The So-called *'Ur-Deuteronomium'* – Some Reflections on Its Content, Size and Age

Carsten Vang
Lutheran School of Theology in Aarhus
cv@teologi.dk

Abstract

Modern Deuteronomy research has a tendency to reduce the extent of Ur-Deuteronomium, and a still greater part of the present Deuteronomy is ascribed to several Deuteronomistic redactions. In this article it will be argued that Deut 1-3 do function as an introduction to the admonitions in chapters 4-30, but not as a prelude to the so-called Deuteronomistic History. It has proved impossible to define reliable and transparent criteria for distinguishing between possible Deuteronomistic redactions; Deut 1-28 present itself as a stylistic and rhetorical unity; certain factors in Deuteronomy speak against an exilic provenance and the underlying structure underneath the catechesis in Deut 1-28 corresponds closely to the 2nd millennium vassal treaties, suggesting that *Ur-Deuteronomium* must reflect an earlier period than the time of late Judahite Kingdom.

1. Introduction[*]

It is obvious to most scholars that there seems to be some sort of a literary relationship between the book of Hosea and Deuteronomy. Most often this relationship is explained in terms of Hosean priority, that the authors behind the first version of Deuteronomy have received important impulses as to language and

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[*] The prehistory behind this article was a paper read at an Old Testament conference at the University of Göttingen in April 2002, later read at the Old Testament conference at the Copenhagen Lutheran School of Theology, 12. April 2007.

theology from the preaching of the Israelite prophet.[1] However, the same linguistic data may be interpreted in the opposite way.[2] Therefore the question of the extent and age of the *Ur-Deuteronomium* is crucial for a proper understanding of the literary relationship between Hosea and Deuteronomy.

Ever since Wellhausen's famous reconstruction of the literary history of the Old Testament, Deuteronomy has been firmly associated with the reform endeavours of king Josiah[3]: 1) The Law and Covenant Book, which unexpectedly was found during the repairs of the temple, was an early version of Deuteronomy. And 2), according to many researchers the composition of this book was directly motivated by religious-political issues at the time of the reform, the book being composed as a programme for the reform.[4] The first point cannot be seriously doubted.[5] The other point, however, is open to debate.[6]

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[1] See, e.g., Konstantin Zobel, *Prophetie und Deuteronomium. Die Rezeption prophetischer Theologie durch das Deuteronomium* (Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft 199; Berlin: Walter de Gruyter 1992); R.D. Nelson, *Deuteronomy: A Commentary* (Old Testament Library; Louisville: Westminster John Knox 2002). 7.

[2] Thus, e.g., J.G. McConville, *Deuteronomy* (Apollos Old Testament Commentary 5; Leicester: Apollos 2002), 20-21; 167-68.

[3] Julius Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments* (Berlin: Georg Reimer 1963⁴ [1889¹]). – For comprehensive reviews of Deuteronomy research since de Wette, see Sigrid Loersch, *Das Deuteronomium und seine Deutungen. Ein forschungsgeschichtlicher Überblick* (Stuttgarter Bibelstudien 22; Stuttgart: Katholisches Bibelwerk 1967); Horst Dietrich Preuss, *Deuteronomium* (Erträge der Forschung 164; Darmstadt: Wissenschaftliche Buchgesellschaft 1982); Maarten Jan Paul, *Het Archimedisch Punt van de Pentateuchkritiek. Een historisch en exegetisch onderzoek naar de verhouding van Deuteronomium en de reformatie van koning Josia (2 Kon 22-23)* (Leiden: Uitgeverij Boekencentrum 1988). The latest development within Deuteronomy research is reviewed in Timo Veijola, "Deuteronomismusforschung zwischen Tradition und Innovation (I)", *Theologische Rundschau* 67 (2002), 273-327, and in Eckart Otto, "Perspektiven der neuen Deuteronomiumsforschung", *Zeitschrift für die alttestamentliche Wissenschaft* 119 (2007), 319-40.

[4] Eckart Otto: "Die ... Einsicht, daß das Dtn in Form eines "Ur-Dtn" nicht nur die Reformen des Josia (622/21 v.Chr.) auslöste, sondern in dieser Zeit verfaßt wurde, ist noch heute archimedischer Punkt der Literaturgesch. des AT" ("Deuteronomium", *Religion in Geschichte und Gegenwart*. Volume II, 4ᵗʰ edition [Tübingen: J.C.B. Mohr 1999], 693-96: 694).

[5] See, e.g., the arguments put forward in Moshe Weinfeld, *Deuteronomy 1-11* (The Anchor Bible 5; New York: Doubleday 1991), 81-83; Ansgar Moenikes, "Das Tora-Buch aus dem

2. The Quest for the Original "Deuteronomy"

Much Deuteronomy research in the first half of the 20th century struggled to define the extent of the original book (*Ur-Deuteronomium*) and to delineate its prehistory. One dominant position has been that the original core of Deuteronomy which was presented to king Josiah, consisted of an earlier version of the Law Code (that is Deut 12-26*), eventually preceded by a few key verses from Deut 5-11 and with several verses from the blessing and curse sections in Deut 28.[7] Recently, several authors have argued for an *Ur-Deuteronomium* of an even more modest size.[8]

Martin Noth's epoch-making study of the Former Prophets changed the focus of Deuteronomy studies considerably.[9] He loosened Deut 1-3 from their apparently close attachment to Deuteronomy, arguing that this section was not composed as an introduction to the paraenesis in Deut 5-11, but rather was designed as the prelude to the Deuteronomistic History as such.[10] This understanding of the purpose of Deut 1-3 has won almost totally accepts until very recently.[11]

