

“YOU MAY NEITHER ADD TO IT NOR TAKE AWAY FROM IT” (DEUT. 13:1):
LEGAL REVISION AND HERMENEUTICS IN THE HEBREW BIBLE¹

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The idea of a scriptural canon is one of the most distinctive achievements of many major religions, both Western (Zoroastrianism, Judaism, Christianity, and Islām) and Eastern (the Pāli canon of Theravāda Buddhism).² By locating its font of revelation or contemplative insight in a canon of foundational sources, however, a culture confronts an almost inevitable difficulty. The essence of a canon is that it should be stable, self-sufficient, and delimited. For example, in the book of Deuteronomy in the Bible, Moses twice admonishes his addressees: “You must not add anything to what I command you nor take anything away from it, but shall keep the commandments of Yahweh your God” (Deuteronomy 4:2; similarly 13:1 [English, 12:32]). This so-called canon formula had a long prehistory in the ancient Near East, where it originally sought to prevent royal inscriptions, law collections, and treaties from being altered.³ Only subsequently was it taken over by Deuteronomy’s Israelite authors and

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2 For a fuller presentation of the matters discussed here, see my *Legal Revision and Religious Renewal in Ancient Israel* (Cambridge: Cambridge University Press, 2008). In a shorter, German-language version: idem, “Du sollst nichts hinzufügen und nichts wegnehmen” (Dtn 13,1): Rechtsreform und Hermeneutik in der Hebräischen Bibel,” *Zeitschrift für Theologie und Kirche* 102 (2006): 157–183.

3 Adducing comparative material, see Johannes Leipoldt and Siegfried Morenz, *Heilige Schriften: Betrachtungen zur Religionsgeschichte der antiken Mittelmeerwelt* (Leipzig: Harrassowitz, 1953), 53–65 (stressing the origins of the formula in Egyptian wisdom literature); Nahum M. Sarna, “Psalm 89: A Study in Inner Biblical Exegesis,” in *Biblical and Other Studies* (ed. A. Altman; Brandeis University Studies and Texts 1; Cambridge: Harvard University Press, 1963), 29–34, reprinted in idem, *Studies in Biblical Interpretation* (Philadelphia: Jewish Publication Society, 2000), 377–394 (stressing precedents in cuneiform literature); Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon Press, 1972), 261–265 (with a wide range of Near Eastern and Egyptian parallels); Michael Fishbane, “Varia Deuteronomica,” *Zeitschrift für die alttestamentliche Wissenschaft* 84 (1972): 349–352; Eleonore Reuter, “Nimm nichts davon weg und füge nichts hinzu”: Dtn 13,1, seine alttestamentlichen Parallelen und seine altorientalischen Vorbilder,” *Biblische Notizen* 47 (1989): 107–114; and Christoph Dohmen and Manfred Oeming, *Biblischer Kanon: Warum und Wozu? Eine Kanontheologie* (Quaestiones disputatae 137; Freiburg: Herder, 1992), 68–89; Choon-Leong Seow, *Ecclesiastes* (Anchor Bible 18C; Doubleday: New York, 1997), 388, 394 (stressing

applied to the Mosaic Torah.⁴ The formula makes it clear that its intent is to safeguard the textual status quo by precluding both literary and doctrinal innovation.⁵

If textual stabilization and sufficiency are its hallmarks, how can a canon be made to address the varying needs of later religious communities? These later generations face the conflicting imperatives of subsuming their lives to the authority of the canon, while needing to adapt that unchangeable canon to realities of social, economic, political, and intellectual life never contemplated at the time of its composition. Among the vicissitudes not contemplated by the canons foundational to the three major Western monotheisms are, for Judaism, the Roman destruction of the Jerusalem Temple in 70 A.D. that rendered impossible the sacrificial cultus essential to Israelite religion; for Christianity, a Messiah who failed to return, although that return in eschatological Parousia had been expected to be imminent; and, for Islām, the death of Muḥammad, the community's founder and prophetic leader, without his having appointed a successor. Of course, the paradox of *O felix culpa* extends to the history of religions, where crisis may engender a productive innovation. The triumph of Pharisaic Judaism as the dominant form of Judaism, with the claim that its teachings derive by oral transmission from Sinaitic revelation; the consolidation of the Church in doctrine, organization, and admission of gentiles; and the separate developments of Sunni and Shi'i Islām: each of these accomplishments presuppose situations where the scriptural canon was faced with historical circumstances that threatened its viability.

If the closed literary canon as the repository of revelation or insight is the source of stability for a religious tradition, *exegesis* provides vitality. By exegesis or hermeneutics I mean the range of interpretive strategies designed to extend the application of a given canon to the whole of life, even to circumstances not originally contemplated by the canon itself. By means of exegesis, the textually finite canon becomes infinite in its application. As Jonathan Z. Smith

that the formula's original intent was not to delimit a corpus of texts as canonical but to emphasize "the sufficiency of the text").

4 See Bernard M. Levinson, "The Neo-Assyrian Origins of Deuteronomy's 'Canon Formula'," in *Scriptural Exegesis: The Shapes of Culture and the Religious Imagination (Essays in Honour of Michael Fishbane)* (ed. Deborah A. Green and Laura Lieber; Oxford: Oxford University Press, 2009), 25–45.

5 Deuteronomy's appeal for fidelity to the legal status quo (Deut. 13:1) immediately follows a passage in which the authors have radically transformed prior religious law by demanding the restriction of all sacrifice to the central sanctuary (Deut. 12). The canon formula's use in that context, in effect functioning as a colophon to Deuteronomy's radically innovative law of centralization, is therefore paradoxical. See Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon, 1985), 79, 263; and Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford and New York: Oxford University Press, 1997), 48.

has argued, one of the chief means by which a religious tradition demonstrates its creativity is the variety of ways it finds to accommodate itself to and overcome an authoritative yet textually-delimited canon.⁶ Smith's model of exegesis requires modification in two significant ways, however.

First, the creativity of exegesis consists not only in its ability to adjust to new circumstances not contemplated by the canon but also in the interpreter's claim that there is no innovative or transformative activity involved whatsoever: the interpreter merely elucidates the plenitude of truth already latent in the canon.⁷ Second, it is essential to understand that the ingenuity of the interpreter operates even in the formative period of the canon, while those texts that will subsequently win authoritative status are still being composed and collected.⁸ In my presentation, I argue the following four theses: (1) that exegesis provides a strategy for religious renewal; (2) that renewal and innovation are almost always covert rather than explicit in ancient Israel; (3) that in many cases exegesis involves not the passive explication but the radical subversion of prior authoritative texts;

6 "Canonical criticism" in Biblical Studies has valuably emphasized the importance of the formative canon to Israelite religion as a repository of the nation's identity. See James A. Sanders, "'Adaptable for Life': The Nature and Function of Canon," in *Magnalia Dei: The Mighty Acts of God. Essays on the Bible and Archaeology in Memory of G. Ernest Wright* (ed. F. M. Cross, W. E. Lemke, and P. D. Miller, Jr.; Garden City, N. Y.: Doubleday & Co., 1976), 531–560; reprinted with a foreword in James A. Sanders, *From Sacred Story to Sacred Text: Canon as Paradigm* (Philadelphia: Fortress, 1987), 9–39. In this understanding, subsequent generations could draw on the canon and apply it to new historical crises. Despite this proper emphasis, however, the approach tends to overlook the hermeneutical problematic inherent in just that reinterpretation and reapplication of the canon. It overlooks also the extent to which the reformulated texts challenge the authority and break down the coherence of the original texts; see Levinson, *Deuteronomy*, 13–15.

7 See Gershom Scholem, "Revelation and Tradition as Religious Categories in Judaism," in idem, *The Messianic Idea in Judaism* (New York: Schocken, 1971), 282–303.

8 See Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon, 1985); James L. Kugel, "Early Interpretation: The Common Background of Late Forms of Biblical Exegesis," in *Early Biblical Interpretation* (ed. James L. Kugel and Rowan Greer; Philadelphia: Westminster, 1986), 9–106; and idem, *Traditions of the Bible: A Guide to the Bible As It Was at the Start of the Common Era* (Cambridge: Harvard University Press, 1998). Helping pioneer this approach were, among others, Sarna, "Psalm 89: A Study in Inner Biblical Exegesis" (see n. 3 above); and Jacob Weingreen, *From Bible to Mishna: The Continuity of Tradition* (Manchester: Manchester University Press, 1976). As evidence of the diffusion of this approach, see Yair Zakovitch, *An Introduction to Inner-Biblical Interpretation* (Even Yehudah: Rekhes, 1992) (Hebrew); and Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26," in *Leviticus als Buch* (ed. Heinz-Josef Fabry and Hans-Winfried Jüngling; Bonner biblische Beiträge 119; Berlin: Philo, 1999), 125–196.

and (4) that these phenomena operated in the literature of ancient Israel before the closure of the canon.

