THE IDEOLOGICAL FUNCTION OF THE ASYLUM LEGISLATION IN DEUTERONOMY 19:1-13

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ABSTRACT

While the book of Deuteronomy is rich with ethical, moral, and religious messages, themes and teachings for the reader, one towering theme which has had an enormous impact in the interpretational process over the years is the "centralization of the Jewish cult." Its general acceptance by the majority of the academic world has led some to conclude that this centralizing idea or ideology lies at the heart of the book of Deuteronomy and its laws.

This thesis responds to these claims by attempting to show that a "decentralized ideology" is evident in the Asylum Legislation of Deuteronomy 19:1-13, running against the norm of the law code and the book of Deuteronomy. The study will also show that the contradicting ideology is a result of the author or authors attempt to re-appropriate the law code, so as to be more receptive and accommodating to a variety of contexts in the history of Israel.

DECLARATION

I declare that this work has not used any material that has been previously submitted for a degree or diploma in another institution without due acknowledgement. I also declare that the work has not used any material, heard or read, without proper acknowledgment of the source.

Signed: _____

Date: _____

DEDICATION

For my wife

Josey

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Acknowledgments

"I will give thanks to the Lord with my whole heart; I will tell of all your wonderful deeds, I will be glad and exult in you, I will sing praise to your name, O Most High."(Psalm 9:1-2 NRSV)

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List of Illustrations

List of Abbreviations

ABD	*Anchor Bible Dictionary*
ANE	*Ancient Near Eastern*
AOTC	*Abingdon Old Testament Commentaries*
BC	*Book of the Covenant*
BDB	*Brown-Driver-Briggs Hebrew and English Lexicon*
BOTCS	*Books of the Old Testament in Colloquial Speech*
CBTJ	*Calvary Baptist Theological Journal*
CCCS	*Congregational Christian Church Samoa*
D	*Deuteronomic author*
DC	*Deuteronomic Code*
ER	*Encyclopedia of Religion*
ERE	*Encyclopedia of Religion and Ethics*
ICC	*International Critical Commentary*
ISBE	*International Standard Bible Encyclopaedia*
ITC	*International Theological Commentary*
JBL	*Journal of Biblical Literature*
JCFS	*Journal of Comparative Family Studies*
JPS	*Jewish Publication Society*
JPSTC	*JPS Torah Commentary*
JSOT	*Journal for the Study of the Old Testament*
JSOTSup	*Journal for the Study of the Old Testament—Supplement Series*
LXX	*Septuagint*
NIBC	*New International Biblical Commentary:*
NIBC	*New Interpreter's Bible Commentary*

NICOT	*New International Commentary on the Old Testament*
NIDOTTE	*New International Dictionary of Old Testament Theology and Exegesis*
NRSV	*New Revised Standard Version*
NT	*New Testament*
OT	*Old Testament*
OTL	*Old Testament Library*
STS	*Second Temple Studies*
TDOT	*Theological Dictionary of the Old Testament*
TOTC	*Tyndale Old Testament Commentaries*
WBC	*World Biblical Commentary*

Introduction

Constitutions and formative documents are of great significance to any nation or country. Such documents are common when declaring independence from foreign rulers and dictators. Thus it would be natural to assume the great influence such backdrops have on the drafting of such important paperwork. Normally, recipients of such documents are reminded of the various struggles and conflicts of their ancestors. Furthermore, it is this experience of the ancestors which defines how they instruct and guide the future generations so as to avoid the same unpleasant experiences they had to endure. The main vision of such documents is admirable in nature with the objective that future generations are ensured a life of freedom and prosperity. Therefore, it would be easy to assume that the legislations and laws which function to instruct and guide are very much straightforward and uniform in ideas.

The book of Deuteronomy is believed to function as such, to instruct and guide the community.[1] This would then presuppose similar characteristics of promoting standardized ideas adding up to the major concern, that is, to ensure the well-being and prosperity of the future generations of the nation of Israel. This concern can be labelled under one concept, justice. Justice and the implementation of justice would then be the ultimate objective of such a utopian vision of a community. Of central significance to the book of Deuteronomy is its law code, designated the Deuteronomic Code, henceforth DC (chapters 12-26).[2] J. Gordon McConville in *Law and Theology in Deuteronomy* employs the assumption that the theology of the book of Deuteronomy as

[1] This function is widely accepted as will be seen in the Literature Review.

[2] While there is a general reference to the book of Deuteronomy as a whole, this thesis focuses more specifically on the Deuteronomic Code, henceforth, DC (12-26). Given the central significance of the DC to the author or authors of the book as a whole, the main ideas, concerns, theologies, ideologies, issues, etc. of the DC shall also be generally assumed for the entire book.

a whole is presented clearly in the Laws of the DC. By "theology," McConville refers to the messages and concerns of the author or authors of the book of Deuteronomy.[3]

One of the major theologies or concerns of the book is the "centralization of the cult"[4] which presupposes a sense of unity and solidarity. While some chapters of the DC acknowledge the concept of centralization, others fail to refer to it.[5] Why? This is the problem that this study wishes to investigate.

This work focuses on the Asylum Legislation in Deut.19:1-13 as a case study to show two things; one, that the Asylum legislation promotes a decentralized ideology running against the norm of the law code, and second, that the conflicting ideology of Deut 19:1-13 is an attempt to re-appropriate the law code to account for the Jewish communities in dispersion.

The study commences in chapter one with a review of relevant literature focusing mainly on the proposed functions of the Asylum Legislation in Deut.19:1-13, as well as views for the dating of the material. Given the nature of the problem and study, "Ideological Criticism" as put forward by Gale A. Yee[6] is the method selected. Together with a necessary discussion on the concept ideology, they make up the content of chapter two. Chapters three and four will consist of the first part of Yee's method; that is, intrinsic investigation, and chapter five deals with the second, that is, an extrinsic

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[3] J. G. McConville's concern in his study is the negligent attitude towards the literary context of the laws and the theology that they present. He assumes that the presentation of the laws in the book of Deuteronomy is a representation of its theology. By examining the cultic laws in Deut.12, 14, 15, 16, and 18, McConville aims to explore how this theology is reflected in the laws. —McConville, *Law and Theology in Deuteronomy, JSOTSup* (Sheffield: JSOT Press, 1984), 1-2.

[4] Gerhard von Rad, *Deuteronomy*, OTL, trans. Dorothea Barton (Gottingen: Vandenhoeck & Ruprecht, 1964), 16-18. Yairah Amit notes "centralization of worship" as the main ideology of the book of Deuteronomy. —Amit, *History and Ideology: An Introduction to Historiography in the Hebrew Bible*, trans. Yael Lotan (Sheffield: Sheffield Academic Press, 1999), 50.

[5] The following units are believed to have the assumption of 'centralizing the cult' in mind — Deut.12, 14:22-29, 15:19-23, 16:1-17, 17:8-13, and 18:1-8 —von Rad, *Deuteronomy*, 16-18.

[6] Gale Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," in *Judges and Method: New Approaches in Biblical Studies,* ed. Gale Yee (Minneapolis: Fortress Press, 1995), 146-170.

examination which places the findings of the intrinsic analysis in an appropriate social-historical setting.

The limitations of the study are (1) because focus is directly on the Asylum Legislation of Deut.19:1-13, this will not be sufficient to totally re-direct an understanding of the DC; further studies would be required on the individual laws to prove or disprove the argument. Thus, (2) the conclusions which shall be drawn from the study will be an acknowledgement of the existence of contradicting ideologies within the legal code.

Chapter 1

Literature Review

A. The Function of the Asylum Legislation in Deuteronomy 19:1-13

The presupposition carried throughout this work is that the Asylum Legislation in Deut.19:1-13, as part of the DC and the book of Deuteronomy plays a particular role, in light of the total interests of these larger literary units. Thus, perspectives and viewpoints of academics of the past and present will be discussed and assessed, to highlight the nature of this relationship. While the review takes into account the compositional date and function of the DC and the book of Deuteronomy, the major focus is to discuss the function of the Asylum Legislation in light of the purposes of the DC and the book of Deuteronomy.

(i) Peter C. Craigie

Craigie sees Deuteronomy as a unified literary whole. This is evident with the great emphasis placed on the importance of the ANE *vassal* treaties,[1] which are believed to have had major influence on the composition of the book as a whole. The question of date and authorship are treated in light of the ANE treaties. Craigie at first acknowledges two possible periods, which are believed to have permitted traditional forms of such treaties. First, during the time of Moses or shortly after his death, and

[1] In this treaty, the dominant side, the suzerain king offers certain conditions to the loyal smaller side, the vassal. A vassal would agree to the terms of the suzerain in return for the suzerain's protection from enemies. Peter C. Craigie provides a brief explanation of these treaties and Israel's adaptation on p.23. —Craigie, *The Book of Deuteronomy*, NICOT, ed. R. K. Harrison (Grand Rapids: William B Eerdmans Publishing Company, 1976), 22-24. See also J. A. Thompson, *Deuteronomy: An Introduction and Commentary*, TOTC, ed. D. J. Wiseman (Leicester: Inter-Varsity Press, 1976), 17-21.

second, the 7th century with the presence of the Assyrian state treaties of Esarhaddon. Based on the close resemblance of the book of Deuteronomy and the treaty form during the Mosaic period, Craigie concludes that this should be the more appropriate compositional date.[2] In light of his proposed function of the book, Craigie sees the possibility of the book of Deuteronomy in its final form during the 'covenant of renewal ceremony' at Shechem.[3]

In light of Moses' approaching death, the people needed to realize that succession in human leadership had no effect on the fact that it is actually Yahweh who is the "true leader of the covenant." It was Yahweh that conquered the enemies during Moses' time; Yahweh will continue to act for the people regardless of who the human leader may be. Thus, the author intended the book of Deuteronomy to be a "covenant renewal document," aimed at stimulating and re-affirming the obedience and commitment of the covenant people to Yahweh.[4] The covenant renewal ceremony is also believed to have been repeated in the Promised Land under Joshua (Josh. 8:30-35).

Craigie perceives the function of the Asylum legislation in light of "Israelite criminal law," that is, to provide refuge for the manslayer only. The legislation's failure to mention any cities by name is attributed to the fact that the people are still looking forward to enter the Promised Land.[5] Thus, for Craigie, the legislation functioned as part of the covenant renewal ceremony.

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[2] Craigie, *The Book of Deuteronomy*, 24-29.

[3] Craigie, *The Book of Deuteronomy*, 24-32.

[4] Craigie, *The Book of Deuteronomy*, 31.

[5] Craigie, *The Book of Deuteronomy*, 265.

(ii) Christopher Wright

Wright refers to the DC as the "Central Core" with the understanding that it is here where the thrust of the writings of Deuteronomy lie. Like Craigie, Wright advocates the view that the law code is of ancient origin, attributing the words to the person of Moses. Unlike other scholars Wright deems insignificant the hermeneutical attempts that place the social location of the author and the composition of the book at a later date, other than that narrated.[6]

Although Wright believes the book to have "missiological significance" meant for all generations, the book primarily served to exhort the Israelites who were about to enter Canaan, a land which contained its own culture. Its purpose was to arm as well as to encourage people to live according to God's objectives.[7]

It is part of this godly living in which the Asylum Legislation plays its role. The legislation introduces a larger literary unit (19:1-21:9) believed to emphasize the prohibition on murder, that is, the sixth commandment "you shall not murder" (Exod.20:13). For Wright, the legislation is addressing the issues of "anger and haste" which is perceived to be the source of injustices. The innocent slayer thus needed to be safeguarded. The unintentional slayer was no different from the victim of intentional murder. Systems needed to be improved to ensure this safety.[8] If the people were to live in accordance to the will of Yahweh, the shedding of innocent blood needed to be prevented.

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[6] Christopher Wright, *Deuteronomy*, NIBC, ed. Robert L. Hubbard Jr., (Massachusetts: Hendrickson Publishers, Inc, 1996), 3-8.

[7] Wright, *Deuteronomy*, 8-10.

[8] Wright, *Deuteronomy*, 8-10.

(iii) Adam C. Welch

Adam C. Welch's study deals directly with the DC in an attempt to seek out exactly what is demanded by the laws. For Welch, the academic world had become so content with the association of the laws and the centralization of the cult, it had become for some the only right way to interpret the book of Deuteronomy. Enlightening results of later studies on the history and cult of the Israelites demanded that the questions regarding the purpose and aim of the DC be revisited. This is the thrust of Welch's work—to re-examine the laws of the code with the objective to uncover the alternative mindset of the law-givers.[9]

In his findings, Welch discloses that the centralization of the cult is only called for in Deut. 12:1-7, but also adds the possibility of it being a later addition. For the remainder of the DC, Welch concludes that the author or authors are dealing directly with issues of everyday life within the society. Hence, in place of being "the programme of the reformers"[10] as generally thought, the alternative proposal is that the DC functioned as a manual for community life.[11]

Welch believes that the DC was the result of a lengthy process which emerged from within a religious group led by Samuel of Ephraim. The movement is believed to have originated from the Northern kingdom—specifically Benjamin and Ephraim—with the purpose of uniting the people of Israel.[12] In a context of mixed cultures,

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[9] Adam C. Welch, *The Code of Deuteronomy: A New Theory of its Origin* (London: James Clarke & Co. Limited, 1924), 19-23.

[10] Welch, *The Code of Deuteronomy*, 9.

[11] Welch, *The Code of Deuteronomy*, 195.

[12] Welch makes reference here to the fact that the conquest of the Promised Land was more likely a gradual process occurring sporadically over the land. The status of the people of Israel differed in the various areas. That is, some were "masters" while others were "subordinate." This together with the fact that foreigners occupied areas between the various Jewish settlements disrupted the unity of the people of Israel. The Jewish religion was the only means which could bring unity in such circumstances. This resulted in the revival of the religion. —Welch, *The Code of Deuteronomy*, 206-211.

religion was the only unifying factor for the Israelites—it defined their way of life.[13] Thus this manual for community life also saw the resurgence and revival of the religion.

As for the Asylum legislation, Welch sees Deut 19:1-13 as an improvement on the covenantal law (Exod.21:12-14). Other views which make the same comparison believe that the centralization of the cult defined the emergence and development of the cities from the original asylum altars. In response, Welch's comparative analysis sees a transition from 'desert law' to the new law. It reflects a transition of a people moving from the desert life to a more settled arena. For Welch, the new law was addressing weaknesses in the desert law of blood avenging. The purpose of the law was to ensure that the killer will live to have a fair trial, a luxury very unlikely in the desert.[14] The legislation is appropriated to the reign of David for two reasons; David is reported to have taken up the responsibility of providing refuge from blood-avengers. Furthermore, the expansion in the boundaries of the kingdom would make sense of required extra cities.[15] For Welch, the legislation is to be seen as part of the manual for revival of religion in community life, not serving the regime to centralize the cult.

(iv) John A. Thompson

J. A. Thompson, like Welch, also perceives the compositional date of the book to be during the period of the "United Monarchy" of Israel.[16] While Thompson acknowledges the presence of ancient material,—some probably from Moses—the compilation of the book did not take place until long after the death of the patriarch.[17]

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[13] Welch, *The Code of Deuteronomy*, 206-211.

[14] Welch, *The Code of Deuteronomy*, 136-143.

[15] Welch, *The Code of Deuteronomy*, 143-144.

[16] J. A. Thompson, *Deuteronomy: An Introduction and Commentary*, TOTC, ed. D. J. Wiseman (Leicester: Inter-Varsity Press, 1976), 68.

[17] Thompson, *Deuteronomy*, 67.

Thompson believes that the author or authors saw the need to contextualize these words of Moses. They needed to be re-presented in order to accommodate new circumstances, to maintain relevance in these situations and contexts. Hence, this task could have taken place at any point in the history of Israel making it almost impossible to pinpoint an exact date.[18] Thompson, however, believes that an extensive percentage of Deuteronomy emerged long before the Josianic reforms of the seventh century BCE, presumably within the eleventh and tenth century BCE.[19]

Taking into consideration the major themes[20] of the book, it is quite obvious that Thompson sees the purpose of the book as a guide. Despite being closely associated with the monarchy, Thompson does not believe that the laws functioned as a manual for those in administrative positions. In presenting the "will of God which must be obeyed" the book served as a rule of faith that contains "religious instructions." The purpose of such instructions was to enlighten the people on how to live in close relation with God and also with others.[21]

Although Thompson believes certain systems and places for asylum had existed long before the Mosaic era, he sympathizes with Welch that the legislation is very likely to have materialized during the monarchic era. According to Thompson, the existence of the monarchy and government meant that the very nature of administration of justice as an "independent action would be replaced by standard legal procedures."[22] In other words, Thompson like Welch sees a certain transition in the history of Israel promoted

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[18] Thompson, *Deuteronomy*, 68.

[19] Thompson, *Deuteronomy*, 68. —To distinguish whether the compositional of the book occurred under Saul, David or Solomon requires further investigation.

[20] These themes are conveyed in Thompson's discussion of the theology of the book. Thompson, *Deuteronomy*, 68-77. The themes suggest that the book is concerned about the people's covenantal relationship with Yahweh.

[21] Thompson, *Deuteronomy*, 12-13.

[22] Thompson, *Deuteronomy*, 216.

in the legislation. That is, the legislation is legalizing the so-called "desert law" or "independent action" of altar asylum as matters of the state, the community as a whole.

The Asylum Legislation in this respect would be seen as advocating the general purpose of the DC to instruct the people on acceptable behaviour towards Yahweh and others of the community.

(v) Jeffrey H. Tigay

Based on chronological indications, Jeffrey H. Tigay also concludes that the book of Deuteronomy is a product of a long process of compilation. These chronological indications present various stages in the history of the people of Israel, but also in combination with the mega-themes of the book itself. As a result, like Welch and Thompson, Tigay perceives that other sections identify themselves with the early united monarchy. He also endorses a transitional period in terms of the socio-political makeup of the people of Yahweh. He refers to the "civil laws" which portray a time of the "transition from the old tribal-agrarian society to a more urbanized, monarchic one." Although Tigay does not say more about when the addition of other materials take place, he does state that with the exception of a very small percentage, most of the material as we have it before us today finds its final form during the Assyrian era.[23]

The reign of the Assyrian empire required a strong emphasis on the concept of monotheism. The people were vulnerable and exposed to a very appealing multi-national culture which threatened their distinct way of life. The danger of the people adapting the ways of paganism was materializing at a rapid scale especially amongst the

[23] Jeffrey H. Tigay, *Deuteronomy*, JPSTC, ed. Nahum M. Sarna, Chaim Potok (Philadelphia/Jerusalem: JPS, 1996), xxii.

elite. Thus according to Tigay, the book—with its emphasis on monotheism—functions to reinforce loyalty and sole allegiance of the people to Yahweh alone.[24]

According to Tigay, the major concern of the Asylum Legislation is "preventing wrongful punishment." Wrongful execution for Tigay is just as bad as shedding of innocent blood, hence, bringing bloodguilt upon the people and the land.[25] It appears that Tigay perceives the Asylum Legislation to be calling for an improvement of the justice systems in general to avoid wrongful punishment of innocent people. Tigay does not clearly state whether reference is towards wrongful punishments which stem from corrupt practices and are intentional, or unintentional. It does not really matter; both cases bring bloodguilt on the people, a sign of an ungodly society. Prevention of wrongful executions would then be part of proving their loyalty and allegiance to Yahweh.

(vi) Andrew Harper

Andrew Harper supports W. M. L. De Wette's[26] pioneering Josianic dating to the book. According to Harper, the first attempt to centralize worship is during the reign of Hezekiah (725–696BCE) before the later well-known reforms of Josiah (639–609BCE).[27]

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[24] Tigay, *Deuteronomy*, xxi.

[25] Tigay, *Deuteronomy*, 180.

[26] W. M. L. De Wette is well known for his work on the compositional dating of the book of Deuteronomy. Through him erupted a dramatic change in thought regarding the traditional perspective of a Mosaic authorship, and an early dating to the book's composition. De Wette proposed the Josianic dating based on the close association of the book of Deuteronomy and Josiah's reforms. De Wette believed the book function as a "blueprint" to the reforms of Josiah.—cited in Tigay, *Deuteronomy*, xx. This proposed dating has been accepted by the majority, although it has been debated whether the book "influenced" or "was influenced" by the reforms. This dating also influenced the works of well-known scholars Julius Wellhausen, Andrew Harper, Walter Brueggemann, E. W. Nicholson, as well as the few included in the review.

[27] Andrew Harper, *The Book of Deuteronomy*, ICC, ed. W. Robertson Nicoll (London: Hodder and Stoughton, 1895), 20-21.

The first attempt failed and was not sustained following the death of the king, mainly because the concept had only been discussed in the latter part of the king's life.[28]

What was believed to have been found in the temple is not the entire book of Deuteronomy as we have it today but rather chapters 1-26. According to Harper's calculations, this book is believed to have emerged sometime between Hezekiah and Josiah. This is based on the observation that while Josiah's reforms are closely associated with the lessons and laws in the book, Hezekiah's attempts were more distant. In fact, Harper believes that it was because of Hezekiah's reforms the need for direction erupted amongst the nation, resulting in the book of Deuteronomy.[29] The function of the book of Deuteronomy is also to be seen within this timeframe.

During the reigns of Manasseh and Amon, the people were in danger of expressing their loyalty to the pagan gods of threatening Assyria. Like Wright and Tigay, paganism is the problem that is being addressed by the authors who Harper believes were a joint association of prophets and priests. The purpose of the book was to revive the Jewish cult which was in danger of being contaminated by foreign influences.[30] Harper does not make direct reference to the Asylum Legislation. However, if it were to function in light of the general purpose of the book, the function of the legislation would probably be similar to the proposals of Craigie, Welch and Tigay. That is, to emphasize the prevention of wrongful punishments, and instruct on acceptable ethical and moral behaviour.

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[28] Harper, *The Book of Deuteronomy*, 39.

[29] Harper, *The Book of Deuteronomy*, 29.

[30] Harper, *The Book of Deuteronomy*, 37- 47.

(vii) Cecil John Cadoux

At the outset, Cadoux suggests that a comparative study of Deuteronomy and the other books of the Pentateuch will disclose that the former—in terms of its narratives and legal codes—is reliant on the latter, hence, later in dating. Cadoux argues that the author of Deuteronomy had at his disposal the earlier traditions of J and E.[31]

Like Harper, Cadoux endorses the view initially proposed by De Wette. That is, the book discovered in the temple and which influenced the reforms of Josiah in 621BCE was Deuteronomy—although Cadoux believes it was most likely chapters 5 - 28. In rejection of the Mosaic dating, Cadoux refers to the nature of pseudepigraphal[32] writings believed to be common in the ancient days, claiming Deuteronomy to be as such. For Cadoux, the authors of the book were only following what was conventional in their time.[33]

The dating of the book is regarded to be recently before its discovery and the events which followed. Cadoux recommends that its composition is to be found somewhere between 720 – 621BCE.[34] Although he does not specifically mention his reasons for selecting the date 720BCE, it appears that he is referring to the fall of Samaria, recalling a popular view of the prophets who fled southward to Judah. In support of this, Cadoux insists that these prophets intended the book to support the centralization of worship in Jerusalem. This group is also believed to be responsible for additional ancient material which was revised according to the demands of the time.[35]

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[31] Cecil John Cadoux, *The Book of Deuteronomy*, BOTCS 9 (London: Headley Brothers, 1932), 8.

[32] *'Pseudepigraphal'* writings literally mean "false writings." They are understood as "writings attributed to someone who did not write them." G. E. Ladd, "Pseudepigrapha," in *ISBE*, Vol. 3, ed. Geoffrey W. Bromiley (Grand Rapids: William B. Eerdmans Publishing Co., 1986), 1040-1043.

[33] Cadoux, *Deuteronomy*, 9.

[34] Cadoux, *Deuteronomy*, 10.

[35] Cadoux, *Deuteronomy*, 9-10.

Cadoux does not discuss the laws separately but only assumes they may all be addressing the concerns of the entire DC. Thus, the Asylum Legislation for Cadoux would have served its part in the move to centralize the cult.

(viii) Gerhard von Rad

Gerhard von Rad opens his study with a comparison of the DC and the BC. One of the determinations of this study is that the contents of DC portray a later stage in the history of the people. Although von Rad suggests the possibility of another source, it is evident that the DC depended heavily on the BC.[36] For von Rad, the authors formed the book of Deuteronomy by merging traditions from different periods to fit the "theology of the time."[37]

Like Cadoux and Harper, von Rad also advocates the Josianic dating of the book's composition. This is determined in association with the styles of writing and the respective author or authors from which such styles may have emerged. The prominent homiletical style which characterizes the book led to the conclusion that the material emerged from the Levites of Neh.8:1ff. The Levite priests were understood to be responsible for the preservation of the sacred traditions and the legal code. Furthermore, they also had the authority for interpretation.[38] The language of the book however, portrayed a "warlike spirit" bringing complications to this conclusion. For von Rad, it may only have arisen due to the political circumstances[39] of the time and not necessarily a tradition. The understanding that the Levites were responsible for war speeches strengthens the claim of authorship. Von Rad in this respect proposes 701BCE during

[36] Gerhard von Rad, *Deuteronomy*, OTL, translated by Dorothea Barton (Gottingen: Vandenhoeck & Ruprecht, 1966), 13-14.

[37] Von Rad, *Deuteronomy*, 27.

[38] Von Rad, *Deuteronomy*, 24.

[39] Von Rad refers to Josiah's struggle to gain political independence following Assyria's assault on Judah in 701BCE.

Judah's political crisis at the hands of the Assyrians and Josiah's struggle to regain independence. In this campaign, the king was forced to return to the pre-monarchic war strategy of a general call to fight, and "levy of the free peasants." In this context, the Levites and the purpose of their warlike sermons was to "awaken the spirit of the old religion of Yahweh."[40]

As for the function of the book, von Rad believes the author or authors intended it to be a "complete course of instruction."[41] The aim was to motivate the faith of the people in light of struggles they faced, by directing the attention to the bigger picture of Yahweh's plan of salvation. The document was intended to be applicable to a variety of contexts within the history of Israel.[42]

The Asylum Legislation's main goal was to "limit the rights of blood-revenge."[43] According to von Rad, it was possible that the practice of blood avenging continued to be strong in society regardless of the existence of state power. Furthermore, the prohibition against any means which may substitute one's kinship responsibility heightens the type of authority possessed by the blood avenger.[44] In light of the proposed purpose of the book, the legislation appears to address the blood avenger, that is, to closely assess the situation whether it is within the will of God for the slayer to die or not. Accidental death is attributed in the BC (Exod.21:13) to an act of Yahweh.

(ix) Patrick D. Miller

Patrick D. Miller like others consider the compositional process to have taken place in a timeframe of over two centuries—dating the compilation from the eighth to

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[40] Von Rad, *Deuteronomy*, 24-25.

[41] Von Rad, *Deuteronomy*, 29.

[42] Von Rad, *Deuteronomy*, 27-30.

[43] Von Rad, *Deuteronomy*, 127.

[44] Von Rad, *Deuteronomy*, 127-129.

the sixth century BCE. To specifically point out an exact date and the writer of the book would be a task impossible and remains debatable.[45] Miller however, traces the different types of materials and the associate possible dating within the book. Miller acknowledges three possible groups from which the material may have emerged. The first is the prophetic circle as supported by Thompson and Cadoux. The second is the Levitical circle as put forward by von Rad. However, the basis for Miller's conclusion is that only religious figures had the responsibility to oversee and interpret the sacral traditions and documents of the cult. Despite both claims presenting strong arguments, Miller leans more towards proposal of Moshe Weinfeld—that Deuteronomy arose out of the scribal and wisdom circles. The close connection the book has with the treaties of the ANE suggests that the writers were accustomed to these treaties and therefore were probably court scribes. This would place the writings during the time when the monarchy was still functioning.[46]

Themes such as retribution and rewards are characteristic of the wisdom traditions. Furthermore, while other common themes of the book are more closely associated with other traditions and groups, they are also promoted by the scribes and sages themselves. In line with this, the teaching character of Deuteronomy would also be a characteristic of the sages.[47] The purpose of the work is therefore, two-fold, to make known to future generations their history and where they come from, and to instruct the way of proper community life. In other words, Deuteronomy is not only a guide but a timeless instruction which addresses future generations.[48]

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[45] Patrick D. Miller, *Deuteronomy*, Interpretation—A Bible Commentary for Teaching and Preaching (Louisville: John Knox Press, 1990), 2-5.

[46] Miller, *Deuteronomy*, 5-8.

[47] Miller, *Deuteronomy*, 5-8.

[48] Miller, Deuteronomy, 8-10.

For Miller, the major concern of the Asylum Legislation is "justice and humaneness." The legislation does not eliminate the practice of blood-avenging but provides restrictions so that it will serve justice more efficiently.[49] If at a time when the state systems take over legal proceedings, the idea of blood avenging would then fade out. The legislation however, maintains the idea so that the piece of history that is associated with the practice of blood avenging remains. Furthermore, the improvement addressed by the legislation is an instruction for attaining proper justice.

(x) Ian Cairns

Ian Cairns also assumes the ancient origins of the material in Deuteronomy, however, he maintains the composition occurred at a later stage. Internal evidences such as Moses' death (Deut.34:5-8), the writer making reference to Palestine as already settled by the Israelites (Deut.2:12), the existence of concepts pointing to later stages in the history of Israel such as "central sanctuary" (Deut.12:13), etc. all argue against a Mosaic authorship of the book. Based on the close associations between the DC and the BC, Cairns concludes that the writer is merely reflecting and expanding the BC. That is, re-presenting the law in a way to achieve his or her own purposes.[50]

The form and structure of the legal codes portray the Semitic connections of the people as a feature in the book; however, the dominant characteristic is linked to the influence of parallel legal codes of the ANE world. This is considered to be the mark of the Assyrian Empire in the eighth and seventh centuries BCE. Cairns attributes to this period the completion of the bulk of the material, that is, chapters 5-31. The function of this original stage was to assure the Israelites of Yahweh's protection despite the

[49] Miller, Deuteronomy, 145.