Unlike Noth, who did not show much interest in the early version of Deuteronomy, which the Deuteronomistic editor took into his work[12], researchers after Noth have supposed that the Deuteronomistic editing went beyond the presumed introduction in Deut 1-3. Within Deut 5-11 they have found traces of several Deuteronomistic layers stemming from the time of the Exile and postexilic period. And the tendency today is that also essential parts of the Law Code have gone through Deuteronomistic editing.[13] As a consequence it has proved more and more difficult to define the "original" Deuteronomy and to distinguish between the presumed *Ur-Deuteronomium* and later Deuteronomistic compilations. A general trend today goes that most of Deut 1-11 and Deut 26-30 is ascribed to several exilic and postexilic Deuteronomistic redactions.[14]

Tempel. Zu Inhalt, geschichtlichem Hintergrund und Theologie des sogenannten Ur-Deuteronomium", *Theologie und Glaube* 96 (2006), 40-55: 41-42. Only very few scholars have argued that the Lawbook of the reform is rather Ex 21-23 (most recently, to my knowledge, Eleonore Reuter, *Kultzentralisation. Entstehung und Theologie von Dtn 12* (Bonner Biblische Beiträge 87; Frankfurt am Main: Anton Hain 1993), 248-50; 255-58).

[6] In this article the relationship between *Ur-Deuteronomium*, the framework sections of Deuteronomy and Deut 32 and 33 will not be discussed.

[7] Preuss' suggestion will be met with approval from many sides even today: The content of *Ur-Deuteronomium* covers 4:45, parts of ch. 6 and 12-26*, and a little bit of ch. 27-28* (Preuss, *Deuteronomium*, 69). Likewise R.E. Clements, *Deuteronomy* (Old Testament Guides; Sheffield: JSOT Press 1989), 71. In 1994 Thomas Römer summed up contemporary research on *Ur-Deuteronomium* as follows: The treatise found in the temple probably contained 6:4 as an overture, no historical references, only a few admonitions and had a core of the laws in Deut 12-26 as its main section (Thomas Römer, "The Book of Deuteronomy", in S.L. McKenzie & M.P. Graham [eds.], *The History of Israel's Traditions: The Heritage of Martin Noth* [Journal for the Study of the Old Testament. Supplement Series 182; Sheffield: Sheffield Academic Press 1994], 178-212: 192).

[8] Timo Veijola, *Das fünfte Buch Mose. Deuteronomium Kapitel 1,1-16,17* (Altes Testament Deutsch 8.1; Göttingen: Vandenhoeck & Ruprecht 2004), 2-3: 7 verses from Deut 4:45 and 6:4-9, and 35 verses from 12:1-16:17. According to Moenikes, the original "Deuteronomy" only comprised 6:4-5.17.20-25*; 12:13-19* and chap. 16*; and several verses from ch. 28; however, it did not contain any of the social laws in the Law Code (Moenikes, "Das Tora-Buch aus dem Tempel", 42-52).

[9] Martin Noth, *Überlieferungsgeschichtliche Studien. I: Die sammelnden und bearbeitenden Geschichtswerke im Alten Testament* ([Schriften der Königsberger Gelehrten Gesellschaft. Geisteswissenschaftliche Klasse 18; Halle 1943[1]]; Tübingen: Max Niemeyer Verlag 1957[2]). The first part of his study was transferred into English in 1981 as *The Deuteronomistic History* (Journal for the Study of the Old Testament. Supplement Series 15; Sheffield: JSOT

Press 1981). Here I refer to the second edition (M. Noth, *The Deuteronomistic History* [Sheffield: JSOT Press 1991[2]]).

[10] Noth, *The Deuteronomistic History*, 28-32; cf. Römer, "The Book of Deuteronomy", 179-82.

[11] In 1994 Römer was able to state that Noth's position is "one of the safest results of critical biblical research" ("The Book of Deuteronomy", 210). However, in the last 10 years several scholars have voiced arguments against Noth's notion of an overall history composition ranging from Deuteronomy to 2 Kings, see Veijola "Deuteronomismusforschung zwischen Tradition und Innovation (I)", 274-5, and his "Deuteronomismusforschung zwischen Tradition und Innovation (III)", *Theologische Rundschau* 68 (2003),1-44: 25-41. As an example of the opposing scholars, see Raymond F. Person, Jr., *The Deuteronomic School: History, Social Setting, and Literature* (Studies in Biblical Literature 2; Atlanta: Society of Biblical Literature 2002), 8-9.

[12] Noth restricts himself to speaking of an original core, which he defines as the addresses in singular within Deut 4:44-30:20*, augmented by "essentially unconnected additions" both in the introductory address and the Law Code (*The Deuteronomistic History*, 32).

[13] E.g., Veijola maintains that up to eight different deuteronomistic and post-deuteronomistic redactional layers can be discerned in Deuteronomy (Veijola, *Das fünfte Buch Mose*, 3-5).

[14] Since Noth it has been a matter of debate, whether the Deuteronomistic redaction of *Ur-Deuteronomium* (and with it the related layers in the Deuteronomistic History) took its beginning already in Josiah's time (thus the "Cross-school"), or began only in the Exile (the

This short overview of the scholarly debate concerning the *Ur-Deuteronomium* highlights two critical problems: First, do we hold reliable and transparent criteria enabling us to trace the courses of redaction behind the present form of Deut 1-30? Next, the basis for dating the assumed layers to the Exile or the postexilic era is more problematic than often realised. Till now these problems have not received sufficient scholarly attention.

