

DEUTERONOMY AS *TORAH*





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Introduction

One of the few areas of consensus in modern Deuteronomy scholarship is the contention that within the Book of Deuteronomy is a program of reform that is nothing short of revolutionary.¹ Key elements of this revolutionary program are “centralization” and “demythologization.” Much of Deuteronomy is seen to support Josiah’s reforms of the 7th century,² and many see in the book efforts at centralizing worship to the Jerusalem Temple. As a result, many of the laws in Deuteronomy (most notably the so-called law of “profane slaughter” in Deut 12.15-25) are understood as accommodating the changed circumstances wrought by centralization.

There is also, it is argued, a corresponding “demythologization” and “secularization,” in which the sacred is downplayed, and certain institutions are removed from the realm of the sacred.³ Earlier theology (which is usually understood as being less abstract in its theological

¹ See, for example, M. WEINFELD, *Deuteronomy and the Deuteronomistic School* (Oxford: Oxford University Press, 1972; reprint Winona Lake: Eisenbrauns, 1992), 191-243; idem, *Deuteronomy 1-11: A New Translation with Introduction and Commentary*, AB 5 (New York: Doubleday, 1991), 37-44; J.H. TIGAY, *Deuteronomy*    : *The Traditional Hebrew Text with the New JPS Translation* (Philadelphia: JPS, 1996), xvii-xviii; R.E. CLEMENTS, “The Book of Deuteronomy: Introduction, Commentary, and Reflections,” *NIB* (Nashville: Abingdon, 1998), 271-87, esp. 285; idem, *Deuteronomy*, OTG (Sheffield: Sheffield Academic Press, 1989), 60-63; A.D.H. MAYES, *Deuteronomy*, NCB (Grand Rapids: Eerdmans; London: Marshall, Morgan & Scott, 1979), 57-60.

² W.M.L. de Wette is credited with the idea that the book of Deuteronomy is not simply a blueprint for the Josianic reforms, but is rather the product of the period in which it was used. He argues that the so-called centralisation law of Deuteronomy 12 could only come from a later period than the rest of the Pentateuch due to the fact that centralisation is neither assumed nor especially valued there. See the helpful presentation of de Wette and his contribution to Deuteronomistic studies in G.J. WENHAM, “The Structure and Date of Deuteronomy: A Consideration of Aspects of the History of Deuteronomy Criticism and a Re-Examination of the Question of Structure and Date in Light of that History and the Near Eastern Treaties” (PhD diss., University of London, 1970), 16-43. See also J.W. ROGERSON, *W.M.L. de Wette, Founder of Modern Biblical Criticism: An Intellectual Biography* (Sheffield: Sheffield Academic Press, 1992) and idem, “De Wette, Wilhelm Martin Leberecht (1780-1849),” in *Historical Handbook of Major Biblical Interpreters*, ed. D.K. MCKIM (Downer’s Grove, Leicester: Intervarsity, 1998), 298-302.

³ Thus Weinfeld describes Deuteronomy as having a “distinctly secular foundation. Not only do we encounter institutions of a manifestly secular character such as the judiciary...the monarchy...the military...and civil and criminal laws which treat of the family and inheritance...loans and debts...litigations and quarrels...trespassing...and false testimony...and the like; but...even institutions and practices which were originally sacral in character have here been recast in secularized forms....The very book which is so centrally

constructs) is seen to be reinterpreted in favor of a more spiritual, abstract understanding. The tendency toward secularization and demythologization may be seen in the following features of Deuteronomy: profane slaughter, an altered understanding of firstlings, reinterpretation of tithes, a changed view of the cultic calendar, a humanitarian motivation for laws, cities of refuge, elimination of priestly involvement in local judicial matters, status of Levites, a more abstract conception of God, and a shift in understanding of the presence of God.⁴ Deuteronomy's tendency toward secularization and demythologization, coupled with its demand for centralization, makes for a revolutionary program.⁵ The result of this revolutionary program was that Israelite religion was transformed from one that emphasised sacrifice and ritual into one that focused on prayer, a book (Deuteronomy, to begin with), and a more abstract faith.⁶

On the surface, the case for centralization and demythologization appears strong, if not irrefutable. In recent years, however, some of the data adduced in favor of centralization and demythologization in support of the Jerusalem temple have been shown to be capable of very different interpretation.⁷ In addition, although there is consensus as to the fact of centralization and secularization, there is no consensus on other key related questions. Thus, among those who see in Deuteronomy a program of centralization and demythologization, there is disagreement as to the fundamental nature of the program. Some maintain that this program should be understood as a utopian ideal,⁸ while others see it as a realistic program of reform.⁹ Similarly

concerned with 'the chosen place' has almost completely ignored the sacral institutions which the chosen place must necessarily imply and without which the conduct of sacral worship is unimaginable." See WEINFELD, *Deuteronomical School*, 188.

⁴ M. WEINFELD, "On 'Demythologization and Secularization' in Deuteronomy," *Israel Exploration Journal* 23,4 (1973): 230-31. See also idem, *Deuteronomy 1-11*, 37-44.

⁵ M. WEINFELD, "Deuteronomy's Theological Revolution," *Bible Review* 12,1 (1996): 45.