[50] Ian Cairns, *Deuteronomy: Word and Presence*, ITC (Grand Rapids/Edinburgh: William B. Eerdmans Publishing Company/The Handsel Press Limited, 1992), 1-6.

pressure and unrest of political crisis. Loyalty of the people to the covenant with Yahweh—by observing the laws—was the only sense of protection.[51]

The remaining chapters are believed to be an addition of the exilic period which forms the three discourses of Moses. The purpose of this complete book following the suggestion by Noth[52] was to show the exiled Israelites that they alone were the sole contributors to their fall.

Although the concept of asylum sanctuaries is not unique to Israel, Cairns believes that the development into cities is. Cairns agrees with Miller on the account that the legislation speaks about practice of proper justice, especially when it involves human life. That is, proper justice is administered by Yahweh alone and not the covenant people.[53] For Cairns, Deut 19:1-13 is applying and developing the asylum law of Exod.21:13-14 to portray this.[54] This reapplication and development would then be an attempt to bring the covenantal people much closer to terms of the covenant, in agreement with the purpose of the DC.

(xi) Terence E. Fretheim

For Terence Fretheim, the composition of the DC underwent a lengthy process of expansion before finding its final form on the eve of the Babylonian destruction in 587 BCE.[55] He believes that the book had existed in its initial stages and refers to it as the "basic core." As the theory goes, this so-called "basic core" or primitive form of the book continued to exist in the Northern kingdom of Israel, up until the destruction

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[51] Cairns, *Deuteronomy*, 8.

[52] Martin Noth, *The Deuteronomistic History*, JSOTSup, trans. Jane Doull (Sheffield: JSOT, 1981), 99.

[53] Cairns, *Deuteronomy*, 62.

[54] Cairns, *Deuteronomy*, 176.

[55] Terrance E. Fretheim, *The Pentateuch*, ed. Gene M. Tucker, Charles B. Cousar (Nashville: Abingdon Press, 1996), 154.

which occurred in 721BCE at the hands of the Assyrians. Despite destruction, the "basic core" and its traditions survived through leaders who sought refuge in the Southern kingdom of Judah. These traditions are believed to have had a great impact on the reforms of Hezekiah. The now expanded traditions were temporarily lost after the death of Hezekiah as the reformation struggled to sustain itself under the ungodly reign of Manasseh. It resurfaced once more during the reign of Josiah and for its final expansion before the Babylonian exile. Fretheim settles with this date of completion with the understanding that those responsible for the writings had knowledge of the upcoming or already occurring exile.[56]

With regards to the setting, Fretheim perceives the book as offering "spiritual direction." Furthermore, the book's concern with a "new generation" leads to the conclusion that the book has a future-oriented purpose.[57] Fretheim alludes to Dennis Olson's definition of catechesis to further express the function of the book;

> …a foundational and ongoing teaching document necessitated by the reality of human death and the need to pass the faith on to another generation.[58]

In other words, Fretheim comprehends that the book functioned to motivate the faith of a people facing destruction. In addition, this document was to preserve these traditions and customs to motivate the faith of future generations. The essential nature of Israel's relationship with their God is vital if the people are to have a future. Thus according to Fretheim, the author is exhorting his contemporaries as well as future

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[56] Fretheim, *The Pentateuch*, 154.

[57] Fretheim, *The Pentateuch*, 160.

[58]Dennis Olson, *Deuteronomy and the Death of Moses: A Theological Reading* (Minneapolis: Fortress, 1984), 6. Cited in Fretheim, *The Pentateuch*, 160.

generations to remain hopeful in God for deliverance despite the complicated situations.[59]

The Asylum Legislation is part of the material that Fretheim considers as containing the essential values and ethical standards for life of the people in the land they have possessed.[60] Thus, it is very likely that Fretheim, like Cairns, perceives the function of the legislation to ensure that the covenant people maintain the required standards which is the only sense of protection in times of distress. Once again, the Asylum Legislation upholds the ideas of the DC and the book of Deuteronomy.

(xii) Ronald E. Clements

Ronald E. Clements discredits the view that the book is what defined the reforms of Josiah. For him, the book was rather an outcome of these reforms. Although he believes that there is a certain unity within the book, the various identifiable sources testify to a group made up of people of various professions. This according to Clements should not lead one to claim the book to be a product of a single period—namely immediately after Josiah—but believes the composition to have extended into the post-exilic period[61] where the priestly class were now of prominent status. According to

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[59] Fretheim, *The Pentateuch*, 154-155.

[60] Fretheim, *The Pentateuch*, 156-157.

[61] G. Holscher is at the forefront of the claim that the compilation of Deuteronomy took place during the exile. An examination of the DC led Holscher to criticize the laws as impracticable, especially in light of centralization of the cult. This for Holscher is a weakness to the claim of the Josianic timeframe. Holscher believes that the idea of centralization would be more appropriate in the exilic period. With the threat of switching allegiance to gods of ruling powers the exilic priests emphasized centralization to preserve and strengthen the religion of the nation. The urgency of the threat may have caused the priest to overlook issues such as the practicality of the laws. —G Holscher, "Komposition und Ursprung des Deuteronomiums," *ZAW*, XL, (1922): 161-255. Cited in Thompson, *Deuteronomy*, 66. See also Welch, *The Code of Deuteronomy,* 16-19.
Martin Noth remains a pioneering figure in OT scholarship. To date, there has been no real challenge or convincing alternative to his theory of the Deuteronomistic History. Noth argues that the book of Deuteronomy together with the books of Joshua, Judges, 1 & 2 Samuel, and 1 & 2 Kings—otherwise referred to as the former prophets—are a unified history of the nation of Israel. Furthermore, this history is believed to have been the work of a single author—referred to as the "Deuteronomistic editor"—who is presumably located in exile. Noth believes that this author had access to many of the old traditions.

Clements, the purpose of these authors throughout the years was to provide a type of manual to ensure the people lived according to God's standards. They re-emphasized the importance of the patriarchal figure of Moses as the role model, and more importantly the covenantal laws which were to be re-appropriated in their time.[62] Brian Peckham,[63] E. Theodore Mullen,[64] and David H. Aaron,[65]—all supporters of the exilic/postexilic dating—acknowledge this notion of re-appropriation of the law.

In light of this, the Asylum Legislation also plays its role in this concern for daily living, focusing especially on the ushering in of true justice. The primary concern of the legislation according to Clements was to ensure that distinction was made between the intentional and the unintentional killer.[66] It appears that the immediate concerns of the

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Undergoing a selective process, the author arranges the material in order to form a history of the people of Israel, but also amends the material in line with his theological interests. Apart from the report of history, Noth also believes that the author simply wished to expose to the people the reasons for the exilic situation, so that they can comprehend why they were currently suffering. —Martin Noth, *The Deuteronomistic History*, trans. Jane Doull (Sheffield: JSOT, 1981), 10.
Other proposed readings for the exilic/post-exilic dating of the book—Brian Peckham, *The Composition of the Deuteronomistic History*, ed. Frank Moore Cross (Atlanta: Scholars Press, 1985). E. Theodore Mullen, Jr., *Narrative History and Ethnic Boundaries*, ed. Edward L. Greenstein (Atlanta: Scholars Press, 1993). David H. Aaron, *Etched in Stone: The Emergence of the Decalogue* (New York/London: T & T Clark International, 2006).

[62] Ronald E. Clements, "The Book of Deuteronomy: Introduction, Commentary, and Reflections" in *NIBC*, Vol. 2, ed. Leander E. Keck (Nashville: Abingdon Press, 1998), 269-283.

[63] Brian Peckham, believes the author wrote with the purpose to affirm Israel's special place from the rest of the world, not only to explain its dispersed situation, but also to provide morals and ethics for the people's survival.—*The Composition of the Deuteronomistic History*, ed. Frank Moore Cross (Atlanta: Scholars Press, 1985), 7-9.

[64] According to E. Theodore Mullen, Jr., the author(s) recounted events of the past—labouring in rehearsing those which did not fit in well with the present— in order to make sense of their current situation. The people were to revisit their previous dealings which should assist them to reason out the unpleasant experience. The book was supposed to guide and instruct the community, as well as to preserve the traditions and culture of the exilic community. —*Narrative History and Ethnic Boundaries*, ed. Edward L. Greenstein (Atlanta: Scholars Press, 1993), 42-43.

[65] David H. Aaron conveys the importance of "memes" in his approach to the function of the book. The transmission of culture and traditions to the future generations is believed to be of great importance to the author. The people now have to deal with a new reality, a switch from being a people existing in their land to a people who are landless. Aaron believes that the concern of the authors is to encourage his contemporaries that their way of life should be maintained despite the current circumstances. To preserve and transmit the culture of the people despite the absence of key elements such as land, government and cult. For Aaron the Deuteronomistic writer is attempting to capture things of the past for the present and the future.—*Etched in Stone: The Emergence of the Decalogue* (New York/London: T & T Clark International, 2006), 182-185.

[66] Clements, "The Book of Deuteronomy," 435-436.

Asylum Legislation are ideological in nature. To legislate for implementation of an asylum city would be very unlikely in exile/post-exile. Clement comprehends that the legislation served to promote improvements on the local systems which advocated proper distinction between the murderer and the manslayer, in other words, proper justice.[67] Thus, the Asylum Legislation shows signs of re-appropriation in its call for improvements to the system so that it effectively serves justice for a variety of contexts.

(xiii) Preston L. Mayes

Preston L. Mayes is not concerned with the issue of dating but focuses specifically on the asylum texts of the Bible. He attempts to synthesize the various biblical accounts to form a summary of the asylum legislation and to further appropriate it to modern society. This approach is based on the observation that no one account fully provides for the legislation and its function. In the analysis, Mayes traces the development within the legislation itself based on the variances and differences of the separate accounts. For Mayes, the variations of the separate accounts regarding the issues of manslaughter and cities of refuge portray the sociological transformations that the nation of Israel had undergone within history.[68]

According to Mayes, the account in Exod.21:12-14 presents the original concept of altar asylum. The notions of nomadic life which Mayes sees evident, place the concept to have emerged during the wilderness experience of the people of God. The accounts in the books of Numbers and Deuteronomy are believed to have emerged on the verge of settlement. The people were to move from the nomadic society to a people dispersed into tribes over a great amount of land. This is evident with the introduction of the number of cities and their locations. Furthermore, the idea of distinguishing

[67] Clements, "The Book of Deuteronomy," 435.

[68] Preston L. Mayes, "Cities of Refuge," *CBTJ* 14, 1 (1998): 1-25.

between the intentional and the unintentional killer also comes into the spotlight, a role which was upheld by Moses who was no longer with the people.[69]

The safety of the manslayer in nomadic times was the self-concern of the manslayer himself. The concern is now intensified with the Deuteronomic writers presenting it as a concern of the nation as a whole. This for Mayes was the main contribution of the Deuteronomic legislation to the development of the concept.[70] He believes that the legislation at its latter stages—that is, beginning with the Deuteronomy legislation—promotes the concern for the human life and justice. Mayes places the function of the legislation within the context of OT laws. For Mayes, the Asylum Legislation of Deut.19:1-13 in particular is a response against the accusations that the previous law was inhumane and outdated.[71]

(xiv) Jeffrey Stackert

Jeffrey Stackert avoids the historical question of the actual cities and their function. His study rather focuses on the literary relationship between the place of asylum in Exod.21:12-14 and the cities of the Deut 19:1-13. The traditional understanding regards the latter as a direct development of the former based on the religious experiences[72] of the nation of Israel. Stackert maintains this traditional view at its most basic level, however he argues that the development from altar to cities is a result of the literary development of the concept within competing ideological frameworks. He argues that the development exists only on the literary level, that is, it

[69] Mayes, "Cities of Refuge," 4-5.

[70] Mayes, "Cities of Refuge," 16-17.

[71] Mayes, "Cities of Refuge," 6-7.

[72] The centralization of the cult is referred to here.

is a result of the interpretation of Exod.21:12-14 and not from a pre-existence of such cities in Israel and Judah.[73]

From the outset Stackert re-establishes the association of the Exodus homicidal law (Exod.21:12-14) and the altar law (Exod.20:24-26). This was to counter claims that even in the ambiguous nature of the Hebrew term for 'place,' none accounts for the word 'altar.'[74] He argues that due to strong connection between the languages of the two laws, the 'place' mentioned in the homicidal law should be seen in its cultic background which in turn refers to the altar.[75]

In a comparative study of the two asylum texts, Stackert concludes that Deuteronomy definitely borrows from the Exodus account. He then moves further to discuss how the transition from place to cities took place. Why cities?[76] For Stackert, the theories already proposed for this improvement in the legislation, all fail to justify the reason for the writer's choice of cities. Stackert attributes the development plainly to the creative mind of the Deuteronomic writer and therefore it would be a mistake to take for granted the mention of the cities in Deut 19:1-13 as a symbol of an institution well established. The Deuteronomic writer makes no connection between the legislation and the centralization of the cult, but offers a response to the circulating covenantal law in light of Deut 19:6. Here it is assumed that the writer secularizes the concept signifying a

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[73] Jeffrey Stackert, "Why Does Deuteronomy Legislate Cities of Refuge? Asylum in the Covenant Collection (Exodus 21:12-14) and Deuteronomy (19:1-13)," *JBL* 125, 1, (2006): 49.

[74] Pamela Barmash argued that although "place" in Exod.21:13 remains ambiguous, it does not refer to "altar" which occurs in Exod.21:14. Hence, she refutes claims that city refuge had developed from the altar refuge (I Kgs.1:50-53; 2:28-34; Neh.6:10-13). —Barmash, *Homocide in the Biblical World*. Cambridge: Cambridge University Press, 2005. Cited in Stackert, "Why Does Deuteronomy Legislate Cities of Refuge?" 24-29.

[75] Stackert, "Why Does Deuteronomy Legislate Cities of Refuge?" 24-29.

[76] This is the question for Stackert, to explore the writer's choice for cities as he believes that other options were available in the time of writing such as 'island asylums' and also 'foreign nation asylum' as places for refuge.

rejection of the altar asylum of the covenantal law.[77] D did not intend for the central sanctuary to serve as a place of refuge. The altar asylum of Exod.21:12-14 closely resembles Deuteronomy's central sanctuary emphasis; hence, D employs the nuance of city. For Stackert, the Asylum Legislation in Deut.19:1-13 functions to show D's rejection of the use of altars as places of refuge.[78]

(xv) James T. Dennison

In a brief literary-analysis of the various biblical texts which deal with the issue of homicide,[79] Dennison[80] from the very outset exposes a close relationship between life and the cities of refuge. This very life is what he considers to be at the core of the legislation in Deut 19:1-13, a claim initially brought forth as a presupposition based on the evolving characteristic of the concept of homicide. Like Wright, Dennison believes the Asylum Legislation to be closely associated with the sixth commandment (Exod.20:13). However, taking the form of "casuistic law,"[81] Dennison believes that the legislation is responding to questions which may not be answered by the prohibition of the sixth commandment.[82]

Furthermore, in referring to the historical institution, Dennison provides an explanation of its role and function which also puts life in the spotlight. Although Deut

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[77] Stackert, "Why Does Deuteronomy Legislate Cities of Refuge?" 29-49.

[78] Stackert, "Why Does Deuteronomy Legislate Cities of Refuge?" 49.

[79] The following are the parallel asylum accounts within the biblical texts. Exod.21:12-14; Deut.4:41-43, 19:1-13; Num. 35:9-34; and Jos. 20:2-9.

[80] James T. Dennison, Jr., "Deuteronomy 19: Chiasmus and Cases," *Kerux* 19, 1, (2003): 53-65.

[81]The OT laws are categorized as either 'apodictic' or 'casuistic.' The former refers to those laws which are general commands and prohibitions. The latter are also referred to as 'conditional laws' characteristic of the "if ... then..." formula. —Horst Dietrich Preuss, *Old Testament Theology*, Vol.1, trans. Leo G. Perdue (Louisville: Westminster John Knox, 1995), 82. See also von Rad, *Deuteronomy*, 17-18. Andrew E. Hill and John H. Walton, *A Survey of the Old Testament*, second edition (Grand Rapids: Zondervan, 2000), 52-54.
A more detailed explanation of casuistic law is undertaken in the Form Analysis in chapter three.

[82] Dennison, "Deuteronomy 19: Chiasmus and Cases," 53.

19:1-13 functions as part of the literary unit which deals with capital punishment, Dennison points out the prominent focus on life. For him, a life lost unjustly can only be fairly repaid with a life.[83]

In an analysis of the structures of the texts, Dennison reveals that all portray a simple chiastic image with the exception of Deut.19:1-13. The Deuteronomic legislation instead presents a "series of rolling chiasms" which themselves form an outer frame in chiastic form. Whereas others have struggled to delineate the awkward organization of the laws in this chapter,—let alone this unit (Deut 19:1-21:9) dealing with capital punishment—Dennison concludes that the chapter was carefully put together.[84]

Dennison is not interested in locating the author or authors and the situations which may have formed chapter 19. He is rather content with determining the function of the legislation in vv. 1-13 within the context of chapter 19. For Dennison, the Asylum Legislation promotes equity and justice in its theological perception of life, that is, life for a life. The introducing of cities of refuge is the attempt to balance out the life which is undeservedly taken away by the blood-avenger, who has no concern other than shedding blood to avenge a relative. The city of refuge legislation takes up the role of the judge and jury who make the distinction between the intentional and the unintentional killing of a person.[85]

B. Summary of Literature Review

On the whole, the majority perceive that the DC makes up most if not all of what is believed to be the original stage of the book. Furthermore, there is a general agreement that the DC is a development and expansion of the BC. In contrast however

[83] Dennison, "Deuteronomy 19: Chiasmus and Cases," 53-55.

[84] Dennison, "Deuteronomy 19: Chiasmus and Cases," 54-59.

[85] Dennison, "Deuteronomy 19: Chiasmus and Cases," 54-59

there is still no agreement amongst the scholars regarding the date and origin of the book. The functions of the DC and the Asylum Legislation for that matter are determined by the historical location and circumstances of the author or authors, especially focusing on major concerns and issues of the writer's or writers' day. Four major proposals for dating have been exposed by the review,

The first proposal considers the DC to be a product of the patriarchal age. Whereas some[86] uphold the view of a Mosaic authorship and dating, others[87] agree only to a certain point as to attribute the traditions and ancient materials to the patriarch. For the latter, the compilation and emergence of the book could only have taken place following the death of Moses. In this time proposal, the DC is believed to serve two future-oriented purposes. (1) The DC is believed to be a document for a covenant renewal ceremony. This claim is based on the understanding that Moses as narrated had initiated the process of covenant renewal and instructed it to be a normal practice on every seventh year (Deut. 31:10-13). This was to ensure the people's loyalty in the midst of other cultures. This perspective situates the composition presumably during the covenant renewal ceremony at Shechem under Joshua (Josh. 8:35). (2) The DC functioned as instructions for the people to live according to the will of Yahweh. Overall, both can be seen as serving one purpose, that is, to remind and encourage the people to maintain good ethical and spiritual living. The only difference is the covenant renewal takes place every seven years while the instructive function is a constant reminder for daily life.

[86] This is a certain reference back to the initial understanding—books written by Moses—before the work of De Wette who moves out from the narrative setting and proposed what initiated a wave of historical proposals.

[87] This particular group is represented in the review by P. Craigie and C. Wright.

The second proposal places the composition in the early monarchic period. Like the previous timeframe, the DC is also believed to be a manual for community life. Once again the concern of foreign influence is evident with the urge to strengthen the unity of the people. This claim is based on the understanding that the conquest of the land was not a total destruction of the inhabitants, but a gradual integration which proved threatening to the cult. The threat also saw the move to revive the religion through religious instructions, that is, to re-emphasize proper covenantal living as well as the strengthening of a monotheistic attitude.

The third proposal places the composition in the eighth and seventh centuries BCE. This remains to be the popular view amongst scholars especially with the emphasis on the reforms of Josiah and the centralization of the cult. Six functions are evident in this period. (1) As a "programme for the reformers." Some have argued that the reforms of Hezekiah (722-701BCE) had provoked the need for such a programme and this resulted in the DC which later influenced Josianic reforms. (2) On the other hand, others have argued that the book was a product of the Josianic reforms, hence, the DC served to promote the centralization of the cult. If this is so, the DC is an ideology which functioned to legitimize the reforming activities of Josiah. (3) The function of a manual or guide is also assumed in this period. (4) The DC was to transmit and preserve the genealogies, history, traditions and culture for future generations. (5) Motivation of the people's faith and revival of the cult is again prominent to counter the threat of foreign influence, especially in the face of death and destruction. (6) Others believe that the DC functions to give assurance of Yahweh's protection from political matters.

The fourth and final proposal attributes the book to the exilic/post-exilic period. (1) Noth believed that the book functioned to assist the exilic community in making sense of their current situation. (2) The DC was to give encouragement, to guide and

instruct the people by providing ethics and morals for survival. (3) The writings dealt not only with the present conditions of the people but were also future-oriented in nature. The dispersed situation of the time not only threatened the unity and solidarity of the people, but it also exposed them to influences. Hence, the danger of the people falling away from Yahweh deemed more threatening. The intentions of the authors were to transmit and preserve the traditions and culture of the people, to provide the DC in a way that it can be applied to a variety of contexts in the history of Israel.

At this point, we may take note of the fact that despite the different proposals for dating, the discussed functions of the DC are all inter-related and at times overlap. For example, all periods acknowledge the concern for revival of loyalty to the covenant with the emphasis of monotheism. Furthermore, this covenantal emphasis is also related to the call for proper justice in society, that is, to be manifested in proper ethical, moral, and religious behaviour. Although the centralization of the cult appears unique to the Josianic and exilic/post-exilic eras, at the core of this concern is once again the emphasis on monotheism. In saying that, we may take note of how the book of Deuteronomy is appropriated to these various contexts. This supports the future-oriented concern of the book, that is, its accommodating nature allows the book to survive throughout the generations, preserving and teaching the fundamental principles of the Jewish theology.

The various functions of the Asylum Legislation on the other hand, show a general agreement with the concerns of the DC and the book of Deuteronomy as a whole. An overall assessment would see that the legislation is highly concerned with the proper implementation of justice. This falls in line with covenantal purposes of the DC and the book of Deuteronomy. Even the discussions from Mayes, Stackert and Dennison put forth functions of the legislation which support the concerns of the author

or authors of the DC and the book of Deuteronomy regarding justice. While there is a general agreement regarding the issues of justice, preservation and transmitting of fundamental principles, spiritual renewal, instruction and direction, etc., only the idea of centralizing the cult lacks full confidence of the academic world. That is, while the majority acknowledge the strong influence it has on the book, Welch had shown that the DC can be clearly comprehended in isolation from this so-called defining idea.

This thesis maintains the general understanding that centralization is a major theme of the DC. However, unlike the conforming nature of the laws to the purposes of the DC in general, the thesis aims to show that the Asylum Legislation promotes a decentralized ideology in contrast to the DC and the book of Deuteronomy.

Chapter 2

Ideology and Ideological Criticism

This brief chapter deals with the method of interpretation employed in the study; that is, 'Ideological Criticism.' But before we examine the method, we will first distinguish a working definition of ideology.

A. Ideology

To date, no single satisfactory definition for ideology has been proposed.[1] This work does not propose to solve this problem, but to single out one of the many connotations in order for the reader to grasp the thrust of the argument. A brief history of the concept will be provided taking note of the main strands of thought. The functions of ideologies will also be determined in light of these definitions before acknowledging the selected nuance.

(i) Etymology

Ideology is a construction of the Greek terms *idea* and *logos* to denote "knowledge of ideas."[2] The term emerged during the 18th century French Revolution as *'ideologie'* from French philosopher Antoine Destutt de Tracy to refer to the "science of ideas." The rationale of this new science was to seek out the birth of ideas in an attempt to understand the general necessities of human life. Given an understanding of the origins of ideas, there would then be the basis for social and scientific advancement.[3] In

[1] Terry Eagleton, *Ideology: An Introduction*, new and updated edition (London/New York: Verso, 2007), 1.

[2] William L. Reese, "Ideology," in *Dictionary of Philosophy and Religion: Eastern and Western Thought*, expanded edition, ed. William L. Reese (New York: Humanity Books, 1999), 328.

[3] George Boas, "Ideology," in *Standard Dictionary of Philosophy*, ed. Dagobert D. Runes (New York: Philosophy Library, 1983), 156. See also Alan F. Geyer, *Ideology in America: Challenges to Faith*

other words, ideology as suggested by Richard Perkins can give a "measure of freedom" deeming it to be a form of liberating phenomenon. According to Perkins, "the more we understand ideologies, the more we can control their inescapable effects on how we interpret social reality."[4] The measure of freedom then, is not from ideologies themselves, but rather over the ideological decisions that are made.[5] This in general can be seen as a positive or non-pejorative use of the term.

The pejorative notion however, was later introduced when Napoleon Bonaparte in 1812 criticized the impact that Tracy and his followers—whom he referred to as *'ideologues'*[6]—had on the French military defeats.[7] The self-crowned French Emperor continued to use the term as such to designate all his enemies, particularly those who upheld a republican ideology.[8]

This pejorative view was believed to be developed further by the philosophers of the 19th century, most notably, Karl Marx and Friedrich Engels. Reacting against religion, they seemingly equated it with ideology, criticizing it as a source of a 'false consciousness of reality'[9] or rather an "inverted consciousness of the world."[10] For

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(Louisville: Westminster John Knox, 1997), 12. Jorge Larrain, *The Concept of Ideology* (London: Century Hutchinson Ltd, 1979), 17.

[4] Richard Perkins, *Looking Both Ways: Exploring the Interface between Christianity and Sociology* (Grand Rapids: Baker Book House, 1987), 101-102.

[5] Perkins, *Looking Both Ways*, 103. Hans Barth also perceived this advantage of ideology as a means for societal developments.—Barth, *Truth and Ideology*, trans. F. Lilge (Berkeley: University of California, 1976), 3.

[6] Ideologues refer to those who support a particular ideology, especially those who promote, express and represent the ideology or ideologies.

[7] David Braybrooke, "Ideology," in *EP*, ed. Paul Edwards (New York/London: Macmillan Publishing Co., Inc. & The Free Press/Collier Macmillan Publishers, 1972), 3 & 4: 124-127.

[8] Boas, "Ideology," 156. See also Reese, "Ideology," 328.

[9] Braybrooke, "Ideology," 125. See also Geyer, *Ideology in America*, 13.

[10] Jorge Larrain, *Ideology & Cultural Identity: Modernity and the Third World Presence* (Cambridge: Polity Press, 1994), 12.

Marx, religion was "the opium of the people."[11] He perceived religion as the product of a class society which conveys a general theory of an abstract world and not historical reality. Religion provided only a temporary remedy and no real solution to problems, and in the process, further promotes the distorted view of the real world.[12] To further comprehend this distortion, Marx proposes the model of "*camera obscura.*"[13] Dealing with the economic situation of his time, where the "alienation in class-divided societies"[14] was of a major concern, Marx perceived religion to be serving the interest of a particular social class, presumably the elite. Despite only being a temporary remedy, religion presented spiritual answers to satisfy the so-called conscience of those who were experiencing suffering and oppression. Religion had distorted the view of the oppressed citizens of reality and their real social conditions. Ideology in this sense seemed to be a set of beliefs which express what people are led to think, in contrast to what is true.

Up to this point, ideologies are still deemed associated with the elite class of society. However, with Vladimir Lenin, a peasantry ideology was introduced with the opposing concepts of "bourgeois" and "socialist" ideologies.[15] The socialist ideology functioned to expose the bourgeois ideologies of the upper class citizens. In light of

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[11] Karl Marx, "Contribution to the Critique of Hegel's Philosophy of Right," in *On Religion*, ed. Karl Marx and Friedrich Engels (Atlanta: Scholars Press, 1964), 41-42.

[12] Marx, "Contribution to the Critique of Hegel's Philosophy of Right," 41-42.

[13] 'Camera Obscura' is the model Marx uses to describe this distortion which would view men and their situations upside down. Karl Marx and Freidrich Engels, *The German Ideology: Parts I & III*. Edited with an introduction by R. Pascal (London: Lawrence and Wishart, 1938), *cited in* Afereti Uili, "The conflict of Biblical interpretations: towards a resolution in the light of the work of Paul Ricoeur," (Ph.D. dissertation, University of Otago, Dunedin, 1998), 71.
—The camera obscura is a visual device. In a 'dark room' light from a scene would pass through a hole, hitting a surface where it is reproduced, in color, and upside-down. It was later developed with the addition of curved lens and mirrors to reflect images onto a viewing surface.

[14] Malcolm Hamilton, *The Sociology of Religion*, second edition (London/New York: Routledge, 1995), 91.

[15] Geyer, *Ideology in America*, 13.

Lenin's discussion, it is evident that 'conflicting ideologies' within a society is acknowledged.

Karl Mannheim proposes four different types of 'utopia,' however for our purpose, only one will be discussed.

> The socialist-communist utopia that envisioned a new egalitarian order upon the breakdown of capitalist culture and institutions.[16]

This concurs with the understandings of Marx and Lenin. Mannheim believes that 'utopia' is a vision to replace the current power structures with an ideal alternative. Utopias function to unmask ideologies of the opposition. For example, Marx's utopian vision of 'communism' was an attempt to overthrow the capitalist ideology. This so-called capitalist ideology would have been considered by capitalist supporters as their utopia.[17] In this sense, utopia also functions as an ideology, depending from where one is situated within society, that is, one's utopia can be perceived by others as an ideology. Utopia can be considered in the simplest sense, an ideology which aims to unmask existing ideologies.

In support of this, Paul Ricoeur sheds more light in the distinguishing of the two.

> Ideologies are, for the most part, professed by the ruling class and denounced by the under-privileged classes: utopias are generally supported by the rising classes. Ideologies look backwards, utopias look forwards. Ideologies accommodate themselves to a reality which they justify and dissimulate; utopias directly attack and explode reality.[18]

For Ricoeur, ideologies presumably refer to existing dominant ideology or ideologies in a society, while utopia would technically refer to the ideology or ideologies which is in contradiction to the dominant. In terms of the contradicting

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[16] Karl Mannheim, *Ideology and Utopia* (New York, Haecourt, Brace and Co., 1936), 240.

