from Deut 22:22. The change, thus, resolved an earlier noted ambiguity by rewriting the two verses as one legal unit, not potentially two. The change to the legal terminology, however, does not settle whether the author understood the material from v. 23 to be a sub-condition to the material from v. 22 or an alternative to the material from v. 22. More tellingly, the author re-wrote the infinitive construct נדר (to vow) from Deut 23:23 as a separate finite verb that the author also negated, resulting in the phrase ואם תחדל ולוא תדור (if you cease and do not vow) (col. 53:12b). Doubling the verbs effectively sharpened the Deuteronomic formulation, suggesting that author intended the material from Deut 23:23 to be understood as an alternative to the material from Deut 22:22. The result is much like the Septuagint’s free rendering of Deut 23:23a as εὰν δὲ μὴ θέλῃς εὔξασθαι (if you do not wish to vow), emphasizing the viability of not vowing. The alteration of the Deuteronomic legal terminology and verbal forms, thus, clarified that the material from Deut 23:23 was structurally subordinate and logically an alternative to the material from Deut 23:22 in col. 53:11–12a.

Further related to the law book project, the author rewrote Deut 23:24, clarifying its structural, content, and logic ambiguities, and eliminating its redundancy. The author transposed the verb והשיה (you shall do) and re-wrote it as an infinitive to work with הנדרה (you have vowed), changed אשר (for, which) to כאשר (just as), and transposed בפיך (with your mouth). I translate the lines that resulted as follows (col. 53:13–14a): You

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40 As noted, the author also omitted להוה אלהיך (to YHWH your God).
must guard what comes from your lips, for you have vowed freely with your mouth to do just as you have vowed. In this manner, the author made the midpoint of the material come after the term (you shall guard), thereby clarifying the previously noted midpoint ambiguity in Deut 23:24 and highlighting the material’s prescription to guard one’s lips. The author also altered the from Deut 23:24α from initiating a comparative clause to initiating an explanatory clause, thereby supplying a warrant for the prescription to guard one’s lips. Moreover, by transposing and re-conjugating the verb , the author omitted the original prescription to do what one vows, which was and would be redundant following the prescription to fulfill vows quickly.

In addition to the changes the author made directly to the Law of Vows material, the positioning of the material from Num 30:3–16 immediately following the Deuteronomic material enabled the nuancing of the Deuteronomic prescriptions in a manner only indirectly suggested in the Pentateuch. The Deuteronomic material gives prescriptions for all cases: in all cases, a vow must be fulfilled in a timely manner; in all

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41 The Hebrew in col. 53:13–14a is difficult. My translation builds on my earlier work (Cizek, “Legislating,” 84, “You must guard what comes out of your lips: just as you vowed to make a freewill offering with your mouth, so you have vowed”) and Levinson, More, 34 (“What your lips utter you must observe, for [ךָשֵּׁר] you have vowed freely with your mouth to do as [ךָשֵּׁר] you have vowed” [brackets mine]). While I continue to translate the first verb as “guard,” I follow Levinson’s translation (which I previously overlooked), which handles the two occurrences of more smoothly. Alternatively, Qimron, Temple, 77, proposes that the infinitive construct at the end of col. 53:13 functions as a finite verb, a suggestion that may lay behind the translation of García Martínez and Tigchelaar, Dead, 2:1273: “You shall keep what comes out from your lips, for you have voluntarily vowed with your mouth to do as you have vowed.” The resulting translation, however, is hardly intelligible. Yadin, Temple, 2:239, inserts an additional verb in the first clause in his English translation: “You shall be careful to perform what has passed your lips, for you have voluntarily vowed with your mouth to do as you have vowed” (italics mine). Wise, Abegg, and Cook, Dead, insert an additional verb in the second part of the line: “Be careful about what passes your lips, for what you have voluntarily sworn to do must be done as you have vowed” (italics mine). Charlesworth and Milgrom, “English Translation,” 133, give a literal but unintelligible translation: “What leaves your lips, you shall take care as you voluntarily vowed with your mouth to do as you vowed.”

42 Cf. Paganini, Nicht darfst, 95, 99.

43 Yadin, Temple, 1:74–75, contends that the positioning of these two laws allowed them to complement each other. Cizek, “Legislating,” 87, n. 34, notes that the author resisted harmonizing the material from Deut 23:22–24 and Num 30:3–16.
cases, one should guard one’s lips. The Numbers material, however, differentiates between the cases of a man (col. 53:14b–16a), daughter (col. 53:16b–21), wife (col. 54:1–3), and a widow or divorcee (54:4–5a), and permits a father or husband to annul the vows or bindings made by a daughter or wife (col. 53:20–21; 54:3). The incorporation of the books of Numbers and Deuteronomy into the Pentateuch had effectively though only indirectly enabled these related but distinct and somewhat conflicting pieces of legislation to be interpreted in complementary fashion. Positioning the Numbers material immediately following the Law of Vows material in the Temple Scroll, however, more directly suggested interpreting the Deuteronomic material on vows in light of the related Numbers material and vice versa.

It is also possible that the author intended the re-contextualized Law of Vows material to take on new meaning pertaining to the purity of the land, the temple, and its holy city. The author positioned the Law of Vows material in a subsection of the Temple Scroll pertaining to life in the land surrounding the temple and its holy city (cols. 48–66). The author’s concern for the purity of the centralized temple is evident throughout cols. 45–47 and the author’s concerns for the purity of the people and the land outside the temple and its holy city is most explicit in cols. 48–51:18, especially col. 51:5b–10. Moreover, the author revealed a concern that impurity from the land surrounding the temple and its holy city will be brought into the holy city and potentially defile the temple (cols. 45:11–18; 47:6–18). While the author did not alter the Law of Vows material in any way that explicitly linked it to the purity concerns in cols. 45–51, inserting the Law of Vows material into the wider text with its concerns for the purity of the land, the

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45 Cf. Maier, Temple, 5–6; Crawford, Rewriting, 87; Swanson, Temple, 3–6.
temple, and its holy city may have imputed new significance to the material’s concern for bearing guilt (Deut 23:22–23): the consequences of such guilt are not limited to the bearer, as in Deuteronomy, but also have ramifications for the purity of the land, the temple, and its holy city. This supposition corresponds with the author’s revision of the term חטאת (Deut 23:22, 23) to חטאת (col. 53:12), which is the term the author used to refer to the defilement or pollution of persons or things. While it is not possible to prove that the author intended the Law of Vows material to take on additional significance regarding the purity of the land, the temple, and its holy city, it is a possible consequence of the author re-contextualizing the Law of Vows material in the Temple Scroll.

Altogether, the various changes the author made to the Law of Vows material evidence the author’s objective to compose new and improved legislation, in this case pertaining to things due to YHWH (cols. 53:9–54:5a). The new legal unit was part of the author’s wider rewriting of a selection of laws from Deut 12–25 in cols. 51:11–66:12. This unit began with material from Deut 12:26, then incorporated and ended with thematically related material from the Law of Vows and Num 30, before resuming with material from Deut 13:1. The juxtaposition between the Law of Vows material and the Num 30 material allowed these two distinct and somewhat conflicting pieces of legislation to be interpreted in complementary fashion. The author also harmonized terminology from the Law of Vows, including legal terminology, with terminology in the author’s wider law book. Moreover, the author arguably improved the Law of Vows material by modernizing it, clarifying it, and eliminating redundancies, thereby creating more orderly and clear legislation. Finally, crafting the new legislation as if it proceeded directly from the mouth of YHWH afforded authority to the new composition.
Based on the preceding analysis, I conclude with five observations about how the author of the Temple Scroll employed the Law of Vows in comparison to what direct analysis suggests about the law’s ethical functions. First, the author employed the Law of Vows material as a textual unit, as direct analysis of the law suggests the law would function, but also transformed that material into a piece of a larger legislative unit. By changing the conditional \( \text{וכי} \) (but if) from Deut 23:23 to \( \text{ואם} \) (but if) (11Q19 53:12b), the author signaled that the material from Deut 23:23 was part of the same legal unit that began in col. 53:11 with material from Deut 23:22. Moreover, by transposing and rewriting the verb \( \text{ועשית} \) (you shall do) from Deut 23:24a into a motive clause for the verb \( \text{תשמרו} \) (you shall guard) (col. 53:13–14a), the author eliminated the prescriptive redundancy between the material from Deut 23:22 and 24. In these ways, the author altered the material in ways that made it an even more cohesive legal unit than the law appears to be in Deuteronomy. However, the author incorporated the Law of Vows material into a more extensive unit regarding things due to YHWH (cols. 53:9–54:5a), in part by rewriting the conditional \( \text{וכי} \) from Deut 23:22 as \( \text{וכי} \) (col. 53:11). In these ways, the Law of Vows functioned as a legal unit, as direct analysis suggests, but also as a piece of a larger legislative unit, contrary to what direct analysis suggests.

Secondly, just as the form of the Law of Vows in Deuteronomy suggests, the author of the Temple Scroll employed the law as a moral law. Specifically, the author incorporated the law into the author’s new and improved law book, though there is no evidence that this law book ever actually functioned as civil law. Moreover, the author employed the law for the purpose of avoiding incurring guilt (11Q19 53:12) and, perhaps, for the additional purpose of protecting the purity of the land, Jerusalem, and the temple,
all of which go beyond civil judicial concerns per se. Thus, as direct analysis suggests, the Law of Vows functioned in the Temple Scroll as a moral law.

Thirdly, in terms of subject matter and objective, there is continuity and some variance between what direct analysis of the Law of Vows suggests and how the law functioned in the Temple Scroll. Just as the law’s subject in Deuteronomy appears to be cultic vows and the law’s objective appears to be avoiding incurring cultic guilt, the author employed the law to address the matter of cultic vows and for the purpose of avoiding incurring guilt (11Q19 53:12). However, the author may also have intended to build another objective upon this original objective such that the law had a role in maintaining the purity of the land, Jerusalem, and its temple. Thus, there is continuity of subject matter and objective between what direct analysis of the law suggests and how it functioned in the Temple Scroll, but also variance insofar as the author gave the law a role in maintaining the purity of the land, Jerusalem, and its temple.

Fourthly, beyond innovations to subject matter or objective, the author altered the Law of Vows material so that it took on meanings not explicit in the law itself. The author revised references to YHWH (Deut 23:22, 24) so that the new legislation appears to be spoken by God. The author also emphasized of the possibility of not vowing inherent in the material from Deut 23:23 by re-conjugating and thereby doubling its verbs related to not vowing (col. 53:12). Moreover, by collating the Law of Vows material with the related Pentateuchal legislation from Deut 12:26 and Num 30:3–16, the author ensured that prescriptions that might have been presumed to be related by virtue of their inclusion in the Pentateuch would be understood as directly related and complementary.
In these ways, the author altered the Law of Vows material so that it took on new meanings beyond what is suggested by the law itself in Deuteronomy.

Finally, the author used each part of the Law of Vows material in accordance with what direct analysis suggests about its logical functions, with one exception. The author’s wholesale inclusion of the Law of Vows ensured that the majority of the material functioned logically in accordance with its function in Deuteronomy. However, in rewriting Deut 23:24, the author transposed and re-conjugated the prescriptive verb וַעֲשִׂית (do) so that it functioned not as a prescription but as part of the rationale for the prescription to guard one’s lips: “for you have vowed freely with your mouth to do (לְעָשׂה) just as you have vowed” (11Q19 53:13b–14a). Thus, the author used the Law of Vows material largely in continuity with what direct analysis suggests about its logical functions, except for reworking a prescription into a motive clause.

Overall, then, the Law of Vows functioned in the Temple Scroll just as direct analysis of the law suggests it would in terms of subject matter and moral (not civil) function, but otherwise functioned in ways that go beyond what direct analysis suggests. I turn now to the case of Eccl 4:17–5:6, whose author, like the author of the Temple Scroll, employed material from all three verses of the Law of Vows.

The Law of Vows in Ecclesiastes

language and ideology of the Law of Vows material to integrate it into Qoheleth’s wisdom instruction regarding how to act when and if one chooses to vow.

Structurally, Eccl 4:17–5:6 has two parts, 4:17–5:2 and 5:3–6, each with four subparts that are signaled by parallel formal and lexical features. Each part begins with a conditional exhortation, signaled by an imperatival verb and the particle传染 (when): watch (imperative) your step when传染 you go to the house of God (4:17αα); when传染 you vow a vow to God, do not delay (jussive) to fulfill it (5:3αα). Second, each part continues with a so-called “better than” statement, signaled by a prefixed comparative传染 (from): approaching to listen is better than fools giving a sacrifice (4:17αβ); better that you should not vow, than that you vow and not fulfill (5:4). Thirdly, double exhortations comprised of negated jussives and containing lexical ties follow each “better” statement: Do not传染 (לא) be quick (jussive) with your mouth传染 (ปาก) and let not传染 (לא) your heart hasten (jussive) to send forth a word before God (5:1α); let not传染 (לא) (jussive) your mouth传染 (ปาก) cause harm to your body and do not传染 (לא) say (jussive) before the messenger that it was a mistake (5:5α). Finally, each part ends with lexically related proverbs: surely传染 (כי) a dream传染 (חלום) comes with many传染 (רב) cares, and a fool’s voice with many words传染 (רב בדאות) (5:2); surely传染 (כי) with many dreams传染 (רב חלומות) there are both vanities and much talk传染 (דברים הרבה), but传染 (כי) fear God (5:6). These parallel formal and

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Commentary, CC (Minneapolis: Fortress, 2003), 74, Levinson, More, 55, and idem, “‘Better That You Should Not Vow Than That You Vow and Not Fulfill’: Qoheleth’s Use of Textual Allusion and the Transformation of Deuteronomy’s Law of Vows,” in Reading Ecclesiastes Intertextually, ed. Katharine J. Dell and Will Kynes (Edinburgh: T&T Clark, 2014), 30. Alternatively, Schoors, Ecclesiastes, 371, and Crenshaw, Ecclesiastes, 48, 118, contend that the unit continues through Eccl 5:8, being held together formally by a series of five exhortations (4:17αα, 5:1α, 3αα, 5α, 7α).

My proposal accords in part with those of Lavoie, “Critique,” 151, Lohfink, Qoheleth, 76, and Schoors, Ecclesiastes, 371. Lohfink’s proposal of additional chiastic structuring, however, creates tension with the parallel lexical and formal features Lohfink notes and only works if vv. 2 and 6 are disregarded.

Regarding vv. 2 and 6 as proverbs, see Schoors, Ecclesiastes, 371, 383, 398, Lavoie, “Critique,” 151, and Lohfink, Qoheleth, 76. Alternatively, Fox, Time, 231, and Krüger, Qoheleth, 108, only describe v. 2 as
lexical features suggest that the author intended the unit on speech directed towards God to unfold in two parallel parts (4:17–5:2; 5:3–6), each with four movements.\(^\text{49}\)

A three-part logic is operative in each of the two parts and reveals that the second part focuses narrowly on vowing. In the first part, the speaker addresses the circumstance in which a person goes to the house of God, as signaled by the conditional clause in 4:17a: when you go to the house of God. The speaker’s objective is implicit in the motive clauses (4:17b; 5:1b, 5:2b): to prevent foolish speech in the given circumstance. The prescriptions, then, are intended to help achieve the objective in the given circumstance: guard your step (4:17α), listening is better (4:17β),\(^\text{50}\) and do not hasten to speak but let your words be few (5:1). In the second part, the speaker addresses a related but more specific aspect of religious speech as signaled by the conditional clause in 5:3α: When you vow a vow to God. The speaker’s objectives are to prevent God’s displeasure towards the one who vows and the divine destruction of a person’s possessions, as seen most clearly in the rhetorical question in v. 5b (cf. v. 3β).\(^\text{51}\) Fittingly, the majority of the prescriptions would help to preserve God’s pleasure and one’s possessions when one vows: don’t delay vow fulfillment but fulfill your vows [quickly] (v. 3), let not your mouth cause your body harm (v. 5α), and fear God (v. 6b). The remaining two prescriptions in vv. 4 and 5, while not strictly functioning as a means to achieve the

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\(^{49}\) I have not overlooked the remaining material in 4:17b; 5:1b, 5:3αβ, and 5b. I understand the formal features I highlighted to mark shifts in thought, not the totality of reflection.

\(^{50}\) The comparative מ in חמש (more than giving) gives the phrase קרוב לשמע (approaching to listen) prescriptive force, though it contains neither imperative nor jussive verbs.

\(^{51}\) I will discuss the phrase כי אין חפץ בכסילים (for there is no delight in fools) in 5:3β in the analysis that follows.
objective in the given circumstance, still pursue the same objective in light of the assumed circumstance. “Better that you should not vow, than that you vow and not fulfill” (v. 4) suggests that an alternative way to maintain God’s pleasure and one’s possessions is to never let the circumstance postulated in v. 3, namely vowing, arise. Additionally, “do not say before the messenger that it was a mistake” (v. 5aβ) still aims to preserve God’s pleasure and one’s possessions, but addresses a logical sub-condition within the circumstance addressed in v. 3: when a vow was made but not fulfilled. Thus, the two parts of the pericope each have a three-part logic and the second part pertains more narrowly to religious vows than the first part that pertains to religious speech generally.52 My analysis focuses on the second subunit in which the author alluded to the Law of Vows.

The objective pursued in the subunit on vowing, namely to preserve God’s pleasure and one’s possessions, suggests that the author aimed to address the danger of vowing in a world of vanities as Qoheleth describes it in the wider book.53 The phrase המששים ידיך (the work of your hands) in 5:5b refers to the possessions yielded by one’s

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52 Cf. Schoors, Ecclesiastes, 381, 396–97; Krüger, Qoheleth, 109; Levinson, More, 56; idem, “Better,” 30; Weinfeld, Deuteronomy, 270–71; Crenshaw, Ecclesiastes, 116–17. Alternatively, Alter, Wisdom, 362, Fox, Time, 229, and idem, Ecclesiastes, 32–33, contend that vows are the subject of 4:17–5:6. Krüger, ibid., 109, argues that the unit on vows is limited to vv. 3–4, since v. 5 pertains to וּשְׁנָא (unintentional error), a term that is used in Hebrew Bible legal texts “without special reference to vows” (cf. Levinson, More, 56; idem, “Better,” 37–38; Weinfeld, ibid.). While Krüger is correct that the term וּשְׁנָא is never used in the Hebrew Bible with explicit references to vows (נדר), the conclusion regarding Eccl 5:5 does not necessarily follow. On the contrary, the legislation in Lev 4; 5:17–18, and Num 15:22–29 concerns the remediation of unintentional errors (ונא) in relation to any of the commands of YHWH. In so far as the Law of Vows constitutes a command of YHWH, then Eccl 5:5 could concern vows.

