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SAUL M. OLYAN, ED.
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IN CONVERSATION WITH JOSHUA A. BERMAN, *CREATED EQUAL: HOW THE BIBLE BROKE WITH ANCIENT POLITICAL THOUGHT* (OXFORD UNIVERSITY PRESS, 2008)

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INTRODUCTION

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The papers presented here find their origin in a special combined session of the Society of Biblical Literature's Hebrew Bible and Political Theory Section and Pentateuch Section which took place at the Annual Meeting in New Orleans (2009). The session, devoted to a critical assessment of Joshua A. Berman's *Created Equal: How the Bible Broke with Ancient Political Thought* (Oxford University Press, 2008), included evaluations of the book by Susan Ackerman, Norman Gottwald, Bernard Levinson and myself. Though Levinson's comments are not published here (they had already been promised to the *Journal of Theological Studies* before the session and will appear as part of a review essay in issue 61.2 [October 2010]), Berman's response includes his reactions to Levinson's critique. On a final note, we would like to express our thanks to Steven Grosby, Konrad Schmid and Thomas Dozeman, the organizers of the special session.

CREATED EQUAL: MAIN CLAIMS AND METHODOLOGICAL ASSUMPTIONS

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Throughout the ancient world the truth was self-evident: All men were *not* created equal. In *Created Equal* I claim that the Pentateuch is history's first blueprint for a society where theology, politics, and economics embrace egalitarian ideals, by reconstituting ancient norms and institutions.

On the face of it, the claim seems unfounded. The Pentateuch tells us of a highly stratified order with kings, priests and Levites getting more than everyone else, while servants, resident aliens, and foreigners get less than everyone else. And this is before we even get to the distinctions made between men and women. For my claim to make any sense, some definitions are in order.

The Pentateuch, I claim, took aim at a socioeconomic structure prevalent throughout the ancient Near East: the divide between *the dominant tribute-imposing class* and *the dominated tribute-bearing class*. These are terms I have borrowed from the writings of Norman Gottwald. Indeed, it is hard to imagine us convening a session on the theme of equality and the Pentateuch had it not been for his life's work around these ideas.[1] These two groups, the exploiters and the exploited, are opposite sides of the same coin. The dominant tribute-imposing class consists, in short, of the political elite: nobility, administrators, military and religious retainers, merchants, and landowners. What all of these have in common is that they all participate in the extraction of produce, or surplus from those who made up the dominated tribute-bearing class: agrarian and pastoral producers, slaves, unskilled workers, all whose station dictates that their own surplus is to be taken by members of the elite class and its subsections. This model was true for major as well as lesser states of the ancient Near East, with variations on the general form.[2]

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[1] See Norman Gottwald, "Social Class as an Analytic and Hermeneutical Category in Biblical Studies," *JBL* 112 (1993), 6. In a similar vein see I. J. Gelb, "From Freedom to Slavery," D. O. Edzard (ed.) *Gesellschaftsklassen im Alten Zweistromland und in den angrenzenden Gebieten: XVIII Rencontre assyriologique internationale, München, 29. Juni bis 3. Juli 1970* (München: Verlag der Bayerischen Akademie der Wissenschaften, 1972), 92, and Daniel C. Snell, *Life in the Ancient Near East: 3100-332 B.C.E.* (New Haven: Yale Univ. Press, 1997), 146.

[2] While the terminology here is that of Gottwald, the phenomenon is considered endemic to pre-modern agrarian societies. See Gerhard E. Lenski, *Power and Privilege: A Theory of Social Stratification* (New York: McGraw-Hill, 1966), 243. For the structure of Mesopo-

The Pentateuch, I maintain, offers a blueprint for a social and religious order that rejects the social stratification that divides the dominant tribute-imposing class and the dominated tribute-bearing class. By rejecting *social stratification*, I mean rejecting the permanent and institutionalized power given to particular classes to control the economic, military, and political resources of society.[3] In contemporary parlance, the term *egalitarian* is used primarily with respect to gender equality, and in this sense, of course, is an inappropriate description of the Pentateuch's social order. In my book, however, I use the term *egalitarian* not in its limited, more colloquial sense of gender equality, but more broadly. For my purposes, an *egalitarian* society is one in which the hierarchy of permanent and institutionalized stratification is dissipated.[4]

Now, to be sure, the Pentateuch speaks of multiple classes of individuals within the Israelite polity, and it describes an order which may not be termed *egalitarian* in the full sense of the word. But in the Pentateuch, priests, Levites, and kings enjoy the control of economic and political resources to a far lesser degree than do their counterparts in the surrounding cultures of the ancient Near East. Likewise, at the bottom of the social ladder, the Pentateuch codifies the laws of servitude, and here too the Pentateuch reworked existing norms concerning debt-servitude in an effort to blunt the distinction between the servant and the freeman. My central claim is this: for the free, non-priest/Levites of the Israelite polity, the Pentateuch rejects the divide between a class of tribute imposers, who control economic, and political power on the one hand, and an even larger class of tribute bearers on the other. Instead, the Pentateuch articulates a new social, political, and religious order, whose core is a single, uniformly empowered, homogeneous class.

I make this claim with a keen awareness that my distinction pertains primarily to Israelite men, and not necessarily to Israelite women. At some junctures, as in the collective address of the entire polity (the second person plural "You"), it may be that men and women are addressed in equal fashion. Yet, it is at least as clear that the Pentateuch sees women as subordinate to men in areas such as the judiciary, the cult, the military, and in land ownership, to name just a few.[5] Equality is not exhibited here between men and women.

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tamian society along these lines, see Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East* (JSOTSup, 141; Sheffield: JSOT Press, 1993), 49.

[3] Michael Mann, *The Sources of Social Power*, 2 vols. (Cambridge: Cambridge Univ. Press, 1986), 1:38.

[4] I would ask readers to keep in mind how I am using the term *egalitarian* when reading Susan Ackerman's critique of my work. It would appear that Ackerman did not take note of my definition of terms.

[5] A voluminous literature is devoted to the role of the woman in the Bible and in the ancient Near East. The use of material finds as the basis for a reconstruction of women's lives in premonarchic Israel

It is also clear that the Pentateuch assigns a diminished role to the resident alien (גֵּר) and the foreigner (נָכְרִי). Thus, my endeavor is a limited one: to show how the Pentateuch envisioned a core Israelite citizenry of free persons that stood in contrast to the prevailing ancient Near Eastern norm that dictated stratification between those that imposed tribute and those that bore tribute.

I should emphasize that I am examining *biblical religion*, and not practiced, lived, historical, *Israelite religion*.[6] I take it as a given that many passages of the Pentateuch do not reflect the social, religious, and political reality lived by the majority of ancient Israelites at any juncture of their history. These texts, in practice, may reflect the customs, beliefs, and norms of mere individuals, schools, or specific segments of the society. In assessing *biblical religion* then, I mean the vision—idealized, at times—of the concepts and the institutional blueprint for Israelite society that one may derive from a reading of the texts.[7]

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may be found in Carol Meyers, *Discovering Eve: Ancient Israelite Women in Context* (New York: Oxford Univ. Press, 1988). A recent comprehensive overview of biblical images of women in ancient Near Eastern context is found in Hennie J. Marsman, *Women in Ugarit and Israel: Their Social and Religious Position in the Context of the Ancient Near East*, (OtSt 49; Leiden: Brill, 2003). A survey of biblical law from the perspective of gender studies is found in Cheryl B. Anderson, *Women, Ideology, and Violence: Critical Theory and the Construction of Gender in the Book of the Covenant and the Deuteronomic Law* (London: T&T Clark, 2004) and Victor H. Matthews, Bernard M. Levinson, and Tikva Frymer-Kensky (eds.), *Gender and Law in the Hebrew Bible and the Ancient Near East* (JSOTSup, 262; Sheffield: Sheffield Academic Press, 1998). A survey of a variety of feminist perspectives on the Bible is found in Alice Bach (ed.), *Women in the Hebrew Bible* (New York: Routledge, 1999). On the more equitable metaphysical status of women in the Bible relative to the standing ascribed to women in ancient Near Eastern literature, see Tikva Frymer-Kensky, *In the Wake of the Goddesses: Women, Culture, and the Biblical Transformation of Pagan Myth* (New York: Free Press, 1992) and idem, *Reading the Women of the Bible: A New Interpretation of Their Stories* (New York: Schocken, 2002).

[6] See Ziony Zevit, *The Religions of Ancient Israel: A Synthesis of Parallactic Approaches* (London: Continuum, 2001); Susan Niditch, *Ancient Israelite Religion* (New York: Oxford Univ. Press, 1997); Susan Ackerman, *Under Every Green Tree: Popular Religion in Sixth Century Judah* (Atlanta: Scholars Press, 1992).

[7] Within the scholarship, there is debate as to how closely "biblical religion" may have approximated "Israelite religion." Some see biblical religion as the rarefied utopian ideal, the construct of an intellectual and spiritual elite, with relatively little bearing on the day-to-day reality of ancient Israelites. Others note that the Bible seems wholly concerned with the people, and does not bear the hallmarks of an esoteric faith. See discussions in S. A. Geller, "The God of the Covenant," in *One God or Many?: Concepts of Divinity in the Ancient World* (ed. Barbara Nevling Porter; Chebeague, Maine: Casco Bay Assyriological Institute, 2000), 274 and in Moshe Greenberg, *Studies in the Bible and Jewish Thought* (Philadelphia: Jewish Publications Society, 1995), 112.

My final note of introduction is that I deduce this line of thought by examining the text of the Pentateuch in its received form, at the conclusion of the editorial and redaction processes. Whatever the pre-history of these texts, their current form suggests that the Pentateuch is intended to be read as a whole and in order. In so doing, I place a premium on the manner in which the present form of the text functions as an integrated whole. I take it as axiomatic that when we divorce parts from their wider whole, when we examine words, phrases, and rhetorical tools without reference to the larger meaning of the work, we are doomed to read the biblical text out of its communicative context. This, however, does not imply that a seamless, harmonious reading is readily available of either narrative or legal portions of the Pentateuch. My reading strategy does not deny the existence of inconsistencies and discrepancies between various legal sections. But in primary fashion, hopefully without failing to give difference its due, I seek to point out the manner in which the Pentateuch displays overarching motifs and ideas that point to the social and programmatic agenda I outlined earlier.

The new political program begins with a new theology. In the ancient world religion and politics are inextricably bound, and the Pentateuch's egalitarianism is rooted in a major theological shift. Throughout the ancient world, we find that the political structure of the heavens mirrored that of the earthly realm, and it is easy to see why. Political regimes are, by definition, artificial, constructed, and therefore tenuous. But a regime can receive immeasurable legitimation if the masses underfoot believe that the regime is rooted in ultimate reality and unchanging truth; that the significance of the political order has cosmic and sacred basis. Thus, the heavenly order mirrors the earthly order because ancient religion is a mask that covers the human construction and exercise of power.[8] The common person in the ancient Near East is essentially a servant, the lowest rung in the political hierarchy, as evidenced in the Mesopotamian creation epics.

By contrast, the theology of covenant in the Pentateuch strips earthly hierarchies of their sacral legitimation. Elsewhere, the gods communicated only to the kings, and had little interest in the masses. But at Sinai, God spoke only to the masses, without delineating any role whatever for kings, and their attendant hierarchies. In light of parallels with Late Bronze Age suzerainty treaties, the covenant narratives implicitly suggest that the whole of Israel—not its king, not his retinue, not the

[8] Paul Ricouer, *Figuring the Sacred: Religion, Narrative, and Imagination* (Minneapolis: Fortress Press, 1995), 54. See also, S. N. Eisenstadt, "Introduction: The Axial Age Breakthroughs—Their Characteristics and Origins," S. N. Eisenstadt (ed.) *The Origins and Diversity of Axial Age Civilizations* (Albany: State University of New York Press, 1986), 2–4. See discussion with regard to ancient Near Eastern religions in J. David Schloen, *The House of the Father as Fact and Symbol: Patrimonialism in Ugarit and the Ancient Near East* (Winona Lake, Ind.: Eisenbrauns, 2001), 92.

priests—but the whole of Israel bears the status of a subordinate king entered into treaty with a sovereign king, God.[9] Revisiting the Hittite treaties whose form and language are paralleled in the covenantal material in the Pentateuch, I concluded that not only does Israel as a collective whole attain the status of a subordinate king, but that, every man in Israel becomes endowed with this status as well. Thus, for example, we find that the vassal king in the Late Bronze treaties must hear the periodic reading of the treaty stipulations. In Deuteronomy, this same obligation is now placed upon every member of the Israelite polity at the *Hakhēl* convocation (Deut 31:10-13). The obligation in the Hittite treaties for the vassal king to pay a court visit to the suzerain is extended in the Pentateuch to every male citizen of Israel in the obligation of pilgrimage whose language closely parallels that of the vassal treaties. These findings correspond with Saul Olyan's key insight about Israel's vassalage vis-à-vis the Lord. Elsewhere in the ancient Near East, notes Olyan, man envisions himself before the gods through paradigms in which honor is unilaterally bestowed: as a son before a father, or as a servant before a king. Late Bronze Age vassalage, however is a relationship in which honor between suzerain and vassal is bestowed bilaterally, if not fully mutually. In casting Israel as a vassal to the Lord, Olyan observes, the Bible established a paradigm for the human divine encounter that placed mankind on an unprecedented pedestal. Not only could man honor God, but now God could honor man.[10] The theological breakthrough of the Pentateuch, then, is the transformation of the status and standing of the masses, of the common person, to a new height. Put succinctly, elsewhere in the ancient world, the common man was a king's servant. In the Pentateuch he becomes a servant king.

What then are the political structures that the Pentateuch lays out to govern a nation of servant kings? On this score, many have focused on Deuteronomy 16–18. But as Bernard Levinson points out, the discussion of kingship in Deuteronomy is not limited to chapter 17; kingship is implicitly discussed throughout that book, by omitting any mention of the king from the book's passages that address spheres of activity that were de rigueur for ancient Near Eastern monarchs: military conquest, temple building, establishment of justice, and more.[11] Taking a cue from Levinson, I claim that the entire book of Deuteronomy discusses political structures. To appreciate this however, we need to read Deuteronomy through the lens of anthropologist, Richard Blanton. Blanton notes that while most pre-modern cultures centralized power around a figure such as

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[9] See George E. Mendenhall and Gary A. Herion, "Covenant," *ABD* 1:1179-1202; Moshe Weinfeld, "Covenant Making in Anatolia and Mesopotamia," *JANES* 22 (1993), 135–39.