⁶ Ibid., 38. See also idem, *Deuteronomy 1-11*, 78-79.

⁷ See, e.g., J.G. MCCONVILLE, *Law and Theology in Deuteronomy* JSOTS 33 (Sheffield: JSOT Press, 1984); J.G. MCCONVILLE and J.G. MILLAR, *Time and Place in Deuteronomy*, JSOTS 179 (Sheffield: Sheffield Academic Press, 1994); J.J. NIEHAUS, "The Central Sanctuary: Where and When?" *Tyndale Bulletin* 43,1 (1992): 3-30; G.J. WENHAM, "Deuteronomy and the Central Sanctuary," *Tyndale Bulletin* 22 (1971): 103-18. The prevailing view was challenged already by A.C. WELCH, *The Code of Deuteronomy* (London: James Clarke, 1924), who maintained that only Deut 12:1-7 need be taken as referring to one central "chosen place." Another early case against the centralization view is G.T. MANLEY, *The Book of the Law: Studies in the Date of Deuteronomy* (London: Tyndale, 1957).

⁸ E.g., N. LOHFINK, "Distribution of the Functions of Power: The Laws Concerning Public Offices in Deuteronomy 16:18-18:22," in *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy*, ed. D.L. CHRISTENSEN (Winona Lake: Eisenbrauns, 1993), 336-52. See also idem, "The Laws of Deuteronomy: A Utopian Project for a World Without Any Poor?" Lattey Lecture 1995 (Cambridge: St. Edmund's College, 1995) and "Das deuteronomische Gesetz in der Endgestalt: Entwurf einer Gesellschaft ohne marginale Gruppen," *Biblische Notizen* 51 (1990): 25-40.

⁹ One of the most recent examples is B.M. LEVINSON, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford University Press, 1997).

disputed is the question as to whether or not the reform should be seen as favoring or opposing the Judean monarchy.¹⁰ In addition, the issues of setting and audience are disputed even among those who see centralization and demythologization as at the core of the Deuteronomic program. This lack of consensus on these issues and on the basic meaning of centralization and demythologization in the interpretation of the book calls into question whether or not centralization and demythologization as normally understood should be viewed as the central tenets of the theology of the book.

The time has come, I believe, to re-evaluate the theology of Deuteronomy, and to explore the possibility that what lies at the heart of the theology of Deuteronomy is not centralization and demythologization, but something else. In this paper, I will attempt to articulate an alternative to the prevailing view of the theology of Deuteronomy, and will argue that at the core of Deuteronomy is a theology of the supremacy of Yahweh, expressed in the life of Israel through adherence to *Torah*. In this understanding, Deuteronomy *does* in fact represent a revolutionary program, but not in the way that program is usually understood. In its deliberate rejection of ANE models of kingship and institutional permanence, its emphasis on the holiness of all life lived out before Yahweh, and its elevation of the supremacy of Yahweh and his *Torah*, Deuteronomy reveals itself to be a truly revolutionary text, but in a much different way than understood by critical consensus.

In a brief paper such as this it is, of course, impossible to present a comprehensive case for this understanding of the theology of Deuteronomy. I will, therefore, limit my presentation to an overview of the case for an alternative understanding of Deuteronomy. In particular, I will focus my attention on the important themes that are developed in texts dealing with offices in Deuteronomy.¹¹

Elements of *Torah* in Deuteronomy

Deuteronomy 1:9-18

Deuteronomy's unique perspective begins to emerge early in the canonical form of the book. According to chapter 1, prior to departing Horeb Moses appoints leaders over the people (1:9-

¹⁰ Weinfeld, for example, sees the Deuteronomic reform as supporting the Judean monarchy, whereas Levinson sees the program as opposing the monarchy. See WEINFELD, *Deuteronomic School*, 168-71, and LEVINSON, *Legal Innovation*, 138-43.

¹¹ A more detailed and comprehensive presentation of the case for an alternative understanding of Deuteronomy is presented in my PhD dissertation, to be completed by summer of 2001.

18). This is a necessity, according to verses 10-12, because of the fact that Yahweh has blessed the nation to such a great extent that Moses was unable to bear the burden of leading and judging the people. The qualifications of the officers are described, and Moses' confirmation of the appointment is narrated. Immediately thereafter, Moses charged the judges to execute their responsibilities impartially, and in recognition of the fact (verse 17) that "judgment is God's."

There is agreement that Deut 1:9-18 is a unity, and that these verses are integral to the broader narrative of chapters 1-3.¹² What is curious, however, is the fact that there is little discussion as to why this section on the appointment of leaders and exhortation to judges appears here at all. The section clearly interrupts the flow of the narrative, as the command to move forward from Horeb is given in verse 8, and the description of its execution begins in verse 19. The narrative is seamless without the interpolation of verses 9-18. Yet scant attention is paid to this fact.¹³ Instead, most interpreters focus on the differences between the account here in Deuteronomy and the accounts found in Exodus 18:13-27 and Numbers 11:11-17, which are often regarded as the sources behind the Deuteronomistic account.¹⁴