[17] Geyer, *Ideology in America: Challenges to Faith*, 16.

[18] Paul Ricoeur, *Hermeneutics and the Human Sciences*, ed. & trans. John B. Thompson (Cambridge: University, 1981), 240.

parties proposed by Lenin, an existing dominant ideology would stem from the elite classes, while utopia is the ideology of the lower class.

Following this brief history, we turn to the concept of ideology today. Terry Eagleton has discussed a wide range of meanings currently in circulation. The following definitions are extracted from *Ideology: An Introduction;*

(a) the process of production of meanings, signs and values in social life;
(b) a body of ideas characteristic of a particular social group or class;
(c) ideas which help legitimate a dominant political power;
(d) false ideas which help to legitimate a dominant political power;
(e) systematically distorted communication;
(f) that which offers a position for a subject;
(g) forms of thought motivated by social interests;
(h) identity thinking;
(i) social necessary illusion;
(j) the conjuncture of discourse and power;
(k) the medium in which conscious social actors make sense of their world;
(l) action-oriented set of beliefs;
(m) the confusion of linguistic and phenomenal reality;
(n) semiotic closure;
(o) the indispensable medium in which individuals live out their relations to a social structure;
(p) the process whereby social life is converted to a natural reality.[19]

First, the pejorative and non pejorative connotations are visible attesting once again to the wide range of meanings. Second, some of these meanings tend to overlap with each other, which is why more than one will be associated with this thesis. Eagleton however, proposes six ways in which ideology can be understood, listing them from the most common to the least.

> The most general of all meanings of ideology stresses the social determination of thought, thus providing a valuable antidote to idealism; but otherwise it would seem unworkably broad and suspiciously silent on the question of political conflict. [20]

[19] Eagleton, *Ideology: An Introduction*, 1-2.

[20] Eagleton, *Ideology: An Introduction*, 28.

> A second slightly less general meaning of ideology turns on ideas and beliefs (whether true or false) which symbolize the conditions and life-experiences of a specific, socially significant group or class. [21]
>
> …a third definition of the term, which attends to the *promotion* and *legitimation* of the interests of such social groups in the face of opposing interests. [22]
>
> A fourth meaning of ideology would retain this emphasis on the promotion and legitimation of sectoral interests, but confine it to the activities of a dominant social power. [23]
>
> …ideology signifies ideas and beliefs which help to legitimate the interests of a ruling group or class specifically by distortion and dissimulation. [24]
>
> There is, finally, the possibility of a sixth meaning of ideology, which retains an emphasis on false or deceptive beliefs but regards such beliefs as arising not from the interests of a dominant class but from the material structure of society as a whole.[25]

After all this, it would now be much easier to comprehend why no-one has been able to come up with a single adequate definition to the term ideology. Before we point out the nuance this study assumes, let us briefly point out two main functions of ideologies.

(ii) Functions of Ideology

From the contradicting connotations discussed, the function of ideology would then depend on which side of the conflict one is situated. We can formulate two major functions of ideology. First, the pejorative notion of ideology—as seen in the understandings of Marx and Engels—functioned to *justify* and *preserve* the status quo.[26]

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[21] Eagleton, *Ideology: An Introduction*, 29.

[22] Eagleton, *Ideology: An Introduction*, 29.

[23] Eagleton, *Ideology: An Introduction*, 29.

[24] Eagleton, *Ideology: An Introduction*, 30.

[25] Eagleton, *Ideology: An Introduction*, 30.

[26] Marx, "Contribution to the Critique of Hegel's Philosophy of Right," 41-42. See also Ricoeur's contribution on p.34 above.

Ideology was seen as a manipulative tool which presents a false consciousness of reality. Gale A. Yee's definition of ideology also portrays this understanding,

> As a complex system of values, ideas, pictures, images, and perceptions, ideology motivates men and women to "see" their particular place in the social order as natural, inevitable, and necessary.[27]

In other words, this perception of ideology functions to legitimize what is; that is, current political, social, and economic conditions. To ensure that the elite maintain their status with all the prestige and power that comes with it, while the lower class citizens remain to be the lower class citizens. This understanding of ideology encourages these low class citizens to accept their low status as the way things should be. Such ideologies would normally stem from these upper class groups as Ricoeur[28] had pointed out.

Second, the non-pejorative notion which falls in line with Mannheim's concept of utopia[29] functions in opposition to ideology as discussed above. Utopias are ideologies which unmask existing dominant ideologies within a society. Politically, this non-pejorative ideology aims for transformation and change of current systems of a society. They function to *correct* oppressive political, social, and economic systems. To take up once again Ricoeur's perspective on these contradicting ideologies, the non-pejorative notion would normally be from "rising classes," or rather the "under-privilege."[30]

In both functions we can see the influence and power that ideologies have within a society. It can motivate people to take a certain standpoint, and accordingly to move in a certain direction. To one extreme, it can motivate people to accept the status quo even

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[27] Gale A. Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," in *Judges & Method: New Approaches in Biblical Studies*, ed. Gale A. Yee (Minneapolis: Fortress Press, 1995), 148.

[28] See quotation on p.34 above.

[29] Refer to Mannheim discussion on p.34 above.

[30] See quotation on p.34 above.

though it contradicts their interests, to the other, it can also motivate people to make a stand against the so-called status quo.

The argument of this work as proposed in the beginning suggests that the Asylum Legislation is promoting a decentralized ideology which runs against the norm of the DC. Thus, the concept of utopia as discussed by Mannheim, Ricoeur and Lenin will be assumed, that is,

> …a vision of an alternative political and social order, offered with the intention and the hope of transforming present power structures and ideas and values that support them.[31]

In light of this understanding, we can then look forward to delineate exactly what the author or authors of the Asylum Legislation are struggling against. Who and what are they opposing? What is it that they are hoping to change? It is more likely that any of the ideologies apparent to rising classes in Eagleton's list may be the determining factor of the utopian vision in the Asylum Legislation, for example, identity thinking. Ideological Criticism is the tool which will aim to provide answers to such questions.

B. Ideological Criticism

According to Yee, the presupposition which guides the task of an ideological critic is two-fold. The "text (1) is a *production* of a specific, ideologically charged historical world that (2) *reproduces* a particular ideology with an internal logic of its own."[32] In other words, behind the text lies a world full of ideologies, and as a product of this ideological context, it encodes these competing ideologies.[33] W. Randolph Tate states that "Ideological criticism attempts to uncover the ideology of the text and the

[31] Geyer, *Ideology in America: Challenges to Faith*, 14.

[32] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 149.

[33] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 147. See also W. Randolph Tate who clearly points the influence social, political and economic issues have on how one writes.—Tate, *Biblical Interpretation: An Integrated Approach*, third edition (Massachusetts: Hendrickson Publishers, Inc., 2008), 325-326.

ideological influences during the history of its interpretation."[34] The primary goal of the ideological critic is to discover the dominant ideology or ideologies embedded in the text as well as ideologies of the unheard voices within the text.

The two fold task of ideological criticism sees a combination of literary critical methods and that of socio-historical analysis. On the one hand, "extrinsic analysis," is the analysis of the social-historical context which produces the ideologies. On the other, "intrinsic analysis" employs literary critical methods to analyze the text in an attempt to unveil the ideologies inscribed within.[35]

(i) Extrinsic Analysis: Ideological Context of the Text

The ideological critic investigates the social and historical worlds which produced the text. Special focus of the extrinsic analysis is placed on the leading "mode of production" in the world that produces the text. Yee here is referring to the social, political, and economic activities and interaction within the society. Such interactions would prompt questions relating to the various structures and dominion within society. Furthermore, questions relating to group division such as class, race, gender, religion, etc. also play a vital role in determining the respective ideologies in a society, that is, different groups may have their own ideologies. Three major modes of production within the history of Israel are identified based on the distinctive political, economic, and social features; familial, tributary and slave mode.[36]

This thesis situates the author(s) of the Asylum Legislation of Deut.19:1-13 within the Persian Era (550 – 330 B.C.E.). This would fall under the 'tributary' mode of

[34] Tate, *Biblical Interpretation: An Integrated Approach*, 325.

[35] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 147.

[36] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 150-151.

production. This extrinsic analysis will not only attempt to define the ideological context that produced the text, but attempt to identify who the author or authors may be.

(ii) Intrinsic Analysis: Ideological Content of the Text

The ideological critic appropriates literary critical methods in an attempt to expose how the text incorporates the ideological context in its rhetoric, and reproduces these ideologies for readers.[37] In other words, the focus is on what is said in the text and how it is being said. Yee points out two distinctive approaches to achieving the intrinsic task, first, taking note of the "absences" within the text. These absences refer to things which the text deliberately leaves out because they contradict a 'certain truth' the author or authors are trying to present. This would present the reader with only half truths of the true reality. Thus, Yee believes that ideologies are most prominent within these so-called absences. The second approach is the examination of the text's rhetoric, that is, the text's capability to persuade readers to agree to and accept a certain point of view, that is, a particular ideology.[38]

The intrinsic analysis to be carried out of the Asylum Legislation in Deut.19:1-13, will employ the following literary critical methods, a rhetorical-critical analysis of the form, structure, grammar and the language of the text. Furthermore, a rhetorical-critical analysis of the intertextual and intratextual aspects of the text will assess how our main text interacts with the parallel biblical accounts (Exod.21:12-14; Deut.4:41-43; Num. 35:9-34; Jos. 20:2-9).

This study will reverse Yee's approach in the appropriation of the method. The intrinsic analysis will initiate the process to be completed with the extrinsic analysis.

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[37] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 151.

[38] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 151-152.

This is an attempt to stay as close as possible to the idea of ‘reading out’ the ideologies to determine the ideological context, than ‘reading in’ the ideologies of a certain ideological context. That is, the objective is to determine the ideologies promoted within the text, then, situate these findings within a specific socio-historical context.

Chapter 3

Intrinsic Analysis I:

The Ideological Content of the Asylum Legislation

in Deuteronomy 19:1-13

As discussed in the last chapter, the intrinsic analysis will examine the content of the text in the attempt to unravel the ideology or ideologies integrated within the Asylum Legislation of Deut.19:1-13. The question which will guide the intrinsic investigation is; what is the rhetorical/ideological function of the Asylum Legislation in light of the author's or authors' (henceforth D) understanding of justice? The intrinsic analysis will be the focus of the present chapter and the next. In this chapter, a rhetorical-critical analysis of the form, structure, grammar and the language of the text will be undertaken. In the next chapter, I will begin with a rhetorical-critical analysis of the intertextual and intratextual aspects of the text. At the end, I will seek to delineate any ideologies present in the text and based on my findings, I will posit an ideological function of the Asylum Legislation in the context of the DC and in the book of Deuteronomy as a whole. This chapter is divided as follows;

A. Translation

B. Rhetorical Analysis

(i) Form Analysis

(a) Form

(b) Genre

(c) Setting *(Sitz im Leben)*

(d) Intention

(ii) Structural Analysis

(a) Basic Structures

(b) Chiasms

(c) Analysis

(iii) Grammatical Analysis

A. Translation

In this attempt to provide a working translation, I have avoided rephrasing the concepts to be more comprehensible to the modern reader, but have maintained the literal meanings of the terms and concepts.

1. When the LORD your God has cut off the nations whose land the LORD your God is giving (to) you, and you have dispossessed them and settled in their cities and in their houses,
2. you shall set apart three cities in the midst of your land that the LORD your God is giving (to) you to take possession of.
3. You shall prepare for you the road, and divide into three parts the territory of your land, which the LORD your God will give (to) you to take possession of, so that any manslayer may flee there.
4. Now this is the matter of the manslayer who shall flee there and stay alive, who will smite his friend without knowledge and he did not hate him previously:
5. Suppose someone goes into the forest with his friend to cut wood, and his hand takes up an axe to cut down a tree, and the iron slips off from the wood and finds his friend and he dies; he may flee to one of these cities and stay alive.
6. But if the way is too long, the redeemer of blood shall pursue the slayer while his heart is hot and overtake and smite his life, but there was not a judgment of death, because he did not hate him previously.
7. Therefore I command you: You shall set apart three cities.
8. If the LORD your God make wide your territory, as he swore to your fathers—and he will give you all the land that he promised your fathers to give you,
9. provided you carefully keep this entire commandment that I command you today, to love the LORD your God and to walk in his ways all of the days—then you shall add (for you) three more cities upon these three,

10. so that blood of an innocent may not be shed in the midst of your land that the LORD your God is giving you as an inheritance, thereby bringing bloodguilt upon you.
11. But if a man hates his friend and lies in wait and he smites the life and dies, and flees into one of these cities,
12. then the elders of his city shall send and take him from there and give him in the hand of the redeemer of blood and he will die.
13. Your eye shall not look upon him with compassion; you shall utterly remove the blood of the innocent from Israel, (so that it is) good for you.

B. Rhetorical Analysis

(i) Form Analysis

Form criticism has developed in various areas since the pioneering studies of Hermann Gunkel (1862-1932).[1] While the original four steps of the method remains,

[1] Hermann Gunkel, *Genesis*, trans. Mark E. Biddle, fore. Ernest W. Nicholson (Macon: Mercer University Press, 1997), 6-9. Other works by Gunkel; *The Folktale in the Old Testament*, trans. M. D. Rutter (Sheffield: Almond Press, 1987). German ed. 1921. *An Introduction to the Psalms*, with Joachim Begrich, trans. James D. Nogalski (Macon, GA: Mercer University Press, 1998). German ed. 1933. *The Legends of Genesis*, trans. W. H. Carruth (Chicago: Open Court, 1901). Reprinted, with Introduction by W. F. Albright. New York: Schocken, 1964. *The Psalms: A Form-Critical Introduction*, intro. James Muilenburg, trans. T. M. Horner (Philadelphia: Fortress Press, 1967). German ed. 1927. *The Stories of Genesis*, trans. John J. Scullion, ed. by W. R. Scott (Vallejo, CA: Bibal, 1994). German ed. 1910. See also Klaus Koch, *The Growth of the Biblical Tradition: The Form-Critical Method* (London: Adam & Charles Black, 1969), 3. — Form critical methods of biblical interpretations was introduced by Herman Gunkel in the late 19th century under the name of *Guttungsforschung* (research into literary types), and *Literaturgeschichte* (history of literature). Influenced by Gunkel, the term *Formgeschichte* (form history) makes an official appearance in 1919 with the publication of Martin Dibelius' *Die Formgeschichte des Evangeliums* (the Form History of the Gospels). The beginning of Form criticism in a way was attributed to the ineffectiveness of Source criticism to record a literary history of the OT. Such a statement was based on two factors, (1) The assumption that several hands could be exposed and grouped within the books of Scripture left open too many questions. Similarities and differences in style were revealed with the comparison of many texts; however there was still the need to go beyond the written sources to answer the question of why were there many styles and ways of expressions? How did it end up in the written form? These questions could not be fully explained by Source criticism. (2) Source criticism failed to determine the antiquity of materials within the already accepted sources. Due to the fact that Source criticism focuses mainly on the written sources and with the intention that it reveals things about the author, such as method of writing, ideas and interests, it places very little emphasis on the oral history of the written sources, that is, the whole world of the text before it was recorded. Convinced by a study of the ancient Near Eastern literature, Gunkel and his associates saw the key to understand literature is not by dividing the text into documents but in the forms of traditional speech. In taking up of the idea of a greater antiquity for the OT, these pioneers looked to surrounding cultures for a solution to the OT. The key to understanding a given genre lay in its similarity to parallel forms of the world around Israel. From here they developed a similar view that these forms which grew out of the life of the community, that

recent studies such as that of OT scholar Marvin A. Sweeney[2] discuss the development of the approach today.[3] The contemporary Form critic no longer deals with small literary units classified by their form, but larger units which may contain various forms[4]—or genres as recently considered—which may have been appropriated by the composer suiting a specific setting. Thus, a unit or form would no longer present a single genre but a unique combination of genres aimed at a specific setting; that is, that of the author or authors.[5]

(a) Form

The first step in the form section is defining the "textual demarcation."[6] For the Asylum Legislation, it opens with what Tigay believes to be an introductory formula,[7] that is, "When the LORD your God has cut off the nations whose land the LORD your God is giving (to) you, and you have dispossessed them and settled in their cities and in their houses, ..." This does not portray in the strictest of sense a reiteration of the formula, it is rather more uniform in the idea of the Lord bringing the people into the land (11:29, 31; 12:10, 29; 17:14; 26:1). Determining the close of the unit is not so straight forward. According to Cairns, v.13 appropriates several formulae characteristics

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were often stereotyped, had a long and complicated history of oral development and transmission. In association with Israel, they developed the study of literary "type" or "form history."

[2] Marvin A. Sweeny, "Form Criticism," in *To Each Its Own Meaning: An Introduction to Biblical Criticisms and their Application*, revised edition, ed. Steven L. McKenzie, Stephen R. Hayes (Louisville: Westminster John Knox Press, 1999), 58-89.

[3] The four steps; (1) analysis of the structure, (2) description of the genre, (3) definition of the setting or settings, and (4) statement of the intention, purpose, or function of the text. — Gene M. Tucker, *Form Criticism of the Old Testament*, ed. J. Coert Rylaarsdam (Philadelphia: Fortress Press, 1971), 11.

[4] The distinction between 'form" and "genre" made by Sweeney shall be understood here, that is, form refers to the distinct devising of a text or unit while genre refers to the principles of language and expression found within this unit.—Sweeney, "Form Criticism," 58-60.

[5] Sweeney, "Form Criticism" 58-60.

[6] Sweeney, "Form Criticism" 69-70.

[7] Tigay, *Deuteronomy*, 180.

of Deuteronomy (7:16, 13:5, 4:40),[8] that is, "Your eye shall not look upon him with compassion..., you shall utterly remove the blood of the innocent from Israel..., (so that it is) good for you." Furthermore, there is a shift from discussing state and religious leaders in chapters 17 and 18 to focus on the intentional and unintentional slayers. Deut.19:14 portrays another shift to address those who tamper with boundary markers. Deut.19:15-21 again makes another shift to address witnesses.

The second step according to Sweeney is an assessment of the texts literary structure.[9] However, we shall bypass this stage at this point as discussions of the text's structure will follow. The function of Deut.19:1-13 can be seen at different levels. First, it functions as part of a larger unit which deals with criminal law (19:1-21:9);[10] others designate the linking factor to be the sixth commandment.—"You shall not murder" (Exod.20:13, Deut.5:17).[11] Second, it serves as part of the legislation of the DC, and as part of the book of Deuteronomy as a whole. Two other points worth mentioning are the role it can also play on the one hand in the Pentateuch on the one hand,—as part of the narrative of the 'Formative Era' in the history of Israel—and within Noth's Deuteronomistic History, on the other; as part of the Israelite history, traditionally from the conquest to the end of the monarchic era into exile.

(b) Genre

Deut.19:1-13 obviously falls in the wider category of laws or rather "covenant laws" according to Andrew E. Hill and John H. Walton.[12] Being influenced by the legal materials of the ANE nations, the laws also portray the treaty form of the Suzerain-

[8] Cairns, *Deuteronomy*, 180.

[9] Sweeney, "Form Criticism" 70.

[10] Driver, *Deuteronomy*, 230.

[11] Wright, *Deuteronomy*, 222. See also. Hill and Walton, *A Survey of the Old Testament*, 138-139.

[12] Hill and Walton, *A Survey of the Old Testament*, 52-54.

Vassal.[13] The OT laws have been categorized into two; apodictic law and casuistic law. The former refers to prohibitions and general commands (Exod.22:28, Deut.14:21), while the latter refers to what is known as 'conditional laws.'[14] In his study, Ian Cairns identifies vv.11-13 and possibly vv.4-6 with casuistic law.[15] According to Preuss, casuistic law

> …is formulated in the objective "if style," meaning that the main clause is introduced by כִּי = *ki* ("if"), while a resumptive אִם = *im* ("if") introduces any subordinate clause.[16]

Only a minor section follows the "if and then" formula of casuistic law, that is, vv.11-12.[17] This would then leave us with the task of distinguishing the genres of the other eleven verses in the unit. In a close observation of vv.1-13 however, we may take note that there is in fact, a series of casuistic sayings or commands. Let us take note of the following sections, vv.1-3, 5, 6-7, 8-10, and 11-12.

> 1***When*** the LORD your God has cut off the nations …, 2***you*** shall set apart three cities …, 3You shall prepare for you the road, and …
>
> 5Suppose someone goes into the forest … he may flee to one of these cities and stay alive.
>
> 6But ***if*** the way is too long…, 7***Therefore*** I command you: You shall set apart three cities.
>
> 8***If*** the LORD your God make wide your territory…, 9…—***then*** you shall add (for you) three more cities …
>
> 11But ***if*** a man hates his friend and lies in wait and he smites the life and dies …, 12***then*** the elders of his city shall send …

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[13] This treaty has already been mentioned in chapter one, p.4. The main elements of the treaty form as well as its organization can be found in Deuteronomy; that is, an introduction of speaker (suzerain, author of treaty), historical reminder of suzerain's kindness and authority, conditions of what is expected of the vassal, a list of witnesses, and curses and blessings depending on performance of vassal. —Hill and Walton, *A Survey of the Old Testament*, 132-133.

[14] Von Rad, *Deuteronomy*, 18.

[15] Cairns, *Deuteronomy*, 179.

[16] Preuss, *Old Testament Theology*, 82. See also von Rad, *Deuteronomy*, 17-18. Hill and Walton, *A Survey of the Old Testament*, 52-54.

[17] Von Rad, *Deuteronomy*, 18.

Although the first four sections do not necessarily exhibit the direct formula, the idea of casuistic command is very clear in the presentation. In the first section, the provision of setting apart of the three cities is based on the condition that the Lord will remove the nations and give the land to the people of Israel; the purpose for the cities is for the unintentional killer to live. The second is very likely an explanation and interpretation[18] of the basic law in the first; it speaks about the conditions for which one may find refuge in the cities. The third conditional clause further emphasizes the necessity of the cities given the vast area in which the people may be scattered, that is, "but if the distance is too great." The fourth section provides for an additional three cities given that the Lord expands the borders of the land. The final provision as Cairns states, accounts for the intentional killer as the condition for the avenger of blood to fulfil his responsibility. What can be said about this? D is evidently associating the rest of the unit with the casuistic idea thus equating them with the sole formula in vv.11-12. It is possible that D perceives all clauses as law.

(c) Setting (Sitz im Leben)

E. Otto argues that like the apodictic laws, casuistic laws find their origins within the family setting and village life.[19] Von Rad proposes the context of the "legal assembly at the gate (cf. Ruth 4:1ff; Gen.23) where the elders were in charge of the administering of justice (Deut.19:12, 21:1ff; 22:15; 25-27)."[20] This study accepts both settings as such laws can be broadly understood as laws applicable to a wide variety of life situations anywhere.

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[18] Thompson, *Deuteronomy*, 214. See also von Rad, *Deuteronomy*, 127. —In the basic structure of this chapter, this section is designated an interpretation of the basic regulation in v.1-3. This is discussed further when we come to the structural analysis part of this chapter.

[19] E. Otto, "Kultus und Ethos in Jerusalemer Theologie: Ein Beitrag zur theologischen Begrundung der Ethik im Alten Testament," *ZAW* 98, 1986, 161ff. cited in Preuss, *Old Testament Theology*, 296.

[20] Von Rad, *Deuteronomy*, 18.

(d) Intention

Casuistry can be defined as;

> the technique of reasoning whereby expert opinion is formulated concerning the existence and stringency of particular obligations in light of general moral maxims and under typical conditions of the agent and circumstances of the action.[21]

Two major assumptions can be taken from this definition. First, general rules or principles are considered the starting point. Secondly, there is a sense that moral obligations in relation to general rules do not always apply, especially when complex situations arise which the general rule cannot solve. In relation to the OT laws, this unraveling of moral issues also applies. It is used in the administering and ethical deliberations of law and ethics.[22] Otto argues that the intentions of such laws was "to work out settlements between families of a transfamilial, legal community of the clan and then later of the local legal community."[23] In general, it is possible to conclude that casuistic law functioned as a *critique* of the general principle, which proved at times to fall short of certain moral and ethical circumstances. In other words, the intention of such laws is not to substitute or replace the general principle, but to improve it.

To make this point clear, the ancient custom of "avenger of blood" was common among the Semitic people. It flourished during the tribal and clan era of the people of Israel where the responsibility of the tribe was to punish anyone who killed any of their members. In the family context, this was the responsibility of the kinsmen or the next of kin, to avenge the death of a relative. This practice of blood avenging resulted in 'blood feuds' which would run continuously for long periods of time. The general principle

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[21] Albert R. Jonsen, "Casuistry," in *ER*, Vol.3, ed. Mircea Eliade (New York/London: Macmillan Publishing Companies, 1987), 112-114.

[22] R. M. Wenley, "Casuistry," in *ERE*, Vol.3, ed. James Hastings, John E. Selbie, Louis H. Gray (Edinburgh: T. & T. Clark, 1958), 239-247.

[23] Otto, "Kultus und Ethos in Jerusalemer Theologie" cited in Preuss, *Old Testament Theology*, 296.

that guided the blood avenging is the removal of innocent blood shed on the land[24] for it was believed to bring misfortune for the people (Deut.19:13). The death of the murderer would cleanse the land from innocent blood. The weakness in the general principle is its failure to differentiate between the intentional and the accidental killer.[25] The blood avenger also fails to make this distinction treating both types of slayers as the same. The death however of the unintentional killer does not cleanse the land of innocent blood, but only adds more to it. In critique, this is the problem the Asylum Legislation is addressing; its purpose is to make the distinction.

As a rhetorical device, the employment by D of the 'casuistic genre' denotes D's ethical and moral concerns about the life of the community, in other words maintaining *justice*. This is evident in the notion that the recipients are expected to read the whole unit as *law*. In addition, the employment of the casuistic genre suggests dissatisfaction and a critique of the general principle with the hope to improve it. In this case, D is possibly addressing weaknesses in current practices which aim to save the innocent blood or slayer.

(ii) Structural Analysis

(a) Basic Structures

We have discussed one structural observation in the previous section which is based on the genre of the unit. However, we shall also take into consideration other proposed structural divisions, which will contribute further insights regarding the ideology of D. The most basic structure of Deut.19:1-13 is highlighted in Samuel R.

[24] Fred W. Wight, *Manners and Customs of Bible Lands* (Chicago: Moody Bible Institute, 1953), 288-289.

[25] Accidental killing was attributed as God's doing (Exod.21:13-14) meaning that the killer is an unwilling participant and thus innocent.

Driver's study of Deuteronomy.[26] Based on where Driver puts emphasis on his discussion of the passage, I see his division as follows,

A. verses 1-10: Cities of Refuge

B. verses 11-13: Capital Punishment

This two-fold division of the legislation presents a clear distinction between life and death. While section A contains the institution of city asylum and its concern for preservation of life, B encloses the institution of blood avenging and its emphasis on the death of a murderer. Moreover, A and B represent the contrasting fates of the two types of slayers, that is, A sets apart the unintentional slayer who deserves life, from B which encloses the intentional slayer whose fate is death. Thus, these binary poles would represent an existing tension D is addressing within society.

Tigay[27] proposes a three-fold division of the legislation with a mid section which threatens to disrupt the clear contrast of the previous discussion.

A. verses 1-7: The Three Original Cities and the Function

B. verses 8-10: Additional Asylum Cities and the Purpose of the Cities

C. verses 11-13: Intentional Murderers

While the first and the last divisions maintain the contrasting suggestion in Driver's analysis, the additional mid-section—which Tigay regards as a "parenthetic comment"[28]—intensifies D's emphatic approach to the subject of asylum cities and their

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[26] Samuel R. Driver, *Deuteronomy: A Critical and Exegetical Commentary*, ICC, third edition (Edinburgh: T & T Clark, 1965), 230-233.

[27] Tigay, *Deuteronomy*, 179-185.

[28] Tigay, *Deuteronomy*, 181. See also Walter Brueggemann, *Deuteronomy*, AOTC (Nashville: Abingdon Press, 2001), 198-199.—A 'parenthesis' (plural: *parentheses*; from the Greek word παρένθεσις, which comes in turn from words meaning "alongside of" and "to place") is a word, phrase or sentence inserted as an extra explanation or idea into a passage which would be complete without it. In writing it is usually separated from the rest by brackets, or commas. —an explanatory or qualifying word, clause, or sentence inserted into the midst of another sentence without being grammatically connected to it. It is generally marked off by round or square brackets, dashes, or commas. —Noah Webster, *Webster's Universal Dictionary of the English Language*, vol.2, addendum and compiled by Joseph Delvin (New York: The World Syndicate Publishing Company, 1937), 1186.

function, that is, preservation of human life. In casuistic form the mid-section accounts for the possibility of border extension and the easy access to the cities. The notion of provisions such as this is that law in casuistic form gives license to, or authorizes the undertaking of similar action in the future if and when the conditions are right. Hence, this particular parenthetical law is a future oriented provision and would therefore be applicable to a variety of contexts in the history of Israel.

P. C. Craigie's[29] proposal more or less identifies the divisions—under form analysis—based on genre.

A. verses 1-3: The basic regulation for Cities of Refuge

B. verses 4-7: Procedures for the Cities of Refuge

C. verse 8-10: Provision for additional Cities of Refuge

D. verse 11-13: Provision for the abuse of the Cities of Refuge

Unlike previous structures, vv.1-10 is divided into three. Craigie refers to the second part in particular as "procedures." Others prefer the term "interpretation"[30] which entails D's intention that the recipients of the law fully comprehend the asylum institution and its functions. Providing interpretations for the laws is attributed to the priesthood, more specifically to the scribes (Neh. 8:1-11). This could possibly suggest D is associated with the priestly circle, probably a scribe himself.[31]

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[29] Craigie, *The Book of Deuteronomy*, 264-268. See also Brueggemann, *Deuteronomy*, 197-199. Thompson like von Rad also follows this division but separates v.13 as an 'exhortation—*Deuteronomy*, 214. Von Rad, Deuteronomy, 127.

[30] Thompson, *Deuteronomy*, 214. See also von Rad, *Deuteronomy*, 127.