1. The Legacy of Cuneiform Law

The concept of divine revelation of law distinguishes Israelite religion from all of the other religions of the ancient Near East. According to this concept, Yahweh publicly reveals his will to Israel in the form of cultic, civil, and ethical law, obedience to which becomes the condition for the nation's proper relationship to God and possession of the promised land of Canaan. The most dramatic account of this legal revelation occurs when God, from the top of Mount Sinai, proclaims the Ten Commandments to the nation of Israel gathered at the base of the mountain, trembling in fear of the thunderous divine voice (Exodus 19–20). But it is not the Ten Commandments alone that the Hebrew Bible ascribes to divine revelation. By means of a redactional tour de force, the entire legal corpus of the Pentateuch, in effect all biblical law, is either attributed directly to God or indirectly to him through Moses, his prophetic intermediary.⁹

Despite this claim by Israelite authors for the divine origin of the legal collections, the archaeological remains of the ancient Near East preclude any notion of *lex ex nihilo*. The Near East bequeathed to ancient Israel a prestigious literary genre, the legal collection, which originated in the scribal schools (or É.DUB.BA.A) of late third-millennium Sumer and then spread up the Fertile Crescent through Babylon and Assyria into Anatolia and the Hittite Empire. Since the discovery of Hammurabi's famous "Code" in 1901, about a dozen different cuneiform legal collections have been discovered, written in Sumerian, Akkadian, and Hittite, and ranging from school exercises to extended, formal compositions. The biblical legal collections share many detailed points of contact with this cuneiform material in technical terminology, formulation, and legal topos. In particular, Israelite scribes learned from the cuneiform model how to frame a series of legal provisions with a literary prologue and epilogue in which a royal speaker claims responsibility for promulgating the laws. Using the categories of literary criticism, one might say that these legal collections were given a textual voice by means of such a frame, which put them into

9 Ezekiel's vision of the restored Jerusalem and its temple (Ezekiel 40–48) represents a variation of this paradigm. Law continues to be revealed by God through the mediation of a prophet: the corpus of law that is to govern the community after its return from exile here derives its authority from a new prophetic revelation.

the mouth of the reigning monarch. Hammurabi repeatedly boasts that the laws are *awâtīya ša ina narīya ašṭuru*, “my pronouncements, which I have inscribed on my stela” (xlix 3–4, 19–21). He refers to them as *awâtīya šūqurātīm*, “my precious pronouncements” (xlviii 12–13), and insists, *awâtūa nasqā*, “my pronouncements are choice” (xlviii 99).¹⁰ Confronted by the literary convention of the royal voicing of law, Israelite authors pushed the genre in a different direction. When King Lear, on the storm-driven heath, was asked by blinded Gloucester for his hand, so as to kiss it in poignant greeting, Lear demurred: “Let me wipe it first; it smells of mortality.”¹¹ As Israelite authors turned their hand to law, they wiped that genre clean of mortality by transforming the royal speaker from a human monarch into their divine king, Yahweh.

With that troping of convention, Israelite scribes introduced a new idea into the ancient world: the divine revelation of law. It was therefore not the legal collection as a literary genre but the voicing of publicly revealed law as the personal will of God that was unique to ancient Israel.¹² That trope of divine revelation had a far-reaching impact upon the literary and intellectual life of ancient Israel. So strongly was the divine voice privileged as *the* authoritative voice of law that it preempted the emergence to independent dignity of explicitly human legal compositions. Just as there is not a single law in the Bible that Israelite authors do not attribute to God or his prophetic intermediary, Moses, the

10 On this aspect of the Laws of Hammurabi, see the important study of the contrasting ethics of cuneiform and biblical law by Moshe Greenberg, “Some Postulates of Biblical Criminal Law,” in *Yehezkel Kaufmann Jubilee Volume* (ed. M. Haran; Jerusalem: Magnes, 1960), 5–28; reprinted in idem, *Studies in the Bible and Jewish Thought* (Philadelphia: Jewish Publication Society, 1995), 25–50. In translation, the Laws of Hammurabi are most conveniently available in the excellent edition of Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor* (2d ed.; Society of Biblical Literature Writings from the Ancient World 6; Atlanta: Scholars Press, 1997), 71–142 (at 134–136).

11 William Shakespeare, *King Lear* (ed. Stanley Wells, text prepared by Gary Taylor; The Oxford Shakespeare; Oxford: Oxford University Press, 2000), 237 (scene 20, line 128). This edition is based closely upon the 1608 Quarto, which is closest to the original manuscript. Contrast the later, more familiar Folio version: “Let me wipe it first; it smells of mortality” (4.5.129; emphasis added), as Lear’s cohortative ironically inverts Gloucester’s eager request: “O, let me kiss that hand!” (4.5.128). For the latter edition, see William Shakespeare, *The Tragedy of King Lear* (ed. Jay L. Halio; The New Cambridge Shakespeare; Cambridge: Cambridge University Press, 1992), 224.

12 This notion of divine revelation of law constitutes a crucial component of what Karl Jaspers termed the “Axial Age” breakthrough achieved by ancient Israel (*Vom Ursprung und Ziel der Geschichte* [Munich: Piper, 1949], 15–106). Separate essays assess ancient Israel and Mesopotamia from this perspective in the comparative volume by S. N. Eisenstadt, ed., *The Origins and Diversity of Axial Age Civilizations* (Albany: State University of New York Press, 1986).

converse is also true. In the entire Hebrew Bible, not a single text, legal or otherwise, is definitively attributed to the actual scribe responsible for its composition.

On this basis, it becomes clear that just as the idea of divine revelation of law opened up new intellectual and cultural possibilities, it equally shut down others. In order to make the case of the Bible as distinctive as possible, I will begin with a counter-example, so as to demonstrate how a culture in which there is no concept of divine revelation easily resolves the problem of legal change. The Hittite Laws were discovered in 1906 at Boghazköy in central Turkey. That city had served as the capital of the Hittite Empire, which flourished in Anatolia from approximately 1700–1200 B.C.¹³ Two aspects of the Hittite Laws make them of particular interest. First, they exist without a literary frame; they thus make no claims whatsoever about the authorship or origins of the legal text.¹⁴ Second, they reveal legal change and development openly. For example, one of the laws governing personal assault reads as follows:

If anyone blinds a free person or knocks his teeth out, *formerly* (*karū*) they would pay 40 sheqels of silver, *but now* (*kinuna*) one pays 20 sheqels of silver . . .

(Hittite Laws § 7)¹⁵

13 For a valuable survey of Hittite civilization, see O. R. Gurney, *The Hittites* (2d rev. ed.; Harmondsworth: Penguin, 1981).

14 For a legal-historical study of the function of the literary frame in cuneiform, biblical, Greek, and Roman laws, see G. Ries, *Prolog und Epilog in Gesetzen des Altertums* (Münchener Beiträge zur Papyrusforschung und Antiken Rechtsgeschichte 76; Munich: C. H. Beck, 1983). It should be noted that some copies of Hammurabi's Code exist without the literary frame; moreover, a version of the prologue has also been discovered without the laws. There has resulted some discussion of which is compositionally prior, the frame or the laws, and whether the combination of the two is original or a result of secondary redaction. Such issues are important to address in order to determine the literary history and the nature and function of the legal collection within Near Eastern culture. On the redactional relation between frame and legal corpus, see J. H. Tigay, "The Stylistic Criterion of Source Criticism in the Light of Ancient Near Eastern and Postbiblical Literature," in *Empirical Models for Biblical Criticism* (ed. J. H. Tigay; Philadelphia: University of Pennsylvania Press, 1985), 155–158; and Victor Avigdor Hurowitz, "*Inu Anum širum*": *Literary Structures in the Non-Judicial Sections of Codex Hammurabi* (Philadelphia: Occasional Publications of the Samuel Noah Kramer Fund 15, 1994), 90–103.

15 My translation departs slightly from that in the excellent recent edition by Henry Angier Hoffner, Jr., *The Laws of the Hittites: A Critical Edition* (Documenta et Monumenta Orientis Antiqui 23; Leiden: Brill, 1997), 21.

The legal speaker makes a clear distinction between what was formerly the case and what is now the case, between what would have been done and what is currently the practice. In this case, the new fine reduces the original one by a half. This opposition is marked grammatically by a change in verb tense. The same technical formula is used, *mutatis mutandis*, to revise nearly twelve percent of the Hittite Laws, either to reduce fines or to shift from corporal punishments to financial damages.^{16 17 18}

If legal amendment repeatedly manifests itself within a century or two of the original codification of the Hittite Laws, similar kinds of revision would naturally be expected to take place in ancient Israel, whose literature spans six or seven centuries.¹⁹ Specific geopolitical considerations only increase this expectation. Ancient Judah and Israel stood directly on the Via Maris, the ancient equivalent of the A8 Autobahn, linking all the major world powers of its time. They repeatedly underwent wrenching historical transformations. The Neo-Assyrian empire, with its invasion and domination, forced major changes to patterns of settlement, urbanization, religion, and political administration. The subsequent destruction of Judah by the Babylonian Empire; the experience of deportation and exile; the restoration of the population under Persian rule with sharply limited political

16 This formula occurs in the Hittite Laws §§ 7, 9, 19, 25, 51, 54, 57, 58, 59, 63, 67, 69, 81, 91, 92, 94, 101, 119, 121, 122, 123 (fragmentary text) 129, 166–167. For suggestive parallels to the Hittite formula in Rabbinic and Roman law, see Martin S. Jaffee, “The Taqqanah in Tannaitic Literature: Jurisprudence and the Construction of Rabbinic Memory,” *Journal of Jewish Studies* 41 (1990): 204–225.