53 Similarly, Lavoie, “Critique,” 165. Alternatively, Schoors, Ecclesiastes, 396, contends that such a connection between the unit on vowing and the wider book is “overdone,” though provides no justification for such an assertion. On the contrary, Fox, Ecclesiastes, 32, and Seow, Ecclesiastes, 46, contend that Eccl 4:17 begins the section of the book in which Qoheleth gives advice for living in the world he describes in Eccl 1:2–4:16. See Fox, Time, 121–31, esp. 129, concerning Qoheleth’s lexemes and theology concerning toil and pleasure.
toil. Such possessions, according to Qoheleth, are a means of pleasure that should be enjoyed (2:24; 3:12–13, 22; 5:17–18), for pleasure makes life with all its vanities bearable (5:19; 8:15). The trouble, according to Qoheleth, is that God might choose not to enable a person to enjoy the work of his/her hands (2:26; 6:2; cf. 2:25, 3:13; 5:17–18) or that a person might lose his/her wealth by his/her own devices (5:13–14; cf. 2:21). In this context, vowing appears to be a type of action by which a person might endanger his/her possessions: if one fails to fulfill one’s vow in a timely manner, then God will destroy the work of one’s hand (5:5b). Thus, Qoheleth’s comments in 5:3–6 concern those circumstances in which one chooses to vow and provide instruction on vowing aimed at preserving one’s means for pleasure in a world of vanities.

The author’s use of the Law of Vows in Eccl 5:3–5 is evident from their shared lexemes, themes, and syntax. The strongest lexical and syntactical similarities exist between Eccl 5:3aα, (when you vow a vow to God, do not delay to fulfill it, for), and Deut 23:22a, (if you vow a vow to the LORD your God, do not delay to fulfill it, for). Thematically and syntactically, Eccl 5:3b, (that which you vow, fulfill) is similar to Deut 23:24a, (that which comes from your lips you must diligently do), with each fronting the grammatical object and assuming that the two Deuteronomic verbs (תשמר ועשו) are understood as functioning in a coordinated manner. Thematically, Eccl 5:4 is similar to Deut 23:23, insofar as both mention and permit not vowing as a strategy

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for avoiding wrong doing.\textsuperscript{57} And thematically Eccl 5:5 is similar to Deut 23:22bα, insofar as both suggest that God (or God’s representative\textsuperscript{58}) will seek out the payment of an unfulfilled vow.\textsuperscript{59} The alterations of the Deuteronomic material in Eccl 5:3–5, however, must not be overlooked.\textsuperscript{60}

<table>
<thead>
<tr>
<th>Eccl 5:3–6 MT</th>
<th>Deut 23:22–24 MT</th>
</tr>
</thead>
<tbody>
<tr>
<td>תדר נדר לאלהים besteht לשלמו כי goodness is not good unless you do good</td>
<td>יתדר נדָר לְהָעָלִיךָ אֱלֹהֵינוּ קִנֵּא נְדָר לַשְּׁלֵם וְיָשֹׁר</td>
</tr>
<tr>
<td>תדר נדָר לְהָעָלִיךָ אֱלֹהֵינוּ קִנֵּא נְדָר לַשְּׁלֵם מֵתָנָא נְדָר לַשְּׁלֵם נְדָר נְדָר לְהָעָלִיךָ אֱלֹהֵינוּ מֵתָנָא נְדָר לַשְּׁלֵם</td>
<td>29 נְדָר נְדָר לְהָעָלִיךָ אֱלֹהֵינוּ מֵתָנָא נְדָר לַשְּׁלֵם</td>
</tr>
</tbody>
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Table 4.2: Eccl 5:3–6 MT Compared to Deut 23:22–24 MT

One set of changes the author of Ecclesiastes made to the Law of Vows material functioned to integrate it into Qoheleth’s wisdom instruction.\textsuperscript{61} The author altered the Deuteronomic language for the deity, יהוה אלהיך (YHWH your God) (Deut 23:22, 24), by dropping the proper noun and pronominal suffix, thereby harmonizing the material with Qoheleth’s more neutral language, אלהים (God) (Eccl 5:3aα; cf. Eccl 1:13; 2:24; 4:17, 5:1, 5, 6).\textsuperscript{62} To formulate the prohibition against delayed vow fulfillment, the author

\textsuperscript{57} Levinson, “Better,” 37; idem More, 60–61; Seow, Ecclesiastes, 200.

\textsuperscript{58} See Schoors, Ecclesiastes, 393–94, and Seow, Ecclesiastes, 196, for overviews of the proposed interpretations for the term מלאך (the messenger). Whether the term refers to a priest or an angel, Schoors concludes the messenger acts on behalf of God.

\textsuperscript{59} Fox, Ecclesiastes, 34; idem, Time, 232. Additionally, Schoors, Ecclesiastes, 397, contends Eccl 5:5αα is dependent on Deut 23:22–24 on the basis of the shared lexemes פֶּה (mouth; Deut 23:24) and חֶטָאוֹן (sin; vv. 22, 23). I am not convinced, however, since the author employed the terms פֶּה in the immediate context (Eccl 5:1a) without recourse to Deut 23:24 and coordinated the terms פֶּה and חֶטָאוֹן in a manner that the Deuteronomic law does not.


\textsuperscript{61} Cf. Levinson, More, 58; idem, “Better,” 30, 33; Krüger, Qoheleth, 112.

\textsuperscript{62} Schoors, Ecclesiastes, 389; Levinson, More, 59; idem, “Better,” 32; Seow, Ecclesiastes, 200; Lavoie, “Critique,” 163.
employed the negation הָלַא (not) and the verb תַּאֲחַר (delay) as a jussive (Eccl 5:3α) instead of the negation הָלַי (not) and the same verb as an imperfect (Deut 23:22αβ), in harmony with how Qoheleth elsewhere uses הָלַא plus the jussive to prohibit (Eccl 5:1, 3, 5, 7; 7:9, 16–18, 21; 8:3; 9:8; 10:4, 20; 11:6) and הָלַי plus the imperfect for other types of negated expressions (e.g., 1:8; 2:23, 3:11; 5:4).63 And, the author modernized the classical conditional particle כי (if or when) (Deut 23:22α) with the temporal conditional כֹּאָשֵׁר (when) (Eccl 5:3α), as was common in Second Temple Hebrew in which usage of the former particle waned.64 Each of these alterations functionally adapted the older Deuteronomic legal material to harmonize with the linguistic and ideological patterns of the sage Qoheleth. Correspondingly, there is no suggestion in Eccl 5:3–5 that Qoheleth is appealing to an outside authority; the author simply put the Law of Vows material into the mouth of Qoheleth. In these ways, the author seamlessly integrated the Deuteronomic material into the teaching of Qoheleth.

Likewise, the alterations in Eccl 5:4 to the material from Deut 23:23 reflect the adaptation of the Deuteronomic material for Qoheleth’s wisdom instruction. The differences in meaning between Deut 23:23 and Eccl 5:4 are slight and should not be overstated. Deut 23:23 creates an alternative between vowing and not vowing, while Eccl 5:4 creates an alternative between not fulfilling a vow and not vowing. Furthermore, the Deuteronomic law presents the alternatives as neutral, while Qoheleth describes not vowing as preferable to not fulfilling a vow. Ultimately, however, both the law and

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63 Cf. Levinson, “Better,” 32. Schoors, Ecclesiastes, 389, contends that the change to the form of negation reflects the alteration of genre from legal literature to wisdom instruction (cf. Krüger, Qoheleth, 9), but grammarians are less certain that the distinct formulations reflect genre alone (cf. Waltke and O’Conner, Introduction, 579, n. 6).

64 Levinson, More, 58; idem, “Better,” 32. See Levinson, More, 10, 16–17 (esp. n. 53), for a discussion on the use of כי in the Second Temple period.
Qoheleth present not vowing as a permissible strategy for avoiding wrong doing, so the differences in meaning are not particularly significant. More significant is the adaptation of the Deuteronomical material in the form of a “better than” statement. Not only is this type of wisdom formulary typical of Qoheleth (cf. 4:1–16; 7:1–12), the form itself plays a role in how the author structured Eccl 4:17–5:6, as noted already. Thus, the author altered the material from Deut 23:23 not to alter its meaning in a significant way, but rather to integrate it into Qoheleth’s teaching.

The most significant changes to the Deuteronomical material occur in the author’s alterations to the motive clause from Deut 23:22b, removing its cultic motivation and recasting its material regarding divine accountability. The Deuteronomical law motivates the fulfillment of vows by noting that YHWH will come to collect the vow in the event of delayed payment and that the defaulter will incur guilt (Deut 23:22b). On the contrary, Eccl 5:3–6 contains no cultic motivation but instead motivates the fulfillment of vows with a somewhat vague phrase, כי אין חפץ בכסילים (for there is no delight in fools) (Eccl 5:3aβ). While the phrase is unclear about whose delight will be lost, Qoheleth’s rhetorical question in v. 5b makes clear that it is God’s pleasure at stake: “Why should

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65 Alternatively, Levinson, “Better,” 37–38 (cf. idem, More, 61) contends that Eccl 5:4 contains an “encouragement to refrain from vowing” that concludes the unit on vowing and is thereby emphasized. Levinson’s interpretation, however, erroneously characterizes the alternatives set forth in Eccl 5:4 as vowing and not vowing, and also presumes but does not demonstrate that Eccl 5:4 concludes the unit on vows.

66 Seow, Ecclesiastes, 185–86; Krüger, Qoheleth, 9; Lavoie, “Critique,” 162.

67 Deut 23:22bβ (cf. 23:23b) and Eccl 5:5 both contain terms with the verbal root חטא (sin): והיה בך חטא (and you will incur guilt) and לחטיא את בשרך (cause harm to your body), respectively. There is widespread agreement that the Deuteronomical law uses the root to refer to cultic or religious guilt, while the occurrence in Eccl 5:5 refers to harming one’s own flesh (e.g., Weinfeld, Deuteronomy, 272; Seow, Ecclesiastes, 196; Alter, Wisdom, 362; Fox, Ecclesiastes, 33). Lohfink, Qoholeth, 77, is correct that the notion of cultic guilt surfaces in Eccl 5:5 with the term שגגה (unintentional sin) but I contend this indirect reference to cultic guilt does not provide a warrant for the actions Qoheleth prescribes in vv. 3–6.
God be angry on account of your voice and destroy the work of your hands?”

Notably, the rationale conveyed by vv. 3aβ and 5b accords with only the first part of the Deuteronomic warrant, namely that God will come to collect on a vow (Deut 23:22bα), not the second part regarding incurring guilt. Within the wider book of Ecclesiastes, however, such divine vow collection takes on new significance, amounting to the loss of possessions in which a person might find anesthetizing pleasure. In these ways, the author altered the motivation from the Law of Vows for vow fulfillment, setting aside its cultic motivation and recasting the divine creditor as a destroyer of life’s few pleasures.

Overall, then, the author adapted the language of the Law of Vows material and its ideology to integrate it into Qoheleth’s wisdom instruction regarding vows and the preserving of one’s means of pleasure in a world of vanities.

Based on the preceding analysis, I make five observations about how the author of Eccl 5:3–6 employed the Law of Vows in comparison to the law’s theoretical ethical functions. First, the author’s selective usage and rearrangement of material from the Law of Vows both accord and do not accord with what direct analysis suggests about how the law functions. The author began the unit on vows in Eccl 5:3αα by employing material from Deut 23:22a and later in Eccl 5:5 employed material from Deut 23:22b. The author, however, selected against the material from Deut 23:22bβ about incurring guilt. In Eccl 5:3b, the author employed themes and syntax reminiscent of Deut 23:24a but not material from the second half of the verse. And in Eccl 5:4, the author employed a theme from

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Schoors, Ecclesiastes, 390; Levinson, More, 58; Seow, Ecclesiastes, 200; Fox, Time, 232; Alter, Wisdom, 362, n. 3; Lavoie, “Critique,” 163; Weinfeld, Deuteronomy, 272; Lohfink, Qoheleth, 76–77; Crenshaw, Ecclesiastes, 117. Contra Levinson, “Better,” 32, and idem, More, 59, who notes that the motive clause in Eccl 5:3aβ lacks reference to the deity or divine punishment and so concludes that the author “detheologizes” the Pentateuchal formulation.
Deut 23:23 but again selected against material in that verse concerning the incurring of
guilt. On the one hand, the author’s reordering of material reflects the multipart, non-
cohesive nature of the law highlighted by the law’s direct analysis. On the other hand, the
author’s selective use of material from these parts of the law is distinct from how direct
analysis suggests these parts of the law would function.

Secondly, the author of Ecclesiastes employed the Law of Vows as a moral law,
just as direct analysis suggests the law would function. The author employed the law in a
non-judicial composition, specifically a wisdom teaching. Moreover, the author noted the
threat of divine recompense for unfulfilled vows (Eccl 5:3aβ, 5b), which is a moral
consequence and not a civil judicial consequence. Thus, as the form of the law in
Deuteronomy suggests, the Law of Vows functioned in Ecclesiastes as a moral law.

Thirdly, in terms of subject matter and objective, there is cont
inuity and variance
between what direct analysis of the Law of Vows suggests and how the law functioned in
Ecclesiastes. Specifically, just as cultic vows appear to be the subject matter of the law in
Deuteronomy, the author employed the law to address the matter of cultic vows. Contrary
to the law’s objective in Deuteronomy to avoid incurring guilt, however, the author
omitted the concern for incurring guilt and instead emphasized a minor theme from the
law, divine recompense, to construct a new objective, namely preserving God’s pleasure
and thereby one’s possessions (Eccl 5:3b, 5b). Thus, the Law of Vows functioned in
Ecclesiastes in accord with what direct analysis suggests about its subject matter but not
its objective.

Fourthly, the author altered the Law of Vows material so that it took on meanings
not explicit in the law itself. Specifically, the author rewrote the Law of Vows material so
that it appears to be part of Qoheleth’s instruction and not a Deuteronomic law. The rewriting included employing Qoheleth’s preferred lexeme to reference Israel’s God, namely גֵּד (God), instead of לֹא הָיוֹתָךְ אֵל הָאֱלֹהִים (YHWH your God), Qoheleth’s formulation of prohibitions using לא (not) plus a jussive instead of לא (not) plus an imperfect, and employing a formulary typical of Qoheleth, a “better than” statement. Moreover, there is no suggestion in Eccl 5:3–5 that Qoheleth is appealing to an outside textual authority; the author simply put the Law of Vows material into mouth of Qoheleth. In these ways, the author altered the Law of Vows material so that it took on meanings beyond that which is suggested by the law itself in Deuteronomy.

Finally, the author employed parts of the Law of Vows in accord with the logical functions those parts played in Deuteronomy. The material that logically functions to define the presumed circumstance in the base law (Deut 23:22aα) so functions in Eccl 5:3aα. The material that describes an alternative circumstance and manner for achieving the base law’s objective (Deut 23:23) plays the same logical function in Eccl 5:4. The prescriptive material from the base law (Deut 23:22aβ, 24a) functions prescriptively in Eccl 5:3aα and 3b. And even clauses that logically constitute Qoheleth’s objective (Eccl 5:3aβ, 5b) display dependence on parts of the base law that constitute its objective (Deut 23:22b). In terms of logical function, then, the author used the Law of Vows material in ways which are consistent with what direct analysis suggests about the law’s logic.

Overall, then, the Law of Vows functioned in Ecclesiastes just as direct analysis of the law suggests it would in terms of subject matter, moral function, and logic, but otherwise functioned in ways that go beyond what direct analysis suggests. I turn now to the case of the Epistle of Jeremiah whose author, unlike the authors of the Temple Scroll
and Ecclesiastes who drew on all three verses of the Law of Vows, drew solely on Deut 23:22.

The Law of Vows in the Epistle of Jeremiah

The pseudepigraphic Epistle of Jeremiah contains a passing allusion to the Law of Vows within the text’s satirical poem. I argue the text’s author composed each strophe of the poem to assuage the fear that non-Jewish gods and idols might arouse in the author’s Jewish audience and demonstrate how the author employed material from the Law of Vows in v. 34 for this purpose.

