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Signature:

Shin Wook Hur

Date

The Rhetoric of the Deuteronomic Code
Its Structures and Devices

By

Shin Wook Hur
Doctor of Philosophy

Graduate Division of Religion
Hebrew Bible

Prof. Brent A. Strawn
Advisor

Prof. Joel LeMon
Committee Member

Prof. Carol A. Newsom
Committee Member

Accepted:

Lisa A. Tedesco, Ph.D.
Dean of the James T. Laney School of Graduate Studies

Date

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Shin Wook Hur

B.A., Yonsei University, 1996

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Advisor: Brent A. Strawn

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Abstract

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The rhetoric of the Deuteronomic Code (hereafter DC) has evaded scholarly studies over the years even though it was a common idea that Deuteronomy is a rhetorical work formed into Moses's speeches. This dissertation argues that the DC is also rhetorical from the view that the DC is well-organized and has its own rhetorical structures, full of rhetorical devices. The DC as a whole is formed into a chiasmic structure and each regulations in especially Deut 21:10–25:19 have their own rhetorical structure such as command-only structure, command-first structure, motivation-first structure, no-motivational structure, triadic structure, and combined structure. In addition to the rhetorical structure individual regulations employ rhetorical devices such as repetition, chiasmus, *inclusio*, alternation of prescription and proscription, and theological themes. This dissertation also argues that these rhetorical features were effective on ground not only that the DC touches the exigences of the assumed audiences, but also that the later biblical authors based their ideas upon the DC and utilized the DC to support world view.

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Preface

Writing this project has been a long journey on which I earned invaluable knowledge and wisdom. My interest in rhetoric was first formed in the seminar on Deuteronomy at Candler Theological School, 2005. I was fascinated by rhetoric as a tool to look at Deuteronomy. Especially, Deuteronomy was the right place to examine and sharpen this interpretative tool. While enjoying reading Deuteronomy through rhetorical perspective in the seminar, one question kept hovering me. Why is there little research on the legal section from the rhetorical perspective? At that moment I could not find enough scholarly work on this legal section through rhetorical perspective; I assumed that it would be difficult finding rhetorical features in Deut 12–26. Yet, the more I read the legal section, the more I found rhetorical features. I realized that the legal section was full of rhetorical features which aimed to persuade the audience to accept the proclaimed laws. This dissertation is the result of my struggle with Deut 12–26.

I wish to express thanks to the members of my committee whose encouragement, support, and advice made it possible for me to finish this project. My advisor, Brent A. Strawn, has been a great teacher and mentor from September 2005. He led me to the rhetorical world and Deuteronomy in class on Deuteronomy in Fall 2005. During my work on this project, he provided invaluable feedback on numerous drafts. His comments

without doubt improved this project to this level. Carol A. Newsom and Joel LeMon, with their insightful questions and comments, opened my eyes to look a topic in a different angle.

I also give my thanks to many teachers in Korea: Dong-Hyeun Park who taught me not only how to read the Old Testament but also how to live as a pastor and scholar, Hae-Kwon Kim who showed me a life of propeht, and Gyeng-tack Ha who showed me the wisdom of life.

Many thanks to my family, Helen and Eunsu who have endured the long period of my study, and to the support that my parents and parents-in-law have given to me.

Without these supportive people, I would not have been able to arrive at this stage of earning Ph.D. What I became as I am would not have been possible without many teachers, colleagues, and family.

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CHAPTER 1: Introduction

“[R]hetoric is a mode of altering reality . . . by the creation of discourse which changes reality through the mediation of thought and action . . . [R]hetoric is always persuasive.”

Lloyd F. Bitzer¹

I. Issues

Deuteronomy is a rhetorical book.² It purports to be Moses’s farewell speech to the Israelites in the land of Moab in literary form.³ The rhetorical purpose of this speech is to move the Israelites to listen carefully and obey the laws and rules that Yahweh has given them so that they may obtain the promised land and live long in the land (Deut 4:1, 40; 5:33; 6:24; 8:1; 11:8–9; 12:1; 30:16; 32:46–47). Biblical scholars have long recognized

1. Lloyd F. Bitzer, “The Rhetorical Situation,” *PR* 1 (1968): 4.

2. Jennifer Richards identifies two lines of rhetoric, positive and classical rhetoric on the one hand, negative and modern rhetoric on the other hand (*Rhetoric* [London: Routledge, 2008], 3). The modern disparagement of rhetoric as a superficial political speech that disguises the speaker’s real intentions is not relevant to this dissertation. In this dissertation, I will deal with traditional aspects of rhetoric that are considered to be the art of speaking or writing to persuade or influence the audience, as George Kennedy defines rhetoric as the “quality in discourse by which a speaker or writer seeks to accomplish his purpose” (*New Testament Interpretation through Rhetorical Criticism* [Chapel Hill: The University of North Carolina Press, 1984], 3).

3. Deuteronomy is composed of Moses’s three speeches (chs. 1–4; 5–28; 29–32) and appendix (chs. 33–34). According to Chaim Perelman, a speech is rhetorical by nature because every speech assumes its audience and the speaker’s purpose for the audience. The speaker organizes his/her speech in response to the audience in order to persuade the audience to align with the speaker’s argument (Perelman, *The Realm of Rhetoric* [Notre Dame: University of Notre Dame Press, 1982], 21). Kennedy also mentions that “rhetoric originates in speech and its primary product is a speech act” (*New Testament Interpretation*, 5). For Deuteronomy as a farewell speech, see Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Oxford University Press, 1972; repr., Winona Lake: Eisenbrauns, 1992), 10; Jan Alberto Soggin, *Introduction to the Old Testament: from Its Origins to the Closing of the Alexandrian Canon* (Philadelphia: Westminster, 1980), 122.

the rhetorical aspects and features of the book of Deuteronomy.⁴ However, most of the scholarly studies of Deuteronomy from the rhetorical perspective have been focused on the parenetic speeches (chs. 5–11) or the Moab Covenant (chs. 29–30).⁵ The rhetorical aspects of the Deuteronomic Code (hereafter DC) as a whole have not garnered much attention.⁶ Yet unless one carefully reads the whole legal section from the rhetorical perspective, one will likely overlook essential rhetorical features of Deuteronomy.

4. See, e.g., Gerhard von Rad, *Studies in Deuteronomy* (London: SCM Press, 1953), 15; Weinfeld, *Deuteronomic School*, 3, 171–178; Peter Craigie, *The Book of Deuteronomy* (Grand Rapids: Eerdmans, 1976), 17; Richard J. Clifford, *Deuteronomy with an Excursus on Covenant and Law* (OTM 4; Wilmington: Michael Glazier, 1982), 5; Jack Lundbom, “The Inclusio and Other Framing Devices in Deuteronomy I–XXVIII,” *VT* 46 (1996): 296–315; James W. Watts, *Reading the Law: the Rhetorical Shaping of the Pentateuch* (Sheffield: Sheffield Academic Press, 1999), 34.

5. Norbert Lohfink deals with only Deut 5–11 in his book, *Das Hauptgebot: Eine Untersuchung literarischer Einleitungsfragen zu Dtn 5–11* (Rome: Pontificio Instituto Biblico, 1963); Brent A. Strawn also relies on examples mainly from the parenetic speeches and the Moab Covenant in his discussion of the rhetorical effect of the repeated expressions in Deuteronomy (“Keep/Observe/Do – Carefully – Today: The Rhetoric of Repetition in Deuteronomy,” in *A God So Near: Essay on Old Testament Theology in Honor of Patrick D. Miller* [eds. Brent A. Strawn and Nancy R. Bowen; Winona Lake: Eisenbrauns, 2003], 215–40). Timothy A. Lenchak construes the persuasive aspect of the Moab Covenant (“Choose Life!” *A Rhetorical-Critical Investigation of Deut 28,69–30,20* (Rome: Pontificio Instituto Biblico, 1993). Richard D. Nelson also overlooks the rhetorical aspects of the Deuteronomic Code. In his discussion of chiasmic structures within Deuteronomy, he gives only one example of chiasmus within the DC (*Deuteronomy: a Commentary* [Louisville: Westminster John Knox, 2002], 3, n. 5).

6. Assuredly, some legal sections have been investigated from the rhetorical perspective (Martin J. Oosthuizen, “Deuteronomy 15:1–18 in Socio-Rhetorical Perspective,” *ZABR* 3 [1997]: 64–91; Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* [Oxford: Oxford University Press, 1997]). Yet, this concern has not been extended to include the whole DC. Levinson pays attention to the feature of revision in the Deuteronomic Code. Yet, his work deals with only three main cases: worship in one place in ch.12, Passover and Unleavened Bread in 16:1–8, and the Jurisdiction system in 16:18–17:13 (*Deuteronomy and the Hermeneutics*, 1997). One exception of this scholarly tendency is Watts’s work on *Reading the Laws*. In this book, Watts provides a rhetorical view of the biblical laws. He argues that the Pentateuch was rhetorically framed with story, lists, and divine sanction, and that this rhetorical frame is also found in the biblical legal collections. He argues that one can find this macro scheme in the DC. Yet Watts does not deal with legal regulations specifically. He admits the limitation of this macro view (*Ritual and Rhetoric in Leviticus: From Sacrifice to Scripture* [New York: Cambridge University Press, 2007], xv).

Although this dissertation aims to study the rhetorical features in the DC, its main focus is not classical but Hebrew rhetoric. Influenced by James Muilenburg's proposal in his 1969 Presidential Address to the Society of Biblical Literature, many biblical scholars such as Phyllis Trible,⁷ Jack Lundbom,⁸ Yehoshua Gitay,⁹ and Walter Brueggemann¹⁰ developed Muilenburg's proposal into biblical rhetorical criticism and used it widely in the interpretation of the Hebrew Bible.¹¹ In the process of employing rhetorical criticism in the study of the Hebrew Bible, biblical scholars have applied features of classical rhetoric to the biblical texts. For example, Gitay uses Aristotelian rhetoric as the framework of his study of Isaiah 40–48. The framework is composed of the rubrics: “The Rhetorical unit,” “Invention,” “Organization,” and “Style.”¹² The last three elements

7. Trible, *Rhetorical Criticism: Context, Method, and the Book of Jonah* (Minneapolis: Fortress, 1994).

8. Lundbom, *Jeremiah: A Study in Ancient Hebrew Rhetoric* (Winona Lake: Eisenbrauns, 1997). In his book, Lundbom argues that chiasmus and *inclusio* exemplify Hebrew's own rhetoric. He proves that throughout the book of Jeremiah chiastic structure and *inclusio* are employed.

9. Gitay, *Prophecy And Persuasion: A study of Isaiah 40–48* (Bonn: Linguistica Biblica, 1981). In this book, Gitay argues that Isaiah 40–48 aims to persuade the audience to believe that Yahweh's punishment is over (ibid, 26-27).

10. Walter Brueggemann, *A Pathway of Interpretation: The Old Testament for Pastors and Students* (Eugene: Cascade Books 2008). Especially refer to chapter 3, in which he presents his three steps for interpreting biblical texts. The three steps are (1) rhetorical analysis that focuses on the interconnectedness of words in a text, (2) a word study within a broad literary context, and (3) an ideological question.

11. At first, Muilenburg pointed out a limitation of form criticism. According to him, form critics overlooked particular features of a text because they paid attention mostly to patterns and conventions to identify a genre of the text. Thus, Muilenburg proposed instead investigating stylistic features of a text to find meanings that the authors intended. In his article, James Muilenburg identified four steps to analyze the stylistic methods of a biblical text : (1) defining a self-contained text, (2) analyzing the structure of the self-contained text, (3) observing rhetorical devices, and (4) identifying a writer's theology, intention, and purpose revealed by stylistic analysis (“Form Criticism and Beyond,” *JBL* 88 [1969]: 1-18).

12. Gitay, *Prophecy And Persuasion*, viii-ix. In fact, Gitay does not intend to adjust the Hebrew

correspond exactly to the first three of the five components of an effective argument that classical rhetoric theorized: “invention” (*inventio*), “arrangement” (*dispositio*), “style” (*elocutio*), “memory” (*memoria*), and “delivery” (*pronuntiatio*).¹³

This almost direct application raises an unavoidable question: Is it appropriate to apply classical rhetoric to the Hebrew Bible in an effort to unlock its meaning? Is the structure of classical rhetoric the right form for the Hebrew texts? It would indeed be wrong to deny any cultural contact between Greek rhetoric and the Hebrew Literature; after all the study of rhetoric in Greece overlaps with the assumed time of the composition of the Pentateuch.¹⁴ However, the fact that these two periods overlaps does

literature to fit classical rhetoric. He only borrows some criteria from classical rhetoric to investigate the rhetoric of Deutero-Isaiah (ibid., 36). However, the use of the manual of classical rhetoric in his study at least raises the question of the dependence of Israel’s rhetoric on classical rhetoric. Unlike Gitay, Clifford does not invoke the system of classical rhetoric, although he investigates Second Isaiah from a view that this is a persuasive oratory (*Fair Spoken and Persuading: An Interpretation of Second Isaiah* [New York: Paulist Press, 1984]).

13. In Cicero, *De or.* I, XXXI, the notion about five parts of an effective address occurs. “[The orator] must first hit upon *what to say*; then *manage and marshal his discoveries*, not merely in orderly fashion, but with a discriminating eye for the exact weight as it were of each argument; next go on to array them *in the adornments of style*; after than keep them guarded in his *memory*; and in the end *deliver* them with effect and charm (*italics added*).”

14. The study of rhetoric in Greece began in the fifth century B.C.E., corresponding to the emergence of democratic government in Athens (Kennedy, *New History of Classical Rhetoric* [Princeton: Princeton University Press, 1994], 3). The majority of biblical scholars agree on the Persian period (late 6th-5th century) as the date of the composition of the Pentateuch (Philip R. Davies, *In Search of ‘Ancient Israel’* [JSOTSup, 148; Sheffield: Sheffield Academic Press, 1992]). Even some scholars argue for the Hellenistic Period as the possible date of the composition of the biblical literature (Niels Peter Lemche, “The Old Testament—A Hellenistic Book?,” *SJOT* 7 [1993]: 163-93; idem, “Good and Bad in History: The Greek Connection,” in *Rethinking the Foundations: Historiography in the Ancient World and the Bible: Essays in Honour of John Van Seters* [ed. Steven L. McKenzie and Thomas Römer; Berlin: de Gruyter, 2000], 127-40; John Van Seters, *In Search of History: Historiography in the Ancient World and the Origin of Biblical History* [New Haven: Yale University Press, 1983], 209-48).

not necessarily mean that Greek rhetoric determined the rhetorical features of Hebrew literature. Kennedy, for example, claims that rhetorical factors are a universal idea rather than being restricted to Greek literature alone.¹⁵ Watts similarly claimed that the Greeks were not the only nation to use rhetoric; they were simply the only people who developed it as a theory.¹⁶

Yet if the actual practice of rhetoric in daily life was also pervasive in ancient Israel,¹⁷ then one would expect to find Israel's own rhetoric pervading the DC, and have no need to rely entirely on the manuals of classical rhetoric. So it is that I present two issues here: the necessity of the rhetorical investigation of the DC and the unnecessariness of relying only on the theories of classical rhetoric.

15. Kennedy argues that “the conceptualization and discussion of something analogous to what we call “rhetoric” occurred in other early literate cultures besides the Greek: in ancient Egypt and China, for example, where there were even something resembling handbooks of good speaking and good writing” (*Comparative Rhetoric: an Historical and Cross-cultural Introduction* [New York: Oxford University Press, 1998], 3).

16. Watts's emphasis here is placed on the theoretical aspect of Greek rhetoric. It is interesting to see the contrast of Watts's view with Kennedy's research. Kennedy points out that other ancient nations such as Egypt and China had their own rhetorical manuals. See n. 15 above.

17. Watts, *Reading the Law*, 36-37. Kennedy also mentions that though rhetorical features in speeches of ancient Israel were prominent, systematic analysis of the phenomenon was absent (*Classical Rhetoric and Its Christian and Secular Tradition from Ancient to Modern Times* [London: Croom Helm, 1980], 120-21; cf. John A. L. Lee, “Translations of the Old Testament,” in *Handbook of Classical Rhetoric in the Hellenistic Period: 330 B.C. – A.D. 400* [ed. Stanley E. Porter; Leiden: Brill, 1997], 775).

II. Method

Rhetorical criticism is, in general, divided into two approaches: one focusing on stylistic features (Muilenburg) and the other on persuasive features (classical rhetoric). The former is called “the art of composition,” the latter “the art of persuasion.”¹⁸ Although the rhetorical critics’ works are categorized according to these two divisions, these two areas should not be separated.¹⁹ Consider the stylistic features of a text: even if only unconsciously, these features indubitably have an effect on the addressees. Since all writing and speech intend particular responses from the addressees, each of their stylistic features can and should be examined from the perspective of persuasion.

The main questions that this dissertation raises are how the DC is organized and how rhetorical devices are utilized. Structural pattern and rhetorical devices are essential elements of rhetorical techniques.²⁰ Muilenburg and Tribble both emphasized these two

18. Tribble classifies biblical rhetorical studies into these two categories (*Rhetorical Criticism*, 32-48). Rhetoric as the art of composition is interested in artful speech, particularly in structure and style, while rhetoric as the art of persuasion emphasizes the persuasive purpose of a speech or a writing (ibid., 32-33, 41)

19. classical rhetoric, which discerned the persuasive aspect of rhetoric, designed numerous rhetorical devices (Aristotle, *Rhet.* III.2-12; *Rhet. Her.* IV. xiii.19-lv. 69; Cicero, *De or.* III. 149-208; Quintilian, *Inst.* VIII.6-VIII.3).

20. The two techniques, arrangement and devices, are what Muilenburg at first proposes to investigate. He proposes that “what I am interested in . . . is . . . in exhibiting the *structural patterns* that are employed for the fashioning of a literary unit . . . and in discerning the many and various *devices* by which the predications are formulated and ordered into a unified whole” (*italics added*) (“Form Criticism and Beyond,” 57). However, his aim to discern the structure and rhetorical devices is in order to perceive “the texture and fabric of the writer’s thought” (ibid., 56), not their persuasive aspects. As for these two

elements in their discussions of the pragmatic method of rhetorical criticism. According to Muilenburg, a rhetorical critic should, first, define a literary unit.²¹ The limits of the unit can be discerned by the presence of climactic or ballast lines or *inclusio*.²² Second, after defining the literary unit, one should observe its *structural pattern and rhetorical devices*.²³ These features can be discerned with careful observation of words and their use. Tribble provides a more detailed list of how to do such careful rhetorical criticism. Unlike other scholars, she suggests a particular way of translating the Hebrew. This new way of translation purportedly shows particularly well *the rhetorical structure* of a text .

After translating the text in such a way as to preserve the Hebrew word order and the

categories of rhetoric, structure and literary devices, Jeffries M. Hamilton examines the rhetoric of Deut 15 under the rubric of structure and language that he adopts from T. Eagleton's view in *Literary Theory: An Introduction* (Minneapolis: University of Minnesota, 1983), 205-206. In Hamilton's view, examination of literary device is closer to literary criticism rather than rhetorical criticism (*Social Justice and Deuteronomy: The Case of Deuteronomy 15* [SBLDS 136; Atlanta: Scholars Press, 1992], 7-43). In my view, however, the study of language should also be included in literary devices. Word choice is one of rhetorical devices that a orator or writer can select to influence his/her audience (Aristotle, *Rhet.* III. 2-4). In fact, many rhetorical devices such as *homoeoptoton* (using same case ending), *homoeoteleuton* (using similar word endings), and *synonymy* (using a synonym to avoid a repetition) are made up from intentional word choice or the use of language.

21. As for the significance of defining a rhetorical unit, Lundbom also points that "correct delimitation and careful attention to structure always bring greater clarity, and not infrequently they will be the difference between an enriched interpretation and one that is not" (*Jeremiah 1-20: A New Translation With Introduction and Commentary* [AB 21A; New York: Doubleday, 1999], 73).

22. Muilenburg admits that this is not always clear because in a literary unit there could be several punch lines. Thus, he emphasizes critics's "literary sensitivity" to discern a literary unit ("Form Criticism and Beyond," 58). However, literary sensitivity itself raises a question because it is hard to define methodologically . The concept of literary sensitivity is too subjective to regard as an interpretative tool but, instead, could perhaps be thought of as the personal knack of an interpreter.

23. Muilenburg offers two distinct structural features: parallelism and strophe. As for exemplary rhetorical devices and stylistic features, he mentions chiasmus, anaphora, particles, vocative case, rhetorical questions, and repetition (*ibid.*, 59-68).

number of words, Tribble examines the text for *rhetorical devices* such as repetition, *inclusio*, chiasmus, parallelism, and so on.²⁴

As the brief summary shows, both Muilenburg and Tribble put an emphasis on identifying the structure and rhetorical devices in order to identify the text's meanings.²⁵ However, in addition to discerning these rhetorical features in a text, rhetorical criticism as an interpretive method should consider the persuasive aspects of these rhetorical features used to influence the addressees. To put it another way, the purpose of uncovering the rhetorical structures and devices of the DC is to reveal their persuasive function for the addressees. Thus, the underlying question throughout this dissertation is how textual arrangements and rhetorical devices may have influenced the addressees to observe these laws and to follow the instructions. This study does not end with identifying such rhetorical elements but rather in probing the likely effect of those rhetorical elements on the addressees.²⁶

24. Tribble's detailed exegesis of Jonah from a rhetorical perspective is a good example of an exegesis done using rhetorical criticism. In the book, Tribble provides practical guidelines for doing rhetorical criticism: read a text repeatedly; consult background knowledge and other scholarly readings; find rhetorical features, such as repetition of words, phrases, and sentences, types of discourse, design and structure, plot development, character portrayals, syntax, and particles; then wrestle with findings to discern interrelationship between form, contents, and meanings (*Rhetorical Criticism*, 101-106).

25. While Muilenburg emphasizes the author's meaning, Tribble recognizes the three dimensions in meaning: authorial, textual, and reader's meaning. However, she puts more emphasis on textual meaning, saying "The rhetorical criticism developed here works between the alternatives: more than a single meaning and fewer than unlimited meanings. In addition, it works at the boundary of text and reader, with emphasis on the former" (ibid., 95-99). In her view, a reader shapes meanings and should not harness the text.

26. In the conclusion of this dissertation I will test whether the DC's rhetorical strategies were successful. As for a similar scholarly work, refer to Thomas Renz, *The Rhetorical Function of The Book of Ezekiel* (VTSup 76; Leiden: Brill, 1999), 229-51.

III. Plan of the Study

The main question this dissertation raises is this: What are the rhetorical features of the DC? I will investigate the features of Hebrew rhetoric in the DC in two ways: by examining its rhetorical structures and its rhetorical devices.

One might think that these two aspects correspond to arrangement (*taxis* or *dispositio*) and styles (*lexis* or *elocutio*) in the classical rhetoric. In one sense this view is true. Yet, the structure that I will deal with in this dissertation belongs to much broader sense than the classical rhetoric signifies. In classical rhetoric, arrangement pertains to the ordering of what one says in an effective and persuasive way. This arrangement results in the division such as introduction, narrative, proof, refutation, and epilogue.²⁷ All speech or writing should be arranged according to this formal arrangement for proper rhetorical effect. I will not attempt to find such a structural division in the DC. Rather, the structure I am concerned with in this dissertation is, at the micro level, a repeated pattern found in an individual law, and at the macro level, a flow of themes or interconnection among laws which produces the whole unified picture. Regarding the rhetorical devices, I will

27. The structural components of an oral or written text vary from two to seven, according to rhetoricians. Aristotle basically discerns two components in a speech: the statement (*prothesis*) of the subject and the proof (*pistis*) of the statement, and then adds two more: introduction (*prooemion*) and epilogue (*epilogue*) (*Rhet.* III.13.1414a-b). Quintilian introduces seven components: introduction, narrative, digression, proposition, partition, refutation, epilogue (*Inst.* 4.1-5, 5.13, 6.1).

not attempt to find in the DC the plethora of figures which classical rhetoricians introduced in their theoretical books. Rather, I will focus on the words that the legists²⁸ chose, their placement in relation to other words, and the characteristics that these chosen words and their placement create.

As for the rhetorical structure, I will first focus on the structure of the DC (chs. 12–26) as a whole.²⁹ Then, I will turn to the rhetorical structure of each regulation in the DC. After bringing to light the rhetorical structure of the DC, I will investigate various rhetorical devices that the legists use to appeal persuasively to the audience.

Before addressing the main questions, I will look in chapter 2 at the historical questions regarding the authorship, audiences, exigences, and purpose of the DC. The examination of the audiences and exigences will proceed according to four distinct time layers: the Mosaic, Josianic, exilic, and post-exilic periods. Such historical questions are important to give bones to the rhetorical investigation of the DC.

After setting up the rhetorical situation of the DC, I will proceed in chapter 3 to a theoretical discussion of the rhetorical structures and devices with supporting examples

28. In order to avoid the complicate designation of the author(s)/redactors of Deuteronomy, I will use the term *legists* which designates the group of people who were responsible for the composition of a text in proper.

29. The unsystematic feature of the DC has led Biblical scholars to conclude that it is a random collection of regulations. However, this difficulty and ambiguity is partly because the book was written originally for the ancient Israelites who had different literary and cultural conventions than our modern readers have. Thus, what to the modern mind may be a somewhat odd arrangement should not be construed as evidence of the DC being a random collection of texts.

from Deut 12:1–21:9 and 26:1–19. Then, in chapter 4, I will interpret Deut 21:10–25:19 as a case study by applying the rhetorical structures and devices examined in chapter 3.³⁰ After defining Hebrew legal rhetoric through the investigation of the rhetorical structures and devices in the DC, I devote the last chapter to the question of the rhetorical effectiveness of the DC—did the rhetorical strategies employed in the DC persuasively address the issues that were essential to the audiences? Thus, in chapter 5, I will first revisit the exigences defined in chapter 2 to see if these exigences are addressed through the rhetorical structures and devices in the DC. And then, I will look at texts outside of the DC which would give a hint of whether the DC had been accepted or not. Although it is true that we are not able to see whether the legislator successfully persuaded the audience to observe a law, we can for sure attempt to trace the possible effects of a particular law on the audience as long as the accessible sources allow and reveal.

Before moving to Chapter 2, I now investigate the history of scholarship in the rhetorical study of the Hebrew Bible broadly and of the DC narrowly .

30. The division of the DC into two parts in dealing with it in my dissertation is made for a practical purpose. Each regulation in Deut 21:10–25:19 is not too long but has proper length for rhetorical investigation. So, it fits in a case study. In addition, Deut 21:10–25:19 has been considered a large unit, even though this large unit has been regarded as a random collection. In chapter 3, I will show that even Deut 21:10–25:19 is not a random collection but a rhetorical unit that was purposefully arranged.

IV. History of Scholarship

A. Rhetoric in the Study of the Hebrew Bible

How has rhetorical criticism been utilized in the interpretation of the Hebrew Bible?

Through the survey of rhetorical studies in the Hebrew Bible, I will show that there has been a tension between two opposite poles in biblical rhetorical criticism: “the art of composition” and “the art of persuasion.” I will argue, however, that these two features be considered together in order to find the intention of a text as well as the text’s intended effects on addressees.

1. Art of Composition

Rhetorical criticism of the Hebrew Bible started after James Muilenburg urged scholarly attention to the particularities of biblical literature. His first call for the necessity of rhetorical observation of Hebrew texts did indeed prompt many scholars to focus on rhetorical features of the Hebrew Bible, specifically on the pattern of composition within the text, which Muilenburg suggested would yield both the meaning of the texts and the author’s intention. Muilenburg’s article on the history of rhetorical study of the Hebrew Bible influenced other scholars to develop further his pioneering suggestions for rhetorical criticism. As Dale Patrick and Allen Scult point out, Muilenburg himself paid

attention to the stylistic features of biblical texts rather than to the persuasive force of their rhetoric.³¹

After Muilenburg, Phyllis Tribble articulated the theoretical foundations of and a practical method for rhetorical criticism, especially in the book *Rhetorical Criticism: Context, Method, and the Book of Jonah*, published in 1994.³² Tribble slightly modified Muilenburg's notion that "an appropriate articulation of form-content yields an appropriate articulation of meaning," to guide the rhetorical reading of a text.³³ This rubric justifies the emphasis of rhetorical criticism on structure on the basis that the structure is what careful observation of styles of a text will reveal. To Tribble, structure in rhetorical criticism is to be shown by using exact wordings in a text.³⁴ According to her, once one defines structure through investigation of stylistic features of a text, one will realize what the text means. Discerning the meanings that the rhetorical structure and devices deliver is the final goal of Tribble's rhetorical criticism.³⁵ In this sense, Tribble's

31. Patrick and Scult point out that Muilenburg and his students were not aware of the persuasive concept of rhetoric (*Rhetoric and Biblical Interpretation* [JSOTSup 82; Sheffield: Almond, 1990], 12-13).

32. Tribble's dissertation also engages the book of Jonah from a rhetorical perspective under the supervision of Muilenburg. Her dissertation was submitted in 1963 before Muilenburg's presidential speech had been delivered. This indicates Muilenburg's significant influence upon Tribble at least in terms of her interpretative lens. She admits this influence in the preface of her book (*Rhetorical Criticism*, ix).

33. Tribble, *Rhetorical Criticism*, 91, 122.

34. *Ibid.*, 92.

35. *Ibid.*, 105-106.

work is based on rhetoric as the art of composition because she does not seek to unpack the persuasive functions of the rhetorical structures and rhetorical devices.

Another scholar worth mentioning under the category of art of composition is Jack R. Lundbom. In his dissertation on Jeremiah, Lundbom focuses on two rhetorical devices: chiasmus and *inclusio*.³⁶ He argues that these two features are essential tools to decide the structure of the whole book of Jeremiah as well as each individual prophetic oracle.³⁷ Furthermore, Lundbom argues that these two literary devices were Hebrew's own rhetorical tools, and he employs these two rhetorical tools to determine literary units and to combine them.³⁸ However, he did not investigate how chiasmus and *inclusio* function to move the audience to respond to Jeremiah's message. Thus, this book put more focus on stylistic devices than on the persuasive effects of these rhetorical devices on the audience. Yet in his commentary on Jeremiah, Lundbom does consider the interaction between the prophetic speeches and the audience.³⁹ After determining the extent of each literary unit, he searches for rhetorical features and the composition of the

36. His dissertation was submitted in 1973, and the first chair of the dissertation committee was Muilenburg. This dissertation is published in 1997 as *Jeremiah: A Study in Ancient Hebrew Rhetoric*.

37. As for the other indicators of the division of literary units, Lundbom suggests a genre change from poetry to prose or vice versa, *setumah* and *petuḥah* (although these are not clear-cut indicators), superscriptions or subscriptions, messenger formulas in the case of prophetic literature, refrains in poetry (Lundbom, *Jeremiah 1–20: A New Translation with Introduction and Commentary* [AB 21A; New York: Doubleday, 1999], 74).

38. Lundbom, *Jeremiah*, 28-35.

39. Lundbom, *Jeremiah 1–20*.

text in question. After that, under the rubric, “Message and Audience,” he focuses on finding the message and how this message might have influenced “the first audience who heard it.”⁴⁰ This shows the transition from emphasis on the stylistic features to emphasis on the persuasive features within one scholar’s work.

2. Art of Persuasion

The next category of biblical rhetorical criticism is called art of persuasion. Under this category, I will discuss three scholarly works. First, Yehoshua Gitay interprets the prophecy of Deutero-Isaiah (Isa 40–55) as persuasive speeches.⁴¹ He argues that “[Deutero-Isaiah]’s purpose was to persuade the exiles that the dawning international situation was the result of divine activity and would radically alter their total situation.”⁴²

What the author of Deutero-Isaiah intended was the change in his audience’s religious attitude toward Yahweh. Gitay investigates how the prophet achieved his goal to change his audience’s attitude. Gitay argues that the prophet persuaded his audience to accept his message by appealing to them with reasons, emotions, and ethical norms, by arranging his speeches effectively, and by using stylistic devices.

40. Ibid., 84-85.

41. Katie M. Heffelfinger raises a question about the scholarly consensus of reading Isaiah 40–55 as oratory or drama (*I Am Large, I Contain Multitudes: Lyric Cohesion and Conflict in Second Isaiah* [BIS 105; Leiden: Brill, 2011]), 1-2). She reads Second Isaiah as lyric poetry, which does not have distinct plot, narrative, or argumentation. According to her, Second Isaiah does not argue for the audience’s certain action; rather, Second Isaiah leads the audience to encounter the divine speaking voice. The kind of argument found in Second Isaiah, in her view, is not logical but lyrical.

42. Gitay, *Prophecy and Persuasion*, 34.

Second, Thomas Renz, in his monograph *The Rhetorical Function of the Book of Ezekiel* published in 1999, explores the interrelation between the author of the book and the original audience, and the “literary design of the communication.” He mentions that the rhetoric in his work is to be understood as “the art of persuasion” rather than as “the art of speech and composition.”⁴³ Also, he mentions that “my concern is the effect the Book of Ezekiel was designed to have upon its original audience by its author, and the means employed to achieve this effect.”⁴⁴ The overall argument of Renz’s book is that the book of Ezekiel was intended to shape “the self-understanding of the exilic community.”⁴⁵ Renz argues that the book of Ezekiel proclaims to the audience that they should “dissociate themselves from a communal vision in which Yahweh is not central” but “associate with the vision of a community that is first and foremost focused on and governed by Yahweh.”⁴⁶ Renz’s careful observation of the rhetorical structure of the book of Ezekiel demonstrates its main argument.

Third, Alison Lo’s work, and particularly her 2003 book *Job 28 as Rhetoric: An Analysis of Job 28 in the Context of Job 22–31*, shows the growing interest in the rhetorical effect of a text on its audience. In this book, she focuses on the rhetorical

43. Renz, *Rhetorical Function*, 1.

44. *Ibid.*, 2-3.

45. *Ibid.*, 229.

46. *Ibid.*, 229.

strategy of “juxtaposition of contradiction.” Her main argument is that Job 28 was Job’s speech and should be considered part of the development of the plot. By highlighting the contradictions between traditional theology and actual experience in Job 28, Job’s author is trying to emphasize the friends’s inadequate perspective.⁴⁷ According to Lo, the juxtaposition of contradiction as a rhetorical strategy in the book of Job serves to engage its audience in order “to make a rhetorical impact upon the flow of argument in the story as well as upon the audience.”⁴⁸ She states that “Job’s contradictory sayings in Job 22–31 serve as a rhetorical strategy to persuade the audience along the flow of argument in the story to adopt the author’s evaluative points of view.”⁴⁹ By using this rhetorical strategy, the author of the book of Job draws his audience’s worldview closer to his own. Clearly Lo is searching for the persuasive function of a rhetorical strategy, the juxtaposition of contradiction.

As this brief survey shows, there have been two opposite tendencies in the rhetorical study of the Hebrew Bible: a tendency to emphasize stylistic features and a tendency to emphasize persuasive features. Moreover, these two tendencies are often presented as if they are diametrically opposed in the study of biblical rhetoric.⁵⁰ And yet

47. Lo, *Job 28 as Rhetoric: An Analysis of Job 28 in the Context of Job 22–31* (VTSup 97; Brill: Leiden, 2003), 20-21.

48. *Ibid.*, 15-16.

49. *Ibid.*, 16.

50. This tendency of differentiation is found in the scholarly works which emphasize the persuasive aspect of rhetoric. Michael Fox argues that rhetorical criticism should focus on the persuasive features of

this is not really the case. Persuasive features of a text cannot be perceived without looking also at that text's composition and stylistic features. Likewise, investigating the structure of a text and its rhetorical devices would not have much value unless we probe further to investigate their function in the relationship with its audience and readers. Thus, these two aspects of rhetoric—the descriptive stylistic aspect and the pragmatic persuasive aspect—should be examined together. This demand is already implied in Aristotle's definition of rhetoric as “an ability, in each . . . case, to see the available means of persuasion.”⁵¹ Here, the “means” refers to invention and also could include the arrangement of the invention as well as styles. The purpose of finding the means is to persuade the supposed audience. So, even if rhetoric to Aristotle was already related to its persuasive aspect, he did not disregard the stylistic features. Likewise, the stylistic aspects were pursued for the purpose of persuasion. Unfortunately this tension between rhetoric as the art of composition and rhetoric as the art of persuasion has marked previous studies of rhetoric of the DC, to which I now turn.

discourse rather than on its stylistic features or structure (“The Rhetoric of Ezekiel's Vision of the Valley of the Bones,” *HUCA* 51 [1980]: 1). However, a text's persuasive role can be achieved by artistic choice of words and their rhetorical arrangement.

51. Aristotle, *Rhetoric*, I.II.1355b.

B. Rhetoric in the Deuteronomic Code

In this section, my main interest is in scholarly research on rhetorical aspects in the DC. I show that the rhetorical study of the DC began with an emphasis on its stylistic features, and then moved to the persuasive aspects in the DC. The recent trend is to combine both features in the study of the DC. The following exemplary books and articles will show this tendency.⁵²

The first book to be discussed is *The Law of Deuteronomy* published in 1974 by Calum M. Carmichael. Overall, the concern of the book is the intentional rhetorical shape of the DC. He argues that the deuteronomists reshaped old legal materials as well as narrative traditions to compose the DC, in so doing emphasizing the literary and stylistic features of repetition and expansion:

The two main elements of the method by which D presents laws are visible in the initial part of his code. D presents legal material, then later returns to it and expands it. In this expansion, material from other sources is also woven in. These other sources are D's preceding historical and hortatory speeches, earlier traditions found in Genesis - Numbers, and earlier M[ishpatim] laws.⁵³

52. In the following discussions, I will not deal with Lohfink's *Hauptgebot* and Lenchak's *Choose Life*. This omission is only because they do not deal with the DC in their work. Lohfink applied a close, literary reading to Deut 5–11, whereas Lenchak did a rhetorical reading of Deut 29–30. Although they do not deal with the DC, the movement from the emphasis on stylistic features to the emphasis on persuasive aspects is found in these two books. Lohfink's book, published in 1963, concerns only the stylistic features. On the other hand, Lenchak's work, published in 1993, focuses on the persuasive function of the rhetorical arrangement and devices in the Moab Covenant.

53. Calum M. Carmichael, *The Laws of Deuteronomy* (London: Cornell University Press, 1974), 94.

Carmichael also observes motive clauses found in especially unenforceable regulation, positive-negative legal form, and symmetric parallelism.⁵⁴ However, in *The Law of Deuteronomy* Carmichael does not show any interest in the persuasive effects that this intentional compositional process might have on its addressees. Rather, he emphasizes only the literary, rhetorical features of the DC.

The second book for our attention, *Motive Clauses in Hebrew Law* published in 1980 by Rifat Sonsino,⁵⁵ deals with motive clauses in biblical legal texts. Although the scope of his book is beyond the DC and although form criticism dominates its methodology, the motive clause itself is a rhetorical tool used in many individual regulations in the DC to persuade the addressees to agree with the gist of each regulation. By nature, a motive clause is a well-known rhetorical tool used to persuade the audience to observe the presented, proclaimed legal commands. Sonsino, however, does not further investigate the persuasive aspect of motive clauses; he simply points out a didactic role of motivational clauses based on its literary origination from wisdom instruction.

The third book is a dissertation written by Mary K. Deeley in 1989, *The Rhetoric of Memory: A Study of the Persuasive Function of the Memory Commands in Deuteronomy 5-26*. In this dissertation, Deeley argues that the memory is a powerful tool

54. Ibid., 34-52.

55. Sonsino, *Motive Clauses in Hebrew Law* (SBLDS 45; Chicago: Scholars Press, 1980).

to persuade an audience. As she states, “The rhetoric of memory can produce an identification or agreement of world-views with the result that an audience is persuaded to do something.”⁵⁶ After proving that memory has the power “to change, transform, or move the rememberer to act,” she argues that “the speaker who is skilled at making an audience remember certain events has at hand great persuasive power.”⁵⁷ Thus, she searches for examples of the rhetoric of memory in Deut 5–26, and explores the function of the rhetoric of memory and its effects on the audience.⁵⁸ This work signals a scholarly shift from a focus on stylistic features to one on persuasive aspects in the study of Deuteronomy.⁵⁹

The fourth book is Bernard M. Levinson’s *Deuteronomy and the Hermeneutics of Legal Innovation*, published in 1997. In this book, Levinson argues that the DC was

56. Deeley, “The Rhetoric of Memory: A Study of the Persuasive Function of the Memory Commands in Deuteronomy 5–26” (PhD diss., Northwestern University, 1989), 23.

57. *Ibid.*, 29-30.

58. Deeley’s focus on memory as a rhetorical strategy raises a question: if memories work for those who share the same experiences, how could the ancient speeches and written texts work for those who do not share the same experiences because of the remote time and space? For example, as for the DC, what meanings could they have for our contemporary audience who do not share the particular experiences that the ancient Israelites had? This question is, by nature, a hermeneutical one. In order for the ancient texts to work for the modern readers, modern readers should identify themselves with the ancient Israelites. So, the rhetoric of memory should be supplemented by a tool that later audiences can use to identify with the original audience. The representative tool for this is You-speech. By reading the You-speech again and again, the later audience must have been identified with the ancient readers. I discuss the interrelation of memory and identification in chapter 3.

59. From the 1980s onward, interest in the persuasive aspect of rhetoric began to be illuminated. Gitay’s work in 1984 emphasizes Second Isaiah’s speeches as a persuasive argument. Tribble’s work on Jonah and Lundbom’s work on Jeremiah, which focus more on stylistic features, were originally written before 1980, but published in book format after the 1980s.

written by skilled scribes, who used earlier texts with proper modification to support their cultic, social, and political innovation.⁶⁰ In order to prove his argument, Levinson presents three main cases: worship in one place in ch.12,⁶¹ Passover and Unleavened Bread in 16:1-8,⁶² and the system of jurisdiction in 16:18-17:13.⁶³ In all these cases, Levinson points out that the scribes first introduced earlier traditions familiar to the audience and then modified them to fit into the ideology of their innovation. Levinson's observation shows well that the scribal authors artificially modified the laws and rules to make them support the ideals of the reform party. This close investigation of the written legal text was made on the basis of an assumption that there should be a shared world-view, meaning an idea shared by the author and the readers in order for the author to persuade the readers to be in agreement with the author's viewpoint. This method is by nature rhetorical, not in a stylistic way but in a persuasive way. Although Levinson's detailed investigation of the three portions of the DC is based on technical terminologies and styles, the underlying assumption is full of persuasive aspects.

The fifth book is *Reading Law: The Rhetorical Shaping of the Pentateuch* by James W. Watts, published in 1999. Although this book deals with the whole gamut of

60. Levinson, *Deuteronomy and the Hermeneutics*, 4-6.

61. *Ibid.*, 23-52.

62. *Ibid.*, 53-97.

63. *Ibid.*, 98-137.

legal texts in the Hebrew Bible, it also provides good insight into the scholarly work on the rhetoric in the DC. This book offers a broad view of rhetoric employed in the composition of, narrowly, a legal text and, broadly, of the whole Pentateuch. Two points are worth mentioning. First, Watts focuses on the Israelite practice of reading laws in public. Watts argues that the reason for public reading of laws is to persuade the audience to alter their behavior. Thus, he calls biblical laws persuasive speech.⁶⁴ Second, Watts identifies a rhetorical pattern of story-list-divine sanction.⁶⁵ This literary pattern is found in each Pentateuchal law collection, such as the Sinai Covenant (Ex 19–24), the Levitical law (Ex 25–Num 9), and the whole book of Deuteronomy. The legal list is justified by narratives, and sanction shows Yahweh the law-giver’s firm determination in his decision. Thus, according to Watts’ literary pattern, the laws and rules in Deuteronomy 12–26 are supported by past recollection in chs. 1–3 and other narratives in other Pentateuchal books. The rhetorical pattern of story-list-divine sanction is an effective device to influence its audience to observe the laws.

Finally, I mention Brent Strawn’s very insightful observation on repetitive phraseology found in the DC. In 2003, he published an article titled, “Keep/Observe/Do-Carefully-Today!: The Rhetoric of Repetition in Deuteronomy.” According to Strawn,

64. Ibid., 32.

65. Ibid., 36-49.

some key words of Deuteronomy remain in the hearers/readers' mind because these words are repeated over and over. Thus, it can be said that repetition is a major rhetorical device in Deuteronomy. Based on these repeated terms, the major message of Deuteronomy can be identified as: listen carefully to the laws and rules and do them now and always.⁶⁶ This article is a good example of the change of scholarly interest in rhetoric of the DC, from an interest in either stylistic features or persuasive features, to combining both aspects into one large picture of rhetoric.

In sum, scholarly investigation of the DC from the rhetorical perspective shows clear movement from an emphasis on the DC's literary, stylistic aspects to an emphasis on the DC's persuasive aspects. More significantly, the current trend is that these two aspects are not separately construed but instead are combined deep into the rhetorical aspects of a text. Thus, in this dissertation when I use the term "rhetorical aspects" I mean both stylistic and persuasive features of the text.

As a matter of fact, this trend in the study of biblical rhetoric is already found in classical rhetoric. In classical rhetoric, as mentioned before, all rhetorical strategies serve to influence the audience in particular ways, among them: to encourage the audience to take an action, or to dissuade; to persuade the audience and judge to accept the accusation or defense; to persuade the audience to imitate a certain character after listening to words

66. Strawn, "Keep/Observe/Do," 239-240.

of praise or not to imitate after listening to words of blame. In order to achieve this rhetorical goal, the speaker has to decide what to say and how to say it.

Yet if the tendency to consider stylistic features as well as persuasive features of rhetoric in a speech or writing already existed in classical rhetoric, why does one not use classical rhetoric in the rhetorical investigation of the DC? The next section will respond to this question.

V. Classical Forensic Rhetoric and Hebrew Legal Rhetoric

This section asks whether classical forensic rhetoric is applicable to the DC. In order to answer the question, I will compare classical forensic rhetoric with forensic speeches found in the Hebrew Bible. I will argue that classical forensic rhetoric is not the best tool to interpret the DC rhetorically, not only because the DC is not legal speech (which is what classical forensic rhetoric is mainly for), but also because even Hebrew legal speeches do not follow the guidelines of classical forensic rhetoric. I will support my argument by demonstrating the two features of classical forensic rhetoric and by showing that the representative features of classical forensic rhetoric are not fully attested in the Hebrew forensic rhetoric.

A. Forensic Rhetoric of Greek and Rome

Forensic rhetoric is related to speeches made in court. In court, two types of speeches are made: (1) accusation of illegal activities; (2) defense from charges made against one. The ultimate aim of forensic rhetoric is to win a case, whether in accusation or in defense. In order to win the case, one is to carefully follow the rhetoricians' guidelines of what to say and how to say it. Among the many features of classical forensic rhetoric, I will describe two main ones: arrangement and stasis theory.

First of all, forensic speeches and writings should follow a certain order of when one says what. Rhetorical textbooks suggest that forensic rhetoric is in general composed of five parts: prooemium, narrative, proof, refutation, epilogue.⁶⁷ Each part has its particular goals. In the prooemium, the person in question should gain favor from the judges as well as the audience. The speaker aims to make the audience well disposed, attentive, and willing to receive information.⁶⁸ This aim can be achieved by appealing to

67. Quintilian, *Inst.* III. 9. Before a consensus was reached on these five divisions, some variations had been provided in rhetorical schools. In *Ad Herennium* six divisions are offered: introduction, statement of fact, division, proof, refutation, and conclusion (*Rhet. Her.* I. III. 4). Aristotle argues for four divisions: introduction, statement of facts, proof, and conclusion (Aristotle, *Rhetoric*, III. 13. 1414a-b). Aristotle did not differentiate refutation from proof. Yet Quintilian distinguished them because proof is used to establish something, while refutation is used to pull something down (*Inst.* III. 9). To the five components, Quintilian added two more: digression (*ibid.*, 4.3) and partition (*ibid.*, 4.5); cf. Richards, *Rhetoric*, 42. For more detailed information, see Wilhelm Wuellner "Arrangement," in *Handbook of Classical Rhetoric in the Hellenistic Period 330 B.C. – A.D. 400* (ed. Stanley E. Porter; Leiden: Brill, 1997), 51-87.

68. *Rhet. Her.* I. 4. 6; Quintilian, *Inst.* IV. 1. 5; Cicero, *Inv.* I. 15; Aristotle also mentions that gaining the audience's receptivity and attention are goals in prooemium. In cases where the audience is already

one's credible or good character⁶⁹ or by revealing the opponent's malicious or dishonorable character.⁷⁰ In addition to making himself credible and favorable to the audience, the orator is to identify the charge in dispute and to reveal briefly his response to the charge. Then, the orator should end the prooemium with a transitional remark which has a connection to the beginning of the next section.⁷¹

After finishing the introductory part, the orator should narrate what actually happened, that is, what is in dispute. The narrative should be clear, brief, and credible.⁷² The speaker has a particular responsibility to make the narrative brief when the facts of the case are already agreed. The most important thing in the narrative of judicial speech is to make a case clear, to make the audience believe that something has happened, and that what happened is harmful, unjust, or important.

After narrating the case in dispute, the orator presents his argument, that is his proof. In judicial speech, proof has four points, according to Aristotle. First, proof is a demonstration that something was done against one's denial of doing it. Second, proof is a demonstration that whatever was done was harmful, as opposed to the claim that it did

attentive to a speech, Aristotle insists that prooemium should be brief (*Rhet.* III. 14. 1415a-1415b). Quintilian also mentions that the prooemium is not always necessary. If the judge is well disposed or the case does not require any preparation, the prooemium can be omitted (*Inst.* IV. 1. 72).

69. Quintilian, *Inst.* IV. 1. 6-10.

70. *Ibid.*, IV. 1. 14-15; *Rhet. Her.* I. 4. 7-8.

71. Quintilian, *Inst.* IV. 1. 76-79.

72. *Rhet. Her.* I. 14. 14; Cicero, *Inv.* I. 28; Quintilian, *Inst.* IV. 2. 31. As for how to make a narrative clear, brief and credible, see e.g., Quintilian's *Inst.* IV. 2. 36-51; *Rhet. Her.* I. 14. 14-16.

no harm. Third, proof is a demonstration that what was done was unjust, as opposed to the claim that one did it justly. Finally, proof is a demonstration that what was done was important against the claim that it was not important.⁷³

These four points presented by Aristotle are explained by Quintilian as stages to be taken depending on whether the accused accepts the charge or not. In proof, the orator first should clarify his position, that is, clarify whether he admits the charge or not. If he admits the charge, then he should make his argument based on the question of definition, or the question of quality, or the question of the responsibility. And if he denies the charge, the argument should prove his innocence based on factual evidence.⁷⁴

However, presenting one's own argument in court is not enough. In the next stage after presenting one's argument, the accused rebuts his/her opponents' argument. In order to make the opponent's argument incredible, one may rely on factual evidence or make the opponent's character incredible.

Finally, at the epilogue the orator amplifies the speaker's good character and summarizes the point made in proof. Aristotle mentions four things to be included in the epilogue. First, the speaker should be shown as a good man, the opponent a bad man. Second, the speaker should amplify or diminish the importance of what has been said in

73. Aristotle, *Rhetoric*, III. 17. 1417b.

74. These stages are also connected to the types of issues which are to be discussed below.

the proof. Third, the speaker should lead the hearer into emotional reactions. Fourth, the point made in the argument should be summarized at the end, showing that the speaker has performed what he has promised at the beginning.⁷⁵ In sum, since forensic rhetoric aims at winning a dispute in court, the orator should carefully compose a speech including the elements essential to each part of forensic speech.

Second, the orator needs to follow a theory of status because the questions in legal speech are chosen based on this theory. The status (στάσις) refers to central questions at issue in court.⁷⁶ A theory of the stasis (or status) was first worked out by Hermagoras of Temnos. His theory was adapted in Cicero's *De inventione* and *Ad Herennium*.⁷⁷ Aristotle deals with this subject in *Rhetoric* 1.13.1374a and 3.17.1417b, but not in a systematic way. Instead, Aristotle only touches on the issues of "definition" and "quality." The first systematic demonstration of stasis is thus found in *Ad Herennium* I. 9. 18–15. 25. Here, three types of issues are mentioned: conjectural, legal, and juridical issues. A conjectural issue is related to the investigation of fact. That is, the focus lies on whether or not the stated case is true. A legal issue is related to the meaning of a legal text or its implication,

75. Aristotle, *Rhetoric*, III.19.1419b–1420b.

76. Quintilian defines *status* (issue) as "what arises out of the first conflict," that is, "the type of question." When one accuses the other of doing something illegal, if the other says, "I did not do that," the question is whether he did it or not. This question is called status (conjectural issue) (*Inst.* III. 6. 5).

77. Kennedy, *Classical rhetoric*, 97; Thomas M. Conley, *Rhetoric in the European Tradition* [Chicago: The University of Chicago Press, 1990], 32). As for the detailed study of Hermagoras, see Dieter Matthes, "Hermagoras von Temnos 1904-1955," *Lustrum* 3 (1958): 58-214.

whereas a juridical issue focuses on whether the act is right or wrong. Quintilian also offers three questions after introducing various opinions regarding status. These are questions of⁷⁸ conjecture (does it exist?), definition (what is it?), and quality (what kind of thing is it?).⁷⁹ These three questions are basically identical with the three types of questions in *Ad Herennium*—the conjectural, legal, and juridical questions. These central issues were considered essential for both defendants and plaintiffs. Legal disputes in court proceeded with these questions and issues in mind. The questions regarding these issues give the orators the opportunity to win the dispute.

From this brief summary of classical forensic rhetoric two features are clarified. First, the classical forensic speech should be composed according to a certain sequence: from prooemium, through narrative, proof, refutation, and to epilogue. The audience expects certain information in a specific order and thus also expects certain rhetorical elements in specific parts of a speech. Second, the technique used to discern the main questions at issue is important. The orator should show clearly whether the issue is regarding conjecture, definition, or justification. In the next section, I will look at some ancient Israelite legal speeches found in the Hebrew Bible and see if the Hebrew forensic speeches shared some features of classical forensic speeches. I will also search for those

78. Quintilian, *Inst.* III.VI.29 - III.VI.90.

79. *Ibid.*, III.VI.80.

distinct features of Hebrew forensic speeches as a necessary background for the possible existence of forensic rhetoric in the DC.

B. Legal Speeches in the Hebrew Bible

In this section, I will look at three legal speeches in the Hebrew Bible: Deuteronomy 22:13–21 (the case of a wife accused of premarital sex), Joshua 7 (the case of Achan), and Genesis 38 (the story of Tamar).

1. Deuteronomy 22:13–21

In the DC, a few legal speeches are reported,⁸⁰ among them Deut 22:13–21, which I discuss as regards the ancient Hebrew legal speeches as well as legal procedure. First, the accusation in the case is that the woman was not a virgin when she came to the accuser as a wife. Since the woman is accused of being adulterous, she needs to defend herself.⁸¹

80. The followings are some exemplary cases which include legal speeches or legal procedure in the DC: Deut 17:2–7; 21:1–9; 21:18–21; 22:13–21; 22:22–27; 24:1–4; 25:1–3; 25:5–10. Among these examples, I chose Deut 22:13–21 because this case shows both legal procedure and legal speeches from the parts of the accusation and defense.

81. In fact, she does not defend herself but her parents do. This shows the social world in which this legal material was created and preserved. As for the role of parents regarding a sexual violence or adultery done to their daughter, Tikva Frymer-Kensky provides an insightful observation. According to her, such an accusation creates a crisis regarding her family's social status because such a sexual indecency in an unmarried woman living with her parents signifies that her parents did not fulfill their duty to control their virgin daughter. Thus her parents come forward to defend their daughter in public in order to restore their own honor in the community (Frymer-Kensky, "Virginity in the Bible," in *Gender and Law in the Hebrew Bible and the Ancient Near East* [ed. Bernard M. Levinson, Tikva Frymer-Kensky, and Victor H. Matthews; JSOTSup 262; Sheffield: Sheffield Academic Press, 1998], 93-96).

In classical legal speeches, when one is accused, one first attempts to gain favor from the audience, and then makes an argument, whether that argument is to admit the charge or to deny it. One may find these steps in the father's speech and action in vv. 16–17. First, the speech in v. 16 portrays the unfaithful character of the accuser. The accuser has received the woman from her father but he hates her. This hatred is not an expected or desirable action of the man. The man's unexpected stance leads the audience to have a disparaging view of the man. Second, in v. 17 her parents defend their daughter by showing the evidence. The question in this case is related to "conjecture," in that the issue is whether she is virgin or not. The answer to the accusation is assumed as "denial of the charge," because in vv. 15–17 the woman's parents attempt to prove their daughter's virginity. Her parents offer evidence for her virginity: her (presumably not blood-stained) blanket. This use of evidence is very similar to classical forensic speech. In Greek and Rome, when one denies the charge made against one, one has to prove that one did not commit such a crime with *proper evidence*.

Yet, in vv. 20–21, we find a different picture. In v. 20, the answer to the implied conjectural question assumes that she did commit adultery. Her virginity could not be proved, and she is sentenced to be stoned. This sentence is proclaimed right after her suspected adulterous behavior turns out to be true. No more defense is made. This lack of defense is unusual in classical forensic speeches. In the case of classical legal dispute, it

would be expected that the next attempt to protect the woman would be by asking “what is virginity?”, to argue that her status of non-virginity before marriage is justifiable, or to prove that her non-virginity was caused by something other than her freewill.⁸² Yet, none of these attempts is mentioned in vv. 20–21.⁸³ Thus, from these two cases one may assume that Hebrew forensic speech is only concerned about the question of conjecture, but no more than that.

2. Joshua 7: The Case of Achan

The two simple forensic speeches in Joshua 7 support the above assumption. The first speech is between Yahweh and Joshua. After Israel is defeated at the battle against Ai, Joshua accuses Yahweh of not giving victory to them to destroy Ai, but of leaving Israel to be defeated (v. 7).⁸⁴ As response to this accusation, Yahweh blames it on the sin of the

82. One may expect that the woman could defend herself based on Deut 22:25–27 or based on Deut 22:28–29, arguing for herself that she was forced to have intercourse with a man in a remote field, or that she had intercourse with a man but she did not want to marry him. In the former case she will be not guilty; in the latter case further legal judgment will be necessary to determine whether it is right or not to marry with another man after having intercourse.

83. One may argue that the two cases in vv. 25–29 serve as the next step to protect the woman if her virginity was taken by forced intercourse in a town or if she was not yet engaged. This would be the case if one sees vv. 13–29 as one legal unit. Yet, these examples are not used in the legal dispute between the charged woman’s parents and her husband in vv. 13–21.