But if Deuteronomy is to be seriously considered as a literary or theological work, then one must provide an explanation as to why this passage is included here. Since the self-presentation of the book is not a comprehensive history of Israel, but rather a compilation of speeches by Moses in a particular time and place, and hence to serve a particular purpose, it is safe to assume that the inclusion or exclusion of certain events in the narrative must be deliberate on the part of the author or editor(s).¹⁵ Clements suggests that this section is included in order to highlight the importance of a "fair and acceptable system of juridical authority."¹⁶ Thus, he notes that the

¹² See, e.g., A.D.H. MAYES, *Deuteronomy*, NCB (Grand Rapids: Eerdmans; London: Marshall, Morgan, & Scott, 1979), 118; D.L. CHRISTENSEN, *Deuteronomy 1-11*, WBC 6A (Waco: Word, 1991), 19-22; idem, "Prose and Poetry in the Bible: The Narrative Poetics of Deuteronomy 1:9-18," *ZAW* 97 (1985): 179-89.

¹³ Especially striking is the fact that few commentators posit a separate source for this section. Instead, since Noth there is general agreement that this section is produced by the Deuteronomist and forms part of the introduction to the Deuteronomistic History (DtH). See M. NOTH, *The Deuteronomistic History*, 2nd Edition. JSOTS 15 (Sheffield: Sheffield Academic Press, 1991), ET of *Überlieferungsgeschichtliche Studien* (Tübingen: Max Niemeyer, 1957), 1-110. Cf. also T. RÖMER, "The Book of Deuteronomy," in *The History of Israel's Traditions: The Heritage of Martin Noth*, JSOTS 182, ed. S.L. MCKENZIE and M.P. GRAHAM (Sheffield: Sheffield Academic Press, 1994), 178-212, esp. 178-91.

¹⁴ Illustrative of this is WEINFELD, *Deuteronomy 1-11*, 139-40.






¹⁵ I contend, further, that the author's purpose is related to the rest of the book of Deuteronomy, not, as Noth maintained, to introduce DtH. For a discussion of the overall purpose of Deuteronomy and the nature of the book as communication, see T.A. LENCHAK, "*Choose Life!*": *A Rhetorical-Critical Investigation of Deuteronomy 28,69-30,20*, AnBib 129 (Rome: Pontifical Biblical Institute, 1993), 1-27. See also P.A. BARKER, *Deuteronomy: The God Who Keeps Promises* (Melbourne: Acorn, 1998), 7, who notes that Deuteronomy's presentation of history is selective, and serves a rhetorical purpose.

¹⁶ CLEMENTS, "The Book of Deuteronomy," 297.

legal section of the book (chapters 12-26) is greatly concerned with the administration of justice, and details institutional responsibilities for it.¹⁷ Olson, on the other hand, sees in this section the first intimation of the impending death of Moses. He sees in the provision of leaders for the nation a “dying to exclusive claim on authority, a dying to self-glorification, a dying to hoarding power for oneself rather than sharing and trusting others with it.”¹⁸

In my estimation, both Clements and Olson have seen important facets of this section. I suggest, however, that this passage contains the first suggestion of the importance of *Torah* in the life of the nation.

Gary Millar has argued persuasively that the theology of Deuteronomy is permeated with a dynamic element.¹⁹ That is, there is a sense in Deuteronomy in which the people of God are constantly seen to be “on the move” toward the land of promise, and the challenge for the people is to live out their lives in obedience to Yahweh even in the face of changing circumstances. The book itself is, of course, set in a moment of tremendous importance and change. The people are addressed at Moab, on the verge of the promised land. They are leaving behind the wilderness, the nomadic life, and the experience of slavery in Egypt. Their relationship with Yahweh will change upon their entry into the promised land. Whereas formerly the people had a tangible sense of Yahweh’s presence in the form of the pillar of fire and cloud and the Tent of Meeting, they will soon find themselves settling into cities and villages, and their sense of Yahweh’s presence will necessarily change. Deuteronomy, then, addresses the people at a crucial turning point in the way in which they live out their lives as the people of Yahweh.


But, as has been recognized, there is more to the exhortations of Deuteronomy than simply an appeal to the audience addressed at Moab. Instead, there is a careful blending of the audiences addressed, such that the Moab generation is described in Deut 5:3-5 as having been at Horeb, despite the fact that, in reality, they were not.²⁰ In addition, the frequent use of the term      has been shown to be a rhetorical device that contributes to the sense of

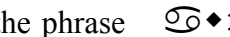
¹⁷ Ibid.

¹⁸ D.T. OLSON, *Deuteronomy and the Death of Moses: A Theological Reading* (Minneapolis: Fortress, 1994), 24.

¹⁹ See J.G. MILLAR, *Now Choose Life: Theology and Ethics in Deuteronomy*, NSBT 4 (Leicester: Apollos, 1998), esp. 67-98; J.G. MCCONVILLE and J.G. MILLAR, *Time and Place in Deuteronomy*, JSOTS 179 (Sheffield: Sheffield Academic Press, 1994).