The Epistle of Jeremiah is structured by an introduction (vv. 0–6) that is followed by a series of ten strophes (vv. 7–14, 15–22, 23–28, 29–39, 40–44, 45–51, 52–56a, 56b–64, 65–68, 69–72), most of which repeat one of two refrains. The introduction contains a heading that describes the text that follows as a letter composed by Jeremiah on behalf of God to the Israelites who were to be taken into exile in Babylon (v. 0) and an opening address formulated as the words of God to Israel (vv. 1–6). A series of strophes of unequal length comprises the remainder of the letter and all but the last of these strophes end with a variant of one of two refrains, which I call refrains A and B. Refrain A contains a conclusion and a prohibition: “From which they are known not to be gods (γνώριμοί εἰσιν οὐκ ὄντες θεοί), so do not fear them” (v. 14; cf. 22, 28, 64, 68). Refrain B

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70 Ziegler, Jeremias, 496–504; Moore, Daniel, 317, 324; Nickelsburg, Jewish, 35; Fraade, “Letter,” 1535. On the contrary, Adams, Baruch, 181, follows codex Vaticanus B in which every paragraph begins with the conjunction οὖν (vv. 14b, 28, 39, 51, 64). Unfortunately, Adams does not discuss why Vaticanus B has no paragraph breaks in vv. 22b, 44b, 56, and 68, in which the same conjunction (οὖν) occurs in verses that are recognizably refrains.
implicitly draws the same conclusion in the form of a rhetorical question but lacks the prohibition: “Why, therefore, are they considered to be or called as gods?” (v. 39; cf. 44, 51, 56a). The final strophe contains lines that are reminiscent of but distinct from refrain A. The clause “from the purple and the linen rotting upon them you will know that they are not gods” (γνώσεσθε ὅτι οὔκ εἰσιν θεοὶ) (v. 71a) overlaps lexically with the conclusion drawn in refrain A, but unlike that refrain these lexemes in the final strophe occur in the penultimate verse. The strophe itself concludes with an implicitly imperatival “better than” statement, formulated both prescriptively and prohibitively: “better, therefore, is a righteous person who has no idols” (v. 72a). The similarities and distinctions between refrain A and the final lines of the final strophe may function together formally to conclude both the strophe and the text as a whole: if the final strophe is understood as a variant of refrain A, then the refrains have a chiastic ordering: three occurrences of refrain A, followed by four occurrences of refrain B, followed by three occurrences of refrain A.\(^{71}\)

\(^{71}\) Brooke, “Structure,” 112–16, 118, 120–23, likewise, sees a chiastic structure to the text, basing his conclusion in part on the chiastic ordering of the refrains, but also arguing for the chiastic arrangement of lexemes, themes, and forms, thematic inclusios in strophes 1–5 and 6–10, thematic parallels between strophes 1–5 and 6–10, and catchwords throughout that link one strophe to the next. Salvesen, “Letter,” 118, follows Brooke’s conclusions in part. Apart from the chiastic ordering of the refrains, however, I find the argument unconvincing. Not only would the chiastic ordering compete with inclusio and parallel structures, often enough the lexemes or themes Brooke draws on to establish lexical or thematic chiasms, inclusios, or parallels, occur too often in the poem to function structurally. Alternatively, Marie-Theres Wacker, Baruch and the Letter of Jeremiah, Wisdom Commentary 31 (Collegeville, MN: Liturgical Press, 2016), 98–99, contends vv. 0–6 constitute a heading, vv. 7–64 constitute a two-part poem, distinguished by distinctive refrains (i.e., vv. 7–28, pertaining to the discrepancy between the appearances of idols and reality, vv. 29–64, pertaining to the gods’ lack of power and effectiveness), and vv. 65–72 constitute a conclusion. I am not convinced, however, by Wacker’s proposal, in part because I do not see the discrepancy between the idols’ appearances and reality in vv. 15–22 and in part because I think that the proposal for a two-part poem signaled by distinct refrains breaks down in v. 64, which, as Wacker, ibid., 99, notes, is reminiscent of the refrain in the first half of the poem.
The thematic and lexical ties between the opening address (vv. 1–6) and the repetitive refrains throughout the letter reveal the author’s objective, namely, to assuage fear of foreign idols. In the opening address, the speaker, God, foretells a scenario in which the Israelites temporarily find themselves in Babylon (vv. 1–2) and there see two things: gods made of silver, gold, and wood that cause fear (φόβον) among the nations (v. 3) and the nations worshiping (προσκυέω) those gods (v. 5a). The ordering of these two observations suggests that there is a causal relationship between the two: the gods cause fear among the nations, leading the nations to worship the gods. Correspondingly, in v. 3 the gods are the grammatical subject that act on the nations, causing fear among the nations, and in v. 5 the nations are the grammatical subject that act on the gods, worshiping them. Given the envisioned scenario, the speaker gives two commands to the Israelites: beware, lest they become like the nations (v. 4a) and fear (φόβος) of the gods seizes them (v. 4b), and to say in their minds, “You it is necessary to worship (προσκυέω), O Lord” (v. 5b). Notably, the motifs of “fear” and “worship” again appear, presumably implying that the Israelites’ fear of the gods would lead them to worship the gods, as occurred with the nations. But the author significantly altered the formulations

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72 Moore, Daniel, 317, 324, Nickelsburg, Jewish, 36–37, James C. Vanderkam, An Introduction to Early Judaism (Grand Rapids: Eerdmans, 2001), 136, Fraade, “Letter,” 1535, and Adams, Baruch, 180, 187, likewise see the cohesion of the text in the repetition of the refrains and not in any development or progression of ideas. Alternatively, Brooke, “Structure,” 110, 123, argues against mere repetition of themes, instead suggesting that the text’s formal chiasm, inclusios, and parallels lend themselves to the development and progression of ideas. For the strophe most significant to this study, i.e., strophe four (vv. 29–39), however, it is not clear that the “slightly adjusted” phrasing in v. 52 of v. 33 contributes any significant development of ideas (ibid., 115), nor that the verb “ἀντιστασίαν [resist] in v. 55” (ibid.) since the verbs are simply distinct lexemes with the same prefix.

73 Given the dating of the Epistle of Jeremiah to 317–100 BCE, which post-dates the Babylonian exile envisioned in the opening address, it is likely that the author was less concerned to assuage fears of the Babylonian gods or idols in particular and more concerned by the fear caused by foreign gods or idols generally (cf. Fraade, “Letter,” 1537).

74 Cf. Wacker, Baruch, 103.

75 Cf. Moore, Daniel, 336.
regarding the Israelites. “Fear” itself is now the grammatical subject that acts on the
Israelites, thereby removing the gods’ agency in causing fear. “Fear,” of course, refers to
the Israelites’ fear, not something external to the Israelites. In this manner the author
attributed agency and potential culpability to the Israelites alone: the Israelites will allow
their fear of the gods to lead them to worship the gods. Correspondingly, the prescriptions
in the opening address aim to stem the Israelites’ fear. “Beware… lest fear take you” (v.
4) cautions the Israelites against indulging their fear. “Say in your heart, ‘You it is
necessary to worship, O Lord” (v. 5b) prescribes a self-address by which the Israelites
would remind themselves about what they know ought to be done lest they be carried
away by their fear. Notably, neither command directly prohibits idolatry nor prescribes
the worship of Israel’s God alone, but rather aims to stem the Israelites’ fear, which
might lead the Israelites to worship the gods. 76 So too, the rationale given in v. 6 for the
prescriptions in vv. 4–5, whether it is understood benevolently or malevolently, pertains
again to fear. If the verse indicates that God’s angel will be with the Israelites to look
after them (cf. Josh 1:9; Ps 142:4 MT), 77 then the verse provides a rationale for why the
Israelites should not let fear overwhelm them (v. 4b). If the verse indicates that God’s
angel will punish idolatry (cf. Ps. 43:21–22), 78 then the verse evokes the fear of Israel’s
God to counter their potential fear of Babylonian gods. Either way and perhaps

Moore, Daniel, 325, Fraade, “Letter,” 1535, and Adams, Baruch, 150, contend that text is intended to
dissuade the Jews from worshiping false gods. The text does not, however, target idolatry (i.e., the ultimate
concern) head on, but rather the fear (i.e., the penultimate concern) that leads to idolatry. This conclusion
makes the satirical nature of the strophes (cf. Wacker, ibid., 98; Nickelsburg, Jewish, 35; Salvesen, ibid.,
117) all the more fitting to the extent that humor can be an antidote to fear. Wacker, ibid., 131, draws a
somewhat similar conclusion: “The Letter of Jeremiah can be seen as a powerful rhetorical demystification
of cults that rely on splendor reinforcing power and on power in need of being represented by splendor.”
77 Moore, Daniel, 336; Adams, Baruch, 177.
78 Wacker, Baruch, 105.
together, the rationale(s) offered in v. 6 targets the Israelites’ fear. Evidently, then, the primary concern of the opening address (vv. 1–6) is the Israelites’ potential fear of the gods.

Correspondingly, the author structured each strophe with its concluding refrain to stem the Israelites’ fear of idols. Each strophe consists of a series of propositions related to the gods. The significance of the propositions is made clear by the concluding refrains, each of which employs either the adverb ὅθεν (from which) (vv. 14, 22) or the conjunction οὖν (therefore) (vv. 28, 39, 44, 51, 55, 64, 68) to signal that the propositions function as the basis for the conclusion drawn in the refrain. Both refrains conclude that the “gods” are in reality not divine beings, the implications of which are explicated in refrain A: do not fear (φοβέω) them. Each strophe is structured, then, to present evidence that leads to the conclusion that the “gods” are not really gods, which implies (explicitly in refrain A, implicitly in refrain B) that the “gods” are not to be feared.

Overall, then, the opening address and strophes suggest a common concern to stem the Israelites’ potential fear of foreign “gods.” The opening address cautions against indulging such fear and instructs the Israelites to call to mind what they know about the proper worship of their God. The strophes provide wave upon wave of evidence as to why the Israelites should not fear foreign gods.

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80 Cf. Nickelsburg, Jewish, 36.
81 Cf. Moore, Daniel, 317; Wacker, Baruch, 106. Again, the final lines of the final strophe display similarities and differences to the refrains, drawing a conclusion like the refrains but employing the preposition ἀπό (from) as opposed to ὅθεν (from which) or οὖν (therefore).
82 Similarly, Wacker, Baruch, 98, 106, and Nickelsburg, Jewish, 36, note that the motif of “fear” connects the text’s opening address to the refrains, though Wacker limits the connection to the occurrences of refrain A.
Correspondingly, the strophe in which the author alluded to the Law of Vows (vv. 29–39) amounts to an argument against the divinity of foreign “gods” on the basis of their impotence. The strophe draws the conclusion that the “gods” are not in reality divine beings in the form of refrain B: “Why then should they be thought to be or called as gods?” (v. 39). The unifying theme of the supporting evidence presented throughout the strophe is stated most directly and abstractly in v. 33a, which describes the gods as impotent for good or ill: “Whether they experience evil by someone or good, they are not able to repay.”\(^{83}\) Much of the remainder of the strophe, then, illustrates the gods’ impotence, often being stated so as to contrast implicitly with the belief and practices of the Israelite cult.\(^{84}\) For example: Without punishment, women serve in cultic roles (Ep Jer 29b), which were reserved for men in the Israelite cult (cf. Exod 28:1, 41; 29:29–30, 44; 30:17–21; Num 3), and so these gods must be impotent non-deities. Without punishment, their priests appear disheveled as those in mourning (Ep Jer 30–31), which was forbidden for Israelite priests (cf. Lev 21:1–6, 10), and so these gods must be impotent non-deities. These gods cannot set up or depose of kings (Ep Jer 33b) as Israel’s god was thought to do (cf. Deut 17:15, 20; 1 Sam 12:13; 16:1; 2 Sam 3:10; 1 Kings 10:9; 2 Chron 9:8; Neh 9:37; Job 36:7; Ps. 2:6), and so these gods must be impotent non-deities. And these gods will not seek out an unfilled vow (Ep Jer 34b) as YHWH was thought to do (cf. Deut 23:22), and so these gods must be impotent non-deities. While not exhaustive, these examples demonstrate the manner in which the author illustrated the foreign gods’

\(^{83}\) Brooke, “Structure,” 114, 118.

\(^{84}\) Moore, Daniel, 346; Adams, Baruch, 190; Fraade, “Letter,” 1540–41; Salvesen, “Letter,” 118–19; Nickelsburg, Jewish, 36; Wacker, Baruch, 118.
impotence to act for good or ill, all in support of the strophe’s conclusion that such gods are in no way divine beings.

Comparative analysis between Ep Jer 34b and Deut 23:22 reveals that the author selectively employed material from the Law of Vows to illustrate the gods’ impotence. Thematically, both the law and the epistle address the possibility of a god seeking out an unfulfilled vow. Both texts also formulate the matter conditionally. Moreover, the three verbal forms (i.e., one participle and two verbs) in the epistle all occur in the law, in the same order: vow, fulfill, seek. Together, the thematic, formal, lexical, and syntactical evidence suggests that the latter author alluded to the Law of Vows.

<table>
<thead>
<tr>
<th>Deut 23:22 MT</th>
<th>Ep Jer 34b</th>
<th>Deut 23:22 LXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>רְגֵרָה שַׁלֵּם נֶרֶדֶר הַיָּהוּ אֲלֹהֵךְ</td>
<td>ἐὰν ὅς ἄρνεται εὐχὴν εὐξαμένος μὴ ἀποδῷ, οὐ μὴ ἐπιζητήσωσιν</td>
<td>Ἐὰν δὲ ἀπέθεῃ εὐχὴν κυρίῳ τὸ θεὸν σου, οὐ χρονιεὶς ἀποδοῦναι αὐτήν, ὅτι ἐκζητῶν ἐκζητήσει κύριος ὁ θεὸς σου παρὰ σοῦ, καὶ ἔσται ἐν σοὶ ἁμαρτία</td>
</tr>
</tbody>
</table>

Table 4.3: Ep Jer 34b Compared to Deut 23:22 MT and LXX

The author, however, significantly altered the earlier legal material to serve as evidence that supports the strophe’s conclusion. The author selectively drew on material from Deut 23:22, not vv. 23–24, and therein selected against the material pertaining to incurring guilt (v. 22bβ) and delay (v. 22aβ), thereby only employing the material regarding the deity seeking out unfulfilled vows. Moreover, the author altered the two references to the deity so as to not refer to YHWH (vv. 22aa, 22ba) but instead to foreign gods. The author also altered the material’s logical functions by rewriting the prescription.

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85 Moore, Daniel, 323, and Fraade, “Letter,” 1536, contend that the epistle is dependent on Hebrew versions of earlier texts, which would account for the synonymous but distinct verbs ἐκζητέω (search earnestly) and ἐπιζητέω (seek after) used in Deut 23:22 LXX and Ep Jer 34b, respectively.
regarding fulfillment (v. 22aβ) as a description of the circumstance being considered. Lastly, the author negated the material from v. 22bα (דרש ידרשנ) to indicate that the foreign gods do not seek out unfulfilled vows. The cumulative result of these changes is that the author transformed the Israelite cultic and prescriptive material into an illustration of the foreign gods’ impotence. Yet, by crafting this illustration using the lexemes from and that thereby evoke the Law of Vows, the author also created a simultaneous, implicit contrast between YHWH and the foreign gods: the foreign gods can’t do what YHWH does. Together, then, the shared lexemes and innovations to the material from Deut 23:22 contributed to the author’s aim of illustrating the foreign gods’ impotence in order to draw the conclusion that such gods are in no way divine beings (Ep Jer 39), implying that they need not be feared.

Overall, then, the author’s use of the Law of Vows material accorded with the author’s effort to assuage the fear that non-Jewish gods and idols might arouse for the author’s Jewish audience.

Based on the preceding analysis, I conclude with five observations about how the author of the Epistle of Jeremiah used the Law of Vows in comparison to the law’s theoretical ethical functions. First, the author selectively employed material from the law rather than employing the law as a whole or even a whole part of the law. Specifically, the author employed the material that could be used for describing foreign gods from Deut 23:22αα and v. 22bα, but nothing concerning the prudent performance of cultic vows (Deut 23:22aβ, 22bβ–24). In this manner, the author selectively employed material from the law in a way not suggested by direct analysis of the law.
Secondly, as the form of the Law of Vows in Deuteronomy suggests, the author employed the law as a moral law. This is evident because the author used the law in a non-judicial composition, specifically a satirical poem, and only entertained the notion of divine recompense for unfulfilled vows, not civil punishment. Thus, as direct analysis of the law suggests, the law functioned in the Epistle of Jeremiah as a moral law.

Thirdly, in terms of subject matter and objective, the author used the Law of Vows material in ways that go beyond what direct analysis of the law suggests. Specifically, the author employed the law primarily to address the impotence of foreign gods, using the matter of vows as one example among others that such gods are powerless. In this way, the author made vows a secondary subject matter and thereby altered the Deuteronomic material’s subject matter. Moreover, the author employed the law to assuage the fear that non-Jewish gods and idols might arouse among Jews, not to help the author’s audience avoid incurring cultic guilt. Moreover, and related to the author’s objective, it is notable that the author employed the Law of Vows material not to prescribe an action, as in Deuteronomy, but rather to instruct passions, as is evident from the opening address (vv. 4b, 5b) and refrain A (and implied by refrain B). To instruct passions, specifically fears, however, is distinct from prescribing action since not fearing something cannot simply be done in the same manner in which an action can be not done (e.g., don’t eat the cookie). Thus, in terms of subject matter and objective, the author used the Law of Vows material in ways distinct from what direct analysis suggests.

Fourthly, beyond innovations to subject matter and objective, the author altered the Law of Vows material so that it took on meanings not suggested by the law itself in Deuteronomy. Specifically, by altering the material’s references to the deity so as to not
refer to YHWH (vv. 22α, 22β) but instead to foreign gods, as well as omitting the reference to incurring guilt, the author stripped the employed material of its Israelite particularity and extended its applicability to foreign gods. Still, the shared themes, conditional formulation, lexemes, and word order between Deut 23:22 and Ep Jer 34b ensured that the latter verse still evoked the former law and thereby created a simultaneous and implicit contrast between the foreign gods to which the latter verse refers and Israel’s God to which the evoked law refers. In this manner, the author both evoked the Law of Vows with all the Israelite particularity suggested by direct analysis, yet also adapted the material to take on meaning for a gentile context that goes beyond what direct analysis of the law suggests.

Finally, the author used the Law of Vows material in continuity and at variance with its logical functions in Deuteronomy. The author employed material from Deut 23:22αβ, which is a prescriptive verbal formulation in the law (i.e., do not delay to fulfill it), to describe the circumstance in which a person has not fulfilled a vow (Ep Jer 34). On the other hand, the author employed the material from Deut 23:22βα (i.e., for YHWH your God will surely seek it from you), which functions in the law to motivate the prescription in v. 22αβ, for the same logical function in the epistle (Ep Jer 34b), namely to motivate the prescription implied by the refrain, namely not to fear the gods. Thus, the Law of Vows material functioned logically in the Epistle of Jeremiah in accord with and differently than what direct analysis suggests.

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86 Nickelsburg, *Jewish*, 36, similarly describes the implicit contrast as a “parallel argument” to the explicit argument in the text, though limits this type of dual argument to verses vv. 29, 30 in the strophe. Wacker, *Baruch*, 122, likewise notes that vv. 36–37 invite the reader “to think of the psalms in their tradition,” suggesting that these verses create an implicit contrast between what is stated and what is evoked.
Overall, then, the Law of Vows functioned in the Epistle of Jeremiah as direct analysis of the law suggests it would in terms of moral function, but otherwise functioned in ways that go beyond what direct analysis suggests. I turn now to the case of CD 16:6b–20 whose author, like the author of the Epistle of Jeremiah, drew on only a single verse from the Law of Vows.

The Law of Vows in the Damascus Document

The author of the Damascus Document alluded to the Law of Vows in the text’s legal corpus (CD 9–16) at the beginning of a legal unit pertaining to various orally-formulated obligations (16:6b–20).\(^87\) Though portions of the unit are too fragmentary to support robust analysis, I contend that the preserved material shows that the author was concerned about the fulfillment of a portion of the Law of Vows, namely Deut 23:24a, in three particular circumstances regarding binding oaths, not vows.

The author alluded to the Law of Vows at the beginning of a series of teachings pertaining to binding oaths, vows, consecrations, and unfulfilled verbal obligations between neighbors (16:6b–20).\(^88\) The unit begins with the citation formula אשר אמר (that which says) followed by an ostensible quotation of Deut 23:24a, which should be rendered “That which comes from your lips you must take care to fulfill” (CD 16:6b–

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\(^87\) I follow the critical text in Baumgarten and Schwartz, “Damascus, 40,” except in line 9, in which their text reads לסור את התורה (to turn from the law), presumably following Rabin, Zadokite, 77. On the contrary, an earlier version of the text, i.e., 4Q271 4 II, 9b–10a, reads לסור את התורה (to neglect the law) (cf. Baumgarten, Damascus, 178; Qimron “CDC,” 41, n. 5; Wacholder, New, 82, n. 216; Nicole Rupschus, Frauen in Qumran, WUNT 2. Reihe 457 [Tübingen: Mohr Siebeck, 2017], 125). The relevant Qumran manuscripts include 4Q266 8 II, 4Q270 6 II–III, and 4Q271 4 II, (cf. Baumgarten, ibid., 65, 156–58, 178–79).

