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. Key elements of this revolutionary program are “centralization” and “demythologization.” Much of Deuteronomy is seen to support Josiah’s reforms of the 7th century, 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. Earlier theology (which is usually understood as being less abstract in it theological

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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 Deuteronomic 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. Deuteronomy’s tendency toward secularization and demythologization, coupled with its demand for centralization, makes for a revolutionary program. 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.

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. 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, while others see it as a realistic program of reform. 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, Deuteronomic School, 188.


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


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.\textsuperscript{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 \textit{Torah}. In this understanding, Deuteronomy \textit{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 \textit{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.\textsuperscript{11}

\textbf{Elements of \textit{Torah} in Deuteronomy}

\textbf{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-
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. 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. 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 Deuteronomic account.

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). Clements suggests that this section is included in order to highlight the importance of a “fair and acceptable system of juridical authority.” Thus, he notes that the

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


legal section of the book (chapters 12-26) is greatly concerned with the administration of justice, and details institutional responsibilities for it.\textsuperscript{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.”\textsuperscript{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 \textit{Torah} in the life of the nation.

Gary Millar has argued persuasively that the theology of Deuteronomy is permeated with a dynamic element.\textsuperscript{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.\textsuperscript{20} In addition, the frequent use of the term has been shown to be a rhetorical device that contributes to the sense of

\textsuperscript{17} Ibid.
\textsuperscript{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. All the important decisions are said to be urgent "today," yet DeVries and others have shown, that "today" is more than temporal. 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.”

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. 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.

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,

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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. Tomasin, “,” 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.
and commissioned by Moses to serve as “heads” over the people. The people, through their “heads,” would now be responsible to Yahweh for the way they lived out their lives.

Insight as to the expectations comes in the next verses, the charge to the judges in Deut 1:16-18. The judges are told to “judge righteously” in the cases that would come before them, whether the parties be Israelites or foreigners, “great or small.” The rationale for impartial judgment is given in verse 17:

The statement that “judgment is God’s” implies that in the cases that the judges will hear, God will render judgment through their agency, and the judges are expected to act in accordance with the law which comes from God. This, Wright notes, “enshrines a major feature of constitutional law, namely, that the law has a transcendent value. Promulgated and administered by humans, it possesses an authority above even those who promulgate and administer it.”

Moreover, this historical remembrance is deliberately included in Moses’ speech to Israel on the plains of Moab (Deut 1:1). The people gathered on the boundary to the land of promise also face a significant transition. They will engage in fierce battles to take possession of the land Yahweh swore to their forefathers. Upon entering the land, they will face temptation from the religious practices of the people who occupy the land. They will face the temptation to “be like” the nations they are displacing in every way. And they will face these dangers without the leadership and mediation of Moses, who had led them through all the transitions and trials they had yet experienced.

Theological Implications

The careful juxtaposition of Horeb and Moab and the deliberate insertion of Deut 1:9-18 into the narrative serve to introduce the idea of Torah in Deuteronomy. In this way, the following central themes begin to emerge:

27 It is not explicit from the text, but I think it likely that the judges exhorted here should be understood as being the same people selected in v. 13 and commissioned in v. 15. The qualifications described suggest that judicial as well as military responsibilities are in view. See MAYES, Deuteronomy, 124-25; C.J.H. WRIGHT, Deuteronomy, NIBC (Peabody, MA: Hendrickson; Carlisle: Paternoster, 1996), 26; BARTLETT, “Use of ”; M. WEINFELD, “Judge and Officer in Ancient Israel and the Ancient Near East,” Israel Oriental Studies 7 (1977): 65-88.
28 WRIGHT, Deuteronomy, 27, and MAYES, Deuteronomy, 125. Wright notes that the phrase could also be understood to mean simply that God is ultimately responsible for dispensing justice, i.e. that it is his demesne. However, he rightly notes that other texts (e.g. 2 Chron 19:6, Prov 16:33) argue in favor of the alternative view.
29 WRIGHT, Deuteronomy, 27.
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 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

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\(^{30}\) 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 I-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 Deuteronomic 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 מֹשֵׁל מְדוֹן and מִשְׁמַר מְדוֹן may be a hendiadys referring simply to judges. 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. 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. In the next verses, Deut 16:19-20, most commentators argue that the individual judges, not the community as a whole, are being addressed. 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. 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.