84. Most commentators have regarded the action of Joshua and Israel’s elders in front of the Ark of Yahweh after defeat as mourning and lamenting before Yahweh (Trent C. Butler, *Joshua* [WBC 7; Waco: Word Books, 1980], 79-80; Robert G. Boling, *Joshua* [AB 6; Garden City: Doubleday, 1982], 223; Soggin, *Joshua* [OTL; Philadelphia: Westminster, 1972], 104; Nelson, *Joshua: A Commentary* [OTL; Louisville: Westminster John Knox, 1997], 100). According to them, Joshua does not accuse Yahweh of handing over Israel to the hand of Ai, but laments its defeat. His speech in v. 7 is regarded at best as a complaint, but not as an accusation. On the contrary, they argue that Yahweh accuses the Israelites of stealing banned materials and of breaking the covenant in vv. 10-12 (Butler, *Joshua*, 80; L. Daniel Hawk, *Joshua* [BOS; Collegeville: The Liturgical Press, 2000], 116). However, Yahweh’s speech to Joshua should not be

Israelites, some of whom broke the covenant and took the banned material from Jericho. So, the charge is transferred from Yahweh to the unidentified covenant breaker. This type of legal speech is called a “question of transference” in classical forensic rhetoric. Yahweh agrees with the charge that Yahweh handed over the Israelites to their enemies. However, this agreement does not mean that Yahweh is guilty. The fact that the whole purpose of the remaining speeches is dedicated to finding out who broke Yahweh’s command indicates that Yahweh’s defense is accepted. Yahweh succeeded in defending Yahweh from Joshua’s charge.

Another simple forensic speech is attested in vv. 19–21 after the breaker of Yahweh’s prohibition has been identified by casting lots. After Achan was chosen by lots, Joshua encourages him to confess what he has done. He then confesses that he took some valuable materials and kept them for himself (v. 20). What is expected for the next step in classical forensic rhetoric is a defending speech relying on the question of “definition” or “quality.” For example, Achan may raise a question of what the ban (חרם) means. Or, he may excuse his taking of the materials by saying that he hid them for some future usage.

considered an accusation, although its content is an accusation, but as a response to Joshua’s accusation. It is Joshua who first accuses Yahweh, and it is Yahweh who defends by pointing to the real cause of the defeat. By Yahweh’s defense, the legal issue moves to the newly found culprit. Pekka M. Pitkänen recognizes Joshua’s accusation of Yahweh and Yahweh’s response in vv. 7–12a. Yet, he does not construe this speech between Joshua and Yahweh according to the stasis theory in classical forensic rhetoric. Rather, Pitkänen considers the following action to find a covenant breaker as an action that tries to avoid Yahweh’s wrath and punishment rather than attempt to find the real culprit (*Joshua* [AOTC 6; Downers Grove: InterVarsity, 2010], 177-78, 181-82).

Yet, without any such further defensive speech from Achan, Joshua sends people to secure proof. After finding evidence, Achan is sentenced to be stoned with all his family and his property.⁸⁵ The bottom line is that Achan did not defend himself after admitting what he did, and that any further speech for self-defense is not attested in the story of Achan. Thus, this example also implies that legal speeches in ancient Israel take a different form than the ones in Greece and Rome.⁸⁶

Unlike Achan's case, one can find a self-defending speech in Tamar's story in Genesis 38. Tamar's self-defense is based not on the question of conjecture, but on a question of quality or a question of transference.

3. Genesis 38: The Story of Tamar

Tamar's speech in Genesis 38 shows a self-defense element existing in Hebrew forensic speech. In the story, Tamar is brought to her father-in-law for conceiving a child while she is a widow.⁸⁷ It is too obvious to deny that she is pregnant, and she is about to be

85. The act Achan did regarding the materials in the city of Jericho alludes intertextually to the prohibition in Deut 13:18. The Israelites were not supposed to take anything from the city, which was destroyed due to their idolatrous habits. Similarly, Ronald E. Clements points out that Achan's story is "a kind of exemplary illustration of the principle laid down in Deut 20:16-18" ("Achan's Sin: Warfare and Holiness," in *Shall Not the Judge Or All the Earth Do What is Right?: Studies on the Nature of God in Tribute to James L. Crenshaw* (ed. David and Paul L. Redditt PENCHANSKY [Winona Lake: Eisenbrauns, 2000], 116).

86. The lack of self-defending speeches does not mean that Hebrew legal speeches were not fully developed like the ones in Greece and Rome. Rather, it may be caused by cultural difference between Israel and Greek and Rome.

87. The fact that Tamar was judged before her father-in-law demonstrates that the society underlying this story was controlled and governed by a patriarch. The patriarch of a household had the power to judge a case happening in his household.

burned. At the last moment, Tamar begins to defend herself by exposing that the cause of her pregnancy does not lie with her but is someone else's fault, though who is not revealed to the public. She says, "I have conceived a baby by the man to whom these belong" (v. 25). What she is saying is, first, that she admits the charge of being pregnant. Yet, next she redirects the charge to the man who made her pregnant. As evidence, she offers what she obtained from the man. Tamar's short but effective speech with evidential materials successfully defends her from the death penalty. From the view of classical forensic rhetoric Tamar's defense is based on the issue of transference.

4. Summary

It is difficult fully to understand Hebrew legal speeches because of the lack of such sources. Yet, from the investigation of the aforementioned three cases, one can make the following points. First, Hebrew legal speeches have some aspects in common with classical legal speeches, such as relying on material evidence and asking the question of hidden cause. These common elements do not, however, automatically mean Hebrew rhetoric depends on classical rhetoric or contrarily the former has an effect on the latter. Rather, these are universal aspects of legal speeches. All legal speeches are made to win the case. Two distinct cultures could share certain similar features because legal speeches are a human activity. Some features must have been practiced even without one culture having contact with the other. Second, not all the features of the classical forensic rhetoric

are found in Hebrew legal speeches. Hebrew legal rhetoric did not assume complicated legal procedure or further excuses. Rather, punishment was often granted without a person being allowed to defend him or herself fully from a charge.

VI. Conclusion

The absence of rhetorical investigation of the DC prompts this dissertation. Without relying on the manuals of classical rhetoric, this dissertation will investigate the rhetorical structures and devices of the DC. This rhetorical investigation of the DC grounded in the structures and devices partly results from the question: Is the classical manual for forensic speeches applicable to examine the rhetorical features of the DC? The rhetorical elements of the classical forensic rhetoric are useful mostly to compose a legal speech to accuse or to defend in court. Yet, most of the DC is not a legal speech to accuse or to defend someone from a legal charge. Rather, the DC is a legal document which lists do's and do not's. The casuistic laws in the biblical legal materials also include such prescriptions and proscriptions, but they are still not quite equivalent to classical legal speeches.

Another difficulty in comparing the legal rhetoric in the Hebrew Bible with the forensic rhetoric of Greek and Rome is the paucity of legal speeches in the Hebrew Bible. There are only several instances that can be categorized as forensic speeches. The

investigation of Hebrew legal speeches showed that some but by no means all the features of the classical forensic rhetoric are attested in them.

In sum, the attempt to see if one can apply the classical forensic rhetoric into the DC discloses the fact that such direct application is problematic. The classical forensic rhetoric systematized in rhetorical textbooks is not about how to compose legal lists but about how to compose legal speeches in order to accuse others or defend oneself. Classical forensic rhetoric did not intend to give guidelines for legal codes. All rhetorical treatises aimed to help one compose effective legal speeches in court. Thus, the methods and technique of classical forensic rhetoric are not applicable directly into the DC, and this calls for different types of rhetoric to be employed. What is needed is an examination of the nature and constructs of Hebrew rhetoric. The work of the authors mentioned above (chapter 1 section IV) has attempted to do just that. However, we note again that this previous scholarship insufficiently focus on the rhetoric of the DC proper. So, the chapters that follows attempt to identify the nature of Hebrew rhetoric because this is largely ignored although it is very important, and, as we shall see, the DC is a highly rhetorical section of Deuteronomy.

CHAPTER 2 Rhetorical Context of the Deuteronomic Code

“You persuade a man only insofar as you can talk his language by speech, gesture, tonality, order, image, attitude, idea, identifying your ways with his.” Kenneth Burke¹

This chapter will examine certain elements of the rhetorical context of the Deuteronomic Code (DC): its author(s), audiences, exigences, and purposes.² Being familiar with these elements is essential to reading the DC properly because a text is not produced *ex nihilo* but is a result of a particular circumstance and a type of human response to a situational request.³

1. *Rhetoric of Motives*, 55.

2. Rhetorical theorists have suggested several elements of rhetorical situation. Lloyd F. Bitzer suggests three: exigences, audience, constraints (“The Rhetorical Situation,” *PR* 1 [1968]: 6-9). In addition, George Kennedy identifies a speaker, an audience, and a discourse as three necessary elements of a rhetorical situation (*New Testament Interpretation through Rhetorical Criticism* [Chapel Hill: University of North Carolina Press, 1984], 15). Kelvin G. Friebel points out exigences, rhetors, audiences and rhetorical strategies (*Jeremiah’s and Ezekiel’s Sign-Acts: Rhetorical Nonverbal Communication* [JSOTSup 283; Sheffield: Sheffield Academic Press, 1999], 71). Among these elements, I will not deal with a discourse (a text) and constraints in this chapter. This exclusion is simply because the text itself will be the main object of research in chapters 3 and 4. Besides, constraints are in a sense equivalent to proof in Aristotelian terms (Bitzer, “The Rhetorical Situation,” 8), and the proof is the main subject of chapters 3 and 4.

3. Bitzer states that any rhetorical discourse is situational because it is a response to a particular rhetorical situation (“The Rhetorical Situation,” 5). Bitzer’s view of rhetorical situation has found both supporters and opponents. Among opponents, Richard E. Vatz raises a question of the assumptions behind Bitzer’s argument. Vatz argues that meanings do not reside in situation as Bitzer assumes but rather are created by rhetors (“The Myth of the Rhetorical Situation,” *PR* 6 [1973]: 155-57). Thus, Vatz emphasizes the role of authors in creating meanings in a certain situation. Thus, in addition to the audience and exigences, authors should also be considered in the discussion of rhetorical situation. As for the debate of whether a rhetorical discourse is a response *to* a particular situation or a rhetor creates a rhetorical situation *by* his/her work, both should be considered to be at work (James Jasinski, “Rhetorical Situation,” *ERh*: 696).

In the following section, I first examine various proposals for the DC's authorship, and then decide what is the most likely option.⁴ Defining authorship is relevant for determining the purpose of the DC because the identity of a particular author to a certain degree informs and helps explain the purpose of the writing. After discussing authorship, I will examine two components of the rhetorical situation of the DC: audience and exigences.⁵ I address these two elements according to four temporal divisions: the mosaic, Josianic, exilic, and post-exilic periods. Since the DC was not written at one sitting, but produced and redacted over many centuries, it is appropriate to consider such changes in time in the discussion of audience and exigences. Knowing the rhetorical situation of the DC will also lead to discerning the aim and purpose of the DC. Thus, this

4. This discussion will proceed based on scholarly work on the authorship of Deuteronomy. Although the DC is not Deuteronomy, it is a part of it. Rhetorical critics do not attempt to find multiple layers. Since they regard a literary work as an integrated one and not an arbitrary patchwork, it is rational to assume one representative authorship throughout the whole book.

5. The rhetorical situation is the situation from which any single discourse takes place (See the classic study by Bitzer, "The Rhetorical Situation," 2). In defining the rhetorical situation, the following three elements should be considered: the audience, the exigence, and the constraints. First, the audience as a rhetorical audience is different from mere listeners. They have neither intention nor need to change; a rhetorical audience is the one who is "capable of being influenced by discourse and of being mediators of change" (ibid., 8; idem., "Functional Communication: A Situational Perspective," in *Rhetoric in Transition: Studies in the Nature and Uses of Rhetoric* [ed. Eugene E. White; University Park: The Pennsylvania State University Press, 1980]: 23). Next, the exigence is "an imperfection marked by urgency; it is a defect, an obstacle, something waiting to be done, a thing which is other than it should be" (Bitzer, "The Rhetorical Situation," 6; idem., "Functional Communication," 26). Knowing the exigence is significant in rhetorical investigation because a discourse begins as a proper response to an existing exigence (Bitzer, "The Rhetorical Situation," 25). Without exigence, there is no reason for any type of rhetorical discourse to be created (ibid., 25-26). The last element of a rhetorical situation, constraint, is "made up of persons, events, objects, and relations . . . which have the power to constrain decision and action needed to modify the exigence" (ibid., 8). As for the reason why I do not deal with constraints in this chapter, see n. 1 above.

chapter discusses the DC's authorship, its audiences, and the exigences in which it was written in order to discern the purpose of the DC.

I. Authorship

At the outset, I note that scholars have not reached definite conclusions regarding the authorship of the DC, or the whole book of Deuteronomy more generally.⁶ This chapter thus cannot hope to give a definitive answer to the question of the DC's authorship. Rather, I will present four suggestions for the possible authorship of Deuteronomy and then conclude with a view that combines these four suggestions in a reasonable and helpful way.

A. Four Suggestions for Authorship

The first suggestion for Deuteronomy's authorship is Gerhard von Rad's. He argued that Judean levitical priests were responsible for composing Deuteronomy.⁷ Deuteronomy is a cultic document and a book filled with the spirit of holy war,⁸ two features he proposes levitical authorship explains. Since levitical priests were the only group that had power to access cultic ceremonies and possessed the spirit of holy war. In von Rad's view, Deuteronomy 20 shows the spirit of holy war in the priestly circle;⁹ there, the priests

6. Joy Joseph, *"Re-Lecturing" of Deuteronomy in the Post-Exilic Period* (Berlin: Logos, 1997), 11.

7. Von Rad, *Studies in Deuteronomy* (London: SCM Press, 1953), 66-67.

8. *Ibid.*, 60.

9. *Ibid.*, 67.

encourage people with the words of Yahweh to perform Yahweh's war before a war begins. He calls these priests "the priestly preacher of the holy war."¹⁰ Another argument for the levitical authorship of Deuteronomy comes from the "hortatory" nature of the book. Von Rad argued that laws in Deuteronomy were not just legal codes; they were preached laws or interpreted laws,¹¹ and that they were typically delivered by local levitical priests.¹² He offered two texts as support for his view. The first is Neh 8:7–8. In this passage, the Levites read the law book to the people and include an interpretation. Based on this evidence, von Rad argued that the Levites had a duty to interpret Torah and to preach it to the Israelites.¹³ The second text to which von Rad appealed was 2 Chr 19:8–11.¹⁴ In this passage, king Jehoshaphat appoints certain priests and Levites to instruct people with laws. Thus, von Rad concluded that levitical priests in Judah, who inherited older traditions, interpreted them and taught the Israelites on the basis of their

10. Ibid., 67.

11. Ibid., 15. After surveying the historical context of von Rad's academic career, Bernard Levinson points out that von Rad's insistence on the book of Deuteronomy as the sermon form was influenced by his historical context: the influence of National Socialism upon the German church and upon biblical and theological study (Levinson, "Reading the Bible in Nazi Germany: Gerhard von Rad's Attempt to Reclaim the Old Testament for the Church," *Int* 62 [2008]: 240-246). The reason why Deuteronomy should be a sermon to von Rad is, in Levinson's view, that (1) "the OT is important as a Christian Scripture"; (2) the OT is not Jewish but Christian; (3) the form of a sermon is familiar to Christianity (ibid., 247-48).

12. Von Rad, *Studies in Deuteronomy*, 66-67.

13. Ibid., 13-14.

14. Ibid., 14.

interpretation of the laws. These levitical priests were responsible for composing Deuteronomy.¹⁵

One of the problems with this view, as von Rad was well aware, is that the demand for centralization in Deuteronomy 12 would have weakened the status of the outlying levitical priests because they would have lost the farmlands around their dwelling places.¹⁶ It is hard to imagine Levites composing a document that would ultimately give them less power. Von Rad solved this problem by assuming that the centralization formulas were late and secondary additions to the book.¹⁷ However, as for the date of centralization formula, it is widely held that cultic centralization was the quintessential element in the reforms of Josiah or Hezekiah.¹⁸ Thus, if cultic

15. Ibid., 61-62. Eckart Otto supports von Rad's view. Otto argues that Judahite priests were responsible for collecting and modifying the biblical laws in order to create norms by which the Israelite society should be ruled ("Kodifizierung und Kanonisierung von Rechtssätzen in keilschriftlichen und biblischen Rechtssammlungen," in *La Codification des lois dans l'antiquité: Actes du colloque de Strasbourg 27-29 novembre 1997* [ed. Edmond Lévy; TCRPOG 16; Paris: De Boccard, 2000], 120-24; idem., *Gottes Recht als Menschenrecht: Rechts- und literaturhistorische Studien zum Deuteronomium* [BZABR 2; Wiesbaden: Harrassowitz, 2002], 57-75). Also, see John. W. Miller, *The Origin of the Bible: Rethinking Canon History* (New York: Paulist, 1994), 58-66; Richard Elliot Friedman, *Who Wrote the Bible?* (New York: Summit Books, 1987), 120. Although Friedman gives a priestly group credit for the composition of the DC, he does not think that rural Levites were responsible for it because cultic centralization will put them out of business (ibid., 121). In his view, the priests of Shiloh were responsible for composing the DC (ibid., 122). As an indirect support for von Rad's view, Paula M. McNutt shows that teaching and interpreting laws and preserving sacred traditions are part of priests's roles (*Reconstructing the Society of Ancient Israel* [Louisville: Westminster John Knox, 1999], 178-79).

16. Von Rad, *Studies in Deuteronomy*, 67.

17. Ibid., 67.

18. See e.g., Menahem Haran, *Temples and Temple Service in Ancient Israel* (Oxford: Clarendon, 1985), 133-45; Norbert Lohfink, "Zur neuen Diskussion über 2 Kön 22-23," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft* (ed. Norbert Lohfink; BETL 68; Louvain: Louvain University Press, 1985), 27-28 (translated into "Recent Discussion on 2 Kings 22-23: The State of the Question," pages

centralization proves to belong to the original portion of the DC, it becomes less probable that the levitical priests called for such a policy,¹⁹ thus weakening von Rad's proposal that these priests were responsible for the book.²⁰

Ernest W. Nicholson offered a second possibility, that the deuteronomic traditions were preserved by a northern prophetic circle that composed Deuteronomy in the time of Manasseh and then deposited it at the Jerusalem temple, expecting it to be used as a guidebook by a future reform party.²¹ Nicholson's proposed connection between a prophetic circle and the authors of Deuteronomy is heavily reconstructive. He alleges that the prophetic circle preserved and transmitted the ancient amphictyonic tradition. He also

36-61 in *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy* [ed. Duane L. Christensen; Winona Lake: Eisenbrauns, 1993]); Jeffrey H. Tigay, *JPS Torah Commentary: Deuteronomy* (Philadelphia: The Jewish Publication Society, 1996), 119; Richard D. Nelson, *Deuteronomy* [OTL; Louisville: Westminster John Knox, 2002], 148; William M. Schniedewind, *How the Bible Became a Book: The Textualization of Ancient Israel* (Cambridge: Cambridge University Press, 2004), 96; J. Maxwell Miller and John H. Hayes, *A History of Ancient Israel and Judah* (2d ed.; Louisville: Westminster John Know Press, 2006), 414-15. Frank Crüsemann argues for the Josianic time exclusively (*The Torah: Theology and Social History of Old Testament Law* (trans. Allan W. Mahnke; Minneapolis: Fortress, 1996), 208-11. However, there are some scholars who doubt the historicity of the reform of Hezekiah and Josiah. Lisbeth S. Fried argues that archaeological evidence does not support the reforms of Hezekiah and Josiah, especially the destruction of the high places ("The High Places (*BĀMÔT*) and the Reforms of Hezekiah and Josiah: An Archaeological Investigation," *JAOS* 122 [2002]: 443-460).

19. Ernst W. Nicholson points to this problem. He argues that levitical authorship of Deuteronomy cannot be argued separately from the formulation of the centralization of law in the book. If the Levites were responsible for the composition of Deuteronomy, cultic centralization also should have been their plan. Yet, it is hard to believe that country Levites initiated a program which would have shaken their living sources. (Nicholson, *Deuteronomy and Tradition* [Philadelphia: Fortress, 1967], 85-86).

20. Moshe Weinfeld also rejects von Rad's view by arguing that since the literary form behind Deuteronomy is not a cultic ceremony but a treaty form, "the assumption that the Levites preserved this cultic tradition becomes dubious" (*Deuteronomistic School*, 57-58).

21. Nicholson, *Deuteronomy and Tradition*, 102.

argues that prophets before the eighth century B.C.E. had a close connection to cultic ceremonies.²² In addition, Nicholson asserts Deut 18:15-18 to be definitive evidence of prophetic authorship of Deuteronomy. According to this passage, Moses is depicted as a prophet and Yahweh promises to raise up a prophet like him in the future. The role of the prophet depicted in this passage is that of a covenant mediator.²³ Since, in the Book of Deuteronomy, Moses not only proclaimed the law but also wrote it down, it was assumed that the future prophet will also serve to deliver the words of Yahweh to the Israelites either in an oral form or written form. Based on this, Nicholson argued that it was a prophetic circle that preserved older traditions, transmitted them, and composed the book of Deuteronomy.²⁴

One problem with Nicholson's suggestion is that this northern prophetic circle is ultimately responsible for supporting Jerusalem as the only legitimate cultic place.²⁵

22. Ibid., 73-80.

23. Ibid., 77.

24. Ibid., 106.

25. In Deuteronomy Jerusalem is not mentioned at all. However, there is a general consensus that the ascription "the chosen place" in Deut 12-16 refers to Jerusalem (Samuel R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* [Edinburgh: T&T Clark, 1895], 140; Adam C. Welch, "The Problem of Deuteronomy," *JBL* 48 [1929]: 292; Ronald E. Clements, "Deuteronomy and the Jerusalem Cult Tradition," *VT* 15 (1965): 300-12; Andrew D. H. Mayes, *Deuteronomy* [NCB; London: Eerdmans, 1979], 223; Clements, "The Book of Deuteronomy: Introduction, Commentary, and Reflections," in *New Interpretation Bible* [vol. II; Nashville: Abingdon, 1998], 387). Yet, some scholars argue for the change of central shrine from the time of Moses to Solomon. For example, John A. Thompson argues that in Moses's time there was a central sanctuary which can be identified at Shiloh in the eleventh century B.C.E., and that Jerusalem became the central sanctuary from the tenth century B.C.E. onwards (*Deuteronomy: An Introduction & Commentary* [TOTC 5; Downers Grove: Inter-Varsity, 1974], 41-42. Similarly, Kenneth A. Kitchen argues that the central sanctuary originally referred to the tabernacle in the time of Moses, and

Multiple shrines were preserved in the north. Yet, worship of Yahweh in Deuteronomy was to be allowed only in one place chosen by Yahweh. As with von Rad's Levites, it is hard to imagine a northern circle of prophets writing a document that supported exclusive worship in the south. Nicholson solves this problem by positing that the northern prophetic circle must have advocated Jerusalem as Israel's cultic center as a mean to encourage the southern reform party to accept the northern reform policies.²⁶ To the deuteronomic school originating in the northern kingdom, national revival was the primary issue, not geographical locale, and therefore they could admit Jerusalem's central role in Yahweh worship. However, it is still somewhat problematic to posit a northern prophetic circle dispensing so readily with its traditional shrines.

A third proposal for the authorship of the book of Deuteronomy comes from Moshe Weinfeld. He argues that the "deuteronomic composition is the creation of scribal circles which began their literary project some time prior to the reign of Josiah and were still at work after the fall of Judah."²⁷ Weinfeld bases his argument on the observation that Deuteronomy is covenantal in form, and in this is akin to Assyrian and Hittite political

Solomon's temple simply replaced it ("The Old Testament in Its Context 6," *TSTF* 64 [1972]: 9-10; see also Craigie, *Deuteronomy*, 217; Jeffrey Niehaus, "The Central Sanctuary: Where and When?," *Tyndale Bluttin* 43 [1992]: 4-5). Gordon J. Wenham argues that the Deuteronomists did not intend a sole sanctuary but the central sanctuary which changed from time to time ("Deuteronomy and the Central Sanctuary," *TynBul* 22 [1971]: 114; cf. Niehaus, "The Central Sanctuary," 7, 17-18). Yet, all of these objective views admit that Jerusalem became the central sanctuary at some point in the history of Israelite religion.

26. Nicholson, *Deuteronomy and Tradition*, 100.

27. Weinfeld, *Deuteronomic School*, 9.

treaties.²⁸ Weinfeld assumes that the group responsible for the literary composition of Deuteronomy must have known ancient Near Eastern treaty forms and had access to these sources.²⁹ Given this, in his view court scribes were most likely to have composed Deuteronomy. The wisdom features found in the book of Deuteronomy support Weinfeld's view,³⁰ features such as the emphasis on retribution theology, the prohibition from moving a boundary stone, and so on.³¹ Moreover, the father-son dialogue form of Deuteronomy is also found in wisdom books.³² Weinfeld's view has won many scholarly adherents.³³ However, William M. Schniederwind's view opens a new possibility that the

28. Ibid., 59-69.

29. Levinson, "Is the Covenant Code an Exilic Composition? A Response to John Van Seters," in *In Search of Pre-exilic Israel: Proceedings of the Oxford Old Testament Seminar* (JSOTSup 406; ed. John Day; London: T & T Clark International, 2004), 295-96; Otto, *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* [Berlin: Walter de Gruyter, 1999], 67-9, 83-5, 300-2. However, William Morrow offers a slightly different view that the Judean scribes in seventh century B.C.E. did not have full knowledge of Akkadian but of Aramaic ("'To Set the Name' in the Deuteronomic Centralization Formula: A Case of Cultural Hybridity," *JSS* 55 [2010], 377-78). This lack of fluency in Akkadian does not mean the denial of any Akkadian influence on Deuteronomy. Rather, Morrow admits that the phrase לַשֵּׁם הַזֶּה was borrowed from Neo-Assyrian inscriptions on the bases of his survey on the representative inscriptions from the ninth to the seventh centuries B.C.E. (ibid., 369-74). He also admits the close relationship between Deuteronomy and the treaty genre in ANE literature (Morrow, "Fortschreibung in Mesopotamian Treaties and in the Book of Deuteronomy," in *Recht und Ethik im Alten Testament* [eds., Bernard M. Levinson and Eckart Otto; ATM 13; Münster: Lit, 2004], 112).

30. As for the laws which have similar sapiential sayings, see Weinfeld, *Deuteronomy I–II*, 62-65.

31. Biblical scholarship has recognized the wisdom influence on Deuteronomy (Carmichael, *The Laws of Deuteronomy* [Ithaca: Cornell University Press, 1974], 18-23; Phillip R. Callaway, "Deut 21:18–21: Proverbial Wisdom and Law," *JBL* 103 (1984): 341-52; Jack R. Lundbom, "Wisdom Influence in the Book of Deuteronomy," in *Raising up a Faithful Exegete: Essays in Honor of Richard D. Nelson* [ed. K. L. Noll and Brooks Schramm; Winona Lake: Eisenbrauns, 2010], 193-209).

32. Weinfeld, *Deuteronomic School*, 260-74.

33. Many scholars attribute the authorship of Deuteronomy to the scribal school (e.g., Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* [Oxford: Oxford University Press, 1997], 2-3; Thomas Römer, *The So-called Deuteronomistic History: A Sociological, Historical and Literary Introduction* [London: T&T Clark, 2005], 46; Raymond F. Person, Jr., *The Deuteronomic School: History,*

scribal school might not be exclusively responsible for the composition of Deuteronomy. He argues that in the time of Josiah the task of writing was widely practiced outside of scribal schools in courts and temples.³⁴ If this is the case, it is highly likely that more diverse groups of people than simply scribes were involved in the composition of the DC.³⁵

The last view on the authorship of Deuteronomy to be considered here is that of Leslie J. Hoppe. Hoppe argues that the aforementioned three positions do not fit the authors of Deuteronomy because none of these groups is portrayed flattering in the text. If they were responsible for the book, he argues, they would not have left such self-denegrating remarks in the book.³⁶ He argues that the insistence on cultic centralization does not fit with the agendas of any other groups suggested by previous scholarship. In his view, the levitical priests could not have invented cult centralization because it would have weakened their position. Likewise, prophets are unlikely to advocate for cultic centralization. Nor is cultic centralization credited to the scribal circles, even by

Social Setting, and Literature (SBLStBl 2; Leiden: Brill, 2002), 7-8, 65; Nelson, *Deuteronomy*, 3; Karel van der Toorn, *Scribal Culture and the Making of the Hebrew Bible* [Cambridge: Harvard University Press, 2009], 143–46.

34. Schniederwind, *How the Bible became a Book: The Textualization of Ancient Israel* (Cambridge: Cambridge University Press, 2004), 91.

35. It is true that the popularity in ability to write does not necessarily argue that the DC was written by other than scribal groups. Yet, one cannot deny that this social phenomenon could support the argument that other social groups were involved in writing the DC.

36. Hoppe, "Elders and Deuteronomy: A Proposal," *EgT* 14 (1983): 260.

Weinfeld.³⁷ Hoppe thus draws attention to another group of leaders in ancient Israel—the elders—and suggests they were responsible for composing Deuteronomy³⁸ and for cultic centralization.³⁹

Among ancient Israel’s leaders there were those whose task was to guard and transmit Israel’s traditional legal practices and customs. It is quite likely that Deut, which preserves much of those traditions, is the product of those who had these traditions in hand. From an analysis of Deut itself, the most likely candidates for such a role are the elders. Deut presents the elders with clearly defined legal responsibilities that flow from their association with Moses.⁴⁰

Hoppe demonstrates logically that elders preserved the legal traditions and composed Deuteronomy since Deuteronomy is composed of many legal traditions. However, I

37. Ibid., 271.

38. Timothy M. Willis points out that Hoppe’s argument for the authorships of elders in the composition of the DC is undermined by the very questions that Hoppe raised against the other views which regard the Levites, scribes, or prophets as the authors of Deuteronomy (*The Elders of the City: A Study of the Elders-Laws in Deuteronomy* [SBLMS 55; Atlanta: Society of Biblical Literature, 2001], 5).

39. Hoppe, “Elders,” 271. The exilic date can be supported by Jan Christian Gertz who argues for the exilic date for the dominant role of elders in instructing and admonishing the Israelites at the local level. He examined 21:18-21, 22:13-21, and 25:5-10 in which elders play a significant role in performing legal procedures. Based on his literary and redactional reading of these texts, he concludes that these portions are an exilic addition to the DC (*Die Gerichtsorganisation Israels im deuteronomischen Gesetz* [FRLANT 165; Göttingen: Vandenhoeck & Ruprecht, 1994], 222-25). Like Gertz, Thomas Renz also argues that a stronger emphasis was placed on the institution of elders in exilic period (*The Rhetorical Function of the Book of Ezekiel* [Leiden: Brill, 2002], 46-47). On the contrary, Joachim Buchholz argues that the elders as the representative officials in legal life of ancient Israel was a deuteronomic fiction. The elder’s dominant role was assumed in the pre-exilic period but after the exile through the post-exilic period the elders had lost their influence at the local level (*Die Ältesten Israels im Deuteronomium* [GTA, 36; Göttingen: Vandenhoeck & Ruprecht, 1988], 103-105). In similar fashion, Jacob Milgrom draws a different picture. According to him, the local elders lost their judicial role and were replaced by state officials (“The Ideological and Historical Importance of the Office of Judge in Deuteronomy,” in *Isac Leo Seeligmann Volume: Essays on the Bible and the Ancient World* [ed. Alexander Rofé and Yair Zakovitch; Jerusalem: E. Rubinstein’s Publishing House, 1983]: 130-33).

40. Hope, “Elders,” 270.

although several legal cases in the DC mention the elders as legal authorities, their role in the legal procedure is not clearly demonstrated. For example, in Deut 21:18-21, the elders hear legal cases but do not make any legal decision. The one who makes a ruling is someone other than the elders. Moreover, in the central court there is no office of elders. Rather, priests and judges preside on the central court (Deut 17:9). This indicates that elders's judicial role is restricted to their local places. Even they do not have legal power over other cities.⁴¹ Thus, it is evident that the elder group was not the only party who preserved the law, but that priests as well as judges likely did so too.

B. Synthetic Views

Against these four proposals which focus on only one type of group for the authorship of Deuteronomy, some scholars have argued that not just one group of people was involved in the composition of Deuteronomy,⁴² but that instead a combination of several groups was responsible for the book's composition. Ronald Clements argues that the authors of Deuteronomy belong to a "reforming party" whose members were drawn from not just one particular group but from several groups of leading citizens.⁴³ Rainer Albertz agrees with Clements on this issue. Albertz argues that all the three major groups—the priests,

41. Willis points out that city elders in Deuteronomy did not have influence beyond the territory under their control (*The Elders of the City*, 12).

42. Clements points out that "the authors of Deuteronomy are unlikely to have belonged to any one professional class" ("The Book of Deuteronomy," 281).

43. *Ibid.*, 281.

prophets, and scribes—worked together on the national reform.⁴⁴ The scribal circle with Shaphan as its head participated in the composition of the Deuteronomic reform legislation, as did the priestly group with Hilkiah as its head, and prophets such as Jeremiah, Zephaniah, and the followers of Isaiah’s prophecy. Thus, he concludes that the composition of Deuteronomic reform legislation was the result of a coalition of leading groups in the time of King Josiah.⁴⁵

In my view, this argument for the combined authorship of the book of Deuteronomy is most compelling, especially given the biblical evidence. The book of Deuteronomy itself does not seem to support exclusively the perspective, agenda, or therefore the authorship of one group.⁴⁶ There are texts that support each group. For

44. Albertz, *A History of Israelite Religion* [vol. 1; OTL; trans. John Bowden; London: SCM Press, 1994], 201-203. Nelson points out that the reform movement had roots in the “powerful, aristocratic scribal and priestly families of Jerusalem (*Deuteronomy*, 7).

45. Albertz, *A History of Israelite Religion*, 1:202.

46. Patrick Miller points out that the book of Deuteronomy itself shows traces of priestly interest, the prophetic spirit, and the wisdom teachers (*Deuteronomy* [IBC; Louisville: John Knox Press, 1990], 5-10). Likewise, Nelson also indicates the presence of “scribal patterns, priestly interests, legal concerns, and elements from the wisdom tradition” in Deuteronomy (*Deuteronomy*, 7). Lohfink argues for the even distribution of power into the four offices in Judah: judges, king, priests, and prophets (“Distribution of the Functions of power,” 346–49). With this in mind, it would be plausible to think that scribes and priests cooperated in certain cases in their offices. Moreover, Alan Robinson’s view also indirectly supports the combined authorship. Robinson argues for three stages of composition of Deuteronomy and suggests that a different author worked in each stage. First, Moses wrote certain parts of Deuteronomy in the time of wilderness, including 18:15-22 and 26:5-9. In the second stage, the “Annalist” in the time of Solomon, including the inherited traditions, wrote a history of Israel and collected laws current at his time and these became certain sections of the DC. And finally, the Levitical reformer produced the Deuteronomy version 2 during the reign of Ahaz or Manasseh (“Process Analysis Applied to the Book of Deuteronomy,” *ZAW* 96 [1984]: 186-88). In these stages of writing, three distinct people—Moses, an annalist, and a levite—are involved in the composition of the DC. Although there are time differences among the supposed authors, Robinson’s three layers of division in the composition of Deuteronomy indirectly supports that the DC

example, the role of priests is emphasized in the so-called institutional laws in 16:18–18:22, where we are instructed that any judicial decision too difficult for local judges to solve should be brought to the central court in which levitical priests preside (17:8-9). In addition, according to the law of kingship in 17:14-20, the levitical priests play a role in supervising the king in his copying of the Torah (17:18). Moreover, there are many passages in which care for the Levites is ordered (18:6-8; 12:12, 19). However, another biblical text supports scribes as the authors of Deuteronomy, even though this text is not from Deuteronomy itself but found in 2 Kgs 22. There we learn that the scribe Shaphan along with the high priest Hilkiah played a significant role in finding the book of Moses's law. So it is possible that not just the priestly group but also the court officers who inherited wisdom traditions could have been involved in producing the book of Deuteronomy.

Yet in other passages the elders of Israel also seem to have a particular role in composing the DC. In Deut 31:9, the elders along with the priests were the recipients of the Torah written by Moses. Moreover, in Deut 31:28, the elders and officials together were called to hear Moses's recitation. Thus, the text itself shows that the group of elders are the recipients of the written Torah as well as the distinguished audience of the oral

itself shows the works of various characteristic groups.

Torah, and it follows that elders may have played a significant role in composing the book of Deuteronomy.

Finally, as Nicholson pointed out, Deut 18:15-18 provides textual support for prophetic authorship of the book or some of its parts. According to that text, Yahweh promises to send a prophet like Moses in time to come. The prophet will receive the words of Yahweh and teach them to the Israelites. These roles of receiving Yahweh's words and of delivering them to people correspond to the roles of ancient authors who inherit older traditions and compose a new work. Thus, it is plausible that a prophetic group was involved in composing Deuteronomy.

Since all candidates for the author of Deuteronomy have biblical support, it is not convincing to credit only one group with authorship. Besides, in ancient Israel, social groups were not always exclusively distinguished.⁴⁷ Rather, their social roles were shared with other groups.⁴⁸ For example, Ezra is depicted as a priest as well as a scribe (Ezra

47. McNutt states that in the tribal period of ancient Israel, the existence of the offices of prophets and priests is open to debate (*Reconstructing the Society*, 101-3). Besides, based on anthropological models, McNutt points out that institutions of law and order of political office were not specified (*ibid.*, 99). Although biblical reports such as 2 Sam 8:15-18 and 1 Kgs 4:1-6 name specific administrative offices (priest, scribe, speaker, commander of the army, and so on), McNutt argues that it is not certain to what extent "this construct actually reflects the situation during Iron Age II" (*ibid.*, 167-68).

48. Priests, a religious authority, played governmental roles. In the time of monarchs, priests supervised the harvest in order to collect a certain portion of produce for the state (Victor H. Matthews, *Social World of Ancient Israel 1250-587 BCE* [New York: Paulist Press, 1991], 188-89). Moreover, Lundbom points to biblical evidence that the roles of Levites and scribes overlapped somewhat ("The Inclusion and Other Framing Devices in Deuteronomy I-XXVIII," *VT* 46 [1996]: 314-15).

7:11). He belongs to a priestly lineage but functions as a scribe who teaches laws and rules to the Israelites (Ezra 7:1-5, 10). Moreover, some prophets such as Jeremiah and Ezekiel belonged to the priestly group.⁴⁹ Anthony J. Saldarini points out that “in the post exilic Jewish community the roles of priests, Levites, scribes, and other Jewish leaders overlapped.”⁵⁰ These overlapped leaderships in fact are envisioned within the character of Moses. Deuteronomy is attributed to the mouth and hand of Moses. Not only is this an attempt to establish an authority for the book, it is also a signal of the combined authorship. The character of Moses features as a prophet, priest, and wise man.⁵¹ It is plausible to think that the authors of Deuteronomy focus on Moses because he has all the characters of those who were involved in the composition of Deuteronomy. Thus, it is more plausible that multiple leaders were involved in composing Deuteronomy and that they brought with them their own various inherited concerns and traditions.

49. McNutt indicates the distinct features of priests and prophets from an anthropological perspective. While the office of priests was inherited, prophets were called by a deity. While the group of priests tended to preserve the traditions, prophets tended to promote social change (*Reconstructing the Society*, 179). However, this distinction is too generalized a view to be applied to a particular society such as ancient Israel, especially during the monarchic period. Within the group of priests, there was distinction between priests working in the Jerusalem temple and priests working at local shrines. Their political views must have been different. Even Robert Wilson’s two distinct groups within the circle of prophets indicates that not all prophets tended to initiate reforming ideas (*Prophecy and Society in Ancient Israel* [Philadelphia: Fortress, 1980]). The “central” prophets were closer to the priestly group working at the Jerusalem temple. Likewise, having a vocation is not an exclusive criterion by which to distinguish prophets from priests because prophets can be called by a deity among the priestly group as we find in the Hebrew Bible.

50. Anthony J. Saldarini, “Scribes,” *ABD* 5:1013.

51. James W. Watts, “The Legal Characterization of Moses and the Rhetoric of the Pentateuch,” *JBL* 117 (1998): 415-26.

In sum, the book of Deuteronomy should not be credited to just one “school.” Yet, all of the aforementioned groups or “schools” were partly involved in preserving and transmitting older traditions and composing the book of Deuteronomy.

II. The Audiences

In this section, my focus will be on the question of the audiences of the DC.⁵² This question of audience is unavoidably related to the question of the date of the composition of Deuteronomy.⁵³ Scholars have reached a consensus that Deuteronomy was not written

52. Two points need to be mentioned. A first point is about the audience of what. Although the audience of the DC may be different from that of Deuteronomy as a whole, I will discuss the issue of audience with Deuteronomy as a whole in mind. The identification of DC’s audience with Deuteronomy’s one is simply because rhetorical criticism mainly concerns the final form of a book, and the DC is part of Deuteronomy. Some information on the audience of Deuteronomy is certainly related to the DC’s audience. A second point relates to the scope of audience. The audience of Deuteronomy in this chapter involves the whole people of Israel. I do not attempt to find a particular group audience. This is because the book of Deuteronomy itself is addressed to “you” which includes the whole people of Israel (Weinfeld, *Deuteronomy 1-11*, 55; Lenchak, “*Choose Life!*,” 85-86). Although one can distinguish a group of people as a targeted audience in certain regulations in the DC, this does not exclude other group of people from its audience group.

53. In the scholarship of Deuteronomy almost every period from the time of Moses to the post-exilic period has been considered as the date for its composition. Although the majority of scholars agree that the Josianic period is the most likely date for the composition of *Urdeuteronomium* (O’Brien, “The Book of Deuteronomy,” 102; For the scholarship on this view, see Jula Pakkala, “The Date of the Oldest Edition of Deuteronomy,” *ZAW* 121 [2009]: 390 nn. 7-8), other dates are also suggested. Until the eighteenth century Moses was predominantly believed to have been the author by Jewish and Christian communities. Even in the twentieth century some argue for Moses’s authorship (Meredith G. Kline, *Treaty of the Great King: The Covenant Structure of Deuteronomy* [Grand Rapids: William B. Eerdmans, 1963], 44; R. K. Harrison, *Introduction to the Old Testament: With a Comprehensive Review of Old Testament Studies and a Special Supplement on the Apocrypha* [Grand Rapids: Eerdmans, 1969], 637-53; Moses H. Segal, “The Book of Deuteronomy,” *JQR* 48 (1958): 315-51; Duane L. Christensen, “The Mosaic Authorship of the Pentateuch,” *JETS* 32 [1989]: 465-71; Robinson, “Process Analysis,” 185-94; Eugene H. Merrill, *Deuteronomy* [NAC 4; Nashville: Broadman & Holman, 1994], 22-23). Unlike these scholars, Chaim Rabin argues for the early Monarchy (before the time of Jehu and Jehoash) as the date of composition based on discourse analysis (Rabin, “Discourse Analysis and the Dating of Deuteronomy,” in *Interpreting the Hebrew Bible: Essays in*

by one person or a group of people at one time. Rather, they agree that it obtained its present form through a lengthy process of textual development,⁵⁴ and that this textual development is to be considered as part of the composition of the Deuteronomistic History (from Deuteronomy and 2 Kings). Within this process are included the many different stages of initial writing, transmitting, collecting, revising, and compiling the text. The majority of scholars support two proposals. The first proposal is represented by Frank M. Cross.⁵⁵ He argues for two essential temporal points in the redaction of the Deuteronomistic History: the Josianic period and the exilic period (around 550 B.C.E.).⁵⁶ In contrast, the Göttingen school proposed a theory of three redactional layers or distinctive perspectives: the historical (DtrH), the prophetic (DtrP), and the nomistic (DtrN) perspectives. Though diversity exists within the Göttingen school, most adherents of this perspective assume that DtrH and DtrP were exilic products, while DtrN is a post-

Honour of E. I. J. Rosenthal [UCOP 32; ed. J. A. Emerton and Stefan C. Reif; Cambridge: Cambridge University Press, 1982], 176-77). As for the summary of various suggestions, see Nicholson's *Deuteronomy and Tradition*, 37 n.1, and Pakkala, "The Date of the Oldest Edition," 390 nn. 9-10.

54. Römer, *The So-Called*, 73; Lohfink, "The Cult Reform of Josiah of Judah: 2 Kings 22–23 as a Source for the History of Israelite Religion," in *Ancient Israelite Religion: Essays in Honor of Frank Moore Cross* (ed. Patrick D. Miller, Paul D. Hanson, and S. Dean McBride; Philadelphia: Fortress, 1987), 459.

55. Cross, "The Themes of the Book of Kings and the Structure of the Deuteronomistic History," 274-89 in *Canaanite Myth and Hebrew Epic: Essays in History of the Religion of Israel* (Cambridge: Harvard University Press, 1973). See also Nelson, *The Double Redaction of the Deuteronomistic History* (JSOTSup 18; Sheffield: JSOT Press, 1981); idem, "The Double Redaction of the Deuteronomistic History: The Case is Still Compelling," *JSOT* 29 (2005): 319-37; Jon D. Levenson, "Who Inserted the Book of the Torah?," *HTR* 68 (1975): 203-33.

56. Cross, "The Themes of the book of Kings," 287-89. Lohfink supports this view. In his discussion of the cult reform of Josiah in 2 Kgs 22–23, Lohfink distinguishes two layers: Dtr I (Josianic period) and Dtr II (exilic period) ("The Cult Reform of Josiah of Judah," 462-65).

exilic product.⁵⁷ Thus, from the studies of these two schools, three plausible dates of composition of the DC can be offered: the Josianic period, the exilic period, and the post-exilic period. In addition to these three historical datings, the mosaic or literary period should also be investigated.⁵⁸ In the following we will examine the four layers of audiences in chronological order.

A. Mosaic Period: Literary Audience⁵⁹

Historical-critical scholarship no longer assumes that Deuteronomy was written in the time of Moses. However, this scholarly tendency should not lead to argue that the second generation of Israel from Egypt should be excluded from the discussion of possible DC

57. Dietrich first dated all three redactional layers as coming from the exilic period (*Prophetie und Geschichte* [FRLANT 108; Göttingen: Vandenhoeck & Ruprecht, 1972]). Yet, after Smend argued for the DtrN's post-exilic date in his book *Die Entstehung des Alten Testaments*, Dietrich accepted Smend's view (*David, Saul und die Propheten: Das Verhältnis von Religion und Politik nach den prophetischen Überlieferungen vom frühesten Königtum in Israel* [Stuttgart: W. Kohlhammer, 1987], 152).

58. Römer argues that three distinct social, political, and historical contexts (Neo-Assyrian, Neo-Babylonian and Persian) are the most plausible and main redactional layers within the Deuteronomistic History (*The So-called*, 65). These three redactional layers within the DtrH are also applicable to the DC in searching for the temporal differences of the audiences. Römer's discussion on the three redactional activities made to Deut 12:2-27 is informative. He argues for three distinct units, each of which represents a redactional era. According to him, vv. 13-18 is the work of the Josianic redactor; vv. 8-12 the exilic redactor; and vv. 2-7 and vv. 20-27 the post-exilic redactor (*ibid.*, 56-65).

59. The Mosaic world depicted in Deuteronomy rhetorically functions as a real world to the readers. However, it should be also pointed out that the title, Mosaic Period, does not mean without qualification that the real time of the composition of this book was the thirteenth century B.C.E. Rather, the emphasis is to be laid on the rhetorical world of the Mosaic period. Its historicity is not the issue. To literary critics, the distinction between a real world and a symbolic world becomes blurred in literature. Even history is not an objective depiction of a real world but a world created by a historian using particular ideological selection (Davies, *In Search of 'Ancient Israel'*, 13). Thus, to the reader, the Mosaic period as the literary background of Deuteronomy, is a symbolic world in which characters live their lives as well as a real world from which the narrative was created.

audiences. From a literary perspective, Deuteronomy has the second generation of Israel going out from Egypt as its literary audience. The literary setting is clearly demonstrated in Deut 1:1-4, where certain temporal and spatial references are found: “to all Israel on the other side of the Jordan . . . in the fortieth year, on the first day of the eleventh month . . . Moses addressed.” At the plain of Moab, on the first day of the eleventh month in the fortieth year of exodus, Moses began to proclaim the laws of Yahweh in front of the second generation of Israel that was about to enter the land of promise. This audience was expecting a new life in the promised land, watching it from the other side of the Jordan. Yahweh’s promise to their ancestors concerning a land in which to live was about to be fulfilled.

The DC is placed in the middle of this literary setting. After the historical retrospect in chs. 1–3, ch. 4 begins with an exhortation to “listen to the laws and rules that I am teaching you to observe, so that you may live, enter, and possess the land that Yahweh God of your fathers is giving you” (Deut 4:1). This type of exhortation to keep the laws and rules recurs in chs. 5–11 (Deut 5:1; 6:1; 7:11; 8:6; 11:1, 8, 32) until the actual contents of the laws and rules are manifested in chs. 12–26. Subsequently, Moses appears again in ch. 27 with the elders and exhorts the Israelites to keep all the commandments. Thus, it is evident that the DC has a narrative context in which Moses speaks to the second generation of Israel in the plains of Moab forty years after their

going out from Egypt. From this literary format one may determine that the literary audience of the DC is the second generation of Israelites coming from Egypt who mainly have to wrestle with how to live in the land of promise which they are about to enter. The DC is given as the quintessential set of guidelines for living in the promised land—the statutes and ordinances Moses repeatedly proclaims in the book and finally delivers in chs 12–26. According to Moses’s speeches, Israel’s possession of the land and long life are dependent upon the way that the Israelites live in the land. Thus, the DC is given as a kind of manual for life in Canaan.

In sum, the DC was given to the second generation of Israel as instruction and guidance for their long life in the promised land. However, the audience of Deuteronomy should not be limited to the literary audience who lived in the Mosaic period. The DC itself gives clues that it has a long history of transmission and composition. It was a historical product that responded to the real demands at the various periods of its composition. In the following, we will examine the different historical audiences that this legal product addressed.

B. Josianic Audience in the Reign of King Josiah

We have already noted that many scholars have posited that the Josianic period is the most probable time of the composition of Deuteronomy.⁶⁰ If this is the case, then this book's audience included those who lived in the Josianic period of about 630–609 B.C.E.

The connection of Deuteronomy with the Josianic period was explicitly made in Wilhelm de Wette's thesis that the "book of the law" found in the Jerusalem temple (2 Kgs 22:8)

is the book of Deuteronomy or at least its central legal code.⁶¹ According to this theory,

60. Julius Wellhausen, *Prolegomena to the History of Ancient Israel: With a Reprint of the Article "Israel" from the Encyclopaedia Britannica* (Cleveland: The World Publishing Company, 1961), 32-33; trans. of *Prolegomena zur Geschichte Israels* (2d ed.; Berlin: G. Reimer, 1883); Otto, *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* (BZAW 284; Berlin: Walter de Gruyter, 1999), 359; Nelson, *Deuteronomy*, 6; Crüsemann, *The Torah*, 218; Albertz, *A History of Israelite Religion*, 1: 200-201; Römer, *The So-Called*, 69. Even though this view is the mainstream one, other positions are also offered. Some scholars consider Hezekiah and Manasseh a candidate for the date for the original composition of the DC (Julius A. Bewer, "The Problem of Deuteronomy: The case for the Early Date of Deuteronomy," *JBL* 47 [1928]: 306. Nicholson argues for the reign of Manasseh as the time of composition of Deuteronomy (however, he agrees that the actual realization of the written plan for reformation was in the reign of Josiah [Nicholson, *Deuteronomy and Tradition*, 102]). James Philip Ashmore's research of the social setting of the DC supports at least a monarchic date of the DC. He concludes, after surveying the social settings of each law in the DC, that "the social setting of the law in Deuteronomy 12–26 is a state level legal system within a centralized state" ("The Social Setting of the Law in Deuteronomy" [PhD diss., Duke University, 1995], 108). Even J.G. McConville, refusing the connection of Deuteronomy with the reform of Josiah, argues that the Book of Deuteronomy or a form of it was the product of the pre-monarchic era. As evidence he offers the so-called institutional laws (Deut 16:18–18:22) (*Deuteronomy*, 30-34).

61. Paul B. Harvey, Jr. and Baruch Halpern, "W. M. L. de Wette's "*Dissertatio Critica* . . .": Context and Translation," *ZABR* 14 (2008): 82 (De Wette's first edition, *Dissertatio critico-exegetica qua Deuteronomium a prioribus pentateuchi libris diversum, alius cuiusdam recentioris auctoris opus demonstratur*, [Jena, 1805]). However, de Wette was not the first person to point out the connection of the book found in the time of Josiah and the book of Deuteronomy. M. J. Paul gives a brief survey of the previous studies which identified the law book in 2 Kgs 22-23 with Deuteronomy or part of it (Paul, "Hilkiah and the Law (2 Kings 22) in the 17th and 18th Centuries: Some Influences on W.M.L. de Wette," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft* [ed. Norbert Lohfink; Leuven: University Press, 1985], 9-10). While admitting the previous study, Jan Alberto Soggin credits de Wette with the first critical

the reform party, represented by Hilkiah, created the deuteronomic legal corpus and placed it in the Jerusalem temple. It was then used as the guideline for the Josianic reform.⁶² Even though the details of de Wette's theory have been modified in subsequent studies, this conjectured connection between the DC and Josianic reform still has merit.⁶³

The historical circumstances at that time made possible such a reform. The hegemony of Neo-Assyria waned during the time of Josiah, and the reform party under King Josiah

and systematic study of the relationship between the deuteronomic legislation and the law book found in the temple (*Introduction to the Old Testament: From Its Origins to the Closing of the Alexandrian Canon* [Philadelphia: Westminster, 1980], 123-24).

62. Noth disagrees with this view. Josianic reform was already under way before this law was established. This law was not composed for the sake of Josianic reform. He argues that the law already existed before Josiah's day ("The Laws in the Pentateuch: Their Assumptions and Meaning," *The Laws in the Pentateuch and Other Studies* [trans. D. R. Ap-Thomas; Philadelphia: Fortress, 1966], 42-44). Robinson also argues for the early date of the DC from the perspective of process analysis ("Process Analysis," 186-89). Unlike Noth and Robinson, Pakkala argues for the exilic date for the oldest part of the DC ("The Date of the Oldest Edition," 388).

63. The majority of scholars agree to identify Deuteronomy with the "Book of the Law" referred to in 2 Kgs 22-23, though the details with regard to the exact portion of Deuteronomy to which the book referred is still being debated (O'Brien, "The Book of Deuteronomy," *CR* 3 [1995]: 98; Nadav Na'aman, "The 'Discovered Book' and the Legitimation of Josiah's Reform," *JBL* 1 [2011]: 47). To the contrary, some scholars read 2 Kgs 22-23 not as historiography but as a rhetorically invented literature (See e.g., E. W. Conrad, "Heard but not Seen: The Representation of Books in the Old Testament," *JSOT* 54 [1992]: 45-59; Mayes, "King and Covenant: A Study of 2 Kings chs. 22-23," *Herm* 125 [1978]: 34-47; L. K. Handy, "Historical Probability and the Narrative of Josiah's Reform in 2 Kings," in *The Pitcher is Broken: Memorial Essays for Gösta W. Ahlström* [ed. S. W. Holloway and L. K. Handy; JSOTSup, 190; Sheffield: Sheffield Academic Press, 1995], 252-75; Katherine Stott, "Finding the Lost Book of the Law: Re-reading the Story of 'the Book of the law' (Deuteronomy-2kings) in light of classical literature," *JSOT* 30 [2005]: 153-69). Stott finds a proof for her argument in the fact that the motif of a lost and found book is frequently found in Greek and Roman literatures ("Finding the Lost Book," 161-66). However, that this literary convention was often used to offer authenticity of the proper narrative in Greece and Rome does not automatically lead one to argue that Josianic reform based on the found law book is also a literary convention. There is no such a literary convention that is created from pure imagination. Mostly they are based on human experiences. Thus, one cannot say for sure that the literary convention of a lost and found book which is used to give authenticity to a narrative is not based on what really happened.

attempted to achieve independence from Neo-Assyria through religious and social reforms.⁶⁴ Thus, the book of Deuteronomy was presented as a manual with which to perform such religious and social reforms. The most distinguished norm of the Deuteronomic reform—cultic centralization—was intended to reunite the people of Israel under the worship of one Yahweh in the one cultic place.⁶⁵ Yet several scholars point out that Josiah's reform was not only religious. Cultic centralization also intended to concentrate political power in Jerusalem.⁶⁶ With Jerusalem as the national center, the reform party was able to pursue wide-scale changes in Israelite society.⁶⁷

This attempt at religio-political change during the time of Josiah can be attested in the DC. As mentioned earlier, cultic centralization and the prohibition of local shrines may have united the Josianic audience at the central shrine.⁶⁸ The Israelites were commanded to bring all their sacrifices and tithes to this one chosen place, and to enjoy

64. W. Boyd Barrick, *The King and the Cemeteries: Toward a New Understanding of Josiah's Reform* (VTSup 88; Leiden: Brill, 2002), 159.

65. Marvin A. Sweeney, *King Josiah of Judah: The Lost Messiah of Israel* (Oxford: Oxford University Press, 2001), 19, 315-16; Some scholars find the similar purpose in the reform of Hezekiah (Weinfeld, "Cult Centralization in Israel in the Light of a Neo-Babylonian Analogy," *JNES* 23 [1964]: 202-12; Nicholson, "The Centralization of the Cult in Deuteronomy," *VT* 13 [1963]: 380-89).

66. Römer, *The So-Called*, 59; Schniedewind, *How the Bible became a Book*, 96; Crüsemann, *The Torah*, 223.

67. Albertz, *A History of Israelite Religion*, 1:197-242, and Crüsemann, *The Torah*, 201-75 offer sound pictures of the social world in the time of Josiah. See also Levinson's *Legal Innovation* which argues for the reformers's attempts to change social, political, and religious dimensions of Judah in the time of Josiah through the literary work, the DC.

68. A central shrine and worship in the place lead the worship community to share a common tradition, which would serve to unite the worship community under the shared norm (Wills, *The Elders of the City*, 309).

those offerings in the presence of Yahweh with their household as well as the Levites who did not have their own portions. This religious custom to share offerings likely functioned to unite all Israel and had the central shrine as its center.⁶⁹ Moreover, many civil laws dealing with the just and right relationship between the “haves” and the “have-nots” in the DC show the attempt to protect the social minorities and to reduce the economic gaps within society.⁷⁰ This realization of social justice would make it possible for the Josianic audience to come together around a shared commitment to one worship of Yahweh in one central shrine by one Israel.