[31] The task of interpreting the scriptures and its laws is attributed to the priesthood, more specifically to the scribes (Neh. 8:1-11).

A more intricate and sophisticated structure of the asylum legislation will now be discussed. The following chiasms[32] are extracted from the 2003 study of James T. Dennison JR.[33]

(b) Chiasms

Verses 1-3

A. Lord your God (1)

B. Lord your God gives you (1)

C. Land (1)

X. 3 cities (2)

C'. Land (2)

B'. Lord your God gives you (2)

A'. Lord your God (3)

Verses 4-6

A. Manslayer (4)

B. Flee and live (4)

X. Not hating previously (4)

B.' Flee and live (5)

A'. Manslayer (6)

Verses 7-9

A. 3 cities (7)

B. Lord your God (8)

X. Love (9)

B'. Lord your God (9)

A'. 3 (more) cities (9)

Verse 10-13

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[32] Chiasms were based on the Greek letter X (chi) describing the x-shaped literary structure. The ideas of this structure take the following sequential form A-B-C-X-C-B-A. Analogous to inverted parallelism, a chiasm draws attention to and emphasizes the center idea where the inflection or turning point has occurred. The whole structure acts like a frame to prepare the reader for the most important message.

[33] Dennison, "Deuteronomy 19: Chiasms and Cases," 58.

A. Innocent blood (10)

B. Dies (11)

X. Avenger of Blood (12)

B'. Die (12)

A'. Innocent blood (13)[34]

(c) Analysis

Focusing on the central ideas of each chiasm, a noticeable development of thought is portrayed; leading to the administering of justice. At first, the basic provision of 'cities of refuge' is introduced. Second, 'not hating previously' is the description of those who can go there. The third point however is a bit complicated and appears out of place by interrupting the flow of ideas from a simple "who can and cannot" go there. It speaks of human's 'love' for Yahweh which should be manifested in his obedience to Yahweh's commandments. How does this fit in with the structure? Love of Yahweh results in Yahweh's blessings, that is, the extension of Israel's borders. 'Love' also means "loyalty"[35] to Yahweh. This loyalty is a major feature of the Deuteronomic formula/principle,[36] that is, the people are promised that they will receive blessings for obedience to God and punishment for disobedience (Deut. 27- 30). This is the criterion by which Yahweh's justice is administered to all. The insertion of 'love' is a theological statement and reminder that points to Yahweh as the sovereign judge between life and death. Only obedience to Yahweh ensures blessings, which in this case is exhibited in

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[34] Dennison, "Deuteronomy 19: Chiasms and Cases," 58-59.
Dennison's chiasm accounts for the entire chapter 19 with five rolling chiasms. Our focus will take the first four chiasms only.

[35] In a comparative analysis of the book of Deuteronomy and the ANE vassal treaties, John J. Collins makes this synonymous connection between the concepts of 'love' and 'loyalty.' That is, to love Yahweh was to be loyal to Him. Other synonymous terms included "to go after," "to fear," and "to listen to the voice of …" —Collins, *A Short Introduction to the Hebrew Bible* (Minneapolis: Fortress Press, 2007), 85-86.

[36] The Deuteronomic Formula would be easily perceived considering the nature of the Vassal Treaties; that is, 'be loyal and receive blessings, sin will only be cursed.' This is the leading theological idea of the book of Deuteronomy and the Deuteronomistic History.

bloodguilt being purged from the land. The 'avenger of blood' which is the focal point of the fourth chiasmus acts merely as an executioner whose task relies upon the verdict provided.

It is evident that a review of the old institution is being introduced and Yahweh alone is the administrator of justice who limits the rights of the avenger of blood.[37] Note that if we were to reconsider the two-fold structure we started with, the chiasm of 'love' would then be perceived as the climax to the entire first section from v.1-10. The asylum city should represent God's justice in contrast to the human perception of justice.

Overall, several propositions can be formulated in regards to what D is possibly communicating through structure. First, the two-fold division remains evident in all structural treatments of the text, thus signifying the *thesis/anti-thesis nature* of the text. That is, a possible conflict as God's justice limits the extent of human freedom to avenge spilt blood. Second, there is also a great sense of *equity*[38] and *fairness* as the justice promoted here is about the assurance that one will receive what is deserved. That is, the unintentional slayer deserves to live and the intentional slayer deserves to die (vv.4-6, 10-13). Third, there is great emphasis on the preservation of *life*, which becomes clear in D's pro-activeness in providing an interpretation for the recipients. This interpretation increases the chances for the people to fully understand the law and its requirements. Thus, with understanding comes the hope that more lives shall be saved.

[37] Von Rad, *Deuteronomy*, 127.

[38] Dennison, "Deuteronomy 19: Chiasms and Cases," 60.

(iii) Grammatical Analysis

This analysis shall concentrate on the morphological and lexical aspects of the selected key words, which may have significance on the interpretational process of the legislation. To avoid repetitions in discussions, other key words shall be discussed as part of the phrases observed in the inter-textual analysis.

The verb כרת in the OT has three basic nuances; it can be determined literally as 'to cut objects.' Second, it is used as a metaphor—which generally occurs in either Qal or Pual cases—referring to annihilation and destruction, exclusion or setting aside. The most common usage however sympathizes with that of the ANE; denoting an 'entering into a covenant' usually occurring in Niphal or Hiphil. This is common in the covenant between Yahweh and Israel (Gen.15:18, Exod.24:8, 34:27, Psa.50:5, Psa.105:9), although it also features in covenants amongst humans themselves (Gen.21:27, 26:28, 1 Sam.18:3, 1 Kgs.5:26). Its use in the former cases indicates "judgment of a person who offends God or the Israelites in designated ways" with the constructive formula of "ni. + subj. + prep. + group(s) …" The judgment here symbolizes an eviction from a community, whilst theologically the verb sees the entire legal system defined by Yahweh.[39]

The Asylum Legislation employs the verb in this sense, that is, *When* the *Lord your God cuts off* the *nations* … from the *land*. First, the legislation is introduced with strong language that implies a war-like spirit.[40] The only other place in the DC where the phrase occurs is the prohibition against idolatry (12:29). It is possible that D at the outset is stating to the recipients that idolatry can be the cause of eviction of the nations

[39] Eugene Carpenter, "כרת," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 729-731.

[40] Von Rad, *Deuteronomy*, 24.

from the land, hence, may also be implied for Israel. For D, worship of Yahweh alone would be the criterion to remain in the land. This is developed further in the exhortation to love God and walk in His ways (v.8), and explicitly spelt out in v.13 which demands a cleansing process so that all may go well with Israel, that is, remain in the land.

The noun ארץ bears several connotations within the OT. According to Wright it implies any of the following; "from the whole earth, through particular countries, especially the land of Israel, local districts, the soil, to the ground inside a tent." The most common uses in the OT are that of earth and land.[41] The noun occurs five times in the Asylum Legislation (vv.1, 2, 3, 8-10).

The noun employs in all occurrences the role of the object to the verb נתן translated "to give,"[42] where the subject on all occasions is יהוה אלהך translated "the Lord your God." According to Wright, divine ownership of the land was a general understanding of the Israelites in which the land was inherited as a divine gift from Yahweh. In this respect, the concept of land is considered the pivot in Yahweh's relationship with the people of Israel; "Israel's behavior on the land determines Yahweh's response to Israel in the land, and the land will respond to both.[43] It is evident that the Promised Land inherited from Yahweh is a major concern for D; furthermore, this concern is ethically rooted.

Second, the reference in v.8 is constructed with the preposition כל meaning "all," thus, את־כל־הארץ, lit. "all of the earth." This phrase normally refers to the 'whole

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[41] Christopher J. H. Wright, "ארץ," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 518-524.

[42] The verb 'give' is assumed in v.8 as part of the translation of the noun "possession." The Hebrew term יְנַחֵלְ is translated "he will *give* to you as a possession." (3rd person, masculine, singular, Hiphil Imperfect verb + 2nd person, masculine, singular suffix) —*BDB*, 635.

[43] Wright, "ארץ," 522-523.

earth' rather than just the 'whole land.'[44] We may take note that while the emphasis of D is regarding the inheritance, this is the only mention of land which provides a certain measure of its size. It may be possible that D is acknowledging a new perception of the inheritance which goes beyond the boundaries of Canaan; that is, the whole earth. The shift of emphasis from the traditional Promised Land to the whole world presents an outward movement and can possibly be indicating a certain reality D is facing in his time. For example, this spreading out indicates that D has a decentralizing process in mind.

The verb נתן occurs frequently in the OT and has three basic connotations "give", "set/set up/put" and "make/do." The root itself is argued to "mark the act through which an object or matter is set in motion."[45] There are a total of six occurrences in the Asylum legislation (vv.1, 2, 8, 9, 10, 12). The first and the last occurrences provide a theological frame in which all occurrences may be understood. That is, both portray the notion of the juridical formula "take and give."[46]

In v.1, Yahweh is the subject of these actions denoting His authority and power over the object. In this case, the land is taken from the foreign nations and given to Israel. These notions of Yahweh as the 'giver' are maintained and dominate the use of the word in the legislation (v.1, 2, 8, 9, 10). D appears to be very insistent that Yahweh is the sole authority who takes and gives what belongs to Him. This attests not only to divine providence of Yahweh, but also affirms divine ownership of the land. The occurrence in v.12 לקח ונתן presents the elders as the 'taker' and 'giver.' In light of

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[44] Wright, "ארץ," 519. See also Driver, *Deuteronomy*, 232.

[45] Michael A. Grisanti, "נתן," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 204-211.

[46] In Akkadian legal documents, the formula לקח ונתן translated "take and give" referred to transfers to the king. —Grisanti, "נתן," 208.

D's theological assertion, Yahweh's authority, providence and ownership appears to be manifested through the elders committee. In other words, the elders take up the divine role of 'taker and giver,' acting on behalf of Yahweh.

First, the elders are favourably perceived here as servants of Yahweh. Second, the giving of the intentional killer to be put to death would then be authorized by the sole authority, that is, Yahweh. Third, this further implies that Yahweh's justice at times requires the death of the transgressor to make things right. Fourth, the rights of the blood-avenger—as von Rad suggests—would have been limited.[47] That is, these rights shall only be available to the blood-avenger when 'given' by Yahweh.

The root נחל means "have or get as a possession or inheritance."[48] The root is specifically associated with inheritance at three basic levels first, the immediate family household second, kinship within the extended family; and third, at a national level; that is, Israel as a whole inheriting the land. In general, the verb is appropriated metaphorically to communicate "what one may "get" as the "allotted" result of some action or in the context of a relationship, (Prov.37:18, 11:29, 14:18)." When it occurs in relation to the territories of the nations, it also conveys the sovereignty of Yahweh.[49]

The root occurs twice in the Asylum Legislation (vv.3, 10). The Hiphil stem in v.3 puts emphasis on Yahweh as 'causing' or setting into motion the taking of possession. The prologue (vv.1-3) closes with this reminder to strengthen the case of inheritance laid out in vv.1-2, while at the same time begins the main section of the legislation with the emphasis on Yahweh as the main player. This supports the divine initiative of the Asylum cities in the mind of D. The second occurrence in v.10 sees a shift from the

[47] Von Rad, *Deuteronomy*, 127.

[48] Christopher J. H. Wright, "נחל," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 77.

[49] Wright, "נחל," 77-81.

verb in v.3 to a noun. While the verb denotes a conquering act of taking the inheritance, the noun reminds the audience that the inheritance is a gift from Yahweh and that the act of taking was possible only because of His sovereignty.

The verb ישב in Qal form can mean "sit down, sit, remain sitting, dwell"[50] The first two nuances denote the act of sitting on a chair as in the context of a king on the throne. The third is focused on time duration of remaining before moving on symbolizing a temporary dwelling place. The last is more permanent and the most commonly used in the OT referring to both the dwelling places of God in the heavens and humans on earth.[51] In simple terms, we have a temporary and permanent dwelling scenario before us. The verb occurs once in the Asylum Legislation (v.1). Because it is linked to the discussion of land as the Promised Land, a permanent dwelling is very likely the idea. Furthermore, the verb contrasts the unfortunate fate of the nations who are cut off from the land with the fate of Israel. While the nations are cut off—by Yahweh—from the land, the Israelites are given—by Yahweh—the land to dwell in. This re-emphasizes D's understanding of Yahweh's sole authority. Thus, to permanently dwell in the land, Yahweh then must be appeased by avoiding idolatry as implied by earlier discussions.

The noun עיר meaning "city, town" occurs in vv.1, 2, 5, 7, 9, 11, and 12. Despite its religious and economic providence to the local people, its social aspect is the most important. A city is characterized by a surrounding wall and heavy-duty gate which symbolizes the protection it provides for its citizens. Also frequent in both ANE and OT

[50] Gerald H. Wilson, "ישב," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 550-551.

[51] Wilson, "ישב," 550-551.

literature is the notion of 'fortified cities.'[52] This function of protection and safety would definitely be part of D's call for justice. Furthermore, the noun is evenly distributed in the Asylum Legislation and its seven-fold[53] occurrence may suggest that D possibly implies cities in general, that is the cities in the Asylum Legislation may represent any city anywhere. Once again we encounter notions of a decentralized idea. That is, instead of focusing on the cities specifically in the Promised Land, all cities are represented no matter where they may be geographically situated.

The noun בית primarily means "house," although it can also denote "dwelling, building, family, dynasty."[54] The noun co-exists in v.2 as one of the objects to the verb 'dwell' which would complement the claim on the permanent nature of the dwelling in the land and cities. In its various contexts the noun designates the house of a family, a king or dynasty, the temple of God, etc.[55] In connection with the word 'city,' hierarchy and leadership can also be assumed. However, there is also the notion of 'connectedness' which is a common element in all contexts. While lineage defines these nuances, moral obligation and obedience to Yahweh connects the citizens of the land, and likewise, the cities of refuge.

Furthermore, the noun is employed as the last level in D's description of the act of dispossessing,—that is, from land, cities and then houses. In this context, the movement

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[52] James D. Price, "עיר," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 396-399.

[53] The significance of the number seven in Hebrew literature to represent completeness or totality is also used by D in Deut.7:1 where the seven nations here represent the conquering of all the land. The number or symbol sporadically occurs throughout the OT but also in the NT; e.g. the rest on the seventh day marked the completion and perfection of creation; seven is also frequent in the cultic festivals—Passover, Unleavened Bread, First-fruits, Pentecost, Atonement, and Tabernacle (Lev. 23:1-44). This symbolism of seven is also evident in Johannine literature; that is, the Gospel of John and the book of Revelation— the 7 signs and the 7 ἐγώ εἰμί sayings.

[54] Gerald H. Wilson, "בית," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 655-657.

[55] Wilson, "בית," 655-657.

from a general and broad concept to the smaller detail can be considered a systematic way of depicting a complete annihilation. This is the fate that awaits those who do not belong to the new rule in the land. We come once again to the association of land and ethical concern and how they constitute a cleansing process.

The verb בדל is a characteristic term of Priestly material, which basically means "separate." Other connotations include "be singled out," "be excluded from" and "make a distinction."[56] In general, the verb distinguishes "what does not belong together; separated for a specific task" (Gen.1:4, 6, 7, 14 & 18). It is also common in the context of Yahweh's covenantal relationship with Israel who are separated from all the nations by God to be His people (Lev. 20:24, Exod.19:6, Deut.7:1-6, Ezra 6:21). Separation of the holy from the common or the clean from the unclean closely associated with the issue of identity. Along these lines the Levites were also separated from the rest of the people for God's services (Num.8:14, 16:9, Deut.10:8).[57] All nuances suggest a religious environment to the word; referring to sacred things and peoples. D's employment of the verb may be an emphasis on a cleansing process already mentioned as part of the Covenant relationship with Yahweh. Its association with the city indicates D's perception of the cities of refuge to be holy cities. In light of the notion that D is taking into account all cities of the world, this would also attest to the notion of decentralizing, that is, moving from having one holy city to many holy cities all over the world.

The verb רצח meaning "murder" or "kill" appears twice in the Asylum Legislation (vv.3, 4). Both cases refer to the act of slaying. The root occurs only 38

[56] Cornelius Van Dam, "בדל," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 603-605.

[57] Benedikt Otzen, "בדל," *TDOT*, ed. G. Johannes Botterweck, Helmer Ringgren (Grand Rapids: William B. Eerdmans Publishing Company, 1975), 2: 1-3.

times in the OT—of which 20 are employed by P in Num.35—in contrast to the more preferred הרג occurring 167 times. However, the former is utilized in the sixth commandment (Exod.20:13) which entails taking of a life in ways other than what is permitted by God, for example, war or capital punishment.[58] The positioning of the verb in v.3 proposes an important conclusion to the basic regulation of asylum cities (v.1-3), that is, the link between Yahweh and the institution is established at the beginning. The occurrence in v.4 re-emphasizes this connection as it opens up the main section about the cities themselves. Clearly, D appears to perceive the function of these cities as to serve God's justice.

The verb נוס means "flee" or "escape" or "slip away." The normal idea is that of a human on the run from danger and is normally found in the context of conflicts and war.[59] First, the assumption of military language is suggested once again. Second the verb occurs four times in the Asylum Legislation; in v.3 it refers to the flight of both slayers, v.4, 5 refer to the unintentional slayer while v.11 pays attention to the intentional slayer. While all occurrences denote fleeing to the cities, vv.4 and 5 are particularly connected to חיה translated "live"[60] This combination of verbs denotes D's perception of the nature and purpose of the Asylum Cities, that is, to save lives. Furthermore, it must also be noted that D is specifically referring to the unintentional killer. While D accounts for both slayers in the beginning (v.3), the remaining occurrences of the root are associated with the respective verdicts, that is, the

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[58] W. R. Domeris, "רצח," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 1189.

[59] Jerome A. Lund, "נוס," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 60-62.

[60] "חיה," *BDB*, 226.

unintentional killer deserves to live (vv.4, 5) while the intentional killer deserves the punishment of death (v.11). This reiterates D's perception of Yahweh's justice. While it is normally served by the preservation of a life, there are times when it is served by death.

The root דבר occurs in vv.4 and 8 of the legislation and has various nuances which are determined by the various contexts. As a noun (v.4) it is translated "word, thing" which in the legal context acknowledges the existence of right and wrong in a society as well as the necessity for justice. This is very fitting given the fact that D is now introducing the distinction or in other words laying out at this point the weakness in the general rule. As a verb (v.8) it means "to speak." In the legal setting of the royal court, Yahweh is the sole judge of the matter.[61] This use further emphasizes the divine connection of the institution; furthermore, it may also be a statement of assurance to the recipients of Yahweh's providence.

The verb נכה occurs three times in the Asylum Legislation (vv.4, 6, 11). All three occurrences follow the frequent nuance in the OT which has a wide range of meanings; that is, "from hitting to killing." The verb also has a 'covenantal' overtone in which Yahweh is the subject who will strike or "afflict" the people for transgression (Lev.26:24, Deut.28:22, 27, 28), thus 'capital punishment' also finds root in the covenant.[62] Let us consider the occurrences in a simple chiasm.

A. The subject = unintentional slayer (v.4)

X. The subject = redeemer of blood (v.6)

A' The subject = intentional killer (v.11)

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[61] Frank Ritchel Ames, "דבר," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 912-915.

[62] Cornelius Van Dam, "נכה," *NIDOTTE*. ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 102-105.

While AA' presents the conflict as well as the two sides that the cities function to distinguish, at the centre is the redeemer of blood in which the legislation aims to enlighten about the insufficient nature of his practices. Furthermore, the covenantal overtone of the verb again makes the divine correlation of the cities and Yahweh.

The verb שנא meaning "hate" occurs in vv.4, 6 and 11 generally referring to the hatred of an enemy, although other things can be the object of hate; that is, desire for profit, slavery, ill-treatment of the poor, etc.[63] The first two occurrences as opposed to the last are attached to the negative root לא, thus meaning 'not hating' which would then be equated with the antonym "love."[64] The mention of the root אהב translated "love" in v.9 tends to climax the notion of love/not hating within vv.1-10 (the unintentional slayer and cities of refuge). First, it is obvious that tension is again retained in the themes of love/not hating (vv.1-10) and hate (vv.11-13). Second, the occurrence of the binary opposites was common in the legal corpus for the developing of a proposed judgment.[65] That is, to hate killing would function as the prerequisite to the godly behavior of love. Third, the retaining of the construct לא־שנא in favor of אהב in vv.4 and 6 is to clearly present this tension with שנא (v.11). In other words, D is possibly stating to the recipients; that to hate a man is also to hate God. This could be all part of D's strategy to emphasize obedience to Yahweh, and justice within society.

The verb בוא has various nuances of which the basic is to "go in." The most common understanding of the verb in the OT is when it "expresses physical movement

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[63] A. H. Konkel, "שנא," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 1256-1260.

[64] Konkel, "שנא," 1257.

[65] Bruce Baloian, "Animosity," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 5: 388.

toward a specific goal …" Furthermore the verb is also closely connected to the context of conquest and land inheritance, that is, "entering: and "possessing"[66] Again, we encounter the covenant language in D's presentation.

The verb חטב meaning "to gather, cut (wood)" simply refers to the work of wood cutters. In the hierarchy of social tasks, wood cutting was amongst the lowest within the society and was normally attributed to the foreigners within the community (Deut.29:11). The verb is also associated with forced labor (Jos.9:21, 23, 27).[67] We have already encountered notions of a leading class in society; we are now introduced to the other extreme with the connotation of peasant labor. In the Asylum Legislation, this specific task had been chosen to illustrate the case of the unintentional slayer; that is, the lowest of the low to show there is a concern for the low class of society. On the other hand, the intentional slayer is highlighted with a military background deeming the notion of power and being in control, especially in v.11 with the use of the verb ארב meaning "ambush." To sum up, D is very likely indicating a close link between the lower class and the cities of refuge while the elite are identified with the intentional slayer who is destined to perish. We may take note that D allows for both slayers to flee to the cities in order for a trial to decide whether the slayer lives or dies. There is clearly a concern that both parties are treated equally under the law. This may imply an egalitarian concern that fairness of justice applies to all ranks of society. We may also take note that the language would support further claims for either military or farming terminologies.

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[66] Bill T. Arnold, "בוא," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 615-618.

[67] Cleon L. Rogers Jr., "חטב," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 104.

The noun יער meaning "forest" can be easily misinterpreted by the modern reader. The concept in the OT does not merely indicate large trees but can also refer to "shrubs, herbs, and smaller vegetation with animals roaming in it." Metaphorically, the concept represents "splendor and greatness" (Isa.10:18) on the one hand, while on the other it symbolized the peoples' livelihood (Eze.30:10).[68] The noun is part of the illustration for the cities of refuge; this echoes the farming assumption of the previous discussion. Furthermore the metaphoric portrait of "cutting down trees" as used by Isaiah (sighted above) expresses Yahweh's removal of the arrogant Assyrians. Should the illustration be considered as such, then we can assume that D implies the removal of all things or persons which are the causes of injustices. Hence, attest a cleansing process.

The noun ברזל translated "iron" is rich with nuances which may cover both extremes in the experience of the Israelites. It was used to make weapons and even simple building and agricultural tools. While it was also a means of wealth and prosperity, metaphorically it also represented hardships and difficulties.[69] In the Asylum Legislation, it is obvious that it is applied as an agricultural tool but also presents its use as a weapon of destruction. Thus not only would the speculation on farming society receive support, but the notion of tension.

The verb מצא consists of two major groups of nuances first to "find" and second meaning "to reach, overtake, capture, obtain, etc."[70] The Asylum Legislation employs

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[68] I. Cornelius, "יער," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 492-494.

[69] A. H. Konkel, "ברזל," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 741-743.

[70] Michael A. Grisanti, "מצא," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 1061-1063.

the verb in v.5 related with the axe head "finding" the friend who is then killed. This employment of the verb is equated with the uses in 1 Sam.31:3, 1 Chr.10:3, which present finding on the basis of a random approach from the subject of the verb. For example, both references refer to a bowman in the battlefield who at random releases an arrow at the opposing army. The arrow is intended for anyone from the opposition. King Saul of Israel was *hit* by a random arrow on the battlefield. The notion is that the arrow accidentally finds the person it hits. D with the use of the verb intends to portray this, which is highlighted even further with the object רעה translated "associate with." The root also denotes "be best man" and "make friends with." The conception of "friendship" is the main focus which is highlighted by all nuances. In the Asylum Legislation, the root is employed as a noun which suggests three connotations; that is, the "other person," a "neighbor," and "friend."[71] The legislation—as is the tradition of the legal corpus (Exod.20:16-17; Lev.19:13, 23:24-25, 27:17; Deut.5:20-21; etc.) — appropriates the second nuance of "neighbor" which signifies an ethnic and tribal association.[72] The verb "to hit" tends to contradict the idea of "friend, neighbor," that is, hitting in the strictest sense is associated with the concepts of enemies, hatred, anger, etc. For D, hitting a friend can hardly be intentional but accidental.

The root מות meaning "die" occurs three times in the Asylum Legislation[73] and like the verb "to strike" can be displayed in a simple chiasm;

A. Death as Accidental (v.5)

X. Sentence of Death (v.6)

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[71] Richard S. Hess, "רעה," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 1144-1149.

[72] Hess, "רעה," 1146.

[73] Eugene H. Merrill, "מות," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 886-888.

A’ Death as Capital Punishment (v.12)

Point A is associated with accidental death, the central point lies with the verdict of judgment and A’ portrays death as the capital punishment. D’s employment of the root draws a certain portrait as to the purpose of the asylum cities; that is, to make the distinction which is the function of X. All slayers are initially treated as ‘innocent until proven guilty’ which shows D’s great concern to avoid shedding of innocent blood. The intentional killer however, still deserves the death penalty to cleanse bloodguilt from the land.

The verb גאל basically means “to redeem” or “to deliver” whose subject in OT usage can be either God or man. The root is common in legal material deriving from the setting of family law. The concept of redeeming or delivering is rooted in the delivering acts of Yahweh in the Exodus and loaning to the people His land. To re-enslave the liberated people is presenting a challenge to Yahweh as it reverses His efforts. Furthermore, redemption of possessions would only be affected with its restoration to the original families. The redeemer then, would have to act for many reasons; to buy back relative’s land sold under social and economic pressures (Lev.25:25), redeeming of houses (Lev.25:29-34), slaves (Lev.25:48-49), and in the Asylum Legislation, it is the redeeming of the dead relative (Deut.19:6, 12), etc.[74]

Both occurrences of the verb are attached to the noun הדם which is then translated “the redeemer of blood.” [75] First, the Participle form[76] of the verb suggests the

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[74] Robert L. Hubbard, Jr., “גאל,” *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 789-794.

[75] The avenging of blood was a common custom among the tribal and clan societies of the Semitic people. In the absence of any central authority—such as the monarch—the גאל הדם translated “the redeemer of blood” in this case the kinsman was responsible for the killing of a murderer to avenge the dead relative. —Wight, *Manners and Customs of Bible Lands*, 288-289.

practice of blood avenging strongly continues in the society. Second, the two occurrences portray a development in the role of the redeemer of blood; that is, while v.6—associated with the principal institution—presents the avenging based on the ability to catch the slayer, v.12 conveys a limitation to the redeemer's rights;[77] he is merely an executioner dependent on a verdict under the new institution. Despite this limitation in the avenger's role, he is still required to carry out the capital punishment when the verdict requires it.

The verb חמם occurs in v.6 to convey the state of the 'blood redeemer's' לבב "heart." The verb depicts either "be warm" or "hot." Literally the construction translates "his heart is hot" denoting "rage."[78] The rage in the Asylum Legislation is the initiator of injustice as it does not make a distinction between intentional and unintentional killing. In light of the previous discussion, D maybe implying that justice would be served should the avenger be able to control his rage. In other words, self control on the part of the avenger will guarantee justice, at least until the slayer gets a fair trial.

The root נשג has various nuances; "overtake, catch up, reach," it also denotes "afford" or "become rich/prosperous."[79] The Asylum Legislation employs the term in its first nuance "overtake" which normally has the notion of hunting.[80] The basis of the overtaking is normally negative although positive connotations are evident. In this

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[76] The 'Active Participle' indicates "a state of continued activity…"—J. Weingreen, *A Practical Grammar for Classical Hebrew*, second edition (Oxford: Oxford University Press, 1959), 66.

[77] Cairns, *Deuteronomy*, 180. See also

[78] Anthony Tomasino, "חמם," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 176-177.

[79] Robin Wakely, "נשג," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 2: 163-170.

[80] Wakely, "נשג," 4.

understanding, the goal of the redeemer of blood is to catch up with the slayer and kill him (v.6); the language once again is a language of conflict.

The verb צוה means "order" or "command." The verb occurs more times in the Deuteronomy than any other book of the OT; normally with Yahweh as the subject. The verb denotes superiority and authority requiring from the inferior a positive response. Furthermore, "order" is associated with one time situations while "command" has enduring effect requiring obedience at all times.[81] The verb occurs twice in the Asylum Legislation (v.7, 9) both present the personal pronoun of אנכי translated "I" as the subject. It is very likely that Moses addresses the people in the first person. The third person reference to Yahweh throughout the legislation is interrupted with these two incidents. V.7 speaks about implementing the three cities of refuge, while v.9 speaks of a general exhortation to obey the laws. It appears that D alludes to the "connection between God's command and his creative power"[82] (Psa.148:5, Isa.45:12) to bring into effect the law of asylum cities. Thus, it is very likely that D is again claiming the divine implementation and operation of the cities, thus emphasizing the importance that the law be heeded and practiced. The use of Moses may be a rhetorical strategy for D given the importance of the figure of Moses and his involvement with the Law. The emphasis of these two verses is the basic fundamentals, that is, v.7 states the new legislation, v.9 is a reminder to observe the rest of the laws. For the Israelites, if Moses said it, then it came from Yahweh and should be obeyed.

The noun שבע has several nuances; "swear, make an oath, bind oneself by an oath" which functions as an assurance that one shall not go back on his/her word. Both

[81] Tyler F. Williams, "צוה," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 776-780.

[82] Williams, "צוה," 777.