3. The Relation Between Deut 1-3 and Deut 4-30

Noth's position is problematic for several reasons. Against his understanding, Deut 1-3 do in fact appear to be rhetorically and theologically well linked up with the admonitions of chapters 5-11, 12-28 and 29-30. The accounts in Deut 1-3 about the disbelief of the desert generation, about the present generation's restraint of military involvements and about their subsequent victories during the final part of their journey, all those stories have the function to urge the people to make a new commitment to a sincere obedience towards God on basis of their negative and positive experiences and to trust in God's ability to give them the land as promised.[15] The first three chapters therefore have the same rhetorical concern as Deut 5-11. Style, vocabulary and ideology in Deut 1-3 are much in common with chapters 4 and 5-28.[16] The total conformity between God's commandments given "then" at Horeb and the Deuteronomic[17] admonition given "today" (a prominent

feature in Deut 5-11) is hinted at already in 1:6. Contrary to the book of Joshua, the opening chapters of Deuteronomy are cast as a Mosaic discourse in the first person singular and plural, just like the rest of the book. Besides, the geographical framework for Moses' speech, describing a journey from Horeb (1:6) to Beth Peor (3:29), has no bearing on the events described in the Book of Joshua.[18]

Add to this that Deut 2:1-23 displays an absolute and unqualified sympathetic attitude towards the neighbouring peoples Edom, Moab and Ammon. This attitude seems difficult to reconcile with an exilic/postexilic setting of Deut 2 where the Old Testament anger against those nations had increased considerably.[19] The traumatic experiences of the Exile certainly did not foster a more positive mind towards the neighbours in the East and Southeast.[20] The peaceable attitude called for in Deut 2 is totally different from the conduct and position taken by the Books of Samuel and Kings.

Thus the opening chapters of Deuteronomy should be seen more in keeping with the issues in Deut 4 and 5-30 than as an introduction to the conquest narratives in Joshua.[21] This has an important bearing on the evaluation of the Deuteronomistic sounding parts of Deuteronomy.

"Smend-school"). For a short run-through of the positions, cf. Römer, "The Book of Deuteronomy".

[15] Cf. J.G. McConville and J.G. Millar who have stressed the many theological threads in common between Deut 1-3 and the rest of the book: From its past experiences Israel should learn to address the present challenges, living as the people of God standing on the threshold to a new phase of its journey (J.G. McConville and J.G. Millar, *Time and Place in Deuteronomy* [Journal for the Study of the Old Testament. Supplement Series 179; Sheffield: Sheffield Academic Press 1994], 31-32). Lothar Perlitt, while certainly not sharing the conclusions of this article, in his own way also has pointed to the many lines of connection to the following sections: "Es gibt hier [Deut 1-3] kaum ein theologisches Motiv ohne Bezug zum Kern des Dtn." (L. Perlitt, "Deuteronomium 1-3 im Streit der exegetischen Methoden", in *Das Deuteronomium. Entstehung, Gestalt und Botschaft*, ed. N. Lohfink [Bibliotheca Ephemeridum theologicarum Lovaniensium LXVIII; Leuven: Leuven University Press 1985], 149-63: 158).

[16] Weinfeld, *Deuteronomy 1-11*, 14.

[17] The term "Deuteronomic" here means "pertaining to the Book of Deuteronomy".

[18] The speech in Deut 1-3 takes place בְּאֶרֶץ מוֹאָב (1:5), cf. the phrase בְּאֶרֶץ סִיחֹן (4:46), two geographical terms being unknown in Joshua, and it is located at the "valley opposite Beth Peor" (3:29). On the other hand, the events in Jos 1-6 begin with the stop of Israel at "Shittim" (2:1; 3:1), a place-name unmentioned in the line of stopping places in Deuteronomy, but forming a trajectory to Num 25:1-9.

[19] Both the books of Kings and several of the prophetic writings display intense negative feelings towards Edom, Moab and Ammon, portraying them as aggressors being under the curse of God. Deut 2, on the other hand, depicts their settlement and their land acquisition in exactly the same theological terms as the Deuteronomic call to Israel to settle in the land of Cana'an. The reference to those nations functions theologically as positive paradigms for Israel in order to grasp what God is going to do with his own people.

[20] Cf. also Ps 137; Mal 1:2-4.

[21] Thus also Claus Westermann, *Die Geschichtsbücher des Alten Testaments: Gab es ein deuteronomistisches Geschichtswerk?* (Theologische Bücherei 87; Gütersloh: Chr. Kaiser / Gütersloher Verlagshaus 1994), 126. His proposal, however, that Deut 1-11 consists of two layers, a layer of "Gebotsparänese" and one of "Gesetzparänese", is artificial. Recently, Jan Christan Gertz too has argued against Noth's position; see his "Kompositorische Funktion und literarhistorischer Ort von Deuteronomium 1-3", in M. Witte, K. Schmid, D. Prechel, J.C. Gertz (eds.), *Die deuteronomistischen Geschichtswerke: Redaktions- und*

4. Criteria for Perceiving Redaction-Critical Activity

It is obvious that the present book shows traces of editing. It betrays at least certain visible insertions in the discourses of Moses.[22] The existing book also contains some references to a lawbook (for example 28:58), the material of which has been included in the present Book of Deuteronomy. Besides, it must be taken for granted that like most works with a long history, Deuteronomy has experienced some language revisions during its transmission history[23], for example in connection with the reform undertakings of king Josiah, or when it (probably at an early time) was adjusted to the larger corpus of Genesis - Numbers; such revisions will presumably also have included language extensions and modifications. This may explain the linguistic overflow and syntactical unevenness which may be observed in a few cases (for example Deut 1:7-8).

The problem is how to establish reliable and objective criteria to trace redactional development and how to decide the scope of the original version. When we often face rather serious difficulties in deciding which one out of two or several text-critical variants may be the more original one – in spite of the fact that in *text-critical* questions we are comparing different *extant* versions – the problems grow much bigger when we try to understand the literary development of a text, which we only know from the extant tradition. And when it often turns out to be very problematic to define the direction of dependence in cases of literary parallels (where yet the critic is collating similar phrases in two or several parallel texts), it seems insurmountable to say anything beyond the level of sheer conjecture about possible redactional layers in a text. As long as we do not have other extant texts

acting as a control, detailed redaction-critical analyses of Deuteronomy will be very dubious and speculative.[24]

Despite many sophisticated literary-critical and redaction-critical studies since the pioneering work of Noth, reliable criteria for discriminating between Deuteronomic and Deuteronomistic layers have not yet been established.[25] The plurality of proposed strata and the variety of the scholarly propositions as to the extent of the assumed Deuteronomistic rewritings by researchers adhering to the same methodology, suggest a great amount of subjectivity in the procedure.[26]

The *numerus*-criterion (that is distinguishing between various redactions on the basis of the frequent alternation between singular and plural address) has most often been appealed to.[27] However, in most cases this standard does not function

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religionsgeschichtliche Perspektiven zur "Deuteronomismus"-Diskussion in Tora und Vorderen Propheten (BZAW 365; Berlin: Walter de Gruyter 2006), 103-23.