69. See n. 68.

70. Crüsemann, *The Torah*, 231-34.

C. Exilic Audiences⁷¹

71. As for the concept of the “exilic period,” Römer criticizes the concept as being a highly ideological construction rather than a social-historical one. His critiques are based on the observations that the so-called exilic period (597-539) does not match with the Neo-Babylonian period (629-539); a large number of the exiled remained in Babylon after 539; the term does not take into consideration the deportation having happened in the northern kingdom of Israel by the Neo-Assyrians; the deported were not the entire Judean people (*The So-Called*, 110; cf. David M. Carr, *The Formation of the Hebrew Bible* [Oxford: Oxford University Press, 2011], 225). In order to avoid the vagueness that the term exile or exilic raises, Jill A. Middlemas coins the term “templeless” (*The Templeless Age: An Introduction to the History, Literature, and Theology of the “Exile,”* [Louisville: Westminster John Knox, 2007]). There is another issue involved in the exilic audience: so-called “the myth of the empty land.” According to 2 Chr 36:20 all Judah surviving the sword was deported from the land. The land remained empty. Yet, even after the fall of Jerusalem and of the temple, people lived in Jerusalem (Hans M. Barstad, *The Myth of the Empty Land: A Study of the History and Archaeology of Judah during the “Exilic” Period* [Oslo: Scandinavian University Press, 1996], 47-55). Especially, life in the areas of Benjamin did not change too much because the areas were not damaged too much by the invasion of Babylon (David Vanderhooft ed., “In Conversation with Oded Lipschits, The Fall and Rise of Jerusalem (Winona Lake, Ind.: Eisenbrauns, 2005),” *JHS* 7 [2007], 42; Middlemas, *The Templeless Age*, 16). The book of Jeremiah certainly shows the perspective of those who remained in their home town. Yahweh promises to be with those who remained (Jer 32:1–15). Jer 40:12 reports the abundant yields produced in the home town (as for the debate of “the myth of the empty land” see, e.g., Robert P. Carroll, “The Myth of the Empty Land,” *Sem* 59 [1992]: 79-93; Barstad, *The Myth of the Empty Land* [1996]; idem, *History and the Hebrew Bible: Studies in Ancient Israelite and Ancient Near Eastern Historiography* (Tübingen: Mohr Siebeck, 2008), 90-134; Joseph Blenkinsopp, “The Bible, Archaeology and Politics; or the Empty Land Revisited,” *JSOT* 27 (2002): 169-87; Christoph Levin, “The Empty Land in Kings,” in *The Concept of Exile in Ancient Israel and its Historical Contexts* [ed. Ehud Ben Zvi and Christoph Levin; BZAW 404; Berlin: De Gruyter, 2010], 61-89).

The debate regarding “the myth of the empty land” raises the question of the place of exilic audiences. Were they people living in Palestine or in Babylon? Were the remnant to be included in the exilic audiences? This is a complicated issue and beyond the scope of this dissertation. In short, I assume those living in Babylon to be the exilic audience of the DC because, as Römer points out, the statement in 2 Kgs 25:21 clearly shows the exilic perspective (Römer, *The So-Called*, 116; Albartz, *Exile*, 282-85; R. F. Person Jr., *The Deuteronomistic School: History, Social Setting, and Literature* [Studies in Biblical Literature 2; Atlanta: Society of Biblical Literature, 2002], 28-29). In addition, as Carr points out, the exiles were mostly the literate, upper class of the populations who were equipped to write and read texts (*The Formation*, 225). Thus, it can be assumed that the written materials composed in the time of King Josiah were likely to be carried out by the exiles to Babylon, and edited, and enlarged there (Although Noth argued that the Deuteronomist worked in Palestine, this was rejected. For the relevant references, see Thomas Römer and Albert de Pury, “Deuteronomistic Historiography (DH): History of Research and Debated Issues,” in *Israel Constructs its History: Deuteronomistic Historiography in Recent Research* [eds. Albert de Pury, Thomas Römer and Jean-Daniel Macchi; JSOTSup 306; Sheffield: Sheffield Academic Press, 2000], 57; In addition, Carr calls the Bible a “Bible for exiles” [*The Formation*, 226]). Even if Christopher R. Seitz argues

In contrast to those who insist that the DC was composed during the Josianic period, some scholars date the composition of the DC to the exilic period.⁷² This view was prompted by Martin Noth's insistence on the exilic date of the Deuteronomistic history. He argued that the entire work from Deuteronomy to 2 Kings was an exilic reflection on the demise of monarch and the exile.⁷³ Although Noth's view of there being only one deuteronomist is no longer supported by a majority of scholarship, his exilic date still predominates in scholarly discussion.⁷⁴

that a scribal class remained in Judah after the events of 598 and 587 and worked on a "scribal chronicle," the rough equivalent of the so-called Baruch material in Jeremiah, Seitz admits that eventually the written materials reached Babylon and were redacted there (*Theology in Conflict: Reactions to the Exile in the Book of Jeremiah* [BZAW 176; Berlin: de Gruyter, 1989], 282-87).

72. Hoppe supports the exilic date of the DC. He considers that the cultic centralization was the exilic response to the situation where only Jerusalem remained as the acceptable place of worship ("Jerusalem in the Deuteronomic History," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft* [ed. Norbert Lohfink; Leuven: Leuven University Press, 1985], 107-10). In this article he argues that Jerusalem became the sole legitimate shrine only after it was destroyed. Hoppe's date of the DC as stemming from the exilic period is dependent on his argument that cultic centralization was not the main emphasis of Deuteronomy. Rather, Deuteronomy's main emphasis lies on whole-hearted obedience to the traditional norms (109-110). This emphasis reflects the exilic situation. Besides Hoppe, Römer and Georg Braulik also support the exilic edition of the DC (Römer, *The So-Called*, 129; Braulik, "Die Abfolge der Gesetze in Deuteronomium 12-26 und der Dekalog," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft* (ed. N. Lohfink; BETL 68; Louvain: University Press, 1985), 271; repr. in "The Sequence of Laws in Deuteronomy 12-26 and in the Decalogue," in *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy* (ed. Duane L. Christensen; SBTS 4; Winona Lake: Eisenbrauns, 1993), 334.

73. Noth, *The Deuteronomistic History*, (2d ed.; JSOTSup, 15; Sheffield: Sheffield Academic Press, 1991), 27, 134.

74. Ernst Würthwein argues that cultic centralization was demanded in the exilic period ("Die Josianische Reform und das Deuteronomium," *ZTK* 73 [1976]: 418-19). Pakkala argues that the oldest edition of Deuteronomy must have been made after 586 B.C.E. because this was the only time when there were no temple nor state (Pakkala, "The Date of the Oldest Edition," 388-400). As for the critique on Pakkala's view, see Nathan MacDonald, "Issues in the Dating of Deuteronomy: A Response to Juha Pakkala" *ZAW* 122 (2010): 431-35.

Two supporting reasons for the exilic dating are worth mentioning. First, an issue relating to the possession of land is significant. According to the literary context of the DC, the audience does not yet possess the land, but only expects to enter it. In addition, the laws and rules given in Deuteronomy 12–26 are presented for the purpose of the Israelites’ possession of and long life in the promised land. This literary fiction of Deuteronomy, as Polzin points out, fits well with those who were exiled and living in the foreign land and waiting for their return to their home-land.⁷⁵ In such an exilic society, one of the main issues would be how to return to their land, and what would make it possible for people to return to their land. So, it is possible that the Deuteronomists found an analogous case in the time of Moses when the second generation of Israel was about to enter the promised land, and was given laws and rules that instructed the people how to live in the promised land. Analogically, from this historical memory, the exiles may have learned what would guarantee their re-entry into the land and their long life in the promised land.

75. Polzin, “Deuteronomy,” in *Literary Guide to the Bible* (ed. Robert Alter and Frank Kermode; Cambridge: The Belknap Press of Harvard University Press, 1987), 92; cf. Römer, *The So-Called*, 124.

Second, the theme of “restoration after repentance” signals the exilic date of Deuteronomy.⁷⁶ Deut 4:30–31 and 30:1–3, which are considered exilic additions,⁷⁷ assume that the audience would live among other nations.⁷⁸ These texts forthrightly announce that repentance is required to restore the audience to their former fortune and to Yahweh’s blessing. The DC that is bracketed by these two texts may have been regarded as laws and rules to be observed as the signal of the people’s repentance.

The exilic audiences who may have identified with the second generation of Israelites beyond the Jordan in Moab would have taken the DC most seriously. The laws and rules proclaimed in the DC were the guidelines that the exilic audiences had to follow in order to live as Yahweh’s chosen people in a foreign land and to restore their land.

76. The theme of restoration after repentance has been considered an exilic concept. See Walter Brueggemann, “The Kerygma of the Deuteronomistic Historian,” *Interpretation* 22 (1968): 387-402; Hans Walter Wolff, “The Kerygma of the Deuteronomic Historical Work,” in *The Vitality of Old Testament Traditions* (ed. W. Brueggeman and H. W. Wolff; Atlanta: John Knox, 1975), 83-100. Brueggemann and Wolff assume the Deuteronomistic History as whole in their discussion. Although the theme of restoration after repentance is not found in the DC itself, the framework of the DC, in which the theme is embedded, functions to lead readers to read the laws in the exilic context. The exilic audience must have read the DC as rules that they should follow in order to be restored.

77. See Mayes, *Deuteronomy*, 148-149, 367-69; Wolff, “The Kerygma,” 93-97; Tigay, *Deuteronomy*, 432; Nelson, *Deuteronomy*, 62. Especially, Nelson and Wolff argue that Deut 4:29–31 and 30:1–10 are the work of the same author (Nelson, *Deuteronomy*, 348 n. 2; Wolff, “The Kerygma,” 96-97).

78. K. L. Noll points out that in Deut 4:25–31; 28:64–68; 29:27–29; 30:1–10; 31:16–22 the Babylonian exile is presupposed (“Deuteronomistic History or Deuteronomic Debate,” *JSOT* 31 [2007], 322).

D. Post-exilic Audience

Although the majority of scholars support the view of the DC's connection with Josianic reform and of the exilic composition of Deuteronomy, some portions of both Deuteronomy and the DC went through post-exilic redactions.⁷⁹ According to Römer, within the DC, the passages 12:2-7, 20-27; 14*⁸⁰; 23:1-9*; and 25:17-19 were added in the post-exilic period. All these texts emphasize the idea of segregation from other nations.⁸¹ Römer argues that the main concern of those who returned to the promised land or those who remained in Babylon in the time of Persia was maintaining the true identity of the chosen people.⁸² Thus, Römer singles out Deut 12:2-7, which is a decisive command to annihilate the other nations, Deut 14, which distinguishes Israel as holy people and Yahweh's treasured people, Deut 23:1-9 which delimits membership in

79. Gustav Hölscher insists that Deuteronomy was the product of a post-exilic utopian program (*Komposition und Ursprung des Deuteronomiums*," ZAW 40 [1922]: 227). It also should be noted that Crüsemann disagrees with the view that the DC was a utopian program. He rebuts it by pointing out as an example the law of remission performed by the ancient Babylonian kings (*The Torah*, 208, 227-28). As for the early advocates of post-exilic date of Deuteronomy, see Lewis Bayles Paton, "The case for the Post-Exilic Origin of Deuteronomy," *JBL* 47 (1928): 322-57.

80. Andrew D.H. Mayes, "Deuteronomy 14 and the Deuteronomic World View," in *Studies in Deuteronomy: In Honour of C.J. Labuschagne on the Occasion of His 65th Birthday*; ed. F. García Martínez et al.; Leiden: Brill, 1994), 165-81.

81. Römer, *The So-Called*, 170-72.

82. The idea of separation refers not only to the separation from other nations but also to the separation from those who stayed in the demolished land. The Babylonian Golah and the returnees who considered themselves 'true Israel' distinguished themselves from the 'people of the land' (Römer, *The So-Called*, 57). Renz also points out that the returnees aimed to shape the post-exilic community, while those who had not been deported had no tendency to create a new identity (*The Rhetorical Function*, 236-37).

Yahweh's assembly by excluding the Ammonites and Moabites, and Deut 25:17-19 which commands the annihilation of Amalek, as part of a post-exilic redaction.⁸³ Thus, to the post-exilic audience the DC may have been regarded as a canon by which they can be distinguished from other nations as well as from the untrue Israel. The implication is that the true Israelites should prove themselves by observing the laws and rules given by Yahweh through Moses.

E. Summary

The book of Deuteronomy was not a product of only one group or audience at one period in history. Rather, without doubt this book was the result of a long process of composing, transmitting, editing, and expanding the sources. This long process of composition means that multiple audiences in various time periods played a part in the history that we call Deuteronomy. The DC assumes the second generation of Israelites as its audience within the text itself. Yet, this literary observation does not preclude that parts of the DC were composed for and received by historical audiences in eras as diverse as the Josianic, the exilic, and the post-exilic. Moreover, texts like Deuteronomy are like a living organism in that they respond and change as a result of their interaction with different audiences. It seems that the new additions to the DC resulted from mutual influence between the

83. As another piece of evidence Römer points out that the expression "to seek Yahweh" is a typical expression in the book of Chronicles (Römer, *The So-Called*, 63).

already-written part and a new audience facing a new circumstance.⁸⁴ Thus, all these audiences' periods must be considered to do justice to the book. Multiple audiences means multiple rhetorical situations, however, and that complicates exigence or the situations that prompt the writing. It is to these exigences that I now turn.

III. Exigences

This section discusses the exigences for the DC. Thus, the main question of this section is, what did the legists of the DC want to change or modify. Since we distinguished the audiences according to four different time frames, we need to consider the exigences likewise. The exigences of the DC⁸⁵ will be investigated mainly through the given texts along with historical information. It is evident that data about the exigences of the DC can be perceived by repeated expressions. Weinfeld classifies all the repeated expressions which show the legists' concerns and intentions according to the following criteria: (1) prohibition on idolatry: the struggle against idolatry, warnings against foreign worship, the polemic against idolatry; (2) centralization of worship, the chosen place and the name theology; (3) exodus, covenant, and the election; (4) observance of the law and loyalty to

84. Levinson, *Legal Innovation*, 3-6.

85. As for the exigence, one may point out that the exigences of the DC as a whole would be different from the exigence of each regulation. However, although each regulation would have its distinctive exigence, this individual exigence would be included in the main exigences of the DC. Thus, in this chapter the focus will be placed on the exigences of the DC as a whole. The individual exigence of each regulation, when necessary, will be dealt with in chapter 4.

the covenant; (5) disloyalty; (6) concern for the land: inheritance of the land, possession of the land; (7) retribution and material motivation (prolonged days, Yahweh's blessing, prosperity, well-being); (8) concern for innocent blood; (9) concern for the stranger, orphan, and widow.⁸⁶ These nine categories can be reduced to three basic groupings: worship of other gods, concern for the land, and concern for social minorities. Lenchak further points out categories of danger found in Moses's third speech in chs 29–30: the danger of apostasy, the danger of punishment by God, and the danger of loss of the land.⁸⁷ These dangers are also found in the DC. In many places in the DC, following other gods was forbidden. The loss of the land, which is God's punishment, is assumed if these laws and rules are not carefully observed. These observations shed light on what the main exigences of the DC were.

First, one of the main concerns that the addressees of the DC confronted was the preservation of the land that Yahweh had given to them. The concern with the land in the DC is expressed through the motivation found in conditional clauses (12:1, 29; 15:4; 19:10; 20:16; 21:1, 23; 24:4; 26:1). The literary situation tells us that the Israelites do not yet possess the land. Yet, this literary situation should not be used as evidence to argue that the DC does not address people living in the land in the monarchic period. Rather,

86. Weinfeld, *Deuteronomistic School*, 320-59.

87. Timothy A. Lenchak, "Choose Life!" *A Rhetorical-Critical Investigation of Deut 28,69–30,20* (Roma: Editrice Pontificio Instituto Biblico, 1993), 112.

the condition of not-yet possession of the land reveals the tension or risk present in the time when the laws were written, edited, or compiled and the fear and danger that the land might be lost. Thus, how to keep the promised land was one of main concerns of the historical audience. This issue can be applied to all the audiences living in different time periods. In the Josianic period, the land was at risk of being lost to Assyria. In the exilic period, the Israelites lost their land. In the post-exilic period keeping the regained land secure would be the main issue.

Second, another main issue pertains to worship of other gods. Many laws in the DC warn the addressees not to worship other gods. Some regulations are given on the assumption that such idolatrous behavior will likely take place (13:2–19, 17:2–7), and the DC attempts to remove such a risk. The concern about idolatry is closely connected to the risk of losing the identity of Israel as Yahweh’s holy people (26:19).

Third, in addition to the religious and political concerns, there was also a concern for social justice. As the ancient Israelite society was developing, a division between the haves and the have-nots developed. Addressing this phenomenon, the DC expressly forbids exploiting a fellow Israelite by taking interest, making him or her a slave, or selling him or her as a slave (23:20–21, 24:7). Moreover, concern for social minorities such as widows, the orphans, and foreigners permeates the DC (14:29, 24:6, 10–13, 14–15, 17–18). Given these situations, the laws and rules in the DC were given to address exigences such as worship of other gods, the risk of losing the land, and inequity among

the Israelites.⁸⁸ In what follows, I will briefly point out the exigences of the DC according to the four layers of audience.

A. The Mosaic Period: Literary World

The exigence of the Mosaic period depicted in Deuteronomy is the possibility of turning away from Yahweh to worship other gods after the Israelites enter the promised land. The warning against worshipping other gods appears again and again (6:14; 8:19; 11:28; 13:3, 5; 28:14; 31:16). Worshipping other gods would lead to failing to possess the promised land or even to losing the land after taking possession of it. Both possessing the promised land and maintaining it is not guaranteed unconditionally, but depends on how the Israelites live in the promised land. How to live in the promised land is the question that the Mosaic audiences have in mind. Several laws in the DC begin with a condition such as “when you enter the land and settle down.” This condition is a proper response to the question of how to live in the promised land. In sum, the DC in the Mosaic period aims to guide the Israelites not only to possess the promised land, but also, once possessed, to maintain it securely.

88. These three exigences do not appear equally in the following four periods. Some exigences are more emphasized in a particular period.

B. The Josianic Period

In the reign of King Josiah, several exigences can be perceived: a risk of losing the land and a political vacillation between Egypt and Assyria; a wealth gap between landowners and non-owners; and the profusion of Assyrian religious and social customs.

First, a national future was neither secure nor positive. The northern kingdom was destroyed by Assyria. After the demise of the northern kingdom, the fear of losing the land was widespread throughout the southern kingdom.⁸⁹ In light of this political situation, the opinions in Jerusalem courts regarding international policy were not united. Court officials were divided into pro-Egypt and pro-Assyria fractions.⁹⁰ Thus, the unity of national opinion was urgently needed if Israel were to survive in the land.

Second, the economic gap between the land-owners and non-land-owners was getting bigger and bigger.⁹¹ From the eighth century on, the land-owners enlarged their property by obtaining others' land.⁹² Some Israelites became slaves after losing the lands

89. Nelson points out that in the time of Josiah the doom of exile was widespread throughout Judah (*Deuteronomy*, 7).

90. J. Maxwell Miller and John H. Hayes point out that the conflict between advocates of pro-Assyrian and of anti-Assyrian policies existed from the final years of Hezekiah's rule to all of Manasseh's reign (*A History of Ancient Israel and Judah* [2d ed.; Louisville: Westminster John Knox, 2010], 434). In addition, in the reign of Josiah Judah had to serve both Egypt and Assyria (*ibid.*, 451-53). In this circumstance, it is plausible to assume that court officials in Jerusalem were divided into pro-Assyrian and pro-Egyptian groups.

91. McNutt, *Reconstructing the Society*, 159-60. This economic gap was increased when Judah was reduced to vassal status by the Assyrians in the late eighth century (*ibid.*, 162).

92. *Ibid.*, 160.

they had inherited from their ancestors either because of bad harvest, or their inability to repay exorbitant loans.⁹³ The unity of “one Israel” was threatened by this economic disparity.

Third, Judah’s vassal status under Assyria after Israel’s demise and foreign emigration into the northern territories accelerated the influx of Assyrian cults as well as foreign customs, and these all threatened the maintenance of the purity of Israel.⁹⁴ Confronting these exigences, the DC shows Judah the way to secure the land, to maintain their religious identity, and to reduce the economic gap among the Israelites.

C. The Exilic Period

The events of 597 B.C.E. (the first deportation of Judah) and of 587 B.C.E. (the demise of Jerusalem) were considered definite national crises for Israel.⁹⁵ The destruction of Jerusalem and its temple called into question for Israel and for outsiders Israel’s identity

93. Crüsemann, *The Torah*, 236.

94. Morrow points out that Assyrian religious influences were substantial on seventh-century Judah (“To Set the Name,” 375). Also see C. D. Evans, “Manasseh, King of Judah” *ABD* 4:498; Lenchak, “Choose Life!”, 29; Miller and Hayes, *Ancient Israel and Judah*, 434.

95. Miller and Hayes, *Ancient Israel and Judah*, 479.

as Yahweh's chosen people.⁹⁶ This damage to the national identity needed to be fixed.⁹⁷ It became necessary to explain the destruction of the Davidic kingdom and the temple in which Israelites believed Yahweh had dwelled.⁹⁸ Regardless of this theological shock, those in the Babylonian diaspora lived fairly normal lives, running businesses and doing agricultural work.⁹⁹ Yet, this harmonized daily life entailed religious syncretism. Miller and Hays mention that among the Babylonian diaspora syncretistic worship continued, while strong advocates of Yahweh worship insisted on Yahweh-only worship.¹⁰⁰ Thus, in the exilic period religious syncretism and theological questions about the cause of the fall of Jerusalem and the exile had to be addressed. Moreover, given that most of the exiled

96. Renz argues that the main purpose of the book of Ezekiel, which was written in the exilic period, was to lead the exilic audience to understand their identity (*The Rhetorical Function*, 55, 249). From his argument it can be deduced that the exilic community struggled from the break-down of their traditional identity as Yahweh's chosen people. Moreover, the sociological phenomenon that many Jews in exile changed their Jewish name into Babylonian names may not only indicate their attempt to live in harmony with the Babylonians but also show their lowered self-esteem (as for the social trend of the Babylonian diaspora to use Babylonian names, see Michael David Coogan, "Life in the Diaspora: Jews at Nippur in the Fifth Century B.C.," *BA* 37 [1974], 11).

97. Middlemas, *The Templeless Age*, 6-7.

98. Friedman, *Who Wrote the Bible?*, 139, 154-55; 285; Rainer Albertz, *Israel in Exile: The History and Literature of the Sixth Century B.C.E.* (trans. David Green; StBL; Atlanta: Society of Biblical Literature, 2003), 282, 285.

99. Relying on Murashû documents, Coogan assumes that the Babylonian diaspora lived according to the advice of Jeremiah in Jer 29:5-7. They were integrated into the common and natural life of the Babylonians ("Life in the Diaspora," 6, 10-12). Yet, it should be noted that among the Babylonian diaspora, as Renz points out, there was a split in community between those who hoped to return to their homeland and those who integrated themselves into life in Babylon (Renz, *The Rhetorical Function*, 48).

100. Miller and Hayes, *Ancient Israel and Judah*, 494-95.

had become part of the lower classes and even became enslaved,¹⁰¹ the demand for social justice was a natural and pressing consequence.

D. The Post-Exilic Period

Römer points out three main issues in the post-exilic period: segregation between the true Israel (the deportees) and the untrue Israel (the remnants),¹⁰² monotheism; and integration between the returnees and the Babylonian Golah.¹⁰³ These three themes show the exigences of the post-exilic period. After returning to the promised land, the returnees needed to address the question of who were the true Israelites in relation to those who remained in Palestine. Since the exiles had theologized their identity as Yahweh's chosen people who had undergone punishment and repentance in Babylon, they considered themselves to be the true Israelites, and thought of the remnant in the promised land as not being true Israelites because they had not endured the punishment of exile.

101. Renz, *The Rhetorical Function*, 44.

102. The ideological conflict between the returned deportees and the remnants in Palestine in Persian period is well attested in Ezra 4:1-5 and 10:1-17. See also McNutt, *Reconstructing the Society of Ancient Israel*, 182-83; Oded Lipschits, *The Fall and Rise of Jerusalem* (Winona Lake: Eisenbrauns, 2005), 358-59. However, some scholars argue for the opposite. For example, Peter Bedford argues that in the late sixth century the remnants and the returnees formed an integrated community to reformulate its identity as Yahweh's people (*Temple Restoration in Early Achaemenid Judah* [Leiden: Brill, 2011]). Middlemas also supports Bedford's view. Middlemas argues that "the remnant and the repatriates worked together to rebuild their identity, reorganize their society, and reconstruct the temple of their deity, Yahweh" (*The Templeless Age*, 15). Yet, this scholarly reconstruction of the Judean community in the late sixth century contradicts the accounts in Ezra 4:1-5, in which the returnees refuse to build the temple with the remnants. Thus, it is more plausible to think that there was friction between the remnants and the returnees.

103. Römer, *The So-Called*, 169-78.

In sum, the exigences of the DC relate primarily to the issue of land, the seduction of idolatry, and the inequities among fellow Israelites. These situations needed to be changed or modified; this change or modification could be done through the laws and rules in the DC, which appealed to audiences by means of various rhetorical structures and devices. In chapters 3 and 4, I will investigate the DC's rhetorical structures and devices. Then in chapter 5, I will test whether these exigences are changed or modified through the employment of rhetorical structures and devices to see if the DC's rhetoric was effective. But before moving on to chapter three, I will briefly state what I take to be the purposes of the DC.

IV. The Purposes of the DC

It is essential to identify the purposes of the DC because the rhetorical strategies of the DC should support the purposes of the DC. As we saw in chapter 1, Kennedy defines rhetoric as the “quality in discourse by which a speaker or writer seeks to accomplish his purpose.”¹⁰⁴ A speaker or writer uses rhetorical strategies in order to achieve a purpose. Thus, the purposes the authors of the DC had in mind influenced how the authors arranged the elements of discourse or what kinds of rhetorical devices they used in presenting the DC. The following section outlines several representative views.

104. Kennedy, *New Testament Interpretation*, 3.

Whether the DC was primarily a law code or whether it proposed to teach the addresses what is right and good in the sight of Yahweh has been debated by scholars for more than half a century. These two main divisions are reflected in the English translations of תורה as “law” or “teaching / instruction.” The former connotes its legal aspect,¹⁰⁵ the latter its didactic aspect.¹⁰⁶ Noth already raised doubts about the legal character of the legal corpora of the Pentateuch as a whole. He pointed out the lack of jurisprudential efficacy in the legal corpora of the Pentateuch.¹⁰⁷ After Noth’s proposal, the scholarly tendency has been to doubt the view that biblical legal texts were enforced in the daily life of Israel. Thus a majority of scholars have argued that the DC was written to instruct or teach the Israelites how to live their lives, but without legal enforcement.¹⁰⁸

105. As for the issue of whether the biblical laws were applied to the cases in daily life, some scholars argue for the laws’s authoritative role in a real life (Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East* [JSOTSup 141; Sheffield: Sheffield Academic Press, 1993], 354; Ze’ev W. Falk, *Hebrew Law in Biblical Times: An Introduction* [2d ed.; Winona Lake: Eisenbrauns, 2001], 11-13). Raymond Westbrook argues that although the codes were not laws in the modern sense, they were based on cases in real life (“Cuneiform Law Codes and the Origins of Legislation,” *ZA* 79 [1989]: 204).

106. Shalom M. Paul emphasizes the teaching function of the divinely authorized biblical laws (*Studies in the Book of Covenant in the Light of Cuneiform and Biblical Law* [VTSup 18; Leiden: Brill, 1970], 38-39). Dennis Olson also understands *Torah* as a “program of catechesis.” This form-critical category emphasizes the aspect of education through generations that Deuteronomy encompasses (*Deuteronomy and the Death of Moses: A Theological Reading* [Minneapolis: Fortress, 1994], 10-14). However, S. Dean McBride, Jr. declines to call *Torah* either law or teaching/instruction. Rather, he argues that Deuteronomy as a written *Torah* should be called “political constitution” that Israelite kings and common citizens should carefully observe (“Polity of the Covenant People: The Book of Deuteronomy,” *Int* 41 [1987]: 232-33, 235). The DC as the constitution aims to protect the dignity and worth of the members of the Israelite community (*ibid.*, 236). As for the categorical summary of scholarly views of the codes, see Bruce Wells, “What is Biblical Law: A Look at Pentateuchal Rules and Near Eastern Practice,” *CBQ* 70 (2008): 224-31.

107. Noth, “The Laws in the Pentateuch,” 1-107.

108. Carmichael, *The Laws of Deuteronomy*, 17-52; Dale Patrick, *Old Testament Law* (Atlanta: John

Without getting involved in the debate of whether Deuteronomy is either a legal code or didactic literature, Nicholson focuses on its reform aspect. He argues that Deuteronomy was written for the purpose of “reviving and reforming the nation when the opportunity for doing so would arise.”¹⁰⁹ In Nicholson’s view, Deuteronomy was a necessary manual for the national revival. This revival could be achieved by desacralizing old cultic traditions such as local shrines, tithes, and pilgrimage festivals, and by instead internalizing the rituals in a form of ethics. This ethic would modify a society in which power and privilege had been concentrated in the monarchy and priesthood.¹¹⁰ Thus, he argues for “a shift from ‘exterior’ to ‘interior’ and from ritual to ethics as the focus of

Knox, 1985), 257-59; Mayes, *Deuteronomy*, 116; Ronald E. Clements, *Deuteronomy* (Sheffield: Sheffield Academic Press, 1989; repr., 1997), 17; Duane L. Christensen, *Deuteronomy 1-11* (WBC 6A; Dallas: Word Books, 1991), lx; Moshe Weinfeld, *Deuteronomy 1-11: A New Translation with Introduction and Commentary* (AB 5; New York: Doubleday, 1991; repr., New Haven: Yale University Press, 2006), 55; Lisbeth S. Fried, “‘You shall Appoint Judges’: Ezra’s Mission and the Rescript of Artaxerxes,” in *Persia and Torah: The Theory of Imperial Authorization of the Pentateuch* [ed. James W. Watts; SBLSymS 17; Atlanta: Society of Biblical Literature, 2001], 76; Anne Fitzpatrick-McKinley, *Transformation of Torah from Scribal Advice to Law* (JSOTSup 287; Sheffield: Sheffield Academic Press, 1999), 108; Jean Bottéro, “The ‘Code’ of Hammurabi,” in *Mesopotamia: Writing, Reasoning, and the Gods* [ed. J. Bottéro; trans. Z. Bahrani and M. Van de Mieroop; Chicago: University of Chicago Press, 1992], 169-71). McConville also points out that Deuteronomy’s aim was not to promulgate laws but to inculcate a spirit of law-keeping into the mind of the addressees (*Law and Theology in Deuteronomy* [JSOTSup 33; Sheffield: JSOP Press, 1984], 154). Thus, it is supported that the DC had a hortatory and theological goal.

109. Nicholson, *Deuteronomy and Tradition*, 106; Similarly Nelson also argues for the reforming aspects of Deuteronomy. “Deuteronomy was originally produced as a reforming law” (*Deuteronomy*, 6).

110. Nicholson, “Deuteronomy’s Vision of Israel,” 192-95. Moreover, Nicholson points out that Deuteronomy’s description of kingship does not show any hint of its sacral aspects. Rather, kingship is bound to the meditation of Torah which features piety (*ibid.*, 196). The concern of internalization of the relationship with Yahweh is also pointed out by Albertz (*Israelite Religion* 1: 208).

religious action in Deuteronomy.”¹¹¹ This was Deuteronomy’s vision of “the Israel that should be.”¹¹²

Mayes argues that Deuteronomy was an attempt to rationalize or reinterpret traditional beliefs in order to handle the culture shock caused by the century-long Assyrian domination.¹¹³ He states that:

Deuteronomy thus expresses a systematically organized world view that revitalized Israel’s own tradition and so presented the Yahwistic option as a persuasive alternative within the uncertain and pluralist framework of late pre-exilic Judah.¹¹⁴

One of the purposes of Deuteronomy is to preserve the older tradition with necessary reinterpretation in order to prevent the Assyrian religious and social norms from being dominant in the Israelite society. So, it follows that the DC as part of Deuteronomy was also presented as an alternative worldview to the threat of Assyrian religion and social customs.¹¹⁵ In a similar vein, Levinson has argued that the DC was a literary masterpiece

111. Nicholson, “Deuteronomy’s Vision,” 197. In a similar fashion, Tigay also argues that “Deuteronomy’s aim is to spiritualize religion by freeing it from excessive dependence on sacrifice and priesthood” (*Deuteronomy*, xvii). cf. Weinfeld, *Deuteronomistic School*, 190-243.

112. *Ibid.*, 202.

113. Mayes, “On Describing the Purpose of Deuteronomy,” *JSOT* 58 (1993): 29.

114. *Ibid.*, 30.

115. Lohfink regards Deuteronomy and Joshua as royal propaganda to justify King Josiah’s expansionist policy (“Kerygmata des Deuteronomistischen Geschichtswerks,” in *idem*, *Studien zum Deuteronomium und zur deuteronomistischen Literatur II* (SBAAT 12; Stuttgart: Katholisches Bibelwerk, 1991), 125-42.

of the reform party in the time of King Josiah. The DC shows the reform party's ideas and plans which will radically change the old religious and social tradition of Israel.¹¹⁶

As Nicholson, Mays, and Levinson argue, the DC was the outcome of the so-called "reforming party"¹¹⁷ in an attempt properly to respond to the issues in the seventh century,¹¹⁸ particularly the issue that Yahweh's blessing, the promised land, was about to be lost under the threat of Assyria. The northern kingdom was already destroyed. Judah experienced Assyria's attack in 701 B.C.E. and became its vassal. Yet, the decreasing influence of Assyria on Syria-Palestine during the late seventh century made the reforming party hope and plan for Judah's revival through religious and social reform.¹¹⁹

The reforming party was a combined group of leaders such as priests, scribes, prophets, and court officials that pursued national independence freed from the yoke of Assyria. This autonomous status could be achieved, they said, on the one hand by

116. Levinson, *Legal Innovation*, 4-6; idem, "The Hermeneutics of Tradition in Deuteronomy: A Reply to J. G. McConville," *JBL* 119 (2000): 270. With a moderate stance, Nelson argues that Deuteronomy revises earlier traditions such as the Covenant Code and narratives in Exodus and Numbers in order to reflect centralization and changes in economic and social relationship (*Deuteronomy*, 5).

117. In addition to these three scholars, a number of scholars have pointed out the reform aspects of Deuteronomy (e.g., Nelson, *Deuteronomy*, 6-7; Albertz, *Israelite Religion*, 1:195-231; Lenchak, "Choose Life!", 32).

118. Norman K. Gottwald points out two political dynamics during the monarchy: efforts to establish the state and efforts to reform the state (*The Politics of Ancient Israel* [Louisville: Westminster John Knox, 2001], 161). Although Gottwald uses these two dynamics to explain how pre-state traditions could have survived during the monarchy, the tendency to reform the state sheds lights on the purpose of the composition of the DC. The inclination to reform the state is the nature of monarchy, especially when the state is unstable.

119. In addition to this international circumstance, Nelson points out that Manasseh's religious and international policies may have triggered a reform movement (*Deuteronomy*, 7).

religious and social independence from Assyria, and on the other hand by uniting the whole people with religious catchwords or conceptual ideas. Thus, the reforming party attempted to unite the Israelites under Yahweh-only worship with the Jerusalem temple as its center.¹²⁰ In addition to this religious integrity, the reforming party attempted to tie the Israelites together by emphasizing their inter--community relations. All the Israelites, it said, are “brothers” (אחים) or “neighbors” (רעים) to each other. In sum, the purposes of the DC were to unite the Israelites under a unified religion,¹²¹ by removing various local shrines except for the Jerusalem temple, by realizing social justice such as the removal of the economic gap between Israelites, and by taking care of social minorities.

V. Conclusion

In this chapter, we investigated the DC’s authorship, audiences, exigences, and purposes. I argued that the authorship of the DC cannot be fully explained by appealing to only one group. Rather, the authorship of the DC should be attributed to a group of leaders, which belonged to a reforming party in the time of Hezekiah or Josiah. This historical context of the authorship should not restrict the possible audiences. It has widely been agreed that the DC has four temporal layers of audiences: the Mosaic audience (the literary

120. See Weinfeld, “Cult Centralization, 201-12; Nicholson, “The Centralization of the Cult,” 380-89.

121. McConville, *Deuteronomy*, 238, mentions that unification of people in relationship with Yahweh is one of the main themes of Deuteronomy.

audience), the Josianic audience, the exilic audience, and the post-exilic audience. Although the DC was composed by the reforming group in the time of Josiah, thanks to the continuing redaction of the DC, its audience included not only those who had lived in the seventh century B.C.E., but also those who lived after that time. The audiences in different times had different exigences. So, I investigated the exigences of the main periods. Together, these investigations of authorship, audiences, and exigences led to the conclusion that the purpose of the DC was to reform the religious and social structure of Israel.¹²² This reformation proposed to unite the nation through Yahweh-only worship and by realizing social justice. In order to achieve these ends, the legists composed the DC through rhetorical strategies. I turn in the next chapter to describe the rhetorical structures and devices employed in the DC.

122. The purpose of reform is not restricted to the time of Josiah. The spirit of reform in the DC had run from the seventh century B.C.E. to the post-exilic period.

CHAPTER 3 The Rhetoric of the Deuteronomic Code

“Rhetoric is the art of influence, friendship, and eloquence, of ready wit and irrefutable logic.”

Jay Heinrichs¹

The main topic of this chapter is the structure of the Deuteronomic Code (DC) and its rhetorical devices. As indicated in Chapter 1, structure and literary devices are seminal elements in rhetorical writing.² As a rhetorically driven³ work, one can assume that the legists of the DC arranged the legal elements according to a certain pattern of structure and employed rhetorical devices in order to effectively inculcate the audience with the laws and rules. This chapter identifies the rhetorical structures and devices employed by the legists.

I will examine the structure of the DC on two levels: the DC as a whole and its individual laws. I approach the overall structure of the DC through its organizational technique. As for the structure of individual laws, I will suggest five representative structures: command-only, command-first, motivation-first, no-motivation, and triadic structure. After investigating the structure of the DC, I will search for individual

1. Jay Heinrichs, *Thank You for Arguing: What Aristotle, Lincoln, and Homer Simpson Can Teach Us About the Art of Persuasion* (New York: Three Rivers Press, 2007), 4.

2. See note 19 in Chapter 1.

3. This phrase “rhetorically driven” will appear often in this dissertation. I use the phrase to mean that the work is purposefully organized and is full of rhetorical devices.

rhetorical devices employed in the DC, devices such as repetition, chiasmus, *inclusio*,⁴ alternation of prescription and proscription, and theological concepts.⁵

I. Rhetorical Structure

A. The Structure of Chapter 12–26 as a Whole

In this unit, I will look at the structure of the whole DC to discern how it functions to persuade the audience to observe the proclaimed laws and rules. The two driving questions of my examination are : (1) If the DC is not a random collection, under what principles is the DC arranged? (2) What function does such an arrangement have?⁶

Several scholars have made observations about the first question, and so before

4. Some scholars categorize chiasmus and *inclusio* as rhetorical structure. Lundbom (*Jeremiah*, 35) argues the materials in the book of Jeremiah were gathered according to these two rhetorical structures: chiasmus and *inclusio*. John Breck also points out the structural value of chiasmus. He mentions that the find of chiasmus in a book gives the sense of the whole unity of the book (“Chiasmus as a Key to Biblical Interpretation,” *StVTQ* 43 [1999]: 254). However, I categorize chiasmus and *inclusio* as rhetorical devices because they not only have structural functions but also literary functions. For example, through chiasmus a writer can put an emphasis on its center (Elie Assis, “Chiasmus in Biblical Narrative; Rhetoric of Characterization,” *Proof* 22 [2002]: 273). Likewise, *inclusio* not only signals a literary unit but also places its emphasis on the beginning and end.

5. Theological concepts as a rhetorical device pertain to their function as motivation. The legists of the DC employed theological concepts to motivate their audiences to accept proclaimed laws.

6. Structure produces meanings. One of the fundamental functions of structure is to deliver the meanings of a text. Patrick and Scult points out that “insofar as we may assume artful deliberateness on the author’s part, the shape and form of the discourse is an indication of how he or she [author] means for us to take the message” (*Rhetoric and Biblical Interpretation*, 13). Even though the author did not intend a particular meaning by structure, the structure itself can create a new meaning in the mind of the reader. Thus, the process of producing a meaning is not controlled by the author but moves beyond the author’s intended and planned scope. Thus, the study of the structure of the DC will shed light on not only the meanings that its author wanted to deliver through the texts but also the meanings that the author did not intend to deliver. However, the main interest of this section lies in the persuasive role of the structure, rather than the meanings of the DC.

presenting my own view of the structure of the DC as a whole, I will turn to my predecessors' work.

1. Scholarships on the Arrangement of the Deuteronomistic Code

The arrangement of the DC continues to be the subject of a lively scholarly debate. One side of the arguments contends that a unified editorial scheme was not applied to the whole DC in its composition, and that consequently the DC is a random collection of legal regulations.⁷ It seems plausible, especially after chapter 21, that there is no logical progression of the laws in the DC.⁸ However, some portions of Deut 21–25 show traces of a deliberate design,⁹ so perhaps it is more the case that proponents of a denial have failed to identify the drafting technique of the ancient authors of the DC, rather than that the DC was not composed with a particular rhetorical design or purpose in mind. By contrast, some scholars on the other side of the debate assume that the DC is arranged

7. Adam C. Welch, *The Code of Deuteronomy: A New Theory of Its Origin* (London: Clarke, 1924), 23; Nicholson, *Deuteronomy and Tradition*, 33. Noth also regards the DC as a simple collection of accumulated laws around the basic core (*The Deuteronomistic History*, 32).

8. Clifford points out that the laws in the DC, especially in chs. 21–25, were not logically organized. The logical arrangement of legal materials was not the custom of ancient people. Far from being logical, however, various principles of gathering were at work: topical similarity, related catchwords, and phonetic connections. Although Clifford assumes the DC's own organizational principles, he admits that entirely irrelevant individual laws are placed within these groups of laws (*Deuteronomy*, 116). Joseph also considers that the DC in its present form does not have reasonable order, because "the later interpolations and additions of the theological passages or theological legal texts or newly composed literary texts to the Proto-Deuteronomy for converting it to a collection of preachings of law might have changed the initial order of the Deuteronomistic legal texts" (*"Re-Lecturing" of Deuteronomy*, 17). Patrick also points out that chs. 21–25 do not show any intentional scheme in the arrangement of the laws (*Old Testament Law*, 128).

9. Gordon J. Wenham and J. G. McConville, "Drafting Techniques in Some DC," *VT* 30 (1980): 248-52.

according to a purposeful scheme, which they have then attempted to identify. Their suggestions fall into three major categories.¹⁰

First, some scholars draw attention to the role of the Decalogue as a framework for arranging the DC. They reiterate that this view is not modern in origin,¹¹ that in fact Philo of Alexandria and sixteenth-century reformers such as Calvin and Luther observed the connection between the Decalogue and the DC. However, it was Stephen A. Kaufman who first thoroughly examined the DC and proved that it was arranged to correspond to the order of the laws of the Decalogue.¹² In addition to noting the Decalogue as a framework for the larger text, Kaufman argued that the Deuteronomists in the DC adapted the compositional techniques of the ancient Near Eastern legal scribes.¹³ Braulik concurs with Kaufman, arguing that the DC functions more or less as a commentary and concrete unfolding of the Decalogue.¹⁴ Likewise, Olson insists that the DC was intended

10. These three representative categories are summarized in Bernard M. Levinson, "Calum M. Carmichael's Approach to the Laws of Deuteronomy," in *The Right Chorale: Studies in Biblical Law and Interpretation* (idem; Winona Lake, Eisenbrauns, 2011), 231-32.

11. Mark E. Biddle, *Deuteronomy* (Macon: Smyth & Helwys, 2003), 201; Olson, *The Death of Moses*, 63 n. 3.

12. Kaufman, "The Structure of the Deuteronomic Law," *Maarav* 1/2 (1978-79): 108-11.

13. Ibid., 115-17. His five principles of the arrangement of the DC are as follows: the laws are grouped according to general topics; within the topics, the laws are arranged according to principles of priority; the individual laws are arranged according to "free association"; the topical units are arranged according to the order of the Decalogue; the commandments of the Decalogue are not repeated in the Deuteronomic law (ibid., 115).

14. Georg Braulik, "Zur Abfolge der Gesetze in Deuteronomium 16,18-21,23: Weitere Beobachtungen," *Biblica* 69 (1988): 63; idem., "Die Abfolge der Gesetze," 271; repr. in "The Sequence of Laws," 333-34.

to interpret the Decalogue and was arranged according to the order of laws in the Decalogue.¹⁵ In this he inherited and developed the views of Kaufman and Braulik.¹⁶ Regardless of their differences, they share the common view that the Decalogue was a source upon which the Deuteronomists relied in arranging their law code.¹⁷

However, this view does not fully explain some out of place regulations such as 21:15–17, 18–21,¹⁸ 22:5, and 24:1–5.¹⁹ The supporters of this view explain that these out

15. Olson, *The Death of Moses*, 63–64.

16. *Ibid.*, 64 n. 3.

17. This proposal has drawn many scholars's attentions and agreement. J.-M. Carrière basically agrees with the view that the DC was arranged according to the order of Decalogue. Yet, he views that this correspondence was the result of post-exilic redaction ("L'organisation des lois en Dt 19–26," *NRTh* 144 [1992]: 522). Jeffries Hamilton agrees with the Decalogue's function as the rule of arranging the DC ("How to Read an Abhorrent Text: Deuteronomy 13 And the Nature of Authority," *HBT* 20 [1998], 13). Römer considers the Decalogue as a table of contents of the DC (*The So-Called*, 129). Although Biddle does not consider the legal arrangement through Decalogue the only principle of arrangement (*Deuteronomy*, 201), he attempts to interpret each legal units according to its relationship with Decalogue (*Deuteronomy*, 205–390; specifically see 235, 323–24, 330, 356–57). Michael D. Matlock interprets Deut 25:5–10 on the assumption of this theory ("Obeying the First Part of the Tenth Commandment: Applications from the Levirate Marriage Law," *JSOT* 31 [2007]: 295–310).

18. Eckart Otto points out that 21:15–17 does not fit into the form of a homicide law and that 21:18–21 is more relevant to the parent law ("Soziale Verantwortung und Reinheit des Landes: Zur Redaktion der kasuistischen Rechtssätze in Deuteronomium 19–25," in *Prophetie und Geschichtliche Wirklichkeit im Alten Israel: Festschrift für Siegfried Herrmann zum 65. Geburtstag* [ed. Rüdiger Liwak et al.; Stuttgart: Kohlhammer, 1991], 290; cf. Jan Christian Gertz also suggests the possibility that 21:18–21 is literarily dependent on Deut 5:16 [*Die Gerichtsorganisation Israels im deuteronomischen Gesetz* (FRLANT 165; Göttingen: Vandenhoeck & Ruprecht, 1994), 188–189]). Yet, Braulik interprets 21:18–21 to make it fit into the scheme. According to his view, this regulation belongs to the category of "preserving life," because this law aims to restrict parents's power over a son. The law shows that the mutual procedure in punishing a son by his parent is to be done in public and step by step (Braulik, *Die deuteronomischen Gesetze und der Dekalog: Studien zum Aufbau von Deuteronomium 12–26* [SBS 145; Stuttgart: Verlag Katholisches Bibelwerk GmbH, 1991], 72). However, the text does not make it difficult for parents to punish their son. Just a report to the elders that one's son is disobedient is enough condition for the men of city to stone the disobedient son. Any serious attempt to preserve the life of a disobedient son is hard to find.

19. Deut 22:5, dealing with sexuality, is placed in the section on killing, and Deut 24:1–5, dealing with sexuality, is placed in the section on stealing (Biddle, *Deuteronomy*, 201).

of place laws aim to prepare readers for the coming topics or to remind them of the aforementioned regulations, which was also a technique used in the ANE legal texts.²⁰ Even if this explanation makes a certain kind of sense, the discrepancy among scholars regarding the scope and identity of the transitional units indicates the weakness of this proposal.²¹ We see that weakness, for example, in the so-called *biarta* laws.²² The *biarta* formula is evident in the orders of idolatry (13:6; 17:7, 12), murder (19:13), false witness (19:19), disobedient son (21:21), adultery (22:21, 24), and kidnapping (24:7). If one understands the ban on idolatry to be connected to the first three commandments in the Decalogue, the order is as follows: first-third Comm. → fifth Comm. → eighth Comm. → fourth Comm. → sixth Comm. → seventh Comm. The two laws regarding false

20. Braulik refers to Herbert Petschow's investigation of Laws of Hammurabi. Petschow points out the transitional character of §§215-233 which thematically belongs both to §§196-214 and to §§234ff (Petschow, "Zur Systematik und Gesetzestechnik im Codex Hammurabi," *ZA* 57 [1965]: 164 n. 107; Braulik, "Die Abfolge der Gesetze," 260; cf. Olson, *The Death of Moses*, 63-65). In addition, Olson offers several other explanations regarding this phenomenon. On the one hand, he mentions that "the broken boundaries between some topical units reflect the sometimes ambiguous struggle between right and wrong in matters of human relationships and actions" (ibid., 91) On the other hand, Olson mentions that some later addition after a major composition was finished caused some of the "apparent disjunctures in the sequence of laws" (ibid., 64 n. 3). Braulik also admits that a number of anomalies in the DC can be explained only on the diachronic level ("Die Abfolge der Gesetze," 259).

21. As for the delineation of the DC according to the topics, some differences exist among Kaufman, Braulik, and Olson. They all agree only regarding two commandments: Honoring Parents (16:18-18:22) and False Witnesses (24:8-25:4) (Kaufman, "The Structure," 113; Braulik, *Die deuteronomischen Gesetze*, 22; Olson, *The Death of Moses*, 64). Moreover, as for the transitional units, Olson and Braulik present different suggestions. Olson regards Deut 22:5, 23:16-17, and 24:1-5 as transitional units, while Braulik considers 22:1-12 and 23:16-24:5 as transitional units (Olson, *The Death of Moses*, 64; Braulik, "Die Abfolge der Gesetze," 260; idem, *Die deuteronomischen Gesetze*, 72-78, 89-93).

22. The term *biarta* refers to the Hebrew word בערת, and this term appears as a part of a formal expression: בערת הרע מקרבך (You shall purge out the evil in your midst).

witnesses and the disobedient sons do not follow the order of the Decalogue and so rule out the view that the DC is grouped and arranged according to the topical order of the Decalogue, which means that other principles need to be found to explain the arrangement of the DC.²³

Second, Calum Carmichael offers several explanations for the composition of the DC. Carmichael argues that the repetition and expansion of an already given law is one of the main compositional methods of the DC.²⁴ For example, in his view the mention of annual tithes in 14:22–27, which seems redundant because it is already mentioned in 12:17, is a repetition and expansion of 12:17.²⁵ According to this understanding, the mention of firstlings along with the annual tithes in 14:23 is not abnormal but fits well in the context because these two laws are mentioned together in 12:17.²⁶ The most intriguing of Carmichael's proposals concerns the DC's connection with the narratives of the Tetrateuch and the earlier narrative of Deuteronomy.²⁷ According to Carmichael, the DC was written with reference to the pentateuchal narratives.²⁸ However, other scholars have

23. Ashmore points out another problem of this scheme. In order to make the DC fit into the order of the Decalogue some laws in the DC had to be interpreted somewhat differently than usual ("The Social Setting of the Law in Deuteronomy," 62-63).

24. Carmichael, *The Laws of Deuteronomy* (London: Cornell University Press, 1974), 34-37.

25. Ibid., 82-83. In Carmichael's view, Deut 12:29–16:17 is an expanded repetition of Deut 12:2–28 (ibid., 68-95). Moreover, laws in 16:18–19:21 also take up the laws in 12:1–13:19 (ibid., 96-117).

26. Ibid., 83.

27. Ibid., 68–117.

28. Christensen in his commentary on Deuteronomy makes much of Carmichael's view, the connection of the DC with the narratives in Genesis to Numbers. Moreover, the following articles adapt

not followed his approach.²⁹ Moreover, some of Carmichael's examples of the DC's connection with narrative traditions are too speculative and subjective to gain general consensus.³⁰

A third proposal pertains to the feature of association which suggests that each regulation is arranged according to its topical, thematic, or verbal association with its corresponding one. Harold M. Wiener argued that the DC was arranged according to "the association of ideas," meaning that the lawgiver did not have any jurisprudential principle, but simply presented one legal topic, followed by another associated one. When all the regulations under one topic have been mentioned, a new topic is addressed.³¹ While Wiener focuses on this "association of ideas," Alexander Rofé prefers

Carmichael's view of the narrative background in the DC: Wenham and McConville, "Drafting Techniques," 248-52; John T. Noonan, Jr., "The Muzzled Ox," *JQR* 70 (1980): 172-75; Lyle Eslinger, "The Case of an Immodest Lady Wrestler in Deut 25:11-12," *VT* 31 (1981): 269-81.

29. Kaufman makes little of his proposal by saying that "Carmichael's arrangement of the laws in Deuteronomy is really an arrangement totally devoid of reason and structure" ("The Structure," 108). Levinson ("Calum M. Carmichael's Approach," 236-50) thoroughly criticizes Carmichael's view with seven points: "Carmichael's reconstruction of the history of israelite literature"; "the problem of legal order redefined as narrative allusion"; "the assertion of lexical redundancy"; "creative philology"; "philological imprecision"; "omission of data"; and "the rejection of literary and historical criticism". He concludes that Carmichael's methodology does not offer insight into the composition and structure of the DC (*ibid.*, 254-55).

30. Although Mayes agrees with some contribution of Carmichael, he points out the problem of Carmichael's view. In Mayes's view, the associations between laws in the DC and narrative traditions that Carmichael makes is not relevant, sometimes wrong (*Deuteronomy*, 50).

31. Wiener, "The Arrangement of Deuteronomy 12-26," *JPOS* 6 (1926): 187-88. In his scheme, he points out several transposed laws. The first example is 17:2-7. In his view, this regulation was omitted because of homoeography (the phrase *ובערת הרע מקרבך* appears both in 17:7 and 13:6) and then later was inserted in the margin and took this strange position (*ibid.*, 188-89). In addition to this portion, he points out that 22:5, 23:20-21, 24:6, 24:8-9, and 24:16 do not follow the rule of "association of ideas." (*ibid.*, 192-95).

the “association of words.” Rofé adopts Umberto Cassuto’s call for a “rule of association” which suggests that verbal association was one of the ways that biblical editors arranged pericopes.³² While Cassuto’s article does not show in detail what verbal associations are used in the DC, Rofé applies this method to his investigation of the structure of the DC.³³ In fact, Rofé’s application of verbal association to the DC as a lens through which to view its arrangement was not new. Kaufman already mentioned it as one of the arranging techniques applied to the DC, although he did so using the term, “free association.”³⁴ Olson also admits that the rule of topical, verbal, and phonetic associations function on the lowest level of composition.³⁵ No matter what the phenomenon is called, whether “verbal association” or “free association,” this technique was certainly employed by the ancient scribes in certain sections (see discussions

32. Cassuto, “The Sequence and Arrangement of the Biblical Sections,” in *Biblical and Oriental Studies vol. I: Bible* (trans. Israel Abrahams; Jerusalem: The Hebrew University, 1973), 1-6. He argued in this short article that the Bible as a whole is basically grouped according to subject-matter, yet other materials are added according to the method of association of ideas, words or expressions.

33. Rofé, “The Arrangement of the Laws in Deuteronomy,” in *Deuteronomy: Issues and Interpretation* (New York: T&T Clark, 2002), 59; repr. from *ETL* 64 (1988). Rofé introduces five other principles of arrangement which Cassuto points out: the topical arrangement, the use of consolation words at the end of a book, the length of literary unit. To this three, Rofé adds his own two other rules of arrangement: the chronological organization and the concentric arrangement (*ibid.*, 57-59). However, these six principles are not all applicable to the DC. Rofé suggests that an interpreter should decide which of these principles of arrangement is at work in the material he/she deals with. Rofé argues that the verbal association has been dominantly practiced in the arrangement of the DC (*ibid.*, 60-67, 76-77).

34. Likewise, Biddle follows the Decalogue theory of Kaufman and Brulik in his commentary. Yet, he points out that the Decalogue order is not the only principle that governed the arrangement of the DC. He admits that within a unit a “catchword” principle is applied (Biddle, *Deuteronomy*, 201).

35. Olson, *The Death of Moses*, 65, 89-90.

below).³⁶ Yet, what Rofé overlooked is that this verbal association is not limited to only two adjacent regulations.³⁷ In the following discussion, I will show that such association can be applied to laws which are placed at a distance to each other.

These different scholarly approaches show the difficulty in discerning the structure of the DC. Although it is true that the structure of the DC is not necessarily self-explanatory,³⁸ we cannot entirely rule out the possibility that the DC was arranged with purpose and intention. Original readers of the work might not have had trouble with elements that look to the modern reader as if they are odd or misplaced.³⁹ So, in the following, I will attempt to find a purposeful overall structure of the DC which would have made sense to the ancient readers. My view is basically in line with Rofé's: I propose that verbal and topical associations are the key elements that the legists used in arranging the DC.⁴⁰ My contribution to Rofé's view is to find more associative elements

36. Ashmore also points out, after surveying the aforementioned scholars's views, that Rofé's view is "the clearest, most reasonable explanation for the arrangement of the laws in Deuteronomy 12–26" ("The Social Setting of the Law in Deuteronomy," 64-65).

37. The most further connection that he makes is "one that is placed last but one" (Rofé, "The Arrangement," 62).

38. This difficulty and ambiguity is partly because the book was written originally for the ancient Israelites who had different literary conventions and culture than the one our modern readers have.

39. Cassuto argues that "There is a definite order, even if it does not meet with the demands of Western scholars" (Rofé, "The Agreement," 73).

40. Verbal association means a connection of two distinct regulations based on their similarity in sounds or words. Topical association has something to do with two regulations which share a common topical area (Rofé, "The Arrangement," 60-61). Lundbom argues that "verbal association was widely used in all levels of discourse," so that one should pay close attention to the specific vocabulary of the text in order to find the rhetorical structure of a given text (*Jeremiah*, 83). James Boyd White's view of the role of association in dialogue gives a useful insight into the role of association in the composition of the DC.

not only in adjacent laws but also in distant units. While describing the structure, I will also investigate the role the structure played by asking: What kind of rhetorical function does the structure accomplish? Was the structure effective in appealing to the ancient audience? Was the structure successful in drawing the attention of the audience to the contents?⁴¹

2. The Structure and Arrangement of Deuteronomy 12–26

The DC as a whole has a purposefully organized structure. On the macro level, the DC features a chiasmic pattern. On the micro level, the individual laws in each subunit are interconnected by thematic and verbal associations.⁴²

Scholars have offered various proposals regarding the subunits of the DC. Many regard 12:1–16:17 as one large collection dealing with the cult laws and 26:1–15 as a

According to him, in dialogue, the aim of dialogue is to make a new language. This newly made language is not a logical language which meshes with a premise and conclusion, but poetic language which is composed in associative fashion (*When Words Lose Their Meaning: Constitutions and Reconstitutions of Language, Character, and Community* [Chicago and London: The University of Chicago Press, 1984], 103-4). This tells us something about the composition of the DC or the arrangement of the DC. The rhetoric of the DC could also be not so much a logical rhetoric but a poetic rhetoric. In particular, with regards to the arrangement, it would be impossible to find a logical arrangement. Yet, an associative way of arrangement could make sense. By listing associated terms and expressions, the whole body of laws, which would not make sense from a logical perspective, would create something of a new picture.

41. Friebel points out the significance of attention in the persuading process. In order to make a change in the audience's belief, attitude, or behavior, the rhetor first successfully has to draw the audience attention to what is mentioned (*Jeremiah's and Ezekiel's Sign-Acts*, 74-75).