[10] Saul Olyan, "Honor, Shame and Covenant Relations in Ancient Israel and Its Environment," *JBL* 115 (1996), 210.

[11] Bernard Levinson, "The Reconceptualization of Kingship in Deuteronomy and the Deuteronomic History's Transformation of Torah," *VT* 51 (2001), 511–34.

a monarch, some cultures display what he calls a *collective power strategy.*[12]

Collective power strategies divest a single ruler of the control of power. The various offices of power are subordinated to a management structure determined by a code of law, as we find in Deuteronomy. In a tyranny, the monopoly of power produces cohesion within the polity through the use of force and the generation of fear. By contrast, says Blanton, the decentralization of power in a collective system necessitates the creation of new concepts and institutions to provide the basis for social cohesion. In the Pentateuch this is achieved through the calling of covenant, its sermons and commandments. Blanton notes that group-oriented cultures feature large architectural spaces suitable for group ritual. The sanctuary described by Deuteronomy is one where the role of the people is emphasized, and the role of the cult attendants de-emphasized.

What I find most remarkable about Deuteronomy's power structures is how political power is balanced without reference to class. In ancient regimes, such as in Greece or Rome, the balance of power was not a balance of institutions of government, as we are accustomed to today. Rather, competing socioeconomic factions were assigned a role *within* each seat of government. The thinking was to divide legislative power so that the two houses could balance each other. Thus, Rome had the senate for the nobles and the assembly for the commoners. Assigning political office in this fashion had the obvious effect of permanently enshrining class distinctions.[13] The notion that power should be distributed across preexisting societal seats of power would hold sway across the history of republican thought, from Roman theorists through early modern thinkers. Only with the American Founding Fathers do we eventually find a new notion of political office in which a political office exists without reference to class, and which any citizen is eligible to hold.

It is here that Deuteronomy stands distinct. For the first time in history we see the articulation of a division of at least some powers along lines of institution and instrument rather than of class and kinship. Not all seats of authority within Deuteronomy, of course, conform to this: the cult is in the hands of the tribe of the Levites. But anyone who is "among your brethren" is eligible to be appointed king, and it would appear that according to Deuteronomy 16, anyone, likewise, could serve as a judge as well.

The egalitarian streak in Pentateuchal thought is especially evident in its economic laws. The various legal corpora found in the Pentateuch concerning land tenure, taxation, lending,

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[12] Richard E. Blanton, "Beyond Centralization: Steps Toward a Theory of Egalitarian Behavior in Archaic States," in *Archaic States* (eds. Gary M. Feinman and Joyce Marcus; Santa Fe: School of American Research Press, 1998), 147.

[13] Thomas, L. Pangle, *Montesquieu's Philosophy of Liberalism* (Chicago: University of Chicago Press, 1973), 118–20.

ownership rights, debt easement, and poverty relief reveal inner tension and discord. Yet, when compared with the norms of the ancient Near East, a telling trend emerges: concepts and institutions whose origins were in statist and feudal orders elsewhere in the ancient Near East are recast in the Pentateuch in accordance with a new communal agenda. Often the reworking displays the aim of ensuring that a broad swath of the citicitizenry remains landed and economically secure. What emerges is the western tradition's first prescription for an economic order that seeks to minimize extreme advantage and the distinctions of class based on wealth.

What the economic laws of the Bible sought to achieve was to revamp economic principles that existed elsewhere in the ancient Near Eastern social milieu. It was common elsewhere that members of a tribe or a clan would conduct economic affairs by placing a premium on strengthening mutual responsibility and kinship. The Bible's economic laws extend this sense of kinship and this form of economic activity to a national level, encompassing individuals at a great divide in terms of geography and in terms of bloodlines, but united in a common, national, covenantal community. The biblical laws sought to erect an economic order that is not centrally controlled, and indeed recognizes the legitimacy of acquiring wealth. At the same time, these laws sought to ensure a modicum of social equality by placing a premium on the strengthening of relationships within the covenantal community and minimizing extreme advantage.

Finally I consider the role that literacy and the promulgation of texts may have played in advancing this egalitarian platform. The adoption of the alphabetic script and its use in creating texts in ancient Israel is a result of a dynamic relationship between technology, on the one hand, and a distinct theological and social mind frame on the other. The Bible seems unafraid of educating the masses. In Mesopotamia and in Egypt, by contrast, texts were produced, read, memorized, and transmitted by scribal elite, and composed in scripts that were inherently difficult to master—hieroglyphics and cuneiform. Literacy in ancient Israel was probably always the purview of professional scribes alone. But passages in Deuteronomy, Exodus, and the prophetic writings of the eighth and seventh centuries suggest that such texts should be produced for the masses, read to them, remembered, and transmitted by them. The new, popular role for texts as vehicles for the communication of ideas, whereby a literate minority facilitates the production of texts for popular consumption accords with the use of an alphabetic script to produce these texts. Whereas in Mesopotamia and in Egypt writing was turned inwards as a guarded source of power, in Israel it was turned outwards and reflected the Bible's egalitarian impulse.[14]

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[14] On the general topic, see David Carr, *Writing on the Tablet of the Heart: Origins of Scripture and Literature* (Oxford: Oxford Univ. Press, 2005); Aaron Demsky, "Literacy," Eric M. Meyers (ed.), *Oxford Encyc-*

This brings me, finally, to the elephant in the room: the place of the priesthood in this envisioned order. To be sure, priests and Levites enjoy certain rights that are denied to others. Yet no less important is to note how the Pentateuch strips priests of privileges that were the norm everywhere else. Imagine that you are offered the option of serving as a priest anywhere in the ancient Near East, and you begin to compare what we might call the "benefits packages" offered you in the various cultures. The last place you would want to serve would be in the priesthood outlined in the Pentateuch. Only in the Pentateuch are you severely limited in the land that you are allowed to own (Num 18:20; Deut 18:1-2). Only in the Pentateuch are holy texts and cultic prescriptions shared with the masses, rather than being carefully guarded secrets. Your supposedly illustrious forebears are the subject of tales of scorn alone—such as the account of Aaron's role in the sin of the golden calf (Exodus 32), and the sins of Nadab and Abihu (Leviticus 10). Elsewhere in the ancient Near East, state temples were strictly off limits to all but temple officiates. Within the Pentateuch—including in writings normally ascribed to the priestly school—the common men and women of Israel play a more active role in the temple, than do commoners elsewhere in the ancient world.

You further discover that less surplus is demanded from the people of Israel for the Temple than was customary in the imperial cults of the ancient Near East. Elsewhere temples routinely aggregated excess capital, and engaged in business enterprises, and surplus would be loaned out at high rates of interest. You note that the Temple at Nippur, for example, processes 350,000 sheep and goats annually.[15] By contrast, even on festivals—and again, in writings normally ascribed to the priestly school—the Pentateuch never mandates community offerings in excess of a dozen or so animals a day. You find in Deuteronomy that, as a priest, your non-cultic functions seem to always be shared with other non-priestly bodies: the supreme tribunal is indeed located at the temple, and is staffed by "the Levitical priests" (17:9, 12). But it is staffed, as well, by "the judge of that time" (17:9, 12). The pre-battle hortatory proclamations to soldiers are made by priests but only in conjunction with non-priestly officers (20:1-9). The enactment of the septennial festival of *Hakhēl* is entrusted to the priests, but only in conjunction with the elders (31:9-10). To be sure, priests enjoy a status denied others. But when seen in ancient perspective, the power and mystique of the priesthood is greatly vitiated, and the status of the common citizen greatly elevated.

Based on the lines that I have drawn here, what may we say about the dating of these ideas, and these texts? My thinking on this has been sharpened by a recent essay from outside

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lopedia of Archaeology in the Ancient Near East (5 vols.; New York: Oxford Univ. Press, 1997), 3:367–68; Seth L. Sanders, *The Invention of Hebrew* (Urbana, Ill.: University of Illinois Press, 2009).

[15] John F. Robertson, "The Social and Economic Organization of Ancient Mesopotamian Temples," in *CANE* 1:444–46.

our discipline. No field of academic study today is in as much turmoil as the field of economics. Only a handful of doomsday prophets sounded warnings in advance of the current downturn. And when they did, they were treated by most of their colleagues to what we in our field would call the Jeremiah treatment: they were scorned by the establishment. The Nobel laureate in economics, Paul Krugman, asks how it is that the entire guild of economists—himself included—got it so wrong.[16] And his conclusion is this: "As I see it," Krugman writes, "the economics profession went astray because economists, as a group, mistook beauty, for truth. The central cause of the profession's failure," he goes on, "was the desire for an all-encompassing, intellectually elegant approach." Krugman goes on to explain how the neoclassical belief in markets had an allure because it allowed scholars to do macroeconomics with clarity, completeness and with beauty. The approach seemed to explain so many things.

Krugman's analysis of what happened to an entire guild of economists gives me cause for reflection as a biblicist. Out of deference to our colleagues in economics, I am going to assume that we in Bible studies are no more intelligent, and possess no more intellectual integrity than they do. Could we, too, within our discipline fall victim to the allure of mistaking beauty for truth? All of us here are no doubt aware of the enormous complexity involved in sorting out the precise chronology and dating of earliest traditions, accretions, supplements, editing and redaction. It is true that assigning dates to the texts we work with allows us to explain many things. With dates in hand, we can do social history, history of the text, history of religion, history of language, and more. If we do not assign dates to texts, we greatly limit our capacity to engage in any of these endeavors. But could it be that we, too, may be falling for the allure of dates that are not solidly based and the comprehensive historical explanations they afford us? Could we, too, be mistaking beauty for truth? Krugman writes, "if the economics profession is to redeem itself, it will have to reconcile itself to a less alluring vision," and that "what's almost certain is that economists will have to learn to live with messiness."

Of course, on the question of dating the texts we work with, we need to do the best we can with what we have. Where we have firm basis upon which to date a text, or order a set of texts, we shouldn't hesitate to do so. But should "doing the best we can," become a license to posit a date for a text on the basis of flimsy evidence or hypothesis alone? Perhaps "doing the best we can" in terms of dating the texts we work with should mean admitting that we just do not have a clear picture.

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[16] Paul Krugman, "How Did Economists Get It So Wrong?" *New York Times Magazine*, September 6, 2009. Available at: http://www.nytimes.com/2009/09/06/magazine/06Economic-t.html.

Perhaps we, too, "will have to learn to live with messiness" and avoid the pitfall of mistaking beauty for truth.

There are many in our field, no doubt, who are more confident than I am about our capacity to date these sources and their development. And it is to them that I would like to suggest how my study, which largely avoids these issues, can be of use, even within a classical source-critical approach.

In an age where access to primary sources is almost unlimited, and the secondary literature to any subject continues to grow exponentially, we witness in the academy a tendency to compose books on narrow subjects. Only books of narrow focus can truly exhaust the literature on a given subject. Within our field, "kingship," "land redemption," and "literacy" are usually treated as distinct topics. Yet, social and political phenomena were never lived and experienced in isolation from one another and within the biblical text these topics emerge as they were naturally experienced, and hence naturally construed and envisioned—as parts of an integrated whole. The wholeness of human experience mandates a book that seeks the interrelationship of these phenomena.

Finally, reading the Pentateuch synchronically, as I have, need not be construed as uncritical, but as the first step in a source-critical process. By first reading the Pentateuch synchronically and discovering what I take to be surprising lines of accord across many passages, a source-critical scholar may come to new conclusions about the fault lines between passages, and the relationship of one passage to another.

To conclude: Greece and Rome knew their respective reformers. Yet nowhere in the ancient period do we find articulated the ideal of a society without class divisions that are founded on the control of economic, military, and political power. With all the caveats and conditions that I have raised here, I would like to submit that the birthplace of that ideal is in the Five Books of Moses.

ONLY MEN ARE CREATED EQUAL

SUSAN ACKERMAN
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Joshua Berman's thesis in *Created Equal: How the Bible Broke with Ancient Political Thought* is that throughout the Bible, and especially throughout the Pentateuch (or more specifically, for Berman, who eschews a source-critical methodology, throughout "the text of the Pentateuch in its received form"),[17] there is located "a strand of thought…that rejects hierarchy and seeks to promote egalitarianism."[18] In Chapters 2, 3, and 4 of his book, Berman strives to demonstrate the validity of this thesis by documenting the Pentateuch's egalitarian impulse, as he sees it, in texts that pertain to, respectively, politics, economics, and scribal technology. Berman then turns in Chapter 5 to consider the egalitarian tendencies he finds addressed within the Pentateuchal story of the baby Moses' near death in the waters of the Nile (Exod 2:1-10).

Underpinning all of this, however, is Berman's description, in Chapter 1, of "Egalitarian Theology,"[19] which he defines as an articulation of the metaphysical paradigm of the God-human encounter as expressed primarily in terms of "Israel as a community in covenantal relationship with God," and a covenantal relationship, moreover, in which "the center of divine attention…was the people as a whole, and each individual person, not the leadership."[20] This paradigm Berman juxtaposes to the state ideologies of Israel's second-millennium B.C.E. neighbors, Mesopotamia, Ugarit, and Egypt. Regarding these cultures, he argues that "the well-being of the state stood at the center of the gods' interests."[21] Conversely, in the Bible, "what is cardinal to God's concerns is the upholding of the political-marital relationship with which He engages Israel."[22] Note here Berman's language of "political-*marital* relationship," for in his book, Berman immediately precedes the quote I have

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[17] Joshua A. Berman, *Created Equal: How the Bible Broke with Ancient Political Thought* (Oxford and New York: Oxford Univ. Press, 2008), 8.

[18] Ibid., 82. Berman defines hierarchy in terms of "social stratification," a system whereby "permanent and institutionalized power [is] given to particular classes to control the economic, military, and political resources of society," whereas egalitarianism, in his understanding, is characteristic of societies "in which the hierarchy of permanent and institutionalized stratification is dissipated." (Ibid., 5.)

[19] See ibid., 15–16, where he writes: "This theology [i.e., the egalitarian theology Berman seeks to describe in Chapter 1] is the underpinning of a set of social and political policies that I explore in chapters 2 through 5."

[20] Ibid., 60, with additional material paraphrased from p. 49.

[21] Ibid., 47.