17 Most valuable is the edition by R. Haase, which presents this latest version of the laws separately, as an independent work; see idem, *Die keilschriftlichen Rechtssammlungen in deutscher Fassung* (2d ed.; Wiesbaden: Otto Harrassowitz, 1979), 67–91. The more common form of publication obscures the independence of that version by blending it back into the earlier version that it seeks to update and replace. What results is an “eclectic text” that never existed in antiquity, whereby the later version’s individual stipulations are appended to the pertinent ones of the main version and identified as “Late(r) Version”. Such is the approach of A. Goetze, tr., “The Hittite Laws,” in *Ancient Near Eastern Texts Relating to the Old Testament* (ed. J. B. Pritchard; 3d ed.; Princeton: Princeton University Press, 1969), 188–197; and Hoffner, *Laws of the Hittites*.

18 See Hoffner, *Laws of the Hittites*, 22 (§ VII). The changes marked by the “formerly . . . but now” formula derive from a far-reaching legal reform, carried out under King Telipinu (ca. 1525–1500 b.c.), of a version of the laws codified a century or two earlier in the Hittite Old Kingdom. The parallel text preserving the latest version was prepared a century or two afterward (Hoffner, *Laws of the Hittites*, 221).

19 The dating of the biblical literary sources is complex. The dates here extend from the Yahwist, generally considered the oldest documentary source of the Pentateuch (although certain poetry may be older), to the Book of Daniel, the latest book to enter the canon of the Hebrew Bible. For trends in the dating and analysis of biblical literature, see *The Hebrew Bible and Its Modern Interpreters* (ed. D. A. Knight and G. M. Tucker; Society of Biblical Literature, The Bible and Its Modern Interpreters 1; Philadelphia: Fortress Press; Chico, CA: Scholars Press, 1985).

autonomy: each shredded the fabric of daily life and transformed the conditions for material existence. It therefore becomes even more astonishing that the Hebrew Bible reveals a remarkable absence of explicit evidence for the revision and updating of Pentateuchal law.²⁰ How are we to understand this?

2. The Impact of the Idea of Divine Revelation

The Pentateuchal claim that its laws originate in divine revelation created a distinctive set of hermeneutical constraints. Once a law is attributed to God, how can it be updated, revised, and corrected without God's prestige or authority being impaired? How can a specific component of divine revelation become obsolete without thereby qualifying the validity of God's word?²¹ There thus exists an inherent tension within the biblical laws

20 There are four cases within the Pentateuch of new divine oracles, mediated by Moses, which supplement the existing provisions of covenantal law with judicial adjustments to unforeseen circumstances (Lev. 24:10–23; Num. 9:6–14; 15:32–36; 27:1–11). In these instances, the earlier law is not revoked; instead, given particular unforeseen eventualities, a divine oracle is represented as allowing Moses to render a judgment. The very *ad hoc* nature of these situations makes them the exception that proves the rule. For an astute analysis of these passages, see Fishbane, *Biblical Interpretation*, 98–102; and Simeon Chavel, *Oracular Law and Narrative History: The Priestly Literature in the Pentateuch* (Tübingen: Mohr Siebeck, forthcoming in 2009).

21 It is important here to distinguish between the biblical authors' attempt to maintain the adequacy of Pentateuchal legislation and their striking freedom in representing Yahweh as fallible. Indeed, so taken aback is Yahweh by the immorality of his creation that, in a remarkable soliloquy at the outset of the biblical flood story, he reveals his fallibility as he regrets the creation of human life (Gen. 6:6–7). In other cases as well, Yahweh concedes his fallibility, or at least the absence of omniscience, and is forced to change his plans as a result of human iniquity (1 Sam. 2:30; 15:11; note also, inconsistently, 1 Sam. 15:29!). Even divine oracles proclaimed by the prophets sometimes remained unfulfilled or were converted by history, a problem that the editors of the prophetic books were forced to address (see Fishbane, *Biblical Interpretation*, 476–482, 521–524). In none of these cases, however, is there any question about the infallibility of the divine laws or ethical proclamations, which are the focus here. In a sense, Yahweh's fallibility, as the flood story reveals, is that he has created a fallible humanity. For just this reason, prophetic visions of a post-exilic "new age" often include notions of the inauguration of a new moral and religious regime. Such visions often include formulae that distinguish current practice from future transformation: for example, "In those [future] days, no longer shall they say . . . but rather . . ." (Jer. 3:16; 23:7–8; 31:29–30; cf. 16:14–15; Ezek. 18:2); see Moshe Weinfeld, "Jeremiah and the Spiritual Metamorphosis of Israel," *Zeitschrift für die alttestamentliche Wissenschaft* 88 (1976): 17–55. The new regime nonetheless presupposes the continuing validity of divine law. The change lies in the divine reprogramming of human nature, as if to enable – or coerce – fallible humans to heed God's infallible law: "I will set my Torah within them; upon their heart will I write it" (Jer. 31:33a; similarly, Ezek. 36:27).

between renewal and conservatism: between the need to amend laws or create new ones in light of inevitable historical change and the desire to preserve the authority of laws claiming a divine origin.

As a result of this tension, biblical authors developed what may best be described as a “rhetoric of concealment” that served to camouflage the actual literary history of the laws. The revision of old law and the creation of new law continued to occur, just as in the Hittite Laws. But rather than candidly specify, “this law is no longer the case,” as the editor was free to do with secular law, the editor of divine laws found indirect ways to adapt old law to new circumstances without slighting the prestige or authority of laws that tradition ascribed to God. The Ten Commandments or Decalogue, which best symbolizes the Israelite concept of revelation, provides a heuristic point of departure for examining these strategies.²² The second commandment prohibits idolatry²³ and offers the following rationale for the prohibition:

22 See Moshe Weinfeld, “The Decalogue: Its Significance, Uniqueness, and Place in Israel’s Tradition,” in *Religion and Law: Biblical-Judaic and Islamic Perspectives* (ed. E. W. Firmage, B. G. Weiss, and J. W. Welch; Winona Lake: Eisenbrauns, 1990), 3–47. That approach, which regards the Decalogue as ancient and Mosaic in origin, should be supplemented by the model of a late, deuteronomic redaction of the Sinai pericope; see, for example, Christoph Dohmen, “Der Sinaibund als Neuer Bund nach Ex 19–34,” in *Der Neue Bund im Alten: Studien zur Bundestheologie der beiden Testamente* (ed. Erich Zenger; Quaestiones disputatae 146; Freiburg: Herder, 1993), 51–83; Erich Zenger, “Wie und wozu die Tora zum Sinai kam: Literarische und theologische Beobachtungen zu Exodus 19–34,” in *Studies in the Book of Exodus: Redaction – Reception – Interpretation* (ed. Marc Vervenne; BETL 126; Leuven: University Press/Peeters Press, 1996), 265–288. In this context, it is impossible properly to address the dating of the Decalogue. Nor can the pentateuchal texts that refer to vicarious punishment be fully considered here. The formula is almost certainly not original to the Decalogue. It very likely circulated independently; the range and extent of its inner-biblical reuse suggest its antiquity and prevalence. Further evidence for this hypothesis is provided by the formula’s attestation in non-biblical inscriptions. Inscription B from the tomb cave at Khirbet Beit Lei (sixth century B.C.) reuses the attributes of mercy in the context of a petition to be spared from punishment; see Frank Moore Cross, Jr., “The Cave Inscriptions from Khirbet Beit Lei,” in *Near Eastern Archaeology in the Twentieth Century: Essays in Honor of Nelson Glueck* (ed. James A. Sanders; Garden City, N.Y.: Doubleday, 1970), 299–306. Confirming the decipherment as dependent upon the divine attribute formula and arguing for a deliberate reformulation of it is Patrick D. Miller, Jr., “Psalms and Inscriptions,” in *Congress Volume, Vienna, 1980* (ed. J. A. Emerton; Supplements to Vetus Testamentum 32; Leiden: E. J. Brill, 1981), 328–331.

23 With its plural object, this prohibition against worship – “You shall not bow down to *them* or worship *them*” (Exod. 20:5) – cannot originally have continued the present second commandment, which prohibits the manufacture of “*an* idol”, in the singular (Exod. 20:4). More logically, it represents the continuation of the first commandment, which prohibits the worship of other deities, in the plural – “You shall have no other *gods* before me” (Exod. 20:3). At a later stage in the history of Israelite religion, as monotheism replaced monolatry, such references to actual deities were reinterpreted as designating instead the worship of

For I, Yahweh your God, am an impassioned God, *visiting the iniquity of the fathers upon the children* (פִּקֵּד עוֹן אֲבֹתָ עַל בְּנֵיהֶם), upon the third and the fourth generation of *those who reject me* (לְשֹׂנְאֵי), but showing kindness to the thousandth generation of *those who love me* (לְאַהֲבָי) and *keep my commandments* (וּלְשֹׂמְרֵי מִצְוֹתַי).

(Exodus 20:5–6)

The Hebrew participles translated “those who love” and “those who reject” are not emotional but legal terms. Reflecting the terminology of Hittite and Aramaic state treaties, “love” designates political loyalty to the suzerain while “reject” denotes acts of treason.²⁴ Israelite authors took over this secular treaty terminology, together with the concept of a binding legal tie, in order to conceptualize the nation’s relationship with its God as a covenant. Now, despite the narrative’s ancient setting, this concept of the covenant actually represents a late development that was then read back into Israel’s origins.²⁵ These ancient Near Eastern treaties were understood as being made in perpetuity. They were therefore binding not only upon those immediately signatory to them but also upon succeeding generations. Consequently, the punishment for non-compliance stipulated the execution both of those actually party to the treaty and of their progeny. This principle of distributive justice underlies Yahweh’s threat that he will visit his rage upon the third and fourth generation of those guilty of breaking the covenant.²⁶

inert idols. That newer perspective accounts for the interpolation here. The addition to the text prohibits the manufacture of images (v. 4), and thus separates the plural object (v. 5) from its original antecedent (v. 3). First identifying this redactional issue, see Walther Zimmerli, “Das zweite Gebot,” [1950] in idem, *Gottes Offenbarung: Gesammelte Aufsätze zum Alten Testament* (Theologische Bücherei 19; Munich: Chr. Kaiser, 1969), 234–248 (at 236–238).