42. Association functions to create an integrated view of two distinct literary units. Gregory T. K. Wong investigates rhetorical links among the three major blocks of the book of Judges (1:1–2:5; 2:6–16:31; 17:1–21:25). According to him, rhetorical links exist among these three distinct narrative blocks, and the finding of these links leads one to view the book of Judges as an integrated unity (*Compositional Strategy of the Book of Judges: An Inductive, Rhetorical Study* [VTSup 111; Brill: Leiden, 2006], 22-24).

liturgical appendix.⁴³ Except for these two parts, the remaining portions are divided in various ways.⁴⁴ Among the various proposals, Christensen's division is the most similar to my view. Christensen identifies five portions which are grouped into a chiastic pattern with the laws of leadership and authority (16:18–21:9) at the center.⁴⁵ His scheme is as follows:

A	Public worship at the central sanctuary and in local towns	(12:1–14:21)
B	Laws on human affairs in relation to God – sacred	(14:22–16:17)
X	Laws on leadership and authority – executive and judicial	(16:18–21:9)
B'	Laws on human affairs in relation to others – secular	(21:10–25:19)
A'	Public worship at the central sanctuary and in local towns	(26:1–19)

Although I agree in general with his division of the DC into five subunits,⁴⁶ at several points I differ from him. First, his proposal ignores the similarities between sections A and B, both of which feature the central sanctuary as well as offerings to Yahweh. Thus, although A and B can be dealt with as different subunits, they can combine into one on the basis of their emphasis on the central shrine. Second, the laws on leadership and

43. Otto, "Zur Redaktion," 290; Horst D. Preuss, *Deuteronomium* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1982), 103 (Yet, in his own division, he includes 25:5–19 in the postscript along with ch. 26 [ibid., 108]). Gottfried Seitz points out that the majority of scholarship has described ch. 26 as a liturgical attachment (*Redaktionsgeschichtliche Studien zum Deuteronomium* [Stuttgart: Verlag, 1971], 92); cf. Mayes, *Deuteronomy*, 109-110.

44. In a chart, Seitz shows the scholarly debates regarding the division of the DC (*Redaktionsgeschichtliche Studien*, 82-83).

45. Christensen, *Deuteronomy 1:1–21:9* (WBC 6A; Nashville: Thomas Nelson, 2001), 353; idem, *21:10–34:12* (WBC 6B; Nashville: Thomas Nelson, 2002), 464.

46. The five subunits are identical with *the parashot* except for the last one.

authority in the center (X) correspond to 21:10–25:19 because the authorities dealt with in 16:18–18:22 play judicial roles in 21:10–25:19. Lastly, 12:1 and 26:16–19 function as an envelope of the DC, so that they should be dealt with in separated units. These differences yield the following chiastic pattern:⁴⁷

A	Introduction	(12:1)
B	Cultic and Periodic Laws Related to the Central Shrine	(12:2–16:17) ⁴⁸
C	Institutional Laws	(16:18–21:9)
C'	Civil Laws	(21:10–25:19)
B'	Cultic law: Offerings of First Fruits and Tithes	(26:1–15)
A'	Conclusion	(26:16–19)

With 12:1 and 26:16–19 as its envelope, the DC is divided into four subunits: 12:2–16:17; 16:18–21:9; 21:10–25:19; and 26:1–15. These subunits together form a chiastic pattern. First, A corresponds to A' because both exhort the audience to carefully observe the laws and rules which will be unfolded in the inner frames. Second, B corresponds to B' because the laws of first fruits and three years of tithes appear in both parts.⁴⁹ Third, C

47. The five subunits in Christensen's division are changed into six subunits in my scheme.
 48. This subunit is a combination of cultic laws (12:2–14:21) and periodic laws (14:22–16:17). Since both of these two sections have close connection to the idea of cultic centralization, they are combined into one (cf. Lohfink deals with 12:2–16:17 as the first part of the DC because it pertains to the regulation of the cult ["Distribution of the Functions of Power: The Laws Concerning Public Offices in Deuteronomy 16:18–18:22," in *A Song of Power and the Power of Song: Essays on the Book of Deuteronomy* [ed., Duane L. Christensen; Winona Lake: Eisenbrauns, 1993], 339]). The periodic aspect in Deut 14:22–16:17 has been pointed out by many scholars. Tigay named Deut 14:22–16:17 "Periodic Duties at the Chosen Place and Other Periodic Duties" (*Deuteronomy*, 446).

49. One might doubt this correspondence between B and B' because of their unbalanced weight. Section B is much longer than section B'. However, in reading process, the reappearing topics of first fruits and three years of tithes in 26:1–15 could redirect the audience to the cultic and periodic laws dealt in section B (12:2–16:17).

is related to C'. The subunit C demonstrates the roles of human authorities and social institutions, which play judicial roles in the subunit C'.⁵⁰

This chiasmic arrangement of the subunits of the DC inculcates the audience with the seminal messages by the thematic movement. On the one side of the chiasmic pattern (subunits A, B, and C), the themes move as follows: The DC begins with the demonstration that the following laws and rules are what the people should carefully observe in the land that Yahweh gives them (subunit A:12:1). Then, in subunit B (12:2–16:17) the key messages concern Yahweh-only worship in Yahweh's chosen place as Yahweh's holy people (12:2–14:21) and the regular basis of offerings to Yahweh as a willing response to Yahweh's blessings (14:2–16:17). After that, subunit C lays out the human authorities such as judges, kings, priests, and prophets, all of whom should conduct their duties according to the Torah (16:18–18:22). In addition, the passages on the cities of refuge (ch. 19), the protocol of war (ch. 20), and unidentified slaughter (21:1–9) set up the rules governing the case of killing. This thematic flow, from the statement of laws and rules (A) to the proper relationship between Yahweh and Israel (B),

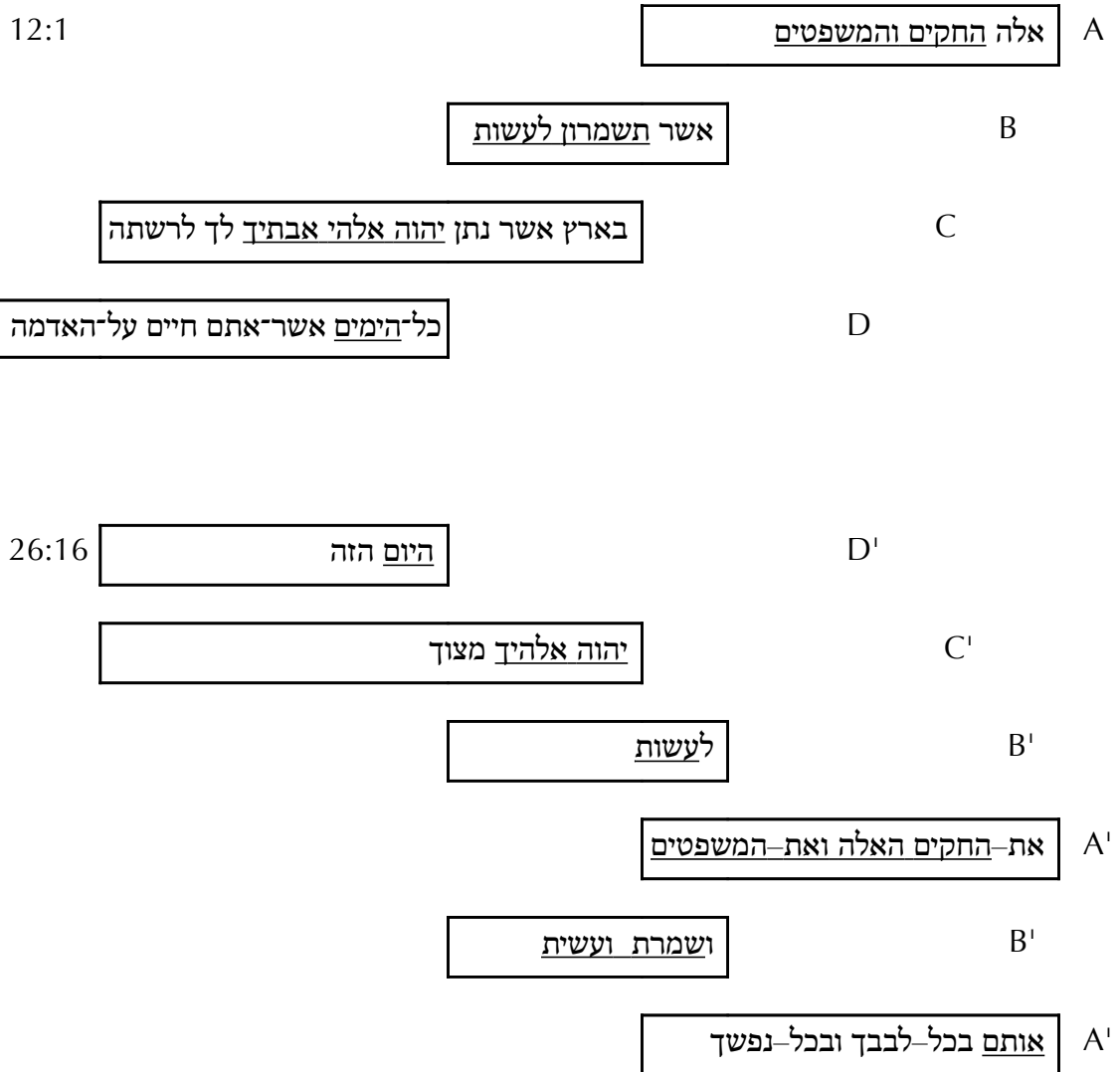
50. An identical command is found in the subunits C and C': לֹא תַטֵּה מִשְׁפֵּט (You shall not pervert a justice). This phrase signals the interrelation between C and C'. The expression appears only in these two verses (16:19, 24:17). Moreover, the term מִשְׁפֵּט, within the DC, does not appear outside the subunits of C and C' (The term is found in 16:18, 19, 18:3, 19:6, 21:17, 22, 24:17). Other usages are outside of the DC (10:18; 27:19; 32:4). In addition to the exclusive usage of the term within the subunits of C and C', their contents are related to the ideal of the law. The institution should aim at the realization of justice. Likewise the civil laws in 21:10–25:19 are also to realize justice.

and to the social authorities under the Torah (C), returns in 21:10–26:19. Civil laws in subunit C' (21:10–25:19), dealing with various issues and cases are grounded in the idea of the realization of justice. As I mentioned before, the emphasis on the realization of justice in 21:17, 22, and 24:17 refers back to 16:18–19 which urges the people to realize justice. Then, in subunit B' (26:1–15), the audience symbolically arrives again at the central shrine, the chosen place to worship Yahweh with the first fruits and tithes as the signs of Yahweh's blessings. Finally, this whole section closes with a command to keep the laws and rules in section A' (26:16–19). Thus, the corresponding part (21:10–26:19) serves not only to remind its readers of the first part (12:1–21:9) but also to enrich the legal ideas demonstrated in the first part. In addition to the macro effect of the chiasmic pattern in the arrangement of the larger subunits in the DC, the micro level of arrangement within each subunit is also rhetorically driven, as I will discuss in the following, subunit by subunit.

i. Introduction and Conclusion of the DC (12:1; 26:16–19)

Given their positions in the DC and their contents, 12:1 and 26:16–19 serve as the introduction and conclusion of the DC. Careful observation of these two sections reveals that the whole DC is framed by these two sections. They correspond to each other in terms of words and structure. These corresponding two sections show the use of *inclusio*

as a way to envelop and conclude the DC.⁵¹ Moreover, the two verses (12:1 and 26:16) have a chiastic pattern .



51. Lohfink already pointed out the *inclusio* made by the phrases **אלה החקים והמשפטים** in 12:1 and 26:16 (*Lecture in Deuteronomy* [Rome: Pontifical Biblical Institute, 1968], 20). Moreover, he indicates that this phrase appears in 5:1, 11:32, 12:1, and 26:16, and that they mark two large sections: chs. 5–11 (paranesis) and chs. 12–26 (law) (*Hauptgebot*, 57).

As the chart above shows, Deut 26:16 restates what is mentioned in 12:1 in reverse order, with slightly different nuances. First, in D' the term “יום” means only “a present time,” while in D it means “all the time.” This temporal difference is achieved by the use of different modifiers (כל vs. הזה). Taking these two temporal remarks together, the time frame of the DC covers not only the permanent time but also the immediate, present moment. Second, the phrase “יהוה אלהים” is found in both C and C' but with a different nuance. Yahweh, who was called the God of the Israelites' ancestors in C is called the God of the Israelites (*you*) in C' (יהוה אלהי אבותיך vs. יהוה אלהיך). This change from God of “your ancestors” to God of “you” suggests that the relationship of the Israelites to Yahweh has become more intimate. The readers' relationship with Yahweh through their ancestors is changed into their own relationship to Yahweh.⁵² In addition to the change in the suffix, what Yahweh does for the people is also different. C mentions that the Lord gave the land to the Israelites. Yet, in C' (and B'), the divine appears as one who commands the Israelites to observe the laws and rules. Thus, it follows that Yahweh, who gave the land to the people of Israel, is now requiring them to observe the laws and rules.

52. Although the expression יהוה אלהיך is common in Deuteronomy (Lohfink, “Gott im Buch Deuteronomium,” in *La notion biblique de Dieu: Le Dieu de la Bible et le Dieu des philosophes* [BETL 41; ed. J. Coppens; Leuven: Leuven University Press, 1976], 201, points out that this phrase appears 235 times in Deuteronomy), its use with “fathers” (אבות) occurs only eight times in Deuteronomy and only 2 times within the DC (12:1 and 26:7). The paucity of this expression and its place at the beginning of the DC shows the author's intention of indicating that the audience becomes more intimate with Yahweh through this law (26:7 recalls the past).

The careful observance of the laws and rules should be the people's faithful response to Yahweh's giving them the land.⁵³ Third, the verbs “שמר” and “עשה” are both found in B and B'. Yet, unlike in B, one of the two terms עשה is used twice in B' as well as being used there in connection with Yahweh. Yahweh appears as the commander. Thus, the command to observe carefully the laws is much more emphasized in B' not only because of its double use, but also because of the fact that the act of observing the laws itself is Yahweh's command. Finally, the pair “החקים והמשפטים” is repeated in A' in a pronominal suffix. Thus, the command to observe carefully the laws and rules is reemphasized in 26:16. In sum, Deut 12:1 and 26:16 show their rhetorical relationship. Taking these two verses together, the meaning becomes enriched and the significance of observing the laws is emphasized by slight changes in the usage of certain terms.

ii. Cultic and Periodic Laws Related to the Central Shrine (12:2–16:17)

This section is composed of two subunits: cultic laws (12:2–14:21) and periodic laws (14:22–16:17). In the following I outline the arrangement of each of the units.

53. One might object to this thematic development in a chiastic structure by pointing out that the command to observe the laws and rules does not occur only in 26:16. However, even though such a phrase appears throughout the DC, its appearance at the beginning and the end with an expanded nuance implies the legists's intention to emphasize the thematic flow.

a) Cultic Laws (12:2–14:21)

In this subunit, three main regulations are combined: cultic centralization, the removal of any seduction to worship other gods, and dietary laws. These three regulations are interconnected by topical and verbal associations.

First of all, in terms of topics, the three large regulations are united into one unit.⁵⁴

This unit focuses on a single worship place (ch. 12), Yahweh-only worship (ch. 13), and Yahweh's holy people (14:1–21), all of which are concerned about the proper relationship between Yahweh and Israel. *Israel is to worship Yahweh only in one chosen place because Israel is the chosen people.*⁵⁵ These three elements—worship place, worship object, and worship subject—are distinguished from pagan worship places, foreign gods, and foreigners living around the Israelites.

Chapter 12 concerns the worship place which is distinguished from foreign worship places.⁵⁶ Deut 12:2 commands the destruction of all the pagan worship places. After destroying all the pagan shrines, the Israelites should search for the place into

54. In general, Deut 14:1–21 has been regarded as distinct from chs. 12–13. Some scholars argue that while Deut 12:1–13:18 has connection with the first Commandment, Deut 14:1–21 has something to do with the second Commandment (God's name) (Braulik, "Die Abfolge Der Gesetze," 259; Olson, *The Death of Moses*, 67-73; Biddle, *Deuteronomy*, 205, 235). However, in my view, these three units are interconnected to one another by their topical similarity.

55. Mayes views 12:1–14:21 as one sections which concern cultic unity and purity (*Deuteronomy*, 220-21).

56. Olson, *The Death of Moses*, 68-69; Clements, "The Book of Deuteronomy," 383-84; Tigay, *Deuteronomy*, 118.

which Yahweh will choose to put Yahweh's name. The place searched by Israel (12:5) and chosen by Yahweh should be the only place to which people bring their offerings, sacrifice them, and eat them before Yahweh with the entire household and the Levites. These cultic regulations, with their focus on one chosen place, lead to the command of Yahweh-only worship in ch 13. In chapter 13, any attempt to worship other gods, no matter who takes the initiative in urging idol worship, is considered to be enticement to be punished. Moreover, the expression לעשות הישר בעיני יהוה אלהיך (to do what is right in the eyes of the Lord your God) in 12:28⁵⁷ and 13:19 serves to tightly connect Deut 12:2–28 and Deut 13:2–19.⁵⁸

After one worship place and Yahweh-only worship are firmly commanded, dietary laws are introduced in 14:1–21. This unit has connection with the previous two units of laws in two aspects. First, the identity of the audience as Yahweh's holy and chosen people connects 14:1–21 to the previous two units. Unlike the almost identical dietary regulation in the Holiness Code (Lev 11) this unit is bracketed by an affirmative

57. In Deut 12:28 the term הטוב is added, and imperfect rather than infinitive is used. Yet its main meaning is the same as Deut 13:19.

58. Between Deut 12:2–28 and 13:2–19, Deut 12:29–13:1 is placed as a transitional unit (Nelson, *Deuteronomy*, 161, 165; Kaufman, "Structure," 128). On the one hand, this unit is tightly connected with its previous part. The term דרש, used in Deut 12:5 as a key term to seek the place for Yahweh worship, is employed with an opposite meaning in order to prohibit "seeking" other gods in Deut 12:30. On the other hand, this transitional unit anticipates the next unit with its focus on the prohibition of worshipping other gods as its topic. The phrase אלהים אחרים (other gods) occurs four times in this short unit in order to introduce the main topic of the next unit. The same phrase appears in 13:3, 7, 14. Thus, the reader is ready to listen to what they should do regarding the other gods which the Canaanites are worshipping.

expression, “You are a people consecrated to Yahweh your God” (Deut 14:2, 22). And v. 2 proclaims that the Israelites were chosen from all the people on the earth. Only when Israel is identified as Yahweh’s chosen and holy people will the command to worship Yahweh only in the one place in Deut 12–13 be effective to the Israelites. By structuring the dietary law within the declaration of Israel’s status as a people consecrated to Yahweh, this law functions to distinguish the Israelites from those who do not belong to Yahweh. Second, the term אכל in the dietary law serves to make a connection with ch. 12. The main concern of ch. 14 is what to eat and what not to eat. Likewise, the action of eating permeates ch. 12. In ch. 12, the Israelites were commanded to bring all kinds of sacrifice to the chosen place and *eat* (אכל) them in the place. Moreover, consumption of meat in local territories was also allowed as profane slaughter.⁵⁹ In sum, Deuteronomy’s three main ideas of a single worship place, Yahweh-only worship, and Yahweh’s chosen people are established in Deut 12:2–14:21.

b) Periodic Laws (14:22–16:17)

The regulations in this unit are tied together by temporal signals, their ceremonial characteristics, and by common expressions.⁶⁰ First, the periodic laws are ordered

59. The connection between ch. 12 and ch. 14 by the term אכל does not rule out ch. 13’s closer connection to ch. 12. One might argue that it would be more appropriate to put ch.14 right after ch. 12 because of their commonality in the use of the term אכל. However, it should be noted that verbal association is not to work only in the adjacent two units. Rather, verbal association can occur in distant units.

according to their periodic term. The periodic term moves from every year to every three years to the seventh year and then back to every year.⁶¹ Beginning with the annual tithe (14:22–26) and the triennial tithe (14:28–29), the law of remission is mentioned, followed by the law of slave release (15:12–18). The laws of remission and of slave release are related to the seven-year time period.⁶² Then, in the law of firstling offering (15:19–23), the one-year period returns. The law of three festivals in ch. 16 includes all the number figures previously mentioned. The Unleavened Bread (16:2–3) and the Booth (16:13) should be celebrated for *seven* days. The Festival of Weeks is *seven* weeks after the first sickling of the barley (16:9). Finally, 16:16 prescribes that *three times a year* all of the Israelite men should be presented before Yahweh. Thus, it can be said that these laws in 14:22–16:17 were arranged according to a particular ordering of time.

Next, the term “ברך” is used throughout this unit. The term blessing/to bless appears 15 times within the DC, of which 9 instances are found in the periodic laws.

60. This portion of Deut 14:22–16:17 has been in general considered one unit based on the use of temporal terms. Some scholars regard this portion as related to the Sabbath commandment (Kaufman, “Structure,” 128; Braulik, “Die Abfolge der Gesetze,” 259; Olson, *The Death of Moses*, 73; Biddle, *Deuteronomy*, 249-51).

61. After first appearing at 14:22 in the DC, the term שנה is often used until 16:16, which exactly matches the scope of Periodic Laws (14:22–16:17). Outside this unit are found only two usages: Deut 24:4 (one year of exemption for a newly-married warrior) and 26:12 (offering of the tithe in the land of promise).

62. Tigay points out that the unity of Deut 15:1–18 is created through the repetition of terms such as “seven years/seventh year” (vv. 1, 9, 12), “brother” (vv. 2, 3, 7, 9, 11, 12), and Yahweh’s blessing (vv. 4, 6, 10, 14, 18) (*Deuteronomy*, 144).

Given the proportion of the amount of the periodic laws to the whole DC (48 verses versus 345 verses, that is, about 1:7), it is most likely to think that the theme of blessing is used predominantly in periodic laws. Each periodic law in this unit includes the theme of blessing. In the law of annual tithe (14:22–26), the people are allowed to bring the annual tithe in the form of money and then to buy proper offerings in the central shrine because Yahweh’s blessing will enlarge the territory. In the law of triennial tithe (14:27–29) Yahweh’s blessing is promised as a reward for the Israelites’ care for the Levites, strangers, orphans, and widows. In the law of remission (15:1–11) Yahweh’s blessing is also promised as a reward for one’s careful obedience to the laws and rules. In the law of slaves (15:12–19) Yahweh’s blessing is given through one’s faithful slaves. In the law of annual festivals (16:1–17) Yahweh’s blessing is assuredly anticipated in the near future, and Yahweh’s blessing is the reason for the Israelites’ offerings.⁶³ Thus, the motif of Yahweh’s blessing serves to tie these laws into one subunit.

Third, in addition to the connections among the laws in 14:22–16:17 made through related terms and expressions, the idea presented by this unit also serves to connect the regulations in 14:22–16:17 into one unit. After establishing the

63. Only the regulation of the firstling offering (15:19–23) does not have such an expression as “blessing.” This is because this unit can be placed here even without this terminological connection. According to Ex 13:2ff, after commanding to offer a first-born to Yahweh, the month of Abib, the Passover is mentioned. Thus, if such a sequence from first-born offering to the Feast of Passover were a fixed convention, it would not be necessary to use the term blessing to connect this unit to another unit.

Deuteronomist's main idea of Israel's relationship with Yahweh, the text draws the reader's attention to one's properties, which seem to belong to their possessors but in fact belong to Yahweh.⁶⁴ The annual and triennial tithes, every seventh year of remission of debts and of Israelite slaves, and three times of showing oneself before Yahweh with offerings—all of these are a way of showing or confessing that the entirety of one's property comes from Yahweh, and that people express their thanks to God by offering proper materials.

In sum, Deut 14:22–16:17 is one large unit including periodic laws which are gathered together based on the temporal terms, the term of blessing, and the confession of Yahweh's gifts given to the audience. Rhetorically speaking, by placing together these periodic laws which have emphasis on the regularity, Yahweh's blessings and Yahweh's gifts, these ideas get the audience's attention along with the individual law.

iii. Institutional Laws (16:18–21:9)

There is scholarly consensus that 16:18–18:22 is one unit, dealing with authorities or institutions.⁶⁵ However, I will argue that the institutional laws should also include 19:1–21:9. The institutional laws (16:18–21:9) begin with an abrupt sentence, שפטים ושטרִים

64. Olson, *The Death of Moses*, 73-78.

65. Peter T. Vogt, *Deuteronomic Theology and the Significance of Torah: A Reappraisal* (Winona Lake: Eisenbrauns, 2006), 33; Kaufman, "Structure," 133; Braulik, "Die Abfolge der Gesetze," 259-260; Olson, *The Death of Moses*, 78; Biddle, *Deuteronomy*, 277-78; Tigay, *Deuteronomy*, 159; and Nelson, *Deuteronomy*, 213.

תתן־לך, in which the objects of the verb is placed in front to signal a beginning of a new theme: legal administration. From this verse on, the institutions of authorities are presented: judges (16:18–17:13), kings (17:14–20), priests (18:1–8), and prophets (18:9–22). These four institutional authorities are combined here not only by their leadership in the society of Israel but also by their positions under the Torah, the instruction of Yahweh. It is explicitly stated that all the authorities are under the authority of the Torah.⁶⁶ In the judicial system of Israel, local judges are guided by a central court in which priests and a judge hold office (17:9). They have absolute power in deciding any case brought up to the central court. Yet, their instructions are not from their own wisdom but from the Torah (17:11). The Torah itself gives them the absolute authority in legal decisions. So, the judicial system is under the control of the Torah. Moreover, kingship is also guided by the Torah. In 17:18–19 the Israelite king is told to copy the Torah, read it, and keep all the words in the Torah. So, the king’s authority is also under the power of the Torah. As for the priests in 18:1–8, the Torah is not mentioned, yet in 17:11 the priests are supposed to do their duties according to the teaching of the Torah. So, even if there is no mention of Torah in 18:1–8, the position of priesthood itself presupposes their connection to the Torah. Finally, as for the prophets, their authority is confirmed by Yahweh. Yahweh

66. Lohfink, “Distribution of the Functions of Power,” 350-51. Tigay points out that Deuteronomy seeks to disperse power among various officials in order to prevent them from developing into a single, absolute leading group (*Deuteronomy*, 159).

put Yahweh's words into their mouths (v. 18). So, even if the Torah is not mentioned in regards to prophetic authority, the prophets are the ones who received Yahweh's words. Furthermore, this portion of text ends with advice on how to distinguish true prophets, who put themselves under the words of Yahweh, from the false prophets, who don't. Thus, it can be said that all the authorities of Israel are controlled by the Torah, and this feature serves to combine these four authorities in 16:18–18:22 into one unit.

Most scholars consider chapter 19 to be separate from this institutional law because of its seeming connection to the motif of murder; ch. 19 is thus regarded as the beginning of the corresponding portion of the sixth Commandment in the Decalogue.⁶⁷ No doubt that the motif of murder or preserving life dominates in ch. 19. However, this dominant motif does not rule out the connection between ch. 19 and the institutional laws in 16:17–18:22. Rather, I argue that the institutional laws should be extended to 21:9.⁶⁸ Chapters 19–20 mention a variety of institutional instructions: cities of refuge (19:1–13), boundary markers (19:14), a system of witnesses (19:15–21),⁶⁹ and a manual for warfare (20:1–20). These chapters are placed after the four institutions (16:18–18:22), because

67. Kaufman, "Structure," 113; Braulik, "Die Abfolge der Gesetze," 260; idem, *Die deuteronomischen Gesetze*, 62-65; Olson, *The Death of Moses*, 88-93; Biddle, *Deuteronomy*, 301-308.

68. Christensen gathers the laws in 16:18–21:9 together under the title of "Laws on Leadership and Authority in Ancient Israel" (*Deuteronomy 1:1–21:9*, 353).

69. Lohfink mentions that ch. 19, except for v. 14, deals with specific cases within a judicial system ("Distribution of the Functions of Power," 344). Thus, chapter 19 has a connection with 16:18–17:13.

they show the working of the institution.⁷⁰ In the law concerning the city of refuge (19:1–13), the elders of the city from which an intentional murderer came should extract the murderer from the city of refuge in which he hides.⁷¹ Moreover, the installation of a city of refuge could not be done by an individual but by communal leadership; the creation of such cities could be more likely done by judicial authorities because of the legal characteristics of the cities of refuge.⁷² Thus, 19:1–13 should be included in the institutional law.⁷³ This is the case until 21:9. Chapter 19:15–21 insists that the doubted witnesses should be brought before the priests and the judges.⁷⁴ In 20:1–9, the first

70. Olson also points out that “chapters 19–21 detail the laws governing the functions of these judges, priests, elders, and other leaders” (*The Death of Moses*, 90).

71. Although the elders are not mentioned in 16:17–18:22 as Israel’s authorities, they had official duties in the ancient Israelite society, especially in judicial system. Wills argue that the city elders, the traditional judicial authority, would work complementarily, even in monarchic period, to professional judicial authority such as judges and officers (*The Elders of the City*, 35). Although Levinson (*Deuteronomy and the Hermeneutics*, 124-26) argues that the former was substituted with the latter, Wills’s study on the judicial role of the city elders in Deut 19:1–13; 21:1–9, 18–21; 22:13–21; and 25:5–10 shows that they worked together in the pre-exilic period (*The Elders of the City*, 143, 161-62). See also *ibid.*, 43 concerning Wills’s argument against Levinson. As for the different scholarly opinions about to which historical period the elders that Deuteronomy pictures belong, see Chapter 2 n. 39.

72. Ancient Israel regarded homicide as a crime which harms not only the victim but also the victim’s entire social group. Thus, the entire community could exact vengeance in a case where the victim’s family does not (*ibid.*, 92-93). This communal aspects of homicide and its revenge supports the view that the cities of refuges were installed as a social institution to prevent from shedding another innocent blood.

73. As for the boundary law placed right after the law of the city of refuge, there is no explicit mention of leadership. Yet, this one verse-length law is placed here on the basis of a verbal association. The term גבול connects 19:14 and 19:1–13 (Rofé, “Arrangement,” 61). Any territory (גבול) allotted to an Israelite should not be taken away by another (v. 14). And when Yahweh enlarges the territory (גבול), Israel should set up three more cities of refuge (v. 8ff). Moreover, the emphasis on the land Yahweh is going to give makes it appropriate to place 19:14 right after 19:1–13.

74. 19:15–21 has verbal connection with 17:2–7. In both parts, the significant role of witnesses (עדים) in a legal decision is stated.

portion of the law of Warfare, a priest, officers, and military commanders are brought forth to do their own duties in the warfare. Finally, 21:1–9 concludes this third subunit with an exemplary case demonstrating the cooperation of all the institutional authorities (21:1–9). In order to deal with an unknown slaughter in a field, elders and priests come forward and remove the risk of being punished due to the shedding of innocent blood.⁷⁵ Because of this presence of social authorities in 19:1–21:9, this part should be considered to belong to the institutional laws.

This arrangement which first introduces four leadership groups, then followed by their exemplary working in Israelite community would function to depict the institution and its practice together, so that the addressees would have better sense of it.

75. The concern for the shedding of innocent blood in a field in 21:1–6 makes it linked to ch. 19, in which the prevention of further shedding of innocent blood is the main concern.

iv. Civil Laws (21:10–25:19) ⁷⁶

This unit can be divided into the following two subunits based on their topics and verbal expressions: 21:10–23:1 and 23:2–25:19.⁷⁷ Although there is no consensus on the principles of arrangement of this legal unit, careful observation focusing on the shared terms and topics reveals some principles of arrangement because the legists employed

76. Braulik argues for the thematic continuity of ch. 21 with chs. 19–20. According to his view, ch. 21 is related to ch. 19 in terms of “legal case” and with ch. 20 in terms of “warfare” (*Die deuteronomischen Gesetze*, 70). This seems the most apt response to the question of whether 21:10 is the beginning of a new unit or a part of the previous unit. As Braulik points out, 21:10 has in common the beginning phrase of 20:1 and 20:13 (*ibid.*, 71). The war motif permeates even more in 21:10–14. However, in my view, 21:10 signals the beginning of a new legal topic. Although 21:10–14 has a war motif, the main concern is for a captive woman in an Israelite family house. Within 21:10–14, the motif changes from war to love and affection by the terms *אשת יפת תואר* and *חשק*. Likewise, the war motif in the previous legal unit (ch. 20) is not transmitted to this unit. The war motif in 21:10–14 should be considered as an attempt to move smoothly from war to family issues. Nelson’s observation may support this view. Nelson finds, within chs. 20–21, two groups of four laws: 20:1–21:9 and 21:10–23. Each set of laws begins with the same formula and ends with an image of a dead body (*Deuteronomy*, 255). Although he presents this observation as the evidence of the unity of chs. 20–21, in fact, this supports the separation of 21:9 and 21:10. The theme of the former is absolutely related to warfare. Yet, the latter is more about family issues except for the 21:22–23. Tigay also separates 21:10 from its previous section by pointing out that 21:10–25:19 mainly deals with private matters, while its previous part is concerned more about public matters (Tigay, *Deuteronomy*, 193). Thus, I regard 21:10–14 as the beginning of a new larger collection of laws.

77. Scholars vary in how they divide Deut 21:10–25:19. Christensen (*Deuteronomy 21:10-34:12*, 559–60) divides up this portion into the following three units: 21:10–23:1; 23:2–24:4; and 24:5–25:19. The first unit deals with family life, the second concerns social ethics, and the last focuses on humanitarian issues. In his view, the last unit is bracketed by laws related to war (24:5 and 25:17–19). However, the war motif does not appear only in 24:5 and 25:17–19. It is also found in 21:10–15. Moreover, the connection of the war motif with a married life may require one to regard 21:10–15 and 24:5 as a frame rather than 24:5 and 25:17–19. Unlike Christensen, Clifford (*Deuteronomy*, 135) regards 23:2–25:19 as one large unit. In his view, the last section on the Amalekites in 25:17–19 corresponds to 23:2–9 because both of them concern those who are excluded from Yahweh’s assembly. This view can be supported by the phrase *בדרך במצאתכם ממצרים* which appears in both 23:5 and 25:17 (The other occurrence is found in 24:9). Clements also regards 23:2–25:19 as one large unit dealing with “matters of general conduct.” (“The Book of Deuteronomy,” 378). Mayer also divides the civil laws (21:10–25:19) into two parts: 21:10–23:1 and 23:2–25:19 (*Deuteronomy*, 220). Although Clifford, Clements, and Mayer provide the same literary division as mine in Deut 21:10–25:19, they do not discern chiasmic structures present in the two large units.

topical and verbal association to arrange the laws in 21:10–25:19. The topical and verbal association works at four levels: (1) the level of framework, (2) the level of a collection of laws, (3) the level of adjacent laws, and (4) the level of the whole unit. First, the legist used common expressions to mark a division of units. An example is **בדרך בצאתכם** in Deut 23:5, 24:9, and 25:17. This phrase forms a frame for the unit of 23:2–25:19 and its center. Second, the legist grouped together laws on particular topics.⁷⁸ For example, cases for sexual offenses appear together in 22:22–29.⁷⁹ Third, the legists attached each individual law to another law, associating them with one another by topical or verbal similarity.⁸⁰ Deut 22:5 shows this principle clearly. The laws in 22:1–4 and in 22:5 share the term **שמלה**. The legists placed 22:5 after 22:1–4 because of this shared term.⁸¹ Yet, 22:1–4 and 22:5 are not considered a group of laws because their themes

78. In general, the laws in a group share the same topic. Yet, in some groups, verbal similarities are also found.

79. The rhetorical effect of grouping thematically similar laws is that each law in a group is deemphasized, while the theme itself is emphasized. In contrast to this technique, the legists spread out topically similar laws in order to maintain the impact of an individual law as well as the effect of a recurring theme. A good example is found in a so-called “farmer’s code of conduct”: 22:9–10 (sowing, plowing), 24:19–21 (harvesting), and 25:4 (threshing) (Nelson, *Deuteronomy*, 297). In this case, both the meaning of each law and the theme of the code of agriculture are maintained. Or, as Nelson points out, 25:4 has to be understood in connection with 14:21b, 20:19–20, and 22:6–7, all of which deal with creation such as animals and trees (ibid, 297). In this case, the humanitarian theme along with the theme of each law are emphasized.

80. The difference between the third principle and the second lies on the tightness of the laws in proper. While the latter shows a strong bond among them in a group, the former links loosely.

81. Rofé, “Arrangement,” 62. The term **שמלה** does not play a significant role in 22:1–4. Yet, in 22:5 the term takes a focal point. By placing them together, the focal term of 22:5 gains more attention of audience because the audience is already exposed to the term in 22:3.

differ from one other. Fourth, the legists used a chiasmic pattern to arrange the groups of laws.⁸² Both 21:10–23:1 and 23:2–25:19 show the chiasmic pattern. In the following I will show the drafting skill in the two subunits in order.

a) 21:10–23:1

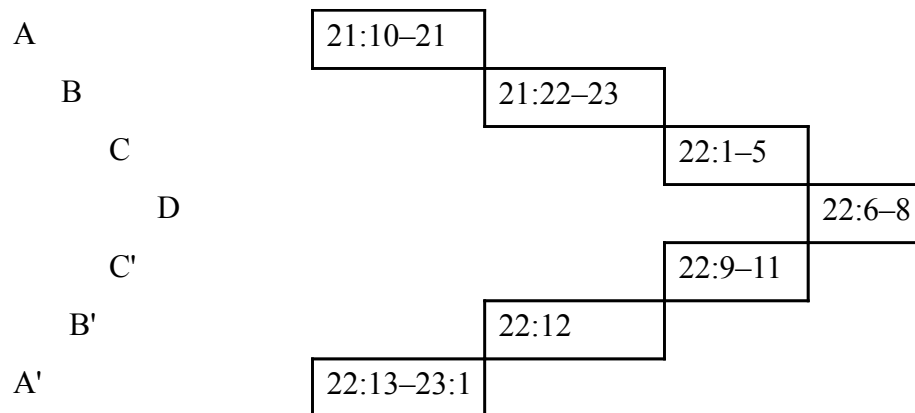
The two rhetorical devices, *inclusio* and chiasmus, combine the laws in Deut 21:10–23:1 into one large legal unit.⁸³ This unit begins with a law concerning how to take a captive woman as a wife and how to deal with her when the man dislikes her. It ends with a prohibition on sexual relationships with one's father's wife. These two laws are linked to each other by the common phrase **לְקַח אִשָּׁה** in 21:10 and 23:1 which forms an *inclusio* in the unit of Deut 21:10–23:1.⁸⁴ In addition to the rhetorical device *inclusio*, this unit is formed into a chiasmic pattern as follows:⁸⁵

82. Mary Douglas points out the necessity to find out chiasmus (ring composition) not in short pieces or a few lines but in a long text. In her view, ancient texts which look unsystematic and clumsy would have a sophisticated structure, especially a ring composition (*Thinking in Circles: An Essay on Ring Composition* [New Haven: Yale University Press, 2007], 10-11). The find of chiasmic structure within Deut 21:10–23:1 and 23:2–25:19 supports Douglas's view.

83. Deut 21:10–23:1 regulates issues regarding family life with marriage as its focal point. Christensen argues that “the laws in 21:10–23:1 . . . deal primarily with family laws” (*Deuteronomy 21:10–34:12*, 560). Yet, it is also noted that laws regarding a family issue are also found in 24:1–5 and 25:5–10. This should be understood as the legist's rhetorical attempt to tie the other large legal unit to the first unit. Carrière argues that 21:10–14, 24:1–5, and 25:5–10 serve as a frame of a unit 21:10–25:10 which deals with conjugal life (“L'organisation des lois,” 525-30).

84. Christensen points out 21:10–14 and 23:1 function as the outer frame of the chiasmic pattern in 21:10–23:1 (*Deuteronomy 21:10–34:12*, 468).

85. Christensen also finds a chiasmic structure in 21:10–23:1 (*Deuteronomy 21:10–34:12*, 468-69). However, my view is different from his in two points. First, in his scheme, 21:10–14 and 23:1 are distinguished from 21:15–21 and 22:13–29, retrospectively. In my view, however, 21:10–14 could be considered to belong to 21:15–21 and 23:1 to 22:13–29. Second, he regards 22:1–4 as part of 21:22–23.



First, A (21:10–21)⁸⁶ corresponds to A' (22:13–23:1) for both deal with marriage and

Yet, in my view, the former should belong to 22:5 in that 22:1–4 is also concerned to distinguish one's own from the other's.

86. Deut 21:10–21 is to be regarded as a group of laws because of thematic similarity and verbal association. This group of laws is composed of 21:10–14, 15–17, and 18–21, which are normally titled “family laws” (Tigay, *Deuteronomy*, 194-97, 447; Adele Berlin, “כי תצא: Deuteronomy 21:10–25:19,” in *The Torah: A Women's Commentary* [ed. Tamara Cohn Eskenazi; New York: Women of Reform Judaism, 2008], 1167-69). They are interrelated in two ways. First, a string of word chains is found. Each law begins with a term in the preceding law and ends with an introduction to a new motif. This new motif is then taken up by the next law. 21:10–14 concerns how to properly deal with a captive *woman*. *Women* are the first main subject of the next unit, 21:15–17. Then, 21:15–17 concerns how to properly deal with one's *first son* who is the son of a hated wife. The *sonship* motif is taken up in the next unit, 21:18–21, which concerns how to properly deal with a *defiant son*. These three laws are closed by a “*biarta*” formula. Although this formula does not always mark the end of a group of laws, it is intriguing to see the *biarta* formula at the end of the supposedly single group of law. The next aspect is that the protagonists of these regulations are all members of a family: a captive woman as a wife, a soldier as a husband (21:10–14); husband, wives, son (21:15–17); and parents and son (21:18–21). Because of these verbal similarities and thematic connections these three laws are grouped together. By listing similar laws together, the common idea is emphasized because of the repetition of their main idea. The individual particularity is deemphasized, while their similarity is emphasized.

As noted by many scholars, the three family laws in 21:10–21 focus in preventing a patriarch from wielding his power arbitrarily (Eryl W. Davies, “The Inheritance of the First-Born in Israel and the Ancient Near East,” *JSS* 38 [1993]: 176-79; for more references, see Bruce Wells, “The Hated Wife in Deuteronomic Law,” *VT* 60 [2010]: 134, n. 15; cf. mentions about only 21:15–17: Anselm C. Hagedorn, *Between Moses and Plato: Individual and Society in Deuteronomy and Ancient Greek Law* (FRLANT 204; Göttingen: Vandenhoeck & Ruprecht, 2004), 210; Crüsemann, *The Torah*, 256; Carolyn Pressler, *The View of Women Found in the Deuteronomic Family Laws* [BZAW 216; Berlin: de Gruyter, 1993], 16).

Different views regarding the scope of this group of laws are offered by Braulik and Hagedorn. First, Braulik argues that 21:10–23 are connected by key words (*Zur Abfarge*, 90). In addition, he points out that the formula “כי היה לאיש/באיש” found in 21:15, 18, and 22, and the themes of marriage and family combine

sexuality. Verbal similarities are also found in these groups of laws: לַקַּח, אִשָּׁה, אִישׁ.

Second, B (21:22–23) corresponds to B' (22:12) for both function as a transitional unit.

Just as B (21:22–23) bridges A (21:10–21) and C (22:1–5),⁸⁷ so B' (22:12) bridges A' (22:13–23:1)⁸⁸ and C' (22:9–11).⁸⁹

the three laws together (*Braulik, Die deuteronomischen Gesetze*, 71). Second, Hagedorn argues that Deut 21:15–23 is grouped together under the theme of family life (*Between Moses and Plato*, 201–202; idem., “Guarding the Parents’s Honour–Deuteronomy 21.18–21,” *JSOT* 88 [2000]: 102). As Braulik points out, Hagedorn sees a similar beginning of the three laws as a sign of one group of laws. As for the view of Braulik, although 21:10–14, 15–17, and 18–21 are associated with each other under the family issues, 21:22–23 has little to do with the theme of family or marriage. The family issues are only found in 21:10–21. As for Hagedorn’s view, I don’t see why he does not consider 21:10–14 under family laws. In his book, *Between Moses and Plato*, he does not deal with 21:10–14 in detail. He only assumes that 21:10–14 is a legislation on warfare (*Between Moses and Plato*, 203). Thus, I consider 21:10–21 to be one group dealing with family issues, and 21:22–23 is attached to this group only by verbal association.

87. Deut 22:5 is grouped together with 22:1–4 in two ways. First, these two laws are apodictic laws. Second, the term “garment” (שְׂמֹלֶה) is found in 22:5 and 22:3. Including these two verses, the term שְׂמֹלֶה in Deut appears in 8:4, 10:18, 21:13, 22:3, 22:5, 22:17, 24:13, 29:4. Interestingly, these verses form a chiasmic pattern. Deut 8:4 matches 29:4 in that the clothing signifies Yahweh’s continuing care for Israel. 10:18 corresponds to 24:13 with the concern for the poor. 21:13 and 22:17 are both related to the motif of marriage. 22:3 and 22:5 is the center of this chiasmic pattern.

88. 22:13–23:1 are grouped together because all of the regulations deal with sexually inappropriate behavior between a man and a woman (Their drafting scheme has been pointed out by Wenham and McConville, “Drafting Techniques,” 248–252, and Braulik, *Die deuteronomischen Gesetze*, 82. For a detail treatment, refer to Chapter 4 XI). This group of laws functions to emphasize the legal idea of the prohibition of illegitimate sexual relationship.

89. Deut 22:9, 10, and 11 are regarded as a group of laws because all of them prohibit mixing two different types of materials: seeds, livestock, and yarn (Christensen, *Deuteronomy 21:10–34:12*, 503; Tigay, *Deuteronomy*, 202; McConville, *Deuteronomy*, 338; cf. Carmichael reads these group of laws as the Deuteronomist’s legal comments on Judah’s story [“Forbidden Mixtures,” *VT* 32 (1982): 437]). The theme seems similar to the group of laws in 22:6–8. However, it is different because the two elements in 22:9–11 are not the opposite of each other. Rather, they shows clearer interrelation. Moreover, 22:6–8 is composed of apodictic laws, while 22:9–11 casuistic laws.

A (21:10–21)

The use of מוֹת (vv. 21 and 22)
Capital Punishment

B (21:22–23)

The Motif of Ignorance

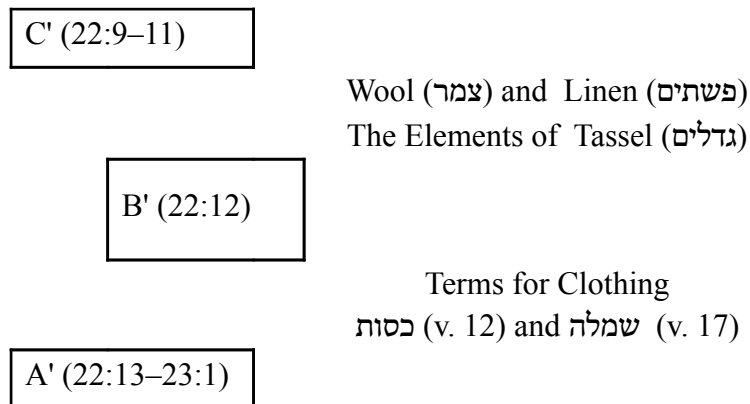
C (22:1–5)

As the table I above shows, Deut 21:22–23 is explicitly associated to the legal unit 21:10–21 through the use of the term מוֹת and the theme of capital punishment. Yet, since they deal with different topics, the passages are considered to be different units. The main command in 21:22–23 regards how to deal with a body hung on a tree, while 21:18–21 refers to a rebellious son, which is a household issue. At the same time, Deut 21:22–23 is associated with 22:1–5 through the theme of ignorance.⁹⁰ In the former, the text

90. Braulik considers Deut 22:1–12 as a whole to be a transitional unit from the fifth to the sixth command of the Decalogue (*Die deuteronomischen Gesetze*, 73). Deut 22:1–12 is attached to the preceding and following legal units by statement and forms (*ibid.*, 75). Braulik argues that the keywords “donkey,” “ox,” and “fall in a road” in v. 4 are repeated in a reversed order in vv. 6, 8, and 10 (*ibid.*, 75). Moreover, he argues that the overarching repeated keywords such as house in v. 2 and a new house in v. 8, cloth in v. 3 and a woman cloth in v. 5, generate a sense of unity (*ibid.*, 75). Kaufman argues that vv. 5–12 forms a chiasmus: A (clothing in v. 5), B (animal vv. 6–7), C (house in v. 8), C' (field in v. 9), B' (animals in v. 10), A' (clothing in v. 11–12) (“structure,” 136). Kaufman’s view of the chiasmic pattern seems to work. The final redactor would have been able to add vv. 5–8 to correspond to vv. 9–11. However, the problem is that v. 5 is closer to vv. 1–4 rather than vv. 6–7 in terms of form. The laws in vv. 1–4 and 5 take the apodictic form, while vv. 6–8 the casuistic form. Deut 22:9–11 are composed of three apodictic laws. Moreover, the theme of v. 5 corresponds to that of vv. 9–11, but not vv. 6–8. Thus, in my view, only v. 5 is in parallel with vv. 9–11. Braulik finds a connection between v. 5 and v. 11 through the negated verb “רַבֵּשׁ.” Braulik also insists that Kaufman’s chiasmic pattern is unsophisticated (*Die deuteronomischen Gesetze*, 75, no. 36).

commands that a dead body should not remain on a tree overnight. This command requires people to handle carefully even a dead body rather than to ignore it. In a similar way, in 22:1–4, people are cautioned against being ignorant of any lost livestock and fallen animals. This similar underlying legal philosophy ties Deut 21:22–23 with 22:1–5.

Deut 22:12 also functions as a bridge between 22:9–11 (Three forbidden mixtures) and 22:13–23:1 (The laws of sexuality).



On the one hand, B' (Deut 22:12) is associated with C' (22:9–11) because a tassel was made from a mixture of linen and wool.⁹¹ On the other hand, B' anticipates the next legal case in A' (22:13–23:1) because both use the image of clothing: כסות in v. 12 and שמלה in v. 17.⁹² Moreover, the term כנף in 22:12 and 23:1 functions to associate 22:12 with 22:13–

91. Olson reads vv. 11–12 together and concludes that v. 11 forbids making a garment from two kinds of threads, yet v. 12 gives an exception for this case because the tassels would be made of linen and wool (*The Death of Moses*, 102).

92. As some scholars argue, the topic “clothing” also links 22:12 with 22:11 (Nelson, *Deuteronomy*, 269; Braulik, *Deuteronomium II 16,18–34,12* [Würzburg: Echter verlag, 1992], 163; Olson, *The Death of Moses*, 102).

23:1.⁹³ In sum, because of their bridging function, B (21:22–23) and B' (22:12) correspond to each other.

Third, in the chiasmic structure of Deut 21:10–23:1, C (22:1–5) corresponds to C' (22:9–11) because of verbal associations and thematic similarity. The theme of 22:5 is the prohibition of mixing the gender distinction in clothing. Likewise, the three laws in 22:9–11 all prohibit mixing two different types of materials. Moreover, the terms שור and חמר are found in both 22:4 and 22:10. Thus, 22:1–5 corresponds to 22:9–11.

Fourth and finally, Deut 22:6–8⁹⁴ functions as a center of the chiasmic structure, so the emphasis is placed upon these two laws. Both Deut 22:6–7 and Deut 22:8 pertain to the demarcation between life and death, and protection and risk. Deut 22:6–7 warns against taking a young animal and its mother together, a concern about the mixing of life-giving power with death. Similarly, in 22:8 the positive function of a roof is contrasted with the risks of a roof. The law intends to remove such a risk by requiring a parapet, and to prevent from taking life-giving power together with its production.

93. In addition to the verbal association between 22:12 and 23:1, Braulik argues that the image of covering one's nakedness in 22:12 serves to connect 22:12 with 23:1. The terms כסות and כסה pi. in Deut 22:12 reveal the redactor's intention to connote the covering of nakedness by these terms. This covering image is also found in 23:1 (*Die deuteronomischen Gesetze*, 77-78).

94. Although Braulik finds a similar feature in vv. 5–8, he divides 22:1–12 into two sections: one relates to preserving life (vv.1–4, 6–8); the other to sexuality (vv. 5, 9–11) (*Die deuteronomischen Gesetze*, 74).

In sum, as depicted above Deut 21:10–23:1 is shaped into chiasmic arrangement. Likewise, the next subunit of civil law Deut 23:2–25:19 also employs chiasmic structure.

b) 23:2–25:19

The legists savvily used two different methods in arranging the laws in this unit. On the one hand, the legists used a chiasmic structure.⁹⁵ On the other, the legists employed thematic and verbal associations. These two ways of arrangement work together to complement each other. Although these two techniques are employed in arranging the laws in Deut 23:2–25:19, I will focus on the chiasmic structure because in my view, the technique of verbal association plays a complementary role, while the chiasmic pattern has the main role. In addition, I limit my discussion to this chiasmic structure because Rofé already presents enough examples of the technique of verbal associations in the DC.⁹⁶

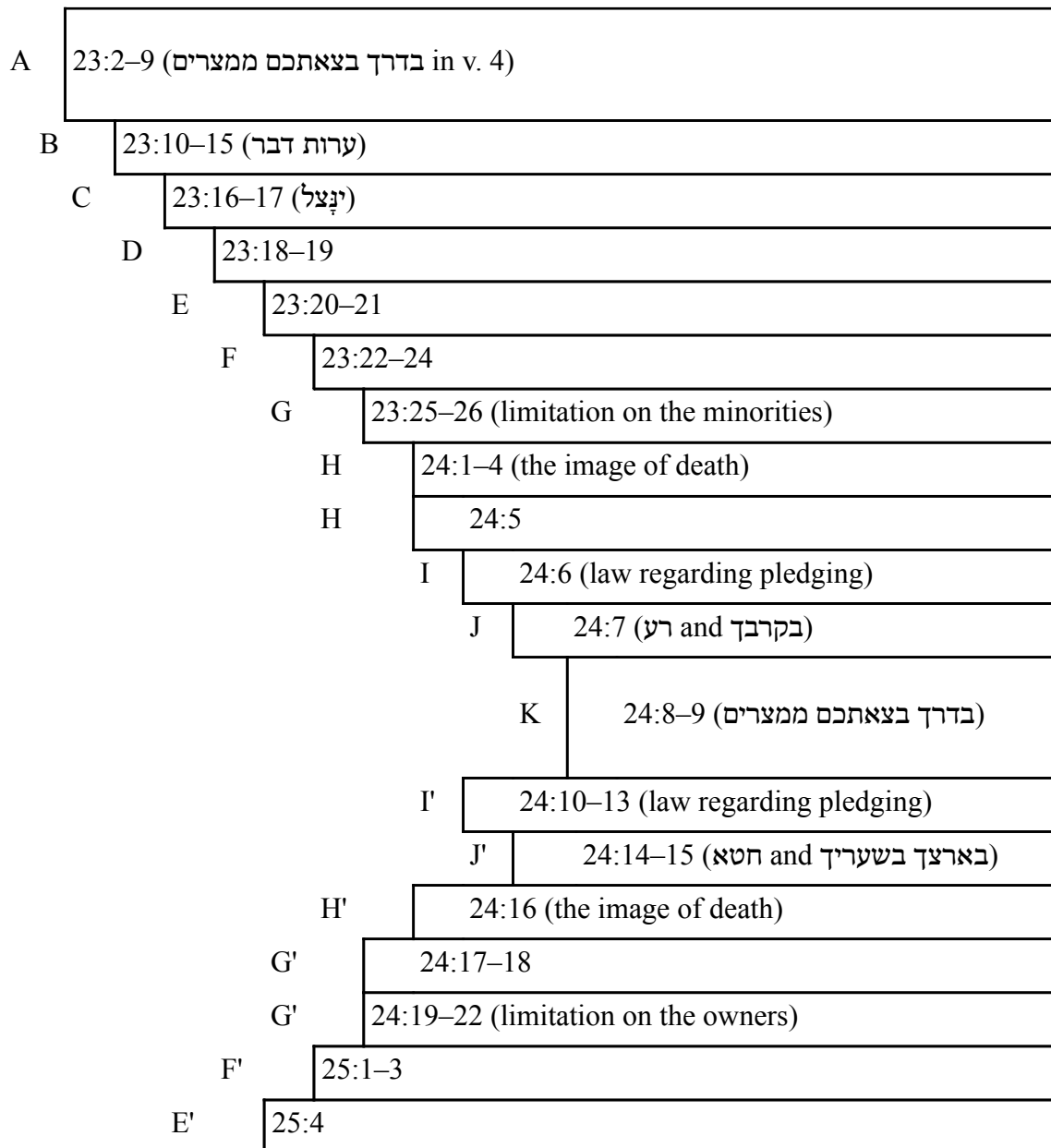
To turn to the chiasmic structure in Deut 23:2–25:19, we note that the legists marked the boundary of this unit with the phrase **בדרך בצאתכם ממצרים**.⁹⁷ The laws having

95. Christensen outlines Deut 23:1–25:19 according to chiasmic structure (*Deuteronomy 21:10–25:19*, 525). However, this outline does not show the chiasmic feature well. In his schema the large portion, Deut 24:1–25:19, serves as the outer frame. He combines Deut 24:1–25:19 into one large unit based only on the observation that the unit begins with forbidden remarriage (24:1–4) and ends with holy war (25:17–19), and this corresponds to Deut 23:1–15, another outer frame, which begins with forbidden marriage (23:1) and ends with a law related to the military camp (23:10–15). However, in his schema the laws in 24:5–25:16 do not have any role even though they cannot be reduced to two themes (marriage and war).

96. For the verbal and thematic association of this unit, see Rofé, “Arrangement,” 63–66.

97. This expression appears only three times in the Hebrew Bible, and all of them occur within 23:2–25:19. A slightly different form occurs in Josh 5:4–5. However, in Josh 5:4–5, the infinitive form of **יצה** is suffixed by the third person plural subjective pronoun, while the examples in the DC use the second person plural subjective pronominal suffix.

this phrase are placed at the beginning, at the center, and the end of this unit. Moreover, there are ten laws that occur both between the beginning and the center, and between the center and the end. The distribution of the phrase and the remaining laws yield the following chiastic pattern:



D'	25:5–10
C'	25:11–12 (נצל)
B'	25:13–16 (תועבת יהוה אלהיך)
A'	25:17–19 (בדרך בצאתכם ממצרים in v. 17)

23:2–9 (A) and 25:17–19 (A') forms a outer frame. These two laws correspond to each other. As Clifford points out, both deal with the exclusion of certain foreign nations from the community of Israel.⁹⁸ Moreover, 24:8–9 (K) fits well in the center of this legal collection. The exhortation to observe carefully what is commanded in 24:8 is a seminal and summary statement. With 24:8–9 at the center, the exhortation to keep the laws resounds throughout this unit. Although not all the laws on one side of this pattern correspond to the laws on the other side, several laws match with their supposed pairs, and these maintain the chiasmic structure. The following shows the examples.

First, 23:10–15 (B: Purity of the military camp) corresponds to 25:13–16 (B': honest weights and measures) in terms that both relate to something distasteful to Yahweh, so that it should be avoided in the place where the Israelites stay. In B, the Israelites are told to keep the military camp from something unseemly (ערוות דבר) because *Yahweh* does not tolerate it. Likewise, in B' the Israelites community is told to use honest

98. Clifford, *Deuteronomy*, 135. This issue would have been particularly crucial in order to maintain the pure identity of Israel in the exilic or post-exilic period.

weights and measures in their commercial activities because dishonest weights and measures are disgusting things (תועבה) to *Yahweh*. The terms ערות דבר and תועבה⁹⁹ and *Yahweh*'s intolerance to such behaviors loosely connects these two legal units.