Following the citation, the author first discussed binding oaths (שבועת אסר) in the case of men (CD 16:7b–9), then shifted to the case of wives’ oaths with the subject heading [ל שבועת האשה] (concerning the oath of the wife) combined with a second citation, and ostensible quotation, and finally extended the ruling given in the case of wives to daughters’ oaths (12b). The topic then shifts to voluntary offerings (על משפט הנדבות), prohibiting particular types of vows and consecrations (CD 16:13–17a).

And in the remainder of the column (CD 16:17b–20), though the medieval manuscript is fragmentary, there is sufficient evidence when combined with the Qumran manuscripts to see that the author continued discussing those who vow (CD 16:18a) and unfilled verbal commitments between neighbors (4Q266 8 II, 5–7; 4Q270 6 III, 15, paralleling CD 16:20). That the author used the verb המהיב (fulfill) in the beginning (CD 16:7a) and end (16:20, as evidenced by 4Q270 6 III, 15) of the legal unit to address verbal commitments suggests that the author may have intended CD 16:6b–20 to function as a legal unit pertaining to the fulfillment of verbal obligations. My analysis, however, will focus on the apparent quotation of Deut 23:24a and the discussion concerning binding oaths in CD

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90 Cf. Schiffman, “Law,” 201–5; Cizek, “Legislating,” 90–92. On the contrary, Heger, “Husband’s,” 207, 219, and Wassen, Women, 92, argue that CD 16:7b–9 pertains to men and women. As I will demonstrate, however, these lines are dependent on Num 30:3–16, which makes a clear distinction between the cases of men (v. 3) and women (vv. 4–16).

16:7b–12 since I see no influence from the quoted Deuteronomic material on lines 13–17a and the remaining material is too fragmentary.

The author did not explicitly identify the particular issues being addressed in CD 16:6b–12. Apparently, the author assumed that the reader was capable of recognizing the issues at stake, as is characteristic of the legal discourse in the Damascus Document.⁹²

Still, it is evident that the author was concerned generally with the fulfillment of the quoted Deuteronomic material in cases regarding the binding oaths of men (CD 16:7b–9) and women (CD 16:10–12). Moreover, it is significant that the author, when articulating these cases, drew on material from Num 30:3–16 as well as composed original material. I will show that the author employed such Pentateuchal material and original compositions in each of the three cases to describe scenarios that conflict with the quoted material from the Law of Vows.

In CD 16:7b–9, the author addressed two cases regarding the binding oaths of men that conflict with the cited Deuteronomic law. Aspects of these lines are clearly dependent on Num 30:3–16. The notion that a man takes a binding oath (שבועת אסר) upon himself (על נפשו) (CD 16:7b) reflects dependence on Num 30:3, which pertains to a man who shows boastful expression (swears an oath to bind a binding upon himself). The phrase (binding oath) in line 7b, however, only occurs in the Hebrew Bible in Num 30:14, which permits a husband to uphold or break the vows and binding oaths of his wife.⁹³ Together, the dependence on Num 30:3 and 14 suggests that the term יפדהו (redeem it), which is clearly visible in the medieval manuscript (CD 16:8a), is the result

⁹³ Cizek, “Legislating,” 89; Rabin, *Zadokite*, 76. The phrase occurs rarely in the Dead Sea Scrolls (1QS V, 8) apart from texts that are dependent on Num 30 (4Q416 2 IV, 8; 11Q19 54:2).
of orthographic confusion and should be read as יפרה (break it) in accordance with the occurrence of that verb in Num 30:9, 13, 14, 16. On the other hand, the phrases למשתת (to do a matter from the law, even to the cost of death) and לא תרת (to neglect the law, even to the cost of death) have no clear base texts and therefore appear to be the author’s own composition. The author deployed the Numbers material alongside the original compositions to construct two cases that potentially conflict with the cited Deuteronomic law. The first case suggests a circumstance in which a man’s binding oath could cost the man his life (CD 16:7b–8a). The question is whether or not a man is permitted to break such an oath, just as a man was permitted to break certain women’s oaths (Num 30:9, 13, 14, 16). Breaking such an oath would conflict with the cited Deuteronomic law but keeping such an oath would be dire. The second case suggests a circumstance in which a man’s binding oath commits him to transgress the law (CD 16:8b–9). The question is whether or not a man should fulfill such an oath. Fulfilling such an oath would comply with the cited Deuteronomic material but transgress the author’s concern to fulfill the law of Moses. Together, lines 7b–9 address how one is to fulfill the cited Deuteronomic law in two particular cases regarding the binding oaths of men.

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96 Cizek, “Legislating,” 91, nn. 50, 53. Schiffman, “Law,” 203, Rupschus, Frauen, 125, n. 136, and Cizek, “Legislating,” 91, n. 51, argue that the phrase כל אשר in CD 16:8b refers elliptically to כל שבועת אסר (every binding oath that) (CD 16:7b) as in the first subcase pertaining to the man. Alternatively, Wacholder, New, 316, and Heger, “Husband’s,” 213–14, see the author addressing two alternative cases: oaths to fulfill the law and oaths to transgress the law, but this requires either treating the repeated phrase עד אחרי מת (unto the point of death) as rhetorical flourish, as does Wacholder, or ignoring it, as does Heger.
In CD 16:10–12, the author addressed a third case that pertains to the binding oaths of women and conflicts with the material the author used from the Law of Vows.

As noted, lines 10–12a concern the oath of the wife and pertain to the quoted law: לאישה להניא את שבועתה (concerning her husband, to annul her oath). The referenced law, however, while dependent on Num 30, is at most a paraphrase of Num 30:7–9 and 11–16, as evidenced by the unique coordination of grammatical subject (איש), verb (להניא), and object (שבתיה).

In Num 30, the husband opposes (הוא) his wife (v. 9; cf. v. 12) and breaks (פרר) her vows and binding oaths (vv. 9, 13, 14; cf. v. 16), whereas in CD 9:10–12a the husband (איש) annuls (לנהי) the oath (שבתיה). Moreover, the dependence on Num 30, which pertains to particular types of oaths, namely bindings, suggests that the author’s recurrent references to a שבועה (oath) (CD 16:10, 10, 11) refer not to oaths generally but to binding oaths specifically, as in the cases regarding men.

Alongside the material from Num 30, the authored composed two phrases that are wholly foreign to Num 30: ואם להניא [דיעה הם להקים היא] [אשר לא (which he does not know if to uphold [ ] or if to annul), and אם לעבור ברית (if to transgress the covenant), which presumably in this context refers to the law (cf. CD 16:8–9). The author deployed the material from Num

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97 Rabin, Zadokite, 76; Wassan, Women, 91; Cizek, “Legislating,” 89, n. 43. The verb לנהי is rarely used in the Hebrew Bible (Num 30:6, 9, 12; 32:7, 9; Pss 33:10; 141:5) or Qumran (CD 16:10–12; 4Q416 2 IV, 9 (paralleled in 4Q418 X, 10); 4Q471 2, 4; 4Q511 144, 1; 11Q19 53:20–21. Only in CD 16:10–12 is an oath the object of this verb, though admittedly the object of this verb in 4Q416 2 IV, 9 and 4Q418 X, 10 has not been preserved. Wacholder, ניו, 317, contends that the discussion in CD 16:10–12 is dependent upon 4Q415–418 but provides no compelling reason to think that 4Q415–418 is a more likely base text than Num 30.


99 Schiffman, “Law,” 205; Hempel, Laws, 30, n. 18; Wacholder, ניו, 318, Wassan, Women, 92; Cizek, “Legislating,” 92. Heger, “Husband’s,” 219–21, argues that the term refers to the sect’s communal statutes on the basis of how the term ברית functions in 1QSa I, 4–8. Such an argument, however, presumes a contestable degree of continuity between the Damascus Document and the Rule of the Congregation (1QSa) (cf. Baumgarten and Schwartz, “Damascus,” 6–7) and ignores more immediate evidence in which the term is used to refer to the law (e.g., CD 1:18, 20; 3:4, 10, 11, 13; 5:12).
30 along with the original material to address a case that conflicts with the cited Deuteronomic law: the case in which a husband or father annuls the binding oath of a wife or daughter. The question is whether the permission granted to husbands and fathers in Num 30 to annul the binding oaths of their wives and daughters was applicable in all cases: permitting annulments in all cases would conflict with the cited Deuteronomic material but requiring the fulfillment of women’s or daughters’ binding oaths in all cases would conflict with the cited Numbers material. Overall, then, the evidence suggests that the author addressed the fulfillment of the cited Deuteronomic law (Deut 23:24a) in three specific circumstances involving the binding oaths of men and women.

Notably, to deploy the Law of Vows in a discussion concerning binding oaths, the author selectively employed Deut 23:24a from the law and revised it. The author cited and quoted nearly verbatim Deut 23:24a. This half-verse, though part of the Law of Vows, does not refer explicitly to vows but to מוצא שפתיך (that which come from your lips), which, as discussed, may or may not refer to vows, depending on how its context is interpreted. By abstracting Deut 23:24a from its context, however, the author was able to employ it to address the author’s concerns regarding binding oaths. Moreover, the author altered the final finite verb from עשית (and do) to the complementary infinitive ל킴 (to fulfill). The alteration of the verbal conjugation clarifies the ambiguous relationship between the verbs תשריר (you shall guard) and עשית (and you must do) in the base text. The alternate verbal root, moreover, makes the ostensible quotation of Deut

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100 Cizek, “Legislating,” 90. In a complementary manner, Rabin, Zadokite, 75, and Schiffman, “Law,” 201, contend that the author employed the logic of gezerah shawah: the similar references to מוצא שפתיך in Deut 23:24a and Num 30:13 (i.e., מוצא שפתיך) suggests that the former applies to latter (and vice versa) and thus the Law of Vows has significance for the legislation concerning vows and binding oaths in Num 30. Contrary to my interpretation, Schiffman, ibid., 212, and Levinson, More, 54, understand the author to be intentionally ignoring the legitimacy of vowing. For a response to Schiffman, see Heger, “Husband’s,” 214.
23:24a more apt to address the considered cases that are based in Num 30:3–16, in which the root קום occurs twelve times (Num 30:5, 6, 8, 10, 12, 13, 14, 15) and the rootעשה occurs once (Num 30:3). Together, the selective and revisionary use of the Law of Vows material enabled the author to address the three cases regarding binding oaths rooted in Num 30:3–16.

<table>
<thead>
<tr>
<th>CD 16:6b–12</th>
<th>Deut 23:22–24 MT</th>
</tr>
</thead>
<tbody>
<tr>
<td>והושאר אחר מוצא שפתיך נושר על שפתיך.</td>
<td>כְּכַיָּהוּ תִּתְּחַטַּמְתִּי, כִּי תֹּאכָל לְיִהוּדָה אֵלֶּה הַנֺּאכָל לְשָׁמָּיִם כִּי תֹּאכָל לְיִהוּדָה אֵלֶּה הַנֶּאכָל לְשָׁמָּיִם.</td>
</tr>
<tr>
<td>And that which comes from your lips, you shall do.</td>
<td>For you shall eat the Lord's offering on the altar, which you shall eat on the Lord's altar.</td>
</tr>
<tr>
<td>Table 4.4: CD 16:6b–12 Compared to Deut 23:22–24 MT</td>
<td></td>
</tr>
</tbody>
</table>

To address the fulfillment of the cited Deuteronomic law, the author created a dialectic between the Deuteronomic law and the three considered cases, thereby setting up rulings that often promote the fulfillment of the Deuteronomic law but also limit its applicability. The ruling in CD 16:7b–8a is that a man is not permitted to break his binding oath that accords with the law even if keeping such an oath costs the man his life. In this case, the quoted Deuteronomic material, “You must be careful to fulfill that which comes from your lips,” overrules the possibility that a man might break his binding oath, even if the oath costs the man his life. Thus, the ruling promotes the fulfillment of the cited Deuteronomic material. The ruling in CD 16:8b–9, however, is that a man must

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101 Cizek, “Legislating,” 88. On the contrary, Schiffman, “Law,” 201, explains the verb קיים as an attempt to clarify the ambiguous midpoint on Deut 23:24 but this thesis can only account for the re-conjugation of the verb and not the alternate root.


not fulfill his binding oath that commits him to neglect the law, even if not fulfilling the oath costs the man his life.\(^{104}\) Here, the author’s overriding objective to fulfill the law of Moses overrides fulfilling the cited Deuteronomic material.\(^{105}\) And the ruling in CD 16:10–12 is that a husband or father is only permitted to annul the binding oath of a wife or daughter, if he knows that the binding oath transgresses the law.\(^{106}\) In this case, the quoted Deuteronomic material limits but does not completely eliminate the applicability of the cited and paraphrased law from Num 30. Thus, the author promoted the fulfillment of the cited Deuteronomic law by limiting the applicability of a law that potentially undercuts the Deuteronomic law.

Overall, then, the author addressed the fulfillment of the Law of Vows material in three potentially conflicting cases rooted in Num 30 regarding binding oaths by setting up a dialectic between the law and the cases, and then harmonizing them.

On the basis of my analysis, I make five observations regarding the author’s use of the Law of Vows in light of the law’s theoretical ethical functions. First, the author’s use of the law was highly selective. The author only used material from Deut 23:24, reflecting in a way what the law’s direct analysis suggests about v. 24 functioning as a discrete part of the law. However, the author only used material from v. 24a and therein altered the final verb, thus selectively employing material from the law. So, the author selectively employed material from the Law of Vows, not the law or even a part of the law as a whole, contrary to what the law’s direct analysis suggests.

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\(^{104}\) Schiffman, “Law,” 203; Wassen, *Women*, 91; Cizek, “Legislating,” 91. Alternatively, Heger, “Husband’s,” 213–14, understands the ruling to be that oaths to transgress the law are invalid, and Milgrom, *Numbers*, 251, understands the ruling to be that such oaths are automatically annulled. How Heger or Milgrom account for the phrase עד מחיר מות (even at the cost of death), however, is unclear.


Secondly, just as the form of the Law of Vows in Deuteronomy suggests, it appears that the author employed material from the law as moral law, not as civil law. Even though the author employed the Law of Vows material in the Damascus Document’s legal corpus, the author did not compose any new civil sanctions to motivate the fulfillment of the law. Rather, the author only addressed the conflicting aspects of the Law of Vows and the related legislation in Num 30:3–16. It is reasonable to conclude, then, that the author presumed the moral consequences inherent in the base laws (cf. Deut 23:22–23; Num 30:16) were still at stake for the new legislation. Thus, the author employed the Law of Vows material in accord with what direct analysis suggests, namely as a moral law.

Thirdly, regarding subject matter and objective, there is continuity between what direct analysis suggests about the law’s objective and how the law functioned in the Damascus Document, as well as continuity, in a sense, between the subject matter of the employed material in Deuteronomy and in the Damascus Document. As noted, without the author specifying an alternative objective, it is reasonable to conclude that the author’s objective with the new legislation was still the avoidance of incurring cultic guilt, as in Deuteronomy. Moreover, the author’s the selective usage of Deut 23:24a and the alteration of its final verb enabled the author to use the law to address binding oaths, which are not clearly, necessarily, or explicitly addressed in the law, but potentially addressed in the law. Recall that there is ambiguity about whether the midpoint of v. 24 follows the first verb תְּשֵׁמַר (guard) or the second verb עָשִׂית (do), as well as ambiguity regarding the meaning of those two verbs, which might or might not function together as a verb phrase. The author resolved both ambiguities by rewriting עָשִׂית as an infinitive
linked to the verb תשמר, specifically להקים (to fulfill), thereby rendering the two verbs as a verb phrase (you must take care to fulfill) and interpreting the midpoint of v. 24 as following the second verb. Such a rendering of the material from v. 24a, however, does not necessary pertain to vows but could refer to other types of verbal obligations. The author’s alterations, however, fixed the possibility that the material from Deut 23:24a could apply to verbal formulations other than vows and the author accordingly applied the material to binding oaths. In this way, the author used the Law of Vows material to address a subject potentially though not clearly, explicitly, or necessarily addressed by the law in Deuteronomy. In these ways, the author’s use of the Law of Vows in terms of objective and subject matter accord with what the law’s direct analysis suggests.

Fourthly, beyond the matters of subject and objective, the author altered the Law of Vows material to take on meanings not explicit in the law itself. Specifically, the author altered the second verb in the material employed from Deut 23:24a from the rootעשה (to do) to קים (to stand) (CD 16:7a), thereby making the Deuteronomic material more fitting to address three cases concerning binding oaths formulated in the language of Number 30:3–16 where the root קים occurs more frequently than the rootעשה. Moreover, the author dialectically interpreted the adapted Deuteronomic material to be in harmony with the conflicting material from Num 30, thereby defining the limits of the Law of Vows prescription in specific cases. In these ways, the author altered the Law of Vows material to take on meanings not suggested by the law’s direct analysis.

Finally, the author employed material from the Law of Vows largely in accord with what direct analysis suggests about its logical function. In the Law of Vows, Deut 23:24a prescribes (at least, on some interpretations) the fulfillment of that which comes
from one’s lips. Likewise, in CD 16:6b–12, the author used the material from Deut 23:24a for a prescriptive purpose, though not exactly to prescribe fulfilling that which comes from one’s lips. Rather, the author’s prescriptions are the three rulings the author renders for the cases regarding men’s and women’s binding oaths on the basis, in part, of the material from Deut 23:24a. In this way, the author used the material from Deut 23:24a in accord with its prescriptive function in the Law of Vows but for the purpose of constructing further and distinct prescriptions.

Overall, then, the Law of Vows functioned in the Damascus Document as direct analysis of the law suggests it would in terms of moral function, objective, logical function, and, in some sense, subject matter, though it also functioned in ways that go beyond what direct analysis suggests. I turn now to the case of 1 Esd 4:43–46 whose author, like the author of CD 16:6b–12, selectively drew on Deut 23:24.

**The Law of Vows in 1 Esdras**

The author of 1 Esdras alluded to the Law of Vows in Zerubbabel’s request to King Darius in 1 Esd 4:43–46. I demonstrate both how the request functions as an ostensible linchpin in the narrative that enables the narrative’s resolution to unfold and how the request functioned in the author’s attempt to glorify Zerubbabel as a hero of the restoration. Correspondingly, I show how the author employed the Law of Vows for the author’s narrative purpose and in the author’s effort to glorify Zerubbabel.