God and human can be subjects of the verb. Presumably, an 'oath' is synonymous in nature with 'promise,' however the fact is that "an oath consists of a promise that is, strengthened by the addition of a curse, with an appeal to a deity (or even a human king) who could stand as the power behind the curse."[83] In the Asylum Legislation, שבע occurs only in v.8 while later in the verse, the root דבר is employed translated as "promise." While the talk of the inheritance is highlighted throughout the legislation, the use of the verb "swear" is a reminder of Yahweh. That is, Yahweh is the power behind the inheritance furthermore, the possibility of curses promotes the necessity for good ethical and moral behavior.

The noun אב meaning "father" is linked to the previous discussion and although it may have many nuances, its use in the Asylum Legislation describes the ancestors of Israel normally represented in Abraham, Isaac, and Jacob.[84] Its twofold occurrence in v.8, further highlights the issue of inheritance, in particularly the idea of future generations. That is, as part of the parenthetical section of the legislation, D saw the need to re-emphasize the continuous nature of inheritance, identifying the laws with it and its continuous validity for future generations.

In the Qal stem, the root שמר means to "watch" or "guard" denoting the idea of giving close attention to an object. In the first creation account, the same verb is used to denote the responsibility given to Adam by God (Gen.2:15). In terms of responsibility,

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[83] T. W. Cartledge, "שבע," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 4: 32-34.

[84] Christopher J. H. Wright, "אב," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 219-223.

the term is also frequent in relation to spiritual and religious responsibilities (Isa.26:2).[85] This is the sense in which it is employed in v.9; that is, to be responsible for the laws of Yahweh. This is all part of the emphasis on the ethical concern to behave according to Yahweh's terms so that they remain on the land.

The verb שפך in the OT simply means to "pour out" although it also denotes "to shed" or "to spill." The verb carries many connotations such as both literally and metaphorically.[86] The implications on murder and warfare (Gen.37:22; Num.35:33; 1 Sam.25:31; 2 Sam.3:27-29, 20:10), are most valuable in support of the military language and war-like spirit of the text.[87] The verb occurs only in v.10 in the prohibition regarding the shedding of innocent blood. The blood avenger filled with rage does not make the distinction between the intentional and unintentional killer, thus, resulting in probably many wrongful deaths. For D, the death of an unintentional slayer still defiles the land and people by bringing bloodguilt upon them. In other words, killing the unintentional slayer is the same as killing of an innocent victim. D's move to ensure the safe arrival of any slayer whether intentional or unintentional shows D's concern is to avoid unnecessary bloodguilt. Bloodguilt is removed from the land by preserving the life of an unintentional killer furthermore it is purged by killing the intentional slayer.

The verb ארב means "lie in wait" also denoting "lie in ambush." In the ANE, the verb functioned as a metaphor for "betraying speech." The OT draws the concept from nature in reference to the act of an animal prowling for its prey (Psa.10:9, Lam.3:10-11). The same case is also employed metaphorically to portray an enemy's strategic act

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[85] Keith N. Schoville, "שמר," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 4: 182-184.

[86] Other nuances

[87] Herbert Wolf, Robert Holmstedt, "שפך," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 4: 222-223.

against its victims. On a more negative front, the verb may refer to criminals who are "lurking for blood." Overall, the concept derives from an act of nature featuring regularly within the context of war,[88] and represents what is corrupt, illegal and furthermore unjust.[89] Its sole application in the Asylum Legislation (v.11) is in the discussion of the intentional slayer, implying D's harsh language towards enemies and injustices. Furthermore, the sporadic occurrences of this type of language may be seen as finding climax here in association with the intentional killer. This may indicate D's resistance to war or towards those who make wars.

The verb זקן meaning "to be old"[90] is employed in v.12 as an adjective which describes the proposed administrators of justice; that is, lit. "those who are old" preferably the "elders."[91] The understanding of "old" derives from the root זקן meaning "beard." The beard symbolically portrayed the blessings of God (Ps.133:2).[92] Likewise this notion is evident when referring to the divinely appointed "council of elders" who were leaders of families and the society, who are expected to be manifestations of Yahweh's wisdom and justice in society.[93] D here is alluding to the 'council of elders' as representatives of Yahweh. As mentioned—under the discussion of the verb "to

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[88] The word is a main characteristic of the conquest history in both Joshua and Judges. The mention also of the root קום meaning to "stand up" conveys the notion of "beginning to do something" which highlights further the concept of ambush. Furthermore, a proposed life setting for the root is in the coronation of kings, that is, "Rise up, sit enthroned." Its association with the intentional slayer supports the negative perception of the authorities. — Elmer A. Martens, "קום," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 903.

[89] A. H. Konkel, "ארב," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 490-491.

[90] Paul D. Wegner, "זקן," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 1134-1136.

[91] Kenneth T. Aitken, "זקן," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 1137-1139.

[92] Robert L. Alden, "זקן," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 1: 1137.

[93] Aitken, "זקן," 1138.

give"—the elders are perceived as Yahweh's servants to administer justice. What about the other leading offices of the Israelite society? What about the monarch or the priesthood? Discussions on the relationship of these community leaders are developed further in the following chapters to formulate a suggestion.

Overall, the grammatical observation has assisted the study with several formulations. The concept of land is of major concern for D. In the observation, D appears to be addressing the tension between remaining in and eviction of people from the land. First, for D, the criterion for permanent dwelling is obedience to Yahweh manifested in the appropriate ethical and moral behavior within society. In other words, maintaining justice in society. This would also account for the evident strong urge to obedience. Second, a certain cleansing process is also highlighted in association with the concern about land. Third, while there is a mixture of specific terminologies in the text, that is, judicial, military, and farming, they also carry covenantal overtones. In light of covenantal emphasis, D is alluding to the Promised Land. However, it is important to note that D's view of the Promised Land does not centre on the traditional Canaan. The implication for a much wider concern attests to a certain reality D maybe facing which may call for a decentralizing ideology. Fourth, the text also shows glimpses of a future-oriented intention of D for the legislation.

To briefly sum up this chapter, the form analysis presented D's ethical and moral concerns of life in society, with the strong urge to the recipients that the legislation be accepted as law. Furthermore, D is possibly addressing weaknesses in current practices to maintain justice in society. The structural analysis supports the notion that D is addressing an existing tension within society. Furthermore, the parenthetical law of v.8-10 implies a future oriented provision and would be applicable to a variety of contexts in the history of Israel. The grammatical analysis as we have just seen reiterates these

implications with great emphasis on the issue of land and the covenant conditions to ensure permanent dwelling, that is, obedience to Yahweh or maintaining justice in society.

Chapter 4

Intrinsic Analysis II:

The Ideological Content of the Asylum Legislation

in Deuteronomy 19:1-13

The second part of the intrinsic analysis employs an *inter-textual* investigation which analyzes Deut.19:1-13's dialogical discussions with the biblical parallel accounts of the Asylum Cities. This section will provide further insights into the delineating of the ideology or ideologies in the text. Furthermore, an *intra-textual* examination will conclude the chapter focusing on the relationships between Deut.19:1-13 and the book of Deuteronomy as a whole. This will enlighten us to an ideological function of the Asylum Legislation within the DC and the book of Deuteronomy as a whole. The chapter is divided as follows;

A. Deuteronomy 19:1-13 and the Parallel Biblical Accounts
   (i) City of Refuge
   (ii) Administration of Justice
   (iii) Systems and Procedures
   (iv) The Slayers and the Avenger of Blood
   (v) D's Unique Phrases
B. Ideologies within the Asylum Legislation
C. Deuteronomy 19:1-13 and the DC

A. Deuteronomy 19:1-13 and the Parallel Biblical Accounts

In appropriating Mikhail Bakhtin's theory of 'dialogism,'[1] the attempt is to analyze Deut.19:1-13's perception of justice in light of the discussions put forward by

[1] "Dialogism" according to Bakhtin takes place at different levels. First, at the level of production, or rather the dialogue which takes place in the 'rhetorical environment' which contains

parallel accounts of the Asylum Cities found in Exod.21:12-14, Num.35:9-34, Deut.4:41-43, and Josh.20. The essential question at this point is: what is D's view concerning the cities of refuge and their function in the implementation of justice, with respect to all other views in the dialogic situation? Major characteristics of the Asylum cities shall be brought into focus to highlight how D dialogues with parallel discussions.

(i) City of Refuge

The Concept — In reference to the institution for asylum, the BC (Exod.21:13-14) uses the word מקום meaning "place." Only Josh. and Num. use the phrase עריׄ־המקלט translated "cities of refuge." The Deuteronomy texts simply use the word ערים meaning "cities." First, Deuteronomy employs the term מקום in a religious context; that is, it can refer to both the central sanctuary of the Israelite God Yahweh (Deut.12:5, 11, 14, 18, 21, 26; 16:2, 6, 7, 11, 15, 16; 17:8, 10; 18:6; 26:2; 31:11), and those of the heathen (Deut.12:2-3, 13).[2] D's choice of 'city' over 'place' should not suggest a preference of the secular over the sacred as Num.35 reports the cities being also Levitical cities. It is more likely that D's decision is rooted in the concept of city itself. As noted in the grammatical observation, the terms for cities and towns convey a

competing answers to the same question which the text wishes to speak about. A dialogue between already existing views regarding a topic is assumed before the text enters and adds its own voice. Second is at the level of the text itself, or an 'internal dialogue within the text,' as the text responds to the already existing views. At this stage is where the author "manages" these competing voices and moves towards a preferred viewpoint. Third is at the level of reception, or the 'dialogue in the audience.' This proposes that even before the audience engage the text, they would have already had a pre-understanding of the subject based on the various perspectives within their own environment.—Mikhail M. Bakhtin, *The Dialogic Imagination*, trans. Caryl Emerson and Micheal Holquist, ed. Michael Holquist (Texas: University of Texas Press, 1981), 273-280.

[2] Jacob Milgrom, *Numbers*, JPSTC, ed. Nahum M. Sarna, Chaim Potok (Philadelphia: The Jewish Publication Society, 1990), 506.

symbolic notion of protection and safety;[3] making them the logical choice in the issue of asylum.

Second, unlike Numbers and Joshua, the adjectival use of מקלט meaning "refuge"[4] is lacking in Deuteronomy. D does not provide a direct description of the institution but indirectly achieves it through describing the type of person who can live there. In line with the BC, D's emphasis lies not so much with the institution itself but with the living being further indicating the human and humanitarian concerns.

(ii) Administration of Justice

There is tension between the texts as to the ruling authority responsible for the administering of justice. First of all, while Num.35:12, 24-26 suggest trials before a עדה "congregation," the high priest is the one responsible with the overseeing of the innocent slayer. Josh.20:4 adds the elders as initial interrogators at the gate before moving on. According to Carpenter, the word עדה can refer to all sorts of assemblies but the norm suggests a "religious assembly." Such assemblies come together either for worship or for legal matters,[5] thus, this would imply that the high priest had an active role in the assemblies or congregations. Furthermore, the idea of an official pardon on the death of the High priest amplifies his leading role, ideally a kingly role.[6] The elders

[3] M. E. J. Richardson (trans. and ed.), *Hebrew and Aramaic Lexicon of the Old Testament* (New York/Leiden/ Köln: E. J. Brill, 1995), 2: 820-821.

[4] R. Schmid, "מקלט," *TDOT*, ed. G. Johannes Botterweck, Helmer Ringgren (Grand Rapids: William B. Eerdmans Publishing Company, 1975), 8: 552-556.

[5] Eugene Carpenter, "עדה," *NIDOTTE*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan Publishing House, 1997), 3: 326-328.

[6] Amnesty of fugitives on the death of a king was a common practice during the monarchic era in Israel's history. There is belief that the P writers are alluding to this tradition presenting the high priest in this leading role within the society. Philip J. Budd, *Numbers*, WBC Vol.7, ed. David A. Hubbard (WACO: Word Books Publisher, 1984), 382. See also Richard D. Nelson, *Joshua*, ed. James L. Mayes (Louisville: Westminster John Knox Press, 1997), 230-231.

also assume a kingly role by passing out judgment at the gate[7] and determining whether or not to accept the slayer into the city to await the trial.

For D, the High priest, priesthood and the congregation are all absent, while only the elders are mentioned (v.12). Why? There could be a number of reasons. For example, it is possible that D is not aware of the High priest ever being involved in this institution. However, the congregation in which the high priest has a role is also absent. "Absences" according to Yee are a significant aspect of determining ideologies that is, things which are not being said in the text are actually saying something.[8] A mention of the high priest or the congregation would only be upholding the views of the other traditions, thus reassuming the leading role of the high priest. D's omission of these two offices suggests that they do not really have a role in his perceptions of how things should be. Although D does not clarify any of the possibilities as the right one in the text, it is possible to sense that the elders in D's view are the ruling authority and possibly more ideal than the high priest.

We can also contemplate the elders' role within the institution which is expected to be defined by Yahweh's justice. The phrase יהוה אלהיך "the Lord your God" occurs seven times in the Asylum Legislation; all occurring in the section regarding the resolving of the correct verdict for preservation of life[9] (vv.1-10). The elders' role is pronouncing the verdict for capital punishment if willed by divine justice (vv.11-13). D is more concerned with an institution that functions within the parameters of God's

[7] Judicial matters held at the gate were duties of not only the 'chief judge' and 'inferior magistrates,' but was evident also as an official duty of the monarch at times. (1 Kgs 22:10; 2 Sam.19:8; Jer.38:7, 39:3).—Joseph Bonomi, "Gates," in *The Imperial-Bible Dictionary: Historical, Biographical, Geographical and Doctrinal*, ed. Patrick Fairbairn (London: W. G. Blackie and Co. Printers, 1866), 633-634. See also Alexander Rofe, "The History of the Cities of Refuge in Biblical Law," in *Deuteronomy: Issues and Interpretation* (London/New York: T & T Clark, 2002), 126-127.

[8] Yee, "Ideological Criticism: Judges 17-21 and the Dismembered Body," 151.

[9] Reference is made here to the two-fold division of the legislation. See the structural analysis, p. 51.

justice; presenting Yahweh as the true administrator of justice. Yahweh's justice is not only about saving the innocent life but also the prevention of bloodguilt through the death of the intentional slayer.

(iii) Systems and Procedures

Another question in the parallel relations is the lack of system or procedure accounted for by D. Deut.4 and Exod.21 are excusable in this respect by being very brief accounts of the asylum concept. Num.35:12, 24-28, 32-33 explains the killer should make his way to the nearest city of refuge to await a trial which takes place in front of a congregation in the killer's home town. Both the killer and the avenger are to be present at the trial. If guilty, then it is left to the avenger of blood to execute the sentence. If innocent, the killer shall be returned to the city of refuge to remain within its boundaries until the death of the high priest. Josh.20:4, 6 agree with Numbers however by adding that there is an initial examination by the elders at the gate before the killer is brought in to await the trial before the congregation. Why does Deut.19 fail to report on the foregoing process?

It is obvious that the preservation of innocent life is equally the concern of all the texts. It is possible that D may not be too concerned with procedures as they could in general be satisfactory in his view. However it is evident that this approval is only up to a certain point. This we know from the fact that D is addressing various areas of the system which he feels need to be improved in order to serve its purposes, for example, the location of the cities, the unnamed cities, the identity of homicide and the nature of blood guilt (to be discussed next). Furthermore, the possibility of preference of elders over high priest could also be a suggestion of who should oversee the system.

(iv) The Slayers and the Avenger of Blood

All texts account for the two types of slayers; and while all agree that the purpose of the asylum cities is for the unintentional slayer, only D takes into account the possibility of the intentional killer fleeing to one of these cities (v.3). For D, even the intentional killer should be safe in the cities until proven guilty. First, D portrays a great concern against the shedding of innocent blood in general, whether it is that of the innocent slayer or that of the murdered person. For D, killing an innocent slayer is just the same as murdering someone in cold blood.

We may take note of the extreme measures taken to avoid further shedding of innocent blood. First, the phrase בתוך ארצך literally translates "in the midst of your land" (v.2). Craigie believes that the phrase implies "three cities were to be evenly distributed throughout the land, so that no fugitive should be at a particular disadvantage under the law …"[10] Second, the phrase תכין לך הדרך in v.3 literally reads "You will prepare/maintain (for you) the road;" the Hebrew root כון simply means "to establish, to fix"[11] all part of the clear concern that the 'distance maybe too great' as shown v.6. Third, the three additional cities of v.9 climaxes D's criticism of P's institutions for not really being able to save anyone. Why should the cities be limited to three if the extent of land requires more? As noted above, allowing any slayer to flee to the city heightens the fact that the concern is to confirm the correct verdict, to ensure that shedding of innocent blood is avoided. On the other hand, the death of the proven intentional slayer cleanses the land of bloodguilt.[12]

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[10] Craigie, *Deuteronomy*, 266.

[11] "כון," *BDB*, 466.

[12] Bloodguilt - several passages address the concept of bloodguilt. 2 Samuel 21 contains the record of a three-year famine in Israel believed to be punishment for Saul's annihilation of the Gibeonites

We may also take note that the importance of land enters the frame. Num.35 like Deut.19 legislates against defiling the land through shedding innocent blood. But Deut 19 is much more cautious against unnecessary killing unless people are absolutely sure. For D, as for Numbers the only way of purging bloodguilt is taking the blood of the intentional murderer. D does not want to have any innocent blood shed on the land (v.13). The problem for D is the possibility of the avenger of blood getting to the unintentional killer before a proper trial is completed. Failure to meet this, the people and the land will be guilty of shedding innocent blood. This would explain D's emphasis on the distances (v.6) and non-identities of the cities, probably as a more manageable way of dealing with the problem. In light of this, the avenger of blood in D's account is merely the executioner of the death sentence. This limitation presented to the role of the avenger implies that D is encouraging the avenger to exercise more self control, at least before the killer has been proven guilty.

(v) Deuteronomy's Unique Phrases

The following phrases which are unique to D lead us also to assume unique experiences not known to the author(s) of the parallel texts.

"...divide into three parts the territory of your land…" (v.3) — another characteristic of the asylum texts is this tradition of grouping in 'three cities.' Deut.4:41-43 speaks of the three cities on the East of the Jordan, while Num. and Josh. add to their discussions the three on the west. We can pick out two unique points in D's treatment of this tradition. First, to satisfy the tradition, D calls for setting aside of three cities, but then he goes beyond that by not specifying which and where. Why? Moshe

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breaking a peace treaty dating back to the time of Joshua. The second reference to bloodguilt is made by King Solomon as the reason for Joab's execution; that is, Joab's death will redeem the Davidic house from all the innocent blood spilt at the hands of Joab for the monarchs. The passages show that it was generally understood that guilt, which resulted from murder, would rob one of the Yahweh's blessing. — Mayes, "Cities of Refuge," 19-20.

Greenberg believes that the naming of the six cities would suggest Israelite control over them, which would have been a possibility only under the united monarchy.[13] This would suggest two things about D's failure to provide names; first, naming the cities is irrelevant because no such Israelite control exists in D's time. Second, I believe that D here is deliberately being ambiguous. Why? While looking into the future to new cities, it is possible that D intends to leave the legislation open-ended as it is, that is, so that the legislation might be more receptive to re-appropriation under a variety of situations and contexts. He does not specify, thus leaving it to the recipients of the legislation to decide with regards to their needs.

The second unique treatment by D, in addition to the unspecified locations and names, is calling for the division of land into three. Once again, D is not specifically clear on what is meant that is, does D mean that there should be one city per region, or three cities in each region? Like the first point, D may be being deliberately ambiguous.

What may have prompted this three-fold division of land? Rainer Albertz's historical study of the OT speaks of three main Jewish territories in the exile.

> The Israel of the exilic period consisted of at least three major groups in separate territories which were exposed to different historical developments, had different interests, and in part came into conflict over them. They were joined only by the loose bond of common ethnic origin and a common religion. Thus the tendency towards splintering within various territorial groups (the tribes, the northern and southern kingdoms) which was already recognizable in the pre-exilic period continued in an intensified way at a new level.[14]

[13] Moshe Greenberg, "The Biblical Conception of Asylum," *JBL* 78, (1959): 125-132.

[14] Rainer Albertz, *A History of Israelite Religion in the Old Testament Period: From the Exile to the Maccabees*, Vol.2, trans. John Bowden (London: SCM Press Ltd, 1994), 374-375.

To take up Albertz's description, it is possible that there may be a connection between the three-fold division of land in the Asylum Legislation and the three main territories of the Jewish diaspora.[15]

"But if the way is too long…"(v.6) —this question has already been raised by Jeffrey Stackert in his article. "Why would the distance be too far? What is the author's assumption that stands behind his rationale in v.6?"[16] Stackert in his critical-literary analysis attributes this phrase to D's creative style in using and modifying his sources. That is, it functions in the legislation to discredit a centralized concept evident in Exod.21:12-14. For Stackert, D does not need to assume this link between city asylum and centralization of worship, because city asylum can be read simply from D's creativity as well as his interpretation of "place' to mean "city."[17] A more historical treatment of the centralized idea is noted by Alexander Rofé in the law for tithes (Deut.14:24-25). Rofé also asks the question of why the distance would be too far, and sees it as a response to the issue of centralization. In the case of the tithes,—which also employs this concern of distance—Rofé believes the solution is provided produce—which rarely lasts the distance of the journey—with the use of money.[18] We must take note that although a provision has been made, it does not change the fact that the centralization of the cult remains influential in the mind of the author. The people are still required to make the offering at the central sanctuary.

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[15] Although the Jewish dispersion may have begun in 722 BCE with the fall of the Northern kingdom, the three distinct groups of Hebrews only officially emerged following the Babylonian exile in 597BCE, that is, a group in Babylon and other parts of the Middle East, a group in Judaea, and another group in Egypt.

[16] Jeffrey Stackert, "Why does Deuteronomy Legislate Cities of Refuge? Asylum in the Covenant Collection (Exodus 21:12-14) and Deuteronomy (19:1-13)," *JBL*, 125 (2006): 47.

[17] Stackert, "Why does Deuteronomy Legislate Cities of Refuge?," 41-42, 47. Von Rad also upholds that the Asylum Legislation was a result of abolishing the local sanctuaries. —*Deuteronomy*, 16.

[18] Rofe, "The History of the Cities of Refuge in Biblical Law," 127-128.

The Asylum Legislation may also be seen as addressing the issue of 'centralization.' It is possible that part of the author's rhetoric is agreeing in principle with the tradition of three cities, but then adds other qualifying details which may suggest that he does not have in mind the traditional centres or any specific cities. Factors in support of such a claim include, unnamed cities and unspecified locations, division of land into three regions, enlarging of the territory and repetition of the same process of division and adding more cities, and the deep concern for justice, that is, against spilling innocent blood and equal standing of everyone under the law. First, we noted that the D's reluctance to name the cities was part of the rhetorical strategy. D is being deliberately ambiguous. D is not bothered with names and specific locations for the cities; this is due to the implication that the cities in D's mind should no longer be confined within the Promised Land alone. The cities are open to be implemented wherever there is a need. This indicates that D is taking into account the entire world. Second, this ambiguity of D is also evident in the division of the land into three. D does not specify what is meant, that is, whether it is three cities per region or one. Again D leaves this open to be defined by the need of the people all over the world. Third, the high concern for justice is evident in both of the previous points. D's attempt to ensure everyone gets an equal chance to get to the cities is seen in the addition of the cities upon expansion of the land by Yahweh. This implies an ongoing process, that is, as far as Yahweh expands the territories so shall the cities be implemented to ensure that no one is in jeopardy.

Centralization in particular threatens this process because it does not allow for the diverse ways in which people can implement justice so that it is efficiently and effectively practised. For D, it appears that proper execution of justice would be

severely compromised by the idea of centralization. Thus, D would more likely advocate a decentralized design.

Albertz holds that de-centralization results from the lack of a central authority normally represented by a monarch and/or the government.[19] Thus, it is possible that this aspect of Deut.19:1-13 represents a later period of the history of the people of Israel where central authority may have been lacking, presumably during the exilic and post-exilic periods. This would concur with Soggins' claim that de-centralizing the cult is a necessity to accommodate the "Jewish dispersion." He deems it impracticable for people far away to take the risky journey to the central place; the more sensible approach would be to set up cultic institutions within their local settlements.[20]

"If the Lord your God make wide your territory…" — first, in light of the previous discussion, how then is the extending of borders in v.8—also distinctive to this asylum account—to be understood? From the outset, it is obvious that territorial boundaries in mind are that of the Promised Land (Gen.15:18-21; 28:14; Exod.23:31, 34:24; Deut.11:24-25; 12:20). Historically, the realization of the promise—as far as the borders go—may have never really materialized.[21] It is possible that D is alluding to the promise as it was in the past and continues to look towards a future fulfilment.

Second, the conditions for the giving of all the land that was promised, is that all of the commandment given is diligently observed (v.9). Is D referring to the Asylum Legislation or the DC? This exhortation occurs a few times in the DC (12:1, 28, 32; 13:18; 16:12, 16; 26:13). While the first reference accounts for all the laws of the DC,

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[19] Albertz, *A History of Israelite Religion in the Old Testament*, 375.

[20] J. Alberto Soggins sees this as the main reason for the emergence of the local synagogues which continued to exist in the time of Jesus. The synagogue represented a form of de-centralizing of the temple traditions —Soggins, *An Introduction to the History of Israel and Judah*, ssecond edition, trans. John Bowden (Valley Forge: Trinity Press International, 1993), 296.

[21] The extent of the borders of the land promised can be found in Gen.15:18-21, Num.34:1-15, Eze.47:13-20.

the rest remain ambiguous, including 19:9. The exception however, is 26:13 which suggests that the specific law is referred to. A clear distinction is made between the specific commandment and the DC. This implies that the specific commandment maybe referred to in the various references as in the case of 19:9, which is the Asylum Legislation. This would mean that observing the legislation to the letter will be the precondition for God's enlarging of the territory. Thus, ideally the process may continue on without end, given the provision of adding cities every time there is an expansion of land. The implication is that D is possibly legislating something for the whole earth. Exactly what is being legislated shall be discussed. But first, how then would the issue of 'Promised Land' be perceived in light of such implications?

Paul R. Williamson—in his article; "Promise and Fulfilment: The Territorial Inheritance,"—believes that a thorough examination of the 'Promised Land' texts will reveal that a "wider interpretation of the promised land" is in mind, one which is not "restricted absolutely to one geographical locale." Williamson reasons that "the map of the promised land was never seen permanently fixed, but was subject to at least some degree of expansion and redefinition."[22] It is possible that D here maybe redefining the borders of the Promised Land, referring to the whole world rather than traditional Canaan.

In support of this claim, D's consideration of territories outside Canaan differs from P's. This is evident in the choice of verbs when referring to the various cities. When referring to the cities in Canaan, P sees them as קדש — "sanctified" (Jos.20:7),

[22] Paul R. Williamson, "Promise and Fulfillment: The Territorial Inheritance," in *The Land of Promise: Biblical, Theological and Contemporary Perspectives*, ed. Philip Johnston, Peter Walker (Leicester: Apollos, 2000), 20-21.

whereas the cities in the east are referred as being נתן — "given, assigned" (Jos.20:8).[23] D employs the Hebrew root בדל — "to separate" or "make a distinction" to refer to the cities both within and outside of Canaan (Deut.4:41, 19:2, 7). The various uses of בדל[24] are closely connected to P's perception of 'sanctify,' in-fact both terms appear as synonyms in P material. D's preference of בדל shows his disapproval of P's clear cut attitude between the secular and sacred.[25] This implies that D is acknowledging Yahweh's authority over the lands and places outside of Canaan.

Getting back to the question of what is being legislated, the purging of bloodguilt from the land as the legislation suggests is a possibility. However, we may take note of v.1 which speaks of the taking of the land. As mentioned in the grammatical analysis, the phrase "When the LORD your God has cut off the nations…" is found only twice in the DC, one in the prohibition against idolatry (12:29)[26] and the other in Deut.19:1. The process in the prohibition of 12:29 clearly portrays total removal of what is unclean from the land. D's use of this phrase in v.1 to open this specific legislation indicates that he is legislating for a certain purging or cleansing process of the entire world, hence, giving also the idea of Yahweh the universal God. Furthermore, emphasizing a monotheistic response from the people is also putting emphasis on commitment to the covenant. This maintains the identity of a holy people of Yahweh which in turn is accompanied by practice of proper justice within society. D is also legislating proper justice for the whole world.

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[23] Milgrom, *Numbers*, 504-505.

[24] Refer to explanation of בדל in Grammatical Analysis, p. 82.

[25] The root פרד "divide" is employed by the DC when referring to secular affairs, however it is not employed when referring to the outside cities in the Asylum Legislation.

[26] The other phrase used in the taking of the land is "When you come into the land…" (Deut. 17:14; 18:9; 26:1).

"…you shall add three more cities upon these three…" (v.8) —this is also unique to D. The provision is for the addition of three more cities should Yahweh extend the borders of the land. This shows D's concern with the implementation of justice. It demonstrates D's casuistic concern in addressing various areas of the system that requires attention. First, D is very likely criticizing the parallel legislations for not really being able to save anyone. Why should the cities be limited to three if the extent of land requires more? At the same time, it emphasizes D's concern with purging of bloodguilt from the land. Second, this also attests to the universal perception of D as seen in the previous discussions. That is, the process ideally should continue to account for the whole earth.

B. Ideologies within the Asylum Legislation

We noted in the previous chapter D's concerns particularly with the issues of justice and the covenantal relationship between Yahweh and Israel. Obedience to Yahweh ushers in the justice he longs to see practiced in society. The casuistic genre indicates that D is addressing weaknesses within the justice system, specifically the implementation of justice where bloodguilt is concerned. Furthermore, there are notions that D is legislating a certain cleansing process with a future-oriented intention that the legislation be applicable to a variety of contexts. This striving for justice as D portrays it, is the only criterion for ensuring that the people enjoy a permanent dwelling in the land. In other words, obedience to Yahweh and walking in His just ways is the only way to prevent eviction from the land. Rhetorically, land appears to be a certain motivational tool to promote appropriate ethical and moral behavior in society.