Second, 23:16–17 (C: a fugitive slave) corresponds to 25:11–12 (C': improper involvement in a dispute) in terms of verbal and thematic association. In both laws, the term נצל plays a crucial role. In C, a slave seeks salvation (ינצל) from an Israelite; in C', a woman stretches her hand to save (נצל) her husband in quarrel. In C, it is commanded that the slave can choose wherever he/she wants to dwell, and implicitly mercy is required of the Israelites. By contrast, in C', it is commanded that the woman's hand is cut off and the Israelites should not have pity on her. This contrast discloses an essential idea that these two laws deliver together. A slave's request for a *rescue* was accepted but a woman's action for a *rescue* is not accepted because of her immodest actions of grabbing another man's private part and of trespassing on the Judge's authority. I will describe this feature in detail in chapter 4. XXXIV.

99. The two terms ערות דבר and תועבה appear together in Deut 24:1–4. A husband who wants to divorce his wife because he finds something unseemly (ערות דבר) about his wife is later on warned not to take the woman back because such an action is regarded as abhorrent (תועבה) to *Yahweh*. This is a literary pun to make a fun of the husband. Although he finds something bad in his wife so that he divorces her, he is likely to do something abhorrent by himself taking back his former wife (Although this law does not indicate that the first husband took his former wife back, the prohibition to do it presupposes such a practice).

Third, 23:25–26 (G: limitation on foraging) corresponds to 24:19–22 (G': portions for the aliens, the orphans, and the widows) in a contrasting way. They are opposite sides of a single coin. In 23:25–26, we read that one can take one's neighbor's vines and grain with the proviso that one not exceed the amount of one's daily consumption. This law addresses the minority to protect the property right of the owner. Unlike 23:25–26, 24:19–22 gives an instruction to the owner. The owners of a field or an orchard should leave behind some of their harvest for the minorities. This law concerns the stranger, the fatherless, and the widow. Thus, 23:25–26 and 24:19–22 together draw a picture of a community in which both the Haves and the Have-nots care for each other.

Fourth, 24:6 (I: law regarding pledging) corresponds to 24:10–13 (I': law regarding pledging). The term חבל in 24:6 and the term עבט in 24:10–13 are synonymous.¹⁰⁰ Both deal with the instance of taking a pledge.

Fifth, 24:7 (J: kidnapping) corresponds to 24:14–15 (J': timely payment of wages due). According to this pairing, the legist makes a point that the action of failing to pay a daily wage to laborers is equivalent to kidnapping. Moreover, the terms רע in 24:7 and חטא in 24:15 serve to make a connection between the two laws. Deut 24:7 proclaims that such evil (רע) should be purged out among Israel (מקרבד). Likewise, 24:14–15

100.K.-M. Beyse, “עבט,” *TDOT* X: 405-406.

demonstrates that delaying giving wages is a sin (חטא) which should not exist in the Israelite land in one of your towns (בארצך בשעריך).¹⁰¹

In addition to these somewhat explicitly paired laws, there are several pairs which show implicit connection. First, 23:18–19 (D: prohibition on prostitution) roughly corresponds to 25:5–10 (D': levirate marriage) in terms of the image of sexual intercourse. In D, קדש and קדשה are prohibited, although they could be regarded as socially accepted customs; in D', levirate marriage is accepted although it could be regarded as incestuous behavior (Lev 18:16 and 20:21). Second, 23:20–21 (E: prohibition from taking interest) and 25:4 (E': prohibition from muzzling an ox that is working) promote the idea that one should not exploit a source. Deut 23:20–21 commands that one should not make any further benefit from a loan. Likewise, 25:4 suggests that one should not extract any further benefit from already working animals. Third, 23:22–24 (F: vow to Yahweh) and 25:1–3 (F': a dispute between two men) relate to legal disputes. In 23:22–24

101. One might ask why in this chiasmic structure 24:6 and 7 are changed or why 24:10–13 is placed before 24:14–15. Several responses would be possible. Yet, in my view, the close connection between 24:6 and 7, and between 24:10–13 and 14–15 makes the change possible. Deut 24:6 is tightly associated with 24:7 by the term גפש, just as 24:10–13 with 24:14–15 by the phrase עני הוא בלאם. Because of the tight connection, their correspondence to other laws could easily seem possible. Moreover, this change emphasizes a thematic idea that taking a pledge harshly is a more serious crime than kidnapping. Everyone agrees that kidnapping is a serious and hideous crime. Yet, few will take their pledge so seriously as to be unable to manage their life. So, this aspect is emphasized by placing 24:6 before 24:7, and it is emphasized again by dealing with the pair of 24:6, that is, 24:10–13, prior to the pair of 24:7, that is, 24:14–15. Even the pair of 24:7 is closer to 24:10–13. Thus, these three laws, 24:6, 10–13, and 14–15, all depict a somewhat ignored aspect of the crime of theft.

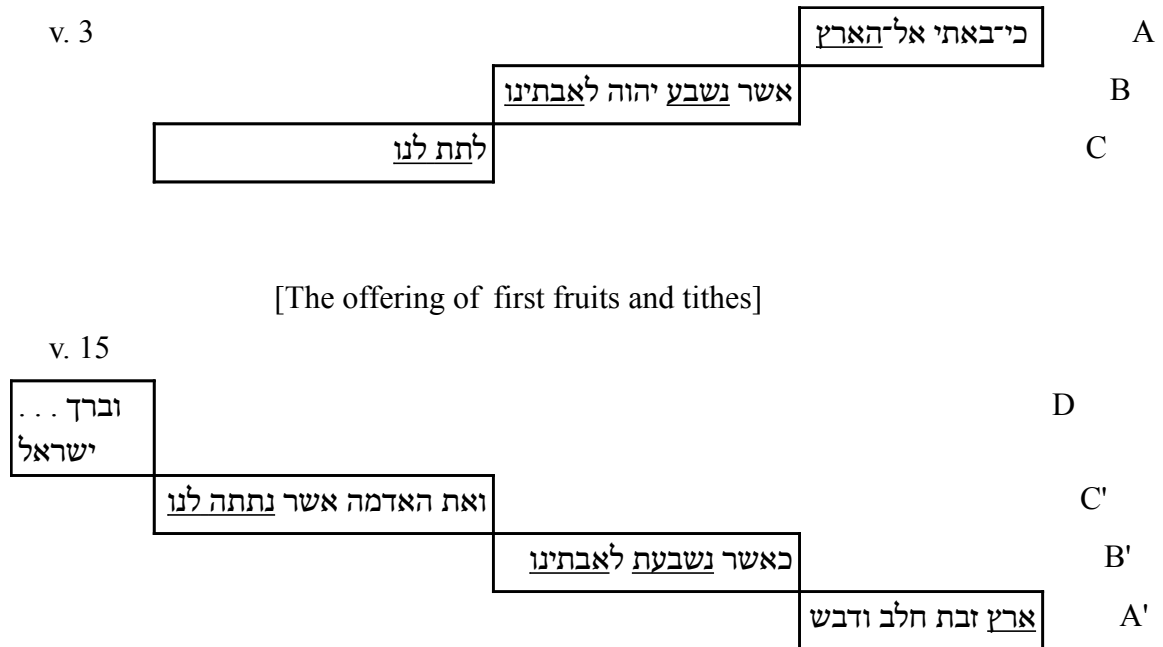
Yahweh's action of seeking from the unfaithful vower is analogous to an action of bringing a case to the court in 25:1. Fourth, 24:1–5 (H) and 24:16 (H') are connected by the image of death. In 24:3, the second husband dies. Deut 24:5 commands one year of exemption from military duty in order to prevent the new bridegroom from being killed in a war (before having sired offspring). The paired law in 24:16 also concerns death. In this case, death occurs only as a result of one's own sin, not another's. Although these analogies are not quite manifest or explicit, it cannot be denied that there are some connections.

Reading these legal units with the assumption of them having a chiastic structure suggests several new meanings. Some aspects of laws are disclosed when one reads a law with its paired law. Although the chiastic pattern is not clearly supported by all the pairs, the symmetry created by the use of the expression (בדרך בצאתכם ממצרים) and several clearly paired laws holds the other laws tightly within this unit and gives the whole a sense of unity. In sum, the chiastic arrangement of civil laws show that the civil law was not a random collection without scheme but a collection of skillfully arranged laws. This scheme was invented to effectively deliver the various range of laws.

v. Offerings of First Fruits and Tithes (26:1–15)

This unit is composed of two portions: vv. 1–11, declaring the offering of first fruits, and vv. 12–15, declaring the offering of the triennial tithe. These two portions are held

together by the *inclusio* found in vv. 3 and 15.¹⁰² The sentences in vv. 3 and 15 also form a chiastic structure.



The *inclusio* brackets Deut 26:1–15 with an idea that Israel entreats Yahweh’s blessing in the land they entered. When the Israelites enter the land of promise (vv. 1–3), they are to perform two liturgical ceremonies. After fulfilling these two ceremonies, the Israelites entreat Yahweh’s blessing (v. 15). In addition, the chiasmus in this *inclusio* pinpoints four essential ideas: a land of promise (lines A and A’), Yahweh’s stern promise to the fathers (lines B and B’), Yahweh’s giving of the land (lines C and C’), and Yahweh’s blessing

102. Jerry Hwang, *The Rhetoric of Remembrance: An Investigation of the “Fathers” in Deuteronomy* (LTHS 8; Winona Lake: Eisenbrauns, 2012), 61. In his view, the notion of “fathers” has a significant point in this *inclusio*.

(line D). All these ideas are so tightly interconnected to each other that they are best considered together. First, in line A, a worshiper confesses that he came into the land. In line A', the nature of this land is elaborated with the phrase, flowing with milk and honey (זבת חלב ודבש). Second, line B indicates the fact that Yahweh promised this land to the speaker's ancestors. The legist emphasizes the same idea by repeating it in line B', "as you swore to our fathers." Third, lines C and C' declare what Yahweh swore to the speaker's ancestors. Yahweh swore to give the land. In the lines B/B' and C/C' the land is what Yahweh swore to the speaker's ancestors. Yet, line D at the center of this chiasmic structure explicitly demonstrates that the object of Yahweh's blessing is not the speaker's ancestors but Yahweh's people, Israel (ברך את-עםך את-ישראל). Through this chiasmic structure in *inclusio*, the legist highlights the request of Yahweh's blessing upon the people who came into the land which Yahweh swore to their ancestors to give. This blessing can be obtained through observing the laws and rules which the legists delivered in Deut 12:2–25:19.

3. Conclusion

In the discussion of the structure of the DC as a whole, I have argued that the DC is not a random collection but a systematically arranged work. The chiasmic structure at both the macro and micro levels supports the argument. At the macro level, the entire DC is divided into six portions (12:1; 12:2–16:17; 16:18–21:9; 21:10–25:19; 26:1–15; 26:16–

19), and these portions form a chiasmic structure (ABCC'B'A'). At the micro level, two chiasmic structures were indicated. One is from the lines in A (12:1) and A' (26:16); the other is those in B' (26:3bβ and 26:15). These chiasmus functioned to highlight the main points by repeating the same points on each side, sometimes with modifications.

Except for A and A' which correspond to one another, all the portions are composed of two parts. 12:2–16:17 (B) is composed of 12:2–14:21 and 14:22–16:17. The former demonstrates the crucial deuteronomic idea, that is of one worship place, one God, and one chosen people.¹⁰³ The latter deals with ceremonial laws which are presented according to temporal signals. Yet, these two portions are combined because both pertain to cultic centralization and deal with cultic law.

16:18–21:9 (C) is also composed of two parts 16:18–18:22 and 19:1–21:9. The former sets up the institutional authorities, while the latter offers specific cases in which the authorities operate. These two portions are also combined because they deal with institutional operations in the Israelite community.

The civil laws in 21:10–25:19 (C') is also composed of two parts: 21:10–23:1 and 23:2–25:19. As discussed, the seemingly unsystematized legal collections in fact show a

103. Brueggemann points out that Deuteronomy creates a picture that “the *one Yahweh* must be worshiped only in the *one place* by the *one people* of Yahweh (“Exodus’ in the Plural (Amos 9:7)” in *Many Voices, One God: Being Faithful in a Pluralistic World* [ed. Walter Brueggemann and George W. Stroup; Louisville: Westminster John Knox, 1998], 18).

chiastic structure. In 21:10–23:1 several laws are combined under the same topics and these groups of laws are arranged in a chiastic structure. In a slightly different way, 23:2–25:19 also shows a chiastic structure. This time, an individual law has a corresponding law in the chiastic structure.

The liturgical ceremonies in 26:1–16 (B') are also composed of two parts: 26:1–11 and 26:12–15. The former deals with the offering of first fruits, the latter with the offering of triennial tithes. These two laws are combined by two lines in vv. 3 and 15 which correspond to each other in a chiastic structure. In sum, the DC as a whole is skillfully arranged in order to deliver the legal statement effectively to the audience. In the next section, we will turn to the structure of each regulation to see what kind of rhetorical structure can be found in the individual regulations in the DC.

B. Structure of Individual Laws

In 1934 Albrecht Alt categorized the laws in the Hebrew Bible into two forms from a form-critical perspective: apodictic and casuistic laws.¹⁰⁴ Although this terminology is

104. Alt, “The Origins of Israelite Law” in *Essays on Old Testament Religion* (trans. R. A. Wilson; Garden City: Doubleday, 1968), 101-71. Alt was not the first one who attempted to identify the forms of laws in the Hebrew Bible, or in the cuneiform laws broadly (John Van Seters, *The Pentateuch: A Social-Science Commentary* [Sheffield: Sheffield Academic Press, 1999], 191, n. 89). Before Alt, Alfred Jepsen distinguished several styles of laws in cuneiform law and biblical laws. Jepsen argued for four sources within the Book of Covenant: Hebrew משפטים, Israelite משפטים, religious and moral prohibitions, and cultic stipulations (*Untersuchungen zum Bundesbuch* [Stuttgart: W. Kohlhammer, 1927], quoted from Paul, *Studies in the Book of Covenant*, 112). However, it was Alt who ignited scholarly discussion on types of laws in the Pentateuch (Van Seters, *The Pentateuch*, 191).

still dominantly used in the study of biblical law, Alt's sharp division of biblical law into two categories has been challenged. Dale Patrick, for example, further divides Alt's two categories into four. He singles out two types of laws from apodictic law: addressed commandments and capital crimes. Moreover, casuistic law is divided into casuistic primary law and casuistic remedial law.¹⁰⁵ Joseph Blenkinsopp points out three distinct forms among apodictic laws: legal sentences with the participial form (Ex 21:12–17; 22:18–19); curse formula (Deut 27:15–26); brief prohibition (Ex 34:17; Deut 25:13–15).¹⁰⁶ Although the terms apodictic and casuistic are still used primarily to designate certain types of laws, regardless of the discrepancy in the form-critical division of biblical laws, the form-critical analysis has overlooked the rhetorical aspects of legal structure. As Levinson points out, the choice of form of a legal case shows the legists' rhetorical purposes.¹⁰⁷ The categorization in previous scholarship focuses on common literary convention and its social settings, or *Sitz im Leben*. However, this categorization does not successfully explain some variations of this *quasi*-fixed form of laws.¹⁰⁸ Moreover, under

105. Patrick, *Old Testament Law*, 24.

106. Blenkinsopp, *The Pentateuch: An Introduction to the First Five Books of the Bible* (New York: Doubleday, 1992), 205-6.

107. Westbrook states that “the choice of form for the individual paragraphs of what was essentially a literary document, belonging . . . to the genre ‘academic treatise’, was not a legal one but depended on other factors, perhaps pedagogical or rhetorical” (“What is the Covenant Code?,” in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development* [ed. Bernard M. Levinson; Sheffield: Sheffield Academic Press, 1994], 30).

108. Carmichael points out that a certain law in the DC is a mixture of the conditional and the apodictic (*The Laws of Deuteronomy*, 41-42).

form-critical analysis, such variations which would indicate certain rhetorical purposes are overlooked. Form critics have considered one legal unit to be composed of several independent laws because of the existence of several distinctive legal forms. For example, Deut 19:15–21 is one legal unit which deals with the issue of legitimate witness in a legal decision. However, from a form-critical perspective, v. 15 is differentiated from vv. 16–19.¹⁰⁹ Thus, in order to maintain the integration of such laws as Deut 19:15–21 and to find their meaning within their integrated units, a new way to define a legal structure is required.¹¹⁰ In the following, I suggest five main categories based on the components of a legal unit. The main body of a legal unit is a *command*. This main body can be modified either by *conditional* clause(s) or by *motivational* clause(s).¹¹¹ According to the components of these three basic elements,¹¹² a legal unit of the DC is formed into (1) command-only structure, which includes only a command; (2) command-first structure, which includes a command and its motivation, and the motivation follows the

109. Eduard Nielsen, *Deuteronomium* (Handbuch zum Alten Testament I/6; Tübingen: Mohr, 1995), 194-96.

110. Nils Wilhelm Lund points out that “the mere legal formality is not sufficient to explain [a legal] form (*Chiasmus in the New Testament: a Study in Formgeschichte* [Chapel Hill: The University of North Carolina Press, 1942], 51).

111. B. Gemser defines motive clauses as “grammatically subordinate sentences in which the motivation for the commandment is given” (“The Importance of the Motive Clause in Old Testament Law,” in *Congress Volume: Copenhagen* [eds. G.W. Anderson et al.; VTSup 1; Leiden: Brill, 1953], 50. Given this definition, an independent sentence in form can be considered a motive clause based on its function as motivation.

112. Each component of an individual law in the DC can occur once or multiple times.

command; (3) motivation-first structure, which is exactly the reverse of a command-first structure; (4) no-motivation structure, which is composed of a condition and a command; and (5) triadic structure, which has all three basic components.¹¹³ In addition to these five basic legal structures, one finds (6) combinations of some of the aforementioned five basic structures. We will examine each structure through examples from Deut 12:1–21:9.

1. Command-Only Structure

The command-only structure has, as the name implies, only commands. In this form of laws, neither condition nor motivation is employed. Although this form of law may be considered identical to apodictic law, it has its own distinctive features. First, in some cases a law of command-only structure is composed of a series of commands within a legal unit. The definition of apodictic law would not embrace these series of commands.¹¹⁴ Second, a relative clause can be attached to this type of law, functioning to offer motivation or rationale.

113. These three elements are analogous to Stephen Edelston Toulmin's data-warrant-claim model. According to him, data are facts or information. Based on this grounding information, all claims are established. Warrant authorizes the movement from data to claims (*The Uses of Argument* [Cambridge: The University Press, 1958], 97-99; Sonja K. Foss, Karen A. Foss, and Robert Trapp, *Contemporary Perspectives on Rhetoric* [3rd ed.; Long Grove: Waveland Press, 2002], 131-132; cf. Hamilton, *Social Justice and Deuteronomy*, 26-29, applies Toulmin's model to his rhetorical analysis of Deut 15). By analogy, conditions are equivalent to data, commands to claims, and motivation to warrant. Commands in laws may be persuasive or acceptable both when they are based on conditions and when motivations or rationales connect the conditions with the commands.

114. See such examples as Deut 27:15–26 (Alt, "The Origins," 114.), Lev 18:7–17 (*ibid.*, 115-16.), and certain portion of Decalogue (*ibid.*, 117-19). Although these portions are categorized as apodictic law, all these examples are in fact a combination of one line of commands. Each apodictic law is combined under a large theme, and this large theme should be emphasized.

A rhetorical aspect of the command-only structure lies in its decisive tone. Because neither a conditional clause nor a motivational clause is employed, there is no room for negotiation or for excuse. The command-only structure leads the audience to do just what is commanded or to avoid what is prohibited without seeing if one's situation fits into the laws or if one's mind matches a particular motivation. The following examples attest to this being the case.¹¹⁵

i. The Feast of Weeks (16:9–12)

This unit is composed of a series of commands. Neither a conditional clause nor a motivational clause is attested. The consecutive appearance of short commands delivers to the addressees instructions on what to do, so that they may perceive what the law requires of them. The series of commands unfold as follows:

v. 9	שבעה שבעת תספֿר־לך	A
	תחל לספֿר שבעה שבעות	A'
v. 10	ועשִׂית חג שבעות ליהוה אלהיך	B
v. 11	ושמחת לפני יהוה אלהיך . . . ועבדך ואמתך והלוי . . . והגר והיתום והאלמנה	C
v. 12	וזכרת כִּי־עבד היית במצרים	C'
	ושמרת ועשִׂית את־החקים האלה	B'

115. For the other examples categorized into command-only structure, see appendix I.

Among these six commands, the first four show a sequence of how to observe the feast of Weeks. One should first of all count 7 weeks and then celebrate the feast of Weeks, rejoicing before Yahweh with others. Line C' is thematically connected to line C, because line C' gives a rationale for the addressees to rejoice at Yahweh's blessings not only with their household but also with the minorities living among them (line C). The last line (B') is a conclusive and summary-like command which functions to reemphasize what has been commanded before.

Each line of commands has its own purposes in delivering this regulation efficiently. On hearing the first four commands, the audience naturally follows the steps of actions: "Count!" "Begin to count!" "Observe!" and "Rejoice!" The addressees would know these are what they should do. Then the addressees are told to *remember* their past slavery status in Egypt, a recollection that may work to give the reason for rejoicing in Yahweh's blessing with others. So, a possible question about the command to rejoice is solved. Finally, the hearer or reader again hears the command: "Observe carefully!" This last, conclusive command will remain in the mind of the addressees, and will potentially function to urge again the addressees to observe the feast.

In addition to the strategy of listing commanding verbs in a series, the legislator uses repetition with elaboration to magnify a rhetorical effect on the addressees. The verbs in line A and B have their counterparts in line A' and B'. The repetition of these two verbs

makes the addressees recall the commanded actions:¹¹⁶ *Count!* . . . Begin (חלל) to *count!* *Observe!* . . . Carefully (שמר) *observe!* Moreover, the use of additional verbs (חלל and שמר) in the repeated part functions to emphasize the main action verbs.¹¹⁷

In sum, a law of command-only structure draws the audiences's attention and move their mind to observe the law by using a series of commands and by repetition with elaboration. The next example shows a different technique of a command-only structure .

ii. Boundary markers (19:14)

This regulation also includes only a command. Neither a conditional clause nor a motivational clause is attested. The main command is as follows: “You shall not move the *boundary marker* of your neighbor . . . in your *inheritance*.”¹¹⁸ This regulation is categorized form-critically as an apodictic law.¹¹⁹ However, this categorization overlooks

116. As Strawn points out, the purpose of repetition is to bring the audience back to something that is already mentioned and thus to underline the significance of what is repeated (“Keep/Observe/Do,” 231; see also Barbara Johnstone et al, “Repetition in Discourse: A Dialogue,” in *Repetition in Discourse: Interdisciplinary Perspectives* vol. one; ed., Barbara Johnstone; Advances in Discourse Processes 17; Norwood: Ablex, 1994], 13).

117. The verb חלל means “to be defiled” (*nip'al*) or “to profane” (*pi'el*). When it is used with an infinitive in *hip'il*, it means “to begin to.” In this case, this verb functions only to signal the start of a certain action. The focus is on the infinitive (*HALOT*, I, חלל, I: 319-20). Likewise, when שמר is used with a second verb, it intensifies the second verb, meaning carefully (*HALOT*, שמר, IV: 1583).

118. Several slightly different translations of the phrase תסיג גבול are offered: (1) move the boundary marker (Weinfeld, *Deuteronomic School*, 266; Walter Brueggemann, *Deuteronomy* [Nashville: Abingdon Press, 2001], 202; Nelson, *Deuteronomy*, 236; NAB, NIV, NRSV, and NJPS); (2) displace boundary marker (Christensen, *Deuteronomy 1:1–21:9*, 425). (3) encroach the property (Merrill, *Deuteronomy*, 279; NET); (4) remove landmark (Carmichael, *The Law of Deuteronomy*, 113; ASV, RSV). Although the phrase literary means “you shall not move territory . . .”, the term גבול here means boundary marker rather than territory.

119. Nelson, *Deuteronomy*, 241.

other elements within this regulation. The three relative clauses modify the two objects in the main commanding clause.¹²⁰

You shall not move the *boundary marker* of your neighbor
that former generations set up
in your *inheritance*
that you inherited in the *land*
that Yahweh your God is giving to you as your possession.

These relative clauses, modifying three nouns, give rationales for the regulation. The neighbor's boundary marker is what their ancestors set up. By the term ראשונים the legist emphasizes its ancient origin, which makes the landowners feel a deep attachment to their inherited land.¹²¹ Moreover, the audience's inheritance belongs to the land that *Yahweh* has given to them as their possession. This modifying clause indicates that one's inheritance should not be exploited willy-nilly because it originated from Yahweh. So, the implications that the three relative clauses bring out here are that the Israelites possess their land because Yahweh has given it to them, and that consequently the land's ancient distribution should be upheld.¹²²

120. Weinfeld argues that this law originally was composed of only one line of command, "you shall not move the ancient landmark." Later on, the relative clauses were added (*Deuteronomie School*, 266).

121. Tigay, *Deuteronomy*, 183.

122. McConville emphasizes the aspect of inheritance in this law. The legal right of land possession in Israel is based on the idea of Yahweh's gift and fair distribution (*Deuteronomy*, 312). Thus, moving others's boundary markers arbitrarily is a critical violation of the community. Brueggemann (*Deuteronomy*, 202) points out that this severity is signaled in the form of this regulation: "You must not . . ."

In sum, as these two exemplary legal units show, the command-only structure is more than an apodictic law in terms of its components. Either a series of commands is combined together to form one legal unit or relative clauses modify a single-line command.

2. Command-First Structure

A command-first structure has two elements: a command and a motivation. In some cases, this structure is elaborated with additions.¹²³ The motivational clause follows the commanding clause. The nuance of motivational clause is either causal (Do this *because of* such and such!)¹²⁴ or resultative (Do this, so that you will be awarded with such and such!).¹²⁵ So, if the promised result matches what the audience wants to obtain, or if the rationale makes sense to the audience, then this simple structure would succeed in moving the audience to follow the command.

This structure is employed in the following two cases: First, in cases when the regulations need to appeal to the audience more urgently and affirmatively by leading the audience directly to the point. Without distracting the audience with any other information, the speaker delivers only the essential points.¹²⁶ Second, this structure is

123. The followings are the examples: v. 28b β in 12:28; vv. 2–3 in 15:1–6; v. 15b in 24:14–15.

124. Deut 15:3–6; 22:5, 9; 23:18–19; 24:14–15.

125. Deut 12:28; 23:20–21.

126. This effect can also be achieved by the command-only structure. The difference is certainly the motivational clauses. While the command-only structure does not employ motivational clauses, command-first structure does. This could be either because the commands expressed in command-first structure may

employed to conclude a legal unit for the purpose of emphasizing what is commanded at the end. The following legal units show the aforementioned features.¹²⁷

i. Assertive Request (15:1–6 The Law of Remission)¹²⁸

The law of remission in 15:1–6 is composed of three sets of command-first structures, which are used at the beginning of a new legal section. The three commands are found in v. 1, v. 4a, and v. 5, and each is followed by a motivational clause. The structure of 15:1–6 is as follows:

Set I

Command	v. 1
At the end of seventh year you shall keep the remission (שמטה).	
Explanation	vv. 2-3
This is the nature of the remission . . .	
Motivation	v. 2b ¹²⁹

not be self-explanatory or because they need to attract more attention from the audiences by presenting motivations.

127. For the other examples categorized into command-first structure, see appendix I.

128. The release of debt and debt servants were practiced by kings or rulers in Mesopotamia and Greece (“The Edict of Ammisaduqa,” ANET, 526-28; Niels Peter Lemche, “*Andurārum* and *Mīšarum*: Comments on the Problem of Social Edicts and Their Application in the Ancient Near East,” *JNES* 38 (1979): 11-22; idem, “The Manumission of Slaves–The Fallow Year–The Sabbatical Year–The Jubel Year,” *VT* 26 (1976): 38-59; Raymond Westbrook, ed., *A History of Ancient Near Eastern Law* [2 vols; Leiden: Brill, 2003], 2:904; also see the references in Nelson, *Deuteronomy*, 192 n. 3). However, the remission of debt in Deut 15 is different from examples from other nations. As Tigay points out (*Deuteronomy*, 145), while the remission of debt or debt slaves were proclaimed by kings at the beginning of their reign, Deut 15 attempts to set up this practice on a regular basis in order to distribute the resources as equally as possible. Moreover, Tigay (*ibid.*, 466) suggests the possibility that the remission of debt is an innovation of Deuteronomy because the book of covenant does not point to the issue. The social circumstances in the 8th-7th century required such a radical policy to rescue those who had lost their financial resources.

129. The motivation for the first command appears within an explanatory statement in vv. 2–3. Yet, even if the motivational clause is part of the explanation of the law of Remission, its function as motivation is not questionable. This is supported by the fact that the notion of Yahweh’s remission is placed at the

for (כי) it is called the remission of Yahweh.

Set II

Command¹³⁰ v. 4a

Indeed (אפס כי), there shall be any poor one among you,¹³¹

Motivation v. 4b

for (כי) Yahweh will certainly bless you in the land . . .

Set III

Condition as role of Command v. 5

Only if (רק אם) you certainly obey the voice of Yahweh your God,

Main clause as a role of Motivation v. 6

for (כי) Yahweh your God will bless you as he declared to you . . .

The main command appears at the beginning of this unit: “You shall keep the remission”

(v. 1). Since people do not know what the deuteronomic nature of the law of remission

is,¹³² an explanation of the law of remission is stated (vv. 2–3). In addition, within the

explanation, the motivation of observing remission is mentioned: The remission comes

center of a chiasmic structure in vv. 2bβ–3 (Seitz, *Redaktionsgeschichtliche Studien*, 168; Hamilton, *Social Justice and Deuteronomy*, 17; Nelson, *Deuteronomy*, 194).

130. McConville points out that this statement should be understood as a command (*Deuteronomy*, 259).

131. Verse 4a somehow creates tension with v. 11. While v. 4a does not assume the existence of the poor in Israelite community, v. 11 presupposes them. Nelson attempts to solve this tension by regarding the former as a pursued model and the latter as a reality (*Deuteronomy*, 193). McConville also see this tension as the contrast between ideal and real (*Deuteronomy*, 260).

132. The term שמתה is uniquely used in Deut. The noun term does not appear outside Deuteronomy. The root שמת meaning, “to let fall,” or “to throw” occurs in Ex 23:11; 2 Sam 6:6; 2 Kgs 9:33; Jer 17:4; Ps 141:6, and 1 Chr 13:9. The lack of usage of this term requires vv. 2–3 to explain what the term שמתה means (Kaufman, “A Reconstruction of Social Welfare Systems of Ancient Israel,” in *In the Shelter of Elyon: Essays on Ancient Palestinian Life and Literature in Honor of G. W. Ahlström* [eds. W. B. Barrick and J. R. Spencer; JSOTSup 31; Sheffield: JSOT Press, 1984], 282, 286 n. 16).

from and belongs to Yahweh. Thus established, divine authority would function to motivate the addressees to observe this law.¹³³ The second command in v. 4 affirms that there should be no poor among Israel. Continuing ignorance of the poor is not to be endured. The audience has a responsibility to take care of the poor by making sure that they no longer live in poverty. The reason for this command is Yahweh's blessing. Yahweh will certainly bless Israel in the land of promise if the Israelites live to help the poor among them. The final command (v. 5), which in fact takes a form of condition (אם), is not specific but general. The Israelites should listen to the voice of Yahweh and carefully observe Yahweh's commandments. The phrase כל-המצוה הזאת in v. 5b might refer to the law of remission. If this is the case, the final command in v. 5 corresponds to the first command in v. 1, and the second command reveals the gist of the law of remission. The motivation of the third command also lies in Yahweh's blessing. Yahweh promises to bless the Israelites if they keep Yahweh's commandment regarding the law of remission. In sum, the use of multiple commands with the motivation of divine origin of the remission or Yahweh's blessing encourages the audiences to observe the law of remission.

133. Gitay, *Prophecy and Persuasion*, 65.

ii. Concluding Remark (12:28)

The concluding verse of the law of cultic centralization in 12:2–28 is shaped into a command-first structure.

Exhortative Command

You shall certainly listen to all these words that I am commanding you,

Result clause as Motivation

so that (למען) it will go well with you and with your descendants . . .

Causal clause

for (כי) you did what is good and upright in the eyes of Yahweh your God.

This one verse is a concluding statement of a large unit, 12:2–27. The use of this structure at the end of one legal unit reveals its function. This structure is used to re-emphasize what has already been mentioned because it begins with a conclusive, summarizing command. The previous part brought forth regulations for an exclusive central shrine and for profane slaughter. After all the instructions of cultic centralization are fully commanded, a command-first structure is used to encourage the audience to keep before them what is commanded. Then, the reward of a long life in the promised land motivates the audience.

Unlike the common composition of a command-first structure, this law elaborates the reward with a causal clause. This elaboration has two functions. On the one hand, as a

reason for the reward, the last line shows the audience how to achieve a long life in the promised land, just as the first line does. So, the first and last line doubly show the way to obtain the reward. On the other hand, this final line logically refers back to the first commanding line, showing that the not-yet-carried-out command in the first line is fulfilled.¹³⁴ So, the audience participates in the past (v. 28bβ), present (v. 28a), and future (v. 28bα) of the confessional life of the symbolic world created by this verse.

In sum, the command-first structure, which is different from the command-only structure in terms that it uses motivational clauses, offers an urgent and affirmative tone. Moreover, the motivational clauses support the affirmative commands. Sometimes, the command-first structure is employed in a concluding portion of a large unit for the purpose of summarizing and of emphasizing the main point of the large unit.

3. Motivation-First Structure

The motivation-first structure is the reverse of the command-first structure. Unlike the latter, in the motivation-first structure, a motivational clause comes first, followed by a main clause. Since a motivation is placed at the beginning, it draws readers' attention. This structure is particularly effective in moving the audience to accept a command when the first-mentioned motivation fits well with the audience's experience and its point of

134. It is significant that CEB renders the verb (עשה in v. 28bβ) in the past tense, while in general the verb is translated into future (NIV, NRSV, NJPS) or present tense (ASV, RSV, NAB). I think CEB's past tense could imply the audience's fulfillment of the exhortative statement.

view of the issue. One good example is found in Deut 14:1–21. Its structure can be laid out as follows:¹³⁵

Motivation I [2pl] v. 1a
You are children of Yahweh.

Main Prohibitions I [2pl] v. 1b
You shall not gash yourself.
You shall not shave the front of your heads for the dead.

Motivation II [2sg.] v. 2
For you are a holy people to Yahweh your God.
Yahweh has chosen you to be a treasured people to him . . .

Main Prohibitions II [2sg.] v. 3
You shall not eat any abhorrent thing.

Elaboration of Main Prohibitions II [2pl] vv. 4–21a α

Motivation III [2sg.] v. 21a β

135. McConville regards the two sets of repeating statement in vv. 2–3 and v. 21 as a sign of careful patterning of Deut 14:2–21a. According to them, 14:2–21a is structured into a concentric structure (*Deuteronomy*, 245).

Motivation	“You are holy people”	(v. 2)
	Categorical prohibition: “You shall not eat anything abhorrent.”	(v. 3)
	Elaboration: Animals, fishes, and birds	(vv. 4–20)
	Categorical prohibition: “You shall not eat anything that has died.”	(v. 21a α)
Motivation	“You are holy people”	(v. 21a β)

However, his observation does not count v. 1, which begins with an affirmative statement regarding the primal identity of the audience, nor the last command in v. 21b. Without this first statement, the following commands would lose their essential rationale. Furthermore, it would be also problematic that the second categorical prohibition in v. 21a α has no elaboration, and that the elaboration in vv. 4–20 does not refer to v. 21a α at all. Thus, this seemingly symmetric structure is too selective to be approved.

For you are a holy people to Yahweh your God.

Main Prohibition III [2sg.]

v. 21b

You shall not boil a kid “which is at its mother’s milk.”¹³⁶

According to this structure, 14:1–21 is composed of three sets of motivation-first structures.¹³⁷ The three motivations together deal with the audience’s identity in relation to Yahweh, their God. The audience is reminded that they are children of Yahweh and a people consecrated to Yahweh. With these similar motivations, different commands are ordered. First, the audiences should avoid any mourning ritual for the dead (v. 1b); next, they should not consume any abhorrent thing (vv. 2–21a); finally, the audience should not boil a kid which has not been weaned (v. 21b).¹³⁸ Although these three types of

136. Unlike a traditional translation of this line as “You shall not boil a young goat in its mother’s milk,” Stefan Schorch suggests translating it as “You shall not boil a young goat *which is at its mother’s milk*.” This translation was suggested by Augustine of Hippo and followed by Martin Luther (Schorch, ““A Young Goat in Its Mother’s Milk?”: Understanding an Ancient Prohibition,” *VT* 60 [2010]: 123). Hebrew syntax and the nature of this regulation as a dietary support this reading (ibid., 123-26). In addition, an intertextual support comes from Amos 6:4. In the verse, the prophet criticizes those “who lie on beds of ivory . . . eat lambs from the flock and calves from the midst of the *binding* (ועגלים בתוך מרבק).” Helga Weippert understands the term מרבק as indicating “the binding of sucking calves to the feet of their mother,” so that this behavior refers to the breaking of Deut 14:21b (Schorch, “Understanding an Ancient Prohibition,” 129; as for Weippert’s reading see Weippert, “Amos: Seine Bilder und ihr Milieu,” in *Beiträge zur prophetischen Bildsprache in Israel und Assyrien* [eds., Helga Weippert, Klaus Seybold, and Manfred Weippert; OBO 64; Fribourg: Göttingen, 1985], 7-9). Based on these supports, she argues that this regulation, as a dietary law, means a prohibition against consuming a suckling animal.

137. The change of numbers supports the view that this unit is composed of three sets of motivation-first structures. Motivation I and Prohibitions I have the second person plural as their subject; motivation II and prohibitions II have the second person singular, and then it changes into the second person plural in the elaboration (vv. 4–21a); and motivation III and prohibition III again are expressed in the second person singular form.

138. Traditionally, this regulation has been viewed from the following perspectives: the humanitarian perspective, the prohibition of mixing life and death, and as a pagan practice originating from an ancient

commands are not directly related to each other, they are placed together because of the similarity of the motivational clauses.

Worthy of notice is that the second and third motivations, which are almost identical, can function as a motivation for the commands placed before them. To put it another way, Israel's identity as a holy people underlies all of the three commands in 14:1–21. Thus, this motivation-first structure is motivationally driven. So long as the motivation appeals to the audience, the audience is likely to fully accept the commands.¹³⁹

4. No-Motivation Structure¹⁴⁰

No-motivation structure is composed of condition(s) and command(s).¹⁴¹ As the title indicates, this structure does not have motivational clauses. However, without motivational clauses, several rhetorical features function to motivate the addressees to observe laws.

taboo (Schorch, "Understanding an Ancient Prohibition," 117-20). Yet, as for a new understanding of this verse see *ibid.*, 123–129, and also n. 135 above.

139. Watts rightly points out that "the motive clauses enhance the persuasiveness of the law as a whole" (*Reading Laws*, 66).

140. Within the DC, no-motivation structure occurs independently only three times (Deut 23:25–26; 24:5 and 25:11–12). Yet, this structure appears frequently with other rhetorical structures together within a legal unit. The combination structure occurs 21 times, among which no-motivation structure appears 16 times (v. 20 in Deut 12:20–27; vv. 24–26 in Deut 14:22–27; vv. 21–23 in Deut 15:19–23; vv. 2–4ba in Deut 17:2–7; vv. 14–17 in Deut 17:14–20; vv. 6–8 in Deut 18:1–8; vv. 16–18a in Deut 19:15–21; vv. 2–9 in 20:1–9; v. 10 and vv. 11–15 in Deut 20:10–18; v. 20 in Deut 20:19–20; vv. 10–13 in 21:10–14; vv. 2–3 in 22:1–4; vv. 10–11 in 24:10–13; v. 1 in 25:1–3; vv. 7–10 in 25:5–10).

141. From form-critical perspective, this is identical to typical casuistic law which Alt described as being composed of a conditional clause (setting up a case) and a commanding clause (sentencing a punishment). (Alt, "The Origins," 89-90). Yet, I name this structure no-motivation structure in order to indicate that this does not have a motivation clause.

First, the rhetorical effect of this structure can be achieved by the length difference between conditional clauses and commanding clauses. Deut 25:11–12, which deals with a case in which a woman seizes another man’s private part for the purpose of saving her husband, gives a good example. This law commands the addressees to cut off the woman’s hand who seized another man’s private part. The emphasis upon this command is achieved by the relative briefness of this command in comparison with the long and detailed situational explanation. The detailed investigation of this legal unit will be done in chapter 4.

Second, sometimes words and expressions in conditional and commanding clauses themselves include motivational cues. Deut 15:21–23, which pertains to the offering of firstlings, gives a good example of this case.¹⁴² This regulation is composed of a conditional clause and a series of commanding clauses.

If there is any defect, lameness or blindness, any serious defect in it,
you shall not offer it to Yahweh your God . . .

In the conditional clause, the qualifying terms (עור, פסה, מום) make the readers expect the prohibition from offering such defective firstlings as offering to Yahweh. Even

142. These three verse is part of the law of firstling offering in Deut 15:19–23. Although this law is composed of two rhetorical structures (command-only and no-motivation), I single out Deut 15:21–23 for the purpose of showing a feature of no-motivation structure .

without a motivational clause, the elements in the conditional clause functions as rational motivations for the prohibition.

Third, the literary context in which a concerned law appear serves to offer motivation. Deut 24:5 is an example. One-year of exemption from public duties is encouraged in comparison with the case of divorce in Deut 24:1–4. The negative picture of a married life in Deut 24:1–4 implicitly encourages the addressees to maintain one's married life in a positive way. The detailed investigation of this legal unit will be done in chapter 4.

In sum, although no-motivation clause does not have a motivational clause, this structure has several ways to motivate the addressees to observe the laws.

5. Triadic Structure

The triadic structure is in principle composed of three clauses: two subordinate clauses and one main clause. This structure begins with a conditional clause or temporal clause, which gives information about when certain laws should be enforced. Then, the main clause, in the form of either a negative command, positive command, or a combination of both, is proclaimed stating what to do in such a situation. Finally, this structure ends with a motivational clause which offers the rationale behind the law to clarify why this law should be observed or to encourage the readers to observe the proclaimed law. Beyond these three basic elements, the triadic structure is sometimes expanded with elaborations.

Because of its practical features, the triadic structure may appeal to the readers's mind.¹⁴³ The conditional or temporal clauses draw the audience's attention, offering common ground in which the text and readers can communicate. If the audience thinks the circumstances laid out in the legal entry are relevant to them, they will pay attention to the legal entry. The main clauses with a form of prescription or proscription may give the audience the impression of what is to be done or what is to be restricted. However, that it is prescription or prohibition in itself does not guarantee the audience's automatic agreement. Rather, some members of the audience might resist the command. Thus, the triadic structure ends with a motivational clause functioning to offer the reasons or rationales for the prescription or proscription, so that the audience might understand why this law is commanded or might agree with the rationale behind the law. So, these three steps shown in the triadic structure deliver the laws to the audience in a rational and practical way. Although the final decision of whether to observe a law or not undoubtedly belongs to the audience, these three steps of the process would function to influence the audience to observe the laws in question. In the following examples, I will look at two

143. See n. 106 above. As Toulmin points out, the data-warrant-claim model works to make an argument plausible to the mind of the audience. As an analogy, the condition-motivation-command structure may work to appeal to the audience.

examples of the triadic structure¹⁴⁴ and see how these structures may function to affect the audience to accept the text's position or at least to understand its main point.

i. Basic form of triadic structure (12:29–31)

This short exhortative law is a good example of a triadic structure with no elaboration.

The structure is as follows.

TEMPORAL CLAUSES (v. 29)
When (כִּי) Yahweh your God cuts off the nations . . . before you,
and you dispossess them,
and you dwell in their land,

MAIN COMMANDS (v. 30–31a)
be careful lest (פֶּן) you be snared to follow other gods . . .
lest (פֶּן) seek after their gods . . .
You shall not (כִּי) act as such to Yahweh your God,

MOTIVATIONAL CLAUSES (v. 31b)
for (כִּי) they do to their gods all the abomination that Yahweh hates,
for (כִּי) they even burn their sons and daughters in fire to their gods.

This structure shows that this unit is composed of temporal, main, and motivational clauses.¹⁴⁵ The temporal clauses describe life in the promised land: the time when the Israelites dwell in the land by Yahweh's active involvement in Israel's conquest of the

144. For the other examples categorized into triadic structure, see appendix I.

145. From the form-critical perspective, Joseph classifies Deut 21:29–31 as a casuistic prohibition (vv. 29–30), an apodictic prohibition (v. 31a), and two statements of justification (v.31b α and v. 31b β) (*“Re-lecturing” of Deuteronomy*, 99-100). Although he discerns the thematic continuation of v. 31a and vv. 29–30, the form-critical terminology does not carry the thematic continuity.

land. Yahweh and the Israelites reciprocally act in the conquest. Yahweh cuts off the nations, and Israel takes possession of them and dwells there. Thus, the audience who lives in the land of promise is ready to listen to the following main clause. The main clause is composed of a series of three verbs. The first two commands, led by the same particle **וְ**, deliver a sense that seeking other gods will snare them. The last command alerts them that the way the nations worship their gods should not be adapted to Israel's worship of Yahweh. The audience could either accept these commands or reject them if no rationale is offered. So, the main commands are supported by motivational clauses for the purpose of answering an expected question about why Israel should not follow any way of worshipping foreign gods. The motivational clauses clearly declare that the foreign nations worship their gods in an abominable way in the sight of Yahweh. A specific example is presented for the purpose of obtaining the audience's agreement or commitment to this command: "they even burn their sons and daughters in fire to their gods." Thus, with the three components the legists attempts to move the addressees to observe this regulations.

ii. Elaboration of main clauses (13:2–6)

In 13:2–6, which includes all the elements of the triadic structure, the main clause is elaborated with a series of positive commands. The structure is as follows:

CONDITIONAL CLAUSES (vv. 2–3)

If (יִבְרֵךְ) a prophet or a dreamer of dreams stands among you . . . , saying
'Let us go after other gods . . .'

MAIN COMMAND I (v. 4a)

You shall not listen to the words of the prophet nor the dreamer of dreams

MOTIVATIONAL CLAUSE (v. 4b)

For (יִבְרֵךְ) Yahweh your God is testing you to know
whether you love Yahweh your God . . .

ELABORATION I OF THE MAIN COMMAND I¹⁴⁶ (v. 5)

After Yahweh your God	you shall walk
him	you shall fear
his commandments	you shall keep
his voice	you shall listen
him	you shall worship
him	you shall cling to

ELABORATION II OF THE MAIN COMMAND I (v. 6a)

The prophet and the dreamer of dreams shall be put to death

MOTIVATIONAL CLAUSE TO THE ELABORATION II(v. 6b)

For (יִבְרֵךְ) he spoke rebellion against Yahweh your God . . .
to drive you out from the way Yahweh your God commanded . . .
so that you shall purge out the evil from your midst.

Verses 2–4 include all the elements of the triadic structure. The circumstance in which this law is commanded is possibly one in which a prophet or a dreamer of dreams entices the Israelites to worship other gods.¹⁴⁷ If the audience was experiencing such enticement

146. Verse 4a and v. 5 alternate proscription and prescription. This rhetorical device will be dealt with in chapter 3. II. D.

147. A similar case is reported in Jer 23:13 and 25–27. The prophets of Samaria prophesies by Baal, a

in everyday life, this circumstance must have drawn the attention of the audience. In ancient Israelite society, the authority of a prophet was hardly denied.¹⁴⁸ The prophets and dreamers of dreams were those who could access the divine realm. The common people could not have resisted their instructions. Yet, what if the prophets and the dreamers of dreams instruct the Israelites to worship other gods? This is the main question in this rhetorical situation. The answer to the question from Yahweh's perspective is not to listen to what the false spiritual authorities encouraged. "Do not listen to the prophets or the dreamers of dreams" (v. 4a). This command itself may not be persuasive enough for the listener to accept the command, because of the social status and religious position of the prophets and dreamers of dreams. Thus, the main command is followed by a rationale: Yahweh wants to know whether the Israelites love Yahweh with all their hearts and minds (v. 4b). This motivational clause implies that the spiritual authorities should not compete with Yahweh. No matter how credible the spiritual authorities are, the Israelites should not listen to their voices seducing them to worship other gods. The motivational clause in v. 4b asserts that Yahweh is the only God whom the Israelites should love with all their hearts and lives.¹⁴⁹ In this basic triadic structure, Yahweh, the true object of love, is

Canaanite god. Prophets prophesy falsehood which God of Israel did not tell them.

148. Levinson, "Recovering the Lost Original Meaning of *ולא תבסה עליו* (Deuteronomy 13:9)," *JBL* 115 (1996): 601; Tigay, *Deuteronomy*, 129.

149. Nelson points out that the use of emotional language ("love") and of language of relationship ("follow" and "cling") function to convince the audience not to follow the false prophet's seduction (*Deuteronomy*, 169).

contrasted to spiritual leaders who possess certain divine power of signs and omens. Yet, it is manifest that the true authority belongs to Yahweh not to any form of spiritual leadership.

After presenting the fundamental command to resist all worship of other gods, the following elaborations are added as an attempt to answer expected questions from the audience: “if we should not follow the instruction of our spiritual leaders since they call for foreign worship, what should we do and how should we deal with the spiritual leaders?” As a response to the first assumed question, v. 5 lists what the Israelites should do to their God. In all six consecutive sentences, the relationship of the Israelites to Yahweh is emphasized. In these sentences, only the proper relationship between Yahweh and Israel is mentioned. As a response to the second assumed question, a death penalty is handed down to the enticers in v. 6a. The instructions of Israel’s appropriate relationship with Yahweh (v. 5) and the punishment upon the enticers (v. 6a) strengthen the importance of Yahweh-only-worship which should not be compromised by any spiritual authority.

Finally, a rationale to kill the prophet and the dreamer of dreams is offered in v. 6b, which closes this regulation. This final motivational clause explains again why the spiritual leaders’s enticement deserves the death sentence by appealing to Israel’s shared

national experience in the relationship with Yahweh: Yahweh is the one who brought them from Egypt and ransomed them.

In sum, with the basic three elements of the triadic structure, the elaboration attempts to give some reliable answers to potential questions raised within the main triadic structure.

As these two examples show the triadic structure draws the audience's attention through its conditional or temporal clause, delivers the gist of the regulation through its commanding clause, and provides a rationale through its motivational clause. Moreover, when more information needs to be given, the basic components are expanded by additional commanding and motivational clauses.

6. Combination of Rhetorical Structures

In one literary unit, two distinctive structures are used together in order to magnify a rhetorical effect.¹⁵⁰ As mentioned in *Rhetorica Ad Herennium*, the variation in style avoids satiety,¹⁵¹ so here the use of various structures within one legal unit can avoid lack

150. One may argue that the difference in structure within the same legal unit would indicate evidence of a later addition. This might be the case. However, this form-critical or redactional perspective would not be able to garner a holistic view of a seemingly combined unit. Moreover, sometimes the results of redactional analysis do not yield one confirmed view. Sometimes, their results are even based on conjectural reconstruction.

151. *Rhet. Her.* Book IV. XI. 16.

of attention caused by repeated use of the same structure throughout a literary unit. The following examples show features of combined rhetorical structures.¹⁵²

i. A Tithe Law (14:22–27): From general to specific

This unit is divided into three sub-units (vv. 22–23; vv. 24–26; v. 27). Of them the first and last sections take a form of command-first structure; the middle one is no-motivation structure. The three legal units deal with three issues regarding the law of tithing and draw a picture in which a tithe law is connected with caring for the Levites.

The first section directly states that one should offer a tenth of every agricultural and pastoral product to Yahweh.

COMMAND (vv. 22–23a)
You shall certainly offer a tenth of every yield of your seeds . . . year by year and you shall eat¹⁵³ before Yahweh your God in the place that he will choose . . .

RESULT CLAUSE AS MOTIVATION (v. 23b)
so that (למען) you may learn to revere Yahweh your God all the days.

The tithe is commanded without further explanation.¹⁵⁴ In addition, the infinitive absolute with finite verb (עשר תעשר) form at the beginning also serves to underline the command.

152. For the other examples, see appendix I.

153. Crüsemann points out the difference between this and the Deuteronomic tithe law. In the ancient world, a tithe was gathered for the use of the king or a temple. Yet, Deuteronomy commands it to be consumed before Yahweh (*The Torah*, 216. Cf. Erkki Salonen, *Über den Zehnten im alten Mesopotamien: Ein Beitrag zur Geschichte der Besteuerung* [StudOr 43:4; Helsinki: Societas Orientalis Fennica, 1972]).

154. A possible reason for not indicating a particular situation is that the tithe is already mentioned in 12:6, 11 or that the expression “year by year” in fact already describes the circumstances under which the tithe be brought to the Lord.

So, the tithe offering is emphasized. Then, the motivational clause concerning learning the fear of Yahweh functions to encourage the audience to observe the tithe law because of its significance for learning to fear Yahweh.¹⁵⁵

After this short but emphasized command with motivation, the following subunit deals with a situation which may block the audience from keeping the tithe law. The conditional clauses in the second subunit (v. 24) function to modify the first subunit which does not offer any specific case. In the event that the chosen place is too far from one's home to carry the tithe, one might fail to offer the tithe. Anticipating this possibility, vv. 25–26 offers a way to solve this problem. One can convert the tithe into money at one's settlement, and buy proper materials for the tithe offering once one arrives at the place of offering. Thus, this suggestion itself helps one to observe the tithe law commanded in vv. 22–23.

Finally, in the last section, command-first structure is used to describe the case of caring for the Levite in v. 27.

COMMAND

The Levite who is in your settlements — you shall not abandon him,

CAUSAL CLAUSE AS MOTIVATION

for (כי) he does not have portion nor inheritance with you.

155. The effectiveness of this line will be discussed in chapter 3.II.E.1.

This verse merges what is said in 12:12b and 12:19a. Deut 12:12b reads “והלוי אשר בשעריכם כי אין לו חלק ונחלה אתכם” and 12:19a “השמר לך פנתעזב אתהלוי.” Deut 14:27 is made by inserting the prohibition (12:19a) into the middle of 12:12b. This merged verse functions to remind the addressees of the command to care for the Levites which were already mentioned in ch. 12. Thus, the command not to ignore any need of the Levite appeals to the audience again.

The combination of these three sub-units (vv. 22–23; vv. 24–26; v. 27) makes the idea of the tithe move from being a general instruction to a specific case. In the first sub-unit, the law of the tithe is commanded in broad strokes. Readers are instructed what to bring, where to bring it, and what to do with the offered tithe. Then, the next sub-unit (vv. 24–26) deals with a more specific case, a case in which the chosen place is far from one’s dwelling place. Finally, v. 27 focuses on the Levites with whom tithe-offerers should eat and enjoy what they brought. As a result, Deut 14:22–27 connects the tithe-offering with the care for the Levites, which is the main subject of Deut 14:28–29.

ii. Norms of Judges (16:18–20)

In this legal unit, which deals with judicial offices and their norms, the command-only structure and command-first structure are combined to strengthen the rhetorical effect.

COMMAND-ONLY STRUCTURE

MAIN COMMANDS

Judges and officials *you shall appoint* for you in all your towns . . .

*Let them judge*¹⁵⁶ the people with just (צדק) judgement. (v. 18)

COMMAND-FIRST STRUCTURE I

MAIN COMMAND

You shall not distort justice.

You shall not show partiality.¹⁵⁷

You shall not take bribes,¹⁵⁸ (vv. 19a–19b)

MOTIVATIONAL CLAUSE

for (כי) the bribe blinds the eyes of the wise and
perverts the words of the righteous. (v. 19b)

COMMAND-FIRST STRUCTURE II

MAIN COMMAND

Justice (צדק), justice (צדק)¹⁵⁹ you shall pursue, (v. 20a)

MOTIVATIONAL CLAUSE

so that (למען) you will live and possess the land . . . (v. 20b)

156. McConville, *Deuteronomy*, 278.

157. Literally meaning “you shall not recognize faces.” This is an idiomatic expression to connote the prohibition of partiality (*HALOT*, I נכר II: 700; McConville, *Deuteronomy*, 278; Nelson, *Deuteronomy*, 210; Tigay, *Deuteronomy*, 160).

158. Tigay (*Deuteronomy*, 161) suggests reading שחד as fees rather than bribes (cf. Christensen, *Deuteronomy 1:1–21:9*, 363). The legislator prohibits judges from charging people a fee for a legal case. Tigay’s rationale is based on the lexical meaning of שחד and the necessity of motivation. In his view, if the term meant bribes here, the motivational clause would not be necessary. However, if taking a fee for a legal judgment was not regarded as granted at that time, a fee would be in fact identical to a bribe. If such a fee were normal, prohibiting such a custom would not fit into this context. Other biblical references show that taking bribes was regarded as an improper action for a just judge (Ex 23:8; Deut 10:17 [Yahweh as a right judge]; 27:25; Prov 17:23; Isa 1:23; 5:23). The only text that I can find that assigns blame for taking a fee is Micah 3:11 (Christensen, *Deuteronomy 1:1–21:9*, 363, offers two other verses—Isa 1:23 and Micah 7:3. However, these two verses use שחד as referring to bribes rather than fees). Yet, Micah 3:11 criticizes rulers, priests, and prophets for taking money for their vocational duties. It does not specifically mention judges.

159. This double use of the same term results in an emphatic effect, which could be translated into “perfect justice or justice alone” (Nelson, *Deuteronomy*, 212; McConville, *Deuteronomy*, 218; Tigay, *Deuteronomy*, 350; GKC §123e).

This legal unit can be divided into three sub-units. The first unit is formed into a command-only structure (v. 18), the second and third into command-first structure (v. 19 and v. 20).¹⁶⁰ The second sub-unit is distinguished from the other two sub-units in terms of its addressees. The first and third sub-units are directed to all people. People have responsibility to appoint judges (v. 18) and to supervise them to make sure that they practice justice (v. 20). However, the second sub-unit is directed to the judges and officials¹⁶¹ appointed by people, probably elders.

In the first sub-unit (command-only structure), a fundamental command is ordered: the appointment of judges and officials, and their duty of judging justly. This fundamental command is further specified by a series of commands in the second sub-unit (v. 19).¹⁶² Judging justly can be done only by removing oneself from distorting

160. One may argue that the whole legal unit (16:18–20) features a command-first structure because this regulation is composed of commands (vv. 18–19a and v. 20a) and motivations (v. 19b and v. 20b). However, the motivational clauses in v. 19b do not pertain to all the commands placed before them. Moreover, v. 20b is also tightly connected to the command in v. 20a, although in content this motivation can be regarded as the conclusion of this whole legal unit.