The author employed the Law of Vows in Zerubbabel’s request to King Darius (1 Esd 4:43–46), which is a watershed moment in the narrative that enables the narrative’s

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resolution to unfold. The narrative begins in Jerusalem with an idealized celebration of the Passover according to the command of King Josiah in accordance with the Lord’s command to Moses (1:1–22). Subsequent kings fall into sin and the leaders of the people and priests commit acts of sacrilege and lawlessness, as well as defile the temple. So, God sends against Jerusalem King Nebuchadnezzar, who killed some, looted holy vessels from the temple, burned the temple, destroyed the city, and led some into exile (1 Esd 1:52–57). Early on, then, the narrative’s ultimate concern becomes the restoration of life in Jerusalem in accordance with the law of Moses. Correspondingly, returning the temple vessels, rebuilding the temple, and rebuilding the city become three penultimate goals. As such, the decree of Cyrus at the prompting of the Lord to rebuild Jerusalem’s temple and send back the temple vessels appears promising (1 Esd 2:1–15) but the machinations of the Samaritans lead the later King Artaxerxes to issue a decree that apparently stops all progress (2:16–30). Progress does not resume until Zerubbabel, who won the privilege to request and receive from King Darius whatever he wanted (3:4–4:42), asks the king to issue decrees that Jerusalem and its temple be rebuilt and the vessels be returned (4:43–46). Zerubbabel’s request, thus, functions as a narrative linchpin, enabling the stalled restoration of Jerusalem, the temple, and its vessels to progress, at least for a time (cf. 5:69–71).

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Zerubbabel’s request, however, is no mere request but rather a short, persuasive speech detailing what he wants to receive and why the king ought to grant it.\footnote{Cf. Böhler, \textit{1 Esdras}, 99–100.} Zerubbabel begins by asking the king to “remember” three vows (ἐὑχή) that the king previously vowed (ἐὑχομαῖ) to fulfill on the day when he became king: to build Jerusalem, to send back the plundered temple vessels, and to build the temple in Jerusalem (vv. 43b–45).\footnote{Eskenazi, “1 Esdras,” 1669; Paul Cizek, “Finding Deuteronomy’s Law of Vows in the Mouth of Zerubbabel,” (paper presented at the Society of Biblical Literature Annual Meeting, Boston, 9 December 2020), 7–9. Alternatively, most scholars interpret 1 Esd 4:43 as recalling a coronation vow, i.e., a vow Darius made on the day he became king (e.g., Japhet, “1 Esdras,” 172; Bird, \textit{1 Esdras}, 181; Böhler, \textit{1 Esdras}, 83, 100; Wooden, “1 Esdras,” 397; cf. NRSV).} Then, in v. 46 Zerubbabel makes his request to Darius: that “you might do the vow (ἐὑχή) which you vowed (ἐὑχομαῖ) to the King of Heaven to do with your mouth” (v. 46b).\footnote{Bird, \textit{1 Esdras}, 181–82, mischaracterizes vv. 43–45 as a request and v. 46 as an impassioned plea.} As a request, Zerubbabel is simply asking the king to do the three things the king himself already determined to do. Embedded in the request, however, are two warrants for the king’s action. The phrase ἐκ στόματός σου (with your mouth) (v. 46bβ) implies that the king ought to keep his word.\footnote{Böhler, \textit{1 Esdras}, 101; Japhet, “1 Esdras,” 172.} Moreover, the reference to τῷ βασιλεῖ τοῦ οὐρανοῦ (the King of Heaven) (v. 46bα) strengthens the warrant for Darius’s action, not only to keep his word but to keep his word to a powerful deity.\footnote{Japhet, “1 Esdras,” 172.} Zerubbabel’s request, thus, is not merely a request but also a suggestion of two reasons why the king should act accordingly.

Such a persuasive request, however, is overengineered and therefore one clue among others that the author intended Zerubbabel’s request to function as more than a narrative linchpin. The king has already promised to give Zerubbabel whatever he wants on the basis of Zerubbabel’s performance in the contest (v. 42a). So, there is no reason

\textsuperscript{110} Cf. Böhler, \textit{1 Esdras}, 99–100.
\textsuperscript{111} Eskenazi, “1 Esdras,” 1669; Paul Cizek, “Finding Deuteronomy’s Law of Vows in the Mouth of Zerubbabel,” (paper presented at the Society of Biblical Literature Annual Meeting, Boston, 9 December 2020), 7–9. Alternatively, most scholars interpret 1 Esd 4:43 as recalling a coronation vow, i.e., a vow Darius made on the day he became king (e.g., Japhet, “1 Esdras,” 172; Bird, \textit{1 Esdras}, 181; Böhler, \textit{1 Esdras}, 83, 100; Wooden, “1 Esdras,” 397; cf. NRSV).
\textsuperscript{112} Bird, \textit{1 Esdras}, 181–82, mischaracterizes vv. 43–45 as a request and v. 46 as an impassioned plea.
\textsuperscript{113} Böhler, \textit{1 Esdras}, 101; Japhet, “1 Esdras,” 172.
\textsuperscript{114} Japhet, “1 Esdras,” 172.
for Zerubbabel to heap two warrants on top of his request. Moreover, while Darius’s subsequent decrees meet each of the three requests Zerubbabel makes, namely rebuilding the temple (vv. 51, 55), rebuilding the city (vv. 47–48, 53, 55), and returning the temple vessels (v. 57), there is no suggestion in the narrative that Darius found some aspect of the request to be especially persuasive.\(^{115}\) The persuasive elements of the request are in fact of such a superfluous nature that they could be excised from the text without any interruption to the narrative. Thus, Zerubbabel’s request contains two persuasive elements that go beyond the immediate needs of the narrative and have no observable impact on the narrative.

Moreover, Zerubbabel’s request contains a number of glaring inconsistencies with the surrounding narrative, suggesting that the author had more than narrative concerns per se.\(^{116}\) For example, Zerubbabel recalls Cyrus vowing to return the temple vessels (4:44). On the contrary, the earlier narrative notes that Cyrus decrees according to the command of the Lord Most High that the temple should be rebuilt and the temple vessels returned (2:3–15). Such a decree, however, is not a vow and the specifics of Cyrus’s actions detailed in these two texts only partially overlap. Either 1 Esd 2:3–15 and 4:44 are meant to describe the same act but do so inconsistently or the latter text is meant to describe another (perhaps earlier) of Cyrus’s acts. Either way, 1 Esdras 4:44 does not obviously recall an earlier moment in the narrative. Moreover, Zerubbabel’s request recalls Darius making a threefold vow (vv. 43–44) but the earlier narrative contains no

\(^{115}\) Japhet, “1 Esdras,” 171, claims that Darius is “impressed by Zerubbabel’s petition,” but provides no evidence to support this claim.

reference to Darius vowing.\textsuperscript{117} This lack of narrative support for such an act is striking given the persuasive function that this vow plays in Zerubbabel’s request. Finally, the request presumes the need to return the temple vessels to Jerusalem (vv. 44–46) but the earlier narrative reports that Cyrus already did so (1 Esd 2:10–15). Together, these three inconsistencies between Zerubbabel’s request and the wider narrative suggest that the author’s objective in composing the request was not limited to the internal needs of the narrative itself.

Alternatively, Zerubbabel’s request appears to be one feature of the narrative among others by which the author attempted to glorify Zerubbabel as a hero of the restoration.\textsuperscript{118} By means of the request, the author depicted Zerubbabel as more concerned for his people rather than personal gain, for the king offers Zerubbabel much personal gain (1 Esd 4:42) but he requests only things for this people.\textsuperscript{119} Additionally, the author depicted Zerubbabel as a skilled speaker, insofar as he integrates elements of persuasion into what only needed to be a request.\textsuperscript{120} Moreover, the author detailed how Darius met each of Zerubbabel’s three requests and more (4:47–57), thereby emphasizing Zerubbabel’s importance for the restoration efforts.\textsuperscript{121} Outside Zerubbabel’s request the author also characterized Zerubbabel as wise (4:42, 5:6) and as belonging to the house of

\textsuperscript{117} Japhet, “1 Esdras,” 172, is correct that Darius does not deny the existence of such a vow, thereby presumably accepting Zerubbabel’s account of the past.


\textsuperscript{119} Bird, 1 Esdras, 180–81; Japhet, “1 Esdras,” 144, 171.

\textsuperscript{120} Böhler, 1 Esdras, 101.

\textsuperscript{121} Bird, 1 Esdras, 180.
David (5:5),\textsuperscript{122} emphasized Zerubbabel’s ongoing contributions to the restoration (1 Esd 6:2, 18, 27, 29; cf. Ezra 5:1–2, 14; 6:7, 9), and was likely responsible for inserting Zerubbabel into the contest between the three guards by means of a gloss in 1 Esd 4:13.\textsuperscript{123} Zerubbabel’s request is, thus, only one way by which the author attempted to glorify Zerubbabel as a hero of Jerusalem’s and the temple’s restoration.

Overall, then, the author composed the narrative so that Zerubbabel’s request functions as an ostensible linchpin that enables the narrative’s resolution to unfold. Yet, Zerubbabel’s request is so inconsistent with the surrounding narrative so as to suggest that the author intended the request to function for the author’s extra-narrative purpose to glorify Zerubbabel as a hero of the restoration. Accordingly, the author’s use of the Law of Vows in the request also serves both narrative and extra-narrative aims.

That the author alluded to the Law of Vows in Zerubbabel’s request is evident from lexical ties and syntactical overlap.\textsuperscript{124} Neither the use of the verb εὐχομαι (to vow) (vv. 44, 45) nor the combination of the verb εὐχομαι and the noun εὐχή (vow) (v. 46) are sufficient evidence that the author alluded to the Law of Vows, for these lexemes and their Hebrew counterparts are too common to prove a specific lexical allusion.\textsuperscript{125} On the contrary, there is significant lexical and syntactical overlap between 1 Esd 4:46b and the second half of Deut 23:24, if the midpoint of the latter is understood to occur after the

\textsuperscript{122} Japhet, “1 Esdras,” 144. Alternatively, some contend that the author attempted to glorify Zerubbabel as a Davidic hero (e.g., Böhler, \textit{1 Esdras}, 165, 167; Fried, \textit{Ezra}, 58–59; Bird, \textit{1 Esdras}, 18–19; De Troyer, “Zerubbabel,” 52) but Vanderkam, “Literary,” 133, demurs.
\textsuperscript{124} This allusion is overlooked by each of the studies that I cite here. At best, Talshir, \textit{Text}, 228, interprets a phrase in 1 Esd 4:46 in light of similar phrasing in Num 30:3 and Deut 23:24 but makes no claim about textual dependence.
\textsuperscript{125} E.g., Gen 28:20; 31:13; Num 6:2, 21; 21:2; 30:3, 4; Deut 23:22; Judg 11:30, 39; 1 Sam 1:11; 2 Sam 15:7, 8; Jer 44:25; Jonah 1:6.
verb תֹּשֶׁר (you shall guard), as discussed earlier. Both halves begin with the verb “do” (מָעָה, ποιέω). The corresponding object of each verb contains a relative phrase pertaining to vowing. The indirect object is the deity. And each half verse ends with a reference to how the vow was made “with your mouth” (ךְבִי פִּי; ἐκ στόματός σου). Evidently, then, the author alluded in Zerubbabel’s request to a portion of Deut 23:24.

Table 4.5: 1 Esd 4:43–46 Compared to Deut 23:22–24 MT and LXX

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>כִּי תֹּלוֹט לִיוֹרָהּ אֶל֖וֹתֵךְ</td>
<td>43 תִּטְהֵן τῷ βασιλεֵ֣י</td>
<td>Ἐὰν δὲ εὐξηθῇ εὐχήν κυρίῳ τῷ θεῷ σου, οὖν χρονεῖς ἀποδοῦναι αὐτήν, ὅτι ἐκζητήσεις κύριος ὁ θεὸς σου παρά σοῦ, καὶ ἢμαρται ἐν σοὶ ἁμαρτία.</td>
</tr>
<tr>
<td>נֶאֶרְלֵךְ מְעֵרָה לְכָּלְךָ</td>
<td>23 יְהָעָצַ֣ו οἰκοδομήσαι</td>
<td>ἐὰν δὲ μὴ θέλῃς εὐξασθῆναι, οὐκ ἢμαρτιν ἐν σοὶ ἁμαρτία.</td>
</tr>
<tr>
<td>נַעַר תֹּשֶׁר לְעַדְרֵֽךְ</td>
<td>24 לְךָ יַהֲעָצַ֣ו, וְἐξαρετὰ</td>
<td>τὰ ἐκπορευόμενα διὰ τῶν χειλέων σου φυλάξῃ καὶ ποιήσεις δὲν τρόπον εὐξηθῇ κυρίῳ τῷ θεῷ σου δόμα, ὅ ἐλάλησας τῷ στόματί σου.</td>
</tr>
<tr>
<td>נֶאֶרְלֵךְ מְעֵרָה לְכָּלְךָ</td>
<td>25 ἐνίκησεν Κύριος, ὅτε ηδατο ἐκκόψα</td>
<td>καὶ ἔσται ἐν σοὶ ἁμαρτία.</td>
</tr>
<tr>
<td>נַעַר תֹּשֶׁר לְעַדְרֵֽךְ</td>
<td>26 ἐκκόψα</td>
<td>τὰ ἐκπορευόμενα διὰ τῶν χειλέων σου φυλάξῃ καὶ ποιήσεις δὲν τρόπον εὐξηθῇ κυρίῳ τῷ θεῷ σου δόμα, ὅ ἐλάλησας τῷ στόματί σου.</td>
</tr>
<tr>
<td>נֶאֶרְלֵךְ מְעֵרָה לְכָּלְךָ</td>
<td>27 καὶ ἔσται</td>
<td>καὶ ἔσται ἐν σοὶ ἁμαρτία.</td>
</tr>
<tr>
<td>נַעַר תֹּשֶׁר לְעַדְרֵֽךְ</td>
<td>28 καὶ ἔσται</td>
<td>τὰ ἐκπορευόμενα διὰ τῶν χειλέων σου φυλάξῃ καὶ ποιήσεις δὲν τρόπον εὐξηθῇ κυρίῳ τῷ θεῷ σου δόμα, ὅ ἐλάλησας τῷ στόματί σου.</td>
</tr>
</tbody>
</table>

126 See Smyth, Greek, 378, regarding the instrumental use of ἐκ.
The author’s use of the Law of Vows material, however, was not straightforward. One set of changes clarified the Deuteronomic material. The author omitted the ambiguous term נדבה (freely or freewill offering) and in its place added the infinitive ποιήσαι (to do). These changes arguably clarified the Deuteronomic material: do the vow that you vowed to do.

With another set of changes, the author adapted the Law of Vows material to the narrative’s particular concerns. The author supplied the initial verb ועשית (do) with a clearer object, την εὐχήν (the vow). The author also changed the comparative כאשר (just as) to a relative pronoun, ἣν (which). These changes enabled the general Deuteronomic formulation about vows to address the particular case of Darius’s vow. The author also altered the Deuteronomic material’s reference to Israel’s God to a more generic reference, τῶ βασιλεῖ τοῦ οὐρανοῦ (the King of Heaven), befitting the narrative’s gentile setting. Finally, the author re-conjugated the injunctive verb ועשית (do) from Deut 23:24a as a subjunctive verb, ποιήσῃς (do), that works in a purpose clause following the main verb δέομαι (ask) in Zerubbabel’s request. By means of these alterations, the author adapted the Law of Vows material for the narrative’s needs.

Moreover, the author dropped the phrase אשר דברת (which you spoke; for you spoke) from Deut 23:24bβ and thereby created a twofold warrant for Darius to fulfill his vow. By dropping the phrase אשר דברת, the term בפיך (with your mouth), which in the Law of Vows had been subordinate to the preceding clause, became part of the preceding clause: ἣν ἔφη τῶ βασιλεῖ τοῦ οὐρανοῦ ποιήσαι ἔκ στόματός σου (“which you vowed to the king of heaven to do with your mouth”). This new clause contains what I have described already as a twofold warrant for action: the king ought to fulfill his vow in
order to keep his word, especially the word he spoke to a powerful deity. Both warrants have some basis in the Law of Vows itself. Recall that if v. 24bβ functions as a causal clause meaning “for you spoke,” then the law justifies the fulfillment of one’s vow as the keeping of one’s word. Moreover, similar to how the author of Ecclesiastes selected against the Deuteronomic material about incurring guilt and instead emphasized the idea that God will come to collect on a defaulted vow (Eccl 5:5aβ, b), the author of 1 Esdras 4 implied that it was prudent for Darius to keep the vow he made to a powerful deity. Thus, the author augmented the Law of Vows material to create a twofold warrant for Darius’s vow fulfillment, both warrants of which have some basis in the law itself.

Additionally, the author put the Law of Vows material into the mouth of Zerubbabel, thereby portraying Zerubbabel as lawful, shrewd, and perhaps wise. Notably, Zerubbabel gives no indication to Darius that he, Zerubbabel, is using the words of Israel’s Deuteronomic law. There is also no reason to think that the gentile Darius recognizes Zerubbabel’s words as deriving from such a law. To a reader familiar with Deuteronomic law, however, Zerubbabel’s employment of the Law of Vows is recognizable.127 So, by putting the Law of Vows material into Zerubbabel’s mouth, the author made Zerubbabel appear (to certain readers) as one who is knowledgeable of Israel’s law, if not also lawful. Additionally, the author portrayed Zerubbabel as shrewd, for the narrative hinges on Zerubbabel’s request and only Zerubbabel and certain readers would recognize what Darius would miss: that Zerubbabel has invoked and Darius has

127 Stanley Fish, “Is There a Text in This Class?,” in Is There a Text in This Class? The Authority of Interpretive Communities (Cambridge, MA: Harvard University Press, 1980), 303–21, esp. 305–7, argues that a person’s ability to interpret words is constrained by the organizing rubrics of the institutions to which a person belongs. An analogy could be made to so-called inside jokes, which those on the outside may not get or even notice.
complied with Deuteronomic law. Moreover, if the description of Zerubbabel in 1 Esd 5:6, namely "who spoke before Darius the king of Persia wise words,” includes Zerubbabel’s words in 1 Est 4:43–46 and not only those in the contest (4:13–40), then putting the Law of Vows material into Zerubbabel’s mouth was one way the author characterized Zerubbabel as wise. Thus, putting the Law of Vows material into the mouth of Zerubbabel contributed to the author’s aim to glorify Zerubbabel.

Overall, then, the author adapted the Law of Vows material so that it seamlessly fit into Zerubbabel’s request to King Darius that enables the narrative’s resolution to unfold, and also contributed to the author’s extra-narrative aim to glorify Zerubbabel.