[22] Ibid.

just cited with a discussion of a paradigm additional to the politically-based paradigm of covenant that he argues is used in biblical writings "as a model for the encounter between God and Israel": this additional paradigm is "the paradigm of marriage," whereby Israel as a community is gendered as female and described as Yahweh's wife.[23] Together, "the covenant and marriage paradigms," Berman goes on to claim, "tell us much about…the cosmic foundations of an egalitarian order" in biblical thought,[24] or again, as Berman's Chapter 1 title would have it, the Bible's "Egalitarian Theology." For example, Berman describes reciprocity and "a relationship of mutuality" as characterizing the husband-wife metaphor that he sees as one of the models of the Israelites' divine-human encounter.[25] Similarly, he immediately follows the quote about covenant that I cited at the beginning of this paragraph with a discussion of the book of Deuteronomy's literary structure "as a series of addresses to Israel as a collective 'you': '*You* shall love the Lord your God with all your heart' (6:5); '*you* shall feast [in the temple] before the Lord your God' (12:7)," about which he claims, "there is a fundamentally egalitarian streak at play here."[26]

Elsewhere, moreover, Berman writes that "at some junctures, as in the collective address of the entire polity (the second person plural 'you'), it may be that men and women are addressed in equal fashion"[27] —as in the quote from Deut 12:7 cited just above, Berman might be taken to imply, where the command to feast is rendered in the second-person masculine plural, וְאֲכַלְתֶּם. Yet Berman also writes in his introduction:

> The picture I paint of a biblical polity that rejects class distinction on the basis of the control of economic and political power pertains primarily to Israelite men, and not to Israelite women…the blueprint the Pentateuch lays out takes for granted women's subordination to men, excluding them from participation in many areas, including the judiciary, the cult, the military, and land ownership, to name just a few.[28]

So how ultimately are we to evaluate issues of gender in the light of Berman's thesis? Are there, even within the Pentateuchal blueprint that "takes for granted women's subordination to men," the glimmers Berman points to of a more egalitarian thrust that would include women as a whole within a collective Israelite "you" and would grant married women the same "mutuality" in their relationships with their husbands that Berman posits regarding Israel's metaphorical marriage to Yahweh? Or is this an overly optimistic interpretation of these bodies of material? In what follows, I argue for the latter position, proposing that neither Deuteronomy's (or other texts') use of the

[23] Ibid., 44.
[24] Ibid., 47–48.
[25] Ibid., 44, 46.
[26] Ibid., 60.
[27] Ibid., 13.
[28] Ibid.

collective "you" nor the metaphor of Israel as Yahweh's spouse offers to women a place in ancient Israel's social order equivalent to (or even approaching) that available to men. In Israel, it turns out, only men—indeed, as we will see, only some men—are created equal.

Let me begin by considering the matter of the collective "you," first by noting, as feminist biblical scholars have documented since the emergence of their subdiscipline's work in the early 1970s, the many places where the second-person plural "you" cannot refer to men and women together. Perhaps most often cited in this regard is an Exodus text that concerns Yahweh's theophoric appearance to the Israelites at Mount Sinai, Exod 19:15. There, the collective "you" assembled at the mountain's base is commanded to prepare for Yahweh's impending visitation by not approaching a woman. In this passage, clearly, the second-person masculine plural form אַל־תִּגְּשׁוּ addresses specifically an all-male audience.[29] Somewhat similarly, in Exod 20:17, as part of Yahweh's delivering of the ten commandments, the "you" who is commanded not to covet, among other things, a neighbor's wife must also be a male "you,"[30] although here the verb forms, as well as the forms of the pronominal suffixes ("*your* neighbor's house" and "*your* neighbor's wife"), are rendered in the second-person masculine singular. Yet while this shift to masculine singular forms (which is probably attributable to a shift in sources, for while Exod 19:15 is J, the commandments of Exod 20:1-17 "do not properly belong to J, E, or P")[31] might seem to lead us astray from the second-person plural "you" addresses to which Berman has directed out attention, it turns out that a sensitivity to the implied referents of both singular and plural "you" forms will eventually be required to understand the Deut 12:7 text at which Berman has also suggested we look, and this even though, as Berman's quote as cited earlier notes, it is a mascu-

[29] As pointed out already by Phyllis Bird in "Images of Women in the Old Testament," Rosemary Radford Ruether (ed.) *Religion and Sexism: Images of Women in the Jewish and Christian Traditions* (New York: Simon and Schuster, 1974), 50; see also eadem, "The Place of Women in the Israelite Cultus," Patrick D. Miller, Paul D. Hanson, and S. Dean McBride (eds.) *Ancient Israelite Religion: Essays in Honor of Frank Moore Cross* (Philadelphia: Fortress, 1987), 402; eadem, "Women's Religion in Ancient Israel," Barbara S. Lesko (ed.) *Women's Earliest Records from Ancient Egypt and Western Asia: Proceedings of the Conference on Women in the Ancient Near East, Brown University, Providence, Rhode Island, November 5–7, 1987* (BJS, 166; Atlanta: Scholars Press, 1989), 286, n. 9.

[30] As again noted as early as 1974 by Bird, in "Images of Women in the Old Testament," 49, and also in "The Place of Women in the Israelite Cultus," 402. See also Athalya Brenner, "An Afterword: The Decalogue—Am I an Addressee?," Athalya Brenner (ed.) *A Feminist Companion to Exodus to Deuteronomy* (Sheffield: Sheffield Academic Press, 1994), 255–258.

[31] William H. C. Propp, *Exodus 19–40: A New Translation with Introduction and Commentary* (AB, 2A; New York: Doubleday, 2006), 145–146.

line plural "you" in Deut 12:7 that initially commands our consideration as the collective that is told to feast before Israel's God in the place that Yahweh has chosen (Deuteronomy's circumlocution for the temple in Jerusalem).[32]

So who is this "you," and, more important, does it include, as Berman implies it might, women? At some level, the answer to this question is surely yes, in that women are certainly included in the assembly that according to Deuteronomy 12 is to gather for sacrificial feasts at Yahweh's temple. This is made obvious by the fact that Deut 12:7 goes on to gloss those who are to participate in the temple feast as "you [masculine plural] and your [masculine plural] household" (אַתֶּם וּבָתֵּיכֶם) and that Deut 12:12 further glosses this "household" as consisting of "your [masculine plural] sons" (בְּנֵיכֶם), "your [masculine plural] daughters" (בְּנֹתֵיכֶם), "your [masculine plural] manservants" (עַבְדֵיכֶם), "your [masculine plural] maidservants" (אַמְהֹתֵיכֶם), and "the Levite who is in your [masculine plural] gates" (בְּשַׁעֲרֵיכֶם). Still, at the same time that Deut 12:7 and 12 make clear that women are included in the temple gatherings that these passages mandate, they raise doubts—by listing daughters and maidservants among the members of "your household"—whether women are a part of the initially cited second-person collective of "you" (אַתֶּם). Likewise, in Deut 12:18, the "you" (here in the second-person masculine singular, אַתָּה) that is to gather in Yahweh's Jerusalem temple for sacrificial feasting is listed as other than those household members, male and female, who are to join in the feasting as well: "your [masculine singular] son" (בִּנְךָ), "your [masculine singular] daughter" (בִּתֶּךָ), "your [masculine singular] manservant" (עַבְדְּךָ), "your [masculine singular] maidservant" (אֲמָתֶךָ), and "the Levite who is in your [masculine singular] gates" (בִּשְׁעָרֶיךָ). This strongly suggests that (to use Berman's language)[33] "the people as a whole" (the plural אַתֶּם) and "each individual person" (the singular אַתָּה) on whom "divine attention" is centered in Deut 12:7, 12, and 18 (and, by extension, in the larger pericope of Deut 12:2-28 and even, by further extension, in the entire corpus of covenantal obligations prescribed in Deut 12:2-26:15) are only ancient Israelite males (and, indeed, only ancient Israel's male heads of household, as sons, manservants, and the unlanded Levites are categorized as men other than "you").

To be sure, there are scholars who have argued otherwise, most notably perhaps Georg Braulik, who has noted that while the Deut 12:18 list of festal participants obviously includes multiple members, including women, from an extended household community (a kin group and its affiliates) and in addition some residents of such a household's larger town, it does not

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[32] As Berman, *Created Equal*, 191–192, n. 34, points out, the issue of singular as opposed to plural second-person address in Deuteronomy is discussed in Moshe Weinfeld, *Deuteronomy 1–11: A New Translation with Introduction and Commentary* (AB, 5; New York: Doubleday, 1991), 15–16.

[33] Taken from Berman, ibid., 60.

specifically mention the wife of a household. Yet Braulik finds it "hardly conceivable" that the wife is not among those who are to join in the sacrificial meal enjoyed by this otherwise quite compendious gathering.[34] Consequently, he argues, she must be subsumed within the masculine singular "you" of Deut 12:18. It follows in turn that the wife must be subsumed within the masculine singular "you" of related verses (such as Deut 16:11 and 14, to be discussed further below) and also within the masculine plural "you" of Deut 12:7 and 12.[35] Indeed, Braulik writes of these texts: "evidently, the 'you' (אַתָּה, אַתֶּם)…addresses women as well as men," as it is "highly improbable" that "the family mother had to stay home alone, take care of the house and do all the work, while the whole family, including the slaves, went off…enjoyed the sacrificial meal and rejoiced in Jerusalem."[36] Under the terms of this logic, one would conclude that, somewhat as Berman intimates, at least male heads of household and their wives are, in the case of Deut 12:7 (and thus presumably, again by extension, in the larger pericope of Deut 12:2-28 and in the larger still corpus of Deut 12:2-26:15), "addressed in equal fashion" in "the collective address of the entire polity (the second person plural 'you')."[37]

Yet as I have indicated, I have reservations. Certainly elsewhere in Pentateuchal tradition, a man's wife can be excluded from a list of a household's women with whom that man is otherwise cultically affiliated: I think here of Lev 21:1-6, which allows a priest—who otherwise should avoid the contaminating pollution incurred through contact with a corpse—to participate in the mortuary rites of his mother, his daughter, and his unmarried sister. However, "his wife finds no place in the list of exceptions."[38] Indeed, Lev 21:4 may explicitly state

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[34] Georg Braulik, "Were women, too, allowed to offer sacrifices in Israel? Observations on the meaning and festive form of sacrifice in Deuteronomy," *Hervormde teologiese studies* 55 (1999), 936.

[35] See similarly Phyllis Bird, "Women (OT)," in *ABD* 6, 955b; Carol Meyers, "Daughters (and Sons) and Female (and Male) Slaves, Rejoicing (Deut 12:12; 16:11, 14)," Carol Meyers, with Toni Craven and Ross S. Kraemer, (eds.) *Women in Scripture: A Dictionary of Named and Unnamed Women in the Hebrew Bible, the Apocryphal/Deuterocanonical Books, and the New Testament* (Boston: Houghton Mifflin, 2000), 224; Patrick D. Miller, *The Religion of Ancient Israel* (Library of Ancient Israel; London: SPCK; Louisville: Westminster John Knox, 2000), 204.

[36] Georg Braulik, "The Rejection of the Goddess Asherah in Israel: Was the Rejection as Late as Deuteronomistic and Did It Further the Oppression of Women in Israel?" *The Theology of Deuteronomy: Collected Essays by Georg Braulik, O. S. B.* (North Richland Hills, Tex.: BIBAL Press, 1994), 180–181; this quote was brought to my attention by Miller, *The Religion of Ancient Israel*, 204.

[37] Berman, *Created Equal*, 13.

[38] Calum Carmichael, "Death and Sexuality Among Priests (Leviticus 21)," Rolf Rendtorff and Robert A. Kugler (eds.) *The Book of Leviticus: Composition and Reception* (VTSup, 93; Boston: Brill, 2003), 226.

that a priest *cannot* have contact with his dead wife's corpse. Granted, the interpretation of Lev 21:4 is fraught (it contains an expression so enigmatic that it is "said to be the most difficult…in the entire book of Leviticus"),[39] and thus the occasional commentator assumes that this text does not bear on the issue of a priest's wife's corpse and that her dead body must, by implication, be counted among the bodies of women family members with which a priest is allowed contact.[40] But noted interpreters of Leviticus such as Baruch Levine and Jacob Milgrom disagree,[41] arguing the wife is not to be included in the Lev 21:1-6 list of priestly kin.

In Deuteronomy too, I would argue, a man's wife can be excluded from a list of a household's women with whom that man is otherwise cultically affiliated and with whom he engages in cultic ritual, and excluded more specifically in Deut 12:2-26:15, the corpus of covenant obligations of which the texts in Deut 12:7, 12, and 18 that we have so far been considering are a part. Consider in this regard Deut 16:11 and 14, which, upon the occasion of the pilgrimage festivals of Harvest, or Shavuʿot, and the Ingathering, or Sukkot, compel the presence at Yahweh's Jerusalem temple of an even larger group of household members and others from that household's village population than did Deut 12:7, 12, and 18: "you" (אַתָּה, masculine singular), along with "your [masculine singular] son and daughter," "your [masculine singular] manservant," "your [masculine singular] maidservant," and the Levite, resident alien, orphan, and widow who are in "your [masculine singular] midst" and "within your [masculine singular] gates." Women, note, are represented here even more fully than in Deut 12:7, 12, and 18, as widows are included, along with daughters and maidservants, but still absent is any mention of wives. Yet rather than suggest this is because they are subsumed in the masculine forms for "you" and "your" in 16:11 and 14, as Braulik has maintained, I am more inclined to think that Deuteronomy means *not* to require wives to participate regularly in the Shavuʿot and Sukkot pilgrimages because these women sometimes needed to remain at home to fulfill childcare responsibilities.

Critical evidence in support of this position comes from elsewhere in the Deuteronomistic tradition, in 1 Samuel 1,[42]

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[39] Ibid., 226, citing René Péter-Contesse and John Ellington, *A Translator's Handbook on Leviticus* (New York: United Bible Societies, 1990), 316.

[40] Both Carmichael, "Death and Sexuality Among Priests," 226, and Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary* (AB, 3A; New York: Doubleday, 2000), 1798, cite John E. Hartley, *Leviticus* (WBC, 4; Dallas: Word Books, 1992), 347.

[41] Baruch Levine, *Leviticus: The Traditional Hebrew Text with the New JPS Translation* (The JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1989), 142; Milgrom, *Leviticus 17–22*, 1798.