[22] Most obvious are 2:10-12.20-23; 3:11; 4:41-43; 10:6-7. In the literary-critical studies of Deuteronomy, 4:44-49 has often been interpreted as yet another heading besides 1:1-5, for that reason implying that Deut 1-3 must be a secondary introduction to the book. However, because of its many repetitious elements, 4:44-49 might just as well be a later insertion, the function of which is to sum up the theological background for the admonitions that now follow.

[23] Cf., for example, Bruce K. Waltke & M. O'Connor, *An Introduction to Biblical Hebrew Syntax* (Winona Lake: Eisenbrauns 1990), 17-19. To give one example, a study of the proto-Samaritan Pentateuch manuscripts from Qumran shows them to be linguistic modernizations of a proto-Massoretic text type (Bruce K. Waltke, "Samaritan Pentateuch", *The Anchor Bible Dictionary. Vol.* 5 [New York: Doubleday 1992], 932-40: 933-34).

[24] Cf. Moshe Greenberg, "What Are Valid Criteria For Determining Inauthentic Matter in Ezekiel?", in J. Lust (ed.), *Ezekiel and His Book: Textual and Literary Criticism and Their Interrelation* (Bibliotheca Ephemeridum theologicarum Lovaniensium 74; Leuven: Peeters 1986), 123-35: 130; Person, *The Deuteronomic School*, 4.

[25] Several scholars have noticed this: McConville & Millar, *Time and Place in Deuteronomy*, 51; Römer, "The Book of Deuteronomy", 186. 210; J. H. Tigay, *Deuteronomy* דברים (The Jewish Publication Society Torah Commentary; Philadelphia: The Jewish Publication Society 1996), xxvi.

[26] Person has voiced the dilemma very succinctly: "The problem lies in the inability of redaction criticism to distinguish one Deuteronomic redactor from another Deuteronomic redactor, since all Deuteronomic redactors use similar Deuteronomic language and themes" (Person, *The Deuteronomic School*, 4).

[27] E.g., Preuss, *Deuteronomium*, 35; Hans Lubsczyk, "Die Bundesurkunde. Ursprung und Wirkungsgeschichte des Deuteronomiums", in C. Brekelmans & J. Lust (eds.), *Pentateuchal and Deuteronomistic Studies: Papers Read at the XIIIth IOSOT Congress Leuven 1989* (Bibliotheca Ephemeridum theologicarum Lovaniensium 94; Leuven: Leuven University Press 1990), 161-77: 162-63; Noth, *The Deuteronomistic History*, 32; Reinhard Achenbach, *Israel zwischen Verheißung und Gebot. Literarkritische Untersuchungen zu Deuteronomium 5-11* (Europäische Hochschulschriften, Reihe 23: Theologie 422; Frankfurt am Main: Peter Lang 1991); Werner H. Schmidt, *Die zehn Gebote im Rahmen alttestamentlicher Ethik* (Erträge der Forschung 281; Darmstadt: Wissenschaftliche Buchgesellschaft 1993), 26. – Minette de Tillesse made this criterion a major one, cf. Georges Minette de Tillesse, "Sections "tu" et "vous" dans le Deutéronome", *Vetus Testamentum* 12 (1962), 29-87; see also Gaêtan Minette de Tillesse, "TU & VOUS dans le Deutéronome", in R.G. Kratz & H. Spieckermann (eds.), *Liebe und Gebot. Studien zum Deuteronomium. Festschrift zum 70. Geburtstag von Lothar Perlitt* (Forschung zur Religion und Literatur des Alten und Neuen Testaments 190; Göttingen: Vandenhoeck & Ruprecht 2000), 156-63.

very well.[28] The phenomenon of *numerus* alteration can be observed both in non-Deuteronomic texts in the Old Testament and in extra-Biblical treaty texts[29], and at times there are obvious variations between MT and the versions at this point. The repeated change of number is probably more due to the oral discourse than a sign of different stages of redaction.[30]

Other criteria for assuming incisions, such as repetitions in the text[31], are probably more due to the critic's own culture-bound tastes than a result of a proper understanding of the ancient habits for giving a speech. An engaged paraenesis and repeated callings for a specific response from the audience will often give way to a repetitive style in the address.[32]

Variations in thematics and theological tensions have occasionally been noticed as a further warrant for supposing literary development (for example, the basis for the gift of land: either due to pure grace or to observance of law). These variances are at best ambiguous. Of course it is possible to isolate phrases and paragraphs according to certain ideological tendencies in Deuteronomy, for example a "nomistic" or a "promise-related" disposition. But the sheer possibility of

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[28] Römer, "The Book of Deuteronomy", 185. Some have seen in this change of number primarily a stylistic device in order to create intensity, e.g. Norbert Lohfink, *Das Hauptgebot. Eine Untersuchung literarischer Einleitungsfragen zu Dtn 5 - 11* (Analecta Biblica 20; Rome: Pontificio Instituto Biblico 1963), 239-58; Georg Braulik, *Die Mittel deuteronomischer Rhetorik: Erhoben aus Deuteronomium 4,1-40* (Analecta Biblica 68; Rome: Pontifical Biblical Institute 1978), 146-50; Weinfeld, *Deuteronomy 1-11*, 15-16; McConville & Millar, *Time and Place in Deuteronomy*, 119.