24 William L. Moran, “The Ancient Near Eastern Background of the Love of God in Deuteronomy,” *Catholic Biblical Quarterly* 25 (1963): 77–87; Weinfeld, *Deuteronomy*, 81–91.

25 See Lothar Peritt, *Bundestheologie im Alten Testament* (WMANT 36; Neukirchen-Vluyn: Neukirchener Verlag, 1969). For an attempt, in part, to rehabilitate and rethink the covenant in light of the theological issues raised by Peritt’s dating, see Ernest W. Nicholson, *God and His People: Covenant and Theology in the Old Testament* (Oxford: Clarendon Press, 1986).

26 Note the thorough study by Meir Weiss, “Some Problems in the Biblical Doctrine of Retribution,” *Tarbiz* 31 (1961–1962): 236–263; 32 (1962–1963): 1–18 (Hebrew); reprinted, *Likḳutei Tarbiz: A Biblical Studies Reader* (ed. Moshe Weinfeld; Jerusalem: Magnes, 1979), 71–98, 99–116 (Hebrew). His argument, however, that “third and fourth” simply means “a large number of generations,” and is thus equivalent to “the thousandth generation,” is harmonistic. Moreover, it does not take into account the following parallels to the Neo-Assyrian treaties.

This extension of retribution across three generations strikingly resembles a similar formulation found in a group of treaties made between the Neo-Assyrian ruler Esarhaddon and his eastern vassals in 672 B.C., which we discovered only about 40 years ago. In order to ensure their allegiance to Assurbanipal, his heir designate, Esarhaddon required that his vassals swear the following oath demanding their loyalty and accountability across three generations: “As long as *we, our sons [and] our grandsons live* (*anēnu mar’ēni mar’ē mar’ēni*), Assurbanipal, the great crown prince designate, shall be our king and our lord. If we place any other king or prince over *us, our sons, or our grandsons* (*ina muḫḫīni mar’ēni mar’ē mar’ēni*), may all the gods mentioned by name [in this treaty] hold *us, our seed, and our seed’s seed* to account (*ina qātēni zar’[īn]i zar’i zar’īni*).”²⁷

By transferring this Near Eastern convention from the political to the religious domain, the biblical text formulates a doctrine of the transgenerational consequences of sin. Although it is my parent who wrongs God, I and my children and my grandchildren are punished for the parent’s wrongdoing, independent of any particular malfeasance on our part. The text is remarkably silent about whether the actual sinner is punished for his or her own offense or whether the expected punishment might be completely displaced onto the progeny.²⁸ Precisely this anomaly of justice occurs when God remits the capital punishment due David in double measure – for adultery with Bathsheba and for contriving the murder of Uriah, her Hittite husband – and transfers it instead to their innocent newborn son, who is stricken with a fatal illness (2 Sam. 12:1–15; similarly, 1 Kgs. 21:29).

There here emerges a fundamental ethical and theological problem: Is it not *odious* for God to punish innocent persons, merely for being the progeny of sinners? Abraham took God to task for just this breach of justice while bargaining over the lives of the inhabitants of Sodom: “Shall you sweep away the innocent along with the guilty? . . . Shall not the judge of all the earth deal justly?” (Gen. 18:23, 25). This problem of theodicy raised by the doctrine of transgenerational punishment had vital implications for the nation’s history. Ancient Israel endured a catastrophe in 587 B.C. when, following a two-year siege,

27 The translation of the Akkadian is my own. It draws on the excellent edition by Simo Parpola and Kazuko Watanabe, eds., *Neo-Assyrian Treaties and Loyalty Oaths* (State Archives of Assyria 2; Helsinki: Helsinki University Press, 1988), 50 (§57; lines 507–512), and on Erica Reiner, tr., “The Vassal-Treaties of Esarhaddon,” in *Ancient Near Eastern Texts Relating to the Old Testament* (ed. J. B. Pritchard; 3d ed.; Princeton: Princeton University Press, 1969), 539. Note the similar generational reference at §25; lines 283–291.

28 This delay in exacting punishment was clearly intended as an expression of divine mercy towards the penitent wrongdoer; see Yochanan Muffs, *Love & Joy: Law, Language and Religion in Ancient Israel* (New York: Jewish Theological Seminary of America, 1992), 19 (on Exod. 32:34).

the Babylonian army breached the walls of Jerusalem, burned the city, gutted the Temple, and deported the majority of the population to Babylon. The editor of the book of Kings, charged with narrating that history, explained the destruction as the result of divine punishment for the unprecedented iniquities committed – not by the generation contemporary with the destruction – but rather by King Manasseh (696–641 B.C.), stigmatized as committing religious wrongdoing, who ruled three generations beforehand (2 Kgs. 21:1–15; 23:26–27; 24:3–4; contrast 24:19–20).²⁹ The biblical editor had little choice: how else to explain the gutting and burning of Jerusalem that followed so shortly after the reign of righteous King Josiah, who had been heralded for perfect devotion to the law of Moses (2 Kgs. 23:25)?

3. Critical Scrutiny of the Principle in Lamentations

The technique of accounting for the Babylonian Exile as punishment transferred transgenerationally may well have become a commonplace, since it shows up in a number of different texts from the period following the exile. These texts confirm, however, that this historiographic “solution” created as many theological difficulties as it sought to solve. The book of Lamentations preserves a moving poetic dirge over the destruction of Jerusalem and the suffering of its population. Near the book’s close, the speaker seems to share the orientation of the historiographer of Kings as he, too, accounts for the destruction as divine punishment for the apostasy of previous generations. That rationalization is now, however, subjected to critical scrutiny.

Our fathers sinned and are no more;

But as for us – the punishment for their iniquities we must bear!

(Lam. 5:7)

The terminology of the lament, which pointedly refers both to “fathers” (אבות) and “punishment for iniquities” (עונות), alludes to the Decalogue’s doctrine of the transgenerational consequences of sin, in which God describes himself as “visiting the *punishment for the*

²⁹ There were three generations from Manasseh’s reign to the time that the Babylonians ended Egyptian control over Judah and made King Jehoiakim their vassal (2 Kgs. 24:1–5): Amon, Josiah, and Josiah’s two sons, Jehoahaz and Eliakim/Jehoiakim. The first deportation occurred in the next (fourth) generation with the deportation of King Jehoiachin (2 Kgs. 24:8–17).

iniquity of the fathers upon the sons,” פקד עון אבת על בנים (Exod. 20:5).³⁰ God’s threat of punishment is here invoked as accomplished fact – but now for the first time from the perspective of the progeny who proclaim their innocence by restricting culpability to the previous generation. By insinuating the innocence of his own generation, the speaker asserts the injustice of divine justice. In the Hebrew of the lament, the words for “fathers” (אבות) and for “the punishment for iniquities” (עונות) are strongly linked by both assonance and rhyme. Only the suffixes that specify “our fathers” (אבותינו) and “the punishment for their iniquities” (עונותיהם) break the similarity of sound. The broken assonance highlights the fractured logic: the punishment that the speakers endure is not for their own but for their *fathers’* apostasy. The literary allusion amounts to the censure of a text whose infrangible authority is precisely the problem.

The injustice of the doctrine also raises important practical difficulties. It creates an overwhelming sense of the futility of historical action altogether, inasmuch as the progeny cannot free themselves from the consequences of the past. It amounts to determinism. After the catastrophe of Judah’s destruction and exile, the future would have seemed radically foreclosed: the direct result not of one’s own but of a previous generation’s action. God himself anticipates the despair of the first group of deportees, citing their complaint in advance: “How then shall we survive?” (Ezek. 33:10) Any step forward – whether towards personal renewal or national reconstruction – quite logically appeared pointless. For both theological and existential-historical reasons, therefore, we can expect biblical authors to struggle relentlessly against the injustice of the Decalogue’s doctrine.³¹

4. The Transformation of Divine Justice in Ezekiel

Precisely as Judah faced the prospect of national destruction, the prophet Ezekiel (active 593–573 B.C.) provided a profound meditation on the impact of temporality upon human

30 Providing criteria to distinguish textual dependence from simple sharing of common language, and thus distinguishing between allusion (as intentional reuse) and “intertextuality” (which technically considers the questions of intention and of dependence irrelevant), see Benjamin D. Sommer, “Exegesis, Allusion and Intertextuality in the Hebrew Bible: A Response to Lyle Eslinger,” *Vetus Testamentum* 46 (1996): 479–489; and idem, *A Prophet Reads Scripture: Allusion in Isaiah 40–66* (Stanford: Stanford University Press, 1998), 6–72.

31 See Michael Fishbane, “Torah and Tradition,” in *Tradition and Theology in the Old Testament* (ed. Douglas A. Knight; Philadelphia: Fortress Press, 1977), 275–282; and idem, *Biblical Interpretation*, 335–350. The following analysis is indebted to Fishbane’s work.

action. Ezekiel had been among the upper echelon of Judean society deported to Babylon in 597. He told his fellow deportees about an oracle he had recently received:

The word of Yahweh came to me: “How dare you bandy about this proverb upon the soil of Israel, ‘*Fathers* (אבות) eat sour grapes and their *children’s* (הבנים) teeth are set on edge?’ As I live – declares the Lord Yahweh – this proverb shall no longer be current among you in Israel. Consider: all lives are mine. The life of the father and the life of the child are both mine. The person who sins, only he shall die!”