Based on the preceding analysis, I make five observations about how the author used the Law of Vows in comparison to the law’s theoretical ethical functions. First, the author selectively employed material from the law in a way contrary to what direct analysis of the law suggests. The narrative’s resolution can be set in motion by Darius acting to fulfill his vows. So, the author only employed material from Deut 23:24 and selected against the material concerning delayed vow fulfillment (v. 22) and the voluntary nature of vowing (v. 23), reflecting what the law’s direct analysis suggests about v. 24 functioning as discrete part of the law. However, the author only needed the material concerning vow fulfillment in v. 24 and so selected against the material concerning guarding one’s lips (v. 24a). Thus, the author selectively employed material from the law, not the law or even a part of the law as a whole, contrary to what the law’s direct analysis suggests.

Secondly, the author employed the Law of Vows as a moral law, just as the form of the law in Deuteronomy suggests it would function. Specifically, the author employed
the law in a non-judicial text, namely a narrative, and the author emphasized the threat of
divine recompense for Darius’s unfilled vows, which is a moral consequence, not a civil judicial consequence. Thus, the Law of Vows functioned in 1 Esdras not as a civil law but as a moral law, just as the law’s direct analysis suggests.

Thirdly, in terms of subject matter and objective, there is variance and continuity between what direct analysis of the Law of Vows suggests and how the law functioned in 1 Esdras. Specifically, the author employed the law to address Darius’s cultic vows in the narrative, in accord with what appears to be the law’s subject matter in Deuteronomy. The author, however, employed the law for a twofold purpose, neither of which aligns with the law’s objective in Deuteronomy. At the narrative level, the author put the Law of Vows material into Zerubbabel’s mouth to suggest to King Darius that it would be prudent to keep the vow he made to a god, thereby playing up the minor divine recompense motif and omitting the major cultic guilt motif. Moreover, the author also had an extra-narrative aim to glorify Zerubbabel as a hero of the restoration, which is an objective not suggested in any way by the law in Deuteronomy. Thus, the author employed the Law of Vows in accord with what direct analysis suggests about its subject matter but not its objective.

Fourthly, beyond subject matter and objective, the author of 1 Esdras made innovations to the Law of Vows material so that it took on meanings not explicit in Deuteronomy. The author rewrote material from the second half of Deut 23:24 so that it appears to come from the mouth of Zerubbabel, not from the laws of Deuteronomy. Moreover, the author adapted the Law of Vows material to the narrative’s gentile context by employing a generic reference to the deity, namely τὸ βασιλεῖ τοῦ οὐρανοῦ (the King
of Heaven) rather than the law’s language of יהוה אלהיך (YHWH your God), and by omitting any reference to cultic guilt. In these ways, the author muted the Deuteronomistic material’s Israelite particularity and disposed it to the narrative’s gentile context. The author also capitalized on the fact that the lexemes from the Law of Vows refer doubly. On the one hand, the author rewrote material from the law so that it referred to particulars in the 1 Esdras narrative. Yet, the author retained enough of the base law’s lexemes and syntax so that they evoked the law itself. This double reference, however, is only accessible for characters and readers with knowledge of Deuteronomistic law, and so functioned as one more way by which the author glorified Zerubbabel: clever Zerubbabel gets a gentile king to unwittingly comply with Deuteronomistic law. Overall, then, the author made a variety of alterations to the Law of Vows material so that it fit the author’s narrative and extra-narrative purposes, though these new meanings go beyond what the law’s direct analysis suggests.

Finally, the author employed materials from the Law of Vows in ways that accord with what direct analysis suggests about the materials’ logical functions. The author employed the prescriptive material from Deut 23:24a for prescriptive purposes in the narrative, only altering the injunctive verb “do” from the law to a subjunctive verb that works in the purpose clause in Zerubbabel request. Likewise, the author employed the material from Deut 23:24b, which could function in the law as a motive clause for the prescriptions in v. 24a, as part of the new, twofold warrant for the action that Zerubbabel articulates. Thus, the author employed materials from the Law of Vows in accord with their logical functions in Deuteronomy.
Overall, then, the Law of Vows functioned in 1 Esdras as direct analysis of the law suggests it would in terms of its moral function, subject matter, and logical functions, though it also functioned in ways that go beyond what direct analysis suggests.

**Conclusions**

The five case studies evidence that the Law of Vows functioned ethically in diverse ways. In the Temple Scroll, the author reused, re-contextualized, and revised the Law of Vows material to craft a new legislative unit pertaining to things due to YHWH in the author’s new law book. In Eccl 5, the author adapted the language of the Law of Vows material and its ideology to integrate it into Qoheleth’s wisdom instruction regarding vows and preserving one’s means of pleasure in a world of vanities. In the Epistle of Jeremiah, author used the Law of Vows in an effort to assuage the fear that non-Jewish gods and idols might arouse for the author’s Jewish audience. In the Damascus Document, the author addressed the fulfillment of the Law of Vows material in three potentially conflicting cases rooted in Num 30 regarding binding oaths. And in 1 Esdras the author adapted the Law of Vows material to fit into Zerubbabel’s pivotal request to King Darius in the narrative but also contributed to the author’s extra-narrative aim to glorify Zerubbabel.

In no case, however, did the Law of Vows function in complete continuity with the theoretical functions suggested by the law’s structure, logic, form, and historical and literary contexts. The Law of Vows functioned as a cohesive whole in the Temple Scroll and in the other cases as a multi-part law, both of which direct analysis of the law suggests. However, in every case the authors used the law in a manner not suggested by direct analysis, insofar as the Temple Scroll’s author made the Law of Vows material a
subunit of a large legislative unit, and the other four authors selectively employed material from the law or its parts. Furthermore, in terms of subject matter, the case studies illustrate that the Law of Vows was sometimes used to address particular concerns regarding cultic vows (and other verbal commitments), as in the Temple Scroll, Ecclesiastes, the Damascus Document, and 1 Esdras, but was also used to address other subjects, as when the author of the Epistle of Jeremiah employed the law to comment on the impotence of foreign gods. Moreover, the case studies show that the Law of Vows was sometimes used in accord with what direct analysis suggests about its objective, namely to avoid incurring cultic guilt, as in the Temple Scroll and the Damascus Document, but also to pursue objectives that go beyond what the law itself in Deuteronomy suggests, as in Ecclesiastes, the Epistle of Jeremiah, and 1 Esdras. Beyond innovations to subject matter and objective, the case studies also display how each author altered the Law of Vows material to take on meanings not explicit in the law in Deuteronomy. Finally, the case studies illustrate that material from the Law of Vows was used largely in accord with the logical functions that direct analysis suggests, but not always as when the authors of the Temple Scroll and the Epistle of Jeremiah rewrote prescriptive material from the law to describe a rationale for action and a circumstance, respectively. In fact, the only conclusion from the law’s direct analysis that consistently reflected how the law actually functioned was based on the law’s form, which suggests that the law would function as a moral law, not a civil law. Altogether, then, the case studies demonstrate that the actual ethical functions of the Law of Vows were only partly in continuity with what direct analysis of the law suggests.
CHAPTER 5: CONCLUSIONS

At the study’s outset, I delineated eight prominent theses regarding the ethical functions of Deuteronomic laws in antiquity and then cast suspicion on their ability to provide insight into the actual ethical function of the laws. I described the theses in the form of three debates, one consensus position, and one implicit assumption and noted that the studies that undergird the theses share a methodological feature that I called direct analysis. I then noted Henry McKeating’s critique of such a direct approach to the ethical study of Pentateuchal laws, namely that making biblical laws themselves the primary object of analysis is limited in value since the laws themselves do not evidence how the laws were actually used. Since the studies that undergird the eight theses depend on direct analysis, the theses are limited to illuminating ethical features of the laws themselves but cannot provide insight into how the laws were actually used for ethical purposes in antiquity. In other words, the theses can only describe the ethical functions of Deuteronomistic laws in theory.

I then proposed to analyze indirectly the actual ethical functions of three Deuteronomistic laws and to assess which of the eight theses concerning Deuteronomistic laws held up when compared to case studies from the early Second Temple period. To analyze indirectly the ethical functions of Deuteronomy’s laws on testimony (Deut 19:15–21), kings (Deut 17:14–20), and vows (Deut 23:22–24), I began with a direct analysis of each law’s theoretical ethical functions and then surveyed how various Jewish authors used these laws on the particular occasions and for the particular purposes that they composed their texts. In the indirect analyses, an author’s use of the law, not the law itself, became the primary object of analysis. Now, having completed the direct and
indirect ethical analyses of the three laws, I turn to evaluate the eight theses regarding the ethical functions of Deuteronomic laws. I then conclude the study with a discussion about the contributions of indirect analysis in historical ethics studies.

**Divine Rules to be Obeyed or a Basis for Reasoned Action?**

The first two theses comprise the poles of a debate about how Deuteronomic laws functioned to warrant action. The divine rules thesis maintains that Deuteronomic laws functioned as YHWH’s commands that needed to be obeyed simply because they came from YHWH, whose authority was presumed, irrespective of any other reason for or against obeying them (e.g., consequences). The alternative thesis is that Deuteronomic laws functioned as a basis for reasoned action, either because a law functioned to persuade action or because a law evoked a narrative world the particulars of which became part and parcel of the law’s prescription. Among the eleven case studies, six are relevant insofar as their authors employed a Deuteronomic law to prescribe action and three more are relevant insofar as they relate to a component of the two theses. I argue that the case studies overall support the thesis that Deuteronomic laws functioned as a basis for reasoned action, not rules simply to be obeyed because of their divine authority.¹

The case in which the author of the Damascus Document employed the Law of Vows supports the thesis that Deuteronomic laws functioned as a basis for reasoned action. Notably, this is the only case study in which an author explicitly appealed to a Deuteronomic law to warrant a prescribed action, which is the type of appeal to be expected if the laws functioned as rules whose divine authority warranted action.

Specifically, the author cited and gave a slightly amended quotation of Deut 23:24a (CD 16:6b–7a). The author, however, did not prescribe simple obedience to the law’s prescription, namely to take care to fulfill that which comes from your lips. Rather, the author composed new prescriptions, namely that a man is not permitted to break his binding oath that accords with the law (CD 16:7b–8a), that a man must not fulfill his binding oath that commits him to neglect the law (CD 16:8b–9), and that a husband or father is only permitted to annul the binding oath of a wife or daughter if he knows that the binding oath transgresses the law (CD 16:10–12). Moreover, contrary to prescribing unconditional obedience to the law, the author created a dialectic between the law and the three cases rooted in Num 30 on the basis of which the author defined instances in which the Deuteronomical law should be upheld or not. Furthermore, driving the dialectic was the author’s concern for the consequences of actions, specifically whether or not upholding a binding oath led a man or woman to transgress the law. In these ways, the three sub-cases evoked simple narratives concerning the binding oaths of men and women, the particulars of which became integral aspects of the author’s prescriptions. Together, the composing of innovative prescriptions on the basis of the Law of Vows, limiting the law’s applicability, and the consideration of consequences for fulfilling the law in the three evoked circumstances all conflict with what the divine rules thesis proposes. On the contrary, the case demonstrates that the law functioned as a basis for reasoned action.

Likewise, the three cases from the Temple Scroll support the thesis that Deuteronomical laws functioned as a basis for reasoned action, not divine rules to be obeyed. On the one hand, the author’s project to compose a new and improved law book that comes directly from the mouth of God suggests that the author was familiar with and
keen on the idea of authoritative divine rules. On the other hand, in none of the three cases did the author explicitly appeal to a Deuteronomic law as if it was a divine rule that justified action. On the contrary, the author altered the Deuteronomic material in such ways as to distinguish the author’s new and improved legislation from it. Together, the lack of explicit appeal to Deuteronomical laws as authoritative divine rules that warrant action and the subsuming of laws within the author’s new legislation show that Deuteronomic laws did not function for the author as the divine rules thesis proposes.

Moreover, when the Temple Scroll’s author employed the type of apodictic laws that partially drive the divine rules thesis, namely Deut 19:15 and 23:24, the author did not employ them as if they were divine rules to be obeyed regardless of consequences. In 11Q19 61:6, instead of simply adopting the Law of Testimony’s three variant references to sin, namely עון (iniquity), חטא (sin), and חטא (sin), the author omitted the reference to חטא, a term that the author used throughout the wider text to refer to a sin offering, not wrongdoing.² While the alteration did not necessarily alter the meaning of the material from Deut 19:15, it betrays a concern for the adverse consequences for the author’s law book project if the law is adopted without change. Even more telling is the author’s use of Deut 23:24 in 11Q19 53:13–14a where the author restated the Deuteronomic prescription “You must guard what comes from your lips” but transformed the Deuteronomic prescription “and do” (ועשית) into a persuasive rationale for the initial prescription, namely “for you have vowed freely with your mouth to do (לעשות) just as you have vowed.” These two instances demonstrate that the author of the Temple Scroll did not employ Deuteronomic apodictic prescriptions as divine rules simply to be obeyed

² Alternatively, the author of Sipre Deut 188:2 gleans nuances of meaning from the three variant terms related to sin.
regardless of consequences but rather in a manner that was mindful of consequences and
concerned with persuading action.

Furthermore, the Temple Scroll’s author used the casuistic portions of the laws in
ways that support the thesis that Deuteronomic laws functioned to persuade action. In
11Q19 61:7b–12; 56:12–57:07; and 53:11–12, the author adopted, respectively, not only
the Deuteronomic prescriptions (Deut 19:17–19a; 21; 17:16–19a; 23:22aβ) but also the
related objective clauses (19:19b–20; 17:19b–20; 23:22b, 23b), thereby deploying the
objective clauses as they appear to function in Deuteronomy, namely to motivate the
fulfillment of the prescriptions. Additionally, given the positioning of the Law of
Testimony and Law of Vows material in the text, the author may have intended the
material from Deut 19:19b–20 pertaining to purging evil and the material from Deut
23:22b and 23b pertaining to cultic guilt to take on significance regarding the purity of
the land, Jerusalem, and the temple, thereby providing a further motive to fulfill the
related prescriptions. The author also deployed and expanded on the monarchial
succession material (Deut 17:20b) in 11Q19 59:13b–21, innovatively detailing the
possibility of monarchial demise, all to highlight an objective that motivates the
fulfillment of the prescriptions the author made in cols. 57–58. Altogether, then, the three
cases from the Temple Scroll support the thesis that Deuteronomic laws functioned as a
basis for reasoned action, not divine rules to be obeyed regardless of consequences.

The authors of Ecclesiastes and the Epistle of Jeremiah also did not employ the
Law of Vows as if it was a divine rule that warranted action but rather as a basis for
reasoned action. Neither author explicitly appealed to the Law of Vows as if it was a
divine rule that warranted action. Moreover, while the author of Ecclesiastes adopted the
prescription from Deut 23:24 to fulfill one’s vows (Eccl 5:3b), the author justified the prescription not on the basis of its divine origin, which the author obscured by putting the prescription into the mouth of Qoheleth, but because fulfilling one’s vows is prudent: it staves off God’s anger and the destruction of one’s possessions, which are a source of anesthetizing pleasure in a world of vanities (Eccl 5:5). On the other hand, the author of the Epistle of Jeremiah did not prescribe simple obedience to the Law of Vows nor even deploy a prescription from the law. Rather, the author used material from Deut 23:22bα (Ep Jer 34b), which functions in the law to motivate the prescription in v. 22αβ, to support a new prescription, namely not to fear foreign gods (Ep Jer 39). Thus, the authors of Ecclesiastes and the Epistle of Jeremiah used the Law of Vows to persuade action, not as a rule whose divine authority warranted action.

Thus, in all six case studies in which an author prescribed action, Deuteronomic laws functioned as a basis for reasoned action, not as divine rules simply to be obeyed. Additionally, there are three cases in which authors did not exactly prescribe action but still have relevance for this discussion.

First, the author of the Damascus Document explicitly appealed to the Law of the King, citing and quoting Deut 17:17a in the manner that might be expected if the author employed the law as a divine rule that would warrant action (CD 5:1b–2a). In this case, however, the author did not formulate a prescription on the basis of the law but rather employed it to describe both polygamy as fornication and the “builders of the wall” as fornicators. Some might object to this strict distinction between a prescriptive and descriptive formulation, suggesting that there is an implied prescription inherent in the author’s description of polygamy, perhaps a prohibition on men taking more than two
wives in their lives (cf. CD 4:20b–21a). Even if the objection is granted, however, the implied prescription would not be a simple prescription to obey the Law of the King. Rather, the prescription would be an amalgamation based on Gen 1 and 7, and Deut 17 since none of these texts alone issue such a prescription. Ultimately, though, using the Law of the King to formulate descriptions of polygamy and the author’s opponents or perhaps to construct an innovative prescription both conflict with how the divine rules thesis proposes that Deuteronomic laws functioned.

The case concerning the Law of Testimony in Old Greek Susanna is also significant insofar as the author demonstrated the folly of simple obedience to the apodictic laws in Deut 19:15. The elder judges and synagogue conduct the initial trial of Susanna in accordance with Deut 19:15 and an interpretation of the Law of Testimony that makes v. 15 sufficient in circumstances in which reliable witnesses arise and vv. 16–21, with their process of judicial examination, only applicable in cases with less reliable witnesses (Sus 29, 41). The author, however, demonstrated the need to apply Deut 19:15 in accordance with Deut 17:2–7, esp. v. 4, in which thorough judicial examination is presumed in all capital cases and not only in cases in which a malicious witness arises. Moreover, the consideration of consequences for simply obeying Deut 19:15, namely the shedding of guiltless blood (Sus 60–62), influenced how the author employed the law. So, while the author did not issue a prescription based on the Law of Testimony, the author satirized the type of simple application of the law that might be expected if the law functioned as a divine rule to be applied regardless of consequences.

The final case concerns the narrative of 1 Esdras in which the action of a character is justified on the basis of the Law of Vows. The value of this evidence,
however, is tempered by the fact that it pertains not to an action that the author of 1 Esdras prescribed but rather to an action prescribed by a character in the narrative, which itself cannot prove how Deuteronomic laws actually functioned in history. If it is granted, however, that narratives might sometimes afford indirect glimpses into ancient social practices, the case again supports the thesis that Deuteronomic laws functioned as the basis for reasoned action. While the author employed the prescription from Deut 23:24a in Zerubbabel’s request for Darius to do what he vowed (1 Esd 4:46), there is no explicit appeal to the Law of Vows as if the law itself would warrant action, the divine origin of the law is obscured by the author deploying the legal material as Zerubbabel’s speech, and the author constructed a twofold motive clause related to the Deuteronomic prescription, namely that Darius ought to fulfill his word, especially the word he spoke to a powerful deity. Altogether, though the narrative context limits the evidence’s value, the case supports the thesis that Deuteronomic laws functioned as a basis for reasoned action.