[29] E.g. in the Sefire treaties, see Weinfeld, *Deuteronomy 1-11*, 15.

[30] Buis and Leclerc have directed attention to the change of number as a typical trait in oral cultures (Pierre Buis & Jacques Leclerc, *Le Deutéronome* [Sources Bibliques; Paris: J. Gabalda et Cie 1963], 9-10). Rhetorical intentions may explain the frequent change of number (McConville, *Deuteronomy*, 38).

[31] Cf. Weinfeld, *Deuteronomy 1-11*.

[32] See to this Brent A. Strawn, "Keep/Observe/Do — Carefully — Today! The Rhetoric of Repetition in Deuteronomy", in B.A. Strawn & N.R. Bowen (eds.), *A God So Near: Essays on Old Testament Theology in Honor of Patrick D. Miller* (Winona Lake: Eisenbrauns 2003), 215-40. Perlitt also has voiced his doubt as to the possibility of establishing various Deuteronomistic layers on the observation of syntactical unevenness in a paragraph (Lothar Perlitt, *Deuteronomium* [Biblischer Kommentar Altes Testament V/1, Lief. 1; Neukirchen-Vluyn: Neukirchener Verlag 1990], 37-38).

making such incisions in the text, in itself gives no reason for supposing redactional activity. The risk of circle-reasoning is too great.

5. Deut 1-28: A Rhetorical Unity

As a matter of fact, Deut 5-28 do in most aspects display the same vocabulary, style and theological thrust. Most of the marked expressions are common to Deut 5-11 and 12-28.[33] The hortatory style and the paraenesis of appeal in 5-11 are met several places also in the Law Code. The same style and phraseology also govern Deut 1-3, albeit to a lesser degree. The declared context for the admonitions is identical throughout the entire Deut 1-28: the speaking subject all over is Moses, never the Lord.[34] And the notion of society being depicted is identical throughout all parts of Deuteronomy: The society is a predominantly agricultural society consisting of herds and peasants. The work, however, do not contain any trace of the disagreements and tensions between merchants and officials living in a more urban and trade-induced society.[35]

Deut 4 is very often estimated to be a (late) addition, either a late exilic[36] or a postexilic[37] insertion. However, I see no cogent reasons to ascribe it to another level of redaction than 1-3 and 5-28. The stylistic and phraseological traits are coincident with those of chapters 5-28.[38] In Deut 4 Moses is extracting the warnings to be learned from some recent, but very negative experiences (at Beth Peor, 3:29; 4:2), and he is drawing the attention of the audience to some decisive contra-experiences (the delivery from Egypt and the revelation at Horeb), by this underlining the lessons to be learned from these experiences. Deut 4 admonishes primarily on the basis of their *experiences* of what they have seen and heard at Horeb, and it expounds the relevance of the past for the present. On the other hand, Deut 5-11

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[33] As may be seen from the list in Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon Press 1972), 320-65.

[34] It is not only in the frame sections (Deut 1-3. 31) that Moses is described as the speaker.

[35] My understanding here differs markedly from Clements, *Deuteronomy*, 87-91.

[36] Among others, Weinfeld, *Deuteronomy 1-11*; Römer, "The Book of Deuteronomy", 200; Eduard Nielsen, *Deuteronomium* (Handbuch zum Alten Testament I/6; Tübingen: J.C.B. Mohr 1995).

[37] E.g., Otto, "Deuteronomium", 696; Veijola, *Das fünfte Buch Mose*, 4-5.

[38] Deut 4 betrays the same vocabulary, style, rhetorical outlook and literary characteristics as found everywhere else in Deut 1-3 and 5-28.

admonish primarily from the divine *word* spoken at Horeb, yet with constant references to the past.[39]

Summing up, there are clear indications of redaction activity in Deuteronomy; on the other hand Deut 1-28 in many aspects present themselves as a stylistic and rhetorical and thematic unity. This trait has been underexposed in many Deuteronomy studies.

6. Evidence of an Exilic Setting?

It has been a premise in the understanding of several scholars that certain parts of Deuteronomy contain clear signs of having an exilic or postexilic provenance. This is taken as a sure signal that these paragraphs belong to later editorial strata than the core of the Law Code (*Ur-Deuteronomium*). This is true for example of the idea of exile in Deut 4:25-28, of most of the curse sections in chapter 28, of the portrayal of the destroyed land in 29:21-28, and of the hope being offered in 4:29-30 and 30:1-10.[40]

The assumed evident signs of an exilic agenda behind certain parts of Deut 1-30 are on closer inspection dubious, however. The threat of being uprooted from one's own country by a hostile army and being deported to a foreign country was a part of common consciousness in the Ancient Near East, at least from the 15th century BC.[41] The Deuteronomic threat of an almost certain exile is formulated in

rather open and polyvalent phrases and does not indicate familiarity with particular deportations like the one in 587 BC. Deut 28 seems to imagine a dispersal to many nations (28:36-37, cf. verse 64), and not a joint forced relocation to another geographical area.

6.1. The Deuteronomic Terms for "Going into Exile"
The curious fact is that Deut 4:25-29 and 28:20-68 describe the phenomenon of deportation and exile only in very general terms, using expressions which often are lacking in the Deuteronomistic parts of the Old Testament.[42] On the other hand, Deuteronomy avoids the technical and specific terms for going into captivity or being taken into captivity, that is expressions like הֶגְלָה / גָּלָה, and the derived nouns גּוֹלָה and גָּלוּת. These terms are most prominent in the prophets from Amos and onwards.[43] They form a part of the language in the Books of Kings, operating as precise vocabulary for the Assyrian and Babylonian exiles[44], and they stand as adequate terms for the Deuteronomistic authors in their evaluation of Israel's and Judah's destiny.[45] However, these terms are not used at all in Deuteronomy in spite of its heavy stress on the probability of being driven into exile. Deuteronomy surely employs the root גלה, but not in the sense "going into exile" (cf. 23:1; 27:20; 29:28).