(Ezek. 18:1–4)³²

The proverb cited by the prophet concerns itself not with literal sour grapes but with moral ones, with wrongdoing and its consequences for successive generations. The prophet rejects this proverb and substitutes for it a clear statement of individual responsibility: henceforth the father shall suffer for his own misdeeds; the child will be spared inherited punishment. Strikingly, while rejecting the proverb as offensive, Ezekiel never disputes that the moral economy it depicts has been valid hitherto! The correspondence between the rejected proverb and the Decalogue’s doctrine of transgenerational punishment can hardly be accidental. The two share not only the notion of retribution vicariously transmitted from one generation to the next but also common terminology: the resonant language of “fathers” (אבות) and “children” (בנים, literally, “sons”). At the same time, the overlap is only partial: sufficient for the proverb to resonate with the Decalogue doctrine but insufficiently specific or extensive to point to an explicit citation or reuse. Might Ezekiel’s *indirection* be intentional? The proverb almost certainly functions as a straw man. After all, the perception among the exiles that they suffer innocently and that divine justice is arbitrary is perhaps the least of Ezekiel’s problems (see Ezek. 18:25, 29; 33:17). The more serious problem is that this popular perception of divine *injustice* has sanction in ancient Israel’s formative canon! For Ezekiel *explicitly* to reject transgenerational punishment would require the prophet to repudiate an authoritative teaching at-

32 This translation is indebted to *Tanakh: The Holy Scriptures* (Philadelphia: The Jewish Publication Society, 1988); and Moshe Greenberg, *Ezekiel, 1–20* (Anchor Bible 22; Garden City, N.Y.: Doubleday, 1983), 325.

tributed to Yahweh.³³ Nevertheless, failing to repudiate the doctrine validates the deportees' perception that Yahweh is unjust and that their future is foreclosed.

I contend, therefore, that Ezekiel uses the proverb as a strategic foil for the problematic act of effectively abrogating a divine law. The prophet in effect “de-voices” the doctrine’s original attribution to God and then “re-voices” it as folk wisdom. By this means the oracle obscures its subversion of the divine instruction found in the Decalogue. While it is a simple matter to repudiate a folk saying, it cannot but raise serious theological problems to reject the Decalogue’s concept of transgenerational punishment as morally repugnant.

Ezekiel’s new conception of divine justice presupposes learned textual reworking. The prophet draws upon a precedent that prohibits vicarious punishment specifically in the sphere of civil and criminal law:

Fathers (אבות) shall not be put to death on account of sons (ובנים), A
 nor sons (ובנים) be put to death on account of fathers (אבות); B
 each shall (only) be put to death for his own offence. C
(Deut. 24:16)

The judicial requirement outlined here for individual retribution in the sphere of civil and criminal law, and the prohibition against collective punishment, almost certainly served as a legal and literary precedent for the prophet.³⁴ He cites it in precise reverse order, so that

33 Joel S. Kaminsky regards the principle of individual responsibility advanced by Ezekiel 18 in *ad hoc* terms as a situation-specific response, rather than as a concerted rejection of transgenerational punishment altogether, let alone as a rejection of a particular text or specific tradition (*Corporate Responsibility in the Hebrew Bible* [JSOTSup 196; Sheffield: Sheffield Academic Press, 1995], 189). While Kaminsky concedes the influence of the formula for secular justice (Deut. 24:24), he denies it in the case of the formula for divine justice. His approach seeks to redress the tendency of past scholarship to impose an external agenda on the chapter by regarding it as pivotal in the development of a theology of individual salvation within ancient Israel (see n. 36 below). The hesitation to assign the weight of formal doctrinal change to the chapter is therefore understandable. Yet going to the opposite extreme of denying both the diachronic development of theological ideas and the possibility of the prophet’s critically challenging an existing doctrine of divine justice raises an equal concern. Eliminating both possibilities denies the prophet his agency and creativity. Further, the technique used to isolate each text from the other so as to deny textual allusion or doctrinal contradiction corresponds precisely to the method of classical harmonistic legal exegesis. That approach qualifies the otherwise nuanced theological reading.

34 The scholarly consensus, which I follow, regards Ezekiel 18 as later than Deuteronomy 24 and therefore allows for such literary dependence. A recent challenge to that consensus, however, regards Deuteronomy 19–25 as a very late addition to the legal corpus that, in effect, is “post-Deuteronomic,” and that draws upon

ABC becomes C' B' A'; I will say more about this technique of inverted citation later. This precedent enabled Ezekiel to bring religious justice into conformity with secular justice by means of analogical legal reasoning. Ezekiel revises and reapplies the original law so that now also governs offences against the deity:³⁵

The person who sins, (only) he shall die:	C'
<u>a son</u> (בן) shall not bear the iniquity of <u>the father</u> (אב),	B'
nor shall <u>a father</u> (אב) bear the iniquity of <u>the son</u> (בן).	A'
(Ezek. 18:20)	

In the rest of the chapter Ezekiel exploits the proverb in an intricately crafted series of acute reflections upon morality in order to deprive the proverb of any moral validity whatsoever: neither righteousness nor sin, neither reward nor punishment may be communicated between generations (18:10–20).³⁶ The prophet finally rejects the generational logic of the proverb altogether and transforms it into a metaphor for the freedom of an

both Ezekiel and the Holiness Code (Leviticus 17–26). That perspective reverses the direction of dependence in this case, maintaining that Deut. 24:16 depends upon Ezekiel 18. For this argument, see Georg Braulik, “Ezechiel und Deuteronomium: Die ‘Sippenhaftung’ in Ezechiel 18,20 und Deuteronomium 24,16 unter Berücksichtigung von Jeremia 31,29–30 und 2 Kön 14,6,” in idem, *Studien zum Deuteronomium und seiner Nachgeschichte* (Stuttgarter Biblische Aufsatzbände 33; Stuttgart: Katholisches Bibelwerk, 2001), 171–201. Braulik himself cites challenges to his redactional analysis (*loc. cit.*, 200 n.122).

35 This analysis follows Greenberg, *Ezekiel*, 333; and Fishbane, *Biblical Interpretation*, 337–341. On inverted citation as marking reuse (as noted by Greenberg), see the analysis of Deut. 7:9–10 below. The likelihood of the reuse of Deut. 24:16 is increased with the recognition that Ezekiel 18 contains a complex series of re-workings of prior legal texts (Ezek. 18:7–8, 13, 16, 18 reuse Deut. 23:20–21; 24:6, 10–15, 17; so Fishbane, *loc. cit.*).

36 The doctrine of repentance cannot be viewed as operating only in the context of the individual: its application is simultaneously individual and national. See the thoughtful study by Baruch J. Schwartz, “Repentance and Determinism in Ezekiel,” *Proceedings of the Eleventh World Congress of Jewish Studies: The Bible and Its World* (Jerusalem: World Union of Jewish Studies, 1994), 123–130. Other scholars properly stress the national reference but regard it as inconsistent with a focus also on the individual; see Paul M. Joyce, “Individual Responsibility in Ezekiel 18?,” in *Studia biblica 1978: Sixth International Congress on Biblical Studies, Oxford, 3–7 April 1978* (ed. E. A. Livingstone; Sheffield: University of Sheffield, 1979), 185–196; and Gordon H. Matties, *Ezekiel 18 and the Rhetoric of Moral Discourse in the Book of Ezekiel* (SBLDS 126; Atlanta: Scholars Press, 1990), 113–158. Paul M. Joyce astutely rejects the widespread assumption of an evolution within ancient Israel from belief in corporate responsibility to individual responsibility, with Ezekiel 18 providing the transition between the two; see idem, “Ezekiel and Individual Responsibility,” in *Ezekiel and His Book* (ed. J. Lust; BETL 74; Leuven: Peeters Press, 1986), 317–332.

individual to transform and renew his or her life, at every moment in his or her life, whatever the burden of his or her past (18:21–29).³⁷ Even if one has committed unremitting evil, Ezekiel contends, should one repent, one will not suffer the consequences of that evil (18:21–23, 27–29). The individual is held accountable for the moral decisions he or she makes in the present. Ezekiel’s theology of freedom works to counter notions among his contemporaries of the futility of action. The prophet contends that the future is not hermetically closed but hermeneutically open. Ezekiel began with inexorable fate but ends with freedom, moral action, and repentance as the sole forces that govern human action.