Like the initial six case studies that supported the thesis that Deuteronomic laws functioned as a basis for reasoned action, these three additional cases also lend support to that thesis. While the study as a whole cannot prove that Deuteronomic laws never functioned as divine rules to be obeyed regardless of consequences, the study also cannot provide any support for the thesis.

As noted in chapter 1, however, the majority of recent scholars reject a strict divine rules thesis that leaves no place for reason and take the (middle) position that

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3 Similarly, the author of Old Greek Susanna noted that the people of the synagogue put the judges to death in accordance with Deut 19:19: “and as the law declares, they did to them just as they wickedly intended against the sister” (Sus 60–62). This instance of an explicit appeal to a Deuteronomic law to justify an action, however, would only provide evidence of the Law of Testimony’s civil function, not ethical function, since it pertains to how a civil judiciary enacted punishment.

Deuteronomic laws functioned both as divine rules that needed to be obeyed and as a basis for reasoned action. Though such a thesis might sound internally conflicted, it is, in fact, supported by the case studies. Before demonstrating how the case studies support this middle position, however, it is advantageous to discuss the second set of debated theses.

**Topically Limited or Topically Comprehensive?**

The next two theses concern how Deuteronomic laws functioned as a law code with topical gaps. One position is that the topical gaps limited the functionality of the law: If the law did not explicitly cover X, then the law was not useful regarding X. The second thesis is that interpreters extended the applicability of laws in various ways and so filled in the law’s gaps to make it topically comprehensive. Unfortunately, none of the case studies provide evidence about what an author conceived of as the topical limits of a Deuteronomic law. So, the case studies cannot exactly confirm or rebut the first thesis. Six of the case studies, however, do support the alternative thesis, evidencing the dynamic functionality of laws by which they were used to address topics other than what is explicit in the laws themselves.\(^5\)

The author of the Temple Scroll employed the Law of the King to compose more topically expansive kingship legislation. The author positioned the Law of the King material at the beginning of the kingship legislation (11Q19 56:12–57:07), ensuring that the additional, more topically expansive legislation in cols. 57–59 was read in light of the base law. As a result, legislation in cols. 57–59 sharing themes or lexemes with the base

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\(^5\) Likewise, Fishbane, *Biblical*, 247–52, demonstrates how Pentateuchal laws prior to their achievement of literary stability were interpreted to extend their topical applicability.
law shares in the authority of the base law even when it goes beyond that which the base law explicitly addresses. Specifically, the new prohibition against a king taking a foreign wife or more than one wife (57:15b–19a) expands on the base law’s prohibition against a king multiplying his wives (11Q19 56:18; cf. Deut 17:17a). The new legislation prohibiting a king’s self-indulgent acquisitions by means of judicial bribes, coveting field, vineyard, treasure or house, or robbery (11Q19 57:19b–58:2) expands on the base law’s prohibition against a king’s self-aggrandizement through horses, wives, silver, and gold (11Q19 56:15–19; cf. Deut 17:16–17). The new legislation regarding a king’s military role (11Q19 57:3b–5a; 58:3–13, 15b–21) expands on the base law’s prohibition against sending people to Egypt to acquire horses (Deut 17:16), especially in its rewritten form (11Q19 56:16). And the new prohibition against a king exalting his heart over his fellow judicial council members (11Q19 57:14) both evokes the base law’s concern that a king not exalt his heart (11Q19 57:01–07; cf. Deut 17:20) and also grants a king a judicial role that the base law does not. In these four ways, the author employed themes and lexemes from the Law of the King to expand its topical coverage, contrary to the thesis that Deuteronomistic laws were limited in functionality to topics explicitly addressed in the law.

Three other case studies also illustrate how authors expanded the topical coverage of the Law of the King. The author of Dan 5 employed the Law of the King to address a scenario concerning a gentile king in Babylon even though the law itself explicitly addresses a scenario in which an Israelite king rules in the promised land (Deut 17:14–15). The author of Ps. Sol. 17 employed the Law of the King to describe the actions of an eschatological Davidic king in military affairs even though the base law itself says
nothing about an eschatological king nor any king’s actions in military affairs. And the
author of CD 4–5 used the Law of the King to describe polygamy as fornication for men
generally even though the Law of the King is only concerned with the marital practices of
a king and polygamy itself is not prohibited anywhere in the Pentateuch or wider Hebrew
Bible. These three cases studies, thus, support the thesis that Deuteronomic laws were
employed to fill in the topical gaps inherent in Deuteronomic (and Pentateuchal) law.

So, too, two case studies related to the Law of Vows show how the law
functioned to address matters not explicitly addressed by the law. The author of the
Epistle of Jeremiah used the Law of Vows to describe the impotence of foreign gods (Ep
Jer 34b, 39), which is not a topic addressed in the law. The author of the Damascus
Document employed the Law of Vows to address not vows but the type of binding oaths
addressed in Num 30. In these ways, the case studies illustrate how the Law of Vows was
used to address topics beyond what is explicitly addressed by the law.

These six case studies, thus, evidence that the functionality of Deuteronomic laws
was not limited to those topics that the laws themselves addressed. Instead, authors
employed the laws to address ethical concerns not explicit in the laws themselves,
thereby filling in the law’s topical gaps.

**Both Divine Rules to be Obeyed and a Basis for Reasoned Action**

I now return to what I described already as a middle position between the first two
theses, namely that Deuteronomic laws functioned both as divine rules that needed to be
obeyed and as a basis for reasoned action.

To begin, the various forms of use illustrated by the case studies suggest at least
three complementary ways in which Deuteronomic laws functioned as rules. Rules can be
cited and quoted (“The law says you have to ‘stop before entering the intersection.’”), just as the author of the Damascus Document employed the Law of the King and the Law of Vows by referencing and quoting select parts of each (CD 5:1b–2a; 16:6b–7a).

Alternatively, rules can be repeated verbatim without citation (“you have stop before entering the intersection!”), just as the author of the Temple Scroll quoted Deuteronomistic laws in toto but neither referenced the laws nor signaled dependence on them (11Q19 53:11–14a; 56:12–57:07; 61:6–12). And, rules can simply be evoked and assumed to be operative (“You rolled through that stop sign!”), as in the other case studies where the authors neither referenced a Deuteronomistic law nor employed it wholesale but lexically evoked the law and assumed it was operative. For example, the author of Old Greek Susanna composed the narrative in a way that evoked and assumed parts of the Law of Testimony and the related legislation in Deut 17 were operative in the trial of Susanna. The author of Ps. Sol. 17 portrayed Jerusalem’s awaited king in a way that evoked and assumed parts of the Law of the King and the Deuteronomistic laws on warfare (Deut 20) were operative for how the king would act in war. And the author of the Epistle of Jeremiah demonstrated the impotence of foreign gods by evoking and assuming that parts of the Law of Vows were operative. Thus, the case studies show three complementary ways in which Deuteronomistic laws functioned as rules.

In none of the case studies, however, did an author simply defer to a Deuteronomistic rule. Rather, the case studies show authors dialectically engaging Deuteronomistic laws in light of the author’s particular circumstance and objective.⁶ Generally speaking, the evidence of such dialectic engagement includes the selective use

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⁶ Likewise, Levinson, Legal, 92, and Fraade, Legal, 225, describe the use of Deuteronomistic laws, prior to and after their literary stability, as dialectically influenced by the author’s particular concerns.
of Deuteronomic material in accordance with the author’s particular needs, altering the material’s language, means of persuasion, prescription, or subject matter to fit the author’s particular needs, and harmonizing Deuteronomic laws with other Pentateuchal texts. A few examples will suffice to demonstrate such dialectic engagement, though each case study could support such a demonstration.

How the author of Old Greek Susanna employed the Law of Testimony was influenced by the author’s aim to satirize an interpretation of the Law of Testimony that would excuse supposedly reliable witnesses in cases that warrant capital punishment from undergoing the judicial examination prescribed in Deut 19:18. For this purpose, the author only employed Deut 19:15–19 (not vv. 20–21), demonstrated the need to interpret that material in accordance with the requirement for judicial examination in all capital cases from Deut 17:4, and composed a new motive for such an interpretation (and implied prescription), namely to prevent the shedding of guiltless blood (Sus 60–62). The material from Deut 19:21 was selected against because the material from v. 19a was apparently sufficient for detailing how the punishment of the elder judges should be handled (Sus 60–62). Moreover, the motive material from Deut 19:20, namely to prevent the arising of malicious witnesses, was selected against presumably because it would not have been applicable in a circumstance in which malicious witnesses had already slipped past judicial judgment. In these ways, the author’s use of the Law of Testimony was influenced by the author’s particular purpose to satirize a certain interpretation of the law.

Likewise, the particular objectives of the Damascus Document’s author influenced how the author employed the Law of the King and the Law of Vows. The author aimed to define the act of taking more than one wife as fornication. To that end,
the author selectively employed Deut 17:17α, extended its applicability beyond a king to men generally, and combined it with select portions of Gen 1 and 7 to specify its prohibition on the multiplication of wives (CD 5:1b–2a). Since the author’s purpose was to define polygamy as fornication for men generally, the author needed nothing other than the marriage legislation from the Law of the King. Since that material did not specify how many wives were permissible, the author had to couple it to texts that suggested that one wife was normative. Similarly, the author’s aim to address the matter of binding oaths in a way that harmonized the Law of Vows with the related legislation from Num 30 influenced how the author used the Law of Vows (16:6b–12). Thus, the author’s objectives influenced how the author used the Deuteronomic laws.

Even the Temple Scroll cases evidence the author’s dialectic engagement with Deuteronomic laws when adapting them for the author’s new and improved law book. When adapting material from the Law of the King, the author added the words למלחמה (for war) into the prohibition from Deut 17:16, thereby restricting the prohibition to military activities but leaving open the possibility of trade with Egypt (11Q19 56:16b–17a).7 When adapting the Law of the King’s prescription for a king’s daily study of the law book (Deut 17:18), the author omitted the term משנה (second), resulting in a prescription to study the author’s new and improved law book, not Deuteronomy (11Q19 56:21). Moreover, by re-contextualizing the Law of Vows material alongside the related material from Num 30, the author suggested a harmonizing interpretation of these somewhat conflicting legislations. Likewise, by re-contextualizing the Law of Testimony and Law of Vows materials in the Temple Scroll with its holiness concerns, the author

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7 Regarding the qualification of Pentateuchal laws to restrict applicability or close loopholes, see Fishbane, Biblical, 252–53.
may have intended their references to evil (Deut 19:19b–20) and defilement (Deut 23:22b, 23b) to take on new significance regarding the purity of the land, Jerusalem, and the temple. Altogether, the Temple Scroll case studies (and the other case studies) show an author dialectically engaging Deuteronomic laws in light of particular circumstances and objectives.

Putting together the preceding two points, namely that Deuteronomic laws functioned as rules and that authors engaged the laws dialectically, it is fitting to describe the laws as functioning in the case studies as a means by which authors navigated their particular and new ethical concerns. Each of the authors evidence their own particular ethical concerns, none of which were immediately addressed by the law they employed. For example, the author of the Temple Scroll aimed to compose a new and improved law book that was distinct from Deuteronomy itself. The author of Dan 5 aimed to characterize a particular gentile king, Belshazzar, as morally culpable. And, the author of Ecclesiastes aimed to address how to act when and if one chooses to vow in order to preserve one’s means of pleasure in a world of vanities. None of the laws that were employed obviously addressed these particular ethical concerns. Yet, the authors employed the laws as if they were operative in and relevant for navigating their new and particular concerns. These authors reasoned through the new on the basis of an established rule. Because the ethical concern was new, the author could not simply apply

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8 Similarly, David M. Carr, Writing on the Tablet of the Heart: Origins of Scripture and Literature (Oxford: Oxford University Press, 2005), 36–41, esp. 36, describes ancient Mesopotamian scribes as expressing themselves and composing new texts by means of a second language comprised of words and themes from standard educational texts. In the context of ancient Israel, Carr notes that Deuteronomy presents itself as such an educational text (Ibid., 134–39). Similarly, Levinson, Legal, 92, describes Israelite scribes innovating on authoritative legal texts “in the vocables of tradition,” and Judith H. Newman, “Nehemiah 9 and the Scripturalization of Prayer in the Second Temple Period,” in Evans and Sanders, Function, 114, notes that Jewish authors had “digested the text to the degree that it seems to have become a natural part of the author[s] linguistic repertoire for composing new texts.”
the rule but had to reason with and beyond the rule. In this manner, the case studies
demonstrate Deuteronomic laws functioning as authoritative rules that informed but did
not (and could not) determine how one might navigate particular and new ethical
concerns.⁹

But what, then, becomes of “obedience”? In what ways, if at all, do the case
studies show authors being obedient to Deuteronomic laws? As already noted, the case
studies do not provide evidence of authors being simply obedient to Deuteronomic laws,
deferring to the laws without regard for reason or consequence. On the contrary, the case
studies display a range of innovative uses of the laws, none of which exactly transgress
the laws and to that extent are obedient to the laws. For example, the author of the
Temple Scroll adopted the judicial procedures from the Law of Testimony to prescribe
judicial procedures that would help maintain the purity of the land, Jerusalem, and its
temple, and the author of Ecclesiastes employed prescriptions from the Law of Vows but
altered the warrant for fulfilling those prescriptions. In these cases, the warrants for
action change but the prescriptions themselves do not, so the authors did not transgress
the laws. More innovative were the authors of the Temple Scroll and the Damascus
Document when they extended the applicability of the Law of the King’s marriage
legislation to prohibit, respectively, more than one wife or a foreign wife for the king and
more than one wife for men generally. The extended prescriptions, though, do not
transgress the marital legislation in the Law of the King. In a distinct type of extension,

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⁹ This thesis is reminiscent of Miller’s thesis that the Decalogue functions as a boundary that informs but
does not determine how one ought to live (idem, “Good”), though I apply that description to Deuteronomic
laws and not only the Decalogue. The thesis is contrary to Wenham’s description of Pentateuchal laws as
defining limits (i.e., boundaries) to action but not making a constructive contribution to action otherwise
the author of Dan 5 adopted material from the Law of the King, which was explicitly formulated to pertain to Israelites kings (Deut 17:14–15), to pertain to the case of a gentile king, in part by simply selecting against parts of the law that limit its applicability to Israelite kings. Extending the applicability of the law from one setting to another, however, does not itself transgress the prescriptions of the law. In a distinct manner, the authors the Temple Scroll, Ps. Sol. 17, and Epistle of Jeremiah employed Deuteronomic laws to address subjects that are not addressed by the laws but are not explicitly in conflict with the laws, including a king’s military role in the case of the former two and foreign gods in the case of the latter. In more innovative fashion, the author of the Damascus Document limited the applicability of the Law of Vows in light of the legislation in Num 30 and the author of Old Greek Susanna limited the applicability of the Law of Testimony in light of the legislation in Deut 17. In both cases, since simple obedience to one Deuteronomic law would lead to the transgression of another Pentateuchal law, the author qualified the circumstances in which each law held sway and thereby avoided transgressing either in a sense. In all these ways, the case studies evidence a range of innovative uses of Deuteronomic laws, none of which exactly transgress the laws and to that extent are obedient to the laws.

Thus, I conclude that the case studies support the position that Deuteronomic laws functioned ethically both as divine rules that needed to be obeyed and as a basis for reasoned action. The laws functioned as operative rules with which the authors dialectically engaged in light of the author’s particular ethical concerns and by which authors navigated their particular ethical concerns. While authorial innovations on the laws are evident, such innovations never explicitly transgressed the laws.
Whether Prescriptive Verbal Formulations Functioned Prescriptively?

I turn now to what I described as an implicit assumption, namely that the prescriptive verbal formulations in Deuteronomic laws functioned prescriptively. While the case studies confirm that prescriptive verbal formulations in Deuteronomic laws functioned prescriptively, they also reveal that those same formulations functioned descriptively, too.

In five case studies, authors employed prescriptive material from Deuteronomic laws to prescribe action. The author of the Damascus Document used prescriptive material from the Law of Vows (Deut 23:24a) to construct new prescriptions regarding binding oaths (CD 16:6b–12). The author of Ecclesiastes redeployed prescriptive material from the Law of Vows (Deut 23:22αβ, 24α) as prescriptions in Qoheleth’s teaching (Eccl 5:3αα, 3b). So, too, the author of the Temple Scroll redeployed prescriptive material from the Law of Testimony (Deut 19:15, 17–19, 21), the Law of the King (Deut 17:16–19a), and the Law of Vows (Deut 23:22αβ, 24αα) for prescriptive purposes in the author’s new law book (11Q19 61:6–12; 53:11, 13a; 56:15a–57:01, respectively). The author, moreover, extended the prohibitions from the Law of the King (Deut 17:16–17) with new prescriptions that also set limits on a king (11Q19 57:15b–58:2). In these ways, authors employed prescriptive formulations from Deuteronomic laws to prescribe action, just as scholars have typically presumed.

In seven cases, however, authors employed prescriptive material from Deuteronomic laws to describe the particular situations they addressed. In four instances, authors described specific people and events. The author of Old Greek Susanna used prescriptive material from the Law of Testimony to illustrate Susanna’s initial trial
unfolding in accordance with Deut 19:15 and 17 but not in accordance with Deut 19:18 and the related legislation in 17:4 (Sus 29, 35–35a, 41). The author then described the re-trial occurring in accordance with Deut 17:4 and 19:18–19 (Sus 48–62). The author of Daniel 5 described Belshazzar doing what the Law of the King prohibits (Dan 5:2–4; cf. Deut 17:17) and failing to attend to divine instruction in contradistinction to what the Law of the King prescribes (Dan 5:18–22; cf. Deut 17:18–19a). The author of Ps. Sol. 17 described Jerusalem’s future king acting in military matters in accordance with Deut 17:17b from the Law of the King and 20:1 from Deuteronomy’s warfare laws. And the author of 1 Esdras employed prescriptive material from Deut 23:24 to depict Zerubbabel as lawful, shrewd, and perhaps wise (1 Esd 4:46). Additionally, in two instances authors described more general events. The author of the Damascus Document employed prescriptive material from the Law of the King (Deut 17:17a) to describe the act of a man taking two wives as fornication (CD 4:20b–5:1a) and the author of the Epistle of Jeremiah employed prescriptive material from the Law of Vows (Deut 23:22a) to describe a circumstance in which a person fails to fulfill a vow. Lastly, the author of the Temple Scroll transformed a prescription from the Law of Vows (Deut 23:24aβ) to describe a rationale for guarding one’s lips (11Q19 53:13–14a). Thus, the case studies show authors employing Deuteronomic prescriptive verbal formulations for descriptive purposes, not to prescribe action, contrary to the consensus assumption.