[42] *Contra* here Braulik, "Were women, too, allowed to offer sacrifices in Israel?" 936, but see the somewhat similar formulation to my proposal that is articulated in Mayer I. Gruber, "Women in the Cult According to the Priestly Code," Mayer I. Gruber (ed.) *The Motherhood*

where Hannah absents herself from what I would understand to be the annual Ingathering/Sukkot pilgrimage of Elqanah's family to Shiloh from the time of her giving birth to Samuel until the point at which Samuel was weaned (1 Sam 1:20-23),[43] a process that may have taken as long as three years (as is suggested, for example, in 2 Macc 7:27).[44] Note as well Deut 31:12, where Moses commands that every seventh year, at the festival of Ingathering/Sukkot, all of Israel's men, women, and children (הָאֲנָשִׁים וְהַנָּשִׁים וְהַטַּף), as well as the resident aliens who reside among them, must gather in Jerusalem to hear the reading of the Deuteronomic *tôrâ*. Here, at this special septennial celebration, Deuteronomy's author(s) seem(s) to expand the mandate to assemble beyond what was articulated for Ingathering/Sukkot in 16:14 in order to include all women and all children, young toddlers (הַטַּף) as well as older sons and daughters.[45] Still, the use of this language in Deut 31:12 *only* suggests that during other Sukkot celebrations, the toddlers, as well as the mothers who took care of them (that is, the head-of-households' wives), were not required to join the paterfamilias and others of his entourage in Jerusalem. Conversely, women who cannot possibly be constrained by childrearing responsibilities—for example, a household's as yet unmarried daughters and a community's widows—do seem compelled to attend the celebration of Ingathering/Sukkot annually (note here the seeming presence of Peninnah's daughters at the Sukkot cele-

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of God and Other Studies (South Florida Studies in the History of Judaism, 57; Atlanta: Scholars Press, 1992), 51–52, n. 5, and in idem, "Breast-Feeding Practices in Biblical Israel and in Old Babylonian Mesopotamia," also in *The Motherhood of God and Other Studies*, 76.

[43] I have argued for the identification of Ingathering/Sukkot as the occasion of Elqanah's family annual pilgrimage to Shiloh in Susan Ackerman, *Warrior, Dancer, Seductress, Queen: Women in Judges and Biblical Israel* (New York: Doubleday, 1998), 113, 258.

[44] See also, among ancient Near Eastern sources, 1 Sam 1:24 (as interpreted by Joseph Blenkinsopp, "The Family in First Temple Israel," in *Families in Ancient Israel* [The Family, Religion, and Culture; Louisville: Westminster John Knox, 1997], n. 42 on p. 97, and Gerhard Pfeifer, "Entwöhnung und Entwöhnungsfest im Alten Testament: der Schlüssel zu Jesaja 28, 7–13?" *ZAW* 84 [1972], 342); Isa 7:15 and 28:9–10 (as interpreted by Blenkinsopp, "The Family in First Temple Israel," 68; Gruber, "Women in the Cult," 67–68, n. 40; idem, "Breast-Feeding Practices in Biblical Israel," 79–80; Raphael Patai, *Family, Love and the Bible* [London: MacGibbon&Kee, 1960], 174; and Pfeifer, "Entwöhnung und Entwöhnungsfest im Alten Testament," 344–347); Ps 8:3 (as interpreted by Gruber, "Breast-Feeding Practices in Biblical Israel," 80, and Patai, *Family, Love and the Bible*, 174); Josephus, *Against Apion*, II, 19, and *Antiquities* II, ix, 6 (as pointed out by Menahem Haran, "Ezekiel, P, and the Priestly School," *VT* 58 [2008], 214); and John A. Wilson, "Egyptian Instructions: The Instruction of Ani," in *ANET* (3d ed.; Princeton: Princeton Univ. Press, 1969), 420 (again, as pointed out by Haran, "Ezekiel, P, and the Priestly School," 214).

[45] This understanding of הַטַּף is urged by Gruber, "Women in the Cult," 53 and n. 6 on that page.

bration at Shiloh according to 1 Sam 1:4),[46] and are compelled to attend as well the celebration of Harvest/Shavuʿot. Slave women, likewise, are compelled to attend, perhaps because Deuteronomy, unlike the slave law in Exod 21:1-11, does not consider the possibility of these women's marrying and having children? Or perhaps because a slave woman's children are not of enough worth in Deuteronomistic tradition to merit giving their caretakers special considerations at times of cultic festivals?

At any rate, Deut 16:11 and 14, as I would interpret, envision a scenario whereby householders' wives who are encumbered by childrearing responsibilities need not make the annual pilgrimages of Shavuʿot and Sukkot that Deuteronomy requires of other members of the Israelite community. The masculine singular "you" of these passages thus refers, as does the masculine singular "you" in Deut 12:18 and the masculine plural "you" forms in Deut 12:7 and 12 under the terms of this analysis, only to Israelite male heads of households.

And what of Deuteronomy's injunctions regarding the annual Pesaḥ pilgrimage as found in Deut 16:1-7? Unlike Deuteronomy's mandate in the larger cultic calendar of Deut 16:1-17 of which Deut 16:1-7 is a part, where the participation of at least some women is required in the two great pilgrimage feasts of Harvest/Shavuʿot and Ingathering/Sukkot (16:11, 14), women are nowhere mentioned in the Deut 16:1-7 passage that details the celebration of the feast of Pesaḥ and then, in 16:8, Maṣṣot. Perhaps we should explain by taking this variation within Deuteronomy's cultic calendar as only a coincidence and thus assume that Deuteronomy's author(s) meant to include at least some women in the community that gathered annually at the Jerusalem temple for the Pesaḥ sacrifice, as it included at least some women in the pilgrimage communities of Harvest/Shavuʿot and Ingathering/Sukkot. If this were the case, then the second-person masculine singular forms used to describe the Pesaḥ offering in Deut 16:1-7 would, as Berman has intimated and Braulik, among other commentators, has forcefully maintained, "address women as well as men."[47] Evidence from the New Testament might lend support to this interpretation, given that women are said to have traveled with Jesus from the Galilee when he came to Jerusalem to celebrate Pesaḥ during

[46] The daughters are a part of Elqanah's family's party according to v 4 of the MT, but are not mentioned in the LXX. P. Kyle McCarter, *I Samuel: A New Translation with Introduction and Commentary* (AB, 8; Garden City, N.Y.: Doubleday, 1980), 51, suggests the Greek preserves the better reading here (meaning that the daughters were not originally included in the Samuel account), but Ralph W. Klein's note on 1 Sam 1:4 raises the possibility that the Septuagint's lack of reference to the "daughters" results from a deliberate omission, "represent[ing] a correction by someone who felt daughters would/should not participate in the sacrifices." (*1 Samuel* [WBC, 10; Waco, Tex.: Word Books, 1983], 2.)

[47] Braulik, "The Rejection of the Goddess Asherah in Israel," 180–181.

what became the last week of his life (Matt 27:55; Mark 15:40-41; Luke 23:49, 55).

Still, let us use these New Testament materials to consider once again my proposal that Israelite wives may have needed upon occasion to absent themselves from the sacrificial journeys to Jerusalem that Deuteronomy mandates for other women from among their families and their families' affiliates because of the obligations of childrearing and childcare these wives had at home. To be sure, I must quickly grant that the New Testament texts are significantly later in date than are the preexilic texts of Deuteronomy that are the focus of my discussion here, and I must grant as well that these New Testament traditions are, given their context within the gospel narratives of Christian salvation, atypical in terms of the Pesaḥ observance that they present. Nevertheless, it is striking that, while women do come with Jesus as he makes the Pesaḥ pilgrimage, these are often women who are identified without reference to any family ties (meaning that they are seemingly without family obligations): for example, Mary Magdalene (Matt 27:55; Mark 15:40) and Salome (Mark 15:40). Other women who join Jesus are those whose children are grown and so do not require their mother's care: for example, Mary, the mother of James and Joses/Joseph (Matt 27:55; Mark 15:40) and the mother of the sons of Zebedee (Matt 27:55). Conversely, could we be so bold to suggest that, while the primary reason that Jesus' mother was not in his entourage had to do (from the synoptic gospels' perspective) with strained family relationships (Matt 12:46-50, 13:54-58; Mark 3:31-35; Luke 8:19-21; 11:27-28), the mother may also have been compelled to remain behind in the Galilee rather than undertaking pilgrimage to Jerusalem in order that she might care for the brood of Jesus' brothers that, according to Matt 12:46-47; Mark 3:31-32; and Luke 8:19-20, trailed about the vicinity of Nazareth with her?

Needless to say, this last question entails a significant reach. Yet I still maintain that the larger point I am arguing holds: women are not necessarily present in the Pesaḥ ritual account of Deut 16:1-7 in the ways we might think they should be, and one plausible reason for their absence is that childcare duties keep them at home. I stress here, however, "*one* plausible reason," for as we have seen, Deut 16:1-7, unlike Deut 16:11 and 14, makes no mention of any woman's participation—no daughters, maidservants, nor widows—in Pesaḥ observance. Perhaps this suggests that, while childcare responsibilities may have constrained the presence of a male householder's wife during any of the three great pilgrimages of the Israelite ritual calendar (Pesaḥ, Shavuʿot, and Sukkot), there may be some factor distinctive to Pesaḥ observance that, in the mind of Deuteronomy's author(s), constrained the presence of women still more at that celebration. Milgrom—noting that Deut 16:1-7 also makes no mention of the sons, male slaves, Levites, resident aliens, and orphans who were, however, included in Deuteronomy's list of Shavuʿot and Sukkot participants—suggests the reason is pragmatic: that during the busy season of

the spring harvest, most of a household's members were needed at home and thus almost none among a family and its associates could pull up stakes to travel (as Deuteronomy would have it) to Jerusalem on pilgrimage.[48] Indeed, according to Deut 16:7, even the male heads of household who did, under the terms of this interpretation, journey to Jerusalem to make the Pesaḥ sacrifice are to return almost immediately to their homes to observe the following six days of Maṣṣot and, presumably, to join in the work of the spring harvest.[49] For students of women's religion in ancient Israel, this may suggest yet another reason why women are excluded from the Pesaḥ pilgrimage to Jerusalem as described in Deuteronomy: because they needed to stay home to take on the task of cleansing their homes of all leaven, as Deut 16:4 mandates regarding Maṣṣot observance. For our discussion here, however, what is noteworthy is the conclusion that necessarily follows in this reconstruction regarding the "you" of the Pesaḥ regulations of Deut 16:1-7: it neither "addresses women as well as men,"[50] nor, in fact, does it address most men. Rather, the masculine singular "you" of Deut 16:1-7 again addresses, as in the other examples, singular and plural, that we have examined, only male heads of household. And while this is not to say that we should conclude that there are no biblical texts where the collective "you" addresses "men and women…in equal fashion,"[51] it is to make clear that examples of this phenomenon are not so easy to find as some have assumed and indeed are, in my mind, as yet undocumented.

Let me turn now to the second matter that I noted above it was my intention to consider in these remarks: the use of the paradigm of marriage that is evoked, especially in the prophetic texts of Hosea, Isaiah, Jeremiah, and Ezekiel, to describe God's relationship with the people of Israel. Berman, as I have also noted above, seems to find much that is positive in the use of this paradigm; as again I have already noted, he speaks of marriage as evoked in the paradigm as "a relationship of mutuality" and further writes of the ways in which "love" "may be understood as [an] expression of the marriage paradigm," "in the

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[48] Jacob Milgrom, *Leviticus 23–27: A New Translation with Introduction and Commentary* (AB, 3B; New York: Doubleday, 2000), 1980, 2000–2001.

[49] This interpretation of Deuteronomy's festal calendar in 16:1–8 (one day in Jerusalem, with the next six days in one's family homestead) has most recently and perhaps most forcefully been argued by Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford Univ. Press, 1997), 53–56, 69, 72, 79–80, 89; cf., however, the even more recent and forceful critique offered by Shimon Bar-On, "Der deuteronomische Festkalendar," Georg Braulik (ed.), *Das Deuteronomium* (OBS, 23; Frankfurt am Main: Peter Lang, 2003), 57–68; this reference was brought to my attention by Simeon Chavel, "The Second Passover, Pilgrimage, and the Centralized Cult," *HTR* 102 (2009), 17, n. 72.

[50] Braulik, "The Rejection of the Goddess Asherah in Israel," 180–181.

[51] Berman, *Created Equal*, 13.

sense of a faithful, intimate relationship between man and wife."[52] Marriage he likewise describes as an institution in which "honor was a value reciprocally bestowed by each party."[53]

I am not so sure, however, that the sensibilities of "love" and "honor" that Berman evokes regarding the marriage paradigm really define Israelite conceptions of marital relationships. For example, regarding honor: in what must be taken among students of the Near East as a foundational study of honor/shame cultures in the biblical world, the 1987 edited volume *Honor and Shame and the Unity of the Mediterranean*, Carol Delaney forcefully argues that the categories of honor and shame, at least in the patriarchal culture of the Anatolian Turks that she studied, are gendered within marriage. Especially through the act of begetting children, honor is bestowed upon men because they are seen to be the carriers of the "seed" from which the child is created; women, conversely, provide only the medium in which a child can grow, like a field, and are thus fundamentally shamed by "recognition of their constitutional inferiority."[54] Whether this precise notion of honor-shame held in marital relations biblical Israel is, of course, not necessarily a given; indeed, according to ancient Israel's understanding of gender more generally, "it is not the case that honor is exclusively associated with the male and shame with the female."[55] Nevertheless, women are typically expected to extend honor to their husbands (Esth 1:20),[56] whereas a major means by which a man can be shamed in Israelite tradition is for him to be treated as a woman.[57] That women and men might reciprocally bestow honor upon one another within an Israelite marriage therefore strikes me as unlikely; rather, the dynamic of Israelite marriage I would posit is that a husband is ascribed honor by virtue of his manliness, his masculinity, and his ability to provide economically for his family, yet he must constantly guard himself and his accrued honor against the shame his wife might bring forward—and especially must guard against such shaming by exerting control over his wife's sexuality.[58]

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[52] Ibid., 45, 46.

[53] Ibid., 44.

[54] Carol Delaney, "Seeds of Honor, Fields of Shame," David D. Gilmore (ed.) *Honor and Shame and the Unity of the Mediterranean* (Washington, D.C.: The American Anthropological Association, 1987), 40.

[55] Gale A. Yee, *Poor Banished Children of Eve: Woman as Evil in the Hebrew Bible* (Minneapolis: Fortress, 2003), 42.

[56] This reference brought to my attention by Yee, *Poor Banished Children of Eve*, 42 and n. 76 on p. 179.