²⁰ The “blending” of generations appears first in Deut 4:9-10, where Moses speaks of the things that the people saw at Horeb and are encouraged to remember. Here, again, this is not actually the case, as 1:35 and 2:14 make clear that the generation who experienced Horeb first hand had died off and were not present. The people addressed were the children of those who had experienced Horeb.

contemporaneity.²¹ All the important decisions are said to be urgent “today,” yet DeVries and others have shown, that “today” is more than temporal.²² In its frequent use of the term  and the recurrent blurring of the distinction between generations, Deuteronomy evokes the sense that its “today” at Moab is a decisive moment, but one that, paradoxically, the people face again and again in their journey with Yahweh. Thus, Millar concludes that “Moab is presented as the place where the past and future of Israel coalesce in a single moment, the place where the decision to follow Yahweh must be reaffirmed in every generation.”²³

In the light of this, Deut 1:9-18 takes on new significance. As Christensen has noted, the section is bracketed by the phrase , which appears in vv. 9, 16, and 18.²⁴ This, I believe, serves to focus attention on the particular time in which the event occurred, and is not used simply to indicate a temporal transition. The repetition of the term in just a few verses argues against the idea that merely temporal transition is being emphasized. Rather, the phrase is used to draw attention to the particular time in which Moses made the appointment of officials and exhorted the judges.²⁵

The “time” emphasized is one of transition and potential. The people are at Horeb, having experienced a tremendous revelation of Yahweh, and have entered into a special relationship with him. Yahweh then commands the people to leave the mountain and go to the land he swore to the patriarchs, which he would now give to the people (Deut 1:6-8). The breadth of the land described implies that the Israelites would be spread out over vast distances. Their lives would inevitably change. So too, the fulfillment of God’s promise to Abraham for many offspring (vv. 10-11) necessitates that the way in which the Israelites were organized as a society would change. The growth in numbers since leaving Egypt necessitates a change in the administration of the nation.

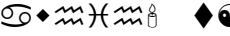

In that moment of transition a new system is put in place. Leaders are selected by the tribes,

²¹ See, for example, S.J. DEVRIES, *Yesterday, Today and Tomorrow: Time and History in the Old Testament* (Grand Rapids: Eerdmans; London: SPCK, 1975), esp. 45-47; P.A. VERHOEF, “,” in *New International Dictionary of Old Testament Theology and Exegesis (NIDOTTE)*, ed. W.A. VANGEMEREN (Grand Rapids: Zondervan, 1997), 2:419-24; MILLAR, *Now Choose Life*, 76-78; MCCONVILLE and MILLAR, *Time and Place*, 42-45.

²² DEVRIES, *Yesterday, Today and Tomorrow*, 45.

²³ MCCONVILLE and MILLAR, *Time and Place*, 47.

²⁴ CHRISTENSEN, *Deuteronomy 1-11*, 19-20.

²⁵ DEVRIES, *Yesterday, Today and Tomorrow*, 168, argues that the phrase  is simply to introduce a new narrative episode, and illustrates the secondary nature of this section. But A. TOMASINO, “,” in *NIDOTTE*, 3:563-67 demonstrates that the phrase can have more significance than simply as a temporal marker. Its use in Deut 3:12,18,21,23 appears to be stressing the particular time at which the events occurred, in much the same way as it does here.

First, there is a denial of institutional permanence. In the moment of transition in departing Horeb, a new order is established in Israel. Times have changed, and so must the structures of society. That the account of the appointment of officers occurs in the context of speeches of Moses to the people assembled at Moab (yet another moment of transition) highlights the fact that institutional permanence is not to be a hallmark of life with Yahweh. In addition, Moses will not accompany the people into the land (Deut 3:23-28). More significant, however, is the fact that he will not be replaced by a single person. Instead, the “offices” of Moses (prophet, judge, mediator, political leader) will be replaced by several separate institutions and people, who will all be expected to act in conformity with Yahweh’s will expressed in *Torah*.³⁰ Paradoxically, however, *Torah* itself will not change, and will serve continually as Yahweh’s revelation to Israel as to how they are to live out their lives as the people of Yahweh (Deut 4:2; 12:32). Thus, there is continuity even in the face of discontinuity.

Second, the supremacy of Yahweh is firmly established, since it is his judgment that must be carried out by the judges. They will act as his representatives, rendering decisions in light of Yahweh’s will. They cannot act according to their own desires, preferences, or prejudices, but must instead render God’s judgment. Thus, in giving the charge to the judges to remember that “judgment is God’s,” Moses is reminding the people of the solemn responsibility they have to acknowledge the supremacy of Yahweh as they live out every aspect of their lives.³¹

Deuteronomy 16:18-17:13

These themes are developed further when the issue of judges and offices comes up again in

³⁰ Cf. OLSON, *Death of Moses*, 21. In my estimation, *Torah* itself should best be seen as replacing Moses. It is the *Torah* that provides for the offices and institutions that replace Moses, and the *Torah* provides the standards by which the tasks should be carried out.