161. Von Rad argues that the commands in v. 19a–19ba are addressed “the elders judging in the gate” (*Deuteronomy* [OTL; Philadelphia: Westminster, 1975], 115; repr. of *Deuteronomy* [trans. Dorothea Barton; London: SCM Press, 1966]; trans. of *Das fünfte Buch Mose: Deuteronomium* [ATD 8. Göttingen: Vandenhoeck & Ruprecht, 1964]). Unlike von Rad, Tigay argues that the implied audience of vv. 19a–19ba is all people (Nelson, *Deuteronomy*, 218, is also in agreement with this view). Tigay supports his argument by the reading of LXX (*Deuteronomy*, 373), in which 2nd per. sg. subject is changed into 3rd per. pl. subject. However, the change in person in LXX could be the attempt to ease a difficult reading. In my view, the legist changes the assumed addressees from all the people in v. 18 to judges in v. 19 and then again to all the people in v. 20. The signal of this change from all the people to judges is found in v. 18b. Reading the verb (וּשְׁפֹטוּ) in v. 18b as jussive, the judges as objects appear in v. 18b, and then in v. 19 they are directly addressed. McConville, *Deuteronomy*, 287, points out the change of subjects from all Israel (v. 18) to those “who would be engaged in the regular practice of law.”

162. Wright, *Deuteronomy*, 204.

justice, showing partiality, and taking bribes.¹⁶³ Then, finally, in a summary fashion, the third sub-unit exhorts the addressees to pursue justice only.¹⁶⁴ So, the topic of just judgment in v. 18 is specified (v. 19) and intensified (v. 20) by the two following command-first structures. Moreover, the motivational clauses in v. 19b and 20b serve to persuade the addressee to pursue justice only.¹⁶⁵ In sum, the combination of these two structures within one legal unit magnifies the rhetorical effect by specifying and emphasizing its main topic and by offering a motivational clause.

7. Conclusion

In this section we have investigated the structure of individual laws of the DC, which fall into five categories: the command-only structure, the command-first structure, the motivation-first structure, the no-motivation clause, and the triadic structure. The command-only and command-first structures deliver a law in a forceful tone because they first of all give a command. The difference between the two structures lies in whether they contain motivational clauses or not. The motivation-first structure begins with motivation and then states a command. This is effective in moving the audience to accept a command when the first-mentioned motivation fits well with the audience's experience

163. Clements well points out that in ancient world the custom of offering gifts as a sign of gratitude and of honoring influential families permeated. This custom would make it hard to be in favor of justice. The three protocols of justice would confront massive difficulty in the society ("The Book of Deuteronomy," 420).

164. See note 158 above.

165. Tigay, *Deuteronomy*, 161.

because this correspondence creates a positive mood between the concerned law and the audience. The no-motivation clause is composed of a condition(s) and a command(s) but has no motivational clauses. Yet, such a clause nonetheless motivates the audience thanks to the relationship between the conditions and commands, and by alluding to adjacent legal units. The triadic structure is composed of condition(s), command(s), and motivation(s). These three elements work together to deliver a concerned law in a pragmatic way. The conditional or temporal clauses draw the audience's attention, offering common ground in which the text and readers can communicate. The commanding clauses state what is at stake, and the motivation clauses give rationales for the commands. In addition, these five structures can be combined in one legal unit, thus magnifying the rhetorical effect by specifying or emphasizing its main topic with additional structures.

In addition to these rhetorical structures, the legists use rhetorical devices in order to create rhetorical effects. In the following, we will look at five rhetorical devices which are frequently found in the DC.

II. Rhetorical Devices

Just as rhetorical structures function to draw the audience's attention to the main points and to persuade them to observe the laws and rules, so rhetorical devices also serve to bring home the main points to the addressees and to make the regulations palatable to the audience. In the following I discuss representative rhetorical techniques such as repetition, chiasmus, *inclusio*, alternation of prescription and proscription, and the use of theological concepts.¹⁶⁶

A. Repetition

Repeating essential words and phrases is a common technique in delivering one's message effectively.¹⁶⁷ Almost all cultures have inherited this technique in their oral or written form of literature.¹⁶⁸ This commonality indirectly signals the effectiveness of repetition.¹⁶⁹ By repetition a speaker or writer can *emphasize* his/her point, and the

166. This dissertation does not aim to show all of the rhetorical devices in the DC, but to present the DC as a rhetorical work. For this purpose, it must be enough to describe the most often used rhetorical devices. For more detailed analysis of the rhetorical devices in each law in Deut 21:10–25:19, see chapter 4.

167. Among the figures of speech, epanaphora, antistrophe, interlacement, and transplacement are all related to the feature of repetition. Epanaphora is a repetition of the first word or expression of successive sentences; antistrophe is a repetition of the last word or expression of successive sentences; interlacement is the combination of the aforementioned two; transplacement is a repetition of a word or expression without any restriction on its place (*Rhet. Her.* IV. XIV. 19–XV. 20).

168. Kennedy, *Comparative Rhetoric*, 52, 104, 119.

169. Bruce F. Kavin points out that if one uses repetition properly it is a useful tool to deliver one's view in oral or written form. Yet, if one uses it carelessly, he argues that it will ruin the whole speech or

audience is likely to pay more attention to the restated words, phrases, or even a sentence, so as to *remember* them.¹⁷⁰

In this section, I will focus on repetition, especially the repetition of key words.¹⁷¹

By repeating key words, the legists emphasize the main idea of a self-defined legal unit and may achieve the goal to inculcate the core of the laws into the audience's mind.¹⁷²

The following examination of several exemplary cases in the DC would show the rhetorical functions of repetition: emphasis and reminder.¹⁷³

writing. So, Kawin calls repetition “unstable artistic compound” (*Telling it Again and Again: Repetition in Literature and Film* [Ithaca: Cornell University Press, 1972], 165). Borrowing Kawin’s term, the proper use of repetition is called *repetition*, while the careless use of repetition is *repetitiousness*. According to him, repetition is “when a word, percept, or experience is repeated with equal or greater force at each occurrence.” Repetitiousness is “when a word, percept, or experience is repeated with less impact at each recurrence; repeated to no particular end, out of a failure of invention or sloppiness of thought” (Kawin, *Telling It Again And Again*, 4; quoted in Strawn, “Keep/Observe/Do,” 221). The danger of the use of meaningless repetition is also pointed out in *Ad Herennium*. The discussion of “artistic composition,” which is one of three qualities of a style, encourages the avoidance of excessive repetition of the same letter and word. Such a style minimizes the positive effect of proper repetition (*Rhet. Her.* Book IV. XII. 18).

170. Scholars have pointed out the repeating words, phrases, or sentences help the audience remember what is mentioned (e.g., Soggin, *Introduction of the Old Testament*, 122; Kawin, *Telling It Again and Again*, 35; Strawn, “Keep/Observe/Do,” 232-33; Ward Farnsworth, *Farnsworth’s Classical English Rhetoric* [Jaffrey: David R. Godine, 2011], 3).

171. Such rhetorical devices as chiasmus and *inclusio* could be categorized under the rubric of repetition because both use repetition to form a certain structure. Chiasmus is a rhetorical device in which a set of ideas is repeated in reverse order (e.g., ABCB'A'). Similarly, *inclusio* is a device that repeats the first word, phrase, or sentence at the beginning and the end of a literary unit. Although chiasmus and *inclusio* feature repetition, they will not be dealt with in this section but under their own rubric because these rhetorical devices use repetition to create their own rhetorical features.

172. After examining the rhetorical function of repetition in Deuteronomy, Strawn concludes that the repetition of key action words such as “keep,” “observe,” and “do” and a temporal word such as “today” remind the readers “over and over and over again, to keep/observe/do, carefully, today!” (“Keep/Observe/Do,” 239-40).

173. Farnsworth points out that repetition serves to emphasize what is repeated and creates memorable effects (*Classical English Rhetoric*, 3).

1. The Place Yahweh will Choose in 12:4–27

The main idea of Deut 12:4–27 is the worshiping of Yahweh in one chosen place.¹⁷⁴ This main idea is emphasized by *repetition* of a cultic centralization formula (המקום אשר יבחר) and its associated verbs (יהוה אלהיכם) ל(שום)שכן שמו שם (שמח, אכל, בוא). Although this repetition has been explained from the historical perspective of redaction criticism, it is also possible to explain it as a rhetorical phenomenon.¹⁷⁵ From a rhetorical perspective, the cultic centralization formula is repeated in order to draw the audience's attention and to emphasize its importance in the world of the audience.¹⁷⁶ The formula appears in vv. 5, 11, 14, 18, 21, and 26 with slight variations.¹⁷⁷ According to this formula Deut 12:4–27 can be divided into five subsections: vv. 4–7, 8–12, 13–19, 20–25, 26–27.¹⁷⁸ In vv. 4–7,

174. Levinson, *Deuteronomy and the Hermeneutics*, 24. Olson offers a slightly different view. According to him, Deut 12 focuses on Yahweh's choosing of the central shrine rather than the exclusiveness of the worship place (*The Death of Moses*, 68). Although Olson's view does not eradicate the significant of the cultic centralization.

175. Historical-critical scholarship considers the variation in the cultic centralization formula to be the sign of the editorial layers (Römer, *The So-Called*, 56-65). However, Carmichael rightly points out its rhetorical features. He states that “[m]atters are repeated . . . in order to fix the teaching in the mind of the hearer” (*The Laws of Deuteronomy*, 69).

176. Niehaus, “Central Sanctuary,” 6.

177. Although the idea of Yahweh's chosen place is repeated in these verses, they are different in two major ways. First, the idea that Yahweh's name dwells on the chosen place is missing in vv. 14, 18 and 26. Second, associated verbs with this formula vary: “bring” in vv. 5 and 11; “eat” in v. 18; “to be distant” in v. 21. Moreover, in verse 26, the main interest lies on a profane slaughter with the associated verbs “go and offer.” This variation prevents the audience from losing interest in the formula due to its verbatim repetition. Repetition with variation is characteristic in Hebrew rhetoric. Muilenburg already pointed out that “the combination of what is repeated and what is added” is a characteristic feature of Hebrew composition and its thought (“A Study in Hebrew Rhetoric: Repetition and Style,” *VTsup* 1 [1953]: 98).

178. As for the division of ch. 12, various suggestions have been offered. Yet, there is a consensus that vv. 7 and 8, vv. 12 and 13, vv. 19 and 20 are distinguished from each other (Levinson, *Deuteronomy and*

the audience is commanded to search the place Yahweh will choose, bring all kinds of sacred offering there, eat them and rejoice. All the cultic activities are assumed to be done in the place. This first subunit would be enough to indicate that the place chosen by Yahweh is to be the center of worship, yet the legist introduces another section for rhetorical effect. The second subsection of vv. 8–12 mentions that Israel has not yet possessed the promised land or reached the point of rest, but it is promised that when the Israelites possess the given land, Yahweh will choose a place there. Then, almost similar commands are narrated again. The audience should *bring* sacred offerings there and *enjoy* them with their household and the Levites. Thus, in this second section the idea that all the worship should be practiced around the chosen place is restated. This functions to emphasize the significance of as well as to help the addressees remember the central command. In the third subunit (vv. 13–19), the importance of the chosen place as a worship center is stated at the beginning and end of the subunit (vv. 13–14, 18). Again, the chosen place is for sacrificing, eating, and rejoicing.

However, the fourth subunit (vv. 20–25) deviates from this pattern. The idea of cultic centralization does not take center stage. Rather, this subunit deals with the related

the Hermeneutics, 24; Nelson, *Deuteronomy*, 150; McConville, *Deuteronomy*, 217-28; Seitz, *Redaktionsgeschichtliche Studien*, 187, 209; Brueggemann, *Deuteronomy*, 142-46). As for the division between vv. 20–25 and vv. 26–27, although many scholars regard them as one unit, these two are divided as two *sub-units* (Tigay, *Deuteronomy*, 122).

issue of animal slaughter when one lives at a distance from the chosen place.¹⁷⁹ Yet this unit itself uses repetition as it restates the principles first mentioned in vv. 15–16. The deviation from the main line serves to gain the audience’s attention but not so much as the cultic centralization does.

Finally, vv. 26–27 reintroduce the cultic centralization formula with the same action verbs **בּוּא** and **אָכַל** (see: vv. 6–7, 11, 15, 18). Throughout these five subunits the formula of cultic centralization is employed repeatedly. Moreover, in the fourth unit the idea of profane slaughter is introduced which intends to respond to a possible objection to the cultic centralization as well as to prevent a risk of making the arrangement banal and dull.

2. “Let’s Go And Worship Other Gods” in 13:2–19¹⁸⁰

In 13:2–19, the repetition of the sentence “let’s go and worship other gods” (**נִלְכָה וְנַעֲבֹדָה**) serves to draw the audience’s attention to the main issue.¹⁸¹ In this legal unit, the legists lay out three different cases (vv. 2–6; 7–12; 13–19) and all of the cases include the same pattern of a story.¹⁸² The Israelites are seduced to worship other gods by

179. The cultic centralization would necessarily raise a question: what if one lives far from the chosen place and wants to slaughter animals? So, vv 20–25 deals with the issue and establishes profane slaughter.

180. It has been pointed out that Deut 13:2–19 has many features in common with the political treaties of the Hittite, Aramean, and Assyrian treaties (Weinfeld, *Deuteronomic School*, 91-100).

181. Weinfeld points out that this expression is also found in the Esarhaddon treaty (*Deuteronomic School*, 94 n. 4). This similarity indicates that such an expression was a conventional expression to signal disloyalty.

182. Introduction of the instigator, warning to people not to yield to the instigation, and death penalty

either spiritual authorities, family members and close friends, or scoundrels, and stern punishments follow. In all three of these cases, a similar sentence, “let’s go and worship other gods” (vv. 2b, 8b, 14b), is used with some slight modification. This sentence well represents what these texts are all about.¹⁸³ By repeatedly presenting the enticing speech in a similar way, the legist drums home that this is an urgent issue. Moreover, the death penalty is also repeated in all three of these cases, and this repetition of the announcement of the death penalty emphasizes the punishment for following other gods. So, these three regulations together magnify the message upon the audience.

3. Things to Eat And Not to Eat; Things Clean and Unclean in 14:3–21

The dietary law in 14:2–21 features in the repetition of several key phrases. Two phrases are worthy of mention. First, the phrases “You shall not eat ([לא תאכל])” and “You shall eat (תאכלו)” appear throughout this regulation. The repetition of this pair of expressions inculcates into the audience a sense that there is a clear distinction between edible and inedible, and that this distinction should be preserved. These expressions are employed not arbitrarily but purposefully. The following chart shows the obvious purposeful arrangement of these phrases.

(McConville, *Deuteronomy*, 235).

183. Tigay, *Deuteronomy*, 128.

		object	verb	neg. pcl.	object
Introduction	v. 3	כל-תועבה	תאכל	לא	
animals in land	v. 4		תאכלו		זאת הבהמה אשר
	v. 6		תאכלו		אתה
	v. 7		תאכלו	לא	אך את-זה
	v. 8		תאכלו	לא	מבשרם
animals in water	v. 9		תאכלו		את-זה
	v. 9		תאכלו		כל אשר-לו סנפיר וקשקשת
	v. 10		תאכלו	לא	וכל אשר אין-לו
birds in sky	v. 11		תאכלו		כל-צפור טהרה
	v. 12		תאכלו	לא	זה אשר
	v. 19		יאכלו ¹⁸⁴	לא	וכל שרץ העוף
	v. 20		תאכלו		כל-עוף טהור
Conclusion	v. 21	כל-נבלה	תאכלו	לא	

The entire dietary law is enveloped by a prohibition: “You shall not eat” (vv. 3 and 21). In this envelope, objects follow verbs. Within this envelope, the verb “to eat” occurs eleven times, among which negative particles are used five times. Unlike the word order in the envelope, in vv. 4–20, objects of the verb **אכל** is always placed before the verb. This intentional placement of the object before the verb has a rhetorical effect of distinguishing what is edible from what is inedible. Moreover, within the spatial scope of the animal, what is edible comes before what is inedible. This alternation between what is

184. Targum and Vulgate read it as **לא יאכל**, which takes the subject as singular noun. Samaritan Pentateuch and Septuagint read it as, **לא תאכלו מהם**, which changes the passive into the active voice.

edible and what is inedible emphasizes the idea that the Israelites should eat only certain types of food. Thus, the repetition of the phrases such as “you shall eat” or “you shall not eat” inculcates the idea of food restriction into the audience.

Second, a kind of motivational sentence occurs several times in vv. 7, 8, 10, 19. The statement “this is (they are) unclean for you” gives a reason for the prohibition of eating certain animals. Some animals are categorized as something unclean to the Israelites. The repetition of the sentence throughout the dietary law emphasizes the idea that the Israelites who are consecrated to Yahweh (Deut 14:2 and 21) should not eat something unclean. Thus, by realizing their holiness as the people of Yahweh, the Israelites would accept these dietary laws so as not to defile themselves by food. The repetition of a verb “eat/do not eat” and an adjective “unclean” serves to pinpoint the main idea of the dietary law.

4. Repetition with Variation: Qualifications of Soldiers in 20:5–8

Deut 20:5–8 shows an example of repetition with variation. In this case, the emphasis is on the variation.¹⁸⁵ In 20:5–8 an officer examines the Israelite troops with four questions. Three of them are formulated according to the same pattern, and the last one has a

185. Robert Alter argues that variations in the pattern of repetitions are made intentionally by an author in order to comment, analyze, foreshadow, and assert a certain theme (*The Art of Biblical Narrative* [New York: Basic Books, 1981], 91).

slightly different form, which functions to draw the audience's attention to the final question. The repeated pattern is as follows.

Question

Who is the man who did . . . but who did not . . .
מִי־אִישׁ אֲשֶׁר . . . וְלֹא . . .

Command

He will go back and remain in his house.
יֵלֶךְ וְיָשֵׁב לְבֵיתוֹ

Reason

Or he will die in the battle and another man will . . .
פְּנִימוֹת בַּמִּלְחָמָה וְאִישׁ אֲחֵר . . .

First, a question is raised about a man who did something but has not yet enjoyed its result. Then, the man is commanded to return home. Finally, the reason is specified: it is because the man could be killed in battle and then another man would enjoy the sweet result of what the killed man started. This pattern is repeated three times and applied to a different case each time: a house is built but not dedicated; a vine is planted but not gathered; a woman is engaged but not married.¹⁸⁶ Thus, any soldier in such circumstances should return to his home.

186. This threefold repetition can be called “transplacement” (*traductio*) which introduces the same terms several times without damaging the style but by adding an elegant quality to a text (*Rhet. Her.* Book IV. XIV. 20).

In verse 8, however, the repeated pattern is broken. Although the fourth case is also composed of the same structure (a question, command, and reason), and the expressions “מי האיש” and “ילך וישב לביתו” remain the same, the verbatim expression is modified and enriched.

Question

Who is the man who is afraid and fainthearted?

מי־האיש הירא ורך הלבב

Command

He will go back and remain in his house.

ילך וישב לביתו

Reason

He should not weaken his fellows heart like his heart.

ולא ימס את־לבב אחיו כלבבו:

Unlike the previous three questions, in which the condition is explained by a pattern of A but B (A and B are in opposite to each other), in this case the condition is depicted by two synonymous adjectives: ירא (afraid) and רך (timid). After commanding the same command as in the previous three cases, the fourth case offers a different reason: such fear could spread to the whole army. The conditional clause and motivational clause focus on the condition of one’s heart which should be maintained in a state of resolution and confidence, while its previous three cases concern one’s enjoyment of Yahweh’s blessing. Breaking the expected and established pattern serves to catch the attention of

the audience.¹⁸⁷ This is the place where the main thrust of this regulation is expressed: “do not fear!” Anyone who fears and trembles should go back home.

In sum, as the aforementioned four examples show, repeated terms, phrases, or sentences function to unpack and emphasize the gist of a given text. In 12:4–27 the command to bring offerings to Yahweh’s chosen place and enjoy them with one’s fellow Israelites is emphasized by the repeated formula. In 13:2–19 the legist emphatically show what the Israelites should avoid by using a specific expression three times in three consecutive cases. In 14:3–21 the repeated delineation of what to eat and what not to eat with the rationale indicates its significance to the Israelites as Yahweh’s holy people. In 20:5–8 the variation in repetition serves to draw the readers’ attention and emphasize the main point. Thus, these four examples illustrate that the repetition of terms, phrases, and sentences is a frequent rhetorical device that serves to emphasize the primary point of each regulation and inculcate the message into the audience.

B. Chiasmus

Chris Baldick defines chiasmus as “a figure of speech by which the order of the terms in the first of two parallel clauses is reversed in the second.”¹⁸⁸ Similarly John W. Welch defines chiasmus as “the appearance of a two-part structure or system in which the

187. Since the audience would expect the same literary expression at the end, the change at least raises a question in the audience’s mind and catches its attention.

188. Baldick, *Oxford Dictionary of Literary Terms* (3rd ed.; Oxford: Oxford University Press, 2008).

second half is a mirror image of the first, i.e. where the first term recurs last, and the last first.”¹⁸⁹ According to these definitions, chiasmus can be identified with “inverted parallelism.”¹⁹⁰ In the scheme of inverted parallelism, a series of ideas is presented, reaching to a climax, and then repeated backwards.¹⁹¹ The aforementioned definitions, however, do not properly include a pattern which has only one centered line (e.g., ABA' or ABCB'A').¹⁹² Since chiasmus could include both a pattern having one centered line and

189. Welch, *Chiasmus in Antiquity: Structures, Analyses, Exegesis* (Provo: Research Press, 1999), 10.

190. Stanisław Bazyliński, *A Guide to Biblical Research: Introductory Notes*, (Rome: Editrice Pontificio Istituto Biblico, 2006), 94; Kenneth Bailey, ““Inverted Parallelisms” and “Encased Parables” in Isaiah and Their Significance for Old and New Testament Translation and Interpretation,” in *Literary Structure and Rhetorical Strategies in the Hebrew Bible* (eds., de Regt, L.J., J. de Waard, and J.P. Fokkelman; Assen: Van Gorcum, 1996), 16.

191. *Ibid.*, 16. In terms of being a series of ideas that moves up toward a climax and then moves down backwards, one may label this structure as a “pedimental composition.” Pedimental means “writing that goes up to a central point, makes a turn, then comes down step by step on the other side” (Douglas, *Thinking in circles*, xii-xiii).

192. This pattern is named a concentric structure. Jerome T. Walsh distinguishes chiastic from concentric. According to him, both chiastic and concentric are variations of reverse symmetry (ABB'A'). While a single-centered structure (ABCB'A') is called concentric, a double-centered structure (ABCC'B'A') is called chiastic (Jerome T. Walsh, *Style and Structure in Biblical Hebrew Narrative* [Collegeville: Liturgical Press, 2001], 13). However, in this dissertation I do not differentiate chiastic from concentric. Rather, I will call both a one-centered structure and a double-centered structure chiasmus because, even in a double-centered structure, the inner paralleled lines function as a center within the entire literary unit. Moreover, such a distinction has not reached a scholarly consensus. For example, Timothy Carmody’s use of chiastic structure is in fact identical with Walsh’s reverse symmetry, and Carmody’s use of concentric parallelism is in fact a chiastic symmetry in Walsh’s terms (Carmody, *Reading the Bible: A Study of Guide* [Mahwah: New Jersey, 2004], 148). Lundbom deals with both a one-centered structure and a double-centered structure under the title of chiasmus (*Jeremiah*, 82-146). Breck also regards chiasmus as a synonym of concentric parallelism. He points out that chiasmus is a “rhetorical form based on concentric parallelism” (“Chiasmus,” 254). Both of them are identical, in his view, in that the passage moves from the exterior to the center (*ibid.*, 254). In fact, there are not significant reasons to distinguish chiastic pattern from concentric one. Thus, I will deal all of the types of reverse symmetry under the title of chiasmus.

that having a pair of inner parallel lines,¹⁹³ I avoid using the term concentric or inverted parallelism but instead stick with the blanket term chiasmus.¹⁹⁴

This rhetorical device is characteristic in Hebrew literature.¹⁹⁵ Lundbom regarded chiasmus as an essential tool to discern the literary units of the Book of Jeremiah.¹⁹⁶ In addition, he assumes that Deuteronomy is also full of such a feature by saying that “the rhetoric of Jeremiah is clearly the rhetoric of Deuteronomy.”¹⁹⁷ In fact, chiasmus is also commonly used in the DC. Examples are found both at the level of the whole book, of chapters, of one legal unit, and of only one verse. Yet, beyond merely noting the existence of chiasmus in the DC,¹⁹⁸ more attention must be paid to the rhetorical function of chiasmus.¹⁹⁹ Generally, chiasmus functions to emphasize the main idea by placing it at the

193. Lundbom, *Jeremiah*, 30; Lohfink, *Lectures in Deuteronomy*, 15.

194. Douglas uses a term “ring composition” which emphasizes both the feature of envelope as well as the feature of two matching sides (*Thinking in Circles*, 1-2). Moreover, its difference from chiasmus is that ring composition can be found in texts which are not juxtaposed (*ibid.*, 6). In this sense, ring composition is broader than chiasmus.

195. Based on the many instances in the Bible, some argue for the Israelite origin of chiasmus (Lundblum, *Jeremiah*, 31; Lund, *Chiasmus in the New Testament*, viii; Douglas, *Thinking in Circles*, 4). Going further than the view of Hebrew literature as the origin of chiasmus, Breck insists on the Semitic origin of chiasmus because the chiastic feature is found in ancient Akkadian and Sumerian texts. From this starting point, in his view this Semitic literary device spread to the Greek world (Breck, “Chiasmus,” 255). As evidence Breck mentions that almost all the authors of the books in the New Testament utilized chiastic patterns in their work (*ibid.*, 254. cf. *idem*, *The Shape of Biblical Language: Chiasmus in the Scripture and Beyond* [New York: SVS Press, 1994]).

196. Lundbom, *Jeremiah*, 82-146.

197. *Ibid.*, 146.

198. Christensen offers various proposals of chiasmus in Deuteronomy (*Deuteronomy 1:1–21:9*; *idem*, *Deuteronomy 21:10–34:12*).

199. Welch, *Chiasmus in Antiquity*, 9. Lundbom also calls attention to the “function of the rhetorical figures” (*Jeremiah*, 33). He insists we move beyond a descriptive analysis of chiasmus as well as *inclusio* (*ibid.*, 34).

center.²⁰⁰ In addition to the emphasis on the center, Ward Farnsworth argues that chiasmus shows a “reversal or reciprocity of substance.”²⁰¹ This is the case in which a form reflects a content. Because of these features, Chiasmus functions to deliver the argument or meaning of the text in a persuasive way, and the following discussion will consider several examples.²⁰²

1. 12:13–19²⁰³

Within this one literary unit, the paired particles and phrase signal that seminal ideas are arranged according to a chiasmic pattern.²⁰⁴

200. Douglas, *Thinking in Circles*, 7, 16; Breck, “Chiasmus,” 255, 258; idem, *The Shape of Biblical Language*, 59-61. In addition, Breck points out mnemonic and aesthetic aspects of the use of chiasmus. Welch points out that the emphasis on the central element in the chiasmic pattern is vital to the meaning of the entire unit (*Chiasmus in Antiquity*, 50).

201. Farnsworth, *Classical English Rhetoric*, 99. He also points out that chiasmus shows that the dispute is over its closed structure. Moreover, he points out chiasmus sounds “attractive, memorable, and sometimes fascinating” because of the reversal of sounds (ibid., 98-99).

202. The criteria on which a chiasmic pattern is discerned varies. Lohfink offers the change of speakers as a criteria. Lundbom applies Lohfink’s suggestion in his investigation of the Book of Jeremiah. Christensen uses a prosodic analysis to define a concentric structure. So, not only a chiasmus of a key words but also a chiasmus of speakers or other elements is possible.

203. This literary unit is not supported by Clifford. He divides vv. 4–14 and 15–27 into two units. He argues that vv. 10–12 repeat vv. 4–9, and vv. 13–14 recapitulate it (*Deuteronomy*, 77). A similar division is found in Beth Alpert Nakhai, “ראה R’eiḥ: Deuteronomy 11:26–16:17,” in *The Torah: A Women’s Commentary* [ed. Tamara Cohn Eskenazi; New York: Women of Reform Judaism, 1116]. She considers vv. 2–14 and vv. 15–28 to be self-defined units. Although the starting point and ending are different, v. 15 is the beginning of a new unit (ibid., 1116). Some scholars divide Deut 12:13–19 into two distinct units, vv. 13–16 and vv. 17–19 (Tigay, *Deuteronomy*, 123-25) Other scholars deal with vv. 13–28 together (Biddle, *Deuteronomy*, 214–218). Yet, given the use of particles in vv. 13–19 which is arranged in a chiasmic pattern, vv. 13–19 must be a self-defined literary unit. Most commentaries on the book of Deuteronomy support this division (Nelson, *Deuteronomy*, 154; McConville, *Deuteronomy*, 225-26; Thompson, *Deuteronomy*, 170; Brueggemann, *Deuteronomy*, 144-45; von Rad, *Deuteronomy*, 93-94).

204. The chiasmic arrangement of ideas in Deut 12:13–19 has been noted (Christensen, *Deuteronomy 1:1–21:9*, 253; Levinson, *Deuteronomy and the Hermeneutics*, 29). Yet several scholars propose slightly different takes on the specific line division. Seitz views the profane meal in v. 15b as a one-centered line,

- A **Take care** (השמר לך פן) that
you do *not* offer your burnt offerings *in any place* you happen to see (v. 13)
- B **But only** (כי אם) *in the place* the Lord will choose . . .
 there you shall offer your burnt offerings
 there you shall do everything I command you. (v. 14)
- C **Yet** (רק), with any desire of your self
 you may slaughter . . . *within any of your towns*
 the unclean and the clean *may eat* them . . . (v. 15)
- C' **Yet** (רק), the blood you shall *not eat* . . .
 You shall *not be able to eat in your towns*
 tithes of . . .
 firstlings . . . (vv. 16–17)
- B' **But only** (כי אם) before the Lord your God
you *shall eat* them at *the place* that the Lord your God will choose . . . (v. 18)
- A' **Take care** (השמר לך פן) that
you do **not** neglect the Levites . . . in your land. (v. 19)

As Richard A. Lanham points out, chiasmus functions to draw the parts closer together.²⁰⁵

The six components in this legal unit are dynamically connected to each other, and this flow of ideas is emphasized by their internal connections. At first glance, the outer frame A and A' does not seem to be relevant to each other except for the same beginning

which is taken out from v. 15 (*Redaktionsgeschichtliche Studien*, 211). Nelson regards the prohibition of blood consumption in v. 16 as the center, separating it from v. 17 (*Deuteronomy*, 154). Nelson's view is very tempting because this structural division puts an emphasis on the ban of blood consumption. Since Nelson put vv. 13–19 at the center of the chiastic pattern in ch. 12 (*ibid.*, 150), the prohibition of blood consumption takes the pride of place. However, Nelson's view of v. 16 as the center raises a question about the criterion of separating v. 16 from v. 17 and of putting them in a different level, which contradicts the use of particles in vv. 13–19. Nelson mixes up the division by particles and the division by key words.

205. Lanham, *A Handlist of Rhetorical Terms* (2d ed.; Berkeley: University of California Press, 1991), 33.

phrase *השמר לך פן*.²⁰⁶ However, these two sentences interlocked by the same heading are closely interrelated in that A' deals with a case which would be caused by A. The prohibition of local sacrificial offering (A) may have the consequence that the local priests lose their livelihood. Consequently, the legist urges, in A', that the audience not neglect the Levites in their local towns.²⁰⁷

Second, the one side of chiastic pattern (sections A, B, and C) shows a flow of semantic antithesis. Section A and B are semantically antithetical. A proscription of sacred offering in any place (section A) moves to a prescription of sacred offering in only the chosen place (section B). Then, in section C, profane sacrifice is introduced which deals with a possible problem which would be caused by the cultic centralization in section B.

This flow of ideas is reversed in the other side of chiastic pattern (sections C' and B'). Although section C' deals with the same topic as section C, section C' is in fact

206. Römer (*The So-Called*, 57) does not include v. 19 into vv. 13–18. In his view, v. 19 was inserted later at the end of the Persian period. However, the overall concern for the Levites spread out in the DC, and from rhetorical perspective, the location of v. 19 at the end of vv. 13–18 can be explained as a literary technique to draw attention to it.

207. By this deviation from an expected order the legist draws the reader's attention. In principle, the focus is placed at the center in a chiastic structure. In the A:B:A' pattern, A' intensifies A and the central meaning lies in B'. However, in the case of Deut 12:13–19, the final section (A') does not explicitly follow the chiastic pattern in terms of its content. A' does not mention anything about cultic centralization or profane slaughter but only a care for the Levites in the local area. Thus, attention is also drawn to this final line because of its variation. Walsh argues that although the emphasis in the chiastic pattern lies mostly in the center, the outer lines can also be emphasized. Moreover, the outermost lines are connected thematically with the central line(s) (*Style and Structure*, 14).

antithetical to section C in terms that section C' deals with restrictions in profane sacrifice. While section C deals with what one can do in a local place, section C' introduces what one should *not* do in a local place: blood consumption and the consumption of sacred offerings.²⁰⁸ Then, the prohibition against consuming blood and sacred offerings in any local place is changed into a prescription to observe sacred meals in the chosen place in section B'.

This flow of ideas can be summarized as following:

A	Cultic centralization (in a negative command)	(v. 13)
B	Cultic centralization (in a positive command)	(v. 14)
C	Profane slaughter (in a positive command)	(v. 15)
C'	Profane slaughter (in a negative command)	(v. 16–17)
B'	Cultic centralization (in a positive command)	(v. 18)
A'	<i>Concern for the Levites</i> (in a negative command)	(v. 19)

According to the topics of each section, C / C' and B / B' are paired. The topic flows from cultic centralization (vv. 13–14) → profane slaughter (v. 15) → profane slaughter (vv. 16–17) → centralization of cult (v. 18).

In sum, throughout Deut 12:13–19, the ideas of cultic centralization and profane slaughter are systematically interwoven in order to show how these two ideas are interrelated. Profane slaughter resulted from the introduction to the cultic centralization;

208. The term אכל in these two sections clearly shows the antithetical feature of these two sections.

the cultic centralization could be precisely practiced by a successful installation of profane slaughter.²⁰⁹

2. 15:2aβ-3²¹⁰

In the law of remission, the legist explains the rule by using chiasmus. After stating that “this is the matter of the remission” (v. 2aα), the nature of the remission is explained through chiasmus in vv. 2aβ-3.²¹¹



As the underlined words in the chart above show, line A corresponds to line A'. In these two lines the legists command people to remit (שִׁמְט) what is due to a creditor. Line B is antithetically parallel with line B'. Line B commands a person not to exact the due of

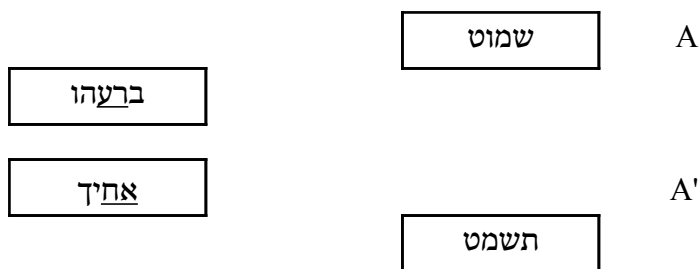
209. It has been pointed out that profane slaughter was indispensable for cultic centralization (Biddle, *Deuteronomy*, 214-15; Levinson, *Deuteronomy and the Hermeneutics*, 5, 33, 46, 49-51).

210. Von Rad argued that v. 3 is an interpretation of an older law (*Studies in Deuteronomy*, 15-16). Yet, v. 3 cannot be separated from v. 2. They should be construed as one unit because of this rhetorical feature, chiasmus.

211. The chiasmus in vv. 2aβ-3 has been pointed out by several scholars (see n. 128 in chapter 3). Yet, while I look at this chiasmus through a macro and a micro level, this feature is not distinguished in their scheme.

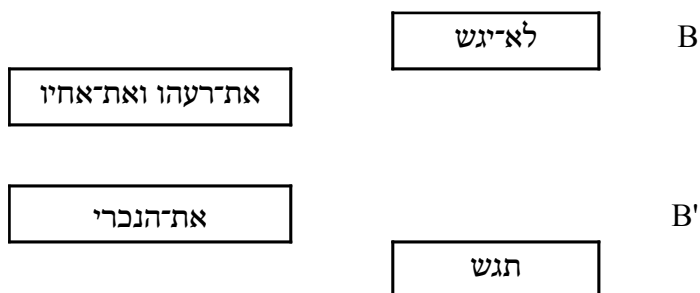
fellow Israelites; while line B' allows a person to exact the due of *the foreigner*. Lastly, line C at the center of the chiastic structure declares that the law of remission belongs to Yahweh. By placing the divine origin of the law at the center, the legist strongly urges the addressees to observe the law of remission.

Except for this basic mirror image of chiasmus, each corresponding pair (A-A' and B-B') is also constructed into a chiasmus. In the pair of A and A', the following pattern is attested.



This pattern puts an emphasis on the relationship of a creditor with a debtor. A debtor is not an irrelevant third party to a creditor but his neighbor and kin. The act of remission should be performed because of this close relationship between a creditor and a debtor.

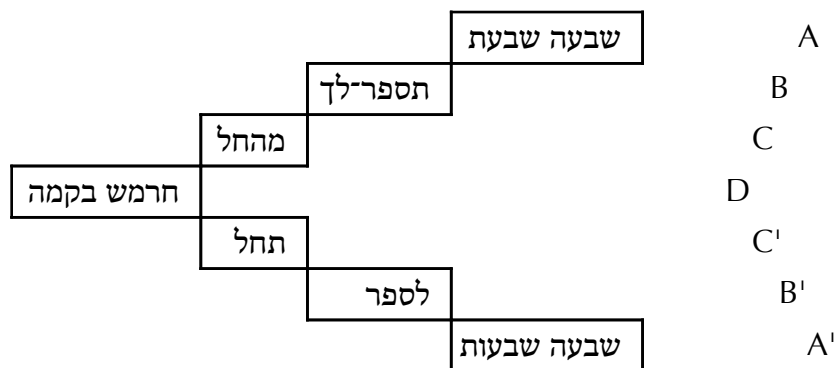
This close relationship is reemphasized by the next pairs (B and B'), which is formed into a chiastic pattern.



This structure contrasts two different groups of people: the fellow Israelites versus the foreigners. The difference from the pair of A and A' is that the pair of B and B' is antithetical. The negative particle in line B does not appear in line B'; a close relationship between a creditor and a debtor in line B changes into a remote relationship in line B'. This antithetical relationship between B and B' emphasizes the addressees' intimate relationship, which is also emphasized in the pair of A and A'. In sum, at both the macro-level and the micro-level of the structure, the legist employs chiasmus to highlight the rationales of the law of remission: it belongs to Yahweh and you are brothers and fellow Israelites.

3. 16:9

Deuteronomy 16:9 is the first verse of the legislation concerning the Feast of Weeks. This verse is formed into a chiastic structure.²¹²



212. Nelson, *Deuteronomy*, 209.

This one verse is composed of two sentences²¹³ which convey the same commands: “you shall count seven weeks.” The two sentences are worded exactly according to chiasmus. “*Seven weeks*, you shall **count** from the *beginning* of . . . you shall *begin* to **count seven weeks**.” According to this chiastic arrangement, each element of the commands is repeated in reverse, and the action of counting seventy days itself appeals to the audience as a significant action to observe. At the center is placed the action of cutting the standing grain with a sickle. The fact that the center clarifies a concrete starting point of counting is more significant than the action itself.²¹⁴ Suppose there is a dispute that one did not observe the festival of Weeks. One may be charged for ignorance of the festival of Weeks. In this dispute, the starting point of counting seven weeks would be essential. The accused one could defend him/herself by insisting, “The first day of my sickle on the standing grain was not early that as you think.” For this reason, the starting point of the counting is a significant element in proper observation of the festival. In sum, the chiasmus emphasizes the main command at the outer frame and pinpoints the essential starting point at the center.

213. In general, the first sentence is v. 9a (A and B) and the second sentence v. 9b (C, D, C', B', and A'). However, C and D can belong to either the preceding or the following command.

214. Any parallel text in the Hebrew Bible (Ex 23:16; 34:22a; Lev 23:15-16; Num 28:26) does not mention such an action of cutting the grain with a sickle. Lev 23:15, one of the other passages on the festival of Weeks, sets a different starting point: the day on which one brings the sheaf of elevation offering.

4. 16:18–20²¹⁵

This unit shows a chiasmus.²¹⁶

- A Judges and officials you shall appoint for you
in **all your towns the Lord your God is giving you** . . . (v. 18a)
- B Let them judge the people (with) just (צדק) judgment. (v. 18b)
- C. You shall not distort justice;
You shall not show partiality;
You shall not take bribes . . . (v. 19)
- B' Justice (צדק), justice (צדק) you shall pursue, (v. 20a)
- A' so that (למען) you will live and possess
the land the Lord your God is giving you. (vv. 20b)

In this chiasmic structure three elements are emphasized. First, the “land or city-giving formula” is emphasized in the outer frame. The city-giving formula in v. 18 is combined with a command to appoint judges and officials; the land-giving formula in v. 20bβ is connected with the promise of Israel’s prosperity. The connection between this divine giving formula and the audience’s way of life in the land is important because it emphasizes that in the land and cities that Yahweh has given to the people, they should deal with things according to Yahweh’s design, through an impartial judicial system.

215. This unit was dealt with under the title of Combination of Rhetorical Structures. In that section, this law was one of the examples that shows a combination of two rhetorical structures.

216. Christensen, *Deuteronomy 1:1–21:9*, 361.

Second, in the next paired sentence (B and B'), the *just* judgment and the pursuit of *justice* are emphasized.²¹⁷ Justice should be realized not only by the judicial officers and judges (v. 18b), but also by the members of the community (v. 20). Third and finally, at the center of the chiasmus, a concrete code of conduct is emphasized: no distortion in judgment; no bias in judgment; no bribes taken for judgment.²¹⁸ In sum, through this chiastic structure, it is effectively delivered that judicial justice should be maintained in Israel because the Israelites are living in the land that Yahweh has given to them. Moreover, the specific protocol of conduct is emphasized by being placed at the center of this structure.

As the four exemplar texts show the legist uses chiasmus in the DC in order to emphasize the main points in a more effective way. Through chiasmus, various thematic elements in one legal unit are closely connected and tied together, so as to present the main idea. Moreover, a deviation within a chiastic structure is sometimes employed not only to draw the audience's attention but also to present a significant point.

217. Morrow points out that the term צדק connects between 18b and 20a (*Scribing the Center*, 165; quoted from Christensen, *Deuteronomy 1:1–21:9*, 361)

218. This specific protocol of conduct is emphasized by being placed at the center of this structure. Moreover, the short form of commands draws the addressees's attention because of the tempo and rhythm that it has. As mentioned in *Rhet. Her.* the style of brevity serves draws readers's attention (*Rhet. Her.* Book IV. XVII. 24).

C. Inclusio

Inclusio is a pair of sentences, phrases, or words that brackets a literary unit.²¹⁹ In general, *inclusio* is composed of the repetition of a key-word.²²⁰ *Inclusio* functions to signal the beginning and ending of a literary unit.²²¹ In addition to the role of marking a literary boundary,²²² it serves to emphasize a major theme of the literary unit.²²³ By opening a literary unit and closing it with the same words, phrases, or sentences, the speaker expects the audience to notice the unity of the whole speech as well as the central idea of the speech. The following examples will show that *inclusio* is an effective means of persuasion.

219. This literary feature is called either an “envelope” figure (Chris Wyckoff, “Have We Come Full Circle Yet? Closure, Psycholinguistics, and Problems of Recognition with the *Inclusio*,” *JSOT* 30 [2006]: 477; Richard G. Moulton, *The Literary Study of the Bible: An Account of the Leading Forms of Literature Represented in the Sacred Writings* [Boston: D.C. Heath & Co., 1905]: 56-58) or a “ring composition” (Muilenburg, “Form Criticism and beyond,” 58; Walter Ward Parks, “Ring Composition,” *The New Princeton Encyclopedia of Poetry & Poetics* [eds., Alex Preminger and T. V. F. Brogan; Princeton: Princeton University Press, 1993], 1072). cf. Douglas uses the term “ring composition,” including a chiasmic feature as well as the feature of *inclusio* [*Thinking in Circles*, 1-2]. See also n. 193 above).

220. Lundbom, “The *Inclusio* and Other Framing Devices,” 300.

221. Muilenburg, “Form Criticism and beyond,” 58. Lundbom (*Jeremiah 1–20*, 76-78) points out that this rhetorical device has been used from ancient literature to modern literature in order to mark a literary unit as well as to have a rhetorical impact.

222. Wyckoff points out that *inclusio* is one of the most common boundary markers and one of the most effective tools to create the end of a literary unit (“Problems of Recognition with the *Inclusio*,” 477).

223. Ulrich Luz argues that the *inclusio* formed by Matt 1:23 (God’s promise to be with God’s people) and 28:20 (Jesus’s promise to be with his disciples) emphasizes the theme, God’s presence with God’s people, which is a dominant theme of the Gospel of Matthew (*Matthew 21–28* [trans. James E. Crouch; Hermeneia; Minneapolis: Augsburg Fortress, 2005], 290–93).

1. *Inclusio* in the Large Scope of the DC

First of all, the whole DC is bracketed by *inclusio*.²²⁴

12:1

These are the laws and rules that you shall *carefully observe* . . .

26:16

Yahweh your God is commanding you to *observe* these laws and rules.

Thus, you shall *carefully observe* them . . .

Two significant pairs of terms, “laws and rules” (החקים והמשפטים), “carefully observe” (שמר ועשה) occur at the beginning and at the end of the DC. These two sets of words can summarize the main point of the DC: “Carefully observe the laws and rules.” Regardless of the actual contents of the DC, this abstract encouragement for the observation of laws is strongly expressed in this *inclusio*.

Another macro *inclusio* is found in 12:14b and 26:14b.

A. 12:14b

ושם תעשה כל אשר אנכי מצוך

B. 26:14b

עשיתי ככל אשר צויתני

Although these two verses do not appear at the beginning and end of the DC, they correspond to each other and represent what the DC requires of the audience. In 12:14b, Yahweh commands the Israelites through Moses to do whatever Yahweh commands

224. Biblical commentators have pointed out the *inclusio* that marks a literary unit of Deut 12–26 (Christensen, *Deuteronomy 1:1–21:9*, cv; Nelson, *Deuteronomy*, 150; Miller, *Deuteronomy*, 129).

them to do. After this general command the specific laws and rules are addressed throughout the DC. Then, in 26:14 an Israelite, who in fact represents the whole of Israel, confesses that he did what Yahweh commanded. Through this *inclusio*, the legist of the DC shows a desirable model, that is, the command to observe what Yahweh has commanded (the DC) is to be fulfilled by the addressees.

2. *Inclusio* in Several Literary Units Combined Under the Same Topics

Inclusio is found not only at the macro-level of the whole DC but also within a combination of several literary units. In this case, *inclusio* also serves to tie these literary units into one larger thematic unit. Chapter 13 is bracketed by the same encouragement to observe Yahweh's command.²²⁵

v. 1 . . . את כל־הדבר אשר אנכי מצוה אתכם אתו תשמרו לעשות²²⁶

v. 19 . . . כי תשמע בקול יהוה אלהיך לשמר את־כל־מצותיו אשר אנכי מצוך

Chapter 13 begins with a command to observe carefully every word that Yahweh is commanding through Moses. Then, three cases follow about the seduction of worshipping other gods. After that, this unit of regulations is closed by a causal clause in which the same expression appears as in v. 1: "You shall obey [literally: listen to (שמר)] Yahweh's

225. Lundbom, "The *Inclusio* and Other Framing Devices," 307-308; Nelson, *Deuteronomy*, 166.

226. Lundbom argues that Deut 12:1 and 13:1 form an *inclusio* to mark 12:1–13:1 as a literary unit. However, he also admits that 13:1 may also signal a beginning of a new literary unit. Thus, 13:1 can mark the end of ch. 12 as well as the beginning of ch. 13 (Lundbom, "The *Inclusio* and Other Framing Devices," 306-307).

voice to keep all of his commands that I am commanding you.” Within this structure the three cases in ch. 13 are surrounded by a stern command to keep all the words. Thus, the three cases within this *inclusio* are highlighted.

Another example is found in 14:2–21a. The dietary law in vv. 3–20 is bracketed by the expression, “You are a people consecrated to Yahweh.” (v. 2 and v. 21aβ)²²⁷ This statement also functions to give a reason for the audience to observe the dietary law, which otherwise lacks a clear rationale for its observance.

3. *Inclusio* in a Small Unit

i. Destroy Pagan Worship Places (12:2–3)

The first specific command in the DC is to “Destroy all the places where the nations worshiped . . . their gods” (Deut 12:2). This first law is delivered with the rhetorical device of *inclusio*. Verse 2 begins with the verb אבד (to destroy), which delivers the main command given to the audience. The action of destruction is not easy to follow. Moreover, the scope of destruction is vast: all places in which pagan worship is performed. This law thus requires further elaboration, which follows in the rest of v. 2 and v. 3a. Yet, the law uses *inclusio* to underscore the central point. Verses 2a and 3b both contain the term אבד which is the main action commanded to the audience. The audience

227. Lohfink, *Lectures on Deuteronomy*, 24; Lundbom, “The *Inclusio* and Other Framing Devices,” 308. Other examples of *inclusio* in the DC pointed by Lundbom are 14:22–15:23 (the annual repetition), chs. 13–18 (the term prophet), and chs. 1–28 (ibid., 309-313).

hears the main command first and last. Thus, this short command could be effectively delivered to the audience.

One more thing to observe in addition to *inclusio* itself is its modification. Although the term אבד appears in the beginning and at the end of this law, forming an *inclusio*, these two lines do not take an identical form. Rather, some modifications are observed. In the first line, the verb is used with an infinitive absolute, emphasizing the action itself. In addition, the object of the verb is a plural form (המקמות) with the noun כל (all). By these features, the first line underlines the totality of the destruction. On the other hand, in the last line, neither an infinitive absolute nor the noun כל is used. Yet, the totality and determinacy of the command are expressed with another term שם. Whereas the first line expresses the idea of totality, the last line points to the significance of the command for the idea of annihilation of one's memory, שם. Destroying one's name from a place means not only physical destruction but also mental ignorance. In sum, the first law given in the DC is rhetorically delivered by using *inclusio* with a modification.

ii. Punishment of Pagan Worshipers in 17:2–7

Another example is found in 17:2–7, which concerns a case of idolatry. The two key words (רע and קרב) appear in the first and last sentence of this literary unit.

v. 2

כִּי־יִמְצָא בְקִרְבְּךָ . . . אִישׁ אוֹ-אִשָּׁה אֲשֶׁר יַעֲשֶׂה אֶת-הָרַע . . .

v. 7

ובערת הרע בקרבך:

Although *inclusio* in this law is formed by only two words, they properly emphasize the essential idea of this law. If the *evil* (רע) is found in *the midst of Israel* (בקרובך), the evil should be purged. The general term, “evil” is specified in this legal unit. In this case, the *evil* to be removed is idolatry. Worshiping gods other than Yahweh should be eliminated *among the Israelites*. Any one who breaks this law should be stoned to death.²²⁸ Thus, the two terms not only mark a literary unit but also show the essential point.

As the above examples show, *inclusio* functions to mark a literary unit, whether it is a large unit or an individual unit. In either case, the repeated terms and expressions in the beginning and end of a literary unit show the central idea of the concerned unit. Thus, the audience could sense where a particular legal unit ends and what this legal unit tells in general.

D. Alternation of Prescription and Proscription

There is a tendency in the DC to proclaim an issue twice for the purpose of emphasis.

Unlike verbatim repetition, alternation presents one issue in a positive and a negative

228. In Deut 13:2–6, the term בקר also brackets Deut 13:2–6, which ends with the same *biarta* formula. Yet, the term רע is not used at the beginning. Both 13:2–6 and 17:2–7 are related to the idol worship motif.

way.²²⁹ This alternation is particularly common in the DC²³⁰ and often forms the basis of parallel syntax in the laws.²³¹ By presenting a prescription and a prohibition of a specific issue together, the legist can deliver the essence of a proper law more effectively to the audience. This rhetorical device aims to make a contrast between two concepts in order to emphasize one of them. The contrast is placed either in verbs, adverbial phrases, or objects depending on which concepts the legists want to emphasize. In the following detailed observation, I will look at the examples noting where the emphasis is put.

1. Contrast on Verbs

The following two examples (Deut 12:4–7 and 12:8–12) show contrast placed on verbs.²³² The first example is Deut 12:4–7 which prohibits the Israelites from acting toward Yahweh just as they do to the foreign cultic objects and places and which prescribes certain series of actions in Yahweh’s chosen place.

v. 4	לֹא־תַעֲשׂוּן כִּן לַיהוָה אֱלֹהֵיכֶם
v. 5–7	כִּי אִם־אֱלֹהֵי־הַמְּקוֹם . . . תִּדְרָשׁוּ וּבַאת שְׁמָה
	וְהַבַּאתֶם שְׁמָה . . . וְאִכַּלְתֶּם־שֵׁם . . . וְשִׂמַּחְתֶּם . . .

229. This rhetorical device is often expressed by two particles, “not” (לא) and “but” (כי). Or, the simple alternation לא+verb and a verb signals this device (e.g., Deut 12:8–12 [. . . תביאו . . . לא תעשון ככל . . .]]).

230. Carmichael, *The Laws of Deuteronomy*, 42. In addition, he points out that this form is also found in the wisdom tradition (ibid., 43-44; see Prov. 3:5, 7).

231. Ibid., 47-48.

232. Other examples of this case are found in 15:7b–8; 22:1, 4.

After commanding the Israelites to utterly destroy all pagan worship places and their cultic objects in vv. 2–3, verse 4 says the Israelites should not on the other hand do this to Yahweh. What the phrase *עשה בן* refers to syntactically is what the Israelites are commanded to do against the pagan worship places and objects: *אבד* (destroy), *נתץ* (break down), *שבֵר* (smash), *שרף* (burn), and *גדע* (cut down). Corresponding to v. 4 antithetically, vv. 5–7 list what the Israelites should do instead. They should *seek* (*דרש*) for the place Yahweh will choose for the dwelling place of Yahweh’s name, *go* there, *bring* offerings, *eat* them, and *rejoice* in all the undertakings of their work. Because of its specificity,²³³ the emphasis is placed on the latter. Through this rhetorical device, what the audience should do is manifestly declared.

The second example is found in Deut 12:8–12.

v. 8	לֹא־תַעֲשׂוּן כְּכֹל אֲשֶׁר אֲנַחֲנוּ עֹשִׂים פֹּה הַיּוֹם . . .
v. 11–12	שְׂמֵה תִבְיֹאוּ . . . וּשְׂמַחְתֶּם . . .

Like the previous example, the action verb in v. 8 is contrasted with the action verbs in vv. 11–12. The Israelites should not continue to do as they are presently doing. The contrasting verbs in vv. 11–12 show what the Israelites should do instead. They

233. The list of verbs indicates what to do in a sequential order. Moreover, those verbs are not abstract but concrete.

should *bring* offering to the chosen place and *rejoice* before Yahweh over the blessings that Yahweh has given to them. In sum, through the alternation of proscription and prescription the legist emphasizes certain actions (bringing offerings to the chosen place, eating them, and rejoicing before Yahweh).

2. Contrast on Adverbial Phrases

Two passages from Deut 12 show the alternation of prescription and proscription. In these two cases, adverbial phrases regarding places are contrasted. First, Deut 12:13–14 uses this rhetorical technique to place emphasis on the chosen place.

v. 13	השמר לך פן־תעלה על־תיך בכל־מקום אשר תראה:
v. 14	כי אם־במקום אשר־יבחר יהוה . . . שם תעלה על־תיך . . .

In these verses, this technique is used to place emphasis on the chosen place. In v. 13, the place (מקום) is anyplace one sees, while in v. 14 the place is one that Yahweh will choose. This contrast lends itself to alternating proscription and prescription. Although v. 13 and v. 14 use the same verb (עלה), in v. 13 such action is proscribed, whereas in v. 14 the action is prescribed. The concern is not on the action itself, but on where the action should be done. This idea is well presented by the contrast on the adverbial phrase.

Second, Deut 12:17–18 also shows the contrast on the worship place.

v. 17	לא־תוכל לאכל בשעריך מעשר . . . ובכרת . . . וכל־גדריך . . . ונדבת־ך ותרומת ידך:
v. 18	כי אס־לפני יהוה אלהיך תאכלנו במקום אשר יבחר יהוה אלהיך . . .

Both v. 17 and v. 18 concern the consumption of sacrificial offerings. The contrast lies on the place where they consume the offerings. While it is prohibited to eat the sacrificial offering in one's dwelling place, it is prescribed to eat the sacrificial offering in the chosen place, before Yahweh. Thus, the alternation of proscription and prescription emphasizes the contrast on the worship place. In sum, by this rhetorical technique, the places of pagan worship and the place of Yahweh's choosing are contrasted and the emphasis is laid upon the chosen place.

3. Contrast on Objects

Unlike the previous cases, the alternation of proscription and prescription concerns objects. The following example shows this feature.²³⁴ Deut 12:15–16 demonstrates what to eat and what not to eat. The emphasis is on the objects.

v. 15	רק בכל־אות נפשך תזבח ואכלת בשר . . .
v. 16	רק הדם לא תאכלו על־הארץ תשפכנו כמים:

234. In addition to Deut 12:15–16, 22:6b–7a shows this feature.

In vv. 15–16 the alternation of prescription (what to eat) and proscription (what not to eat) happens because of the different objects. Only meat can one slaughter and eat (v. 15) but not blood (v. 16).²³⁵ The contrast lies not in the verb but in the objects.²³⁶

In sum, the rhetorical technique of alternating prescription and proscription serves to contrast a main concept. The main point may lie either in verbs, objects, or adverbial phrases.

E. Use of Theological Concepts

In the DC, theological themes are used to motivate the audience to observe proclaimed laws and rules. These themes are addressed several times in different regulations. In general, these thematic expressions occur within a motivational clause.²³⁷ In the following, I will look at five main theological concepts which represent the seminal ideas of the DC.

235. The same contrast is found in Deut 12:20b–23. In v. 20b it is prescribed that one can eat meat. Yet, in v. 23a it is proscribed that one shall not eat blood.

236. One may point out that there is contrast in the verb because the blood should not be consumed but poured out on the ground. However, the text does not contrast the action of eating and of pouring out. Rather, the contrast lies in meat vs. blood which the regulation concerns.

237. However, it should be noted that not all the theological themes appear in motive clauses. The theme of Yahweh's blessing, for example, is found not only in a motive clause but also in a conditional clause as well as in a main commanding clause. However, even when it occurs in other than a motive clause, the theme itself functions to lead the audience to connect the proclaimed law with the theme. In this sense, the theme serves to motivate the audience.

1. Fear of Yahweh

In 14:22–23, after commanding yearly tithes and their consumption in the chosen place, the author mentions that the result of the faithful observation of the law will lead the observants to learn how to revere (ירא) the Lord their God. Given the length of the law, one might think that this motivational clause is too short to function properly. Yet, the depth of the meaning of this motivation may lead the audience to observe the law.