[57] Cynthia R. Chapman, *The Gendered Language of Warfare in the Israelite-Assyrian Encounter* (HSM, 62; Winona Lake, Ind.: Eisenbrauns, 2004), 20, 48–58; T. M. Lemos, "Shame and Mutilation of Enemies in the Hebrew Bible," *JBL* 125 (2006), 232–236; Ken Stone, *Sex, Honor, and Power in the Deuteronomistic History* (JSOTSup, 234; Sheffield: Sheffield Academic Press, 1996), 122–123.

[58] Ken Stone, "Gender and Homosexuality in Judges 19: Subject-Honor, Object-Shame?" *JSOT* 67 (1995), 95; Yee, *Poor Banished Children of Eve*, 46, 47.

Marital "love," it turns out, also cannot be said to be reciprocally or equitably construed in the Bible, given that there are no actual marriages in the Bible where women express "love."[59] Thus, while Isaac is said to have loved Rebekah (Gen 24:67); Jacob to have loved Rachel (Gen 29:18, 20, 30) and possibly, albeit to a lesser degree, to have loved Leah (Gen 29:30); Samson to have loved Delilah (Judg 16:4, 15); Elqanah to have loved Hannah (1 Sam 1:5); Solomon to have loved his many foreign wives (1 Kgs 11:1, 2); Rehoboam to have loved Maʿacah (2 Chr 11:21); and Ahasuerus to have loved Esther (Esth 2:17), none of these women is ever described as giving her sexual partner her love in return. Nor, with only one exception, is *any* woman in the Bible's narrative corpus ever said to love a man. The exception is found in 1 Samuel 18, where Michal is twice said to love David (vv 20 and 28). Yet this exception would be, if I may follow others in misusing an oft misused cliché, the "exception that proves the rule," in that in Israelite marriages, as I would see it, it is only the hierarchically superior party in the relationship who can be said to "love," meaning, most typically, as in the long list of examples I cited, the husband, but exceptionally, in the case of Michal, the king's daughter as opposed to David, the shepherd boy. In the Michal text, that is, class trumps gender, but the notion that "love" is a hierarchically determined mode of expression is sustained.

So does Hosea's, Isaiah's, Jeremiah's, and Ezekiel's use of the marriage metaphor to describe the relationship of Yahweh and Israel really imply the "reciprocity" and "intimacy" of that encounter that Berman finds? I doubt it. I doubt it further, moreover, given the specific way the metaphor is overwhelmingly deployed in Hosea, Isaiah, Jeremiah, and Ezekiel: to describe Israel as the unfaithful wife who has strayed from what should be her monogamous relationship with Yahweh to go after other "lovers," i.e., gods (representative texts include Isa 1:21-23; 57:3, 6-13; Jer 3:1-3; 5:7-9; 13:20-27; 22:20-23; Lam 1:8-9; Ezek 16:1-63; 23:1-49; Hosea 1-4; 9:1; Mic 1:6-7). Hosea, Isaiah, Jeremiah, and Ezekiel, moreover, can make the metaphor of the female apostate concrete and thereby see not just the metaphorically female Israel as apostate but the actual women of Israel as the people's primary (if not exclusive) agents of apostasy. In Isa 3:16-24; 4:1; 32:9-14; Hos 4:13; Amos 4:1-3; Ezek 8:14; and Jer 7:18; 44:15-19, 25, for example, women are singled out as particularly responsible for behaviors the prophets deem religiously unacceptable. Indeed, in some texts, the identification between the metaphorically female and apostate Israel and the alleged apostasies of actual women is made so facilely that a prophet can slip almost without notice from describing one to the other. Thus Isa 3:16-4:1 begins by castigating a particular subset of Israel's women, the daughters of Jerusalem/Zion in vv 16-24, then switches in vv 25-26 to con-

[59]I have discussed this matter extensively in Susan Ackerman, "The Personal is Political: Covenantal and Affectionate Love (*ʾāhēb*, *ʾahăbâ*) in the Hebrew Bible," *VT* 52 (2002), 437–458.

demn the analogous subset of the corporate Israel, the feminized city of Jerusalem/Zion, before returning to a critique of Jerusalem's/Zion's women in 4:1. Such easy identification encouraged the prophets even more in their blaming of women alone for the apostasies that (according to the covenantal logic of blessings and curses to which these prophets subscribed) rendered the entire population subject to Yahweh's wrath and judgment.

The assigning of blame to the metaphorical woman Israel for the degeneration of the people's marriage to Yahweh in addition has the effect—when the prophet's metaphorical language became concretized—of setting wives up as the scapegoats in any actual marriages that were degenerating, while husbands are positioned as the aggrieved and wronged party. The metaphor can consequently empower these allegedly aggrieved and wronged husbands to respond, as does Yahweh, judgmentally, and with wrath. The implications for potential spousal abuse are chilling, so much so that, while the use of the marriage metaphor to describe the relationship of Yahweh and the Israelites at first seems to be profoundly appealing, as it allows for expressions of tenderness, of intimacy, and of deep, natural, and genuine affection between the people and God, ultimately it should be evaluated by reference to an observation made by José Ignacio Cabezón in his contribution to the 1992 edited volume *Buddhism, Sexuality, and Gender*: "more dangerous than Greeks bearing gifts is the patriarchy bearing female symbols."[60] Which is to say: in the end, the paradigm of marriage does not speak to "a relationship of mutuality" in describing God's relationship with Israel or husbands' relationships with their wives,[61] but instead to a relationship of domination. For the feminized Israel, that is, and for Israelite women, the marriage metaphor suggests not a partnership grounded in mutual intimacy but in women's subordination. Hence the danger, "more dangerous," even, "than Greeks bearing gifts," as the biblical patriarchy puts forward the seemingly alluring and engaging paradigm of marriage only as a trap, whose aim is the subjugating of the female symbol of the wife.

This leads me in conclusion to ask: how unambiguous also is the paradigm of covenant and the other bodies of evidence that Berman brings to bear in support of his thesis? And what of the Pentateuchal and other texts that Berman does not address: what ambiguities to Berman's thesis might they impose? I have entitled this response "Only Men Are Created Equal," but I have also suggested at several points that this description applies—contrary to Berman's argument—not to all men. Among men, the head of household, the priest, the Levite, the elder, the unmarried son, the resident alien, the uncircumcised, and still more are placed, often at various periods and by vari-

[60] José Ignacio Cabezón, "Mother Wisdom, Father Love: Gender-based Imagery in Mahayana Buddhist Thought," José Ignacio Cabezón (ed.) *Buddhism, Sexuality and Gender* (Albany: SUNY Press, 1992), 189.

[61] Berman, *Created Equal*, 46.

ous sources, at unequal positions within an Israelite social hierarchy. Berman's book espouses an Enlightenment-era ideal of egalitarianism that is hard for most of us in the Euro-American West to resist. Still, the "politics of difference" that characterizes much of contemporary American discourse should perhaps point us to a biblical ideology of social disparities and diversities instead.

BETWEEN DIACHRONIC AND SYNCHRONIC APPROACHES

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The author has made a highly significant contribution to biblical studies. Berman's work constitutes a complex sustained claim that the Hebrew Bible breaks with its ancient Near Eastern environment by positing a far more egalitarian notion of Israelite society than was entertained among Israel's hierarchically-oriented neighboring states. By "equality" the author refers to a decided resistance to and amelioration of social stratification buttressed and validated by the permanent institutionalized control of economic, social, and political resources in the hands of a privileged elite.

Berman attributes the egalitarian turn in Israelite thought to its covenantal theology binding deity and community in a mutually obligatory bond ("Egalitarian Theology," ch. 1). He goes on to demonstrate this egalitarian bent by the form of political governance championed in Deuteronomy ("Egalitarian Politics," ch. 2), by the numerous economically leveling measures set forth in the Torah ("Egalitarianism and Assets," ch. 3), by the modes of oral and written communication in ancient Israel ("Egalitarian Technology," ch. 4), and by the people as the collective subject of biblical narrative genre ("Egalitarianism and the Evolution of Narrative," ch. 5).

The methodological significance of this work is that the author astutely employs literary criticism, anthropology, and political theory in pursuit of his inquiry. In keeping with the premises of synchronic literary theory, he deliberately excludes any attempt to establish the hypothetical dating of the biblical sources and thus precludes a historical account of when and by what steps Israelite egalitarianism arose. I believe that was a fortunate decision on the author's part. Nonetheless, given Berman's resolute adherence to a synchronic approach, it may come as a surprise to many readers that both he and I recognize the close affinity between *Created Equal* and my own *The Tribes of Yahweh.*[62] Berman goes so far as to question whether his project could have been possible without the benefit of my scholarship.

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[62] Norman K. Gottwald, *The Tribes of Yahweh. A Sociology of the Religion of Liberated Israel, 1250–1050 B.C.E.* (Maryknoll, N.Y.: Orbis Books, 1979; 20th anniversary repr., Sheffield: Sheffield Academic Press, with new preface, 1999); summarized in Gottwald, *The Hebrew Bible—A Socioliterary Introduction* (Philadelphia: Fortress Press, 1985), 261–284. See also Roland Boer (ed.) *Tracking "The Tribes of Yahweh." On the Trail of a Classic* (JSOTSup, 351; Sheffield: Sheffield Academic Press, 2002).

THE CONVERGENCE OF SYNCHRONIC AND DIACHRONIC READINGS

The clearest affinity between the two is that both *Created Equal* and *The Tribes of Yahweh* share the belief that Israel was measurably more egalitarian than any contemporary society in the ancient Near East. Berman builds on my explication of a contrast between *tribute-imposing polities* and *tribute-rejecting polities*. He observes that sociopolitical hierarchy enshrines a deep split between a small dominating tribute-imposing class and a far larger dominated tribute-bearing class. The tribute is derived from taxation, forced labor, rent, and indebtedness. The fundamental structure of these hierarchic societies enforced *elitist exclusionary power strategies* that barred the participation of a vast majority of the populace in the social status and economic wealth that their very labor had made possible. In contrast, like myself, Berman detects *popular inclusionary power strategies* in many biblical traditions that seek to open a wider participation in social status, economic wealth, and political power to the benefit of commoners.

The differences between *The Tribes of Yahweh* and *Created Equal* stem principally from their adoption of different reading strategies. *Tribes* employs *diachronic methods* of inquiry. Gottwald reads the premonarchic segment of ancient Israelite history as egalitarian communitarianism. He claims that the socioeconomic levelling traditions of the Hebrew Bible actually had their origin in the tribal system of prestate Israel. The laws demanding social justice, far from being late and utopian in origin, were actually practiced within the decentralized polity of earliest Israel, and bear a considerable resemblance to prestate societies the world over. On the other hand, *Created Equal* employs *synchronic methods* of inquiry. Berman reads the entire sweep of the Hebrew Bible in its final form to isolate strands of egalitarian political theory without arguing that egalitarian practices are evident in Israelite history. He focuses on the Torah, and his elegant reading of Deuteronomy contributes significantly to strategies that can bring adherents of diachronic and synchronic methods closer together in a productive conversation about the social history and political structure of ancient Israel. Let me explain.

In terms of the potential for political analysis, Berman finds the book of Deuteronomy to be especially promising. Reading the laws about sociopolitical leadership in the context of the whole book, Berman identifies in Deuteronomy the complementary goals of transferring divisive clan loyalties to the larger body politic while simultaneously avoiding the perils of autocratic rule exemplified in neighboring monarchies. By taking the entire book as politically relevant, and not merely the leadership passages, and by drawing upon political theory to frame his analysis, Berman is able to develop fresh understandings of the Deuteronomic "agenda," extending and deepening the work of S. Dean McBride Jr.[63] on Deuteronomy as the

[63] S. Dean McBride Jr., "Polity of the Covenant People," *Int* 41

polity of the covenant people, in distinction from the major scholarly line of interpretation that Deuteronomy is a collection of laws didactically inculcated.[64]

Berman employs the political theorist Charles de Secondat Montesquieu's notion that what distinguishes a republican regime from an autocratic one is the separation of powers into executive, legislative and judicial branches, with a particular stress on an independent judiciary.[65] Accordingly, he analyzes Deuteronomy's proposed polity with Montesquieu's criteria in mind. Conceived as the rudiments of a constitution, Deuteronomy addresses the Israelites at large with a plural "you," summoning them to enforce limits on the powers of king, priest, judge and prophet by means of a division of responsibilities within a frame of checks and balances aimed at blocking exclusionary power strategies. Noteworthy are the drastic restrictions placed on the king who is described mainly as commander-in-chief without cultic or judicial powers. The monarch is limited to a small army, a small harem, and a small treasury. Furthermore, the priesthood is stripped of landholdings so as to remain dependent on support from communal offerings. The judiciary, on the other hand, is independent of control by any one social or political seat of power. Even prophets have a place in the governing scheme, and are to be trusted or disbelieved depending on how they accord with the Yahwistic orthodoxy set forth in Deuteronomy.

The methodological intersection of the two readings by Berman and Gottwald is striking. If the egalitarian thrust of ancient Israel is as pervasive and pronounced as Berman's close reading of the Torah suggests, culminating as it does in the Deuteronomic polity, then it is logical to assume that it was rooted in egalitarian social ideology and practical experience predating the monarchy. Conversely, if Gottwald's claim that Israel's origins were in an egalitarian peasant movement within Canaan is premised, we should then be able to see confirmatory literary evidence precisely of the sort that Berman has meticulously uncovered.

To date, only a few close readings of biblical texts with which I am familiar have been at all shaped, or greatly influenced, by larger social or political theory. The exceptions that

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(1987), 229–44 = "Polity of the Covenant People: The Book of Deuteronomy," John T. Strong and Steven S. Tuell (eds.) *Constituting the Community. Studies on the Polity of Ancient Israel in Honor of S. Dean McBride Jr.* (Winona Lake, Ind.: Eisenbrauns, 2005), 17–33.

[64] Gerhard von Rad, *Old Testament Theology* (vol. 1; trans. D. M. Stalker; New York: Harper, 1962), 195–203, 219–231; Martin Noth, "The Laws in the Pentateuch: Their Assumptions and Meaning," M. Noth, *The Laws in the Pentateuch and Other Studies* (trans. D. R. Ap-Thomas; Philadelphia: Fortress Press, 1966), 1–107.

[65] Charles de Secondat Montesquieu, *The Spirit of the Laws* (Clark, N.J.: The Lawbook Exchange, 2005); trans. of *L'Esprit des Lois* (1748).

come to mind are the work of David Jobling,[66] Roland Boer,[67] Marvin Chaney,[68] Gale Yee,[69] and, to a degree, Robert Polzin.[70] While the contribution of each has been significant, only Polzin covers the same sweep of Torah texts as does Berman and Polzin's sociopolitical inferences are decisively subordinated to literary concerns following the method of Bakhtin. Often it is left to the reader to see the political implications of Polzin's readings.