³¹ In this respect, Deuteronomy should be seen as *extending*, not curtailing, the concept of holiness. Weinfeld and others see in Deuteronomy a tendency to divorce institutions from connection to the religious sphere, and, therefore, see a tendency toward “secularization” in Deuteronomy. But Lohfink has rightly argued that there is rather an extension of the concept of holiness, which may be seen in the way Deuteronomy expands holiness to the whole of the people. In this view, nothing is left outside of the realm of the sacred. Rather, all of life is lived “before Yahweh,” and therefore cannot be considered “profane.” That the judges are tasked with judging in accordance with Yahweh’s will intimates that their role is inherently a sacred one, although clearly not a cultic one. On secularization, see WEINFELD, “Demythologization and Secularization,” 230-31; *Deuteronomy 1-11*, 37-44. For an alternative perspective, see N. LOHFINK, “Opfer und Säkularisierung im Deuteronomium,” in *Studien zu Opfer und Kult im Alten Testament: mit einer Bibliographie 1969-1991 zum Opfer in der Bibel*, ed. Adrian Schenker (Tübingen: J.C.B. Mohr [Paul Siebeck], 1992), 15-43. In his review of Weinfeld’s *Deuteronomy and the Deuteronomistic School*, Milgrom also challenged Weinfeld’s characterization of Deuteronomy as representing an attempt at secularizing the institutions of Israel. But, as Lohfink rightly notes (“Säkularisierung”, 17), Milgrom was more concerned about correcting Weinfeld’s misinterpretation of P than in examining the true nature of Deuteronomy’s attitude toward the cult. See J. MILGROM, “The Alleged ‘Demythologization and Secularization’ in Deuteronomy,” *Israel Exploration Journal* 23,3 (1973): 156-61.

Deut 16:18-17:13. There, Moses instructs that judges and officers are to be appointed in all the towns in the promised land. Here, as in chapter one, the use of the terms $\text{דָּבָר} \text{שֹׁפְטִים} \text{וְשָׂרִים}$ and $\text{שֹׁפְטִים} \text{וְשָׂרִים}$ may be a hendiadys referring simply to judges.³² Following the instruction to appoint judges, there is an exhortation to pursue justice, and to avoid partiality and bribes (Deut 16:19-20).

It is important to note at this point just who is addressed here. There is general recognition of the fact that the community as a whole is instructed to appoint judges.³³ But the significance of this, as well its consistency throughout the section on offices in Deut 16:18-18:22, has not been as readily appreciated.

Deuteronomy 16:18 commands the people to appoint judges and officers using the second person singular, which is usually understood in Deuteronomy as addressing the whole people.³⁴ In the next verses, Deut 16:19-20, most commentators argue that the individual judges, not the community as a whole, are being addressed.³⁵ But there is no change in the form of address, as the second person singular is used in these verses as well. I think it more likely, therefore, that the entire community is still being addressed.³⁶ As members of the wider community, those who would serve as judges are, of course, addressed. But the primary addressee in these verses is Israel as a whole.³⁷

This view is supported by the fact that verse 18 ends with a reference to the judges in the

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³² Cf. E.H. MERRILL, *Deuteronomy*, NAC 4 (Nashville: Broadman & Holman, 1994), 257-58.

³³ See, e.g., CLEMENTS, "The Book of Deuteronomy," 419; TIGAY, *Deuteronomy*, 160; P.D. MILLER, *Deuteronomy*, Int (Louisville: John Knox, 1990), 143; R. BROWN, *The Message of Deuteronomy: Not By Bread Alone*, BST (Leicester: Intervarsity, 1993), 176. Others, however, hold that some other entity is being addressed. G. VON RAD, *Deuteronomy: A Commentary* (London: SCM, 1966), 118, maintains that the king is to appoint the judges. MAYES, *Deuteronomy*, 264, posits that an unspecified "centralized authority" has responsibility to make the appointment. Similarly, Y. SUZUKI, "Deuteronomic Reformation in View of the Centralization of the Administration of Justice," *Annual of the Japanese Biblical Institute* 13 (1987): 34, maintains that the addressee here is "an organization of the administration."

³⁴ On the use of second person singular and plural in Deuteronomy, see T.A. LENCHAK, "Choose Life!": *A Rhetorical-Critical Investigation of Deuteronomy 28,69-30,20* AnBib 129 (Rome: Pontifical Biblical Institute, 1993), 12-16, and the references there.

³⁵ E.g., MILLER, *Deuteronomy*, 143; P.C. CRAIGIE, *The Book of Deuteronomy*, NICOT (Grand Rapids: Eerdmans, 1976), 247; MERRILL, *Deuteronomy*, 258; WRIGHT, *Deuteronomy*, 204; I. CAIRNS, *Word and Presence: A Commentary on the Book of Deuteronomy*, ITC (Grand Rapids: Eerdmans; Edinburgh: Handsel, 1992), 159-60; VON RAD, *Commentary*, 114-15; S.R. DRIVER, *Deuteronomy*, ICC (Edinburgh: T&T Clark, 1895), 200-01.

³⁶ This view is supported by TIGAY, *Deuteronomy*, 160; F. CRÜSEMANN, *The Torah: Theology and Social History of Old Testament Law* (Minneapolis: Fortress, 1996), 238-40 (ET of *Die Tora: Theologie und Sozialgeschichte des alttestamentlichen Gesetzes* [Munich: Chr. Kaiser, 1992]).