In Deuteronomy, the revering of Yahweh is presented as one of Yahweh's major requirements of the people. Yahweh's people should revere Yahweh with love. This idea is presented in two directions. First, the Israelites were urged *not to fear* (ירא) *their enemies* because Yahweh was with them and would go before them to fight their enemies. In chs. 1–3, the historical retrospect, the main commandment to the people was not to *fear* their enemies (1:21, 29; 2:4; 3:2, 22). Moreover, in any context of war they were strongly commanded not to fear their enemies (7:18, 21; 20:1; 31:6, 8).

Second, the Israelites were urged to *fear* (ירא) *Yahweh* all their life.²³⁸ Not having to fear their human enemies, the Israelites should *fear*, or more appropriately, *revere* Yahweh their God. The fear of Yahweh is continually commanded (6:13, 8:6, 10:12, 13:4). This is what Yahweh expects the Israelites to do. Deut 10:12 makes especially

238. Weinfeld, *Deuteronomic School*, 279.

clear that Yahweh required the Israelites to *fear* Yahweh, walking in all of Yahweh's ways, loving Yahweh, serving Yahweh, and keeping all of Yahweh's commandments. This list of actions that Yahweh required is mentioned again in v. 20, and fearing of Yahweh is also mentioned at the first place among the list. Thus, it can be said that fearing of Yahweh was the most crucial attitude that the Israelites should show to Yahweh.

In addition to the aforementioned two usages of אָרַץ, Deuteronomy promises the reward for those who fear Yahweh. In 5:29, we note that well being is guaranteed to those who fear Yahweh. In 6:24, not only well being but also long life is promised to those who fear Yahweh. By contrast other texts mention that those who do not fear Yahweh will be cursed and wiped out (25:18; 28:28). Thus, whether one is blessed or cursed is contingent on whether one fears Yahweh .

Because the book of Deuteronomy, more specifically the DC, repeatedly emphasizes the importance of fearing Yahweh, promises rewards to those who fear Yahweh, and warns that devastating consequences will come upon those who do not fear Yahweh, the texts cultivate in the addressees a desire to learn how to fear Yahweh appropriately. Since the motivational clause in 14:22–23 shows a way to learn how to fear Yahweh, the expectation is that the addressees who desire to fear Yahweh will observe the regulation (see also 13:12; 17:13; 19:20; 21:21).

2. Abomination to Yahweh

The term תועבה “abomination” is one of the main concepts that describe what the Israelites should avoid.²³⁹ The abomination may refer to a certain behavior, status of mind, or material that should be avoided.²⁴⁰ The scope of abomination in the DC is not limited to only the sacred (12:31; 13:15; 14:3; 17:1, 4; 18:8, 12; 20:18), but also includes secular elements (22:5; 23:19; 24:4; 25:16).²⁴¹ Although these various usages of the term make it difficult to grasp its clear definition, both secular and sacred usages of the term share a common feature. Weinfeld points out that abomination pertains to the attitude of the “half-hearted” person, as opposed to that of the “whole-hearted” person.²⁴² Abomination thus pertains to something other than wholeness. The abominable behaviors are so problematic because Yahweh, the only deity whom the Israelites are to serve and worship, does not tolerate anything other than the wholehearted devotion of the Israelites (Deut 6:5; 10:12; 11:13; 13:4; 26:16). Thus, the statement that “this is the abomination of

239. Joseph shows that the Israelites as Yahweh’s holy people should be “without abominations,” “without evil in their midst,” “without sin,” “without guilt of innocent blood,” “blameless before Yahweh” (“Re-Lecturing” of Deuteronomy,” 181-84, for a more detail discussion, see 96-179).

240. Joseph argues that the concept תועבה refers to all of the prohibited deeds and objects which are required of Israel to be a people holy to Yahweh (ibid., 181).

241. Especially in Prov the term abomination is more connected to the sphere of personal morality (Prov. 3:32; 6:16–19; 11:1, 20; 15:8, 9, 26; 16:5; 20:10; 20:23) and of social justice (Prov. 17:15).

242. Weinfeld, *Deuteronomical School*, 269.

Yahweh,” may function to alert the addressees and to make them correct their behaviors or avoid certain materials or behaviors that are called abominations.²⁴³

3. Purification of Evil

Known as *biarta* law or purity law, the command to “purge out evil among you” (בערת) (הרע בקרבך)²⁴⁴ appears nine times in the DC.²⁴⁵ With the exception of 17:12,²⁴⁶ this expression is linked to the Decalogue: idolatry (13:6, 17:7), murder (19:13), false witness (19:19), disobedience to parents (21:21), adultery (22:21, 24), and kidnapping (24:7). The punishment meted out to those evil doers who transgress in this way is the death penalty, with the exception of those who bear false witness (in Deut 19:19).²⁴⁷ The purification by death penalty aims not only for personal purification but also for communal purification as the phrase “among Israel,” or “in Israel” indicates.²⁴⁸

243. Gemser argues that this statement could be “a kind of antiphon to the recital of the laws by the priests at the assembly” (“Motive Clause,” 63). If this is the case, the liturgical context supports the idea that this statement aims to make the addressees avoid what is stated as an abomination to Yahweh.

244. The primary literary meaning of בער is “to burn.” Yet, according to Judg 20:13 the verb connotes “to wipe,” “to clean off.” So, rendering the term as “to purge out” conveys its meaning properly (Helmer Ringgren, “בער,” *TDOT* II: 203).

245. This expression in relation to legal commands is found only in the DC (McConville, *Deuteronomy*, 238). cf. Judg 20:13 shows a case in which such an expression is used in narrative.

246. Deut 17:12 relates to disrespect to judicial authority. Although it does not explicitly refer to any commandment in the Decalogue, one can sense its slight connection to the fifth commandment: honor your parents. Respect for the highest judicial official and high priest has connection to the honoring of one’s parents. Kaufman, “Structure,” 133; Braulik, “Die Abfolge der Gesetze,” 259-260; and Olson, *The Death of Moses*, 78, all connect Deut 16:18–18:22 with the fifth commandment, the law of honoring parents.

247. Dohmen, *TDOT* XIII:585. However, even in this case, the punishment could result in the death penalty if the false witness intended to cause the death penalty to his/her opponent.

248. Ringgren points out that the *biarta* formula aims to purify the tribal or national community (*TDOT* II: 204).

These three general features—connection to the *Decalogue*, *death* penalty, elimination of evil among a *community*—indicate the motivational function that this formula may have. First, the term “evil” (רע) is so inclusive as to refer to any crime.²⁴⁹ Yet, by connecting the term to the Decalogue, general evil comes to indicate a crucial crime, namely violating the Decalogue. Second, the mention of the death penalty itself has a certain rhetorical effect. This effect is expected in the following three cases. According to Deut 17:12–13, 19:19–20, and 21:21,²⁵⁰ it is expected that one who hears the punishment will be so afraid, that he/she will not do the same thing again. By removing the evil through *killing* the law breakers, the regulations intend to eliminate potential offenders in the future. Third, the emphasis upon community also has a rhetorical effect. The crimes related to the *biarta* formula are not just personal problem. Such crimes can cause a communal disaster.²⁵¹ The basic idea is that “the punishment removes a palpable evil from the people’s midst”²⁵² so that the Israelite *community* can protect itself from any harm that will be caused by such evils.²⁵³

249. Herman Häring points out that evil (Böse) means anything that is bad in the broadest sense (*Das Problem des Bösen in der Theologie* [Darmstadt: Wissenschaftliche Buchgesellschaft, 1985], 1; cf. C. Dohmen, “רעע,” *TDOT* XIII:567).

250. Deut 13:11 also indicated the effect of death penalty. Severe punishment such as the death penalty will prevent one from committing the same crime.

251. Wills (*The Elders of the City*, 309) points out the existence of the notion in the DC that “an individual’s actions affect the entire community.” This is especially the case in the *biarta* law. This notion was expanded to include the entire nation. Dohmen also points out that “such conduct is an assault on the legal and social fabric of the *community*” (*Italic mine*; *TDOT* XIII: 585).

252. Tigay, *Deuteronomy*, 131.

In sum, the *biarta* formula works as a motivation because of its connection with the Decalogue, a stern death penalty, and its emphasis on the community influence.

4. Memory

Memory can be used to create an agreeable mood in speech. In classical rhetoric, an orator was supposed to find topics which came from the intended audience's experiences. Moreover, examples from history were used as one of artificial proof.²⁵⁴ Likewise appeal to memory is an essential part of the persuasive process in the DC. The legislators of the DC appealed to the audience's shared memory to make certain regulations persuasive (13:6, 11; 15:15; 16:3, 12; 20:1; 24:18, 22; 25:17). Mary Deeley argues that "the heart of Deuteronomy's rhetoric lies in the concepts of remembering and forgetting."²⁵⁵ She also argues that

"to include memory, then, as part of rhetoric was not to limit it to mere technique as the correct recollection of one or more items, but to open up an entire world of experience of which the speaker has intimate knowledge and from which the speaker may draw the best means of persuasion."²⁵⁶

Indeed, recollecting the past is a powerful way to persuade an audience who shares the particular memory because events happening in the past are still working in the

253. Clements, "The Book of Deuteronomy," 392; Christopher Wright, *Deuteronomy* [NIBCOT 14; Peabody: Hendrickson Publisher, 1996], 179.

254. Quintilian, *Inst.* V.12.9-10.

255. Deeley, "Rhetoric of Memory," 39.

256. *Ibid.*, 13.

audience's present life.²⁵⁷ In the following example, I will look into how Israel's memory of its slavery and of Yahweh's delivery functions rhetorically. This memory is essential in forming Israel's identity and the DC particularly relies upon this memory to motivate the audience to observe the laws.

i. Memory of Israel's slavery in the past and Yahweh's delivery from Egypt

Israel's enslavement in Egypt and Yahweh's delivery of them from the land are the core memories in Israel's confessional history. This historical inheritance is used to motivate the Israelites to observe some legal regulations. While Israel's slavery status in Egypt and Yahweh's saving actions appear as a combined form in most cases, in some cases these two events appear separately. After looking at each of the rationales separately, I will deal with the combined rationale.

a) Israel's slavery in the past

"You were slaves in Egypt." This statement of recollection is used several times as a motivation for specific legal cases. In 16:12, the memory of Israel's slavery in Egypt functions to motivate the audience to celebrate the Feast of Weeks not only with one's household but also with social minorities such as the resident aliens, the orphans, and the

257. Christensen rightly points out that remembrance makes the past present ("The Mosaic Authorship," 467). Recalling the past makes it alive in the life of the audience.

widows. Since Israel experienced the severity of slavery in Egypt, they should take care of social minorities in their annual feasts.

The same expression is found in 24:22 which is the concluding verse of the legal unit, 24:19–22. In this regulation, it is commanded that the Israelites should not harvest all their crops without leaving some portion of them because the left-overs in the field, olive orchard, and vineyard could be the supply for the resident aliens, the orphans, and the widows. The rationale for considering the social minority is that Israel was also a social minority in Egypt and experienced hardship in the foreign land. Remembering their past vulnerable status enables the Israelites to consider people who are in the same vulnerable positions in society now.

b) Yahweh's delivery of Israel from Egypt

That Yahweh saved Israel from Egypt is Israel's core faithful confession regarding Yahweh. Yahweh is the God who brought them out of Egypt. This essential confession is used as a motivation in the DC. In the law of warfare (ch. 20), the Israelites are encouraged not to fear when they confront their enemies in a battlefield, and the speaker reminds the audience that Yahweh brought up the Israelites from Egypt. Just as Yahweh saved Israel from the hand of their harsh master, Egypt, so Yahweh will fight for Israel in any battlefield. This is the rationale that should be effective to the mind of Israel.

c) The Memory of Israel's slavery status and Yahweh's delivery

In several places, the memory of Israel's being slaves in Egypt and of Yahweh's delivery is used as one motivation. In 13:11, the reason for punishing the seducers to worship other gods is that the seducers caused the Israelites to turn from Yahweh *who took Israel away from Egypt, the house of slavery*. Here, Israel's memory of Yahweh who saved them from Egypt is used as reason why the seducing of Israel from Yahweh is a crucial problem. Since Yahweh is the one who saved Israel from Egypt, the house of slavery,²⁵⁸ this law does not allow anyone to seduce people from serving Yahweh.

In similar fashion 15:15 also appeals to Israel's memory of Yahweh's delivery of Israel from Egypt, the land of slavery. In 15:12ff, it is commanded that Hebrew slaves should be released after serving their masters for six years, and that the masters should provide them with abundant living sources. This command is supported by an encouragement to remember Israel's slavery status in the past and Yahweh's ransom of them from Egypt. The same motivation is used in 24:18. In this case, the law is concerned with the legal cases of the resident aliens, the orphans, and the widows.

258. It is true that the emphasis is placed more on Yahweh's delivery because this is provided as the main reason for punishing the seducer. Israel's slavery is not given as the reason for the punishment. It is informed in modifying Egypt. Yet, it cannot be denied that the memory of Israel's slavery and that of Yahweh's saving Israel from slavery are combined in this motivational clause and depict the situation more vividly. Yahweh's delivery obtains more concrete information, so that it can appeal to the audience in a more specific way.

Remembering that they were also a social minority in Egypt would help them to have sympathy to social minorities in Israel. Yet, this sympathy for the social minorities does not end at the level of emotion; Yahweh did not simply take pity on Israel's slavery but took action for them. Just as Yahweh brought them out of Egypt, the land of slavery, so Israel should take care of the social minorities.

In sum, these examples make it clear that Israel's experience of slavery and of Yahweh's saving action for them is used to motivate the Israelites to worship Yahweh only, to handle their slaves in a humane way, and to take care of the social minorities.

F. Conclusion

In this section we have investigated five common rhetorical devices in the DC: repetition, chiasmus, *inclusio*, alternation of prescription and proscription, and theological concepts. The first four of them function basically to emphasize the main point of a particular law. Repetition of key words, phrases, or a whole sentence undoubtedly give an impression to the audience that the repeated expressions have pride of place in the law, with the effect that the attention of the audience is drawn to the repeated part. Moreover, the audience can sense the crucial issue in the law because the legislator sometimes repeats a significant idea in a law. Chiasmus, a rhetorical device which has two corresponding sides and center, has the main point of a law at its center, making it clear to the audience what the

key point of the law is. *Inclusio*, a construction in which there is a similar or identical expression at the beginning and end of a law, not only marks the boundary or extent of a law, but also highlights the central aspect of the law by way of the *inclusio*. The rhetorical alternation of prescription and proscription emphatically delivers a significant idea by sequentially contrasting two opposite ideas. This contrast is conveyed by either a subject, a verb, an object, or an adverbial phrase.

In addition to these four rhetorical devices, the legislator uses theological concepts to motivate the audience to observe laws. The most often used theological concepts in the DC are: the fear of Yahweh, something being an abomination to Yahweh, the purification of evil, and Israel's slavery and Yahweh's consequent delivery of Israel from Egypt.

With this discussion of rhetorical structure and devices in mind, in the next chapter we will look at every legal case in Deut 21:10–25:19 to see whether the so-called miscellaneous laws were rhetorically delivered or not, and if so, using what kind of rhetorical structures and devices.

CHAPTER 4 Case Studies: Deuteronomy 21:10–25:19

“Rhetorical analysis is an examination of how well the components of an argument work together to persuade or move an audience”
Andrea A. Lunsford¹

This chapter will attempt to prove through case studies that all the laws in the DC were written rhetorically for the purpose of persuasively appealing to the addressees to live according to the laws. The case studies that are the subject of this chapter using rhetorical structures and devices deal with regulations in Deut 21:10–25:19. The reason for choosing this portion is mainly that, unlike rhetorical features elsewhere, those in this section have not been well analyzed in the scholarly discussion. As Mayes points out, from Deut 21:10 on, the parenetic elements scarcely appear and impersonal casuistic laws predominate,² with the result that this text itself evokes less rhetorical interest than do other texts. Scholars direct almost all of their rhetorical concern to chs 5–11,³ 12–16,⁴ and 29–30.⁵ However, as I pointed out in chapter 1, the DC is also full of rhetorical features, which require rhetorical analysis. Thus, finding rhetorical features within even these more

1. Andrea A. Lunsford, John J. Ruszkiewicz, and Keith Walters, *Everything's an Argument with Readings* (5th ed. Boston: Bedford/St. Martin's, 2010), 1045.

2. Mayes, *Deuteronomy*, 49.

3. Lohfink, *Hauptgebot*, 1963.

4. Levinson, *Deuteronomy and the Hermeneutics*, 1997.

5. Lenchak, “*Choose Life!*”, 1993.

miscellaneous regulations would strengthen the view that the entire book of Deuteronomy was delivered to its addressees brimming with rhetorical features.

Of course, some regulations in the DC have fewer rhetorical features than others. In the discussion of each regulation in 21:10–25:19 we will find different levels of rhetoric within each regulation. So, some regulations in themselves demand brief and others more thorough attention to their rhetoric.⁶

I. 21:10–14 A Marriage of a Captive Woman⁷

The text 21:10–14 describes an Israelite soldier taking as his wife a captive woman to whom he is attracted. At first glance, this law seems to allow Israelite soldiers to take a wife from captives as they want.⁸ Yet, in fact this law is concerned with how to deal with the captive woman in a humane way,⁹ namely not as a material possession that one can

6. This does not mean, however, that some regulations are less persuasive or less effective than other laws. Clifford argues that “no distinction between great and slight laws” should be made since all the laws are related to Israel’s life in the land Yahweh has given to them (*Deuteronomy*, 116).

7. Some commentators argue that this law is related to war and murder (Biddle, *Deuteronomy*, 323; Craigie, *Deuteronomy*, 281). However, the main topic is not about war. The war motif only appears as a background. Rather, marriage is the main topic. Pressler includes Deut 21:10–14 in the family laws based on its primary concerns for marriage and the termination of marriage and on its verbal association with the following family laws (*Family Laws*, 3, 9). McConville also points out that the primary focus of Deut 21:10–14 is on marital relations not on the war (*Deuteronomy*, 472-73; see also Tigay, *Deuteronomy*, 194). Likewise, Mayes put this regulation in a category of “Laws on family relationships” (*Deuteronomy*, 301).

8. Pressler argues that the purpose of this regulation is to give a way for a man to take a wife in a situation where a normal marriage transaction is not possible (*Family Laws*, 11).

9. Many scholars argue that this law respects the human dignity of the captive woman and intends to protect her (Tigay, *Deuteronomy*, 194; Christensen, *Deuteronomy 21:10–34:12*, 475; von Rad, *Deuteronomy*, 137; Wright, *Deuteronomy*, 234-35; Thompson, *Deuteronomy*, 228; Weinfeld, *Deuteronomical School*, 290-91).

obtain and discard without principle. This central message is delivered rhetorically through a particular structure and devices.

Deut 21:10–14 is composed of two cases: a case of an Israelite soldier’s taking a captive woman as his wife and a case of his dislike of the woman taken as his wife. In both cases, the main concern is the woman. Even if the woman is considered to be a war spoil, the soldier is instructed in this law not to insult the captive woman. The man cannot take the woman as a wife without first going through a proper procedure. By the same token, if the soldier subsequently finds he dislikes her, he is instructed not to sell her to gain additional benefit from her, but must release her where and to whom she wishes. In the following section, I will examine how these commands are persuasively delivered to the addressees through structural patterns and rhetorical devices.

A. Rhetorical Structure

The two cases in 21:10–14 are delivered in the form of no-motivation structure and of triadic structure.¹⁰

NO-MOTIVATION STRUCTURE (vv. 10–13)

CONDITION (vv. 10–11)

When (כִּי) you go out (imp.) to war against your enemies,

10. The following layout of the regulation in vv. 10–14 shows a structural symmetry. In vv. 10–13a, the conditional clauses and commanding clauses are in a state of balance in terms of the number of verbs: each has six consecutive verbs. Moreover, the three verbs in v. 13b match the three verbs in the commanding clause in v. 14. This well arranged and rhythmical structure plays a role of emphasizing the main commands.

and the Lord your God hands them over to you,
 and you take them as captives, v. 10
 If (י) you see . . . a very beautiful woman
 and you desire her
 and you *take her*¹¹ as your wife v. 11

A LIST OF COMMANDS (vv. 12–13)

Then (י) you shall bring her into your *house*¹²
 and let her shave her head
 and let her pare her nails v. 12
 and let her discard her captive's garb
 and let her remain in your *house* a full month,
 and let her mourn for her father and mother¹³ v. 13a

11. Although MT does not have ה, the indication of 3rd per. fem. pron. suf., LXX, Syr., and Targum read it לקחתה by adding 3rd per. fem. pron. suf. This could be later insertion. No matter whether the final ה is added or not, the meaning is same. It is assumed that the Israelite warrior wants to take *the captive woman*.

12. It is a matter of debate when the apodosis begins. McConville argues that the protasis ends after the first clause of v. 12 (you shall bring her into your house) because this is what might happen in a battle field (*Deuteronomy*, 329). Pressler also prefers to v. 12b as the beginning of the apodosis because in her view, this law concerns a means for the Israelite warrior to marry a foreign captive (*Family Laws*, 10-11). However, in my view, v. 12a should be regarded as apodosis because this is a resultant command responding to the warrior's desire to take her as a wife. The action of bringing the captive into the house would be done to perform the following procedure. The line ולקחת לך לאשה in v. 11b corresponds to the last line of v. 13 והיתה לך לאשה, signaling the end of each part. Moreover, the term *house* in v. 12a corresponds to the term *house* in v. 13aβ, which ties the six commands together and indicates the exact place where the series of action should be performed. What McConville and Pressler miss is the significance of the command to bring her into the house. When a soldier wants to take a captive woman as his wife, the first action should not be to *take* her (in a battlefield) but to bring her into the house and to follow a certain procedure. For the scholarly supports for the division, see e.g., Clifford, *Deuteronomy*, 111; Christensen, *Deuteronomy 21:10–34:12*, 473; Biddle, *Deuteronomy*, 323. Nelson's translation begins the apodosis with v. 12b. Yet he introduces the possible alternative, that is, v. 12 (*Deuteronomy*, 253-54). Among English versions ASV, RSV, NJPS, NASB, and NLT regard v. 12a as the beginning of apodosis; NRSV v. 12b; NIV v. 11b.

13. McConville renders the first three verbs as meaning jussive and the last two verbs as meaning indicative (*Deuteronomy*, 324). He does not explain further the reason for his different reading although all the five verbs have the same verbal form (*wāw* consecutive perfect). In my view, all of the five sentences can be understood as commands because the *wāw* consecutive takes up the tense and mood of its previous verb (GKC, 330-35).

And **after that** (ואחר כן)

you may go (imp.)¹⁴ into her
and you shall be her husband
and *she shall be your wife.*

v. 13b

TRIADIC STRUCTURE (v. 14)

CONDITION (v. 14aα)

Yet if (והיה אם) you do not delight in her,

COMMANDS (vv. 14aβ–14bα)

then (ו) you shall send her according to her wish
but (ו) certainly you shall not sell her for money.
you must not treat her as a slave¹⁵

MOTIVATION AS A RATIONALE (v. 14bβ)

since (תחת אשר) you had intercourse with her.¹⁶

The sub-case (v.14) is subject to the first one (vv. 10–13), which lays out the main situation. In the main case the conditional clauses are laid out to depict a situation in which this law can be applied. The spatial background moves from a battlefield to a house at the beginning of the commanding clauses (v. 12). Likewise, the context also

14. Change in its grammatical form from a list of “ו+perfect” to imperfect draws audience’s attention and signals a punch point.

15. The origin and precise meaning of the term התעמר are uncertain. HALOT suggests it to mean “to use someone as a slave,” or “to treat brutally” (849). Driver translates it as “to play the master over” (*Deuteronomy*, 240, 274). Like Driver, Mayes points out that this term “basically to designate the action of one who claims unlimited power of disposal over others” (*Deuteronomy*, 303-4). Many English versions adopts the suggestion in HALOT, meaning the use of someone as a slave (ASV, RSV, ESV, NIV, NRS, NLT). For an alternative meaning, M. David and A. R. Hulst consider it to mean “to trade with” or “to view as a merchandise” (David “*Hit’mmar* (Deut. XXI 14; XXIV 7),” *VT* 1 [1951] 219-21; Hulst, *Old Testament Translation Problems* [HfT 1; Leiden: Brill, 1960], 16).

16. Weinfeld argues that the verb ענה (hif. pf.) here connotes sexual intercourse not rape. This sexual relationship is done within the conjugal category (*Deuteronomic School*, 286).

changes from a situation of warfare to marriage life in an individual's house. This change is marked by the rhetorical use of structure and terminology.

First, the conditional clauses (vv. 10–11) , which begin with a war motif, end with a state in which the soldier desires to take the beautiful woman as his wife. The desire and supposed action of taking a woman as a wife happen on a battlefield. This location changes at the beginning of the main commanding clauses (v. 12), and it is commanded that the man should bring her into his house, a place where a normal, daily life is lived. After that, the captive woman appears as a subject of a series of actions: shaving her hair, cutting her nails, discarding her clothes,¹⁷ lamenting her parents. After this series of performances, the soldier appears as a subject who has intercourse with the woman to become her husband. So, in this text, both are protagonists, the captive woman as well as the soldier. The woman's actions allow the warrior to take her as a wife. Without these actions, he cannot take her as his *legitimate* wife.¹⁸

17. In the ancient Near Eastern world, changing one's garment had a social meaning. In general, one's naked status means humiliation and low dignity. "Stripping off clean and good clothes and putting on dirty and torn clothes brings about a negative transformation. It is a sign of mourning, sorrow, humility and meekness. The actual meaning of mourning is to place oneself symbolically and temporarily in the state of death" (M. E. Vogelzang and W. J. van Bekkum, "Meaning and Symbolism of Clothing in Ancient Near Eastern Texts," in *Scripta Signa Vocis: Studies about Scripts, Scriptures, Scribes and Languages in the Near East, Presented to J. H. Hoppers by His Pupils, Colleagues and Friends* [ed. H. L. J. Vanstiphout et al.; Groningen: Egbert Forsten, 1986], 267-9). However, this regulation depicts the opposite. The captive woman did not move from dignity to humiliation, but from humiliation to dignity because she took off her captive clothing and put on the garments common to Israelite women. Then, she mourns her parents's death.

18. Weinfeld emphasizes the fact that "the woman was taken sexually only after her marriage to the Israelite and after she had dwelled in his household for a month" (*Deuteronomie School*, 286). The term

Second, just as in vv. 10–13 the woman is protected from being taken without principle, so in the sub-case in v. 14, a scenario is envisaged in which the captive woman is cared for in the eventuality that the man becomes disinterested in her. Whereas the situation is simply depicted with one sentence (“if you do not delight in her”), the main commands are composed of three entries: liberating, not selling, and not profiting. This rhetoric of verb distribution is intentional and places a focus on the commanding clauses which aim to protect the vulnerable woman from any form of mistreatment.¹⁹

חַקֵּל in v. 11b does not mean any sexual action. Rather, it is connected to the warrior’s desire. This desire should be achieved not in a battlefield in a form of rape but in the man’s house in a form of legitimate marriage.

19. For the humane aspect of this law, see n. 9 above. More specifically, McConville (*Deuteronomy*, 330) argues that these three verbs signal the freedom of the captive woman. Clements (“The Book of Deuteronomy,” 455-56) argues that these prohibitions indicate that the captive woman’s newly acquired position, a “wife and potential mother in Israel,” should not be withdrawn.

Some other views for the purpose of this law have been suggested. Pressler argues that this law does not intend to protect a woman. Rather, this law well depicts the male dominant society. The aim of this law, in her view, is to provide an Israelite soldier for a way to take a woman as his wife when it is not socially allowed (*Family laws*, 11, 15). Brueggemann also regards that this law “authorizes the dominating power of the male in the family.” He does not see the humane aspect that the law presents (*Deuteronomy*, 216-17). Jewish tradition tends to interpret v. 14 as a kind of warning that one will divorce the captive woman (Moris Rosenbaum and Abraham M. Silbermann, trans., *Pentateuch with Targum Onkelos, Haphtaroth and Prayers for Sabbath and Rashi’s Commentary*, vol. 5, *Deuteronomy* [London: Shapiro, Vallentine & Co., 1934], 106). The precautional purpose is also implied in the one month of mourning ceremony. During this ceremony, the Israelite captor may discern her commonness not her beauty (R. Hammer, trans., *Sifre: A Tannaitic Commentary on the Book of Deuteronomy* [YJS 24; New Haven: Yale, 1986], 224-25). However, the observation on the rhetorical structure shows the humane concern flowing in the law.

B. Rhetorical Devices: Word Choice

The precise selection of a particular word and its particular placement is a rhetorically driven technique; the legist underscores the crucial points by this rhetorical technique.

The following two cases explain how this technique is used in this law.

1. **היה** versus **לקח**

The use of two different verbs in the conventional expression of marriage emphasizes the ritual procedure between the two verbs, and voices the legal concern for a captive woman's status in the Israelite community. In v. 13b almost the same expression as the one in v. 11b appears, with only one variation of the main verb.

v. 11b	ולקחת לך לאשה
v. 13b	והיתה לך לאשה

Yet this subtle variation shows the main concern of this regulation. In v. 11b, the verb לקח implies some sort of force,²⁰ the will, desire of the soldier. The captive woman is passive, the mere object of the man's action.²¹ The Israelite soldier unilaterally *takes* her in a battlefield. By contrast, in v. 13b the verb היה depicts the woman as a subject. This verbal choice signals the change of her status from a captive woman to a legitimate wife.²²

20. Brueggemann, *Deuteronomy*, 217.

21. See n. 8 above.

22. Some scholars point out the woman's change in status from a foreign captive woman to a legitimate Israelite mother and wife (Anthony Phillips, *Deuteronomy* [CBC; Cambridge: Cambridge

Moreover, the regulation commands a quasi-ritual procedure between these two paired expressions. The woman should follow a ritual-like process to become the man's legitimate wife. After observing the procedure required of the woman, the one-sided action of the man's taking a captive woman (v. 11b) becomes a two-sided agreement: the man comes to her; she becomes his wife (v. 13b). She does not become the warrior's wife right after the man desires to take her as his wife. She becomes his wife only after a certain procedure is observed.²³

In addition to this paired expression, the fact that the three consecutive verbs after the particle, אָחַר כֵּן, outnumber just one line expressing the soldier's initial taking of the woman in a battlefield also indicates that the emphasis lies on the list of actions in v. 13b. These actions in fact mean that the man now obtains legitimate permission to take the captive as his wife. His desire on the battlefield to take the captive woman can only be achieved after a certain procedure, which is designed to provide a captive woman with a chance to be a legitimate wife of an Israelite man. Thus, this pair of sentences with a

University Press, 1973], 140; Craigie, *Deuteronomy*, 281; Clements, "The Book of Deuteronomy," 455-56).

23. The importance of this procedure is overlooked by Brueggemann. He emphasizes the power and will of the soldier. *The Israelite soldier* desires and takes the captive woman. *He* dislikes and sends her off (*Deuteronomy*, 216-17; cf. Pressler, *Family Laws*, 15). However, this law clearly emphasizes the procedure that the man should follow before he takes. As Christensen points out, this procedure is placed at the center of this regulation, and that the phrase "taking a woman as a wife" surrounds the procedure (*Deuteronomy* 21:10-34:12, 473). Also, see n. 18 above.

certain procedure at the center expresses the captive woman's change in status from being a captive to being a legitimate wife.

2. חשק: Allusion to Yahweh's Love for Israel

A careful selection of particular word is also a rhetorically driven technique. In the conditional clauses, the verb חשק is used to describe the soldier's mind and feeling of attraction to a beautiful captive woman. Yet, not only does this term simply depict the man's inner emotion but it also allusively signals an appropriate result that such an affection should bring out.

On the one hand, the term חשק can denote a strong desire that a man has toward a woman. This general usage is found in the story of Dinah. In Gen 34:2–3 Shechem the son of Hamor sees Dinah and has intercourse with her. After that event, Shechem's feeling for Dinah is described by this verb (חשק). In this case, the verb means "a strong love" (Gen 34:8). The Israelite soldier's inner emotion toward a captive woman in Deut 21:11 would be analogous to Shechem's feeling toward Dinah: *a strong desire* for a woman which can make him do whatever is necessary in order to possess her.

On the other hand, this term denotes Yahweh's faithful love for Israel. In Deut 7:7 and 10:15 the verb is used to describe Yahweh's affection for the Israelites. Because

Yahweh had affection for Israel, Yahweh undertook an action to save Israel and made it Yahweh's holy people and chosen nation.²⁴

In the regulation in question the Israelite soldier's desire to take a captive woman in a battlefield may resemble Schechem's feeling toward Dinah. However, the regulation requires that the man postpone consummation until she completes a certain procedure.²⁵ During this period, which is to last at least a month, the man's initial battlefield desire to take the woman would become more mature and would deepen. Only after this can he make her his legitimate wife (v. 13b). The lapse in time allows the soldier's feeling to shift from being an initial *strong desire* to take a beautiful woman to a more mature *affection*, an affection like the one Yahweh has toward the Israelites. This is to what the term alludes. In sum, his care for the captive woman is implicitly required by the use of the term *חשק* which denotes a divine love for the Israelites.²⁶ Thus, this specific verb

24. Olson mentions that the term *חשק* is used for "God's desire/love for a captive Israel in Egypt, which leads God to free Israel and establish a covenant with its people." Olson briefly indicates that the Israelite's *חשק* leads him to free the captive woman and marry her (*The Death of Moses*, 97).

25. An interesting analogy is found. Just as Schechem took Dinah and afterward made his clans circumcise in order to make Dinah as his wife, so the Israelite soldier should follow a certain ritual procedure.

26. In the Hebrew Bible, the verb *חשק* occurs 11 times, among which 8 times in *qal*, and two times in *pu'al*, and one time in *pi'el*. The meanings of *pi'el* and *pu'al* ("to join together" and "joined together," respectively) are derived from the basic meaning of its *qal* form. When the verb is used in *qal*, its meaning is "to be very attracted to" / "to love." This strong sense of love is either man's love for a woman (Gen 34:8; Deut 21:11) or God's love for people (Deut 7:7; 10:15; and Isa 38:17). One example relates to a human's love for God (Ps 91:14). When the verb is used to depict a man's love for a woman, the situation in which such a love ignites is not natural or desirable: both are outside the boundary of Israel. When the verb pertains to God's love or a human being's love for God, that emotional feeling leads to God's protection or salvation of people. It is only in the book of Deuteronomy that both aspects of love are

discloses and emphasizes the expectation of the shift in the man's attentions toward the captive woman and so also of the intention of the regularion.

II. 21:15–17 Preserving the Right of the first-born Son

The gist of this regulation is to preserve the right of the first-born son regardless of his mother's status to her husband.²⁷ A patriarch should not abuse his authority and ignore the birthright of a legitimate son.²⁸ Since the patriarch has the power of decision in his household, this law would be hard to uphold unless the patriarch himself agrees with the ideal of this law or unless social conventions compel him to obey the law. Thus, the

demonstrated. From this observation, one can assume that the use of *קשה* to depict the warrior's feeling toward the captive woman is rhetorical to indicate the other aspect of the love in which direction the warrior's love for the woman is to develop. G. Wallis also points out that the verb *קשה* has a positive sense and refers to "a conscious attitude of devotion on the part of an individual and fidelity on the part of God, maintained even under stress" ("קשה," *TDOT* V: 261). Thus, the use of this verb aims to emphasize the positive aspect that the love of the Israelite warrior should have for the captive woman.

27. Wright states that "a son was not to suffer because his mother was no longer his father's favorite" (*Deuteronomy*, 235).

28. This is a traditionally supported purpose of this law (Crüsemann, *The Torah*, 256; Davies, "The Inheritance of the First-Born," 176-79. For more references, see Wells, "The Hated Wife," 134, n. 15). Unlike this traditional view, Tigay and Hagedorn argue that Deut 21:15–17 allows the father to distribute his property as he wishes, as long as it matches with the commands in Deut 21:15–17 (Tigay, *Deuteronomy*, 195; Hagedorn, *Between Moses and Plato*, 205). Agreeing with Tigay but from a different approach, Wells does not agree that Deut 21:15–17 abrogates a patriarch's right to assign the birthright to whomever he wishes. Wells argues that since the patriarch already demoted the hated wife to a lower status, the law does not allow the patriarch to demote the demoted wife's son, otherwise the son will enjoy the privilege of first-born ("The Hated Wife," 131, 144). I agree with Tigay, Hagedorn, and Wells that the law does not deny the father's right and power. However, I do not agree with Wells's view that this law indicates that the father cannot demote the first-born son because he arbitrarily demoted his mother to a lower rank. If this is how a thing works, why would the legist have had to prohibit a patriarch from giving a birthright to the son of a loved wife who is not in fact a first-born child? In addition, Deut 21:17b only emphasizes that the hated wife's son is a first-born son. It does not mention that because the man hated (*demoted*) the wife, the birthright of her son should be kept.

rhetorical strategy of this law must have played a significant role in persuading an Israelite patriarch to observe the law.

A. Rhetorical Structure

This regulation shows the trademarks of a triadic structure. The situation is laid out; a specific instruction of actions is commanded; and the reasons for such instruction are mentioned. The two subordinate clauses are introduced by the particle כִּי. The main clauses include negative and positive commands shaped into a “not (לֹא) A but (כִּי) B” structure.

CONDITIONAL CLAUSES

If (כִּי) a man has two wives,
the one loved and the other hated,
and both the loved and the hated have borne him sons,
and the first-born son belongs to the hated,
and it shall be on the day of his bequeathing what he has to his sons, (vv. 15–16a)

MAIN CLAUSES

he should not (לֹא) treat the son of the loved as the first-born
at the cost of the son of the hated, the first-born son,
but (כִּי) the first-born, the son of the hated he shall recognize,
giving to him a double portion²⁹ of all that is found in him. (vv. 16b–17a)

29. The meaning of פִּי שְׁנַיִם is debated. Some scholars argue that it means “two thirds” (Martin Noth, *Die Ursprünge des alten Israel im Lichte neuer Quellen* [Köln: Verlag, 1961], 19-20; Mayes, *Deuteronomy*, 304; Phillips, *Deuteronomy*, 142; Tigay, *Deuteronomy*, 196). Other scholars regard “double portion” as its meaning (Eryl W. Davies, “The Meaning of *pī šēnayim* in Deuteronomy XXI 17,” *VT* 36 [1986]: 342). Davies rebuts evidence that Noth relies on (ibid., 342-45). Although, Davies’s rebuttal seems convincing and I follow “double portion,” it would be enough to note that in either case the first-born would have more, and that the issue is not how much more the first born should have but whether the first-born son inherits his portion.

MOTIVATIONAL CLAUSES

For (כי) he is the beginning of his strength,
to him belongs the right of the first-born. (v. 17b)

The conditional clauses display the *tension* caused by having two wives.³⁰ Five sentences in these conditional clauses alternate between equality and partiality, as well as alternating between potential tension and exposed tension.

a man having two wives	equality	potential tension
the one loved, the other hated	partiality	exposed tension
both women have sons	equality	potential tension
the first-born is the son of the hated	partiality	exposed tension
the day of bequeathing comes	equality	potential tension

The first line indicates that a patriarch of a household who owns two wives, even though he shows no partiality, must understand that the situation has potential tension. In the next line, this potential tension is explicitly demonstrated. The one is loved; the other is hated. So, partiality between the two wives exists. In the third line, equality returns. Both women give birth to sons. However, a tension remains. This tension appears in the next line, which says that the son of the disliked woman is the first-born son. Just as one of the wives is beloved and the other is not, so one of the sons is the first-born and the other is

30. The conditional clauses set up tensions among the protagonists, and the tensions make the main commands necessary.

not. So, partiality and exposed tension are found in this clause. At this point, the main issue begins to surface—the indication of the mismatch between the first-born son and the hated wife. Finally, the climax in this conditional clause comes at the time of the man’s bequeathing of possessions to his sons. The procedure of inheriting his possessions should be equal and fair. Yet tension is inherent in this situation: what will be inherited to whom, given that the husband loves one wife more than the other? How to bequeath the patriarch’s possession to the sons fairly, without any partiality? Will the right of first birth be maintained? The following commanding clauses prompt the audience to follow a particular direction: to respect the right of the first-born rather than to rely on one’s partiality to one wife or the other.

The main commands aim to uphold the first-born son’s right regardless of the patriarch’s favoring of the other son. The two lines of commands, structured as alternating proscription and prescription, highlight the main point. Through this structure, the legist points out that not only should the patriarch be inactive, he also should be active. The patriarch should be inactive in that he should not allow the son of his favorite wife to inherit the portion rightly due the first-born son. At the same time, the patriarch should be active in that he should actually bequeath to his first-born son, the son of his hated wife, twice as much as the second one. What these two main clauses demand is that the patriarch not let his own personal feelings keep him from doing what is just.

Yet the addressees might raise question about the legitimacy and appropriateness of such commands. Doesn't the patriarch have the right to distribute his property according to his own will?³¹ Or, what if the first son is morally corrupt and is therefore not qualified to inherit his portion?³² Thus, as an advanced response to these possible counterarguments, the legist employs two lines of motivation in v. 17b. The motivational clauses affirmatively and directly state that the first-born son, the son of his hated wife in this case, is the first issue or progeny of his virility, and that the legitimate right (משפט) of the first-born belongs to this son, even if he is the son of the hated wife. These last two sentences appeal to only facts or legal status. Never does the regulation use the terms “the loved wife” or “the hated wife.” Based only on this one fact, the legist reminds the patriarch that *he* (certainly referring to the son of the *hated* wife, though this is implied rather than explicitly stated) is the first issue of his virility (ראשית אנו). The same expression is found in Gen 49:3. Jacob describes Reuben as his might and the first issue of his virility (כחי וראשית אוני), after calling him his first-born one (בקר). So, the first

31. Although the birthright was customary given to the biologically oldest son, a father had right to distribute his possessions to his sons however he liked (Well, “The Hated Wife,” 132, 134). The only prohibition for a father from disinheriting a son is found in Laws of Hammurabi (LH) §168 (ibid., 133; Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor* [2d ed.; SBLWAW 6; Atlanta: Scholars Press, 1997], 113). Even in this case, only if the father has a justifiable reason that his son committed a grave offense, such a disinheritance is allowed. Yet first time of a grave offense can be forgiven (LH § 169). So, the question of a first-born’s ethical qualification as the heir of his father would be raised.

32. See, n. 31 above, especially, LH § 168-69.

sentence reminds the audience simply that he is the first-born son. The legal result of this is that this son has the right of first-born son. As Mayes points out, these two statements lack any theological perspective³³ and any emotionally evocative words. They convey only factual information. If one does not deny a fact (that of which son is the first-born), one should then also not deny what the fact entails and requires. In sum, the triadic structure lays out all sides of this case and serves to lead the addressees to ponder the case.

B. Repetition of key words (בכור and שנואה, אהובה) in a Chiastic Pattern

The strategic use of the legal term בכור in relation to the emotional terms אהובה and שנואה³⁴ indirectly emphasizes that the right of the first-born has priority over one's inner feeling. The key word (בכור) is used three times (or four times if one includes the verb form בכר). Moreover, all the noun forms appear together in the expression בן־השנואה or

33. Mayes, *Deuteronomy*, 304.

34. Wells rejects to read these two terms “to love” and “to hate” as emotional terms. In his view, these terms are used as technical terms in a legal context (“The Hated Wife,” 136). Especially, in the case of Deut 21:15–17, the term “hated” means “demoted,” which means that a hated wife is moved from the first-rank to the lower rank within household (ibid., 138, 142). Wells gives some evidence from ancient Near Eastern legal texts that the practice of demoting within a household existed (ibid., 138-39). However, in any text he offers the term hate is not used in connection with the action of demoting. One more question is worth mentioning for Well’s point. He combines the idea of hating as a legal action and hating as an arbitrary action. As a legal action, the term hate means to demote, while as an arbitrary action hate means an action done “without legal justification” (ibid, 140). It seems to me that an action “without legal justification” is closer to one’s emotion than one’s reason. Thus, it cannot be denied that the term “hate” connotes a husband’s negative feeling toward the woman. It is not necessary that the term signals that the husband demoted the hated woman into a lower rank. Some scholars point out that the term “to hate” in this law mean “to love less” (Hagedorn, *Between Moses and Plato*, 202; Thompson, *Deuteronomy*, 229). So, this interpretation carries out the patriarch’s personal emotion toward his wife.

לשניאה which explicitly emphasizes that the first-born son is the son of the hated wife. The verb form בכר, which appears only once, is used negatively to remind us that the son of the beloved wife is not the first-born son. Moreover, this emphasis is expressed in the form of chiasmus in v. 16:

	לא יוכל לבכר	A
את־בן־האהובה		B
על־פני בן־השנואה		B'
	הבכר	A'

According to this structure, the outer frame is semantically and grammatically antithetical: negative vs. positive. The inner frame is also semantically antithetical: the son of the beloved one vs. the son of the hated one. Moreover, the relations between A and B and the one between A' and B' are also antithetical in terms of their semantic scope. The negative verb (A) is combined with the positive object (B), and the positive noun (A') is combined with the negative object (B'). This antithetical interrelation within the chiasmic structure indicates that the right of the first-born son should not be damaged by the emotional differences but maintained regardless of the husband's favor.

In sum, rhetorical strategies address the possible obstacle to accepting this law: the purposeful repetition and arrangement of the key terms into a chiasmic structure. Moreover, in the triadic structure, a situation in which a tension is inherent, proper

reactions to the tension, and the rationales for the reactions are carefully laid out, so that the main point is effectively delivered.

III. 21:18–21 The Disobedient Son

This regulation is concerned with maintaining the Israelite community free from evil (vv. 21aβ–21b), and hence the legist deals with the responsibilities of each member of the community for purging the evil.³⁵ The concrete case of this law relates to a disobedient son. This law, on the one hand, commands parents and the community members to remove a disobedient son.³⁶ On the other hand, the law indirectly addresses sons not to live as stubborn or rebellious sons to their parents.³⁷ In order to make this appeal persuasive, the legist chooses words alluding to the relationship between Yahweh and

35. Hagedorn, following Gertz (*Die Gerichtsorganisation Israels*, 181), overlooks the significance of the address change in v. 21aβ by arguing that v. 21aβ does not belong to the apodosis (“Guarding the Parents’s Honour,” 103). However, v. 21aβ indicates a communal responsibility to get rid of the evil, in this case, a disobedient son. In fulfilling this task, not only his parents but also city dwellers should play their role. The final second person singular, *you*, includes all these people. Thus, it can be said that this regulation assumes three different classes of audience: parents, sons, and city dwellers. All of them should behave properly in order to keep the community freed from evil.

36. Hagedorn argues that in view of honor and shame it would be necessary to stone a disobedient son in order to maintain a father’s honor and respect (“Guarding the Parents’s Honour,” 113, 115; *idem*, *Between Moses and Plato*, 239). Even if this was the case, the addressees may question the propriety of stoning a son due to his disobedient conduct. Especially, the parents and community members who have responsibility for bringing up the case in public and for enacting the harsh punishment needed to be addressed.

37. Christensen points out the possibility that this law was made for the pedagogical aim (*Deuteronomy 21:10–34:12*, 484). In the similar line, Adele Berlin points out that this law was possibly intended as a deterrent (“Sex and the Single Girl in Deuteronomy 22,” in *Mishneh Todah: Studies in Deuteronomy and Its Cultural Environment in Honor of Jeffrey H. Tigay* [ed. Fox, Nili Sacher, David A. Glatt-Gilad, and Michael J. Williams; Winona Lake: Eisenbrauns, 2009], 98). Hagedorn also argues that this law has only a preventive purpose (“Guarding the Parents’s Honour,” 102).

disobedient Israel, repeats them with elaboration, and in so doing speeds up narrating the case.

A. Word Choice: סורר ומורה איננו שמע בקול

In depicting a son who is to be removed among Israel, the legist chooses words which connote Israel's rebellious acts against Yahweh: סורר ומורה איננו שמע בקול.³⁸ These key terms symbolically identify a disobedient son, who is to be brought out in public and stoned, with the Israelites who made a covenant to revere Yahweh, but have failed by ignoring Yahweh's instructions.³⁹ This word choice justifies the punishment that is to be meted out upon such a son.

In all of the other occurrences except for Deut 21:18, 20 and Prov 7:11, the term סורר is used to indicate Israel's stubborn actions against Yahweh.⁴⁰ Among these occurrences, Isa 30:1 directly connects Israel with a stubborn child by calling it בנים

38. Strawn points out that these verbs are often used to describe Israel's rebellious acts against Yahweh ("“Israel, My Child”: The Ethics of a Biblical Metaphor,” in *The Child in the Bible* [ed. Marcia J. Bunge; Grand Rapids: Eerdmans, 2008]: 122).

39. Nelson, *Deuteronomy*, 261. Strawn construes metaphorical similarities between the God-human relationship and parent-child relationship. God-parent and human-child metaphor effected Israel's understanding of its relationship with God, and Israel's parenting of their children ("“Israel, My Child,”” 105).

40. This term occurs 17 times in the Hebrew Bible (Deut 21:18, 20; Neh 9:29; Ps 66:7; 68:7, 19; 78:8; Prov 7:11; Isa 1:23; 30:1; 65:2; Jer 5:23; 6:28; Hos 4:16; 9:15; Zech 7:11).

סוררים. In some cases, סורר is used together with סובא (Hos 4:16–18)⁴¹ or שמע (Neh 9:29; Zech 7:11).⁴²

The term מורה is also dominantly⁴³ used to refer to Israel's rebellious action against Yahweh's commands (Num 20:10, 24; 27:14; Deut 1:26, 43; 9:7, 23; 31:27; Neh 9:26; Ps 78:17, 40; 107:11; Isa 1:20; 3:8; 63:10; Ezek 5:6; 20:13, 21).⁴⁴

These two terms are found in a combined form (סורר ומורה) in Jer 5:23 and Ps 78:8. In Jer 5:23, the Israelites' stubborn and rebellious heart results in them not revering Yahweh but going astray. In Ps 78:8 the terms refer to a former generation of Israel that perished in the wilderness.⁴⁵

Although the exact phrase אינו שמע בקול does not appear outside of this law, the phrase לא שמע בקול is commonly used to indicate Israel's disobedient action toward Yahweh. The first generation of Israel who came out of Egypt had to wander in the wilderness and perished there because they did not obey (שמע) Yahweh's commands (קול) (Deut 8:20; Josh 5:6, 10). Moreover, 2 Kgs 18:12 confirms that the northern

41. Such actions are not against themselves, but against Yahweh because their stubbornness and drunkenness are identified with rebellious behavior toward Yahweh.

42. The stubborn Israelites do not listen to Yahweh's urging to keep justice and faithfulness.

43. Exceptionally, in Ps 105:28 the term indicates the Egyptians's rejection of sending Israel away.

44. H.-J Fabry indicates that in general the object of this verb is Yahweh and the subject the people of Israel or some other collective entity. According to his view, Deut 21:18–21 shows the basic meaning of מרה: “willful, fundamental, and rebellious disobedience” (מרה, *TDOT IX*: 7).

45. James Luther Mays, *Psalms* (IBC; Louisville: John Knox Press, 1994), 255; John Goldingay, *Psalms 42–89* (Grand Rapids: Baker Academic, 2007), 487; O.S.B. Konrad Schaefer, *Psalms* (BOS; Collegetown: the Liturgical Press, 2001), 191-92.

kingdom was destroyed because they did not obey Yahweh's commands. In fact, Deuteronomy clearly states that whether one is blessed or cursed by Yahweh depends on whether or not one listens to Yahweh's words (Deut 28:1, 15, 45).

In sum, the terms סורר, מורה, and שמע + לא connote Israel's rebellious actions against Yahweh and their unwillingness to listen to Yahweh's words. By using these terms to depict a disobedient son in charge, the legist makes a strong connection between Israel's disobedience to Yahweh and a son's disobedience to his parents,⁴⁶ so justifying the punishment of the disobedient son.

B. Repetition with Elaboration

The legist uses repetition with elaboration in order to confirm and emphasize the son's disobedience, and to allay any possible objection by the addressees regarding stoning to death the accused son .

CONDITIONAL CLAUSES

כי־יהיה לאיש
בן סורר ומורה
איננו שמע בקול אביו ובקול אמו

MAIN CLAUSES

ואמרו אל־זקני עירו
בנגו זה סורר ומרה

46. Pressler also points out that the accused son's behavior is regarded as an offense against God based on the terms סורר ומורה (*Family Laws*, 18).

איננו שמע בקלנו
זולל וסבא

The key terms (underlined) are repeated almost verbatim, yet the second time they occur the key terms are elaborated by a new pair of words: זולל וסבא (gluttony and drunkenness).⁴⁷ This repetition with elaboration serves to emphasize the certainty and severity of the son's behavior. The son is not only stubborn and rebellious but also greedy in eating and drinking.⁴⁸

When the conditional clause first mentions the son's stubborn and rebellious conduct and his ignoring of the words of his parents, punishment does not immediately follow. The case is punitively handled only after the parents demonstrate the evil behavior of their son before the city elders in *public*. The accused son is confirmed as a stubborn and rebellious son not only by the narrator in a conditional clause, but also by

47. Hagedorn overlooks the rhetorical purpose of the seemingly deviated phrase זולל וסבא in considering it a simple gloss. In his view, this phrase breaks the parallelism created by repeating key terms ("Guarding the Parents's Honour," 103). However, from a rhetorical perspective, repetition with variation draws a reader's attention (see chapter 3. II. A. 4, especially n. 184 in chapter 3).

48. Joseph Fleishman points out that the terms, זולל וסבא (gluttony and drunkenness) were added to redefine the nature of סורר ומורה. In his view, the law signals that only a gluttonous and drunken son who refuses to cease such specific behaviors should be put to death ("Legal Innovation in Deuteronomy XXI 18–20," *VT* 53 no 2 [2003]: 327). In this perspective, Deut 21:18–21 aims to reduce the scope of a prime crime committed by a son against his parents (*ibid.*, 319). Yet, in my view, the newly added features of the disobedient son function to make the case look severer. The son in charge is not only disobedient but also greedy in eating and drinking. This law should not be regarded as dealing with only such specific behaviors. Rather, the pair of terms זולל וסבא should be considered to be added as an exemplary case to provide more specificity (Driver, *Deuteronomy*, 247-48; McConville, *Deuteronomy*, 331; Tigay, *Deuteronomy*, 197; Mayes, *Deuteronomy*, 354). This new concrete information regarding the charged son serves to enhance within the audience a sense that the son is punishable.

his own parents. This two-time of statement may signal symbolically that the case is witnessed twice, so that the condition of death penalty is qualified. As a result, the punishment of stoning is performed immediately without any official sentence by city elders. The actual punishers, city dwellers, have their reasons to enact the punishment.

C. Pace

The rapid tempo in making a legal decision in the regulation functions to warn sons not to live in such a disobedient way. According to this regulation, the tempo of making a legal decision is relatively quick. After the parents fail to discipline their son at home (v. 18), their actions are depicted by only three verbs before the actual punishment is enacted. The parents *seize* their son, *bring* him to the city gate, and *report* how their son behaves in their house. Then, immediately all the people of the city appear and stone the accused son. In this legal procedure, if a child is charged in this crime, he apparently doesn't even have an opportunity to defend himself. How would this rapid legal procedure look to the audiences, especially sons in the community? It is most likely that any son who lives inappropriately and becomes aware of the case would rather quickly abandon his stubborn, rebellious, and disobedient habits.

In sum, the legist uses rhetorical techniques such as word choice, repetition, and pace to move the addressees to perform their responsibility of removing a disobedient

child in their community and of warning children not to live stubborn, rebellious, or disobedient lives.

IV. 21:22–23 A Hanged Body

The gist of this regulation is that one is to bury the corpse of a criminal executed on a tree without leaving it overnight. The reason this command should be kept in ancient Israelite society is because a corpse left on a tree overnight would defile the land Yahweh has given to the Israelites. The legist draws the addressees' attention to this rationale by using a chiasmus by sounds.

The main commanding clauses and the motivational clauses are shaped into chiasmus by phonetic sounds: *lō'-tā – kî-qā vs kî-qi – w^elō' t^e*

MAIN COMMANDS		לֹא־תִלֵּין נבלתו עליהעץ	A
	בִּי־קְבוֹר תְּקַבְּרֵנוּ בַיּוֹם הַהוּא		B
MOTIVE CLAUSES		בִּי־קִלְלַת אֱלֹהִים תִּלְוִי	B'
		וְלֹא תִטְמֵא אֶת־אֲדַמְתְּךָ . . .	A'

The ABBA rhythm created by these phonetic sounds attracts the addressees' attention to the relation between these two sets of statements. The first two sentences alternate proscription and prescription. The actions are contrasted: do *not let* the corpse *pass* a

night on a tree vs. *bury* it on that day. The following two sentences are motivational clauses which give the reasons for the commands. The supporting role of the motivational clauses are highlighted by the repeated phonetic sounds, this time in reverse. There is also variation in the rhythmic repetition. The consonant ק in line B' is connected with the “i” sound, while the corresponding ק in line B has an “a” sound. Likewise, the line A' begins with נ, which does not appear in line A. Moreover, the consonant ת in line A' has *shewa*, while the same consonant ת in line A has an “a” sound. These variations, though apparently minor, put an emphasis on the term קללת אלהים⁴⁹ and the proscription not to defile the land. These variations in phonetic rhythm attract the addressees’ attention to the motivational ideas.

V. 22:1–4 Restoration of Neighbor’s Lost or Endangered Properties

The gist of this law is being alert to one’s neighbor’s (חא) property. All Israelites share responsibility in caring for their neighbor’s property. It is ignorant and negligent to pretend not to see something that needs doing. This legal idea is rhetorically delivered by

49. In this phrase, the term אלהים has been understood either as subjective (curse of God) or as objective (one who curses God = a blasphemer. While the former is common in western scholarship, the latter is more preferred in Rabbinic tradition (Moshe J. Bernstein, “בי קללת אלהים תלוי” (Deut. 21:23): A Study in Early Jewish Exegesis,” *JQR* 74 [1983]: 21-45).

rhetorical devices: the alternation of proscriptions and prescriptions, *inclusio* and repetition.

A. Alternation of Proscriptions and Prescriptions

Some English versions (e.g., NJPS, NIV, NET, NLT) regard the first sentence in this regulation as a conditional clause.⁵⁰ According to this rendering, the negation mark at the beginning of v. 1 does not negate the first verb but the second (התעלם). However, this translation overlooks a rhetorical technique that the negation mark creates, and thus also its rhetorical intention.

First, the negation mark up front creates the structure of alternating proscription and prescription. This structural pattern nicely contrasts the two actions: seeing but ignoring vs. bringing (v. 1); seeing but ignoring vs. raising (v. 4). The proscriptive statement emphasizes the prescriptive requirements to return someone's lost livestock and to raise up someone's fallen livestock, because this structure indicates that the actions of bringing back and of raising up only can be made when one overcomes one's mindset of ignorance.

Second, the negation mark is placed up front to emphasize the prohibitive aspect that this regulation signals. The addressees really should *not* hide themselves from what

50. Unlike these versions, RSV, NRSV, NAB, ASV apply the negation mark to the first sentence on.

they see. If in any chance one tends to ignore what the one see, one should *not see* at first. Yet, if one sees something in trouble, one should take action to remedy the situation.⁵¹ Such a negligent attitude to the others in a community is like avoiding one's social responsibility.