The intertextual analysis reiterates and puts more emphasis on the formulations of the previous chapter. The concern for justice is strongly presented in the critique of the parallel legislations for their inability to save people. First, D is highly concerned with

humanitarian issues and the safety of people in society. Second, the notion of obedience to Yahweh is maintained with the emphasis that Yahweh alone is to be the administrator of justice. That is, Yahweh's justice—highlighted in the emphasis on saving the innocent life especially to prevent bloodguilt—should be manifested through the leaders of society. In D's case, it appears that there is a certain preference for the council of elders over the office of the high priest.

Third, while D is possibly content with current systems of justice, this approval has its limitations as D definitely moves to address certain areas he feels need to be improved. For example, unspecified cities and locations, nature of bloodguilt and identity of homicide. Fourth, the issue of land is further emphasized. The great concern to prevent spilling of innocent blood is because it defiles the land. Bloodguilt would only lead to the eviction of the people from the land. Fifth, in relation to the conditions for permanent dwelling, D is possibly legislating a certain cleansing process.

Sixth, a decentralized ideal is also evident in both chapters. While we were introduced to glimpses of this notion in the discussions of land and cities in the previous chapter, it is now more developed. D is being purposefully ambiguous in various areas of the legislation, for example; the three-fold division of the land and the unspecified cities and their locations. This can be noted as a rhetorical strategy which leaves the legislation more open-ended, so that it is more receptive and applicable to different situations and circumstances. In addition, while D alludes to the concept of the Promised Land, there are implications that D has a much wider context in mind that is beyond the boundaries of Canaan. This is further implied in the possibility that D perceives the proper execution of justice as being severely compromised by the idea of centralization.

All in all, the six formulations point towards D's concern for proper justice in society. Linked closely to the issue of land, D believes that justice is the prerequisite for permanent dwelling. Injustices would result in eviction and loss of land. The notion against centralization denotes that this may be the current practice of the time, which for D may have contributed to injustice. Thus, a more decentralized ideology is advocated. In light of this, D in general is re-appropriating the legislation. This re-appropriation of law aims to purge and cleanse injustices within the society. At the same time, the re-appropriation is future-oriented and intended for future generations wherever in the world they may be situated.

C. Deuteronomy 19:1-13 and the Deuteronomic Code

We know from the literature review in the first chapter that the DC occupies the mid-section of the book of Deuteronomy. In the long history of the book's composition, the DC (Deut 12-26) is believed to have made up the bulk of the "original book."[27] Given the nature of the book as "second law,"[28] the idea of justice is without a doubt, an overarching concern.[29] The purpose of this section is to discuss the major ideological concerns related to justice, focusing specifically on the legal code within the book of Deuteronomy, that is, the DC. This would then make it possible for the study to delineate the ideological function of the Asylum Legislation within the context of the

[27] Moshe Weinfeld, "Deuteronomy, Book Of," *ABD* 2 (New York: Doubleday, 1992), 171.

[28] The name Deuteronomy derives from the Greek construction which renders from the phrase in 17:18, in which the king is ordered to make a 'copy of the law.' The Greek phrase *deuteronomion* however, literally translated "second law," does not accurately translated the command to the king. This has been attributed to a mistake on the part of the LXX translators.—Thompson, *Deuteronomy*, 12. (cf. also other commentators).

[29] Social Justice is central to the book of Deuteronomy. Jeffries M. Hamilton, *Social Justice and Deuteronomy: The Case of Deuteronomy 15*, ed. David L. Petersen, Pheme Perkins (Atlanta: Scholars Press, 1992), 4.

DC and the book of Deuteronomy as a whole. Let us first briefly consider a structure of the DC.

A. Laws Dealing with the Unity and Purity of Worship (12:1–14:21)
   a. The Law of the Central Sanctuary (12:1-28)
   b. The Perpetual Temptation: Apostasy (12:29–13:18)
   c. Maintaining the Holiness of God's Name (14:1-21)

B. Regulations Concerning the Sacred Divisions of Time (14:22–16:17)
   a. The Worship of God in the Sacred Order of Time (14:22–15:23)
   b. The Festival Calendar (16:1-17)

C. Public Authority and Leadership (16:18–18:22)
   a. Judicial Authority (16:18–17:13)
   b. Kings, Priests, and Prophets (17:14–18:22)

D. Matters of Life and Death (19:1–21:23)
   a. Issues of Life and Death: Murder (19:1-21)
   b. Issues of Life and Death: Warfare (20:1-20)
   c. Issues of Life and Death: Murder, Capital Offenses, and Inheritance (21:1-23)

E. Maintaining the Divine Order of Life (22:1-30)

F. Matters of General Conduct (23:1–25:19)
   a. The Boundaries of the Community (23:1-18)
   b. Justice and Compassion in the Community (23:19–25:4)
   c. Protecting the Family (25:5-19)

G. Liturgy and Thankfulness (26:1-19)[30]

How the religious laws and legislations in A, B, E, and G, relate to the concern of justice within society requires further explanation. However, we will first look at sections C, D, and F which have direct reference to issues of justice. First, civil order calls for good leaders within society (section C). The laws concerning the local judges, the priests, prophets and the monarch are all designed to avoid corrupt practices within the respective offices. All are presumed to be under the law like everyone else. Furthermore, there is great concern for the unnecessary spilling of blood, and measures are taken to prevent murder and warfare (section D). The law code also accounts for ethical and moral behaviour of everyday life (section F). This is evident in the provision

[30] This structural division of the DC is based on the structure provided in Ronald E. Clements, "The Book of Deuteronomy: Introduction, Commentary, and Reflections," 289.

of family laws, laws for dealing with those in need such as the widow, orphan, the poor, etc. In other words, there is call for humanitarian behaviour in general amongst the people of Yahweh.

Second, what bearing do the religious laws and rituals have on the practice of justice in society? According to Wright, "justice and compassion," as characteristics of Yahweh were to be visible in the life of the Israelite community,[31] thus obedience to Yahweh's commandments was essential. In other words, Israel's call to live a life of holiness defined by religious laws, was also to be the manifestation of Yahweh's justice and compassion in society. Holiness, justice and compassion all find a common ground in Yahweh alone.

As part of ensuring this distinctive feature of Israel, the idea of *centralizing of the cult* is assumed to play a central role. Reasons behind the move to the single sanctuary are still debated. However, what is clear in the book of Deuteronomy as Tigay also points out, is that the book "perceives worship at multiple sites as inherently pagan."[32] This implies the move to remove all other gods which threaten to disturb Israel's loyalty and sole allegiance to Yahweh. Furthermore, the threat of justice in society will be compromised.

According to Yairah Amit,

> …the demand for a centralized worship affected all the ritual laws (Deut, 12; 14; 15:19-23), the holy days (Deut. 16.1-17), the gifts to the priests (Deut. 18.1-8; 26.1-10), and even the civil judiciary (Deut. 16:18-17.13; 19). It may be said that the way of life of the Israelite individual was profoundly affected by this process, as two specific illustrations reveal: the centralization meant that ordinary animal slaughter became profane, since it is unlikely that the slaughtering of all meat for food was carried out at the one temple (Deut. 12.15-28); secondly, it changed the manner in which the religious festivals were

[31] Wright, *Deuteronomy*, 9.

[32] Tigay, Deuteronomy, xvii.

> celebrated—the Passover sacrifice, for example, turned from a family sacrifice into a public one at the central temple (Deut. 16.1-8).[33]

Centralization then, aimed to ensure that practices of all the religious laws and rituals were uniform and pure in the worship of Yahweh alone. This aimed to emphasize sole allegiance to Yahweh and the practice of justice in society. However, at the same time, it is also evident that centralization also promotes central authority and control of the worship in its various aspects. For example, rituals, temple taxes, etc. This central sanctuary theory has also been argued to have political and economic intentions. That is, central authority would also apply to the economic and political functions of the temple.[34]

Justice then in the DC is closely related to Israel's status as a holy people for Yahweh. Holiness achieved through the obedience and observance of Yahweh's laws also ushers in justice and compassion within society. Thus, allegiance to Yahweh alone was of great concern. For the DC, the centralizing of the cult would ensure the appropriate ethical, moral and religious behaviour. In this discussion three major concerns are evident, first, a humanitarian concern is to be assumed in light of justice, second, the idea of monotheism is also a major emphasis, and third, centralizing the cult is believed to achieve this.

How then, can we perceive the function of the Asylum Legislation in light of these purposes of the DC in general? First, with regards to justice, the Asylum Legislation also shows great humanitarian concern. Measures are taken to avoid the shedding of innocent blood. Second, the monotheistic ideology is also evident in the

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[33] Yairah Amit, *History and Ideology: An Introduction to Historiography in the Hebrew Bible*, trans. Yael Lotan (Sheffield: Sheffield Academic Press, 1999), 52.

[34] Both authors acknowledge the close association of first temple and the monarchy, a place from which the province was administered. Weinberg, *The Citizen-Temple Community*, 126. See also Balentine, "The Politics of Religion in the Persian Period," 141-142. Tigay describes the political function of the temple as bringing 'unity' to the nation under the central authority.—Tigay, *Deuteronomy*, 460.

Asylum Legislation, especially in the urge that Yahweh should be the sole administrator of justice, and the life of a society should be defined by this justice. Third, although the Asylum Legislation tends to acknowledge the idea of centralization, in contrast to the DC, it is not favourably perceived, in fact, implications are that justice is severely compromised by the idea of centralization. Why? As proposed by this study of the Asylum Legislation, D is re-appropriating the legislation. Various aspects imply that D is legislating a cleansing process to remove injustices within society, while at the same time intending the legislation for the whole world, that is, as far as there is need for refuge cities. Furthermore, the legislation also implies intentions for future generations. In short, D is re-appropriating the legislation, so that its purposes can be more effective by being more accommodating to a variety of contexts in the history of Israel.

The function then of the Asylum Legislation within the context of the DC would be a critique of the entire law code; to show that law codes must be legislated in a way so as to be applicable to a variety of circumstances and situations. Why should the ideology of centralization be maintained if a more decentralized ideal serves much better the purposes of proper justice? Promoting a contradicting ideology to the norm is a challenge for change. In other words, the Asylum Legislation of Deut.19:1-13 is a "utopia."

Chapter 5

Extrinsic Analysis

The Ideological Context of the Asylum Legislation in Deuteronomy 19:1-13

The purpose of this chapter is to situate the findings of the intrinsic analysis in a specific social location, and hopefully provide more detailed resolutions to the following questions. Why re-appropriate the Law? How does the idea of decentralization serve justice from D's standpoint? What is D making a stand against?

In the literature review, four major periods were evident regarding the compositional dating of the book of Deuteronomy, as well as the asylum legislation in chapter 19. Accordingly, the ideologies of the author or authors of Deuteronomy varied in close association with the specific periods of composition. This study wishes to place D within the exilic/post-exilic period with special focus on the Persian Era (550 – 330 B.C.E.) for two reasons; the first being the fair amount of agreement that the final editing of the book of Deuteronomy took place within this period. Second, we know from historical sources that apart from the instruction to return and build the temple, another Persian policy was the codification of traditional laws.[1]

This chapter will discuss the historical, political, economic, social and the religious situations of the Persian Era, focusing especially on its influences on the Jewish communities. While the returning exilic community in the province of Judah

[1] Samuel Balentine, "The Politics of Religion in the Persian Period" in *After the Exile: Essays in the Honour of Rex Mason*, ed. John Barton and David J. Reimer (Georgia: Mercer University Press, 1996), 139. The codification of traditional laws is discussed further under the 'Persian Governance and Administration.'

will be the centre of attention, we shall also take into account where possible the Jewish communities of the diaspora. The chapter is divided as follows;

A. The Historical Background
    (i) Persian Rule and the Return of the Exiles
B. The Political Conditions
    (i) Persian Governance and Administration
    (ii) Local Governance and Leadership
    (iii) The Administration of Justice
C. The Social Conditions
    (i) Demography of Returning Exiles
    (ii) Social Structures and Stratifications
D. The Economic Conditions
    (i) Persian Economic Policies
    (ii) Land Ownership
    (iii) Labour and Production, Exchange and Trade
E. The Religious Conditions
    (i) The Temple
    (ii) The Priesthood
    (iii) The Religious Laws
F. The Jewish Communities of the Diaspora
G. Summary

A. The Historical Background

The end of the Babylonian rule approached rapidly following the death of Nebuchadnezzar in 562 BCE. Weakened by internal divisions and threatened by ambitious neighbours its leaders could not hold the empire together. After a rapid succession of rulers marked by assassinations and conspiracies, Nabonidus, the last

Babylonian king came to power in 556 BCE. Nabonidus' rule brought about divisions within the empire that would become fatal, especially with his religious preferences.[2]

A new threat emerged on the scene. Cyrus the Persian had managed to unify warring tribes and by 550 B.C.E. conquered the Median Empire. With the Medes and Persians now united, Cyrus launched an ambitious and successful campaign to expand his territory to the east, while at the same time anticipating the opportune time for the assault on the Babylonian Empire. The end of Babylonia came in no great battle. In 539 BCE, Gobryas—the Persian general—took the city of Babylonia without a fight. Cyrus who arrived two weeks later was now in control of what was formerly referred to as the Babylonian Empire.[3]

(i) Persian Rule and the Return of the Exiles

Cyrus' rule is generally considered liberal and is characterized by a policy of toleration. He is believed to have treated the people generously and shown a degree of respect for the traditions and beliefs of the multi-cultural subjects formerly under Babylonian rule but now under Persian rule. He encouraged the restoration of the worship of Marduk,[4] restoring the idols to their rightful places.[5] Following his policy of

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[2] His obsession with the worship of the moon god Sin saw the attempt to establish Sin as the chief deity of Babylon. This invited a solid contingent of opposition from the priesthood who maintained loyalty to Marduk the true deity of Babylonia. —Soggins, *An Introduction to the History of Israel and Judah*, 273-276.

[3] Lester L. Grabbe, *Judaism from Cyrus to Hadrian* (London: SCM Press Limited, 1992), 122-123.

[4] Martin Noth, *The History of Israel*, second edition, trans. P. R. Ackroyd (London: Adam & Charles Black, 1960), 302.

[5] David Hinson reports that Cyrus' loyalty to the deity Marduk is also considered to have played a major role in his ascension to power. In the eyes of the Babylonians who still had not recovered from Nabonidus' devaluing acts against their god, Cyrus' restoring of the local religion earned him the designations of the 'great hero' and 'servant of Marduk' and thus he was welcomed accordingly by the people of Baylonia. In showing this loyalty, Cyrus' had restored all the idols to the traditional shrines and even participated in its festivals. Hinson, *History of Israel: Old Testament Introduction 1* (London, SPCK, 1973), 161.

allowing a great deal of freedom among conquered peoples, Cyrus issued the edict which would also allow the exilic Jews to return home. Not only did he permit the return for those who wished to do so, he also commanded and contributed funds to the rebuilding of the various temples. In addition, tradition also accounts for the king's decree of returning the vessels that had been looted from the temple during its destruction in 586 B.C.E. (Ezra 1:2-11, 6:3-5).[6]

The first set of exiles who returned to Judah are believed to have been under the leadership of Sheshbazzar—a Prince of Judah (Ezra 1:8, 11 5:14, 16) and perhaps a son of Jehoiachin who had been taken captive to Babylon (cf. 1 Chron. 3:18). Tradition has it that Sheshbazzar was commissioned by the imperial rulers to restore the sacred vessels as per the edict. He was given some authority over the territory and proceeded to lay the foundations for the rebuilding of the Temple. Although other traditions such as portrayed in Ezra 3:6-11 credit Zerubbabel—presumably the grandson of Jehoiachin of the Davidic lineage—for beginning to lay the foundations, there is a general consensus amongst scholars that Zerubbabel concluded what Sheshbazzar started.[7] It is also during this time that the voices of Ezra and Nehemiah emerge with regards to their lives and activities within the period of restoration.

We must take note that Jewish communities were at this point of history dispersed throughout the world, that is, Mesopotamia, Egypt, Babylonia now under Persia and also the community in Judah.[8] In regards to the Judaean community, we begin by historically presupposing first, that we are dealing here with a people who are

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[6] Gosta W. Ahlstrom, *The History of Ancient Palestine*, ed. Diana Edelman (Minneapolis: Fortress Press, 1993), 814-817.

[7] Soggins, *An Introduction to the History of Israel and Judah*, 280-281.

[8] Soggins, *An Introduction to the History of Israel and Judah*, 296. See also Anthony R. Ceresko, *Introduction to the Old Testament: A Liberation Perspective* (New York: Orbis Books, 1992), 222-223. Rainer Kessler, *The Social History of Ancient Israel: An Introduction*, trans. Linda M. Maloney (Minneapolis: Fortress Press, 2008), 151-153.

experiencing the return to a land which may seem alien to them, that is, considering the extent of time in Babylonia. Second, this is a people who unlike the romantic traditions we have become accustomed to in the past—even today—are a people who are struggling within the early years of the restoration process. Finally, it is also important to bear in mind that this is a people who although they are re-located back in Judah, remain under the imperial rule of the Persian kings.

B. The Political Conditions

This subsection shall be concerned mainly with the issues of governance, leadership and also the administration of justice. The issue of autonomy on the part of the province will be brought into focus. To have an idea of just how much political freedom the Jews enjoyed will contribute to the ideological atmosphere.

(i) Persian Governance and Administration

While it is believed that Cyrus maintained provincial divisions similar to that of the Assyrian age, a reorganization of the empire took place under Darius I. Darius implemented a system of provincial areas called "satrapies" with the aim to impose a more solid control on the enormous empire he had inherited.[9] According to Herodotus of Halicarnassus,[10] there were a total of twenty satrapies each ruled by Persian officials called satraps.[11] Each satrapy was divided into smaller subdivisions with an appointed

[9] Hinson, *History of Israel*, 161.

[10] Herodotus of Halicarnassus—a Greek researcher and author of *The Histories*; a nine volume book transformed from the original papyrus scrolls of the 5th century B.C.E.— was considered the world's first historian and further coined 'father of history.' Dates of birth and death are unclear but evidences clearly portray that the author is to be located between 500-413 B.C.E. His writings contain ethnographic images of peoples who were subjects to the Persian Empire. Herodotus remains to be of major importance for the study of this period especially with those focusing on the reigns of Cyrus, Camyses, Darius and Xerses.

[11] The term 'satrap' derives from the Persian expression *'xsacapaban'* which literally means "protector of the kingdom/kingship."

governor, and apart from keeping a firm hand on the proceedings of the empire; ensured a rapid inflow of income through tributes and taxation.[12]

The question as to the extent of the Persian influence on the governance and life of its subjects—including the province of Judah—comes to the fore. While the general understanding is that there was a substantial amount of appreciation of the traditions and beliefs of the multi-cultural population under the imperial rule,[13] Noth argues that the real power remained with the imperial rulers.[14] Old Testament Professor P. R. Ackroyd—who from a historical perspective, assesses the Jewish thought under the Babylonian and Persian empires—agrees with Noth who affirms that the tolerant nature of the Persian rulers was maintained as long as their political aspirations were not harmed.[15] In further support of Noth's position, we may take note that highly ranked officials within the empire were all of Persian ethnic origin. Thus, the offices of the various satraps were normally occupied by those of Persian origin.[16] Another high ranking office who co-existed with the satrap in the province, the military commander was occupied mainly by members of the royal family.[17]

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[12] In his writings Herodotus records the divisions of the satrapies and the required tribute to be paid by each nation or subdivisions to the imperial authorities. Herodotus claims that Darius I fixed the amounts to be received from his subjects unlike the systems of his predecessors Cyrus and Cambyses who treated tributes as gifts leaving the amounts open to the desire of the subject peoples.—Herodotus, 3.89.

[13] Soggins, *An Introduction to the History of Israel and Judah*, 277.

[14] Noth, *The History of Israel*, 302-303.

[15] Peter R. Ackroyd, *Israel under Babylon and Persia* (Oxford: Oxford University Press, 1970), 165.

[16] Pierre Briant—a French Iranologists, Professor in the history and civilizations of the Near East, especially with the discussed period—constructs a table from a variety of ancient sources revealing that the satraps, especially in the early period of the Persian rule were normally of Persian origins. —Briant, *From Cyrus to Alexander: A History of the Persian Empire*, translated by Peter T. Daniels (New York: Eisenbrauns Incorporated, 2002), 350-351.

[17] Herodotus, 7:82, lists names associated with the 'land army.' 7:97, reports that the king replicated the same approach concerning the navy. This particular office according to Herodotus like the satrap reported directly to the highest authority and in a list he provides, all who are mentioned fall in the confines of the royal family. The impressive administrative character of the Persian rulers can be seen in this treatment of the satraps and the military. The presence of both offices are evident in the individual satrapies, but both work in parallel with each other—Lisbeth Fried in *The Priest and the Great King: Temple-Palace Relations in the Persian Empire.* (San Diego: Eisenbrauns, 2004) believes that in the

The second note on the structure of the empire emerges from Charles E. Carter who thoroughly examines and synthesizes archaeological, social and economic data to reconstruct the boundaries of the province of Judah including settlement sizes, population, economic patterns and social structures. Carter proposes the honeycomb like structure of Christaller's 'Central Place Theory' (see Fig.1) and its application to the satrapy of 'Beyond the River' (see Fig.2).

Figure 1. Christaller's 'Central Place Theory'

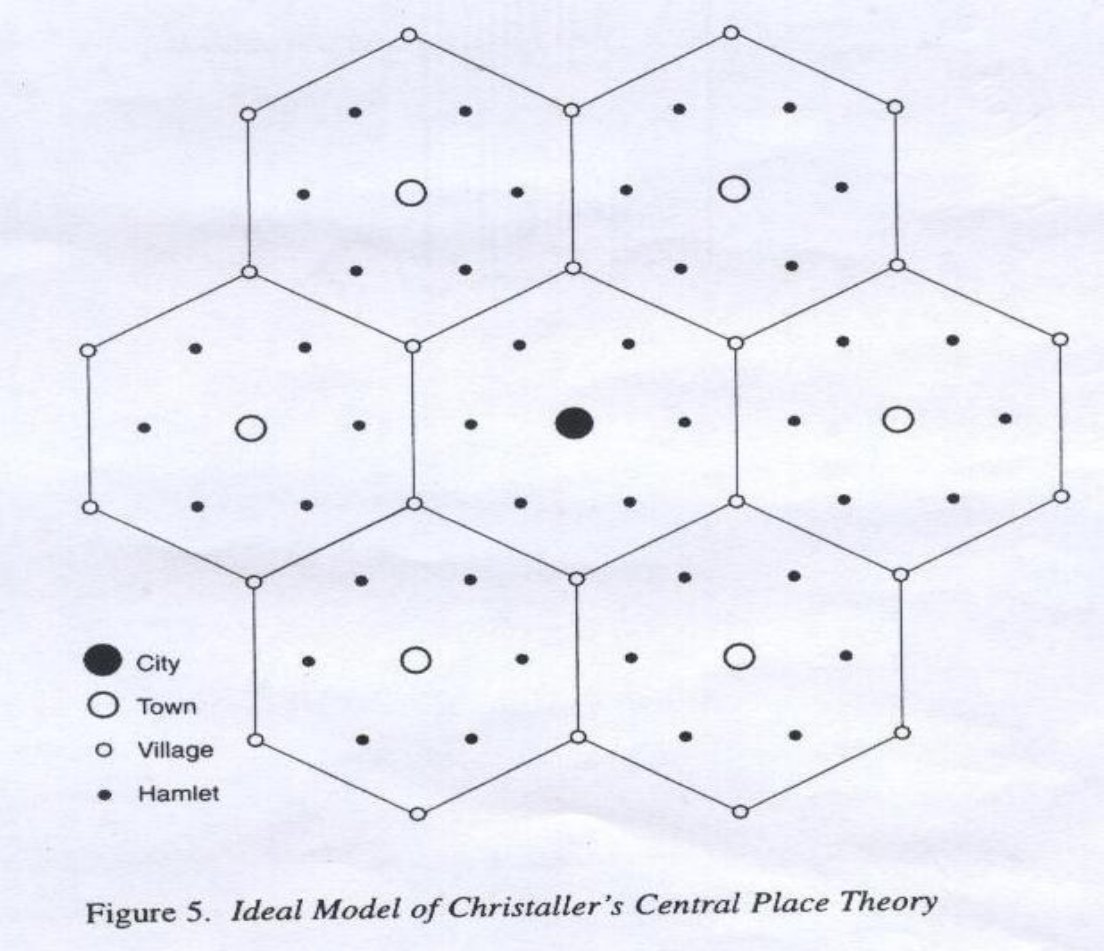
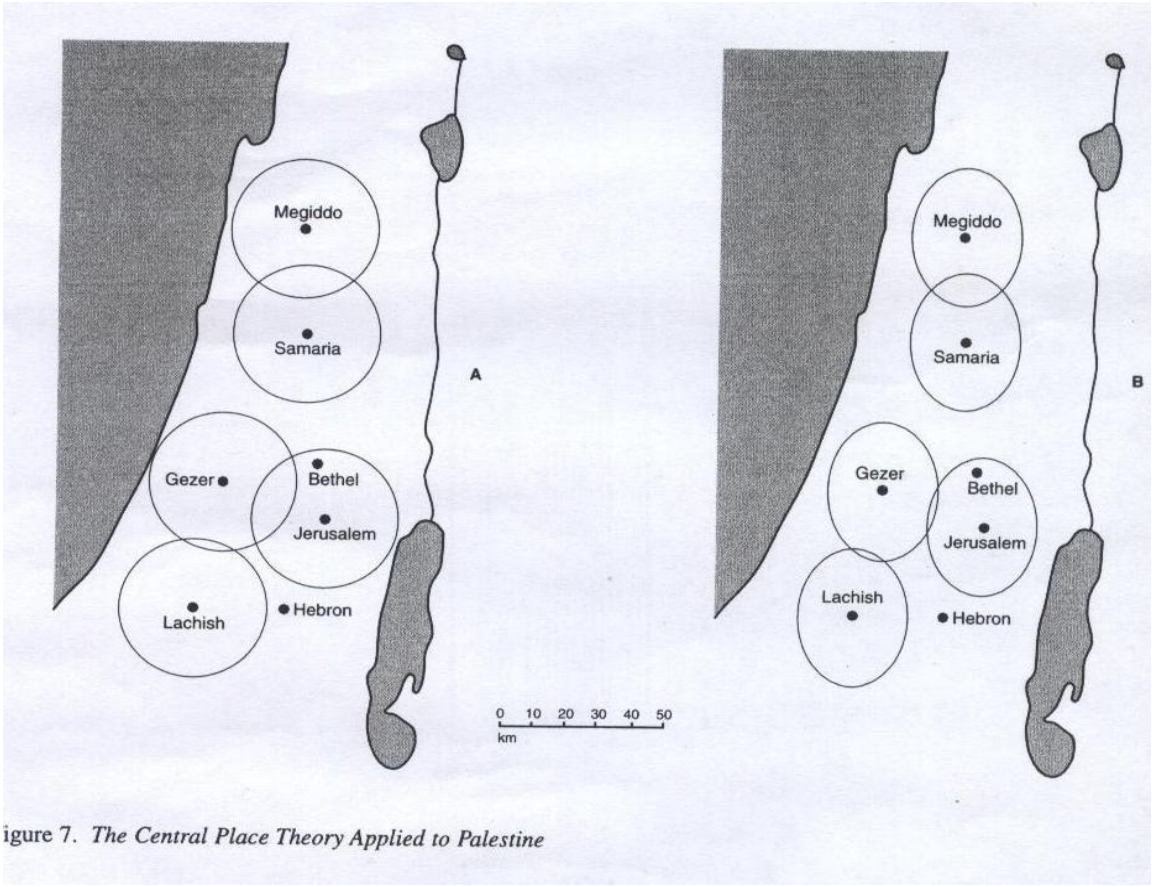


Figure 5. *Ideal Model of Christaller's Central Place Theory*

absence of the satrap, the military commander takes his role in overseeing the province—both also working directly from the instructions of the king. This to some degree ensures further control and peace within the empire due to the fact that while they work alongside each other, they also keep an eye on each other to ensure the imperial command is adhered to. Furthermore, the chance of a satrap uprising against the central authority has just been made very slim.

Figure 2. The Central Place Theory Applied to Palestine



igure 7. *The Central Place Theory Applied to Palestine*

This structure puts forward a network of towns, villages and hamlets which are not only connected with each other but are associated with a central place or city from where the governing and administration is carried out. Carter suggests that the city of Jerusalem is considered as such a place. In neighbouring provinces, the places of Gezer and Lachish—with the assistance of archaeological research—are proven to have functioned as administrative centres.[18] Taking this into consideration would attest an imperial ruler who has a purpose. The systematic way in which the satrapies have been laid out would also support the monarchy's intentions of control and stability within the empire. Furthermore, we may assume that the leaders of these administrative centres would have been very carefully chosen, so as to endorse the Persian intentions.

[18] Charles E. Carter, *The Emergence of Yehud in the Persian Period: A Social and Demographic Study* (Sheffield: Sheffield Academic Press, 1999), 90-97.

In addition to the administrative structure, imperial government policies also projected a strong Persian presence in Judah. Samuel Balentine—in his study of the political function of religion—considers this presence in two very important facets of the people's religious life;

> In Yehud, Persian imperial politics were designed to create a colony that would cooperate with the empire's goals. Towards this end the Persian system utilized a number of mechanisms for social control and political maintenance in order to induce and sustain a mutually beneficial relationship between the state and its subject citizens. Of these, two are of particular importance for the task at hand; the codification of native law, and the construction and maintenance of regional temples.[19]

In relation to the codification of the law, the imperial rule had direct participation in the legal activities of the province to ensure that the behaviour of their subjects remain within the precincts of the Persian interests.[20] Based on the assumption that there was uniformity of the imperial policies for all of their subjects, Joseph Blenkinsopp believes that a similar routine occurred in the province of Judah. After comparing the Persian policies with the traditional laws of the Jewish people, Blenkinsopp concludes

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[19] Samuel Balentine, "The Politics of Religion in the Persian Period" in *After the Exile: Essays in the Honour of Rex Mason*, ed. John Barton and David J. Reimer (Georgia: Mercer University Press, 1996), 138.