5. The Homily on Divine Justice in Deuteronomy

An even more remarkable transformation of the Decalogue doctrine can be found within the legal corpus of the Pentateuch itself. Deuteronomy presents itself as a Mosaic address to the nation of Israel, forty years after Sinai, on the eve of the nation’s entry into the promised land (Deut. 1:1–3). According to the editorial superscription, Moses here explicates the laws that God had earlier proclaimed (Deut. 1:5) and exhorts the nation to obedience. In this new literary setting, Moses, while reviewing the past, ostensibly quotes the Decalogue (Deuteronomy 5) and then preaches to the nation concerning it. Moses thus expounds upon divine justice:

Know, therefore, that only Yahweh your God is God, the steadfast God who keeps his gracious covenant to the thousandth generation of those who love him and keep his commandments, but who requites (וְיִשְׁלַח) those

37 Ezekiel’s formulation of freedom is essentially modern in its conceptual structure, despite its religious terminology. Structurally similar is the conceptualization of moral freedom as independence from the burden of the past by Immanuel Kant. He establishes a dialectical notion of freedom: although there is no freedom from causality (from an immediately preceding cause) within nature, such freedom exists from the vantage point of ethics and religion. He intricately probes the issues involved in holding someone morally accountable who is a habitual liar. “Reason is present in all the actions of men at all times and under all circumstances, and is always the same; but it is not itself in time, and does not fall into any new state in which it was not before. . . . When we say that in spite of his whole previous course of life the agent could have refrained from lying, this only means that the act is under the immediate power of reason, and that reason in its causality is not subject to any conditions of appearance or of time.” See Immanuel Kant, *Critique of Pure Reason* (tr. Norman Kemp Smith; unabridged edition; New York: St. Martin’s; Toronto: Macmillan, 1965), 478 (A556/B584).

who reject him (לשנאיו) – to their face (אל פניו), by destroying them. He does not delay with anyone who rejects him – to his face (אל פניו) he requites him (ישלם לו).

(Deut. 7:9–10)

The vocabulary of this passage makes it clear that the speaker alludes specifically to the Decalogue, which he has previously quoted (chapter 5). This reuse of the Decalogue is marked by the ancient scribal technique of inverted citation, which we have already seen in the case of Ezekiel, and which is technically called “Seidel’s Law.”³⁸ Let me clarify.

Often in the Bible and post-biblical literature, an author will quote a source in inverted order, such that a text sequence AB would recur elsewhere as B’A’. Thus, in the present case, the first person sequence of the Decalogue – (A) “those who reject me” (לשנאי) and (B) “those who love me and keep my commandments” (לאהבי ולשמרי מצותי; Deut 5:9–10) – is inverted. In the new context, it is recast as a third-person report: (B’) “those who love him and keep his commandments” (לאהביו ולשמרי מצותו) and (A’) “those who reject him” (לשנאיו).

The Mosaic speaker purports to provide a homiletic paraphrase of the formula for divine justice in the Decalogue.³⁹ In fact, the homily so fundamentally transforms the original as to revoke it. The speaker strategically deletes references to the transgenerational consequences of sin and instead asserts the immediate punishment of the sinner. By implication, divine punishment for sin is restricted to the sinner alone. In contrast to the

38 The principle of inverted citation (see also n. 35 above) is named after its discoverer: M. Seidel, “Parallels between Isaiah and Psalms,” *Sinai* 38 (1955–1956): 149–172, 229–240, 272–280, 335–355, at p. 150; reprinted, idem, *Hiqrei Miqra* (Jerusalem: Rav Kook Institute, 1978), 1–97 (Hebrew). Seidel’s claims are often insufficiently controlled by criteria for establishing the direction of dependence. More controlled uses include Shemaryahu Talmon, “The Textual Study of the Bible – A New Outlook,” in *Qumran and the History of the Biblical Text* (ed. F. M. Cross and S. Talmon; Cambridge: Harvard University Press, 1975), 362–363; P. Beentjes, “Inverted Quotations in the Bible: A Neglected Stylistic Pattern,” *Biblica* 63 (1982): 506–523; Marc Z. Brettler, “Jud 1,1–2,10: From Appendix to Prologue,” *Zeitschrift für die alttestamentliche Wissenschaft* 101 (1989): 434; and Sommer, *A Prophet Reads Scripture*, 35 and 219 nn. 11–12. On this and related editorial markers, see Levinson, *Deuteronomy*, 17–20.

39 The proposal that “those who reject him/anyone who rejects him” (Deut. 7:10) tags לשנאי, “those who reject me” (Exod. 20:5 = Deut. 5:9) raises a series of issues that go beyond the scope of this essay to address properly. If my analysis is correct, it provides indirect evidence for the originality of לשנאי within the divine attribute formula.

Decalogue, the progeny, *here strikingly unmentioned*, are not explicitly visited with divine punishment.

The doctrine of individual retribution is not presented as a departure from the *status quo*, as in the case of Ezekiel. Instead, the new teaching is presented as consistent with the very doctrine that it rejects: as an authoritatively taught “re-citation” of the original *theologoumenon* or divine saying. The author of this text marshals the very words of the formula for transgenerational punishment against itself. Its key terms are redeployed so as to abrogate transgenerational punishment and mandate individual retribution instead:

A	who requites	ומשלם
B	<u>those who reject him</u> – <i>to their face</i> ,	לשנאוּ אֵל פָּנָיו
X	<i>by destroying them.</i>	לדאבדוּ
X	<i>He does not delay</i>	לֹא יֵאָחֵר
B'	with <u>anyone who rejects him</u> – <i>to his face</i>	לשנאוּ אֵל פָּנָיו
A'	he requites him.	יִשְׁלַם לוֹ

Lematic Reworking in Support of Doctrinal Innovation (Deut. 7:10)⁴⁰

The chiastic pattern of the repetition frames and thus highlights Deuteronomy’s ethical innovation (marked by *X*): the introduction of the notion that God “does not delay” (לֹא יֵאָחֵר) retributive justice, that is, that punishment no longer occurs transgenerationally. That doctrinal innovation is accomplished by means of textual reformulation. In the diagram, the underlining shows how a key term from the originally problematic text is cited: the retribution due “those who reject him,” which alludes to “those who reject me” in the Decalogue. Once cited, however, the same term receives a new continuation: the new teaching of individual responsibility (as the diagram’s italicized text shows). The double annotation stipulates that God requites the sinner, literally, “to his face” (אֵל פָּנָיו).⁴¹ As the medieval commen-

40 The singular pronominal suffix is employed here in the Hebrew rather than the expected plural form; see Samuel R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* (3d ed.; ICC; Edinburgh: T. & T. Clark, 1902), 102.

41 Contrary to several modern translations, the phrase cannot mean “immediately” or “instantly.” There is no evidence in the Bible for instantaneous divine retribution for wrongdoing. Thus missing the point are the translations offered by Moffat’s American version (“immediately”) and by the new Jewish Publication Society Version (“instantly”); see *Tanakh: The Holy Scriptures* (Philadelphia: Jewish Publication Society, 1988),

tator Rashi (1040–1105) accurately saw, the phrase means “in his lifetime” (בְּחַיָּיו).⁴² The annotations redefine divine punishment and restrict it so that it no longer extends across generations.⁴³ The paraphrase of the source thus abrogates the source, which now propounds the doctrine of individual responsibility.

286. The *Tanakh* translation must derive from Arnold B. Ehrlich, *Mikra ki-Peschuto* (3 vols.; Berlin: M. Poppelauer, 1899–1901), 1.323.

- 42 Rashi frequently embeds classical rabbinic exegesis, particularly *midrash halakha*, in his commentary on the Pentateuch. In this case, his annotation directly reflects the Aramaic Targum Onqelos. The latter does not strictly translate the lemma of Deut. 7:10 but rather amplifies it midrashically, to argue that God “requires the good deeds of those who reject him in their lifetime (בְּחַיָּיהוֹן), so as to cause them to perish.” Ironically, the correct insight into the literal meaning of the specific phrase in the lemma – the recognition that “to his face” means “in his life” – actually comes in the service of a midrashic transformation of the verse. The verse is reinterpreted to forestall the inevitable question of theodicy raised by the verse in its literal meaning: How is it that, if God truly rewards the righteous and punishes the guilty, does the experience of life suggest the contrary: that the wicked seem to prosper in the world, while the righteous suffer? The midrashic solution to the problem is to extend the analysis into the afterlife. The wicked receive reward for their good deeds only in this life while they are required for their iniquity by being denied a share in the world to come. The righteous, conversely, suffer only in this life for any iniquities they may have committed while being rewarded for their good deeds with the assurance of a place in the world to come. That extension of the time span of the verse into a putative afterlife, however, completely contradicts the radical claim for divine justice within history made by Deut. 7:10. These issues are overlooked in the untenable claim concerning the Targum: “The Aramaic paraphrase is a reasonable interpretation of the verse’s *peshat* [literal sense]”; so, Israel Drazin, *Targum Onkelos to Deuteronomy: An English Translation of the Text with Analysis and Commentary (Based on A. Sperber’s Edition)* (Hoboken, NJ: Ktav, 1982), 115. In its rendering of Deut. 7:10, Onqelos corresponds closely to the Palestinian Targumic tradition, which has a well-known proclivity for extensive “aggadic” expansions. See the rendering of Deut. 7:10 in Michael L. Klein, *The Fragment-Targums of the Pentateuch According to their Extant Sources* (2 vols.; Analecta Biblica 76; Rome: Biblical Institute Press, 1980), 1.213; 2.171. For the social and theological context of these additions, see Avigdor Shinan, *The Aggadah in the Aramaic Targums to the Pentateuch* (2 vols.; Jerusalem: Makor, 1979), 2.301 (Hebrew). The best edition of Rashi’s Commentary on the Pentateuch, citing his classical sources (here noting the correspondence with Targum Onqelos) is Charles Ber Chavel, ed., *Perushe Rashi ‘al ha-Torah* (3rd ed.; Jerusalem: Rav Kook Institute, 1985–1986), 532 (Hebrew). The latter, of course, does not address the exegetical issues discussed here. Finally, despite its midrashic turn, Rashi is correct to follow Targum Onqelos in understanding “to his face” (אֶל פָּנָיו) as meaning “in his lifetime” (בְּחַיָּיו). An equivalent idiom occurs elsewhere: “Haran died during the lifetime of (עַל פְּנֵי) Terah, his father” (Gen. 11:28a, literally, “upon the face of”; cf. Num. 3:4).
- 43 A member of the Spanish school of medieval rabbinic exegesis, Abraham ibn Ezra (1089–1164 A.D.), rejected Rashi’s midrashic approach. Ibn Ezra recognized that the issue in Deut. 7:10 is not an opposition between this world and the afterlife but between individual responsibility and vicarious punishment. He correctly, if quietly, saw that the verse contradicts the Decalogue doctrine by restricting judgment to the agent “himself” (לְעַצְמוֹ). See Abraham ibn Ezra, *Commentary on the Torah* (ed. A. Weiser; 3 vols.; Jerusalem: Rav Kook Institute, 1977), 3.238 (Hebrew). Ironically, ibn Ezra’s rendering is almost identical to that of the