³⁷ Contra CRAIGIE, *Deuteronomy*, 247, who argues the opposite, viz. that these verses "although applying in principle to all men, are addressed particularly to the officers of the law."

of Moses' speech. By following a plea for the pursuit of $\square \cup \square \boxtimes \square$ with a description of actions contrary to the desired goal, Moses is throwing into sharp relief the contrast between loyalty and obedience to Yahweh and the dark alternative (behavior described in stark terms as things Yahweh hates [$\textcircled{\cup} \blacksquare \rightarrow \text{M} \equiv$] and as abominations [$\blacklozenge \textcircled{\cup} \textcircled{\cup} \textcircled{\cup} \textcircled{\cup} \textcircled{\cup}$]). The purpose is to persuade his audience to zealously pursue righteousness, and the use of negative examples serves to both illustrate the nature of $\square \cup \square \boxtimes \square$ by showing what it is not, and to motivate the hearers to avoid its opposite.⁴⁷

In the same way, Deuteronomy 17:2-13 demonstrates what it means for the people to pursue righteousness. Here, as in Deuteronomy 16:18-20, it is the people as a whole who are addressed, through the use of the second person singular. Deuteronomy 17:2-7 has been understood to be an example of the type of case that the newly-appointed judges might face.⁴⁸ Instead, I believe it describes a situation in which the community is to uphold standards of justice and righteousness. Here, as in Deuteronomy 16:21-17:1, the offense involves violation of the first commandment in the worshipping of other gods.⁴⁹ The entire community is to be diligent in ensuring that loyalty to Yahweh is demonstrated in every facet of life. In addition, the procedures outlined in this section demonstrate that, while the community is expected to uphold standards of righteousness and to prosecute those who fail to demonstrate loyalty to Yahweh, they are expected to do so in a way that demonstrates fundamental fairness (vv.4-6).


The standard of righteousness is further seen in Deuteronomy 17:11. There, the authority of the judges is affirmed in the strongest of terms, as the death penalty is prescribed for a person who fails to abide by the decisions of the court. It is interesting to note, however, the terms that are used. Verse 11 says that parties to a court case are to “do according to the terms of the law ($\text{wavy} \square \textcircled{\cup} \textcircled{\cup}$) which they teach you and according to the decisions ($\text{X} \textcircled{\cup} \equiv \blacklozenge \textcircled{\cup} \textcircled{\cup}$) which they say to you, you are to do...” The juxtaposition of these terms highlights the fact that both $\text{wavy} \square \textcircled{\cup} \textcircled{\cup}$ and $\text{X} \textcircled{\cup} \equiv \blacklozenge \textcircled{\cup} \textcircled{\cup}$ are understood to be part of the revealed will of Yahweh, and therefore must be strictly adhered to.⁵⁰ As Millar has shown, the Ten Commandments, given

⁴⁷ A similar approach may be seen in Eph 5:15-21. There Paul exhorts the Ephesians to “be careful” how they walk, “making the most of [their] time” (vv. 15-16). This is then followed with examples of “careless walking,” i.e., being foolish and getting drunk (vv. 17-18), which serve to reinforce the main exhortation.

⁴⁸ See MILLER, *Deuteronomy*, 143-44; WRIGHT, *Deuteronomy*, 205-06.

⁴⁹ This is clearly demonstrated by the fact that the verbs “serve” ($\cup \textcircled{\cup} \textcircled{\cup}$) and “worship” ($\text{wavy} \blacklozenge \textcircled{\cup}$) are used here in reverse order from that in which they appear in Deut 5:9. See MERRILL, *Deuteronomy*, 260.

⁵⁰ Cf. SNAITH, *Distinctive Ideas*, 75; B. LINDARS, “Torah in Deuteronomy,” in *Words and Meanings: Essays Presented to David Winton Thomas*, ed. P.R. ACKROYD and B. LINDARS (Cambridge: Cambridge University Press, 1968), 128-31.

directly by Yahweh to the people, the specific stipulations of chapters 12-26, given through the mediation of Moses, and even the parenesis in Deuteronomy are conceived of as “law” for Israel, and represent the standards to which the entire community is expected to conform.⁵¹ Indeed, part of the rhetorical thrust of chapters four and five is to demonstrate “the identical authority and ultimately identical origin” of the parenesis, the law code, and the  revealed at Horeb.⁵² Justice in Israel, according to Deuteronomy, is the responsibility of the whole community, and is to be in accordance with Yahweh’s revealed will.

Theological Implications

It is appropriate at this point to note how certain key themes are being highlighted in the texts discussed. First, as was seen in the discussion of Deuteronomy 1, the supremacy of Yahweh is emphasized. While the people are tasked with pursuing righteousness, there is a clear standard to which they must conform. The structural parallels with the decalogue, the use of examples from both the decalogue and the legal code of Deuteronomy, and even the use of terminology demonstrate that it is Yahweh’s revealed will that is the standard of righteousness for Israel. Thus, one of the key themes in Deuteronomy, the supremacy of Yahweh expressed in adherence to *Torah*, is developed further in this section.

Second, the unique nature of the community envisioned by Deuteronomy is seen. The responsibility for the maintenance of righteousness in Israel is held by the entire community. At the same time, there is to be no distinction between the members of that community as righteousness is pursued. Thus, the community has a responsibility to ensure that there is no partiality in the pursuit of justice and righteousness in Israel (Deut 16:19).