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

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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.”
This clearly shows that the entire community, not the judges, is being addressed in verse 18. That there is no alteration in the form of address in verses 19-20 suggests that the same audience, the community as a whole, is in view here as well. This is all the more likely in view of the well-established fact that Deuteronomy frequently alternates between the singular and plural forms of the second person. That is, if the judges were being addressed, one might expect a shift to the plural form of the second person, which is often used to address a “collection of individuals.”

The LXX reading at this point supports the view that the community is still addressed in verses 19 and 20. It shifts into the third person plural, stating that “They (i.e., the judges) shall not distort justice…They shall not take bribes.” This is, perhaps, an attempt to harmonize v. 19 with the last phrase of v. 18, which is also in the third person singular.

The question as to who is being exhorted in vv. 19-20 is an important one in understanding what is at the heart of the theology of Deuteronomy. Those who see the judges as being addressed rightly see that justice is being emphasized, and that this is clearly important to life lived in relationship with Yahweh. Frequently, however, the admonition to the judges is seen (erroneously, in my estimation) as evidence of a secularization program in Deuteronomy. In this view, it is significant that judges are being addressed here. Prior to the centralization of worship in Jerusalem and the abolition of local sanctuaries, it is argued, local disputes would often have been resolved through the mediation of priests in the local sanctuaries. The abolition of sanctuaries mandated that secular judges be appointed to adjudicate. This, it is argued, is what is happening in Deuteronomy. Accordingly, the fact that judges, rather than priests, are being addressed highlights the revolutionary nature of Deuteronomy’s program of centralization and secularization.

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38 LENCHAK, “Choose Life,” 13. It is true, of course, that the second person singular can be used to refer to either the community as a whole or individuals (or even a set of individuals) within it. The shift in form of address is seen most clearly, perhaps, in chapter four, which has been the focus of debate between diachronic and synchronic approaches. The passage is generally regarded as a unity, although not universally. On the issue of Numeruswechsel in Deuteronomy, see C.T. BEGG, “The Literary Criticism of Deuteronomy 4,1-40: Contribution to a Continuing Discussion,” Ephemerides Theologicae Lovanienses 56 (1980): 10-55; idem, “The Significance of the Numeruswechsel in Deuteronomy: The ‘Pre-History’ of the Question,” Ephemerides Theologicae Lovanienses 55 (1979): 116-24; A. ROFÉ, “The Monotheistic Argumentation in Deuteronomy IV 32-40: Contents, Composition and Text,” VT 35 (1985): 434-45 and D. KNAPP, Deuteronomium 4: Literarische Analyse und theologische Interpretation (Göttingen: Vandenhoeck & Ruprecht, 1987); CHRISTENSEN, Deuteronomy1-11, 33-34; MAYES, Deuteronomy, 35-37; J.G. MCGONVILLE, Grace in the End: A Study in Deuteronomic Theology (Grand Rapids: Zondervan, 1993), 36-39; idem, “Singular Address in the Deuteronomic Law and the Politics of Legal Administration,” JSOT (forthcoming).

39 See WEINFELD, Deuteronomic School, 233-36; LEVINSON, Legal Innovation, 98-143.
If, however, the people as a whole are being addressed, a different picture begins to emerge. In this reading, the people as a whole are responsible to ensure that justice is done in Israel. This represents a truly revolutionary aspect of the Deuteronomic program. Whereas throughout the Ancient Near East the king is responsible for the administration of justice, Deuteronomy places that responsibility squarely in the hands of the community as a whole. Moreover, the pursuit of justice (or perhaps, better, “righteousness”; see below) is of supreme importance, for doing so will allow the people to “live and possess the land” which Yahweh is giving the people (v. 20).

But what does it mean to “pursue righteousness” (v. 20)? Most translations translate the Hebrew word שׂרֹשׁ תְהִי as “justice” in this verse. That, of course, is part of the semantic range of the word. But careful examination of the term as it is used here suggests that the judicial sense is not primarily in view.