What distinguishes Berman's reading is that he has found in Deuteronomy a composition that is intensely political in its aims, advocates strong measures of social and economic justice, and proposes a format for state leadership. He has taken that juncture of political form and substance seriously enough to conceptualize the corporate values inherent in its distinctive blend of prescriptive and hortatory rhetoric. In my judgment, the inventive polity Berman finds in Deuteronomy is best understood as an attempt to resurrect the egalitarianism of early Israel and to do so by transferring its values and many of its specific measures from tribe to state.

DIACHRONIC QUERIES ABOUT DEUTERONOMY'S POLITY

Very briefly, I have a number of diachronic queries about Berman's reconstruction. Some of these matters I have long

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[66] David Jobling, "Deconstruction and the Political Analysis of Biblical Texts: A Jamesonian Reading of Psalm 72," *Semeia* 59 (1992), 95–127; idem, *1 Samuel* (Collegeville, Minn.: Liturgical Press, 1998).

[67] Roland Boer, *Jameson and Jeroboam* (Atlanta: Scholars Press, 1996); idem, "Antonio Gramsci: The Emergence of the 'Prince' in Exodus," Roland Boer (ed.) *Marxist Criticism of the Bible* (London/New York: T&T International, 2003), 42–64.

[68] Marvin L. Chaney, "ḤDL-II and the 'Song of Deborah': Textual, Philological and Sociological Studies in Judges 5, with Special Reference to the Verbal Occurrences of ḤDL in Biblical Hebrew" (Ph.D. diss., Harvard University, 1976); idem, "Models Matter: Some Implications of Political Economy for the Textual Exegesis of Micah 6:9–15," Philip F. Esler (ed.) *Ancient Israel: The Old Testament in its Social Context* (Minneapolis: Fortress Press, 2005), 145–60.

[69] Gale A. Yee, "Ideological Criticism: Judges 17–21 and the Dismembered Body," Gale A. Yee (ed.) *Judges and Method: New Approaches to Biblical Studies* (Minneapolis: Fortress Press, 1995), 146–70; eadem, *Poor Banished Children of Eve. Woman as Evil in the Hebrew Bible* (Minneapolis: Fortress Press, 2003).

[70] Robert Polzin, *Moses and the Deuteronimist. A Literary Study of the Deuteronomic History* (New York: The Seabury Press, 1980). Polzin underscores the way the text is nervously concerned with "exceptional outsiders" beyond the pale of male members of the community, e.g., Rahab, Gibeonites, women, dependents, Levites, and even the Transjordanian tribes. Polzin, employing Bakhtinian insight about the multiple voices in texts, observes that Deuteronomy starts out with the unadulterated voice of God reported by the voice of Moses, but as the narrative passes over into Joshua-Kings, the authoritative voice of God through Moses recedes in favor of the voice of the hidden narrator of Joshua through Kings.

entertained in my view of Deuteronomy, but some are new queries and all of them are given a decided "twist" by Berman's study.

Was it intended to be adopted? It seems to me that the Deuteronomic polity wants to be put into effect, regardless of whether it was ever actually adopted in whole or in part. In other words, I doubt that it was a limited utopian exercise. However, when or if it was ever attempted, the reign of Josiah remains the most likely time. Yet the account of Josiah's reign only tells us of his cultic reforms. We do not know if he adopted other features of Deuteronomic polity. Only Jeremiah 22:11-16 tells us that Josiah implemented measures for social justice which his successors reversed. How Josiah actually ruled in concert with other officers of state is altogether unknown.

What constituting body is to undertake this radical separation of governmental powers? In terms of the author's analysis, this is by far the crucial historical question. Apart from the literary fiction that a historical Moses ordered it, we have no overt information. Berman notes that the inauguration of the Deuteronomic system of government is placed on the shoulders of those addressed in the book by a plural "you," presumably the whole male citizenry. However, nothing is said about the mechanism by which that hypothetical body is to launch the new political order. It is not easy to see how any one of the separated powers could initiate this polity since all of them are subjects of its terms. In the account of Josiah's reign in 2 Kings he does not even share power with other officers of state, other than to consult the prophetess Huldah. Although he enacts cultic reforms advocated by Deuteronomy, he does so without any reference to the separation of powers.

Given that we lack any indication of an Israelite equivalent of the Continental Congress that proposed the United States Constitution, we are left with mere guesses. Could it really be "all the assembly of Israel" (Deut 5:22; 23:1-3; 31:30; 33:4-5) that is empowered to enact the polity in which king, priests, judges, and prophets concur? As it is, the assembly is only pictured as reaffirming the polity that has already been established (Deut 31:9-13). Or could the initiators of the new polity have been the nebulous עַם־הָאָרֶץ, an apparent body of conspiratorial notables who, in bringing the minor Josiah to the throne, were simultaneously attempting to recast the entire structure of the kingdom (2 Kgs 21:24)?

Where does the polity's demand to enforce a strict religious orthodoxy fit in Israel's history? All things considered, the religious program of Deuteronomy seems best to fit the mood of postexilic reconstruction. But in that case the office of king would be anachronistic and it is difficult to imagine the Persian overlords accepting a system of governance with a king, even if he be a much weakened head of state.

When we turn to 1-2 Kings, only Hezekiah and Josiah approximate adherence to the Deuteronomic polity and then only in very partial manner. Whether or not either monarch espoused the new polity, the deepest motivation of its architect(s)

may have been to avoid the same fate as northern Israel. Berman's citation of the influence of biblical polity on the U.S. founding fathers overlooks the critical importance of the separation of church and state to the latter. The sort of theocratic state advocated in Deuteronomy is more reminiscent of Reformation-based polities such as Geneva and the Massachusetts Bay Colony, or even of strict Islamic polities, such as the Taliban.

What are the implications of cultic centralization for Deuteronomic egalitarianism? The effect of the new polity would be to elevate the cultic and economic power of Jerusalem in one stroke, as argued convincingly by W. Eugene Claburn,[71] Shigeyuki Nakanose,[72] and Eun Suk Cho.[73] Deprivation of the rural populace could easily cast them as "second-class citizens." If Berman is correct in arguing that Deuteronomy strives to transfer tribal loyalties to national loyalty, the on-the-ground effect would be to subordinate the countryside to Jerusalem and weaken it economically, in spite of the several Deuteronomic measures to mitigate socioeconomic inequality.

It rather looks like the Jerusalem leadership is conceived as an oligarchy that strives to introduce a measure of shared power drawn from the tribal system of decentered rule. In doing so, the new polity may be aimed at assuring socioeconomic relief for the countryside in return for its loss of political power consummated by the concentration of cultic and economic power in the capital. This program spells profits and losses for the rural country folk, who would certainly welcome the relief measures for cancellation of debt but who would chafe at the elevation of Jerusalem at the cost of their own livelihood and culture.

The synchronic proposal of Berman has awakened the above diachronic questions in my mind, for which I have only highly tentative responses pending further study. What I do wish to stress, however, is that Berman has made a significant contribution concerning Israelite *political thought*. No matter how one answers the foregoing diachronic questions, it is indisputable that someone, or some group, in ancient Israel conceived the Deuteronomic polity as desirable and possible, irrespective of when it was formulated or of whether or not it ever became *political practice*. To be sure, devotees of synchronic method must keep the importance of actual practice in mind, but, also, we who favor diachronic method, must not shortchange the presence and power of thought, even if its biblical manifestation is not expressed in terms of formal theory.

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[71] W. Eugene Claburn, "Deuteronomy and Collective Behavior," (Ph.D. diss., Princeton University, 1968); "The Fiscal Basis of Josiah's Reforms," *JBL* 92 (1973), 11–22.

[72] Shigeyuki Nakanose, *Josiah's Passover. Sociology and the Liberating Bible* (Maryknoll, N.Y.: Orbis Books, 1993), 1–112.

[73] Eun Suk Cho, "Josianic Reform in the Deuteronomistic History Reconstructed in the Light of Factionalism and Use of Royal Apology," (Ph.D. diss., Graduate Theological Union, 2002).

My hope for the future is that the resources and insights of the several methodologies in biblical studies can join in serious conversation about social and political texts and topics that have all too often been examined by only one methodology at a time in isolation from all the others. The cross-fertilization of methods promises to yield consequential results for a full-bodied understanding of biblical polities, both in its theory and practice.

EQUALITY AND INEQUALITY IN THE SOCIO-POLITICAL VISIONS OF THE PENTATEUCH'S SOURCES*

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For too long, the political dimensions of biblical thought have been mainly neglected by specialists in biblical studies. As Joshua Berman points out in his engaging new book, those who have attempted to reconstruct political theory in the Hebrew Bible have for the most part been outsiders with little or no specialized knowledge of either the Hebrew Bible itself or the larger world out of which it emerged. Consequently, the results of their investigations have been of limited value to specialists.[74] Berman, in contrast, seeks to address the political dimensions of biblical thought from the standpoint of a specialist, and at some length. He is to be commended for seeking to recover and understand political theory in the Hebrew Bible in a serious and creative way, and for relating what he has reconstructed both to non-biblical West Asian and Mediterranean socio-political models on the one hand, and to ancient and early modern political theory on the other. In what follows, I would like to suggest some alternative perspectives to those advocated by Berman, and also highlight some of his more compelling points.

Berman's thesis is that the Pentateuch, read synchronically as a single document,[75] presents a blue print for a "more egalitarian" "social, political and religious order" that in the main rejects the kind of social stratification and hierarchy otherwise attested in ancient West Asian sources.[76] He emphasizes what he sees as a rejection of inequality in "the notion of a society whose core is a single, uniformly empowered, homogeneous class."[77] Elsewhere, Berman describes the envisioned community as a "homogenous and egalitarian polity."[78] The vision of a more egalitarian society which Berman finds in Pentateuchal texts is, according to him, rooted in the Pentateuch's covenant theology, which casts the common "man" (Berman's term) as well as collective Israel, as the equivalent of a subordinate king in a human suzerain-vassal treaty context, exalting him there-

* My thanks to Karen B. Stern for advice on wording at several junctures, and to Brian Rainey for reminding me of extra-Israelite examples of women's ownership of landed property.

[74] Joshua A. Berman, *Created Equal: How the Bible Broke with Ancient Political Thought* (Oxford Univ. Press, 2008), 28–29.

[75] Ibid., 8.

[76] Ibid., 6–7, 16.

[77] Ibid., 7.

[78] Ibid., 169.

by.[79] As a result, Israelite men are fundamentally equal and worthy of honor, so that their king has unprecedented limits placed on his power, wealth and status, as Deuteronomy stipulates.[80] A number of Berman's observations suggest that he might be on to something. The requirement that every Israelite male appear before Yhwh three times a year with offerings (as in Deut 16:16) is not unlike the requirement that a vassal appear yearly before his suzerain, suggesting a parallel between vassal and Israelite, as Berman argues.[81] Furthermore, there are a number of ways in which the Deuteronomic king lacks the prerogatives of the typical monarch of ancient West Asia, or at least the typical monarch of Mesopotamia or Egypt, about whom evidence survives (e.g., he loses control of debt release, manumission of debt slaves, and land redemption, which are "decoupled from the political order," to paraphrase Berman).[82] Finally, legal limits placed on the accumulation of wealth and on economic exploitation of the vulnerable suggest the presence of an egalitarian impulse that might well be unusual in the larger West Asian context.[83] Thus, Berman has made several trenchant observations that require our careful consideration. There may be ways in which the socio-political vision of texts of the Pentateuch contrasts with what we know of the larger environment, and we have Berman to thank for bringing these points into relief. Still, there are several ways in which a study such as this can be enriched and nuanced: First, by the recognition of different sources with different ideologies in the Pentateuch, and consequently, by the acknowledgment of debate within the larger community that produced Pentateuchal texts and by the recognition of development of socio-political ideas over time. Second, by the adoption of a larger framework for discussion characterized by a serious grappling with treatments of women and resident aliens in the Pentateuch, who are explicitly included in the covenant community in several texts, and with persons with disabilities, who are unmentioned in Berman's treatment, though some are the focus of Pentateuchal interest. The remainder of my remarks will address these points.

How might reference to sources increase the potential for a richer and more nuanced analysis? One striking example is the issue of holiness, and how it is treated by the various sources. Though Berman has little to say about holiness, a debate is evidenced in the text between those who would reserve holiness for the priesthood alone among persons, and those who would distribute it in a more egalitarian manner. P, in Num 16:1-17:5, is vehement that holiness belongs to the Aaronid priesthood alone, and Korah's destruction by Yhwh in that narrative serves to prove the point. For P, holiness is a jealously-guarded commodity that sets the priests apart from all

[79] Ibid., 39.
[80] Ibid., 53.
[81] Ibid., 42–44.
[82] Ibid., 98–107.
[83] Ibid., 81–98.

others, an important marker of their privilege and superior status.[84] In contrast, Deuteronomy speaks of Israel as a whole as an עַם קָדוֹשׁ, "a holy people," to Yhwh, chosen by Yhwh as his עַם סְגֻלָּה (Deut 14:2). H also envisions a wide distribution of holiness, commanding Israel to be holy like Yhwh himself (e.g., Lev 19:2; 20:7). Like D, H speaks of Israel as holy in texts such as Lev 20:8 (אֲנִי יְהוָה מְקַדִּשְׁכֶם, "I, Yhwh, sanctify you"—here, I obviously reject Jacob Milgrom's view that Israel is only potentially holy according to H).[85] Clearly, for D and H, in contrast to P, holiness, the divine quality par excellence, is something shared by the people of Israel as a whole. It sets them apart from other peoples—implied by D in Deut 14:2 and H in Lev 20:26—but does not function to create hierarchy within the Israelite community itself. It may be that the P vision of a holy priesthood and a common Israel represents a conservative viewpoint and that the D and H visions of a widely distributed holiness are the result of creative innovation and a move toward a greater degree of egalitarianism than even Berman himself envisions, an egalitarianism that strips the priesthood of at least some of its privilege. (At several points, Berman acknowledges a privileged priesthood as the major exception to his thesis, though he does not explore priestly privilege in detail.[86]) If Exod 19:6, a text mentioned by Berman at several points, is indeed a D supplement to Exod 19 as Noth and others have maintained, it goes a step further than Deut 14:2, envisioning Israel not only as a "holy nation" (גּוֹי קָדוֹשׁ), but also as a "kingdom of priests" (מַמְלֶכֶת כֹּהֲנִים).[87] The latter claim would effectively diminish the privileged status of the priesthood even more than the priests' loss of an exclusive claim to holiness. Texts such as these suggest something interesting and important: debate and innovation *within* Israel with respect to ideas about privilege and status. This is a perspective that can only emerge with a source-critical approach to this material. Based on this evidence, it is insufficient simply to acknowledge that the Pentateuch privileges the priesthood. The picture is clearly far more complex than that and, from my perspective, it is precisely that complexity which makes the topic so interesting.