In these instances, the prescriptive verbal formulations functioned as a basis for forming ethical judgments about a situation’s particular features. In Old Greek Susanna, Susanna’s trial appears to the elders and members of the synagogue to be preceding in a proper manner according to Deut 19:15, but the author embedded allusions to Deut
19:16–18 in the prayer of Susanna and the speech of Daniel to reveal the foolishness of the initial trial. In Dan 5, Belshazzar appears to be holding an extravagant party and basking in the wealth and conquests of Babylon but the author embedded allusions to the Law of the King throughout the narrative that reveal Belshazzar to be morally culpable of doing what the law prohibits, neglecting what the law prescribes, and exalting his heart as the law aims to prevent. In 1 Esdras, Zerubbabel appears to be a young, wise, nationally opportunistic guard of the king but by putting the Law of Vows material into his mouth the author reveals him to be lawful and shrewd. And while the opponents of the author of the Damascus Document might have believed that taking two wives in their lives was permissible, the author employed material from the Law of the King to reveal the opponents to be fornicating. In these cases (and the others previously mentioned), authors employed the themes and lexemes of Deuteronomic prescriptions to illuminate the ethical stakes of particular situations. Just as “He was driving on the left side of the road, running red lights, and drinking the whole time” is a legally loaded description of a person’s driving that is dependent on allusions to driving laws in the United States, so, too, the authors of the case studies employed Deuteronomic prescriptions to construct ethically loaded descriptions of particular situations. Thus, the case studies show that Deuteronomic prescriptions functioned not only as the basis for action but as the basis for constructing ethical judgments.

**Influenced Conduct Alone or Also Character?**

It is fitting to turn now to the debate about whether Deuteronomic laws functioned to influence conduct alone or also character. The case studies in which authors prescribed action support the thesis that Deuteronomic laws functioned to influence conduct. Since
this thesis is uncontested and the previous discussion has illustrated how the case studies support it, there is no need to dwell on it further. The contested thesis is that the laws also functioned to form character and I argue that the case studies offer mixed support for this thesis.

On the one hand, the case studies suggest that the ethical use of Deuteronomic laws formed the character of the authors who employed the laws. Alasdair MacIntyre describes the use of general rules in particular situations as requiring the development of practical intelligence (φρόνησις), which is a disposition of character that impacts one’s perceptions.10 Specifically, MacIntyre notes that the use of rules in relatively more complex cases requires one to make judgments about what from the rule is relevant for a particular situation and what in a particular situation is relevant according to the rule. The case studies evidence judgments concerning the relevant features of rules whenever authors selectively employed snippets of Deuteronomic laws and not the law as a whole. For example, the author of Old Greek Susanna only used Deut 19:15–19 from the Law of Testimony, apparently judging that vv. 20–21 were not needed to satirize a specific interpretation of the law. Likewise, the author of Ps. Sol. 17 only used Deut 17:17b from the Law of the King, apparently judging that the remainder of the law was irrelevant for characterizing the military activities of Jerusalem’s coming king. And the author of the Damascus Document only employed Deut 23:24a from the Law of Vows, apparently judging it to be the only part needed for constructing prescriptions regarding binding oaths. The case studies also demonstrate how authors employed Deuteronomic laws to highlight what was ethically relevant in particular situations, as noted in the preceding

10 The following discussion is dependent on MacIntyre, Whose, 114–19.
discussion about descriptive ethical judgments. According to MacIntyre, such judgments about the relevant aspects of rules and complex situations required the development of the authors’ practical intelligence, specifically their habits of perception. Correspondingly, in the case studies these judgments do not appear to be formal derivations from rules about how to apply rules, like the hermeneutical principles of Hillel or Rabbi Ishmael (Sipre, Braita d’Rabbi Yishmael).\(^\text{11}\) Rather, the judgments take the form of second-nature, intellectual habits of perception that are, in the particular situation at hand, obvious. Together, the application of rules in relatively complex situations and the non-rule-based forms of application suggest that the use of Deuteronomic laws formed the practical intelligence of the laws’ users and thereby functioned in some sense to form character.

On the other hand, the case studies do not provide evidence of authors employing Deuteronomic laws for the purpose of character formation but rather more proximate concerns.\(^\text{12}\) Part of the formation of one’s practical intelligence and other virtues of character is the development of one’s conceptions of the good life for humans as such and corresponding proximate goods, or in other words, the ultimate good for humans and more immediate complementary goods. Perceptions about the relevant aspects of rules and situations are true and actions are justified to the extent that they accord with the ultimate good for humans as such and corresponding proximate goods, and false and

\(^\text{11}\) Regarding the non-rule-based, internalized nature of practical intelligence, see MacIntyre, Whose, 116, and Hauerwas, Work, 27–29. Alternatively, Rabin, Zadokite, 75, contends that the Damascus Document author employed the logic of gezirah shawah to relate the Law of Vows material used in CD 16:6b to the type of binding oaths discussed in Num 30, and Bernstein and Koyfman, “Interpretation,” 466, contend that the Damascus Document author employed the logic of qal vahomer in CD 4:20–5:2 to derive a ruling regarding the marital practices of men generally from the Law of the King. Bernstein and Koyfman, ibid., however, note that such claims based on rabbinic hermeneutical rules can only be inferred from the evidence since the authors did not explicate their processes of derivation.

\(^\text{12}\) Again, the following discussion depends on MacIntyre, Whose, 114–19.
unjustified to the extent that they do not accord with those goods. The case studies, however, highlight the proximate aims of the authors who used Deuteronomic laws, not their ultimate aims. For example, the case studies on the Temple Scroll highlight the author’s aim to compose a new and improved law book. The case studies on the Damascus Document focus on the author’s aims to define the nature of fornication and implicate the author’s opponents in fornication, as well as to adjudicate between the Law of Vows and related legislation on binding oaths in Numbers 30. And the case study on the Epistle of Jeremiah highlights the author’s aim to assuage the fear that non-Jewish gods and idols might arouse for the author’s Jewish audience. In these cases and the rest, the study has focused on the authors’ proximate concerns. Did these authors have conceptions about what is ultimately good for humans? Perhaps. A number of the texts, however, are discreetly focused on proximate concerns (e.g., Old Greek Susanna; Ps. Sol. 17) and not explicitly related to the ultimate good for humans as such. It is possible that in the minds of the authors these proximate aims correlated with an ultimate aim but that is impossible to verify unless new evidence arises that illustrates the authors’ conceptions of the ultimate good. Even in the larger texts (e.g., the Damascus Document, the Temple Scroll, Ecclesiastes) in which an author’s conception of the ultimate good for humans as such might have been discerned, however, the study’s tight focus on discrete pericopes in those texts precluded identifying such a conception.

Future studies more open to the influence of character ethics might address what a text reveals (or not) about an author’s conception of the ultimate good for human life and then analyze how (if at all) that conception of the good impacts the author’s delineation of proximate objectives and rationalizations for action on the basis of Deuteronomic
laws. This study, however, has highlighted authors’ uses of Deuteronomic laws to pursue proximate objectives and such evidence is not sufficient by itself to support the thesis that authors employed Deuteronomic laws for the formation of character in accordance with an ultimate end.

Thus, the study supports the thesis that Deuteronomic laws functioned to form character to the extent that the selective application of the laws in relatively complex cases demonstrates the formation of an author’s practical intelligence, but cannot further support this thesis insofar as the study has focused on authors’ uses of the laws to pursue proximate ends, not ultimate ends.

**Deuteronomic Laws as Covenant Stipulations?**

The final thesis to discuss is the consensus position that Deuteronomic laws functioned as stipulations in YHWH’s particular covenant with the Israelites. While the case studies generally support this thesis, there are exceptions.

In six cases, YHWH’s covenant with Israel likely had some degree of influence on how authors used Deuteronomic laws, even if it was not always explicit. Throughout the Damascus Document, covenant themes play a central role. In the text’s so-called Admonition (CD 1–8; 19–20), the author described his community as rooted in and living in accordance with the everlasting covenant God established with Abraham, Isaac, Jacob, and those Israelites that God brought out of Egypt (e.g., CD 2:14–4:12). In the text’s legal corpus (CD 9–16), the author specified the covenant’s stipulations as the laws of Moses (CD 15:5b–13a). Accordingly, the community’s opponents are depicted throughout the text as those who stray beyond and break the stipulations of the
covenant. While such covenant thematics are not explicitly referenced in the author’s use of the Law of the King, it likely influenced the author’s objective to describe the author’s opponent as transgressors of the law, specifically fornicators (CD 4:20b–5:2a), who are thus outside the covenant. Such covenant thematics are more explicit in the author’s use of the Law of Vows insofar as the author issued rulings concerning how to fulfill somewhat conflicting pieces of the law of Moses and insofar as the rulings depended on whether or not a binding oath accords with the law of Moses. In both cases, then, YHWH’s covenant with Israel influenced how the author(s) used the Deuteronomic laws.

Likewise, YHWH’s covenant with Israel influenced how the authors of the Temple Scroll and Ps. Sol. 17 employed the Law of the King. While holiness thematics dominate the Temple Scroll, most obviously by controlling its structure, covenant dynamics still exist. The author began the text with a renewal of the covenant between YHWH and Israel (11Q19 2) and lexical and thematic references to this covenant and earlier covenants with Israel’s ancestors recur throughout the text (e.g., 11Q19 29:7–10; 48:7–10; 55:01–05, 17; 59:8–13a; 61:14). Moreover, it is the thematics of covenant blessings and curses in 11Q19 59:8–13a that appear to influence the author’s adaptation of the Law of the King’s succession clause (Deut 17:20b), specifically adding the threat of monarchial demise (11Q19 59:13b–15) alongside the law’s conditional promise of a dynasty (11Q19 59:16–20). In the case of Ps. Sol. 17, there are recurring thematic and

14 Crawford, Temple, 34; Maier, Temple, 5–6.
lexical allusions to YHWH’s covenants with David (Ps. Sol. 17:4, 21) and Israel (vv. 5, 15, 26–28), the psalm depicts the coming Davidic king as restoring right governance and righteousness among the covenant people, and the author depicted the coming king’s military activities as harmonious with Deuteronomy’s kingship and warfare laws, thus in harmony with the parameters of YHWH’s covenant with Israel. In these ways, YHWH’s covenant with Israel influenced how the authors of the Temple Scroll and Ps. Sol. 17 employed the Law of the King.

So, too, YHWH’s covenant with Israel influenced how the authors the Epistle of Jeremiah and 1 Esdras used the Law of Vows. The Epistle of Jeremiah begins by invoking the thematic of covenant curses (v. 1) and warns the people of becoming like the nations if they turn from the God of Israel to foreign gods (v. 4). This contrast between God’s covenant people and the nations with their foreign gods likely influenced the implicit contrast the author constructed on the basis of the Law of Vows between the foreign gods and Israel’s God (v. 34b). In a distinct manner, the author of 1 Esdras was able to depict Zerubbabel as shrewd by convincing the gentile king Darius to unwittingly comply with Deuteronomistic law. This depiction only works if there is a presumed in-group, presumably those within God’s covenant with Israel, who sees what Darius does not. Thus, in these two cases and the previous four, YHWH’s covenant with Israel influenced, in various ways and to various degrees, the ethical functions of Deuteronomistic laws.

In four cases, YHWH’s covenant with Israel appears to have been assumed by the authors but did not significantly influence how they used Deuteronomistic laws. While covenant thematics are present throughout the Temple Scroll, in the case studies
concerning the Law of Testimony and the Law of Vows, holiness dynamics appear to have more influence. Re-contextualizing these laws in the portion of the text that concerns life in the land highlights their significance for maintaining the purity of the land, Jerusalem, and its temple (11Q19 53:12; 61:10). Such holiness thematics do not conflict with or subsume the text’s covenant thematics, but they are distinct. Thus, the case studies suggest that Deuteronomic laws could function in large conceptual schemes other than YHWH’s covenant with Israel. Likewise, in the case of Ecclesiastes, the author appears to be familiar with the Israelite cult (Eccl 4:17; 5:5) but the dominant conceptual scheme is the world of vanities that Qoheleth describes in Eccl 1:2–4:16, not YHWH’s covenant with Israel. And the author of Old Greek Susanna constructs a narrative that pertains to God’s covenant people but it is not clear that covenant thematics, either YHWH’s past or future works on Israel’s behalf or covenant insider/outside dynamics, in any way impacted how the author employed the Law of Testimony. In these four cases, then, YHWH’s covenant with Israel may have been assumed by the authors but did not significantly impact their ethical use of Deuteronomic laws.

Two cases, however, show that authors could conceive of Deuteronomic laws as functioning outside the bounds of YHWH’s covenant with Israel. The case of Dan 5 demonstrates that the author conceived of the Law of the King as pertaining to Belshazzar, who was outside of YHWH’s covenant with Israel. Similarly, the case of 1 Esdras illustrates that the author conceived of the Law of Vows as being operative for Darius, who was also outside of YHWH’s covenant with Israel. Both narratives, of course, depict fictional events and there is no reason to think that they in any way reflect...
the actual ethical functions of Deuteronomic laws among gentiles. The case studies do demonstrate, however, how their authors understood the ethical functions of Deuteronomic laws. Specifically, the cases show that the authors thought the laws could function in large conceptual schemes other than YHWH’s covenant with Israel, just as the Law of Testimony and Law of Vows functioned within alternative conceptual schemes in the Temple Scroll and Ecclesiastes. In Dan 5 and 1 Esdras, the conceptual schemes likely pertains to YHWH’s interactions with gentiles, but this is not the place to tease out the details. Moreover, unlike the cases in the Temple Scroll and Ecclesiastes, the cases in Dan 5 and 1 Esdras also demonstrate that the authors thought Deuteronomic laws had some bearing on those outside YHWH’s covenant with Israel, making the laws more universally functional than supposed by some who defend the covenant stipulations thesis.16

Overall, then, the case studies generally confirm the thesis that Deuteronomic laws functioned ethically inside the dynamics of and for those in the particular covenant established between YHWH and Israel. The case studies from the Temple Scroll, Ecclesiastes, Dan 5, and 1 Esdras, however, demonstrate that Deuteronomic laws could also function within alternative conceptual schemes. Moreover, the cases of Dan 5 and 1 Esdras demonstrate that some conceived of Deuteronomic laws as functional for those outside YHWH’s covenant with Israel.

The Contributions of Indirect Analysis

Apart from arriving at conclusions that contribute to the scholarly discourse on the ethical functions of Deuteronomic laws in the early Second Temple period, it is my

hope that this study has demonstrated why indirect analysis in historical ethics studies is needed.

While direct analysis has proven to play an invaluable role in the ethical analysis of Deuteronomic laws, this study highlights its limits for historical ethics studies. Direct analysis of a law’s structure, logic, and form as well as its historical, literary, or canonical contexts helpfully highlights features of the law that impacted how it was actually used, features like redundancies, ambiguities, or related legislation. The indirect analyses in this study, however, have repeatedly shown that the ethical functions of Deuteronomic laws discerned through direct analysis do not reflect how the laws were actually used on particular occasions. McKeating suggested as much in his 1979 critique of focusing ethical analysis on Pentateuchal laws themselves, yet such direct analysis has continued to be the dominant approach in studies on the ethical functions of Deuteronomic laws. While this study affirms that direct analysis plays an invaluable role in understanding the ethical functions of Deuteronomic laws in antiquity, it also demonstrates the insufficiency of direct analysis alone for determining how Deuteronomic laws actually functioned.

One contribution of indirect analysis to the ethical study of Deuteronomic laws is that it grounds the discourse in new and relevant evidence. While direct analysis is rooted in textual evidence and comparative evidence from the ancient Near East, such evidence cannot show how Deuteronomic laws actually functioned. Any claim about the actual ethical functions of the laws based on direct analysis moves beyond the evidence, making it theoretical and speculative. While such theories and speculations may appear more or less likely, they are unprovable and so can mire the discourse. The indirect analysis of Deuteronomic laws, however, provides new and relevant evidence by shifting the object
of analysis from the laws themselves to the use of the laws. In light of the new evidence, certain theories are verified and knowledge is advanced. Other theories may prove to be unsupported by the new evidence and thus remain theoretical and speculative. Still other times the new evidence might reveal Deuteronomic laws to have ethical functions beyond what had been theorized (e.g., prescriptive formulations functioning descriptively), again advancing knowledge on the subject. Admittedly, the existence of such new and relevant evidence will vary for each law, as exemplified in this study by the number of case studies associated with each law. It is also possible that for some laws no cases of use have been preserved and so theory and speculation about the law’s ethical functions is the best that can be achieved. When evidence of a law’s ethical use exists, however, it would be silly to settle for theory and speculation. While interpretations of the new evidence will almost certainly vary, the grounding of the discourse in evidence makes it possible for the ethical study of Deuteronomic laws to advance beyond what is possible on the basis of direct analysis alone.

Moreover, the dialectic manner in which authors employed Deuteronomic laws suggests the necessity of a method like indirect analysis for discerning a law’s ethical functions. Consistently, this study has demonstrated that the ethical functions of Deuteronomic laws were in part determined by the ethical purposes of those who used the laws. Since the direct analysis of laws cannot shed light on the ethical purposes of those who used the laws, direct analysis alone will always prove insufficient for illuminating the ethical functions of the laws. Historical ethics studies on Deuteronomic laws, thus, necessitate a method like indirect analysis that makes the ethical purposes of those who used the laws an integral part of the analysis.
Finally, the indirect ethical analysis of Deuteronomic laws, and perhaps other
texts in the Judeo-Christian tradition, may help close the gap between philosophical
studies and religious studies in ethics.\textsuperscript{17} The text-bound nature of ethics in the Judeo-
Christian tradition is sometimes identified as a feature that distinguishes it from
philosophical ethics that are based in reason.\textsuperscript{18} Herein, conceptions of textual authority
(theological, pejorative, or otherwise) have often functioned deductively and so
determined theses regarding how texts in the Judeo-Christian tradition have functioned
ethically. The results, as this study shows, amount to theories that partially correspond
with how such texts actually functioned but also obscure and distort our historical
understanding of these texts. Indirect analysis, however, proceeds inductively and
provides a glimpse of how these texts were actually used by particular authors on
particular occasions, and the results enable us to move beyond or nuance simplistic
theories. To my mind, then, this makes indirect analysis not only an integral aspect of
good theology,\textsuperscript{19} but also a valuable method for any scholar interested in understanding
the actual ethical functions of texts in the Judeo-Christian tradition.

\textsuperscript{17} Cf. Barton, \textit{Ethics}, 273.

\textsuperscript{18} O’Donovan, \textit{Self}, 6; Rainer Kessler, “A Strange Land: Altestamentliche Ethik beiderseits von

\textsuperscript{19} Stanley Hauerwas, \textit{Working with Words: On Learning to Speak Christian} (Eugene, OR: Wipf & Stock,
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