The nominal forms שׂרֹשׁ תְהִי and שׂרֹשׁ תְּחִי appear 13 times in Deuteronomy. In the majority of those appearances, a judicial context is not in view. Rather, the broader sense of “righteousness” appears to be in view. In Deut 9:4-6, for example, the word שׂרֹשׁ תְּחִי is used in parallel with שׂרֹשֶׁת תְּחִי תְּחִי, “uprightness of heart.” In addition, it is contrasted with שׁוּר תְּחִי, which usually denotes an abstract sense of evil or wickedness.

It has further been noted that שׂרֹשׁ תְּחִי entails adherence to some fixed standard known to the community. Thus, for example, Deuteronomy 25:15 calls for weights and measures that are שׂרֹשׁ תְּחִי, that is, in conformity with a known standard and not compromised in any way. Similarly, Deuteronomy 33:19 speaks of שׂרֹשׁ תְּחִי, meaning sacrifices that conform to some known standard. The use of the adjectival form שׁוּר תְּחִי in Deuteronomy 16:18 refers to people whose lives and behavior conform to certain standards. Finally, Deuteronomy 16:18 further says that the newly-appointed judges are to judge the people with שׂרֹשׁ תְּחִי, which refers to judgement that is in conformity to a standard. Reimer concludes that שׂרֹשׁ תְּחִי

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40 Deut 1:16; 6:25; 9:4; 9:5; 9:6; 16:18; 16:20 (2x); 24:13; 25:15 (2x); 33:19; 33:21. Although some have maintained a difference in meaning between שׁוּר תְּחִי and שׂרֹשׁ תְּחִי, Reimer rightly notes that, due to the overlap in usage of the various forms, context, not morphology, should be decisive in determining the meaning of any particular use of the term. See D.J. Reimer, “שׁוּר תְּחִי,” in NIDOTTE, 744-69, here p. 746.


“terminology indicates right behavior or status in relation to some standard of behavior expected in the community. It also entails the adjudication of such behavior or status as well as the more abstract sense of some claim to it.”

The fact that the people as a whole are addressed in Deuteronomy 16:19-20 suggests that “righteousness” (in a broader sense) rather than “justice” (in the forensic/legal sense) is in view here. Few of the people being addressed are likely to engage in the adjudication of cases as judges. But all the people have opportunity to pursue †\hspace{-0.2cm}†\hspace{-0.2cm}†\hspace{-0.2cm}† in the course of their lives. This is accomplished by living out every aspect of their lives in conformity to a known standard.

The standard to which Israel is expected to conform begins to be explicated in the next verse. Scholars have often regarded these verses as an abrupt interpolation that has little to do with the context. Levinson, for example, argues that Deuteronomy 16:21-17:1 “bear no relationship whatsoever to justice. They deal with cultic issues—the topic of the previous section of the legal corpus.” But the charge of irrelevance can be sustained only if judges are addressed in Deuteronomy 16:19-20 and if the narrower, judicial sense of †\hspace{-0.2cm}†\hspace{-0.2cm}†\hspace{-0.2cm}† is assumed in verse 20. If, however, one sees the entire community as being involved in the pursuit of righteousness (in the broader sense), then these verses are not disjunctive. Rather, they provide a vivid description as to what unrighteousness would look like: syncretism in the form of the construction of an \hspace{-0.2cm}†\hspace{-0.2cm}†\hspace{-0.2cm}†\hspace{-0.2cm}† and the withholding of sacrifices that rightfully belonged to Yahweh. In short, unrighteousness is portrayed as a violation of Yahweh’s commandments (both in the Decalogue and the commandments already given in Deuteronomy 15:19-23). This, according to Deuteronomy, is unrighteousness par excellence.