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[84] See further Saul M. Olyan, *Rites and Rank: Hierarchy in Biblical Representations of Cult* (Princeton: Princeton Univ. Press, 2000), 27–35, on holiness and privilege in general, and 28–30 on Num 16:1–17:5 in particular.

[85] *Leviticus 1–16* (AB, 3; New York: Doubleday, 1991), 686–87, 694. For critique, see my *Rites and Rank*, 121–22, and 173–74, n. 3. The same idiom is used concerning the sanctuary in Lev 21:23 and concerning the priesthood in 22:9 (cf. 21:8), both of which are sanctified.

[86] *Created Equal*, 6, 67–68 for example.

[87] On Exod 19:6 as a D supplement, see, e.g., Martin Noth, *A History of Pentateuchal Traditions* (trans. B. W. Anderson; Chico, Calif..: Scholars Press, 1981), 31, n. 112. See also William H. C. Propp, who argues in contrast to me that Deut 14:2–21 is a commentary on Exod 19:5–6 (*Exodus 19–40* [AB, 2a; New York: Doubleday, 2006], 158).

Berman acknowledges that women and foreigners are purposely not in his purview in this study, and justifies their exclusion from consideration by suggesting implicitly that they are not included in the "core Israelite citizenry of free persons," the group of interest to him.[88] In my view, they, as well as persons with disabilities (a category ignored by Berman), ought to have been included. Not because of the exigencies of political correctness, and not because of the increasing interest of the field (and our larger societies) in issues of gender, disability, and the construction of the alien other, but because a number of Pentateuchal texts of great interest to Berman—in particular, the book of Deuteronomy—include women and resident aliens *in the covenant community* explicitly, and address the place of at least some persons with disabilities in that community. If Berman's focus is "a core Israelite citizenry of free persons" as he states, and women, resident aliens and persons with disabilities are part of that "core citizenry" in that they are part of the covenant community according to at least some texts, their treatment should be considered in a book that seeks to contrast the socio-political vision of the Pentateuch with that of Israel's neighbors with respect to the "core citizenry."

I will begin with persons with disabilities. Deut 23:2 excludes men with two types of genital damage from ever entering the "Assembly of Yhwh," an opaque expression understood by the earliest interpreters of Deut 23:2-9, the larger text of which 23:2 forms a part, to refer to the Jerusalem temple (e.g., Lam 1:10).[89] So, for the sake of argument, let us assume that entering the assembly of Yhwh means securing access to the sanctuary according to Deut 23:2. Permanent exclusion from Yhwh's temple effectively stigmatizes those Israelite males who are so proscribed, casting them as unworthy of presenting themselves before Yhwh, a requirement three times per year for all males according to Deut 16:16, as Berman himself has emphasized. It also effectively marginalizes them. That the Yhwh of Deuteronomy is also not particularly fond of the sacrificial animal with a physical defect (מוּם) such as genital damage is not without significance. Such an animal is excluded from sacrifice and referred to as an "abomination of Yhwh" in Deut 17:1, strong, highly stigmatizing rhetoric. It would seem that Deut 17:1 suggests indirectly that Yhwh's attitude toward the man with genital damage might well be the same. Such envisioned social marginalization and stigmatization of certain free Israelite males suggests a vision of social *inequality* in the book of Deuteronomy that goes well beyond whatever privileges the Deuteronomic priesthood might possess vis-à-vis other Israelites. Thus, if disability is introduced as an axis of analysis, giving us a broader perspective on our evidence, Deuteronomy's social vision appears less egalitarian and the society envisioned less homogeneous than Berman suggests.

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[88] *Created Equal*, 13–14.

[89] Later materials evidence the intermarriage interpretation, e.g., Neh 13:1–3.

If we turn to H's priestly laws in Lev 21:17-23, disability emerges as a phenomenon producing status differentiation *within* the ranks of the priesthood, for the priest with a defect (מוּם) is excluded from altar service and has the potential to profane the sanctuary should he attempt to offer sacrifices at the altar. Though the priest with a defect still has access to the sanctuary sphere and can eat holy foods, the restrictions placed on his ritual activity and his potential to profane the sanctuary effectively stigmatizes him, casting him as a second-class member of his elite lineage. Like common Israelite males, he may not offer sacrifices at the altar; like his fellow priests, and in contrast to common Israelite males, he may nonetheless eat holy foods. Priestly privilege itself is therefore not equally shared according to Lev 21:17-23; rather, a hierarchy of privilege is suggested by the stigmatizing restrictions placed on the priest with a defect, restrictions which render him not unlike the non-priestly population in certain respects. Thus, there is inequality even within the ranks of the priesthood according to Lev 21:17-23, suggesting once again that Berman's vision of a privileged, Pentateuchal priestly elite requires greater nuance. I might also add that distinguishing sources in the Pentateuch allows us to compare and contrast the treatment of men with genital damage in Deut 23:2 and priests with genital damage in Lev 21:19: While Deut 23:2 advocates a general, highly stigmatizing exclusion of Israelite males with genital damage, likely from the sanctuary, Lev 21:17-23 does not ban the priest with genital damage from the temple sphere, as I have discussed. Thus, distinguishing sources once again allows us access to a variety of viewpoints within the Pentateuch that have important implications for any study of equality and inequality.

Some Pentateuchal texts seem to exclude women and resident aliens from the people of Israel who enter the covenant. An oft noted example is Exod 19:15, which speaks of an obviously all-male עַם, the members of which should not have sexual contact with women as they prepare for their encounter with Yhwh. In contrast, the עַם of Deut 31:11-12 explicitly *includes* women and also resident aliens, who are obligated to hear, learn and perform Yhwh's commandments: "Assemble the people, the men, the women, and the children, and your resident alien who is in your towns, in order that they might hear and in order that they might learn and reverence Yhwh your god, and be careful to do all the words of this teaching." Deut 29:9-12 is similar. Here, wives, children, resident aliens and even slaves, who are presumably of foreign origin, enter Yhwh's covenant along with free male Israelites, are counted among those who become his "people" as a result, and are subject to covenant curses.[90] Given the inclusion of women, resident aliens and, in the case of Deut 29:10, even slaves presumably of foreign origin, in the covenant community according to a text such as Deuteronomy, it is striking to note

[90] The paired expressions "hewer of wood" and "drawer of water" occur elsewhere with reference to foreign slaves (Josh 9:21, 23, 27).

the degree of intracommunal inequality envisioned by that text. Many—though not all— of the laws of Deuteronomy are addressed to a masculine singular "you," which Berman interprets at times as referring to the community as a whole, and at times as referring to the individual common Israelite male.[91] But it can be shown fairly convincingly that this masculine singular "you" is often, if not always, the head of household, or elder, as in Deut 16:11, 14: "You shall rejoice before Yhwh your god, you, your son, your daughter, your male slave, your female slave, and the Levite who is in your towns, and the resident alien, the fatherless person, and the widow who are in your midst…" This "you" is privileged by being addressed directly, where others are spoken of in the third person. This "you" also has ritual privileges. In Deut 26:12-14, it is he who distributes the tithe to the Levite, resident alien, fatherless person and widow, and confesses his conformity to Yhwh's commandments before Yhwh. It is through such ritual agency that the elder's privileged status is created and perpetuated, just as the priest's status vis-à-vis others is established and confirmed through his privileged ritual acts.[92] The elder does the talking for the household in Deut 26:12-14; it is he who performs its ritual acts in that text. In short: there is a greater degree of inequality and privilege manifest in Deuteronomy's social, political and religious vision than Berman acknowledges. Women, resident aliens, and others, though part of the covenant community, have a distinctly inferior status to that of the male head of household as indicated by the privileges the text assigns to him (e.g., ritual agency on behalf of his household both through action and speech). Other males of the household, both immature and mature, are also lacking the privileged status of the elder. Thus, it might be best to speak of a relative egalitarianism envisioned among heads of household who are free of genital damage rather than to speak of a vision of "a single, uniformly empowered, homogeneous class," as Berman does.

There is much more to say about equality and inequality as envisioned by the sources of the Pentateuch, and about differences in the socio-political visions of Pentateuchal texts on the one hand, and non-Israelite materials on the other. I have focused my comments on the former, and also emphasized issues of gender and disability. In conclusion, however, I'd like to mention in passing a few well known examples of non-Israelite gender-based social practices that suggest a greater degree of equality between the sexes than one finds in the socio-political visions of Pentateuchal texts: divorce in Egypt and occasionally in West Asia, which can be initiated by women as well as men; a priesthood that includes women, as in Phoenician and other

[91] For the masculine singular "you" as a reference to the community as a whole, see *Created Equal*, 60; for "you" as the individual common Israelite male, see ibid., 80, by implication.

[92] On rites creating and perpetuating social statuses, see my discussion in *Biblical Mourning: Ritual and Social Dimensions* (Oxford: Oxford Univ. Press, 2004), 4 n. 7.

Mediterranean and West Asian cults; and commonplace female ownership of and trade in landed property, e.g., at Nuzi.[93] In short, when gender is brought into full consideration, the visions of equality in Pentateuchal texts do not appear to be so uniquely progressive after all.

[93] For women initiating divorce in Egypt, see, e.g., Terry G. Wilfong, "Marriage and Divorce," in D. Redford (ed.) *The Oxford Encyclopedia of Ancient Egypt, E-Reference Edition* (Oxford: Oxford Univ. Press, 2001, 2005). Brown Univ. Dec. 8, 2009. http://www.oxford-ancientegypt.com/entry?entry=t176.e0430. On women as priestesses and other cultic functionaries in Mesopotamia and Syria, see, e.g., H. J. Marsman, *Women in Ugarit and Israel: Their Social and Religious Position in the Context of the Ancient Near East* (Leiden: Brill, 2003), 489–93. For women and their relationship to landed property at Nuzi, see M. P. Maidman, "The Status of Free Women at Nuzi," in *CANE* 2:944–45.

A RESPONSE: THREE POINTS OF METHODOLOGY

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My first and most important response to Susan Ackerman, Norman Gottwald, and Saul Olyan, is a deeply felt debt of thanks for investing so much time and energy in their review of my work, and for adding so many stimulating critiques to the discussion. I wish also to thank Bernard Levinson, whose comments from the SBL panel are appearing as part of a larger review essay, in the *Journal of Theological Studies* 61:2 (October 2010). Prof. Levinson has graciously encouraged me to use this forum to respond to his critique. While many interesting points have been raised in these comments I'd like to dedicate my response to three issues, where larger questions of methodology are at stake.

DATING THE TEXTS OF THE PENTATEUCH: CONFRONTING THE COMPLEXITY

Bernard Levinson astutely identifies a double-standard in my work: when I bring into the discussion an epigraphic source from the ancient Near East, I discuss where the text was found and give an overview of the scholarship concerning its historical setting. Yet, when I work with a text from the Pentateuch, that discussion is omitted. I must admit that I am guilty as charged. The dichotomy I employ, however, is driven by methodological concerns. I address this issue first, because I believe that the complexities of dating texts—and our failure to frankly admit those difficulties—are one of the weakest aspects of our discipline as it is practiced today.

We are committed to two methodological callings. As is the case for scholars in any field, we are called to put forth arguments only to the degree that they are supported by the evidence. We may offer conjecture or speculation where the evidence is weak, but when we do so, that evidentiary weakness must be forthrightly acknowledged. At the same time, as biblicists, we are called to examine the texts we work with in their historical and social setting. It is critical that we recognize that these two callings must be pursued in a prioritized order. First, we must consider all of the evidence that may bear on the dating of a text. If the evidence is unclear, or even contradictory, that must be forthrightly acknowledged. When that is the case, it will not be possible for us to posit a clear historical setting for the text at hand. Put differently, these two callings stand in fundamental tension, especially when dealing with the texts of the Pentateuch, where the events recorded have scant attestation outside of the Hebrew Bible. I fear that out of a healthy commitment to examining texts within a specific historical

setting we too often compromise on the first calling: to offer a specific date for a text only when the evidence for it is strong and unambiguous.

In offering this critique of my work, Prof. Levinson takes as a parade example the story of the rescue of Moses in Exod 2:1-10. He encourages us to consider an eighth century date for this pericope. The Moses and Sargon accounts, he notes correctly, contain points of narrative similarity that are not exhibited in any of the other folklore analogues from the ancient world. Noting that the Sargon account was found in Ashurbanipal's library at Nineveh, Levinson correctly notes that a plausible case may be made that the legend is a pseudepigraphic apology for the legitimacy of the neo-Assyrian king, Sargon II (722-705 B.C.E.).

I'd like to follow Levinson's lead, and do the full math, as it were, of the considerations that need to be taken into account to securely date the Exodus text in light of the Sargon account. Doing so, I believe, will well illustrate just how difficult it is for us to date the texts we work with, even when we have in hand a plausible proposition, as is the one that Levinson proposes.

To engage in this examination, I am going to employ a degree of artifice. We know from high school math, that probabilities are compounded. That is, if the likelihood of an event depends on, say, five, factors, then we must compute the likelihood of each factor, and multiply them, for a final determination of probability. Warning: biblicists untrained in statistics (such as the present writer!) should stay away from numbers, and computing the likelihood of anything in biblical studies with quantitative accuracy is surely an impossible task. Nonetheless, I ask the reader's indulgence. Even if I am wildly mistaken in my figures, the exercise, I hope will prove an important point nonetheless.

For the sake of argument, at the outset, I am assigning a 100% certainty to the claim that the Exodus account is borrowed from the Mesopotamian account, and was composed in the late eighth century. From here, we move to consider the mitigating factors.