In formal terms, the new dispensation represents a studied series of annotations to the original doctrine, cited almost as a scriptural lemma that requires a commentary or, technically, a “gloss.” In using the term lemma, I refer to a unit of text that is formally cited and commented upon, a phenomenon well known in the literature of classical antiquity. In substantive terms, however, far from simply elucidating the lemma, the author of the gloss subverts it. Moreover, there is no formal demarcation between the lemma and its annotation: the gloss is not distinguished from the lemma itself. Here the revisionist voice of the glossator directly continues, and is equal in authority with, the divine voice of the source. The revision of tradition asserts the originality of tradition. It presents itself as scripture, not as commentary upon scripture.

The reworking of authoritative texts to make them sanction the needs of later generations, or to sanction a later interpretation of religious law as having “scriptural” warrant, is more conventionally associated with much later stages in the history of religion (ca. 200 B.C. through 200 A.D.). It is evident in the reuse of the Bible in the Dead Sea Scrolls, the book of Jubilees, and in the exegetical midrashim of the rabbinic period, for example.⁴⁴ Classical antiquity also attests a genre of scholastic commentary, formally structured as lemma and gloss.⁴⁵ Deuteronomy’s transformation of the doctrine for transgenerational punishment into one that propounds individual responsibility confirms the sophisticated use of such techniques in pre-exilic Judean literature: centuries earlier than it has previously been recognized.

The authors of Deuteronomy employ two techniques to present their reformulation covertly. I call the first “lemmatic citation and reformulation.” The new doctrine of individual retribution cites the very doctrine that it replaces, yet does so “atomistically.” It selectively redeloys individual words as markers of tradition while breaking down their original se-

modern New Revised Standard Version (NRSV). Making allowance for the NRSV’s commitment to gender-neutral language, its correct translation (“in their own person”) precisely corresponds to that earlier proposed by ibn Ezra.

44 The literature of course is vast. Demonstrating continuities of exegetical technique between biblical and post-biblical reworking of texts is Michael Fishbane, “Use, Authority, and Interpretation of Mikra at Qumran,” in *Mikra: Text, Translation, and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity* (ed. Martin J. Mulder; Compendia Rerum Iudaicarum ad Novum Testamentum 2:3; Assen/Maastricht: Van Gorcum; Philadelphia: Fortress, 1988), 339–377.

45 See H. Gregory Snyder, *Teachers and Texts in the Ancient World: Philosophers, Jews and Christians* (London and New York: Routledge, 2000), 75–82.

mantic reference.⁴⁶ Reduced to a cluster of individual lemmas and then reassembled in a new context, the older doctrine becomes infused with new content. Citation here functions less as an acknowledgement of the authority of a source than as a means to transform that source: to “re-inscribe” that source in a new context that, in effect, restricts and contracts its original authority.⁴⁷

The second literary device is pseudepigraphy, the attribution of a text to a prestigious speaker from the past.⁴⁸ The authors of Deuteronomy do not write directly in their own voice. Instead, they harness the voice of Moses in order, literally and metaphorically, to “authorize” their reformulation of the Decalogue. The risk of discontinuity with tradition is thus paradoxically avoided by attributing the revision of the Decalogue doctrine to the same Mosaic speaker credited with propounding it in the first place. Equally profound transformations of ancient Israel’s formative canon take place elsewhere in Deuteronomy, especially in its legal corpus (chapters 12–26), as I have demonstrated elsewhere.⁴⁹ Nor is this phenomenon restricted to Deuteronomy. The Pentateuch has a vital le-

46 *Contra* Joachim Schaper, who reduces to a logical absurdity the premise that the tendentious “exegetical” reworking of a prestigious or authoritative text might either abrogate that text or curtail its authority (“Schriftauslegung und Schriftwerdung im alten Israel: Eine vergleichende Exegese von Ex 20.24–26 und Dtn 12.13–19,” *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte* 5 [1999]: 111–132.). The history of interpretation requires a more dialectical model of hermeneutics. In this example, whereby transgenerational punishment is replaced by individual retribution, the latter doctrine finally controls the way that the former one is understood and taught, as the targumic tradition confirms (see next section).

47 For the same phenomenon in the legal corpus of Deuteronomy, see Levinson, *Deuteronomy*, 46–48.

48 See the stimulating analysis of Morton Smith, “Pseudepigraphy in the Israelite Literary Tradition,” in *Pseudepigrapha I: Pseudopythagorica – Lettres de Platon – Littérature pseudépigraphe juive* (ed. Kurt von Fritz; Fondation Hardt; Entretiens sur l’antiquité classique 18; Geneva: Vandœuvres, 1971), 191–215 (with ensuing panel discussion). Both techniques are attested within the Dead Sea Scrolls; see Moshe J. Bernstein, “Pseudepigraphy in the Qumran Scrolls: Categories and Functions,” *Pseudepigraphic Perspectives: The Apocrypha and Pseudepigrapha in Light of the Dead Sea Scrolls* (ed. Esther G. Chazon and Michael Stone; STDJ 31; Leiden: Brill, 1999), 1–26. Addressing the theological issues raised by false attribution but doing so apologetically, see David G. Meade, *Pseudonymity and Canon: An Investigation into the Relationship of Authorship and Authority in Jewish and Earliest Christian Tradition* (WUNT 39; Tübingen: Mohr-Siebeck, 1986). For a discussion of pseudepigraphy’s importance for the authority claim of rabbinic literature, see Martin S. Jaffee, *Torah in the Mouth: Writing and Tradition in Palestinian Judaism, 200 BCE–400 CE* (New York: Oxford University Press, 2001), 23–25.

49 For an analysis of these changes in the areas of sacrifice, the calendar, and the public administration, see Eckart Otto, “Von der Gerichtsordnung zum Verfassungsentwurf: Deuteronomische Gestaltung und deuteronomistische Interpretation im ‘Ämtergesetz’ Dtn. 16,18–18,22,” in “*Wer ist wie du, HERR, unter den Göttern?*” *Studien zur Theologie und Religionsgeschichte Israels für Otto Kaiser* (ed. Ingo Kottsieper et al.; Göttingen: Vandenhoeck & Ruprecht, 1995), 142–155; and Levinson, *Deuteronomy*.

gal and intellectual history in which later authors and editors respond to, challenge, reinterpret, contravert, reconcile, expand, and harmonize the earlier layers of the legal tradition.⁵⁰ From this perspective, legal hermeneutics does not belong simply to the post-biblical reception history of scripture. Instead, human legal hermeneutics plays a significant role in the very creation of scripture.⁵¹

6. The Interpretation of Divine Justice in the Targum

With the close of the Scriptural canon, texts such as Ezekiel 18 and Deuteronomy 7, whose authors had each earlier struggled obliquely with the authority of the Decalogue, have now themselves won authoritative status coextensive with it. Indeed, in a striking reversal of literary history, these passages now eclipse the Decalogue's doctrine of trans-generational punishment since they mediate its reception and interpretation for later communities of readers. A text from this post-biblical period offers a final strategy for the reformulation of revelation.

As Hebrew ceased being spoken by Jews under Persian and then Hellenistic rule, it was gradually replaced by either Aramaic or Greek as the lingua franca. Consequently, translations of the Bible into these new vernacular languages became necessary to serve the liturgical needs of the community.⁵² The Aramaic translation that eventually became dominant in Babylonia during the talmudic period (ca. 200–640 A.D.) is called Targum

50 See Eckart Otto, *Theologische Ethik des Alten Testaments* (Theologische Wissenschaft 3.2, Stuttgart: W. Kohlhammer, 1994), 230–234; *idem*, “Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26,” in *Leviticus als Buch* (ed. H. J. Fabry and H. W. Jüngling; BBB 119; Berlin: Philo, 1999), 125–196. Also see Jan Christian Gertz, *Tradition und Redaktion in der Exoduserzählung: Untersuchungen zur Endredaktion des Pentateuch* (Forschungen zur Religion und Literatur des Alten und Neuen Testaments 186; Göttingen: Vandenhoeck & Ruprecht, 2000), 29–73.