This surprising phenomenon has only received scant attention in the scholarly literature.[46] However, the few attempts to explain this disturbing fact do not seem satisfactory.[47] The Deuteronomic vocabulary for "going into captivity" does not

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[39] 4:44-49 interrupts the flow of the discourse, and the passage (or verse 45 alone) is often read as the original heading for the *Ur-Deuteronomium* (e.g. Tigay, *Deuteronomy* דברים), thereby indicating several stages of edition in Deuteronomy. However, because of its reiteration of much of the information already given in Deut 1:1-5, and due to its many links back to Deut 2-3, it seems more probable that the verses are an editorial insertion (together with 4:41-43) in order to repeat the historical-theological foundation for the paraenesis to follow (thus also McConville & Millar, *Time and Place in Deuteronomy*, 47-48; McConville, *Deuteronomy*).

[40] E.g., Preuss *Deuteronomium*, 17. 72-3. 156-7; Weinfeld, *Deuteronomy 1-11*, 59; Römer, "The Book of Deuteronomy", 186; 200; Nielsen, *Deuteronomium*, 11.

[41] At this time the extensive deportations of many people by the New Kingdom pharaohs took their beginning. See the references in Bustenay Oded, *Mass Deportations and Deportees in the Neo-Assyrian Empire* (Wiesbaden: Dr. Ludwig Reichert Verlag 1979), 2. According to Oded, "the phenomenon of the large-scale deportation of a civilian population was long since known in Egypt, the Hittite Empire, and in Mesopotamia". This cruel practise was not first invented by the Assyrians in the 8th Century BC.

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[42] E.g., נהג piel (4:27; 28:37). Elsewhere this verb is used with positive connotations, cf. Ps 80:2.

[43] E.g., Am 1:5-6.9; 5:5.27; 6:7; 7:11.17; Hos 10:5; Mi 1:16; Isa 5:13; Jer 13:19; 20:4; Ob 1:20.

[44] 2 Kgs 15:29; 16:9; 24:14-15; 25:11.21.27, and others.

[45] 2 Kgs 17:6.11.23.27.28.33; 18:11; Judg 18:30; Jer 1:3; 24:1; 27:20; 29:1.14.22; 40:1.

[46] Cf. McConville, *Deuteronomy*, 210; Lothar Perlitt, *Deuteronomium* (Biblischer Kommentar Altes Testament V/1, Lief. 5; Neukirchen-Vluyn: Neukirchener Verlag 2008), 343.

[47] According to Claus Westermann and Rainer Albertz, the absense of the term *glh* in Deuteronomy shows that this term did not gain access everywhere ("גלה *glh* aufdecken", in Theologisches Handwörterbuch zum Alten Testament [1971], vol. 1, 418-26: 421). However, this does not explain why the alleged exilic stratum avoids the term in spite of its

support the notion of an exilic provenance for the passages in question, but suggests a background in a time before the dreadful experience of the Assyrian and Babylonian exiles.[48]

The comprehensive and often detailed list of curses in Deut 28-29 do not give any hint to the destruction of a chosen city or a temple, two factors that play a crucial part in the theological reflection on the fall of Jerusalem in 587. Why is even a hint to the obliteration of "the place that the Lord will chose" totally absent from Deut 28? Deuteronomy provides the overall understanding that the circumstances for the dispersed people of God will get worse and worse in the exile, both according to number, mood and religion (see 4:28; 28:64-68). This notion is difficult to see as a reflection of post-587 reality or experiences. There is nothing in the description of the Exile in chapter 4 or 28 to suggest that the real audience already suffers from the reality of the *Babylonian* exile.

6.2. The Swift Exile

Besides Deuteronomy shows up a remarkably consistent idea that God's punishment will appear *promptly* in case of apostasy. If Israel should make any idol, the listeners are assured that they will perish swiftly from the land (4:26 – cf. the adverb מַהֵר), taking the shape of being expelled from it. Verse 26b adds that they will not get a long history in the land, indicating that מַהֵר has the force of stressing that God's reaction to the apostasy will be without delay.[49] Deuteronomy voices the same understanding in several other instances (7:4; 11:17; 28:20).[50] Stated differently, God will not delay in paying back if anybody should choose not to

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content-loaded use in the Deuteronomistic literature. – Weinfeld surmises that using the verb נלה would have been anachronistic in a pretended speech by Moses (Weinfeld, *Deuteronomy 1-11*, 208-9). This however implies a knowledge of language history development in author and audience that is improbable.

[48] The terms from Deut 4, 28 and 30 being found also in the Book of Jeremiah, e.g. the phrase הֵפִיץ בְּעַמִּים, may be explained as examples of Deuteronomic phrases being adapted by the Book of Jeremiah. In Jeremiah, however, the phrase has been moderated slightly.

[49] "Das Strafurteil Gottes kennt keinen Aufschub" (H. Ringgren, "מהר *mhr*", *Theologisches Wörterbuch zum Alten Testament* IV [Stuttgart: Kohlhammer 1984], 713-17: 715).

[50] Similarly Jos 23:16b, sharing several phrases with Deuteronomy. Because of the fact that the whole verse 16b is lacking in the Old Greek, it seems an obvious conclusion that the half-verse should be considered an addition to an earlier version of Joshua.

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follow his precepts (7:10 – לֹא יְאַחֵר). The judgment will not only be carried out in haste, it will appear swiftly. Postponement cannot be expected.

This idea of Israel's hasty ruin is not only tied up with the sure loss of land, exile and a great decrease of number in the dispersion. It is also combined with the idea of severe drought and total failure of foods in 11:17. The promptness of God's judgment therefore is a dominant trait in Deuteronomy's description of the direct connection between covenant transgression and God's reaction.