Finally, the truly revolutionary nature of Deuteronomy comes into sharper focus. As noted above, Weinfeld and others see in this section deliberate efforts at the secularization of the judiciary, as a result of the abolition of local sanctuaries. But if my interpretation is correct, the revolutionary nature of Deuteronomy’s program as discussed here lies not in the secularization of the judiciary as a result of centralization, but in the rejection of Ancient Near Eastern models

⁵¹ See McCONVILLE and MILLAR, *Time and Place*, 36-57. The nature of what constitutes “law” in Deuteronomy is also taken up in N. LOHFINK, “Die ‘*huqqim umispatim*’ im Buch Deuteronomium und ihre Neubegrenzung durch Dtn. 12.1,” *Biblica* 70 (1989): 1-27 and G. BRAULIK, “Die Ausdrücke für ‘Gesetz’ im Buch Deuteronomium,” *Biblica* 51 (1970): 40-66.

⁵² McCONVILLE and MILLAR, *Time and Place*, 55.

of government (especially in terms of kingship) in favor of a the rule of *Torah*. As noted above, it is the *people* who are consistently addressed in this section. It is they, not a king, who are tasked with the administration of justice.

Deuteronomy 17:14-20

The revolutionary nature of the Deuteronomic program is seen most clearly in the law of the king, in Deuteronomy 17:14-20. Deuteronomy presents a king with circumscribed powers. Indeed, the very office of the king is not required, but is permitted when the people desire it. In contrast, the offices of judges (Deut 16:18-20, 17:9), priests (Deut 17:9, 18:1-8), and the prophet (Deut 18:9-22) are required by Deuteronomy.⁵³ Moreover, those offices may be seen as being more significant in the life of the nation than the king, according to Deuteronomy.⁵⁴

The role assigned to the king in Deuteronomy is truly remarkable. He is prohibited from accumulating large numbers of horses (Deut 17:16). This is best understood as limiting the power of the king in establishing a large standing army equipped with a powerful chariot force.⁵⁵ Thus, a role as military leader in the common ANE sense is denied the king. In addition, he is prohibited from amassing great wealth and a harem (Deut 17:17). This, McConville argues, may best be understood as “opposing a centralized royal administration, which concentrates a nation’s wealth by means of a tax system, and which uses royal marriage as a tool of international diplomacy.”⁵⁶ In addition, he is denied a judicial function.⁵⁷

Equally telling is what this law, and Deuteronomy generally, *doesn’t* say about the king. Nowhere is the king referred to as the son of God, as ANE kings were sometimes understood, and as he was understood in the context of the so-called “Jerusalem Cult Tradition,” or Zion theology.⁵⁸ In Deuteronomy, Israel as a whole is compared to sons of God (Deut 1:31). The

⁵³ Cf. MILLER, *Deuteronomy*, 147.

⁵⁴ S.D. MCBRIDE, “Polity of the Covenant People: The Book of Deuteronomy,” *Interpretation* 41,3 (1987): 241.

⁵⁵ See CRAIGIE, *Deuteronomy*, 255; LOHFINK, “Functions of Power,” 345.

⁵⁶ J.G. MCCONVILLE, “King and Messiah in Deuteronomy and the Deuteronomistic History,” in *King and Messiah in Israel and the Ancient Near East: Proceedings of the Oxford Old Testament Seminar*, ed. J. DAY. JSOTS 270 (Sheffield: Sheffield Academic Press, 1998), 276.

⁵⁷ LOHFINK, “Functions of Power,” 340; See also U. RÜTERSWORDEN, *Von der politischen Gemeinschaft zur Gemeinde: Studien zu Dt 16,18-18,22* (Frankfurt am Main: Athenäum, 1987), 90-91.

⁵⁸ On the Zion tradition, see G. VON RAD, *Old Testament Theology*, vol. 1, *The Theology of Israel’s Historical Traditions*, trans. D.M.G. Stalker (New York: Harper & Row, 1962), 46-48; R.E. CLEMENTS, “Deuteronomy and the Jerusalem Cult Tradition,” *Vetus Testamentum* 15,3 (1965): 300-12. For a critique of this understanding see J.G. MCCONVILLE, “Jerusalem in the Old Testament,” in *Jerusalem Past and Present in the Purposes of God*, ed. P.W.L. WALKER (Carlisle: Paternoster; Grand Rapids: Baker, 1994), 21-51.

king is specifically presented as a “brother Israelite” (17:15, 20) for whom there is danger in elevating his heart above his brothers. Adherence to *Torah* is presented as the means by which the king is kept humble and a part of the community of brothers.

This stands in stark contrast to the role of kings in the ANE, and, indeed, the role actually played by later Israelite monarchs. The centrality of the king in ANE political systems is highlighted by Whitelam, who notes that


the king’s role in the protection of society as warrior, the guarantor of justice as judge and the right ordering of worship as priest are the fundamental roles which cover all aspects of the well-being of society. It is well known that this triple function of kingship, with particular emphasis on the roles of the king as judge and warrior, is common throughout the ancient Near East and is expressed in a great deal of royal literature from Mesopotamia through the Levant to Egypt.⁵⁹

While there were, undoubtedly, practical limitations on the power of a king, and political realities surely necessitated the sharing of the responsibilities of power, the fact remains that nowhere in the ANE is the power of the king limited by a written document, as the power of the Israelite king is limited by the regulations in Deuteronomy. The Code of Hammurabi, for example, is clearly directed from the king to his people and seeks to regulate their conduct, not his.