51 Analysis of the literary history, composition, and textual development of the Qur'ān remains exceedingly rare even within ostensibly *academic* Islamic Studies. For the reasons for this situation, see the brilliant work of John Wansbrough, *Qur'anic Studies: Sources and Methods of Scriptural Interpretation* (London Oriental Studies 31; Oxford: Oxford University Press, 1977), 43–52, 202–227. One cannot be a Muslim and think historically about the Qur'ān as having a compositional history: that would be a contradiction in terms and an invalidation of the faith. The recent discovery of ancient Yemenite manuscripts of the Qur'ān significantly complicates, however, the standard notion of the 'Uthmanic recension (*imām*). Specifying the implications and the sensitivities involved, see Toby Lester, “What is the Koran?” in *The Atlantic Monthly*, vol. 283, no. 1 (January 1999): 43–56; available online at <http://www.theatlantic.com/issues/99jan/koran.htm>.

52 See Emanuel Tov, “The Septuagint”; and Philip S. Alexander, “Jewish Aramaic Translations of Hebrew Scriptures,” in *Mikra*, 161–188, 217–254 (full citation of this volume in n. 44 above). On the Targums, see

Onqelos. In the main, it is simple and non-expansive, and commonly regarded as a literal translation of the Hebrew. In translating the Decalogue, however, Onqelos makes several telling additions, as shown in italics:

... visiting the guilt of the fathers upon the *rebellious* (מרדין) children, upon the third and the fourth generation of those who reject me, *when the children continue to sin* (כד משלמין בניה למהטי) as their fathers (אבהתהון בהר).⁵³

Like the “Moses” of Deuteronomy 7, the Aramaic Targum presents itself, not as a revision or as a new teaching, but as the original significance of the Hebrew source text. Nonetheless, by means of their additions, the post-biblical interpreters responsible for Onqelos have God restrict the punishment so that only the guilty, never the innocent, are punished. Only when sinful action is transgenerational – “when the children continue to sin as their fathers” – is the punishment fittingly transgenerational as well. As such, only “rebellious” children are punished, never the innocent progeny of sinful fathers.

This radical reformulation of the original doctrine amounts to a post-biblical theodicy. The Targum’s authors expunge the slightest chance of God’s espousing a doctrine of injustice. What the text means, the Targum affirms, is that divine justice requires a notion of individual responsibility. There exists no adequate doctrine of divine justice except as the voice of Yahweh in the Decalogue is heard through and understood to be consistent with Ezekiel’s prophetic oracle and the homily of Deuteronomy 7. In harmonizing these texts, the authors of the Targum present their exegetical accommodation of the Decalogue to Ezekiel 18 and Deuteronomy 7 as the literal meaning and original significance of the Decalogue itself. The human voice of exegesis in the Targum thereby creates the divine voice of the Decalogue anew in its own image.

In solving one problem, however, the Targum’s revision creates others. If God only punishes those who commit wrongdoing in each generation, then the doctrine of the transgenerational consequences of sin has been entirely vitiated. While the corrected version saves God from committing iniquity, it also makes the original text redundant. What is the logic

also John W. Bowker, *The Targums and Rabbinic Literature: An Introduction to Jewish Interpretations of Scripture* (London: Cambridge University Press, 1969).

53 *Tg. Onq. Exod. 20:5*; see A. Sperber, *The Bible in Aramaic Based on Old Manuscripts and Printed Texts: The Pentateuch According to Targum Onqelos* (5 vols.; Leiden: Brill, 1959–1973), 1.122 (my translation).

for even mentioning the generations if it is only individual retribution that operates, no longer transgenerational punishment? The original doctrine has now been reduced to a lexical shell, devoid of its original content.

The Targum has created a *tertium quid*: transgenerational punishment is suddenly contingent upon whether each generation continues in the ways of the preceding one. Thereby a paradox emerges. The attempt to eliminate the contradiction between the Decalogue and Ezekiel 18 has introduced a new version of the Decalogue that is consistent neither with the original Decalogue (since it now asserts individual retribution) nor with Ezekiel 18 (since Ezekiel's doctrine of repentance passes unmentioned).⁵⁴ Here yet another paradox emerges. The very drive to maintain the coherence of the canon has abrogated, both by addition and subtraction, the primary requirement of that canon *not* to innovate, whether by addition or subtraction.

7. Conclusions: The Canon as Sponsor of Innovation

Textual authority was widely challenged and actively debated in ancient Israel. Yet that debate took place in textual terms. The evidence presented here makes it possible to enrich Jonathan Z. Smith's theoretical model of exegetical ingenuity by complicating its assumption of a simple priority of foundational "canon" to subsequent "exegesis." Already evident in the wide range of texts that much later came to be selected, anthologized, and incorporated into the canon is a technical facility with texts and with interpretation. The ineluctable connection between religious renewal and textual reworking brings into clear focus the role of the technically trained scribe as the agent of cultural change. The skilled scribe is both thinker and religious visionary; spirit becomes manifest in the scribe's revision of a text. From the perspective of ancient Israel, revelation does not consist of some kind of literal divine manifestation or theophany that takes place prior to or independent of the text; revelation is in the text and of the text.

The conceptual breakthrough is grounded in the text; the originality of thought is a consequence of engagement with the textual curriculum; and the break with tradition presents itself in terms of continuity with tradition. Ingenuity here takes the form of literary sophistication: the skill by means of which successive writers were able to conceal the conflict between their new doctrine of individual retribution and the authoritative principle of trans-

⁵⁴ See *b. Ber.* 7a; *b. Sanh.* 27b; *b. Šebu.* 39a; as noted by Fishbane, *Biblical Interpretation*, 345 n. 72.

generational punishment. That ingenuity required striking technical means – dodges both of voice (including devoicing, revoicing, and pseudepigraphy) and of the scribal craft (including Seidel's law and lemmatic citation and reapplication). This extensive repertoire of sleights of scribal hand suggests the difficulty of innovation in ancient Israel.

Paradoxically, such sophistication equally underscores the wide-ranging possibilities of authorial creativity, as Israel's formative canon itself sponsors innovation even as it seems to proscribe it. Nor does the process cease with the canon's closure, as the Targum's reading of individual responsibility into the Decalogue demonstrates. The reworking of tradition presents itself as the original significance of tradition; the challenge to the source is read back into the source; the author renders his own voice silent by attributing that voice to the authoritative source, thereby allowing the author to emerge all the more powerfully as author, thinker, and reworker of tradition. The Torah is radically transformed by the interpretation of Torah.

Tradition itself emerges here as a hermeneutical construction, since the citation of tradition provides a means to rework tradition. Citation does not entail passive deference to the ostensibly authoritative source but rather critical engagement with it.⁵⁵ Israel's concept of textual authority was thus profoundly dialectical. For all the rhetoric of concealment – the impossibility of making innovation explicit or of employing the human voice – the very act of concealment, marked by the deliberate strategies just identified, reveals the innovator – the human author – at work. Notwithstanding its ostensible powerlessness before the authority of the canon, the human voice in ancient Israel was not diminished but augmented. Through its various forms of indirection, it purchased sufficient autonomy to *replace* the received understanding of divine punishment with a new principle of justice. The divine speech of biblical law and prophecy thereby reveals the transformative human voice: the voice of authors, thinkers, and writers, passionately engaged with tradition.

The religious creativity of ancient Israel refuses any easy dichotomy between grammar and spirit, between technical scribal training and religious creativity, between philology and phenomenology. By challenging disciplinary conventions of both method and theory, the paradoxical structure of textual authority in ancient Israel opens out to the humanities. But here I see a difficulty. Contemporary theory has all but divorced itself from the study of Scripture, from thinking in a sophisticated way about religion. The biblical text often seems

55 See Bernard M. Levinson, "The Hermeneutics of Tradition in Deuteronomy," in idem, *"The Right Chorus": Studies in Biblical Law and Interpretation* (FAT 54; Tübingen: Mohr Siebeck, 2008), 256–275.

to be regarded as a parade example of a fossilized text that encodes and perpetuates concepts of power, hierarchy, domination, privilege, xenophobia, patriarchy, and colonialism. The truth is much more complex. The less recognized but equally serious counterpart to scientific illiteracy is the widespread lack of knowledge in today's world about the breakthroughs provided by *academic* religious studies and the recovery of the literature of the ancient Near East. Many, even within the broader academic community, have not had the opportunity to learn how to read the Bible critically, historically, and intellectually. The absence of a historical and of a philological approach to Scripture has transformed the scriptural text into a golden calf, lacking in intellectual complexity, awaiting theory for its redemption.

Once viewed adequately, however, the scriptural canon itself deconstructs the false dichotomies that are repeatedly projected onto it. Theory does not bring hermeneutics or revisionist reading to the ancient text; the text invites the capable reader to recognize the theory latent in it. The canonical text arises from and sustains its own history of reception and interpretation. Although chronologically prior, therefore, the canonical source is not *ontologically* prior, since the past is rethought and interpreted from the vantage point of the present. The authoritative source reveals hermeneutics. If canonization conventionally represents an anthropologizing attempt to gain closure, then the texts of the Hebrew Bible militate in the opposite direction. They resist any simple notion of canonical authority or of Scripture as one-sidedly divine. They tolerate no such hierarchies or binary oppositions. The so-called canon formula may sound like a simple, rigid commandment that inhibits renewal: "You must not add anything to what I command you nor take anything away from it." Yet from its very first appropriation by ancient Israelite authors, it already marked a site of creative textual transformation. At every point where fidelity to the canon is invoked, closer examination shows the issues to be much more complicated, with the claim of an unchanging canon itself finally emerging as an authorial construction to sanction innovation. Seen from that vantage point, the canon is radically open. It invites innovation, it demands interpretation, it challenges piety, it questions priority, it sanctifies subversion, it warrants difference, and it embeds critique. Scholars across the humanities would benefit from deeper exploration of this rich paradox.