This, however, stands in a sharp contrast to the affairs in the Deuteronomistic History (Judges, Kings), to the Deuteronomistic parts of the Book of Jeremiah and to passages like Neh 9. In different ways they all stress that God did *not* undertake his devastating action in haste, but he showed much and repeated forbearance before the exile eventually came. This rhetorically functioning threat in Deuteronomy of God's hasty retribution is out of step with the dominant perspective in the literature, which was edited in the Exile and the postexilic period.

It certainly also militates against the general understanding of the prophets. Hos 2:4-15 provides an illustrating example: In this passage the woman (Israel) is warned that her behaviour must be changed considerably, if she will not face a dreadful destruction (Hos 2:4-5). Her husband tries to hinder her contact with her "lovers" in order to make her reflect upon her former relationship with her husband (2:8-9). She is punished and disciplined through various means (2:10-14). And at the end, when all this does not lead to the desired change of behaviour, Israel gets the full punishment: the exile (2:15b, cf. verse 16). Another example is Hos 11:1-5. These verses proclaim that God's doom occurred only after much forbearance. In spite of the fact that Israel gave all its attention and devotion to the Ba'als (11:2), God continuously took care of them throughout their history (11:3-4). According to the Book of Hosea, therefore, the removal from Israel's land certainly did not occur מַהֵר.

The notion of God's swift reaction corresponds to the overall proclamation of Deuteronomy.[51] However, it seems difficult to combine with the assumed exilic

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[51] The theological concept of God's continuous forbearance, so prominent in Kings, Book of Jeremiah and in Neh 9, is lacking in Deuteronomy.

setting of these sections of Deuteronomy.[52] Because in the Exile it was apparent to all theologically reflecting persons that their God of covenant had certainly not implemented the Exile מַהֵר. Add to this that such an idea seems to run contrary to the Deuteronomistic preaching in the exilic/post-exilic period.[53] Besides, it is clear from 11:17 that the soon and hasty judgment is not only tied up with national dispersion but also with natural disasters affecting the God-given land. A personal experience of the Babylonian exile therefore is not the only possible background for the מַהֵר-statements in Deuteronomy.

While the underlining that God's destructive judgment will happen soon is rhetorically contra productive in an exilic or postexilic covenant catechesis, it seems to have a better rhetorical function in a pre-exilic context. This is supported from exact parallels in the curse sections of Ancient Near Eastern law.[54]

6.3. The Climax of Doom

The description in Deut 29:21-27 of the God-given land under curse is also difficult to combine with the situation after 587 BC, where the population had suffered much and several cities were looted and burned, but the land certainly did not become uninhabitable and uncultivatable like a salt desert.[55] The Old Testament in different ways portrays the land as being desolated after 587.[56] However, this is a far cry from comparing the devastation of the land with God's destruction of Sodom and Gomorra.

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[52] This may be the reason why the Old Greek manuscript tradition avoids translating the adverb מַהֵר in Deut 4:26 (and in 9:3.16).

[53] This problem has only caught very slight attention within scholarship. Nielsen claims that the contradiction between vv 25 and 26 is only apparent, because verse 26 in fact deals with idol worship in the late pre-exilic Judah (*Deuteronomy*, 64). This, however, is due to a special reading into the text. McConville recognises the contradiction, suggesting however that the phrase will stress the certainty of God's reaction more than its swiftness (*Deuteronomy*, 110). – This seems to me a forced explanation, since the express emphasis on a swift exile does not fit well into an exilic hortatory context.

[54] Cf. the concluding phrase in Hammurapi's Law: "May the god Enlil … curse him with these curses, and may they *swiftly* overtake him" (cited from W.W. Hallo & K. Lawson Younger (eds.), *The Context of Scripture. Vol. II: Monumental Inscriptions from the Biblical World* [Leiden: Brill 2003], 353; my emphasis).

[55] Thus also Tigay, *Deuteronomy* דברים, 399, note 53.

[56] See, e.g., Ez 33:28; Zak 7:14.

The notion of destruction and exile in Deuteronomy rather suggests a pre-exilic setting than the bitter experience of the Babylonian army's violence upon the land and its inhabitants. Together with other rhetorical devices the various curse-sections in Deuteronomy serve as a strong motivation to adhere to the Deuteronomic admonitions. The striking comparison with the salt-stricken cities along the Dead Sea serve to show in as dramatic and tremendous terms as possible the stupidity of transgressing the covenant. They do not indicate the living conditions of the real audience.

The possibility of a return from exile in 4:29-31 and 30:1-10 are very often taken as positive evidence of an exilic agenda. This cannot be dismissed. In contrast to 4:25-28, 28:20-68 and 29:21-27, the Deuteronomic vision of a restoration after the exile may easily be read with an exilic or postexilic audience in mind. It should be noted, however, that this idea of return from exile is phrased in very broad and general terms in Deuteronomy. It is possible to perceive a clear rhetorical function of these passages also within a pre-exilic rhetorical setting: not only from the perspective of doom, but also from the perspective of the future after the doom, is the fundamental demand the same: to listen to God's voice.