Rather than being disjunctive, then, Deuteronomy 16:21-17:1 are part of the rhetorical thrust

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43 REIMER, “†\hspace{-0.2cm}†\hspace{-0.2cm}†\hspace{-0.2cm}†,” 750.
44 Weinfeld rightly notes that the broader understanding of righteousness “does not exclude the juridical sense of the expression…. ‘Justice and righteousness’ is not a concept that belongs to the jurisdiction alone, but is much more relevant for the social-political leaders who create the laws and are responsible for their execution.” M. WEINFELD, Social Justice in Ancient Israel and in the Ancient Near East (Jerusalem: Magnes, 1995), 44. For Weinfeld, the responsibility for the maintenance of a “righteous” society lies with the king.
45 A similar perspective may be seen in Lev 19:11-18, where commands relating to the pursuit of justice are contained within commands having nothing to do with the judicial sphere. As in Deuteronomy 16, the people as a whole are called upon to see that every aspect of life, including the maintenance of the legal system, is carried out in conformity to Yahweh’s standards of righteousness.
46 LEVINSON, Legal Innovation, 100. Similarly, DRIVER, Deuteronomy, 201, argued that this section has no connection to the preceding material and suggests that Deut 16:21-17:7 may originally have been found prior to Deut 13:2.
of Moses’ speech. By following a plea for the pursuit of loyalty and obedience to Yahweh 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 and as abominations). The purpose is to persuade his audience to zealously pursue righteousness, and the use of negative examples serves to both illustrate the nature of loyalty 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 (which they teach you and according to the decisions (which they say to you, you are to do…”). The juxtaposition of these terms highlights the fact that both and 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” (and “worship” (are used here in reverse order from that in which they appear in Deut 5:9. See MERRILL, Deuteronomy, 260.
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


\(^{52}\) 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. Moreover, those offices may be seen as being more significant in the life of the nation than the king, according to Deuteronomy.

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. 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.” In addition, he is denied a judicial function.

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. In Deuteronomy, Israel as a whole is compared to sons of God (Deut 1:31). The

53 Cf. Miller, Deuteronomy, 147.
57 Lohfink, “Functions of Power,” 340; See also U. Rüterswörden, Von der politischen Gemeinschaft zur Gemeinde: Studien zu Dt 16,18-18,22 (Frankfurt am Main: Athenäum, 1987), 90-91.
The 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” 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, but rather serves most as an example of the model Israelite.60

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


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.
play. Although Yahweh is the one who will choose the king (Deut 17:15), there will be no king until the people decide they want one. When they do, they are further given a role in “setting the king” (יהוה 세상, יִשָּׁבֶת; Deut 17:15) over themselves. That is, in accordance with the decision they have made, they set Yahweh’s choice over them, and in so doing relinquish certain aspects of their communal power to the king. Whereas in the ANE “kingship descended from heaven,”63 in Deuteronomy it derives from the desire of the people and the permissive will of Yahweh.

Theological Implications

Once again, ideas and themes central to Deuteronomy are developed in this section. The denial of institutional permanence is seen in the fact that the king is not necessary for the proper living of life before Yahweh. He is appointed by the people when they desire it. Thus, there can be change in the way life is lived from the perspective of institutions, but all of life must be subject to Torah.

The significance of Torah in the life of the nation is highlighted by the fact that even the power of the king is limited by the precepts of Deuteronomy, as seen by the fact that such a law of the king appears only here in all of the Old Testament.64 Nobody in Israel, not even the king who is chosen by God, is free from the requirements of Torah. Indeed, Deuteronomy makes clear that adherence to Torah is the way to maintain the blessings of Yahweh.

More significantly, the radical nature of Deuteronomy’s program is highlighted in this section. As seen above, there is a radical difference between the role of the king in ANE royal ideology and that of Deuteronomy. Indeed, Deuteronomy consistently and carefully highlights the role of the people as a whole, and it is telling that it is this group is uniformly addressed. The result is that Deuteronomy emerges as a powerfully counter-cultural text.65 In its opposition to


64 It appears, moreover, to be unique in the ANE as well. As D.I. BLOCK, “Recovering the Voice of Moses: The Genesis of Deuteronomy,” (Southern Baptist Theological Seminary Faculty Address, 1999), 18 n. 62, notes, the nearest parallel to Deuteronomy’s law of the king is the Babylonian “Advice to a Prince.” (W.G. LAMBERT, Babylonian Wisdom Literature [Oxford: Clarendon, 1960], 110-15). However, that text does not seek to limit the king’s power, but rather describe the consequences should he fail to execute his duties properly. In addition, there is nothing in that text that could be construed as seeking to make itself (or any text) a normative document to regulate the power of the king.

prevailing models of political leadership, seen especially through its emphasis on the role of the people in assembly. 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 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 parenesis 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.