Let us begin by scrutinizing the security with which we may assign the Sargon account to the late eighth century. Sargon of Akkad (c. 2300 B.C.E.) was the first great conqueror of Mesopotamia and established a vast empire. The stories of his escapades continued to be told for two thousand years after his demise, not only in Mesopotamia but in Anatolia and in Egypt as well. His name is mentioned in inscriptions, omens, historical texts, in Sumerian, Akkadian, Hittite and perhaps also in Hurrian.[94] With the possible exception of Gilgamesh, his position is unrivaled within the literary tradition of Mesopotamian

[94] Brian Lewis, *The Sargon Legend: A Study of the Akkadian Text and the Tale of the Hero Who Was Exposed at Birth* (Cambridge, Mass.: ASOR, 1980), 125.

historiography.[95] There is, therefore, a possibility that this legend, in some form, existed within the Mesopotamian literary tradition long before Sargon II, and that the version we have from Nineveh represents an iteration of that legend expressed in orthography and idiomatic expression that befits the Neo-Assyrian period. But let us say that we consider this highly unlikely. In fact, let us say for argument's sake, that while we can't rule out that possibility, we consider it nine times more likely that the Sargon legend was sui generis in the late eighth century. This now gives our initial premise of an eighth century date for the Exodus account, a probability of 90%.

But perhaps a later date for the Sargon text should be adduced. We have in our possession three fragments of the text from Ashurbanipal's library. A fourth fragment, however, dates from the Neo-Babylonian period.[96] To suggest eighth- or early seventh-century influence, would require us to posit that the relatively small number of scribes of Judah were familiar with the literary corpus of Ashurbanipal's library. Are we certain that such access was even possible? Yet, during the Neo-Babylonian period, with most of Judah in exile, many paths of influence could have developed. But let us say that this scenario, too, is unlikely. Let us say that we consider it four times as likely that Judah's exposure to the Sargon legend was in the eighth century. This means that we assign it an 80% probability. Compounded, our original hypothesis now bears a 72% probability.

Now let us enter the Exodus narrative into the picture. The account reveals several distinctly Egyptian aspects. The words תֵּבָה (Exod 2:3, 5) and גֹּמֶא (2:3) are Egyptian loan words, and the name Moses is also of Egyptian derivation.[97] Moreover, from the time of Ramses XI (11th c.) comes a record of an Egyptian woman who adopted the children of a female slave and emancipated them to make them her heirs.[98] Perhaps a late-second millennium Egyptian influence should be adduced for our text. But let us say that this scenario, too, is unlikely, and that we again consider it four times as likely (and hence an 80% probability) that the Moses account was composed under Judah's exposure to the Sargon legend in the eighth century, and not in Egypt four centuries earlier. Compounded, our original hypothesis now bears a 57% probability.

The Moses account also bears striking resonance with laws found in the *ana ittishu* texts, bilingual Sumerian and Akkadian texts from the Old Babylonian period in which a child is found, recognized as a foundling, delivered to a wet nurse for a set wage, weaned, returned to his owner, and finally adopted. These texts suggest that following the adoption, a new son

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[95] Ibid., 109.

[96] Ibid., 5.

[97] William H. C. Propp, *Exodus 1–18* (AB, 2; New York: Doubleday, 1998), 149.

[98] Alan H. Gardiner, "Adoption Extraordinary," *Journal of Egyptian Archaeology* 26 (1940) 23–28.

would be given a name.[99] Moreover, three other ancient Near Eastern legends of special children being saved from waters in infancy have been identified in addition to the Sargon legend, including two from the Late Bronze Hittite Empire,[100] all of which might suggest a second millennium provenance for our story. But let us say that the influence of any of these, too, upon the Moses narrative is unlikely, and that we consider it nine times as likely (and hence a 90% probability) that the Moses account was composed under Judah's exposure to the Sargon legend in the eighth century. Compounded, our original hypothesis now bears a 51% probability.

Levinson's proposal assumes that there is literary dependence between the Moses and Sargon narratives, and that it is Israel that is on the receiving end of this. As mentioned earlier, that would assume that the scribes of Judah were highly familiar with the literary corpus of the Neo-Assyrian Empire, even though it is difficult to imagine the mechanism that could have created that degree of mastery. Perhaps, however, the equation needs to be reversed, and it is the Neo-Assyrians who adopted the genre from the Israelites. After Bakhtin, we know for sure that when the conquered and their conquerors engage, cultural exchange is a two-way street. Could it not be that when thousands—maybe tens of thousands—of Israelites were exiled east with the fall of Samaria, that they took with them their legends as well? But let us say that it was four times as likely (and hence an 80% probability) that Judean scribes had mastery of Ashurbanipal's library, and that the Moses account was composed under Judah's exposure to the Sargon legend in the eighth century. Compounded, our original hypothesis now bears a 41% probability.

Finally, let us also consider the possibility that our text was not written in one fell swoop, but underwent extensive editing, with accretions added on at various stages in the Iron Age—and who dares put a probability percentage on that?

I repeat that we must beware of biblicists cooking the numbers, and that the exercise that I have executed here is one of artifice. But even if my numbers are all wrong, it is surely the case that there are compounding factors here that make it extremely difficult for us to marshal the evidence and to date with any confidence the account of the rescue of Moses. I chose this text only because Prof. Levinson did, but I would submit that it is illustrative of the rule, rather than the exception.

Let me emphatically state that I believe that it is critical that we locate our texts within a historical and social setting. The degree of resolution that we can achieve, however, is often only a function, of what is highly conflicting and ambiguous evidence. As I tried to show in the book, all of the sources that I have discussed here are valuable resources for understanding

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[99] George W. Coats, *Exodus 1–18* (Grand Rapids: Eerdmans, 1999), 27.

[100] William W. Hallo, *The Book of the People* (BJS, 225; Atlanta: Scholars Press, 1991), 130–132.

the account of the rescue of Moses. Indeed, it is by taking into account all of the conflicting evidence that we get the fullest picture. We have good tools at our disposal, and can achieve a degree of resolution about the ancient world that created these texts, that was unimaginable 150 years ago. But we must also proceed to the task of dating these texts with the sober recognition that we view them through a telescope of the hand-held variety, not a Hubble.

P AND THE HOLINESS OF ISRAEL: THE COMPLEXITIES OF WORKING WITH SOURCE CRITICISM

Saul Olyan is certainly correct in noting that when we refract the texts of the Pentateuch through the prism of source criticism, nuance and a variety of viewpoints emerge. And I fully accept his trenchant observation that in Deuteronomy, the definition of the core citizenry is expanded to include resident aliens and some individuals with disabilities. Indeed, Olyan's own work has brought out many of the tensions that exist in the various Pentateuchal codes concerning the in-out status of various individuals in the Israelite polity.

My intention, however, was to compare the texts of the Pentateuch taken together—as a forest with many varying trees—with what we find in the socio-political orders, or "forests" elsewhere in the ancient Near East. Even when we employ a source critical methodology, we discover that the texts assigned to P, participate in the construction of this more egalitarian order. Genesis 1 stands in contrast to the creation myths of Mesopotamia, championing humans as rulers rather than servants. The sacrificial laws of Leviticus 1-16 envision greater participation by the common person of Israel in the central shrine than was practiced elsewhere, and at the cost of significantly fewer surpluses than was standard then at ancient shrines.

I often find working with the documentary hypothesis unsatisfying on two accounts, both of which are exhibited in the source critical approach to the Qorah rebellion in Num 16:1-17:5. The first is that well-developed layers of meaning that emerge from reading a text within the narrative continuum of an actual, existing text, the MT, are rejected in favor of alternative meanings found only in the hypothesized source text. One of the great appeals of source criticism, of course, is that it allows us to make sense of the many inconsistencies found in the Pentateuch by seeing them as threads in a series of larger, competing, ideological tapestries. Yet, sometimes, to my mind, source criticism imposes interpretations that the texts do not fully bear so that those texts will fit the ideology of the hypothetical source to which they have been assigned.

Let us consider the case at hand, the account of the Qorah rebellion. For source critics, the narrative is first and foremost a polemic concerning the question of holiness: who is holy—the Aaronid priests, or the people of Israel as a whole? Yet, when read within the narrative of Numbers, the story is one of an attempted putsch and its unmasking. In the preceding narrative

section Moses and Aaron demonstrate themselves incapable of making good on their promise to bring the people to the land of Israel, and instead forecast, that the Israelites will all perish, wandering in the desert (Num 13-15), a point made explicit in the Qorah narrative (16:13). Qorah seizes the opportunity as a more senior member of the tribe of Levi to make a bid for leadership. Moses' response seeks to expose Qorah's ambition, and does not address the issue of the status of the people as a holy people (16:8-11):

> Moses said to Korah, 'Hear now, you Levites! [9]Is it too little for you that the God of Israel has separated you from the congregation of Israel, to allow you to approach him in order to perform the duties of the LORD's tabernacle, and to stand before the congregation and serve them? [10]He has allowed you to approach him, and all your brother Levites with you; yet you seek the priesthood as well! [11]Therefore you and all your company have gathered together against the LORD. What is Aaron that you rail against him?'

It is true that Moses underscores Aaron's holiness (16:5, 7). But it is not to highlight a zero-sum game, to wit, that Aaron is holy while Israel is not. Throughout the Pentateuch, priestly holiness is raised in a single context: priestly holiness entails the right to serve as priests in the sanctuary, as seen in the frequent juxtaposition to make Aaron "holy" (לְקַדְּשׁוֹ) so that he may "serve" (לְכַהֵן), (e.g. Exod 28:3, 29:44, 30:30, 40:13). This is what is at stake in this story: who is holy that he may serve. Aaron alone possesses the highest rank of holiness, and hence is the sole legitimate priest. This narrative assails those who would usurp the priestly privilege of sanctuary service, but does not place as its focus the question of whether Israel is a holy people. Were this narrative truly a polemic against the contention of the holiness of Israel, we would expect that emphasis to come through in Moses' rhetoric. Moses focuses upon the contrast between Aaron and the Levites. Moreover, were the issue at stake the question of the status of Israel as a holy nation, we would expect the test by trial to judge representatives of the entire nation of Israel, and not merely those who contested the leadership of Moses and Aaron. In order to garner wide support, Qorah appealed to what was an undisputed and accurate understanding—that the people of Israel are a holy people, as recorded in many verses elsewhere in Exodus, Leviticus, and Deuteronomy, and not rejected here. A polemic against this understanding should have been expressed in a far less ambiguous way. To my mind, source critical readings of this story have sought to establish a dichotomy here between holy priests and non-holy Israelites so as to sharpen the ideological divide between P and other hypothetical sources, H and D.[101]

[101] It is true that Deuteronomy never refers to the priests employing the root ק.ד.ש. Yet it is equally clear that priests in Deuteronomy are chosen and bear special privilege (18:3–5; 21:5; 26:4). It is also true that Deuteronomy never refers to the central shrine as holy, either. Could it be that Deuteronomy assumes designations explicitly

ARE WOMEN PART OF THE NATION?: EXOD 19:15 IN ITS WIDER CONTEXT

Ideological criticism must always be wary of the charge that it favors agenda over evidence. Feminist interpretation must be wary of such missteps as well, lest its vital voice be compromised.[102] Susan Ackerman cites several discussions of Exod 19:15 within feminist interpretation, and its implications for the status and standing of women within the covenantal community. Some understand the verse to exclude women as addressees when Moses speaks to "the people," הָעָם; others, such as Phyllis Bird, suggest that this verse implies that women are not party to the covenant altogether.

A thorough review of the evidence in Exod 19, however, reveals a picture more complex than the one raised in this literature. There certainly is merit in the claim that the second-person masculine plural form "do not approach" (אַל־תִּגְּשׁוּ) in 19:15 specifically addresses an all male audience. Yet, consistently missing from these discussions is an awareness that other verses in the chapter complicate that conclusion. Take, for example, Exod 19:12: "You shall set bounds for the people (הָעָם) round about, saying, 'Beware of going up the mountain or touching the border of it. Whoever touches the mountain shall be put to death.'" The following verse, v 13, explicitly states that any living being—human or beast—that touches the mountain shall be put to death. Clearly, women are included in the prohibition. The prohibition against the people (הָעָם)—clearly including the women—ascending the mountain, is echoed another three times in this chapter (vv 21, 23, and 24).

How, then, shall we reconcile the implication of verse 15, that only men are the addressees of the call to the עַם, with the implications of the other five verses that women, too, are prohibited from ascending the mount? It seems to me that there are three possible approaches. One is to affirm the feminist reading: on the basis of v 15, we should conclude that men alone are the addressees of the call to the nation throughout this chapter. Indeed, women, too, are subject to death if they ascend the mount, but this is because they are essentially undifferentiated here from the beasts: they are not *addressed* to restrain themselves, but are rather to be restrained by men.

Yet, equally plausible are two other explanations. One is to posit that the very question of whether "the nation" comprises males only, or women as well, reflects a dichotomy that is anachronistic; that identity in the biblical context is first and foremost corporate and collective. The identity of the addressees of the pronouncements to the nation, in turn, is a fluid, changing audience, depending on the context of the call. When the Lord speaks to the nation concerning the prohibition of

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made in other texts?

[102] For an assessment of the character of Esther that draws widely from the writings of Simone de Beauvoir, see my "Hadassah bat Abihail: The Evolution From Object to Subject in the Character of Esther," *JBL* 120 (2001), 647–69.

ascending the Mount, the addressees are all sentient beings—women as well as men. In v 15, where the subject of the address is male ritual defilement, it may well be that that only men are addressed.

A final approach to the question of the addressees in Exod 19 is to claim that at all times the addressees include all men and women. Verse 15, according to this reading, does not, in fact, address the men alone. Rather, v 15 prohibits sexual intercourse for all Israelites. For the Hebrew Bible, however, sexual relations are inherently a male-initiated activity, and hence references to such relations are always expressed as an action that a man does to a woman (י.ד.ע., ב.ו.א, ש.כ.ב., נ.ג.ש.). To be sure, this is itself a reflection of the Bible's androcentric nature, but since there is no other way to tell the Israelites "do not have relations," we cannot conclude that only men are the addressees in the call to the nation in v 15.

I allow that the first option I presented, what I termed the feminist interpretation, may be the correct one. The feminist critique is compromised, however, by not fully admitting the degree of complication these verses display.[103]

[103] For the record, I am in full agreement with Ackerman that women are not included in the call to pilgrimage in Deuteronomy. That this is so is evident from the citation that she herself references from my work (*Created Equal*, 60):

> From a literary standpoint, Deuteronomy is structured as a series of addresses to Israel as a collective "you": " *You* shall love the Lord your God with all your heart" (6:5); "*you* shall feast [in the temple] before the Lord your God, happy in all the undertakings in which the Lord your God has blessed *you* " (12:7)… All men are equal before the Lord, because all share the status of the subordinate king of the suzerainty treaty."