[20] Balentine, "The Politics of Religion in the Persian Period," 139.
—N. Reich and Russell E. Gmirkin affirm such practices and refer to the reign of Darius I in which the Egyptian laws were ordered to be revised and recorded. Reich argues that a specific document which was very anti-Persian in nature—designated the 'Demotic Chronicle'—emerged from within Egypt as a response to the modified Egyptian Laws which seemed to adapt the political interests of Darius I and the Persian rule. Reich, "The Codification of the Egyptian Laws by Darius and the Origin of the 'Demotic Chronicle'," *Mizraim* 1 (1933): 178-185. Gmirkin, *Berossus and Genesis, Maneth and Exodux: Hellenistic Histories and the Date of the Pentateuch* (New York/London: T & T Clark International, 2006), 252.
—The 'Demotic Chronicle' is an Egyptian papyrus document of the early 2nd century B.C.E. which contains oracle statements regarding the political history of Egypt in the 4th and possibly the 3rd centuries B.C.E. in which anti-Persian themes, especially focused on Cambyses, Xerxes, and Artaxerxes III were elaborated in Ptolemaic Egyptian sacerdotal and intellectual surroundings. The Persian conquerors of Egypt are called "Medes"

that the Torah served both the people of Judah as well as the Persian rule as a "constitutional document."[21]

The temple also attests to a strong Persian presence within Judah. According to Blenkinsopp, the restoration activities regarding the temples of the diverse subjects, is part of the imperial struggle for social and political control of the kingdom. At first the majority of the funding of the temple projects came from the imperial pockets.[22] Given this fact, it would be very likely that the Persians had great influence in the shaping as well as the structuring of the temples. Second, the funding for maintenance of these temples depended on the importance of the province within the imperial objectives.[23] Within this line of reasoning, Judah may have been on the receiving end of substantial amounts of financing considering that it was intended as a military outpost for campaigns against Egypt.[24] Both points of influence demonstrate the imperial view of the temples as Balentine proposes, they were to function as "administrative centres"[25] which would monitor and control the activities and operations of the province on the one hand, while on the other assist in the generating of wealth for the imperial interests.

(ii) Local Governance and Leadership

Now that we have an idea of the Imperial form of governance and leadership, it is not easy to see an independent form of governance on the local level; that is, within Judah. Who were the leading authorities in Judah? And how much authority did they really have?

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[21] Joseph Blenkinsopp, *The Pentateuch: An Introduction to the First Five Books of the Bible* (New York: Doubleday, 1992), 239-242.

[22] Joseph Blenkinsopp, "Temple and Society in Achaemenid Judah" *Second Temple Studies* 1, ed. Phillip R. Davies (Sheffield: JSOT Press/Sheffield Academic Press, 1991):51.

[23] Balentine, "The Politics of Religion in the Persian Period," 141.

[24] Lester Grabbe, *A History of the Jews and Judaism in the Second Temple Period* (London: T & T Clark International, 2004), 143.

[25] Balentine, "The Politics of Religion in the Persian Period," 141.

The biblical accounts attest to appointments of the local people especially in regards to the offices of the governor and the high priest—for example, Sheshbazzar, Zerubbabel, Joshua, Ezra and Nehemiah.[26] While there appears to be a wide acceptance of the leading roles of the priesthood in the Persian period, [27] others have also proposed that the 'elders' of the community and villages were also active in their leadership roles.[28] The present study takes up the views of Joseph Blenkinsopp and Joel Weinberg that local governance and leadership was left in the hands of an assembly consisting of the tribal elders and temple personnel.[29] First, taking into consideration the structure of the satrapies as discussed with the reintroducing of the various village type settlements would see the requirement of village leadership which in the past found form in the elders. Second, Blenkinsopp believes that a similar system was functional with the minority communities in Babylonia and may have been retained by those who had returned from exile.[30] Thus local governance and administration would have been the responsibility of this association of the priesthood and tribal elders.

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[26]There is an ongoing debate to the actual offices held by Zerubbabel but also his predecessor Sheshbazzar. The ambiguous nature of the title *pehah* which was given to Sheshbazzar in particular (as argued by Soggins, *An Intorduction to the History of Israel and Judah*, p.280.) makes it impossible to determine what place he had in the Persian administration, that is, whether he was a governor or prefect. Obviously, Soggins differentiates between the two in terms of the different powers held by each office. However, for this study, the debate would be irrelevant due to the inescapable fact that Sheshbazzar remained a Persian-appointee.

[27] Hinson represents advocates of the claim that the priesthood—especially the high priest—was responsible for the local governance as well as the religious affairs of the province of Judah.—Hinson, *History of Israel*, 161.

[28] Albertz perceives the revival of the 'elders' leadership (whose authority may have presumably weakened during the monarchic era) as one of social developments within the exile. Tradition has it that the experience of losing central authority saw the emergence of leadership through kinship lines. The revival of leadership within families and tribes also meant the return of the leadership privileges to the tribal elders who are believed to have then co-existed with two other leading offices of priesthood and the prophets. R. Albertz, *History of Israelite Religion in the Old Testament Period*, 374-375.

[29] Blenkinsopp, "Temple and Society in Achaemenid Judah," 22-53. and J. Weinberg, *The Citizen-Temple Community*, JSOTSup, trans. Daniel L. Smith-Christopher (Sheffield: JSOT Press, 1992), 26-29.

[30] Blenkinsopp, "Temple and Society in Achaemenid Judah," 22-53.

At this point, we are still faced with the historical issue of the extent of the authority and power permitted to these local leaders. M. Dandamayev's theory of self-governance suggests that the imperial government impeded as little as possible with the traditional ways of life of the various provinces as a way of showing respect.[31] In support, Weinberg also argues for autonomous nature of governance.[32] Blenkinsopp in contrast, argues for a semiautonomous understanding of local governance.[33] All three arguments believe that the local leaders did in fact have a wide extent of authority, however all three also acknowledge the importance of loyalty on the part of those appointed to the local leading offices. Thus, we may ask if there is real independence and self-governance considering the loyalty required towards the imperial rule, I think not.

This study willingly accepts the possibility of a glimpse of autonomy strictly based on the grounds that the imperial rule itself was not crisis-free. Crisis within the empire may have diverted the watchful eye of the Persian authorities, granting the opening for the local leaders to exercise full authority in Judah. Jon Berquist may have rightfully pointed out that the influence of the Persian superiors varied throughout the period,[34] that there was a mixture of tolerance and imposing demands[35]—while a strong

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[31] M. Dandamayev cited in Lisbeth S. Fried, *The Priest and the Great King: Temple-Palace Relations in the Persian Empire* (San Diego: Eisenbrauns, 2004), 129.

[32] The hypothesis of the 'citizen-Temple community' was projected by Joel Weinberg. This model of the communities and cities—which is further discussed under the social and economic sections—proposes that the temple was an autonomous administrative centre governed by an alliance of temple personnel and the local community leaders.—Weinberg, *The Citizen-Temple Community*, 29.

[33] Blenkinsopp, "Temple and Society in Achaemenid Judah," 26.

[34] Jon Berquist, "The Social Context of Postexilic Judaism," in *Passion, Vitality and Foment: The Dynamics of Second Temple Judaism,* ed. Lamontte M. Luker (Harrisburg: Trinity Press International, 2001), 34-35.

[35] Ezra 5:3-17 reports of the arrival the satrap Tatnai in Jerusalem to deal with the so-called growing expectations and hopes of the people of revolution in the world as well as the restoration of the nation of Israel—a hope which was grounded in the Davidic covenant and the person of Zerubbabel who is of the Davidic lineage. For some, such as Albertz, this accounts for the best possible explanation as to the mysterious disappearance of Zerubbabel from the biblical accounts. He may have been withdrawn because of the threat he symbolizes to the imperial rule. The prophetic movements also prominent may

Persian presence seemed to be the norm of the day, it may have had the tendency to weaken at times.

After all this, a few things then can be said about the political conditions of Judah in relation to the imperial rule, first and foremost quite clear is that the Jews existed as an administrative unit within the Persian Empire and were not politically independent. Second, the tolerance shown by the Imperial rule is basically for the purpose of exploitation. The priority was always about serving Persian interests. The Persian king had absolute authority and his administration allotted officials to maintain political stability but also to manage financial activities.

(iii) The Administration of Justice

A distinction is made between the civil and religious laws. The civil laws are believed to have been directly administered by the Imperial ruler himself. We may take note especially of Darius I involvement with the codification of the traditional law, furthermore, the destruction of the Egyptian temples by Cambyses demonstrates the monarch stepping in to carry out punishment against rebellious subjects.[36] Capital punishments would be ordered by the imperial ruler on offences against the state or the royal family and any form of injustice within the empire; even the lesser judges received the death penalty for corrupt judgment and practices.[37]

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have received the same treatment. The fact that the prophets Haggai and Zechariah did not live to see the completion of the temple is also speculated as suggesting aggressive and violent actions against them. R. Albertz, *A History of Israelite Religion in the Old Testament Period*, 617.

[36] Ackroyd, *Israel under Babylon and Persia*, 165.

[37] Charles Rollin, *The Ancient History of the Egyptians, Carthaginians, Assyrians, Babylonians, Medes and Persians, Grecians, and Macedonians: Including a History of the Arts and Sciences of the Ancients*, Vol.1 (New York: George Dearborn Publisher, 1836), 148-149. See also Herodotus 3:119.

The religious laws on the other hand are believed to be under the authority of the priesthood with the high priest presiding over such matters.[38] This should not automatically mean that the religious laws were not tainted with the Persian influence as even the religious practices may have operated in such a way to avoid transgressing the civil laws and regulations of the central authority.[39] In other words, religious laws which operate within the confines of the imperial civil laws would have been supported by the Persian government.

The interaction between the two types of laws remains unclear, especially with the people of Judah whose everyday life seemed inseparable from the religious. What is clear is that the office of the high priest in coalition with the elders had jurisdiction in the province of Judah, and the extent of authority would only be as much as the imperial civil laws allowed. Thus, assuming that even the religious laws were overshadowed by the imperial mindset suggests that justice which was accepted and practiced as the norm in the returning community could really have been Persian form of justice.[40] The administering of justice then would be perceived as being directed from the Imperial ruler through his loyal officials which were scattered all over the empire.

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[38] Paula M. McNutt, *Reconstructing the Society of Ancient Israel* (Louisville: Westminster John Knox Press, 1999), 200.
—Hinson may be more accurate in his explanation that civil law would have been administered by the appointed governors of the various satraps with the religious affairs remaining in the hands of the high priest. *History of Israel*, 169.

[39] In the discussion regarding the temple(s), apart from being administrative centres for Persian purposes, they also served imperial interests in being 'religious centres' through which the monarch aims to re-shape the 'ritual world.' Noth refers to the temple as a 'state sanctuary' with the influence of the Persian rulers in religious affairs of the local people. Noth gives an example of a decree which demands prayers for the empire be part of normal liturgies. In a way this goes against the traditional tolerant assumption of the Persian rulers. It is thus possible to suggest that even the religious laws were tainted with Imperial interests.—Noth, *The History of Israel*, 314-315.

[40] Rainer Kessler, *The Social History of Ancient Israel: An Introduction*, translated by Linda M. Maloney (Minneapolis: Fortress Press, 2008), 146.

C. The Social Conditions

The re-construction of the social structures and life of the Judean communities during the Second Temple period has been no easy task over the years, primarily due to the lack of ancient sources and written documents regarding this specific period.[41] However, with the assistance of external sources and archaeological research, information continues to slowly emerge. The aim of this social observation is to see how the returning exiles coped with the issues of identity and culture in the midst of being a colonized people.

(i) Demography of Returning Exiles

There have been extreme views in the demographic studies for the province of Judah. The biblical reports account for a rough estimation of at the least 50,000 Judaean exiles who had returned in the restoration programme. Ezra 2:64 conveys the figure of 42,360 returnees while Nehemiah 7:66-67 makes an addition to this of 7,337 accounting for the slaves and servants.[42] Historically, this would have been a very large group however is not supported as archaeological studies have suggested contrasting views. Carter in a thorough observation of excavation sites estimates the population of the returnees from a low of 11,000 during the early period of the Persian rule and eventually increased to a high of 17,000 in the latter stages of the Persian era.[43] In perspective, this would mean that the community in Judah was reasonably small in light

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[41] Blenkinsopp, "Temple and Society in Achaemenid Judah," 22.
— The only source in the present canon—that is, Ezra-Nehemiah—unfortunately covers only the first and final quarters of the first century of the Persian rule. The activities and the daily operations of the life of the people of Judah remain unclear for presumably 150 years, that is, the majority of the Persian administration which lasted for two centuries.

[42] Josephus' figures are similar to these of the biblical text. For him, the returnees are estimated at 48,462 with an additional 7,337. —*Jewish Antiques* VI: Book 11, 10.

[43] Charles E. Carter, "The Province of Yehud in the Post Exilic Period," in *Second Temple Studies* 2, ed. Tamara C. Eskenazi and Kent H. Richards (Sheffield: Sheffield Academic Press, 1994), 129-137.

of the total population of the province which Weinberg believes may be estimated at 200,000.[44] Whether these figures are historically accurate is another question, however, there is a general agreement that the population who had returned from exile, existed in the province of Judah as a minority community.

(ii) Social Structures and Stratifications

Family life had always been the basis of Israelite society and in a period that boasted no monarch, the importance of family was heightened for the necessity of solidarity and unity of the exilic/post-exilic communities. However, the very existence of the family structure was threatened by the disrupting events which surrounded the exilic era.[45] Fortunately, the family structure continued to exist in the post-exilic period although with a new understanding attached to it. First, the violent nature of the exile activities tore families apart through deportation and death. Furthermore, disruption also came with being alienated from their ancestral lands which family members identify with. Second, the geographical settlement of the returning community intensified the threat, that is, the small province was exposed to non-Jews not only by being surrounded by non-Jewish provinces, but also because non-Jews existed within the province of Yehud.[46] According to R. Kessler, family unity and solidarity had been "taken for granted" and was seriously considered problematic as certain measures were taken in order to prevent the society from drifting further apart. Third, social-economic aspects such as debts and class division were also considered disruptive to the solidarity

[44] Weinberg, *The Citizen-Temple Community*, 36.

[45] The violent nature of the exile activities tore families apart through deportation and death. Furthermore, disruption also came with being alienated from their ancestral lands which family members identify with. Land in this sense maintained a form of solidarity.

[46] Kessler here is alluding to the mixed marriage issues of Ezr.9-10 and Neh.13:23-27, acknowledging the existence of non-Jews in the community. — Kessler, *The Social History of Ancient Israel*, 133.

and unity of family and neighbours.[47] Louis Stulman takes this point further with the notion of "indigenous outsiders," believing it to be the major threat to the unity and solidarity of society.[48]

A solution to the exilic problem of being separated from the ancestral lands and homes was a genealogical list which "registered" the household under the "father's house."[49] Weinberg refers to this as the *bet ab* (father's house) or the *mispahah* (families) which he believes was developed further into the *'bet abot'* (house of the fathers, clan).[50] The distinction between the *bet abot* and the *bet ab* or the *mispahah* is that *bet abot* is not restricted within the confines of blood lines, and they should be perceived as unreal family units. L. Stager provides a brief description of the *bet abot* stating:

> … it is likely that the spatially isolated clusters of dwellings—the compounds—house the minimal *bet ab* … if we assume that a honeycomb pattern prevailed at Raddana, that is, an even distribution of contiguous, multiple family compounds throughout the settlement, there might have been 20 or more such households in the village, totalling ca. 200 persons under high fertility—low mortality conditions. But this projection may be too high…. These upper estimates do not take into account the various phases of the family cycle within established multiple family households, the establishment of new nuclear households, and the dissolution of others….[51]

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[47] Kessler, *The Social History of Ancient Israel*, 133-134. See also Carter, *The Emergence of Yehud in the Persian Period*, 289.

[48] For Stulman, the greatest threat to social order is not foreigners outside or inside the borders, the major threat comes from "indigenous outsiders." These indigenous outsiders refer to individuals or groups within a community whose practices do not concur with the ethical and moral behaviour required by a deity, in the case of the Jews, Yahweh. These individual or groups are assumed to have close associations with the upper classes of the community hierarchies which have the potential to mislead the general population to unorthodox practices unacceptable to Yahweh. —Stulman, "Encroachment in Deuteronomy: An Analysis of the Social World of the D Code," *JBL* 109/4 (1990): 613-612.

[49] Kessler, *The Social History of Ancient Israel*, 133.

[50] Weinberg, *The Citizen-Temple Community*, 26-29.
Explanation on the *bet abot*; S. R. Driver attributes this reference as unique to the Priestly source (P), and finds that it was only commonly used in post-exilic times. The common terminologies before exile were that of *bet ab* (father's house) and *mispahah* (families)—Driver, *An Introduction to the Literature of the Old Testament* (Edinburgh: T. & T. Clark, 1909), 133.

[51] L. Stager, "The Archaeology of the Family in Ancient Israel," *BASOR* 260 (1985): 22-23.

In Weinberg's hypothesis of the "citizen-Temple community," the *bet abot* made up the elite class of society and included the priesthood (Neh. 7:1, 39, 43; 8:1-9), singers (Neh. 7:1, 23, 45), Temple servants (Neh. 3:26, 31, 7:46; 11:19), the gatekeepers (Neh. 7:1, 23, 45); a scribal class (Ezra 8:1, 9), the provincial governor and those serving under him.[52] The lower class on the other hand, was made up of those referred to as *tobash* (guest) and *sakir* (day-workers), that is, non-members who were occupying the land of the community. Eventually 18% of the elite class dropped into the peasant category due to social-economic pressures.[53] Such division and differences threatened the unity and solidarity of society as it also brought about conflicts, especially with the issue of rightful ownership of the lands.[54]

The social conditions in Yehud defined a society which was very fragile in nature and threatened to fall apart at any moment. Without a king, the family structure was vital to preserve and maintain their 'identity' as Jews which in turn brings unity and solidarity, especially being amongst people of other ethnic and religious groups.

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[52] Weinberg, *The Citizen-Temple Community*, 27-31, 42. See also Paula M. McNutt, *Reconstructing the Society of Ancient Israel* Louisville: Westminster John Knox Press, 1999), 200. Lester L. Grabbe's socio-economic composition links the distinction of social classes to wealth. While he falls in line with McNutt regarding the composition of the elite, the peasant class were mostly farmers.—Grabbe, *A History of the Jews and Judaism in the Second Temple Period: Yehud: A History of the Persian Province of Judah*, Vol. 1, (London/New York: T. & T. Clark, 2004), 172-173.

[53] Peasant members of the community is composed of; firstly, the people of the land or rather those who remained in Judah during the exile who have accepted the return of the elites and agreed to their terms for life in the society, and secondly, members of the returning community who were initially landowners themselves, but whose economic status had deteriorated to the state of selling themselves and their families as slaves.—Weinberg, *The Citizen-Temple Community*, 26-30.

[54] Social relations especially between the returnees and those who remained in the Land during exile experience unrest due to the conflicts over (1) determining the true political and religious leadership and (2) land ownership. The deportation of the elite group during exile saw the rise of a new elite class from the peasants who remained in the land. The conflict arises when the exiled elites assume their rightful roles and place in society upon returning to Judah. The lands of these rightful elites were presumably also taken over by the newly formed elite class during their absence; returning to reclaim their lands also initiated ill-feelings in society. — Kessler, *The Social History of Ancient Israel*, 134-139.

D. The Economic Conditions

This subsection will discuss the economic conditions of Judah in light of the economic activities of the Persian rulers. The economic sphere of life is a very influential factor when it comes to ideals and the ideologies of the human mind; the survival in everyday life depends on a good and healthy economy.

(i) Persian Economic Policies

Apart from the rebuilding of temples and development of cities, further developments also took place in the infrastructures of the empire such as the upgrading of the road system, harbours and other means to ensure efficient communications for trading and exchange but also for effective control of the empire. Tributes, taxation and military activities—as is a major characteristic of any imperial rule—remained to be a main feature of the Persian economic policies.[55]

Tributes and taxation were handled more generously by both Cyrus and Cambyses who accepted the tributes as gifts, thus leaving the amount at the discretion of the subject nations. It was not until the time of Darius I when the amounts became fixed who according to Herodotus was known to his countrymen as the "huckster."[56] This would imply an image of a king which may have been very aggressive in his accumulating of wealth. In other words, Darius I was known for his 'eye for a profit' attitude, and may not have sat well with Judah and the rest of the subject nations. The question of how Darius I may have achieved this without disrupting the peace will be discussed in the various proposals of economic devices believed to be appropriated by the imperial rule.

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[55] Grabbe, *A History of the Jews and Judaism in the Second Temple Period*, 191.

[56] Herodotus also provides the divisions of the satrapies and the expected amount of tribute payable to the imperial rule. The Persian countries were exempt from these policies. — Herodotus, 3:89-97.

Kenneth Hoglund puts forth the possible existence of four models indicated by archaeological data. 'Ruralization'—is the decentralizing of a population towards the rural areas.[57] The conclusion that the resettlement of the peoples in the rural areas was all part of the imperial plan is based on two factors, the first is the fact that there seemed to be a lack of resettlement in the traditional villages of the pre-exilic times. The second, which I think is more solid is the fact that the move to the rural areas is shown to happen all at one time, occurring during the time of the first return. The movement does not occur in a chronological manner within the Persian era. Indications of such a process would be first, that the land remained under the imperial authority, and secondly, such settlements would also be effective in a successful tributary system—with an increase of agrarian produce.[58]

The Second mechanism is 'commercialization,'—dealing with the exchange and trade. Evidences of such practices are found throughout Palestine especially along the Mediterranean coastlines. According to Hoglund, the imperial interests would have been served with the increase income through taxes collected on tariffs and other monies due in association with the transporting and exchanging of goods.[59] Although commercialization may have forced the agrarian communities to produce to their full potential, this does not mean that it may have liberated the farmers—in which a majority were peasants—as the harvest was unpredictable in nature and some would not be able to sell. Furthermore, the wealth of the agrarian society's efforts would have been accumulated through the various channels to the imperial rule.

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[57] Kenneth Hoglund, "The Achaemenid Context," in *Second Temple Studies* 1, JSOTSup (Sheffield: Sheffield Academic Press, 1991): 57-60. See also Grabbe, *A History for the Jews and Judaism in the Second Temple Period*, 203-204.

[58] Kenneth Hoglund, "The Achaemenid Context," 57-60.

[59] Hoglund, "The Achaemenid Context," 60-62.

The third mechanism is 'militarization'—with the sporadic distributions of the garrisons and fortresses within the province of Judah. These imperial garrisons are believed to have employed the local peoples with the intention of protecting the empire from outsiders, however according to Hoglund, it also forced the people to pay additional tributes in the maintenance of the military outposts.[60]

The final device is 'ethnic collectivization,'—which sees a forming of units which consists of ethnic groups. Although these ethnical distinctions emerged only under the Persian rule, the practice and the principle itself of forming units was already the practice of previous empires. The rationale of the practice was the division of the people basically into workgroups settling and working imperial-held land. First, the fruits of the labour would be subject to the landowner, that is, the Persian ruler. Second, a further indication is given that the people only had rights to the land as long as they maintained allegiance to the imperial demands.[61]

What can be said at this point is that although each device is distinct in its own function and nature, all had a significant impact in the upgrading of the economic status of the imperial rule, that is, in the generating of wealth, power and authority. How these devices may have affected the people of Judah is the objective of the following sections.

(ii) Land Ownership

Almost the entire wealth of the Judaean economy derived from the work on the land, other sources such as trading were considered secondary.[62] Other vital assessments have been made with regards to the significance of land in the Persian era, in its socio-

[60] Hoglund, "The Achaemenid Context," 62-64.

[61] Hoglund, "The Achaemenid Context," 65-66.

[62] Grabbe, *A History of the Jews and Judaism in the Second Temple Period*, 191. The entire peasant class depended on the working and cultivation of land, although some amongst the elite made profits through trading, it was a norm in practice that investments were made in land and agricultural activities rather than in merchant trading.

political aspects it was a symbol of power and control. Economic-wise, Jack Pastor links the functions of land to the feeding of the populations.[63] As previous sections may have already hinted, the widely accepted view of the existing economy-type in the province of Judah is the 'agrarian.' The dominant characteristics of rural life in terms of agricultural activities and farming indicate the central significance of the issue of landownership and its cultivation.[64]

Landownership in Judah during the Persian rule is not an easy discussion, especially when faced with the various opinions of the academic world. In the previous discussion, land seemed to fall under the sole authority of the imperial rulers contradicting the understanding of the citizen-Temple community proposal. For Weinberg, the land was the possession of the temple-citizens—being the aristocratic community who had returned from exile, as well as others[65] who believed that the temple did in fact own land which initially belonged to small landowners (discussed further in the next subsection). If we are to reconsider earlier discussions and Blenkinsopp's claim for a semiautonomous status in Judah, then it is very likely that the Persian authorities had overseeing control. I use the term overseeing as we cannot totally disregard Weinberg's view which also contains some truth. As discussed earlier, there is a possibility that the aristocrats had experienced a glimpse of autonomy, but even then, to what extent the local people may have felt and exercised autonomy remains unclear. On their part, it would be reasonable to remain on the good side of the imperial authorities whose support in their endeavours was strongly required.

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[63] Jack Pastor, *Land and Economy in Ancient Palestine* (London/New York: Routledge, 1997), 1.

[64] Grabbe, A History of the Jews and Judaism in the Second Temple Period, 191.

[65] Peter R. Bedford, "The Economy of the Near East in the First Millennium BC" in *The Ancient Economy,* ed. J. G. Manning, Ian Morris (California: Stanford University Press, 2007), 80-81.

This issue of landownership then, would best be seen in the conditions by which the rights to a certain piece of land is determined, that is, being loyal to the imperial rule ensuring one's right to remain and work the land. Therefore, this autonomy of the people over land is to be understood in the overall model of Blenkinsopp's semi autonomy especially with the never-absent influence of the Persian rule. The people may have been free to live and work the lands however their activities and what they do were closely monitored so that it remained within the borders of imperial interests. The influence and authority of the imperial rule is attested to with the resettlements[66] of the peoples as well as the presence of the garrisons[67] distributed all over Judah.

(iii) Labour and Production, Exchange and Trade

The question of landownership has been discussed and whether they owned or rented the land would not escape the fact that they remained to labour for the benefit of the imperial rule. In light of the agrarian nature of Judah, L. Grabbe argues for an "Asiatic mode of production." This model presupposes the basis of production within villages where the majority of the farmers were peasants. These farmers laboured for two reasons; to feed the family and pay the required imperial taxes.

The fruits of the people's labour did not always turn out as expected due to unforeseen circumstances such as the unpredictability of the weather,[68] fruitless and

[66] As discussed under ruralization; the handling of land distribution was carried out with ease and total authority, the fact that most of the settlements—discovered in archaeological activities—testify that the decisions of choosing the areas was most likely that of the imperial rule, should it have been the decision of the people, it is assumed that more likely they would have returned to the traditional villages which in reality is not the case. Most scholars also agree that large estates within the provinces were given to Persian aristocrats by the king himself.

[67] Although garrisons may have been made up of the local peoples, they were still under the commands of Persian elites upholding the top offices in the military ranks. The existence of garrisons also ensures the loyalty of the peoples to the economic terms and conditions of the Persian government

[68] Grabbe and others also support the existence and requirement of irrigation systems which give an indication of the lack of rain. Droughts are reported to have had devastating effects on the farmers.

harsh land conditions and even forced labour which isolated farmers from their agricultural commitments; e.g. building of the walls of Jerusalem.[69] These conditions eventually led the people to the first economic crisis to be mentioned, that is, 'famine.' The second crisis faced by the people is referred to as the 'debt crisis.'[70] The seriousness of the crisis can be seen in people borrowing money as the small produce they do make is inadequate to meet both the needs of the family and imperial obligations. Some of these debtors were once landowners whose status has deteriorated to becoming slaves for survival.[71] Grabbe also mentions this harsh situation.

> The small agricultural surplus was extracted by the ruling class (more or less the state officialdom) through taxes and forced labour on behalf of the state. The ruling class usually centred around an absolute monarch who ruled with the help of the nobility (often referred to as 'Oriental despotism').[72]

In light of this, exporting of goods by small landowners was very rare if in fact they were able to trade.[73] In contrast, Carter suggests that all trading activities were carried out by the social elite of Judah. Due to the fact that one's status was closely

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Both the prophets Haggai and Zechariah report of the first economic crisis faced by the returnees (Hag. 1:6-11, 2:16-19, Zech. 8:9-12). The efforts of the agrarian society where farming is the main source of income for any family seemed to be unrewarded. According to Pastor, poverty and famine were the consequences of long periods of drought falling in line with Hag. 1:10 suggesting lack of 'dew.'— Pastor, *Land and Economy in Ancient Palestine,* 15.

[69] The resettlement process saw the families and groups placed on parcels of land divided by the imperial authorities; the pieces of lands given to a family may have been fruitless or as Pastor puts it, being "marginal lands." Another proposal assumes the insufficient sizes of the parcel and unable to provide for the various commitments of a family.—Pastor, *Land and Economy in Ancient Palestine*, 15-16.
The wall-building project under Nehemiah can be considered either as curse or blessing depending on the current socio-economic situation of the local peoples, in particular the small landholders. As mentioned above the project can be a curse as it would rob the farmers of time which could have been spent more wisely on their lands, especially if this was during the harvest season as some have proposed, the result would be a decline in the inflow of income. However on the other hand, Pastor also accounts for those who have already lost their possessions and land, the work would have been a blessing as a means of income.—Pastor, *Land and Economy in Ancient Palestine*, 16.

[70] The biblical accounts speak of some people having to sell all possessions including oneself into slavery in order to repay debts (Neh. 5).

[71] Pastor, *Land and Economy in Ancient Palestine*, 15.

[72] Grabbe, *A History of the Jews and Judaism in the Second Temple Period*, 192.