7. The Treaty Structure

Behind the surface structure of three Mosaic speeches in Deut 1-30, another structure emerges, which in several aspects corresponds to the Ancient Near Eastern vassal treaties. These elements consist of a preamble, a historical introduction, main stipulations, more detailed and specific stipulations and a section of curses and blessings. The manifold literary and ideological affinity of Deuteronomy with the Ancient Near Eastern treaties and their thought world is one of the most important insights of modern Deuteronomy research. While most of the Assyrian elements may be found in Deuteronomy as well, a somewhat closer affinity exists between Deut 1-28 and the vassal treaties from the 2nd millennium BC – not only as to structure itself[57] (which is rather unimportant), but especially regarding the ideological foundation for the admonitions: both vassal and overlord are bound by a

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[57] Deut 1:6-3:29 differ from the historical prologues in the 2nd millennium treaties, in the respect that the paragraph has a strong focus upon the *failures* of the people. But even so it functions as a historical retrospect with a strongly admonitory perspective. And compared with the treaties, the curse and blessing section is reverse in Deuteronomy.

reciprocal commitment, there is an atmosphere of positive motivation on the basis of earlier gracious deeds from the overlord, and the promises of blessing function as a motivating factor for adherence to the admonitions.[58] The known 1st millennium treaties have no historical section, no blessings, and no concept of a mutually binding relationship between vassal and overlord.[59]

This closeness both in form and in ideology indicates that the speeches in *Ur-Deuteronomium* basically are structured according to a literary matrix being older than the assumed influence from the Assyrians. It seems difficult to imagine that this order of elements in Deuteronomy should have arisen simply from literary coincidence.

On the other hand, the parallels to the Assyrian type of treaties are not as strong as often supposed.[60] They do not belong exclusively to this type, but can be found in earlier treaties as well, and in my mind the traits in common suggest that

Deuteronomy and the Assyrian treaties draw on a common West Semitic stock of treaty curse phrases.[61]

The conceptual, ideological and formal closeness to the 2nd millennium treaties give still another indication that the overall unity already bespoken is not an impact of exilic endeavours of redactional adaptations in the exile of a short *Ur-Deuteronomium*, but is due to a covenant presentation in the pre-Assyrian period.

7. Conclusion

Summing up, *Ur-Deuteronomium* seems to me to have had a greater extent than usually supposed. The criteria for distinguishing between the original work and possible Deuteronomistic layers are too fragile and suffer from circle-reasoning. An overall unity (of course not precluding later additions and revisions) is suggested by the shared style, phraseology and theology and by the book's relative proximity to a specific treaty type, till now only known from the 2nd millennium treaties (14.-13. Century BC). The curse-sections of Deuteronomy betray some subtle differences to the corresponding Deuteronomistic passages of the Old Testament as to vocabulary, thought world and emphasis. The phraseology of the curses evokes some difficulties when spoken in an exilic or postexilic setting. These tensions however evaporate in the air, if *Ur-Deuteronomium* is considerably older than the late pre-exilic period.

As a result of this, I would presume that *Ur-Deuteronomium* might have consisted of the greater part of the present Deut 1-28, maybe also Deut 29-30, and that this document in fact seems to be earlier than the reform efforts of King Josiah. A thorough study of the Hosea – Deuteronomy relationship in its totality will give some strong indications, whether this original version of Deuteronomy should be considered even older than the early period of the writing prophets in Israel, which

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[58] Cf. Hans J. Lundager Jensen, "Talen ud af ilden: Deuteronomium, Traktat, Visdom" [= "The Address Out of Fire: Deuteronomy, Tractate, Wisdom"], in E.K. Holt, H.J.L. Jensen & K. Jeppesen (eds.), *Lov og Visdom. Seks gammeltestamentlige studier tilegnet Bent Rosendal* [= *Law and Wisdom: Six Old Testament Studies Dedicated To Bent Rosendal*] (Copenhagen: Anis 1995), 58-77: 58-65; K.A. Kitchen, "Egyptians and Hebrews, from Ra'amses to Jericho", in *The Origin of Early Israel – Current Debate: Biblical, Historical and Archaeological Perspectives*, eds. S. Ahituv & E.D. Oren (Beer-Sheva 12; Beer-Sheva: Ben-Gurion University of the Negev Press 1998), 65-131: 96-99. – For a fuller treatment, see K.A. Kitchen, *On the Reliability of the Old Testament* (Grand Rapids: Eerdmans 2003), 283-94; Noel Weeks, *Admonition and Curse: The Ancient Near Eastern Treaty/Covenant Form as a Problem in Inter-Cultural Relationships* (Journal for the Study of the Old Testament. Supplement Series 407; London: T&T Clark 2004), 156-70. I owe Prof. Joshua Berman, Bar-Ilan University, many thanks for his drawing my attention to Noel Weeks' important study.

[59] Moshe Weinfeld ("Covenant Making in Anatolia and Mesopotamia", *The Journal of the Ancient Near Eastern Society* 22 [1993], 135-39) has underlined the major differences between the Late Bronze Age treaty typology (the Hittite type) and the Iron Age typology (the Assyrian type). In 1993 he at least acknowledged (against his 1972-study, *Deuteronomy and the Deuteronomic School*) that Deuteronomy goes with the Hittite treaty line and not the Neo-Assyrian line.

[60] Parallels to the Vassal Treaties of Esarhaddon with the Medians as to vocabulary and phrases are often referred to as a strong indication of Deuteronomy's Assyrian background, cf. Preuss, *Deuteronomium*, 65-72; Römer, "The Book of Deuteronomy", 196; Veijola, "Deuteronomismusforschung zwischen Tradition und Innovation", 289-90; Otto, "Perspektiven der neueren Deuteromiumsforschung", 329-30.

[61] The often-adduced conception that the *order* of the curses in Deut 28:23-35 are identical with *VTE* 419-30 (e.g. Weinfeld, *Deuteronomy and the Deuteronomic School*, 116-29; Weinfeld, *Deuteronomy 1-11*, 7), is an overstatement in my eyes. The parallels only become visible when transforming the concrete curses to the conceptual level. While the extracted conceptual elements in some aspects are common, their order is not similar. Cf. to this Weeks, *Admonition and Curse*, 167-68; Joshua A. Berman, *Created Equal: How the Bible Broke with Ancient Political Thought* (Oxford: Oxford University Press 2008), 185, n. 77.

the document itself suggests, or whether Hosea after all must be considered one of the godfathers for the reform movement that produced it.

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