The only positive function assigned to the king in Deuteronomy is to read a copy of “this law”⁶⁰ and be guided by its precepts. This will allow the king to learn to fear Yahweh and live a life of obedience (Deut 17:19-20). The result will be a secure future for himself and his sons (Deut 17:20). In this way, according to Deuteronomy, the king serves not as a representative of the people before their god, as is the case in some ANE contexts,⁶¹ but rather serves most as an example of the model Israelite.⁶²

Finally, the role of the people as a whole must be mentioned once again. Here, as in the case of judges, the people, addressed still in the second person singular, have an important role to

⁵⁹ K.W. WHITELAM, “Israelite Kingship: The Royal Ideology and its Opponents,” in *The World of Ancient Israel: Sociological, Anthropological and Political Perspectives: Essays by Members of the Society for Old Testament Study*, ed. R.E. Clements (Cambridge: CUP, 1989), 130. Cf. also W. VON SODEN, *The Ancient Orient: An Introduction to the Study of the Ancient Near East* (Grand Rapids: Eerdmans, 1994), 63-71; W.W. HALLO and W.K. SIMPSON, *The Ancient Near East: A History* (San Diego: Harcourt, Brace, Jovanovich, 1971), 172-78.

⁶⁰ It is debated as to whether  here refers to the law of the king, the second address of Moses (including the legal section), or the entire book of Deuteronomy. In its present context in the canonical form of the book, I think it likely that the entire book of Deuteronomy is in view.

⁶¹ HALLO and SIMPSON, *Ancient Near East*, 175.

⁶² MILLER, *Deuteronomy*, 147.

prevailing models of political leadership, seen especially through its emphasis on the role of the people in assembly,⁶⁶ Deuteronomy demonstrates itself to be a truly revolutionary text.

But the revolutionary program cannot be separated from the emphasis on *Torah*. First of all, the revolutionary program is described and developed in the midst of a text that claims for itself authoritative status. More importantly, however, is the emphasis on sustaining the relationship with Yahweh. The people are chosen by Yahweh to be his people, but with that great privilege comes the responsibility to demonstrate Yahweh's supremacy in every aspect of their lives. This lies at the very heart of the message of Deuteronomy.

Finally, this section further highlights the unique nature of the community in Israel. The people are thought of as "brothers" (Deut 17:15, 20), and everyone, including the king, is to think of the others as such. That the king is to be a part of, not separate from, this community points to the importance of the community in the thought of Deuteronomy.

Conclusion

In this brief examination of two texts in Deuteronomy, I have shown that some key themes emerge that are central to the theology of the book. First, there is a clear denial of institutional permanence. In key moments of transition, new structures emerge for the government of the people. This was seen in the appointment of judges in Deut 1, but also in the role of the community in appointing judges and the king. That the king is not necessary to the reign of Yahweh (as seen by the fact that he is appointed only when the people desire it) suggests that institutional structures are less important than *Torah* in living out life before Yahweh. Paradoxically, however, *Torah* does not change. Thus there is an unchanging authority, *Torah*, that emerges as the guide to the way in which the people are to live their lives "before Yahweh." At the same time, the supremacy of Yahweh is highlighted, as he is both the giver of *Torah* and the one whose right to choose (the people, the king, the place of worship) is paramount.

Second, there is an emphasis on the standards established by Yahweh and to which the people are expected to conform. The people as a whole are exhorted to "pursue righteousness" (Deut 16:20). For Deuteronomy, that means living every aspect of their lives in accordance with the standards Yahweh has set forth, in the Decalogue, the legal code (which itself is based on the Decalogue), and even the parenthesis of Deuteronomy. By bringing every aspect of life (and,

⁶⁶ For an interpretation of Deuteronomy as the charter of the national assembly of Israel, see B. HALPERN, *The Constitution of the Monarchy in Israel* (Chico, CA: Scholars Press, 1981).

indeed, the entire community) under the authority of *Torah*, Deuteronomy is expanding conceptions of holiness such that there is nothing done “before Yahweh” which is profane. Rather, everything that is done by God’s people is to be in accordance with the terms of *Torah*.

Finally, these texts point toward a revolutionary program in Deuteronomy. This program invests the people as a whole with tremendous power, and it does so in a way that seems to reflect a deliberate rejection of other models of government prevalent in the ANE. In every aspect of life, including the way it which it was governed, Israel was to reflect the fact of the supremacy of Yahweh, and to reject conformity to the ways of the nations.

Deuteronomy has long been understood as a revolutionary text. But the revolutionary nature of Deuteronomy is seen not, as Weinfeld and others have suggested, in the centralization and secularization of religious life and the institutions of Israel. Rather, it is in its deliberate rejection of ANE models of kingship and its elevation of the supremacy of Yahweh and his *Torah* that Deuteronomy reveals itself to be a truly revolutionary text.