[73] Grabbe, *A History of the Jews and Judaism in the Second Temple Period*, 191-192.

linked to the possessing of land, the upper class citizens of Judah also enjoyed large estates—joining the Persian aristocrats in that sense—who with the assistance of workers and labourers were capable of large scale productions.[74] To consider the difficult and obnoxious economic conditions faced by the restoring community in light of the high imperial tax demands would make living in Judah an unpleasant experience.

Overall on the economic front, while the whole setup and structure benefited the Persian king and his government, and while it may have also kept the Jewish elite content with their gain, it was indeed oppressive and unbearable to the peasant class in the province of Judah.

E. The Religious Conditions

At this point, not much more can be said about the religious policies of the Persian rule. However, to consider the propaganda on the part of the imperial rule as discussed, we cannot escape a sceptical attitude towards their religious policy as it is. The open-minded attitude to the religious beliefs of the diverse nature of the exiles was a major part of the Cyrus edict, and understandably so, as freedom of religion contributed to his successful acceptance by the Babylonians.[75] For the minority of Jewish exiles who remained loyal to the cult, this tolerant aspect would have been considered as a blessing from Yahweh.[76] But was it really?

The returnees considered themselves as the continuation of the cultic community which was destroyed in 587/586 B.C.E.[77] Maintaining of certain traditions and customs

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[74] Carter, *The Emergence of Yehud in the Persian Period: A Social and Demographic Study*, 285.

[75] As discussed in the beginning of this chapter, Cyrus' actions of removing decrees which restricted religious freedom and worship, the restoration of the statues to their rightful places was greatly welcomed by the Babylonians who were threatened by Nabonidus' worship of the moon god Sin.

[76] Ahlstrom, *The History of Ancient Palestine*, 817.

[77] Lester L. Grabbe, *Judaism from Cyrus to Hadrian* (London: SCM Press Ltd, 1994), 142.

of the pre-exilic cult gave them their own sense of independence whilst in exile.[78] However, to assume that the religion upheld by the returnees was essentially a continuation of the earlier cult would be a misconception of reality. It would be easy to assume that the post-exilic cult was somewhat influenced by the Zoroastrian religion of their imperial rulers, especially with the significant convincing parallels[79] noticed between the two. Arguments have been extreme in both directions and accordingly, W. E. Oesterley and T. H. Robinson see truth in both cases. Although it may have been true that there was no influence for most of the parallel ideas, the notions of eschatology and apocalypticism as Persian-originated certainly cannot be denied.[80] Other major features of the cult continued by the post-exilic community were that of the temple, priesthood and the Law.

(i) The Temple

The Jerusalem temple of the post-exilic era continued various ideals of the pre-exilic Solomon temple, however continued in a very different manner. First, as the 'central sanctuary,' its centrality differed very much from the reforms of Josiah. It was to be central only within its "spiritual function," that is, the Jews in dispersion continued to refer to the Jerusalem temple for guidance and direction only, as they now maintained their own temples within their respective locations.[81] On the other hand, Balentine

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[78] Hinson, *History of Israel*, 178.

[79] W. O. E. Oesterley, Theodore H. Robinson, *Hebrew Religion: Its Origin and Development*, second edition (London: SPCK, 1957), 312-314. —In this study of the Hebrew Religion, the authors discuss the parallels between the Jewish religion and Persian religion of Zoroastrianism. The following are some of the noticeable equivalents; Zoroaster appeared as a reformer and spiritualizer who believed in a monotheistic god, the sole creator of all things, the great emphasis on moral living to be guided by code of laws, the notion of the kingdom of God on earth, the cult was a book-religion as the Jewish cult eventually came to be, the pre-existence of a personified Law, angelology and demonology.

[80] Oesterley and Robinson, *Hebrew Religion*, 314.

[81] Samarian leadership has indicated the centrality of the Jerusalem Temple when they offered to assist on the basis that they also worship Yahweh (Ezr.4:2-3). The Jews in Elephantine are also reported to have sought the support for rebuilding of their temple with Samaria and Judah; the fact that they first

makes note of the temple's function as the "religious centre" from an imperial perspective. The opportunity for the imperial rule to "shape the ritual world" in line with its interests opened up, part of this influence is evident in the inclusion of prayers for the imperial king and the Empire as part of the local liturgies (Ezra 6:10).[82]

Second, the economic function of the temple was maintained in the post-exilic period. Both Weinberg and Balentine argue that this was the temple's primary function; to serve the socio-economic interests of the imperial rule, a place from which the province was administered as well as a place for the collection and redistribution of taxes.[83] Marty E. Stevens' study—of the economic dimension of the temples of the Persian period—lists the sources of income as well as expenses of the daily operations. Income was obtained through land ownership, tithes, taxes, gifts and trade while expenses were for maintaining temple personnel, taxes, royal provisioning, appropriations and the welfare of the community.[84] According to Kessler, theologically, the exilic experience of the people had elevated the importance of the post-exilic temple, which unfortunately in economic terms, brought heavier financial burdens to the people than the first temple.[85]

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sought word from Jerusalem through a letter implies the leading role of the Jerusalem Temple. Furthermore, this Jewish community in Egypt continued to seek directions from Jerusalem regarding doctrinal and liturgical matters. — Kessler, *The Social History of Ancient Israel*, 143-145.

[82] Balentine, "The Politics of Religion in the Persian Period," 141-142.

[83] Weinberg, *The Citizen-Temple Community*, 126. See also Balentine, "The Politics of Religion in the Persian Period," 141-142. Carol L. Meyers, J. Blenkinsopp, John W. Wright perceives the economic activities of the Temple as analogous to the modern "bank."—Meyers, "Temple, Jerusalem," *ABD* 6, 350-369. Blenkinsopp, "Temple and Society in Achaemenid Judah," 23. Wright, "Guarding the Gates: 1 Chronicles 26.1-19 and the Roles of Gatekeepers in Chronicles," *JSOT* 48 (1990): 76.

[84] Marty E. Stevens, *Temples, Tithes and Taxes: The Temple and the Economic Life of Ancient Israel* (Massachusetts: Hendrickson Publishers, Inc., 2006), 82-135.

[85] Kessler alludes to the people's reflecting on the exilic experience as the cause of this elevated perception of the Temple. This has two indications, first, the people have lived the best part of a century yearning for a return to Jerusalem and the Temple, which for them symbolized Yahweh's presence amongst His people. Thus, the great importance of the Second Temple to the returnees. Second, it identified them as the people of Yahweh giving them that religious uniqueness. In the context of the diaspora, the Temple gave the dispersed Jewish communities the sense of togetherness under the worship of Yahweh.— Kessler, *The Social History of Ancient Israel*, 145-146.

The Second temple maintained its characteristic as a "state sanctuary," however, the influence of the Persians on the operations of the temple would then suggest that it had become a "Persian State sanctuary."[86] How possible was it for the people of Judah to maintain the religious uniqueness, their identity as Yahweh-worshippers in the midst of this inflow of Persian control?

(ii) The Priesthood

The absence of the monarchy during the exilic and post-exilic periods saw the rise of the priesthood in terms of leadership and significance. The priesthood in effect seemed to fill in for the lack of a king.[87] Taking into consideration the foreign control of the temple with the creeping in of foreign culture, the religious uniqueness and national identity of the Jewish communities was in jeopardy. Although the Persian governors seemed to account for the kingly office within the various provinces, they represented foreign rule. The priesthood was then looked upon as the manifestation of "national and religious identity, over against the Persians."[88] Did they meet what was expected of them?

The main functions of the priesthood were to reconcile and mediate on behalf of the Israelites where holiness was the main requirement of reconciliation. Their work and everything about it represented the larger relationship between God and His people.[89]

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[86] Kessler, *The Social History of Ancient Israel*, 146.

[87] While in the pre-exilic era the temple had been considered "royal property" in which the managing of the financing and maintenance of the temple seemed to be under the authority of the king, the temple was now considered as the property of the people or rather the citizens as Weinberg coins. These functions of the monarch were now upheld and controlled by the high priest—whose position was now established at the top of the hierarchy.— Georg Fohrer, *History of Israelite Religion*, translated by David E. Green (Nashville: Abingdon Press, 1972), 331. Kessler reports that the 'anointing' which was reserved for the king, was now adapted by the high priest in succession. —Kessler, *The Social History of Ancient Israel*, 145.

[88] Kessler, *The Social History of Ancient Israel*, 145.

[89] Alfred Edersheim, *The Temple* (Grand Rapids: Wm. B. Eerdmans Publishing, 1983), 84-85.

Part of their responsibilities included overseeing of all ritual acts within the temple, sacrificial rites, relaying to the people things that were pure and impure in line with the cult, and they also passed on blessings to the people,[90] anything involving the lamps (Exod.27:20-21) and the incense altar (Exod.30:7). In the Second temple period, the priest acquired additional duties such as overseeing of animal sacrifice,[91] and more importantly, the collecting of additional funds to finance the building and expansion projects which were previously dealt with by a monarch.[92] The priesthood also took up judicial roles, being responsible for handing out legal judgements,[93] and the interpretation of the law which eventually became part of the scribal job description.[94]

We must also take note that even the priesthood maintained a hierarchy within themselves with duties assigned accordingly. The high priest descended from the pre-exilic line of the high priest Zadok,[95] who served the role as the principal community leader for the Jews after the exile.[96] The other temple priests—descending from Aaron and Levi—were responsible for more basic liturgical duties and other required administrative functions.[97] Furthermore, security and ensuring the ceremonial cleanliness within the temple was also part of their job.[98]

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[90] John J. Castelot and Aelred Cody, *Religious Institutions of Israel: New Jerome Biblical Commentary* (New Jersey: Prentice Hall, 1990), 1258.

[91] Castelot and Cody, *Religious Institutions of Israel*, 1259.

[92] Carol L. Meyers, Eric M. Meyers, *Haggai and Zechariah 1-8,* Anchor Bible, (Garden City, NY: Doubleday & Co., 1987), 181.

[93] Meyers and Meyers, *Anchor Bible: Haggai and Zechariah 1*-8, 194.

[94] Castelot and Cody, *Religious Institutions of Israel*, 1256.

[95] John Bright, *A History of Israel,* Fourth Edition (Louisville/London: Westminster – John Knox Press, 2000), 435.

[96] Jacob M. Myers, *Ezra and Nehemiah,* Anchor Bible (New York: Doubleday, 1965), 34.

[97]Castelot and Cody, *Religious Institutions of Israel*, 1258.

[98] Edersheim, *The Temple*, 89.

The priesthood however, was not without its own issues; the struggle for leadership between the Zadokite and Levite families has long haunted the priesthood.[99] It is evident that the priestly class had their own agendas and interests, and it is possible that these interests could also play a role in tainting their judgements and decisions as leaders of the post-exilic society. If we were to take into account the understanding that the office was directly appointed by the Persian government,[100] then the encouraging of loyalty and obedience to the Persian Empire would also have been part of their responsibility. In other words, to stay in office and power, they would ensure that the Persian interests were served.

(iii) The Religious Laws

The Jewish religious laws first and foremost are believed to convey Yahweh's justice for the people of Israel. The way of life instructed for the people through the laws can be deemed a life of justice, or a life which practices justice only. In the law, we can see two important aspects; first, Yahweh's justice and second, this justice of Yahweh is to be a way of life, tradition and culture.

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[99]Paul D. Hanson identifies these two opposing groups within the postexilic community. The first of which he refers to as "Hierocratic Party of the Zadokites;" this group consists of "the leading priestly group of the post-exilic period whose centre of power was the Second Temple in Jerusalem." The opposing group is referred to as "visionary" because they resorted to "visionary motifs" for hope of restoration. The conflict has a long history which relates back to the struggle of the two priestly houses of Judah for control of the central cult, that is, Zadokites and the Levites. The Zadokites had eventually gained power after the death of King David and have remained in that position over the Levites even up to the postexilic period. Zechariah, Ezekiel, Haggai are all part of this party. The second group on the other hand can be seen in light of their conflicting nature towards the hierarchy. While the Second Temple is of major importance to the hierocratic, the visionaries are wary of the Persian support behind it, it spells for them a Persian-Israelite alliance, the danger of the union is the threat it poses to the sovereignty and self-rule of Yahweh. Secondly, they saw that the corrupt nature of the leaders easily led them astray from God. The third issue was the "virtual indifference" with regards to "eschatology". They simply had little or no concern at all and regarded the temple and the priesthood as untouchable, vulnerable to nothing even judgment.—*The Dawn of Apocalyptic: The Historical and Sociological Roots of Jewish Apocalyptic Eschatology* (Philadelphia: Fortress Press, 1952), 220-280.
—Yairah Amit believes that a characteristic which is unique to the book of Deuteronomy is viewing the Levites as part of the deprived and oppressed. Amit, *History and Ideology: An Introduction to Historiography in the Hebrew Bible*, translated by Yael Lotan (Sheffield: Sheffield Academic Press, 1999), 54.

[100]Hinson, *History of Israel*, 161.

The importance of the Law heightened with the exilic experience. The first reason being the understanding that their current situation was the outcome of disobedience to the Laws of Yahweh—as Noth[101] originally proposed—thus to avoid further destructions the upholding of the Law was important. Furthermore, the absence of fundamental institutions of the Jewish world—the monarchy and the Temple—during the exile experience threatened to disrupt the Jewish way of life. For almost a century, the exiled Jews had to cope and find ways to maintain and preserve their way of life and identities. H. Ringgren in *Israelite Religion* believes that the people fell back to the law, which he refers to as the "sum total" of the fundamental ancient traditions observable in the absence of the two mentioned institutions.

> The leading men of this period were primarily concerned with preserving the religious uniqueness of the Jewish people against all foreign influences. They needed a unifying element taken from the ancient heritage of Israel around which the new community could unite and survive. This they found in the law … [102]

This elevated status of the law—which emerged during the exile and was maintained even though the temple was rebuilt—had vital consequences. Ringgren believes that the threat posed by Darius I's scheme of 'codification of laws' had given rise to the idea of canonization which would preserve the religious and cultural identities of the Jews. With the formation of the canon it is obvious that a future-oriented vision was also at work with the concern for the future generations. Second, the appropriating of the law to everyday life was of the utmost importance and required interpreters, thus the emergence of the scribes. Third is the equating of the law—symbolic of life—with wisdom traditions. Ringgren mentions that they were both "incarnations of God's revelation," and finally in conjunction with this, reflecting on the

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[101]Noth, *The History of Israel*, 340-341.

[102]Helmer Ringgren, *Israelite Religion*, translated by David E. Green (Philadelphia: Fortress Press, 1966), 302.

law had become a norm for the people. Its function which was to provide guidelines for appropriate behaviour that would in turn reward man with life, and in order to comply with these laws, they were to be accurately comprehended.[103]

For the returning community, obedience to the Law was of the utmost importance. "The salvation of the Jew depended upon his exact observance of the Law."[104] In addition, the Law was the centre of the separatist attitude of the Jews. It differentiated the Jews from the 'others' or rather the "heathen" within a "heathen world,"—for example, the observances of the Sabbath and circumcision.[105] The re-appropriation of the Law not only addressed the Jewish communities in the Diaspora context—to accommodate those who lived beyond the borders of Palestine—but its fixed form in writing carries the hope of a future-oriented document to preserve the traditions and customs for the future generations.

F. The Jewish Communities of the Diaspora

Throughout the chapter, our focus has been fixed mainly on the returning community in Yehud. However, we should not be too hasty to assume similar conditions and experiences for those Jewish communities residing outside of the Promised Land.[106] Before we sum up, a general consideration of these communities in dispersion will be necessary.

Diaspora was not a reality unique to the Jewish people. However, according to Isaiah M. Gafini, an element which was possibly unique to the Jewish communities was

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[103] Ringgren, *Israelite Religion*, 302-309.

[104] Norman Snaith, *The Jews from Cyrus to Herod*, Gateway Handbooks of Religious Knowledge, third edition (London: The Religious Education Press Ltd, 1963), 147-148.

[105] Snaith, *The Jews from Cyrus to Herod*, 147-148.

[106] As mentioned in beginning of the chapter, Jewish communities were found in Mesopotamia, Egypt, and Babylonia now under Persia.

a consistent "broad-based" desire and longing to return to their homeland. Attached to this geographical restoration was a complete restoration of their identities as Jews.[107] A more immediate concern was

> ...the tension between the wish to maintain a Jewish identity in a non-Jewish environment while at the same time striving to express some sort of 'local patriotism' and sense of 'belonging' within that very same environment...[108]

To re-phrase in a question; how was it possible to maintain the Jewish identity without totally denying the cultures of their adapted homes? John M. G. Barclay—in his study of the dispersed situations in the Hellenistic and early Roman periods—believes that the problem lay not in the maintaining of the Jewish identity, but with practices associated with identity in their adapted environments. It was the separatist attitude of the Jewish people against the non-Jews which created a hostile environment.[109]

At the core of the Jewish identity is the "ethnic bond" which for Barclay underwent a development during the Hellenistic period. The term described much more than just genealogical origins, it upheld also the "mode of life" or the "pattern of life." For the Jew, this ethnic bond and their Jewish identity also relied heavily on social and religious circumstances by which it was defined. First, the local community and its community activities brought people together and strengthened the peoples' sense of belonging, for example, gatherings for festivals, Sabbath observance and financial arrangements through temple dues. Second, the common alluding to the Jerusalem temple and the Promised Land further united the Jews. Third, the Law and Jewish

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[107] Isaiah M. Gafini, *Land, Centre and Diaspora: Jewish Constructs in Late Antiquity*, JSOTSup, ed. James H. Charlesworth, Lester L. Grabbe (Sheffield: Sheffield Academic Press, 1997), 12.

[108] Gafini, *Land, Centre and Diaspora: Jewish Constructs in Late Antiquity*, 41.

[109] John M. Barclay, *Jews in the Mediterranean Diaspora: From Alexander to Trajan (323 BCE – 117 CE)* (Edinburgh: T & T Clark, 1996), 444.

scriptures, and fourth, in association with the law was the prominence of Moses within the Jewish cult.[110]

Barclay also presents practices which are believed to have been obvious characteristics of the Jewish cult, that is, denial of foreigner, distinction in meals, circumcision, and the observance of the Sabbath.[111]

It is obvious that the dispersed Jewish communities were facing issues of their own. To assume all communities were experiencing oppression and suffering as a result of the socio-economic conditions would be a different issue altogether. While others had adapted well to their new homes, others were struggling.[112] However, the main issue is trying to balance out the urge to be strictly defined by an indigenous homeland far away with the immediate reality of the adopted home.

G. Summary

We have seen the situation of the Jewish community in Judah following the exile. Politically, although they were relocated back to their homeland, they remained under Persian authority. They were not politically independent, but more like captives within their own homes.

Socially, the community was very small and outnumbered by those who remained in the Land. They continued to exist as a minority group within Palestine imposing danger to their upheld status as people of God, and if this was not hard enough, the society itself was very fragile in nature with the breakdown of the traditional institution of families.

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[110] Barclay, *Jews in the Mediterranean Diaspora*, 413-428.

[111] Barclay, *Jews in the Mediterranean Diaspora*, 428-442.

[112] Barclay discusses the levels of assimilation evident in the Egyptian Jews.—*Jews in the Mediterranean Diaspora*, 103-124.

The economic conditions did not help with the unity and solidarity of the society as the people in general suffered from the policies of the Imperial rule administered through the temple. Situations deteriorated to the point of poverty and having to be sold as slaves for survival.

On the religious front, the control which the Persian king had over the Second Temple threatened to destroy everything it symbolized for the Jewish people; that is, the presence of Yahweh and its unifying factor which brought all Jews together. The high priest and the priesthood as leading figures within the society were no better as temple personnel. They had interests which required their loyalty to their Persian overlords, which may have also affected the way they administered the law. The overarching authority of the Persian king suggests that these two fundamental elements of the Jewish cult remained lost to the Jews in Judah.

Life in the post-exilic situation would have been—for the returning exiles—a repeat of the exile experience. Their suffering conditions would have stimulated a strong yearning for Yahweh's justice within society. In other words, Persian influence would not have been favourably considered especially by the lower class citizens of society, as it only symbolized oppression and injustices. Thus, the various ideologies in the Asylum Legislation would fit this context of struggle, and all add up to a utopian cry for change in society.

First, the idea of 'centralizing of the cult' was no longer relevant as it only compromised the execution of justice within society. That is, with the temple and the high priest now being controlled by the Persian monarch, the purity of the Jewish cult was in jeopardy. The temple had become the Persian vessel for exploitation of the

people. For D, the issue of control—whether it be political, social, economic, or religious—was at the core of centralization of the cult.[113]

A decentralized ideology then would have been in the minds of the returnees for two reasons; first, decentralizing of authority which produced unjust leaders. Second and most importantly, a decentralized ideology would be fitting to account for the Jewish communities in dispersion who were struggling to synchronize their Jerusalem ideology with the social realities of their adapted homes. For D, the temple was corrupt and was no longer a good-enough reason for people to remain loyal to a single sanctuary. Furthermore, we allude once more to the traditional view against centralization; that the distance would be too great and risky. So, how does D account for these dispersed Jewish communities?

This leads to the second point. In light of the national and religious identity crisis, the following social observation from Daniel L. Smith will assist to enlighten us, regarding the behaviour of the Jewish communities in general.

> … the ability of a group to reconstruct it's identity is essential to it's survival in a foreign cultural environment … the social forms that a minority, exiled, or refugee community creates can be a result not of a desperate attempt to cling to pointless and antiquated traditions from a previous era or homeland, but rather a creative construction of a "culture of resistance" that preserves group solidarity and cultural identity.[114]

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[113] Tigay discusses arguments that the issue of centralization since the days of Josiah was always an issue of ultimate control under the monarch. —*Deuteronomy*, 459-464.

[114] Daniel L. Smith, "The Politics of Ezra: Sociological Indicators of Postexilic Judaean Society" in *STS 1*, ed. Phillip R. Davies (Sheffield: JSOT Press, 1991), 84. See also R. K. Menton's discussion of the concept 'endogamy' which serves as a device to maintain social prerogatives and immunities within a social group.—Menton, "Intermarriage and the Social Structure: Fact and Theory," *Psychiatry* 9 (1941), 368. E. L. Cerroni-Long believes when a human group finds itself uprooted and isolated and faced by a strong pressure to conform to alien standards it instinctively falls back on the primary ties of the kinship network both to reaffirm its individuality in the face of threats of extinction and to maintain some form of normal existence amidst unforeseeable and stressful contingencies.—Cerroni-Long, "Marrying Out: Socio-Cultural and Psychological Implications of Intermarriage," *JCFS* 15 (1984), 25-46.

Quite clearly, the threat to the identity of a minority group according to Smith is the foreign influences of the dominant group(s). Thus, the attempt by D to preserve their identity is also an attempt to stand against the destructive influences of the colonial power of his time, that is, the Persians. What is this identity according to D?

This is the third point. D perceives the Jewish identity to be defined by Yahweh and the religious cult. It is their identity as the holy people of Yahweh which needs to be maintained despite of where one is located or situated. D is promoting the worship of the 'One God who is Universal.' That is, Yahweh alone is God, but is God for all. Thus, it would be possible for the Jews of the diaspora to worship Yahweh in His completeness from their respective adopted homes.[115]

The status of the Law in the post-exilic period for all Jewish communities in the diaspora made it the ideal mechanism for preserving and promoting their identity. In this attempt, re-appropriating the laws to be more receptive and applicable to changing circumstances and situations was necessary. These dispersed communities needed to be uniform in principle and attitude if they were to have any major impact of resistance, against the inflow of foreign influences. The Asylum Legislation is left open-ended in its reapplication. D is suggesting that while the practices can be adjusted, the foundations should always remain intact, for the Jews, that foundation is Yahweh alone.

Finally, the issue of loss and maintaining of land also appears as a prominent concern in the Asylum Legislation. Returning from exile, the issue of eviction from the land would be an appropriate motivational mechanism for justice. That is, it is possible that D's rhetorical strategy is reminding the people as well as the dispersed Jews that injustices resulted in the loss of their land before, and it would happen again if the injustices are not removed from society, that is, a form of cleansing.

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[115] Tigay, *Deuteronomy*, 461.

Who might D be? It is evident that D sympathizes with groups in society who would normally yearn for justice. However, D would have been an important person having the responsibility of preserving of the community's laws and traditions. It is noted that D may not have any problems with the tribal elders, likewise the priests who are mentioned in a later legislation (19:17). Thus, the preference of leadership would most probably have been this association of elders and the Levites over that of the high priest and the Zadokite lineage. The implication is that D is from this association if not the association itself.

Conclusion

In conclusion, we return to the argument put forth in the beginning. The thesis set out to show that the Asylum legislation in Deut.19:1-13 promoted a decentralized ideology running against the norm of the Deuteronomic code, and that the conflicting ideology of Deut.19:1-13 is a result of the author's or authors' attempt to re-appropriate the code to account for the Jewish communities in dispersion. Did the study show this?

Chapters three and four focused on exposing existing ideologies present in the text of the Asylum Legislation. The literary-critical analysis in these chapters showed that while D acknowledges the existence of a centralizing ideology, D does not advocate it. For D, it does not fit in well with the general call for proper justice in society. The Asylum Legislation rather promotes a decentralized ideology. This is evident in the various indications that D has in mind a context bigger than Canaan, for example the whole world. Furthermore, D's strategy of being deliberately ambiguous on various occasions leaves the legislation open to be more accommodating to a variety of contexts. In other words, the intrinsic analysis shows a favourable consideration to the idea of *decentralization as the proper means to serving justice*.

The social-historical analysis of chapter five shows that such an ideology would be evident for the returning community in Yehud during the Persian period. The strong Persian influence through the temple was the source of oppression and injustice. To look upon the temple in Jerusalem as the single sanctuary would only contribute further to the demise of the Jewish communities all over the world at two levels. First, it had become a Persian administrative centre for political, social and economic exploitation. Second, the Persian influence also posed a threat to the national and religious identity of the Jewish communities as the holy people of Yahweh. Attention needed to be drawn away from this idea of a single sanctuary which would have resulted in a much needed

decentralizing of the cult. Loyalty and worship of Yahweh alone was to be maintained and practiced no matter where in the world the Jews had scattered. It maintained their sense of unity, solidarity, and uniqueness despite living under different situations and circumstances. In addition, living as a holy people for Yahweh would have been perceived as liberating to the oppressed, given that obedience to Yahweh resulted only in blessings and the spread of justice within society.

In light of Ricoeur and Lenin's understanding of 'utopia' as discussed in chapter two, the decentralized ideology of D would be considered as such. That is, an ideology which contradicts existing dominant ideologies, or rather expresses the ideologies of the lower class of society. It runs against the more dominant idea of centralization not only in the DC, but also in the Judaean communities of the exilic/post exilic period.

Implications from the Study

Although the implications of the study will be appropriated to the context of Samoa and the Congregational Christian Church in Samoa, henceforth CCCS, I believe that other fellow Pacific Islanders may also be able to appropriate it in their own contexts.

First, the tension between centralization and decentralization of local systems is brought to the fore. Centralization is an issue of control. Attempts to attach romantic notions to the concept—such as Josiah's link with the Jewish cult—does not change this fact. It will always be linked to a central authority, and although it may have its benefits, we know from history that it has given birth to tyrants and unjust leaders at many different levels. This would bring into question the centralized system employed by the CCCS. Manfred Ernst rightfully points out that the authority and power for decision-making is concentrated in the General Assembly (annual event) and the Elders

Committee.[1] Is the model appropriate for the church today? In other words, how is justice served by the current centralized system? Is everyone treated fairly and equally under the laws and guidelines of the church? You would not have to listen hard to hear the suppressed voices of a rising ideology, crying out to be heard, to be liberated especially from the financial burdens, etc. The visible signs,—such as declining number of members, the contrast in lifestyles between church officials and church members, the longstanding need to improve church school facilities, standards and level of education, etc.—all point towards the assumption that the centralized system is not really working. The current system seriously needs to be revisited and reviewed, or if change is impossible, at least to be improved.

Second, the study also raises a major concern of loss of indigenous identity. This concern may not be imminent but it is gradually taking its toll in Samoa and is quite visible in the 'Samoan Diaspora' that is, Samoan communities in foreign countries, for example, New Zealand, Australia, Hawaii and USA (just to name the major countries). Unlike D in the exilic/post-exilic era, we may boast that we are now living in a post-colonial age. However, if we were to stand back and take another look at our situation in Samoa and the effects of 'globalization,' we would find out that our current society closely resembles that of D's colonized environment, that is, "oppressive imperialism."[2] With the rapid advance of technology and other influences of the global world, we may need to critically consider how to preserve and maintain the fundamental values of the *Fa'aSamoa* "the Samoan way or Samoan culture."

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[1] Manfred Ernst, *Winds of Change: Rapidly Growing Religious Groups in the Pacific Islands* (Suva: PCC, 1994), 169.

[2] Manfred Ernst, "Globalization and Culture," in *Globalization and the Re-Shaping of Christianity in the Pacific Islands*, ed. Manfred Ernst (Suva: Pacific Theological College, 2006), 47.

Two major institutions continue to uphold this function, the *aiga* "family" and *faiga-nu'u* "village life." However, there are visible signs that these institutions have changed under the dominant global ideology, especially with the practice of fundamental values and principles of the *Fa'aSamoa*, for example, *alofa* "love," *fa'aaloalo* "respect," etc. Can we continue to rely on traditional social structures such as the family and local villages to preserve and maintain the fundamental principles of the *FaaSamoa*?

Where will we turn should these institutions be lost to the transforming abilities of the dominant world? The church as it may be is closely interwoven with the *FaaSamoa.* Unfortunately, it has its own sense of identity to maintain. The inflow of changes today has become a norm and people have been blinded to the threat. What kind of Samoans will we be in the next fifty years or so? The challenge is for the people of Samoa spending time to take seriously into proper perspective the noticeable changes in society. How can we save ourselves from the inescapable influences of the world? Literature again, maybe the only means for survival of an indigenous identity. That is, a 'foundational document' which functions to preserve the fundamental principles of the *FaaSamoa* for re-appropriation to a variety of contexts, both present and the future.

Glossary

Fa'aSamoa	Samoan way or Samoan culture
Aiga	Family
Faiga-nu'u	Village life
Alofa	Love
Fa'aaloalo	Respect

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