B. Inclusio

The rhetorical device *inclusio* works in this legal unit to highlight the expected action of the audience. This unit is bracketed by two commands that have the same expression: “You shall not see . . . and ignore them” (לא תראה . . . והתעלמת). The initial command (v. 1) not to ignore one's neighbor's endangered property is recalled at the end of this unit (v. 4), so that the audience would rethink the main command. Moreover, the attention of the audience is intensified, not by verbatim repetition, but by being introduced to a slightly modified occasion. The initial command is about gone-astray oxen and sheep, while the last command is about fallen donkeys and oxen. In the former, the expected action is returning them to their owner. In the latter, the expected action is setting them back on their feet. Thus, introducing two different cases with the same formula (לא תראה . . . והתעלמת) at the beginning and end emphasizes the gist of the regulations: Do not hide yourself from what you see needs help.

51. McConville points out the contrasting idea between the action of seeing and that of hiding oneself. “Seeing trouble constitutes an unavoidable obligation to help” (*Deuteronomy*, 337).

C. Repetition of Keywords

1. Your Fellow Israelite (אִחִיךָ)

In 22:1–4, the repeated words deliver the main idea behind the law. This regulation concerns one’s neighbor’s property. The neighbor’s property should be protected in active ways. This third party is mentioned by the term אִחִי. This term itself serves to appeal to the addressees because it reminds the addressees of their relationship with neighbors: they are brothers (אִחִי).⁵² As Clifford points out, the addressees are “to think of one’s neighbor as kin and as a fellow member of the Lord’s people.”⁵³ The stray animals, lost property, or fallen animals are not just anybody’s possession, but their brother’s, which are given as blessings by Yahweh. The legislator inculcates the addressees with this notion of brotherhood by repeating the term אִחִיךָ. Since this term connotes Israel’s family-like feature, the property of one’s neighbors should be secured.⁵⁴

2. “And thus you shall do to with . . .” (וְכֵן תַּעֲשֶׂה לְ . . .)

This expression occurs three times in the middle of this regulation (v. 3a). It attempts to set the scope of neighbors’ lost properties, to which the addressees have shared

52. This term is not used in its literal meaning (immediate family) but is extended to refer to all of Israel (Clifford, *Deuteronomy*, 117).

53. Ibid., 117. See also Tigay who points out the five times the term אִחִי is used, which functions to prevent the audience from ignoring his/her fellow Israelite’s stray animals in need of help (*Deuteronomy*, 199).

54. As McConville points out, “the language of brotherhood is motivation” (*Deuteronomy*, 337).

responsibility. It begins with donkeys, moves to clothing, and finally includes any lost property of one's neighbor. By this repetition, the scope is expanded to include all the categories of property. Thus, the gist of this regulation to care for one's neighbor's property is well developed and expressed.

VI. 22:5 Prohibition on transvestism

Traditionally this law has been considered to pertain to the prohibition of transvestism.⁵⁵

Yet the prohibition is not clear. Although two possible reasons for the prohibition have been suggested – its association with certain forms of homosexuality and its association with the cults of certain deities⁵⁶ – these do not rule out all the questions of why the practice of transvestism is prohibited.⁵⁷ In the discussion following, the main question is not as much about *why*, but *how*. That is to say, in the following we will focus on *how* this law is delivered in order to make it more appealing to the addressees. The question of

55. Merrill, *Deuteronomy*, 297; Clements, “The Book of Deuteronomy,” 452; McConville, *Deuteronomy*, 337.

56. Craigie, *Deuteronomy*, 288; McConville, *Deuteronomy*, 337. Biddle, *Deuteronomy*, 330. As for the view of connecting Deut 22:5 with the prohibition of pagan rituals, see e.g., Driver, *Deuteronomy*, 250; von Rad, *Deuteronomy*, 141; Theodor H. Gaster, *Myth, Legend, and Custom in the Old Testament* (New York: Harper, 1969), 316-18.

57. Christensen admits the difficulty of making a case against transvestism based on this one isolated text and of determining the purpose of this one verse within the culture of ancient Israel (*Deuteronomy 21:10–34:12*, 495). Recently, Nili Sacher Fox introduced an interesting view. According to her, in an ancient Israelite society in which only two-gender roles were accepted as the norm, any form of sexual and gender mixture were not allowed because in this society, one's garment was considered to bear its owner's *being* (italics mine; Fox, “Gender Transformation and Transgression: Contextualizing Prohibition of Cross-Dressing in Deuteronomy 22:5,” in *Mishneh today: Studies in Deuteronomy and Its Cultural Environment in Honor of Jeffrey H. Tigay* [ed. Nili Sacher Fox et. al.; Winona Lake: Eisenbrauns, 2009], 71).

why it is delivered is hard to solve satisfactorily without a fuller understanding of the ancient world. Yet, the question of how is observable through the text itself.

A. Command-First Structure

One way the legislator chose to present this law to the addressees is to place the command first and only then to support it with a motivation. This structure implicitly insists that this law should be kept by every one and in every case. Since the main command comes first without a circumstance or a condition, the urgency and absolute nature are created by this structure. Moreover, the motivational clause following the main command gives a rationale for the command.

B. The Use of Major Concept: Abomination to Yahweh

The statement that wearing the other gender's garment is an abominable action to Yahweh is striking. Until this point in the DC, the word abomination has been restricted to forbidden pagan customs (12:31; 18:8, 12), idolatry (13:15; 17:4) or cultic impurity (14:3; 17:1), all of which are in reference to the cultic realm.⁵⁸ Thus, by using the term *abomination*, the legislator strongly emphasizes to the addressees the severity of

58. The connection of the term תעבה with the cultic sphere has been long recognized (von Rad, *Deuteronomy*, 141; W. H. Ph. Römer, "Randbemerkungen zur Travestie von Deut. 22,5," in *Travels in the World of the Old Testament: Studies Presented to Professor M. A. Beek on the Occasion of His 65th Birthday* [ed. M. S. H. G. Heerma van Voss, Ph. H. J. Houwink Ten Cate, and N. A. van Uchelen; Assen: Van Gorcum, 1974], 217; Olson, *The Death of Moses*, 101).

transvestism in the sight of Yahweh. In fact, the legist does not explain further why mixed wearing is an abomination to Yahweh. Yet, the application of the term itself to this very behavior would strongly appeal to the addressees because of the term's regular usage in the cultic realm.⁵⁹

VII. 22:6–7 Preserving a Mother Bird

This law prevents one from taking a mother bird together with its offspring or eggs while the mother bird is nesting or lying down upon them. Like 22:5, 22:6–7 does not clarify why such a regulation is to be practiced.⁶⁰ My concern here is much more about the way this law is delivered rhetorically than about the meaning of this regulation. This regulation is rhetorically delivered through chiasmus and theological motivation.

A. Chiasmus

The gist of this regulation, not-taking a mother bird with its young bird, is emphasized by chiasmus in vv. 6b–7a.

	לֹא־תִקַּח הָאִם עִלְי־בְנִים	A
שָׁלַח תִּשְׁלַח אֶת־הָאִם		B
	וְאֶת־הַבְּנִים תִּקַּח־לָךְ	A'

59. Mayes, *Deuteronomy*, 307; von Rad, *Deuteronomy*, 141.

60. Some scholars argue for the humane aspect behind this regulation (von Rad, *Deuteronomy*, 141; Thompson, *Deuteronomy*, 234). Yet Clifford does not see this as an example of “Deuteronomic humanism,” but as being related to ecological concern to preserve the ability of nature to reproduce (*Deuteronomy*, 118; cf. Nelson, *Deuteronomy*, 268).

According to this arrangement, three actions are ordered: do not take (A), send away (B), and take (A'). This main command begins with a negative action, not-taking (A); its opposite, positive action of sending away (B) then centers on the main commands. The command closes with a positive action, that of taking (A'). In terms of the verbal meanings, lines A and B are semantically synonymous because the result of both verbs is that the mother bird lives. Since lines A and A' are semantically antithetical, line B is also semantically antithetical with line A'.⁶¹ Thus, in this regulation giving life to a mother bird (line A and B) is emphasized more than the taking of the life of its young bird (line A'). Moreover, there are two objects of the verbs, a mother bird and its young bird, and the contrasting verbs make it clear that each object is to be dealt with differently. A

61. Line A' shows a reverse parallelism with both line A and line B as following:

1) lines A and A'



2) lines B and A'



mother bird should not be taken together with its young bird (A), but the mother bird should be *sent away* (B); a kid can be *taken* (A').

In sum, the chiasmic structure, within which a semantic contrast is artfully developed, efficiently delivers the gist of this regulation.

B. Motivation with blessing

The last motivational clause, that begins with לְמַעַן, does not provide the reason for this command, but does promise a *reward* for the obedient action. Keeping this law guarantees a good and long life in the land of promise. This motivation clause functions to persuade the audience to observe this law.⁶²

The legislator makes a seemingly insignificant law look significant by employing common, essential motivational clauses. The promise of a long life recalls 5:16, honoring one's parents.⁶³ Even the mother bird is called "mother" (אִמָּה). Since such important promises are attached to the regulation and remind the audience of honoring one's parents, it is hard to dispute it.⁶⁴ The audience might observe the law because the

62. Pico Della Mirandola (*On the Imagination*) points out that "Man is moved to action (ad operandum) for the sake of either real or apparent good" (cited from Burke, *Rhetoric of Motive*, 80).

63. Nelson, *Deuteronomy*, 268.

64. The role of this final motivational clause is to make the audience feel frustrated or aware of their ignorance. They do not know how the command and motivation are related. Yet, because of the power of the motivational statement, the audience just accept the commands, regardless of whether they believe them or not. White points out that in *Gorgias*, the audience feels frustration when they hear the dialogue between Socrates and other participants. The audience reaches a point at which they are not able to understand but have to accept because of the way in which Socrates speaks. Here, White says, "the effect of the 'proof' is not to persuade but to disorient him" (*When Words Lose Their Meaning*, 105).

motivational clause itself emphasizes the significance of this regulation in the life of Israel, even though they may not understand why saving a mother bird is related to such well-being and a long-life.⁶⁵

VIII. 22:8 A Parapet on a Newly Built House

This regulation orders the addressees to make a parapet on a roof when building a new house in order to avoid being culpable in the eventuality that one falls from the roof. If the house owner has made a parapet as a safeguard, he will not be responsible for an accident that might occur. In order to make this command appealing, the legist uses a motivation and chiasmus.

A. The Motif of the Guilt of Bloodshed

The legist does not motivate the audience to keep this law by specifying a punishment. Rather, he employs a significant theme – the guilt of bloodshed (דמים/דם) – which would elicit a strong response from the addressees.⁶⁶ The motif of bloodguilt forms a significant image in the DC.

65. Maybe the legist wanted to imply the reason for a good and long life resulting from saving a mother bird by calling a mother bird **מא**. The legist intentionally made a connection between saving a mother bird and honoring parents.

66. The theme bloodguilt is introduced in Deut 19:1–13 and 21:1–9. Unlike the previous cases, Deut 22:8 does not use the term **נקי** (innocent). However, any bloodshed due to the lack of safeguard on a roof can be considered to be the shedding of innocent blood. Biddle points out that Deut 22:8 falls into a category of “reckless endangerment” which also is regarded as killing (*Deuteronomy*, 331).

According to Deut 19:1–10, the asylum cities are set up in order to prevent shedding (שפך)⁶⁷ additional innocent blood (דם נקי). Verse 10 indicates that shedding innocent blood is regarded as bloodguilt (דמים). Since shedding innocent blood in the land Yahweh has given results in collective culpability,⁶⁸ Israelite society is expected to be eager to prevent this from happening.⁶⁹ Another exemplary case also shows the seriousness of shedding innocent blood. In Deut 21:1–9 an unknown corpse is found. The main concern of the legal unit is how to expiate the communal legal responsibility for the innocent blood shed on the ground.⁷⁰ The prayer in 21:7–8 obviously shows the significance of being freed from any punishment that would be caused by the unknown victim.

With these two instances in mind, 22:8 appeals to the addressees with the same theme of bloodshed.⁷¹ After commanding to make a parapet, the legislator mentions that “you shall not put the guilt of bloodshed in your house.” This means that the reason for making a parapet on a roof is to excuse oneself from the responsibility for any accident that might

67. The action of shedding blood itself is not a problem. In general, blood should be poured out. Deut 12:16, 23, 27 and 15:23 command to pour out (שפך) the blood of animal offerings but not to eat it. Yet innocent blood should not be poured out (שפך) in the land. The problematic blood is one that is violently poured out (Brueggemann, *Deuteronomy*, 216).

68. Nelson, *Deuteronomy*, 241.

69. Setting up the first three cities of refuge as well as three additional cities of refuge is all about to prevent shedding additional innocent blood.

70. Tigay, *Deuteronomy*, 191; Nelson, *Deuteronomy*, 256.

71. This is the last case in the DC of the use of the term דמים.

occur on one's roof.⁷² Because of such significance of the term דמים this regulation would successfully convince the addressees to observe this regulation.

B. Chiasmus

The legist places emphasis on the command and its benefit by a chiasmus with particles (כי and ו). This regulation is composed of two parts, each of which contains a main clause and a subordinate clause.

	כי תבנה בית חדש	CIRCUMSTANCE: A
ועשית מעקה לגגך		COMMAND: B
ולא־תשים דמים בביתך		AFFIRMATION: B'
	כי יפל הנפל ממנו	CIRCUMSTANCE: A'

These four lines are structured into a chiasmus structure by the particles: כי – ו – ו – כי. The outer frame (A and A') depicts situations: One builds a house (A), and the design of the roof potentially can result in a person falling from the roof to their death (A'). The inner frame (B and B') is a proper response to the risk inherent in the situation. One should make a parapet on a roof (B), so that one is freed from any responsibility for innocent

72. Deut 22:8b assumes two effects of making a parapet. First, a parapet on a roof will function as a safeguard which will prevent one from falling from the roof. Second, even if one falls from the roof on which a parapet is installed (Deut 23:8bβ), it is not the responsibility of the house owner, so that the house owner can avoid the guilt of bloodshed.

bloodshed (B'). Within this chiasmic structure, the command to make a roof and the positive result of observing the command draws the addressees's attention.⁷³

In sum, the term דמים is employed to appeal to the addressees and a chiasmic structure draws addressees' attention to the command and its benefit.

IX. 22:9–11 A Prohibition on Mixing Two Kinds

Deut 22:9–11 groups together three short regulations for the purpose of emphasizing the theme of forbidden mixtures.⁷⁴ The rationales for these regulations are not manifested.

Even the motivation offered in v. 9 confuses rather than clarifies.⁷⁵ A general

73. The phrase ביתך in B' also functions to draw the attention. ביתך is picked up from line A (בית) and B (ך). This phrase itself has emphasis on the concept of "your house." The owner of a house has responsibility for any accident that happens in his/her house unless he/she installs a safeguard to any expected accident (A similar concept of responsibility is found in LH §§229-238 [Roth, *Law Collections*, 125-26]. In these regulations, a builder of a house and a boatman have responsibility for any accident happening to the house he built and the boat he uses).

This issue can be analogous to the Cell Tower Climber issue. Several tower climbers fell to their deaths while climbing towers. One of the main reasons for these accidents is that the climbers were not tied to a safe anchorage point at all times. Yet this free-climbing (climbing without tying oneself off to a safe anchorage point) results from a shortage of time. The climbers were pushed to finish the construction on time. When these people die because they were a free climber, who is responsible for this accident: the free-climber himself or a company which pushed its sub-contractor to finish the construction in a relatively short period of time? The case has been focused on whether the cell-phone company knew the outsourcing contractors were doing their job without observing safety guideline because of lack of time. If the company knew it, it has some responsibility for the frequent accidents (Ryan Knutson, "Anatomy of a Cell Tower Death," n.p. [cited 6 June 2012]. Online: <http://www.pbs.org/wgbh/pages/frontline/social-issues/cell-tower-deaths/anatomy-of-a-cell-tower-death/>).

74. See chapter 3 n. 88. Without specific motivation or any other punishment, grouping together according to their common theme has a rhetorical effect on the addressees because the theme itself is emphasized by repetition. For the rhetorical effect of grouping laws which have a theme in common, see chapter 3 n. 87.

75. The verb שקד in v. 9 causes the difficulty. First, its subject is not clear. As McConville (*Deuteronomy*, 333-35) points out, two attempts are possible. One attempt is regarding the crop as its subject, so that "the whole crop will be forfeit to the sanctuary" (ibid., 333). Another attempt sees that the

understanding of the reason for these proscriptions is that they are prohibited because such a practice would be opposed to the way they are supposed to function, that is, according to the creational order.⁷⁶ Setting aside the task of understanding the meanings of these grouped regulations, we will focus instead on the legislator's rhetorical technique in delivering these regulations to the addressees. In the following, we will compare 22:9–11 with Lev 19:19 to discern the legislator's rhetorical technique found in these regulations.

The following chart shows some differences between Deut 22:9–11 and Lev 19:19.

Deut 22:9–11			Lev 19:19
		A	את־חקתי תשמרו
לא־תזרע כרמך כלאים פן־תקדש המלאה הזרע אשר תזרע ותבואת הכרם:	C'	B	בהמתך לא־תרביע כלאים
לא־תחרש בשור־ובחמר יחדו:	B'	C	שדך לא־תזרע כלאים
לא תלבש שעטננו צמר ופשתים יחדו:	D'	D	ובגד כלאים שעטננו לא יעלה עליך:

audience can be the subject. Thus, it reads you make forfeit. Second, the meaning of קדש itself is not clear. Mayes mentions that the motivation has something with cultic sphere, and the term signals that the crops become unsuitable for common use (*Deuteronomy*, 308). Yet all of these explanations do not rule out the difficulty in understanding the meaning of v. 9b.

76. Brueggemann (*Deuteronomy*, 220) highlights the destructive aspect of mixing two distinctive entities. cf. Josephus (*Ant.* 4.228-29) states that nature does not delight in mixing different things into one object.

In Lev 19:19 the three categories of prohibited mixture are headed by a statement that the following three prohibitions are Yahweh's laws (חקות). Then, three categorical prohibitions are introduced with a similar grammatical pattern: an indication of a category, prohibition of a specific action, and a general object. The last line diverges from this pattern. Moreover, in each category, the term כלאים and the negative particle לא are employed, so that the main issue — the prohibition of mixing two kinds of things — becomes evident. These features show that the proscriptions in Lev 19:19 are well organized and focused.

Unlike Lev 19:19, Deut 22:9–11 arranges the laws in different ways. First, Deut 22:9–11 does not begin with an introductory statement like Lev 19:19. This is because in the DC such a statement was already mentioned and brackets the whole DC (Deut 12:1 and 26:16). Second, all three general categories in Lev 19:9 are specified in Deut 22:9–11: livestock (בהמה) → ox and donkey (חמר and שור) (22:10); field (שד) → vineyard (כרם) (22:9); cloth (בגד) → wool and linen (צמר and פשתים) (22:11). Third, the order of the three categorical mixtures is different. In Deut 22:9–11, the prohibition of sowing a vineyard with another seed comes first and is followed by the prohibition of working together with both an ox and a donkey. Lastly, in Deut 22:9–11 a verb comes first with a negative particle, so that the prohibition of action is emphasized.

These differences from Lev 19:9 show the rhetorical features that the legist of the DC employed in Deut 22:9–11.⁷⁷ First, the cases in Deut 22:9–11 are more specific to the addressees than the generalized cases. Since Deut 22:9–11 explicitly names the objects that should not be mixed with another similar kind, this command would appear to be more concrete and observable. Second, the verbs with negative marks draw attention because of their position at the head of each regulation. Moreover, it creates a literary feature of alliteration. To the addressees, it is clear what they should not do: do not sow, do not plough, and do not wear.

In sum, the legist appeals to the audience with a group of regulations that have in common the theme of prohibition of mixture, and the legist amplifies its rhetorical effect by specifying the prohibited categories and by employing a word order in which the action itself is accentuated.

X. 22:12 Tassels on Garments

Deut 22:12 is composed of only one command. Neither circumstance nor motivation for the command is offered. Although Christensen asserts that the primary meaning of this

77. Here I do not engage with a scholarly discussion regarding the literary dependency between the Holiness Code (HC) and the Deuteronomistic Code (DC). Since Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), argues for the Holiness School's last touch on the Priestly Torah, some argue that the HC rewrites the DC (Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation* [Tübingen: Mohr Siebeck, 2007]). Yet my comparison of Deut 22:9–11 to Lev 19:19 does not presuppose any literary precedence between them. The comparison is made based on their similarities in contents.

law is clearly to keep God's commandments,⁷⁸ there is no scholarly consensus on the purpose of this regulation. Some scholars argue that this law is intended to prevent one's genitals from being exposed by weighting down a garment with tassels.⁷⁹ Von Rad argues that this law was originally related to a magical apotropaic custom.⁸⁰ Some scholars focus on the sexual connotation in the law,⁸¹ but others like Vogelzang and Bekkum argue that wearing tassels was for the purpose of making a clear distinction from other peoples in the world.⁸² Regardless of the enigmatic nature of this regulation, the concern of this dissertation is not to investigate the meaning and purpose of this regulation but rather to explore how this enigmatic regulation is rhetorically effective to the audience, especially in a case of a seemingly insignificant regulation that has no other motivational support. I argue that the legist achieves his rhetorical goal by choosing terms and arranging them in a way to appeal to the addressees. The deuteronomist's rhetorical strategy in Deut 22:12 becomes clear if we compare this regulation with its corresponding one in Num 15:37–41.

78. Christensen seems to assume this regulation's literary dependency on Num 15:37–41 (*Deuteronomy* 21:10–34:12, 505). This view is also supported by Craigie (*Deuteronomy*, 291). However, it is not certain that Deut 22:12 presupposes Num 15:37–41. Moreover, Mayes argues that the lack of any explanation about the reason for this law in Deut 22:12 is an indication that the priestly explanation in Num 15:38–41 is not original (*Deuteronomy*, 308-9).

79. McConville, *Deuteronomy*, 338; Braulik, *Deuteronomium II 16,18-34,12*, 163; Nelson, *Deuteronomy*, 269.

80. Von Rad, *Deuteronomy*, 141.

81. Carmichael, *The Law of Deuteronomy*, 166.

82. Vogelzang and Bekkum, "Meaning and Symbolism of Clothing," 277.

A. Comparison with Numbers 15:37–41

The command to make tassels (גדלים) on the four edges of a garment corresponds to Num 15:38. Although the term גדלים is not found in Num 15:37–41, these two regulations indeed deal with the same topic: making tassels (גדלים / ציצת) on the edges (כנף) of garments (בגד / כסות). Rhetorically speaking, Num 15:38 is delivered more rhetorically within its literary context than is Deut 22:12. In Numbers, this law is introduced by Yahweh's direct speech to Moses: "And Yahweh said to Moses, saying" (Num 15:37). This divine speech formula gives an impression that the following comment, whatever it may be, has an authority over the audience. Thus, this introduction rhetorically appeals to the audience. However, in Deuteronomy there is no such divine introductory speech before this regulation.

Moreover, Num 15:37–41 informs the audience of the particular function of these tassels. They are made for the purpose of reminding the Israelites of Yahweh's commands. They function to prevent the Israelites from following their own hearts and eyes. Thus, the threads of the tassels symbolize Yahweh's commands for the Israelites to observe. Whenever the Israelites look at these tassels attached to their garments, they should remember Yahweh's commands and observe them. As a result, the Israelites can be holy to their God Yahweh. However, these motivations and rationales behind the

simple action of making tassels and attaching them to a garment are not found in Deut 22:12. Why does the legist of Deut 22:12 not take advantage of these kinds of rhetorical techniques? Or what other rhetorical strategy does the deuteronomist employ in this regulation? In what follows I will describe several of the rhetorical techniques found here.

B. Rhetorical Techniques in Deut 22:12

In comparing Deut 22:12 with Num 15:38, we can observe the legist's distinct choice of terms and their role in the literary contexts.

Num 15:38	Deut 22:12
ועשו להם ציצת על-כנפי בגדיהם לדרתם ונתנו על-ציצת הכנף פתיל תכלת:	גדלים תעשה-לך על-ארבע כנפות כסותך אשר תכסה-בה:

First, the legist of the DC uses גדיל, the common term for a plaited cord,⁸³ instead of ציצת, which is a more technical and therefore more seldom used term.⁸⁴ The more common word choice makes the regulation more accessible to the addressees. Second, the legist emphasizes this regulation by arranging it rhetorically. Verse 12 comes after three consecutive negative proscriptions. The three proscriptions in vv. 9–11 all begin with

83. Nelson, *Deuteronomy*, 264. Rashbam points out that גדיל is used instead of ציצת because the former describes how tassels are made. In the post-biblical Hebrew verb ג-ד-ל means to plait or to lace (Martin I. Lockshin, ed. and trans., *Rashbam's Commentary on Deuteronomy: An Annotated Translation* [Providence: Brown Judaic Studies, 2004], 136).

84. Driver, *Deuteronomy*, 253.

negative verbs. Then, v. 12 begins with a *noun* and a *positive* verb. The change of grammatical feature from three consecutive negative verbs to a noun followed by a positive verb draws the audience’s attention to v. 12. The keyword גדלים, by being placed at the beginning of this regulation, is emphasized and draws the addressees’ attention.

In sum, the legist uses a common term and places it at the beginning of the command, in contrast to the previous regulations, in order to draw the addressees’ attention to the key term.

XI. 22:13–21 The Accused Woman

Some scholars consider this regulation to be part of a larger unit Deut 22:13–29. They argue that a redactor combined individually existing laws under the topic of sexual offense.⁸⁵ One of the supports for their argument is a chiasmus found in the larger unit.⁸⁶

85. Wenham and McConville, “Drafting Techniques,” 248-252; Braulik, *Die deuteronomischen Gesetze*, 82; Pressler, *Family Laws*, 21-22; Cynthia Edenburg, “Ideology and Social Context of the Deuteronomic Women’s Sex Laws (Deuteronomy 22:13–29),” *JBL* 128 (2009): 44.

86. For example, Braulik, *Die deuteronomischen Gesetze*, 82, presents the following scheme (An almost identical scheme was already suggested by Wenham and McConville in “Drafting Techniques,” 250):

- A 100 Shekel of fine; the woman must remain; divorce prohibited (v. 19)
- B The woman is stoned to death - *biarta* formula (v. 21)
- C Both the man and woman should die - *biarta* formula (v. 22)
- C' Both the man and woman are stoned to death - *biarta* formula (v. 24)
- B' The man should die (v. 25)
- A' 50 shekel of fine; the woman should be a wife; divorce prohibited (v. 29)

Although this chiasmic structure is attested by the similar elements, there is also some counter-evidence found. First of all, the *biarta* formula does not fit into this scheme. The *biarta* is not found in B'. Second, B

Although the chiastic structure of 22:13–29 may indicate their unity, I argue instead that 22:13–21 should be considered as a self-defined rhetorical unit. The main issue presented in the unit is solved within this regulation. The issue in this regulation does not influence the meaning of the following regulations.

This law deals with a case which could happen in married life. A husband accuses his wife of sexual indecency, and her parents come forward to defend her innocence. If the defense succeeds, the woman maintains her marital status. Yet if it fails, the woman is to be stoned to death. At first glance, this law seems to be concerned with establishing the dignity of Israel as Yahweh's chosen people.⁸⁷ However, if one looks at the arrangement of the components of this law and at the usage of words, one will realize that the gist of this law is to prevent a woman from being falsely accused by her husband.⁸⁸ In order to

is a sub-case of A, whereas B' is not closely related to A'. Similarly, C' and B' can be considered one unit with respect to the woman's marital status (an engaged woman). Third, C begins with a man as a subject; C' starts with a woman. Given this counter-evidence the apparent chiastic pattern in 22:13–29 does not hold the individual cases tightly together as one unit.

87. The reasons for punishing either a falsely accusing husband (vv. 13–19) or an unchaste wife (vv. 20–21) pertain to the whole community. In v. 19, the falsely accused woman is called “a virgin of Israel” (בתולת ישראל), which signals that the woman's case is related to all the virgins of Israel. Likewise, in v. 21 the woman's unchaste sexual transgression is named “a disgraceful thing in Israel” (גבלה בישראל). Her behavior does not remain in herself but is regarded as something that has influence on the whole Israel. Louis Stulman argues that the crime like this threatens the authority and order of the community. Thus, this cannot be tolerable in ancient Israel (Stulman, “Encroachment in Deuteronomy: An Analysis of the Social World of the D Code,” *JBL* 109 [1990], 622).

88. This regulation assumes three different classes of audience: husbands, wives, and ordinary people represented by city dwellers. 22:13–19 warns husbands not to falsely accuse their wives. 22:20–21 appeals to women not to commit sexual indecency. The whole unit of 22:13–21 appeals to the city dwellers to keep justice. A similar scene is found in Deut 21:18–21.

achieve this goal, the legist intentionally arranges the components of the regulation and employs words strategically.

A. Rhetorical Structure

The passage 22:13–21 is composed of two interrelated cases.⁸⁹ Although they are likely to be two well-balanced sides of one occasion, the main focus is placed on the first case.

The first case is not only more detailed but also more carefully arranged.

The first case (vv. 13–19) is shaped into a modified triadic structure. All the elements of a triadic structure are present, but the last element is not placed at the end of this unit. Verses 13–14 set up the situation, and vv. 15–19 narrate a series of procedures in which the woman's parents and the elders in the city deal with the case. A motivational clause is found, not at the end, but in the middle of the main body (v. 19aβ). This motivational clause is not the motivation for all the commanded actions but only the motivation for the regulation of the fine. In v. 19b the falsely accused woman regains her marital status, and her status in her husband's house is secured. The following analysis of 22:13–19 will uncover the rhetorical aspects embedded in the structure of the law.

First, the conditional clauses show a triadic pattern. This includes three lines, and each line has three verbs.

CONDITIONS (vv. 13–14)

If a man **takes** a woman and **comes into** her but *hates* her,
and **puts** upon her shameful deeds and **brings out** upon her an evil name and *says*,

89. The same structure is also found in 21:10–14.

“this woman I **took** and I **approached** her but I *did not find* for her evidence of virginity,”

The last (*italicized*) verb of each line introduces the next line. The man’s *hatred* for his wife leads him to charge her with shameful deeds and to defame her. Moreover, the last line is what the man *says*. Because of this feature, the addressees may expect that *finding* the evidence of virginity will come next. So the composition of the conditional clauses successfully leads the addressees to the issue at stake.

Second, in the commanding clauses, two main groups of actors deal with the issue of the accused woman’s virginity.

COMMANDS (symmetry) (vv. 15–19)

The *father of the woman and her mother*

take and bring out the evidence of the woman’s virginity to the elders . . .
and the father of the woman says to the elders, “I gave my daughter . . .”
and they spread out the cloth before the elders of the city. (vv. 15–17)

Then, *the elders of this city* shall take the man
and shall chastise him
and shall fine him one hundred shekels . . .
and shall give (it) to the woman’s father. (vv. 18–19a)

In this unit, the parents of the accused woman and the elders of the city mirror each other.

The legist assigns four verbs to each group to describe their actions, and the first verb (לקח) is identical. This equal distribution of verbs implies that their roles are balanced;

they have equal power. The woman's parents are not in a defensive position, but rather act proactively.⁹⁰

As for the parent's actions, the first three action verbs (לקח, יצא, and אמר) are not so much specific as common. Yet, the final verb "to spread out" (פרש) depicts a specific action more concretely. This verb with "cloth" as its object draws a picture of a cloth being spread out in front of one's eyes, so that it draws the addressees's attention.⁹¹ The action of spreading out the bed sheet is meant to prove their daughter's innocence. Thus, this structure and its verbal arrangement emphasize the moment of proving the woman's innocence.

For the elders' actions, the verb לקח and its following verbs signal that the elders come to be on the side of the parents. After hearing and seeing the parents' defense the elders of the city proceed to punish the man as a response to the parent's proof of their daughter's virginity. The elder's action begins with the same verb (לקח) as the one used by the woman's husband (v. 13), as well as by the woman's parents (v. 15). The use of the

90. Pressler argues that in this legal procedure the woman's parents play the role of plaintiffs. The woman's husband did not bring the case to court but slandered his wife in public (*Family laws*, 23-24). Pressler's view helps recognize the proactive function of the accused woman's parents. However, given vv. 20-21 which deals with a case where a woman fails to defend herself, it would be more plausible to assume that the husband took the initiative in charging his wife with adulterous behavior.

91. If one compares the verbal usage of the husband with those of parents, one can also see the emphasis that the legist put on the verb פרש. Both the husband and the parents use the same identical verbs: the husband (לקח, יצא, and אמר in vv. 13-14); the parents (לקח, יצא, and אמר in vv. 15-17a). Yet unlike the husband, the parents's final action verb "to spread out" (פרש) is newly introduced in v. 17b and thus attracts the audience's attention.

same verb but their different dealing with the accused woman signal their positions. First, the man *takes* a woman as his wife but defames her due to her suspected sexual indecency. Second, her parents *take* their daughter and present her garment as evidence for her virginity. Finally, the elders *take* the man to rebuke his baseless accusation. The elders' taking of the man and the following actions (rebuke, fine, give) indicate that the elders are on the side of the accused woman's parents, and that her parents' appeal was successful. So the symmetrical structure between her parent and the city elders is established.

After that, a motivational clause appears (v. 19aβ). This provides a rationale for fining the man and for giving the money to the parent. Yet, unlike a typical triadic structure, further instructions follow this motivation. In the final commands, the woman and the man mirror each other.

She shall be his wife

He shall not be able to send her out all his days. (v. 19b)

The accused woman as a subject can maintain her legal status as a wife, and the man has lost his right to send his wife off.

This observation of the structure reveals that the issue of virginity raised by a husband is dealt with in a chiasmic way. The supportive groups are placed in the center, and the change of the accused woman's marital status forms the frame.

- A A Woman's Marital Status at Risk (vv. 13–14b α)
- B The Charge Proposed (v. 14b β)
- C Her Parents Disputing the Accusation (vv. 15–17)
- C' City Elders Accepting the Appeal (vv. 18–19a α)
- B' The Charge Rejected (v. 19b α)
- A' The Woman's Marital Status Regained (v. 19b β)

A woman's marital status is at risk (A), because her husband accuses her in order to nullify the marriage (B'). The woman's parents offer to the elders the decisive proof of their daughter's innocence (C). The elders approve the case and punish the man for the forged charge (C'), so that the charge is rejected (B'). Finally, the woman's status as a married woman is preserved (A'). As this chiasmus shows, except for the correspondence of C to C', A and A' and B and B' are in antithetical parallel. This indicates that the initial charge is reversed as a result of the parents's defense of their daughter and the city elders's acceptance of that defense. Here the center controls the outer frame.

The next case in 22:20–21 is structured into a standard triadic structure with a conditional clause, a commanding clause, and a motivational clause. The condition narrated is that the accusation turns out to be true. The evidence of the woman's virginity is not found. Confronted with this case, the woman should be stoned to death by her neighbors (men of her city). The rationale for this harsh punishment is offered in two ways: the implication of her deed and the expected result of such punishment. She should

be punished because she is assumed to have had inappropriate sexual relationships with another man. The terms נבל and זנה signal the woman's sexual crime (Gen 34:7; Judg 19:23; 20:6; 2 Sam 13:12; Jer 29:23).⁹² Such a sinful deed should be removed from Israel.

Deut 22:13–21 as a whole indicates that in legal procedure, both sides of a case should be carefully observed. Any woman who is accused of sexual fornication at first should be protected if the accusation has been made without evidence. Yet any woman who has committed such a sexual crime should be punished only when there is no evidence supporting her innocence.⁹³

B. Rhetorical Devices

The legist uses two types of contrasts to emphasize the central points: a contrast with words and a contrast between protagonists.

1. Contrast with Words: קרב and בוא

Careful examination of the usage of verbs reveals the legist's implication that the man might forge the evidence against his wife because he hates her. The legist intentionally

92. In addition to the sexual violence that is the feature of this crime, von Rad points out its sacral aspect. According to him, the term נבלה denotes the "breach of a sacral law" (von Rad, *Deuteronomy*, 142; cf. Stulman, "Encroachment in Deuteronomy," 622).

93. In fact, the evidence of the woman's innocence might be forged by her parents if they do not want her to be punished (Frymer-Kensky, "Virginity in the Bible," 95). It would not be difficult to make a bloody stain on a blanket even if there was no such a mark. This possibility makes the woman related to the second case look worse because the fact that there is no evidence of the woman's virginity would signal that even her parents do not want to save her.

put a specific word in the mouth of the man to disclose the man's hidden intention, and this word makes the case look favorable for the accused woman. The legist explains the situation in a different way than the man describes it. The legist states in v. 13 that a man takes (לקח) a woman, comes into (בוא) her, and hates (שנא) her. Then, in v. 14b the legist quotes the man's speech directly: "This woman I took (לקח), and I *came near to* (קרב) her. Yet, I *did not find* (מצא) for her the evidence of virginity (בתולים)." Between the verbs the legist uses to describe the case and the verbs the man uses to describe the case, the first verb is the same (לקח). Yet, the second and third verbs are different. The legist describes that the man in fact came into (בוא) her, which means they had sexual intercourse.⁹⁴ Yet, the man insists that he only approached (קרב) her and yet found no evidence of her virginity. According to the man, his action was one of investigation—to find out whether or not she was a virgin—rather than of the physical intercourse which is naturally expected when a man takes (לקח) a woman.

Moreover, the legist states that the man came to hate her after having sex. No specific reason for the hatred is mentioned. Right after the statement about the man's hatred of his wife, we only learn that the man accuses her (v. 14). By contrast, in the direct speech of the man he does not mention anything about his hatred of his wife. He

94. Irene E. Riegner points out that the phrase בוא אליה signifies a sexual union (*The Vanishing Hebrew Harlot: The Adventures of the Hebrew Stem ZNH* [StBL: 73; New York: Peter Lang, 2009], 189)

only raises an issue about his wife's virginity or lack of it. In the man's speech, the issue is not about his feeling for her but only about a legal matter. To put it another way, while the narrator points to the man's feeling, the man hides his feeling for the woman and approaches the case exclusively from a legal perspective. Yet, the man does not provide any reliable evidence. The only reason for readers can assume is the man's hatred of his wife which was hidden in the man's speech but disclosed in the legist's report.⁹⁵

In sum, by selecting different words for the same case, the legist implicitly argues for the possibility that the man accused the woman deliberately without giving any evidence of actual intercourse simply because he hated her.

2. Contrast of Protagonists: The Accused Woman's Husband vs. Her Parents

The author contrasts the two parties by using the same set of verbs but employing different objects and contents. In other words, although the actions of the parents and husband are described using the same verb, their attitudes toward the woman are completely dissimilar.

The husband *takes* her . . . *brings out* an evil name upon her . . . and *says* . . .
(vv. 13–14)

95. The inconsistency within the husband is revealed in her parents's defense: they identify the man's hatred of their daughter which is concealed in the man's speech. The man's argument that he could not find evidence of her virginity is introduced after her parents explicitly addresses the man's hatred of her. Thus, it is implicitly argued through the speech of the parents that the man accuses his wife of fornication because of his hatred of her. The parent's speech is more powerful and credible since the defense includes all the situations narrated in the conditional clause (vv. 13–14).

The parents *take* and *bring out* the evidence of her virginity . . . and *say* . . .
(vv. 15–17)

Although the husband takes her as his wife, he calls her an evil name and *accuses* (אמר) her of having had intercourse before marriage. Thus, the husband’s action of marrying a woman does not develop in the expected way. Defaming and accusation are not things that a couple expects in their marriage. By contrast, the parents take and bring out the evidence of their daughter’s virginity and *defend* (אמר) her. The parents do as they are expected to do. Through this contrast between the accused woman’s husband and her parents the legist effectively deliver the point that a husband should not falsely accuse his wife but be faithful to the duty as a husband.

XII. 22:22–29 Sexual Violence

As mentioned in section XI, many scholars regard 22:13–29 as one unit which is composed of six legal cases dealing with sexual violence. Yet, I argue for the unity of vv. 22–29,⁹⁶ and for vv. 13–19 and 23:1 as its frame.

Deut 22:22–29 is composed of four parts: v. 22, vv. 23–24, vv. 25–27, and vv. 28–29. By grouping these similar regulations together, the main concern of prohibiting improper sexual relationship is emphasized. All four cases have in common several

96. Otto points out that Deut 22:22–29 is systematically organized. The protasis in v. 22a reappears in a reverse order in v. 28 (“*Zur Redaktion*,” 291).

features: In each, the main characters are a man and a woman. The woman's marital status is specified. The man has sexual intercourse with the woman in each case. And each regulation determines how to deal with this man and woman. Yet under these same categories each regulation also varies.

	22:22	22:23–24	22:25–27	22:28–29
the woman's marital status	married (אשה בעלת-בעל)	engaged (בתולה נער מארשה)	engaged (הנער המארשה)	unengaged (נער בתולה אשר לא-ארשה)
the scene of crime	–	in a city	on a field	–
punishment	death	death by stoning	death	fine (fifty shekels)
reason for punishment	not mentioned	no outcry for help	no use of outcry	debasement (ענה)
the guilty	both	both	only man	only man

According to this chart, it becomes clear that the legist lists four cases of sexual violence in a descending way: from married woman to an unengaged woman. Moreover, the legist chooses certain terms to persuade the addressees to accept the legal sentences that this collection of laws presents. First, the case in v. 22 pertains to intercourse between a man and a woman who is the wife of another man. Without further explanation a death sentence is proclaimed. The legist chooses carefully a phrase *אשה בעלת-בעל* in order to move the addresses to agree with the decisive punishment. The woman's married status is depicted by two terms which have the same root (*בעל*). Literary translation renders that she is a woman "husbanded by a husband." This indicates that the woman is under the

authority of her husband.⁹⁷ By depicting the woman's status as one who is husbanded by a husband, the intolerableness of her intercourse with another man is emphasized.⁹⁸ Thus, without any further explanation, the hearers of this conclusion would accept the death sentence.⁹⁹

Second, the next case in vv. 23–24 deals with sexual violence between a man and a young woman engaged to another man. The punishment is also the death of both the man and the woman involved in sexual intercourse which took place in a city. In this case, a specific explanation of how to carry out the death sentence and the reason for the sentence is narrated, particulars not mentioned in the previous case. The case argues that the woman should not be killed because she did not call out for help even though she was in a city. The assumption here is that because she did not call out for help, she must have been willing to have sexual intercourse with the man in question.¹⁰⁰ By nature, the addressees might want to know about the procedure of the punishment and the reason for

97. Pressler, *Family Laws*, 31.

98. In the ancient Near East, having sexual intercourse with a married woman or betrothed woman was regarded as adultery and was intolerable (Westbrook, ed., *A History of Ancient Near Eastern Law*, I: 47, 80; Pressler, *Family Laws*, 33).

99. The expression בעלת בעל only appears once more in a context where Yahweh appears in a dream to Abimelech after he took Abraham's wife Sarah (Gen 20:3). In this case the punishment for taking another's wife also is the death sentence.

100. Wolde points out that because of the lack of outcry for help "there is no proof of unwillingness from her side nor of the force from his side" ("Does *innâ* Denote Rape," 536).

it. Since these are mentioned in vv. 23–24, the addressees would then presumably consider the death sentence to be an acceptable or justified punishment.¹⁰¹

Moreover, a careful usage of terminology contributes to persuade the addressees to agree with the legal punishment. The woman's marital status forms an *inclusio*:



At first, she is depicted as a young woman *engaged* to a man. Yet, at the end she is called the *wife* of the culprit's neighbor. The two terms at the end (רע and אשה) augment the severity of the sexual violence. Not only did the man take another's *wife*, but the man also took his *fellow's* wife.

Third, the case in vv. 25–27 is in fact the same case as that in vv. 23–24. However, a careful usage of terminology distinguishes the case in vv. 25–27 from the previous one.

101. Another reason for punishing a woman taken by man in a city would be related to the idea that a city is a place where governmental control presides. The power of the city authorities must have guided people living in the area. So, it is assumed that a governmental protection should be provided if a woman cries out for help in a city. McNutt points out that the central governmental power mostly influenced cities and other important administrative towns but much less influential in rural and marginal regions (*Reconstructing the Society*, 173).

The first term is a spatial one: שדה. This term is mentioned at the beginning of this case (v. 25), so that it is emphasized and attracts the addressees's attention: "If in a field . . .". Moreover, it reappears at the beginning of v. 27, so that the term שדה forms an *inclusio*. This spatial term, emphasized by *inclusio*, is contrasted with "a city" in which the same case takes place (vv. 23–24). Thus, the addressees would expect a different legal sentence because of its taking place in a different place.

Another term which prepares the addressees to accept a different result is חזק. This term does not appear in the previous two cases. In the previous two cases, a man finds (מצא) a woman (either married or engaged) and has intercourse with (שכב) her. Yet, in v. 25 a man finds (מצא) a woman and forcefully seizes (חזק) her and has intercourse with (שכב) her.¹⁰² Since she was forcefully taken hold of by the man, unlike in the previous two cases, and since the incident took place in a remote place, she is not responsible for what happened to her.¹⁰³ Thus, it is acceptable that she not be punished.

Finally, a case in vv. 28–29 deals with sexual intercourse between a man and an unengaged young woman.¹⁰⁴ The phrase that depicts a woman (נער בתולה אשר לא-ארשה)

102. Ellen van Wolde emphasizes the forceful aspect that the term חזק denotes ("Does 'innâ Denote Rape? A Semantic Analysis of a Controversial Word," *VT* 52 [2002]: 536).

103. Stulman also points out the difference between adultery (vv. 23–24) and rape (vv. 25–27). If a sexual act takes place in a remote field, it is classified as a rape. Yet, if it happens in a city, and there is no sign of a cry for help, it is assumed to be adultery ("Encroachment in Deuteronomy," 623).

104. Whether this sexual case is a rape or a seduction is up for debate. Traditionally, the case in Deut 22:28–29 has been considered as a rape, while the case in Ex 22:15–16 is regarded as a seduction. Yet, Weinfeld argues that Deut 22:28–29 does not pertain to the case of rape. The verb תפש denotes "to seize"

prepares the addressees to accept a different sentence. She is a young woman who is not engaged. This means that she does not yet belong to any other man except for her father. The only problem related to her father is the damage done to his reputation among the community.¹⁰⁵ He dare not be regarded as a powerless man who fails to protect his family members. This damage can be restored by guaranteeing his daughter's marriage to the man who took his daughter and slept with her. In this case, the man is only fined, must take her as his wife, and loses his right to divorce her.¹⁰⁶

In sum, the legist shows the different sentences in different cases relating to sexual violence. The legist groups the four cases together and arranges them from the most to the least severe case.¹⁰⁷ The legist chooses specific terms which depict in distinct ways a concerned woman, a place, and actions, and by these carefully chosen terms the legist attempts to make the addressees agree with the punishment ordered in each case.

and not "to attack." Thus, like Ex 22:15–16 Deut 22:28–29 also deals with a case of seduction (Weinfeld, *Deuteronomical School*, 286-87).

105. Frymer-Kensky, "Virginity in the Bible," 92.

106. According to 24:1, 3, a husband has the right to divorce his wife. Losing such a right amounts to losing a privilege.

107. The *biarta* formula appears only at the first two cases in which both a man and a woman should be killed because of their sexual offenses.

XIII. 23:1 Prohibition on Incest

This regulation is placed in this position because of its topical similarity to the preceding laws: sexual offense (22:22–29).¹⁰⁸ Yet, this regulation differs from the previous collection of laws in its structure. Deut 23:1 includes only proscriptions; neither conditions nor motivations are mentioned.¹⁰⁹ The gist of Deut 23:1 lies in the prohibition of taking one’s father’s wife. The legist emphasizes this legal prohibition by the rhythmic usage of terms and by imaginative analogy.

First, the two proscriptions in 23:1 begin with a negation and end with the same key word.

אָבִיו	אֶת־אִשְׁתּוֹ	יִקַּח אִישׁ	לֹא־
אָבִיו	כַּנְּף	יִגְלֶה	וְלֹא

The term “his father” garners attention by repetition as well as by being placed in the same position in each proscription. The negation לֹא, which serves as alliteration, signals the negative quality of this regulation. These two terms (the negative particle לֹא and the term אָבִיו) specify this regulation. Without them the sentences do not deliver the specific

108. Tigay, *Deuteronomy*, 209.

109. Unlike Deut 23:1, the laws in Deut 22:22–29 are all formed into triadic structure.

meaning that the legist wants. The sentences within the two repeated terms are “a man shall take a wife of . . .” and “a man shall disclose a skirt.” These do not carry any meaning that the legit would intend to deliver. Thus, it is evident that the repeated terms convey essential ideas of this regulation.

Second, taking one’s father’s wife is visualized as exposing one’s father’s nakedness. The chart above shows that the corresponding part of יקה איש את־אשת (a man’s taking of a woman) is יגלה כנף (one’s exposing of nakedness).¹¹⁰ In connection with the term for his father (אביו) what is meant is that one’s taking of *one’s father’s* wife is identified with one’s exposing *one’s father’s* nakedness, which suggests a scene in which a father’s private parts are exposed.¹¹¹ So, the second proscription serves to give a rationale for why one should not take one’s father’s wife.

In sum, the legist appeals to the addressees by repeating the key term rhythmically and by analogizing the issue visually.

110. The term כנף is used as a euphemism for ערוה which means “nakedness, genital area of a man or of a woman” with the verb גלה (HALOT, ערוה, II: 882). To uncover (גלה) a man’s garment (כנף) means to “interfere in his marriage” (W. Dommershausen, כנף, TDOT VII: 231).

111. According to Lev 18:7–17, uncovering one’s nakedness is assertively prohibited. The expression גלה ערוה is used as synecdoche: the action of uncovering one’s nakedness refers to having sexual relationship with a person (Tigay, *Deuteronomy*, 209).

XIV. 23:2–9 Membership in Yahweh’s Assembly

It has been widely accepted that Deuteronomy 23:2–9 deals with the issue of admission into Yahweh’s assembly.¹¹² This law is composed of two sections. The first section concerns those who are prohibited from entering Yahweh’s assembly (vv. 2–7), and the second one concerns those who are allowed to enter Yahweh’s assembly after a certain amount of time (vv. 8–9). This delineation is manifested by the contrasting expression: *בקהל יהוה . . . לא־יבא* (v. 2, 3, 4) and *בקהל יהוה . . . יבא* (v. 9b) which forms an *inclusio*. Besides this obvious point of delineation, the focus lies on the contrast between the prohibited *nations* (the Moabites and Ammonites) and the allowed *nations* (the Edomites

112. Craigie, *Deuteronomy*, 296; Clements, “The Book of Deuteronomy,” 460; Nelson, *Deuteronomy*, 277; Tigay, *Deuteronomy*, 210.

Yahweh’s assembly (*קהל יהוה*) refers to a community for worship, war, and civil events (Nelson, *Deuteronomy*, 278; Jacob Milgrom, “Religious Conversion and the Revolt Model for the Formation of Israel,” *JBL* 101 [1982]: 173 n. 20; cf. Craigie, *Deuteronomy*, 281, mentions only a worshiping community; von Rad, *Deuteronomy*, 146, thinks that the term denotes “the cultic levy of the free men” either for war or for annual feasts). Yet, it also refers to all of Israel, the entire people of Israel (Ex 16:3; Lev 16:17; Deut 31:30, quoted from Tigay, *Deuteronomy*, 385 n. 8; cf. *ibid.*, 210).

Scholarly views of the time of the composition of this regulation vary. From pre-monarchic period to the second century B.C.E. has been argued (see Nelson, *Deuteronomy*, 278). Milgrom argues for the divided kingdom. According to him, these regulations were composed as a political polemic against the Davidic dynasty (“Religious Conversion and the Revolt Model,” 173-74). Biddle points out that the hostile view of the Ammonites and Moabites reflects the long conflict between Israel and these two nations throughout the monarchy and into the exile (*Deuteronomy*, 344). Clements suggests the middle of six century B.C.E. because the hostility against the Moabites and the Ammonites and the favor of the Edomites and Egyptians reflect the social and political situations of the exilic period (“The Book of Deuteronomy,” 460-61). The bottom line is the regulation reflects a long period of time of composition. Moreover, not only religious view but also social and political views lie behind this regulation.

and the Egyptians). The ways to arrange the elements of the regulation manifests this contrast.

A. Accumulation and Synonymous Parallelism

In the two subsections (vv. 2–7 and vv. 8–9), two different ways of arrangement are employed to emphasize the contrast between two groups of nations. First, a scheme of accumulation, an arrangement in which new information is gradually added,¹¹³ is applied to the first section (vv. 2–7).

FIRST COMMAND (COMMAND-ONLY STRUCTURE)

The one whose testicles are wounded or whose penis is cut off shall not come into the assembly of Yahweh.

SECOND COMMAND (COMMAND-ONLY STRUCTURE)

A half-breed¹¹⁴ shall not come into the assembly of Yahweh.

Even the tenth generation shall not come into the assembly of Yahweh.

THIRD COMMAND (COMMAND-FIRST STRUCTURE)

The Ammonites and Moabites shall not come into the assembly of Yahweh.

Even the tenth generation shall not come into the assembly of Yahweh forever.

Because they did not meet you with bread and water . . .

but it hired against you Balaam son of Beor . . . to curse you.

113. Robert Alter calls this phenomenon “incremental repetition” (*The Art of Biblical Narrative*, 98-100). Exemplary speeches come from 1 Kgs 1:13, 17–18, and 25-26, the speeches of Bathsheba to David and Nathan to David. This device has an effect of highlight the argument (ibid., 100).

114. The term ממוזר could also refer to children born of incestuous relationships (Craigie, *Deuteronomy*, 297). If this is the case, the second case is nicely connected to the third one. According to the etiological narrative in Gen 19:30–38 the Moabites and Ammonites are the product of such incestuous sexual relationships (Milgrom, “Religious Conversion and the Revolt Model,” 174).

The first section is composed of three units of commands (v. 2, v. 3, and vv. 4–7). In the first command, the prohibition is delivered in a command-only structure. No rationale is given. Any sexually disabled male, whether an Israelite or not, is not allowed to enter Yahweh’s assembly. In the second command, the form of command is the same, but new information concerning the temporal scope is introduced: “even the tenth generation.” This new element intensifies the severity of this command. In the former, the prohibition is limited to an individual. In the latter case, the prohibition extends to ten generations. By this newly added information, it becomes clear that the second category of people is more strongly excluded from the assembly of Yahweh. Then, in the third command, more information is added. Not only the tenth generation of the Ammonites and Moabites but also all the coming generations of the nations are excluded by the newly added term “forever.”¹¹⁵ According to this observation, it follows that the three categories of people prohibited from the assembly of Yahweh move from one generation through the tenth generation to the never-ending generations. In addition, the scope of a prohibited group is broadened from an individual level (v. 2), through a family level (v. 3),¹¹⁶ to a national

115. As some commentators point out, the term tenth generation may not mean literally the tenth generation but denote *forever* (Tigay, *Deuteronomy*, 211). Even though this interpretation is plausible, it cannot be denied that the third category of exclusion (v. 4) is emphasized by the newly added term “forever (עַד־עוֹלָם).” The never-ending exclusion of the Moabites and Ammonites from the assembly of Yahweh is double-intensified by the term “forever” along with “tenth generation.”

116. The second case pertains to a family level because מִמּוֹר cannot be made by oneself. The half-breed is the result of sexual intercourse between a man and a woman, one of whom does not belong to Israel.

level (v. 4). Because of this movement from a narrow area to a broader one in time and space, the final prohibition draws the attention of the audience.

This conclusion is supported by the following fact. Only in the third category of exclusion are supporting reasons given (v. 5). The Ammonites and Moabites are prohibited from membership in Yahweh's assembly because they did not provide food and water for the Israelites coming out of Egypt.¹¹⁷ Worse than that, they attempted to curse Israel. These two reasons strongly support the idea that these two nations should be excluded from Yahweh's assembly forever. In sum, in the first subunit (vv. 2–7), all the interest is moving forward to the strong prohibition of the Ammonites and Moabites from entering Yahweh's assembly.

Second, unlike the cumulative way of describing the prohibited ones in vv. 2–7, the two permitted nations in vv. 8–9 are synonymously paralleled to each other:

You shall not abhor (לֹא־תִהְיֶה עִב) the Edomites for (כִּי) they are your brothers.
You shall not abhor (לֹא־תִהְיֶה עִב) the Egyptians for (כִּי) you were a stranger in its land.

These two commands are formed into the same rhetorical structure: a command-first structure. After giving a command, the legist offers a reason. Each rationale for each

117. The action of not offering food and water in fact signals hostile intention (cf. Deut 2:27–30). Yet, this information contradicts the reports in Deut 2:28–29 and 37. According to Deut 2:28–29 the Moabites offered food and water to the Israelites; according to Deut 2:37, Israel just bypassed the Ammonites even without asking food and water. Tigay, *Deuteronomy*, 211, suggests that Deut 23:5a draws on a different tradition which is not preserved.

command pertains to the addressees's past relationship with the foreign nations in question. The Edomites originated from Esau who was the brother of Jacob. The Israelites as sojourners lived with the Egyptians.¹¹⁸

By these different ways of arrangement, these two nations, the Edomites and the Egyptians, are contrasted to the Ammonites and the Moabites in terms of their qualification to enter Yahweh's assembly.

B. Change of Subject: From Third Person to Second Person

The change of the subject places an emphasis upon the permitted nations of the two contrasting groups of nations. The subjects of this regulation are changed from third person (vv. 2–4) to second person (vv. 5–8), and back to third person again (v. 9). The difference in person signals the difference in the way of approaching the audience. In vv. 2–4, the three prohibited groups are introduced in third person speech. The three sentences in vv. 2–4 begin with **לֹא־יָבֹא** (one shall not come). As a result, the audience, by appearing as a second person in speech, maintains some distance from the prohibition. This way of rendering the situation symbolizes that the audience does not belong to these prohibited groups but is differentiated from them. This differentiation is intensified in vv.

118. It would be hard to accept the request of hospitality on the Edomites and Egyptians because according to the reports of the Hebrew Bible, the Edomites were at enmity with Israel (Num 20:14–21), and Egyptians were the very people who oppressed the Israelites in the time of their slavery. Yet, as Biddle argues, “the bonds of kinship and hospitality outweigh all other considerations” (*Deuteronomy*, 344; see also Tigay, *Deuteronomy*, 212).

5–8 by directly appealing to the audience in second person speech. “Because they did not meet *you* with bread and water on the road when *you* came out of Egypt. And he¹¹⁹ hired against *you* Balaam . . . to curse *you*” (v. 5). The audiences who stay objectively at a distance from the prohibited groups are now drawn into this law. Moreover, in v. 6, Yahweh’s affective closeness to the audience is emphasized, so that the audience is now clearly differentiated from the prohibited groups. The audiences are those whom Yahweh has loved. Then, the closing command of the first subunit is directly addressed to the second person audience: “you shall not seek for their peace nor their goodness all your days, forever.”¹²⁰

However, from v. 8, Israel’s differentiated relationship with other nations (the Moabites and the Ammonites) is now reversed. The Edomites and the Egyptians are linked with Israel, and this linkage is expressed in the second person. Because of the presentation of Israel’s connection to these two nations in the second speech, the Israelites could be attached to them. “For they (the Edomites) are *your* kin . . . for *you* were strangers in their (the Egyptians) land.” Thus, the alternation of second and third

119. The subject of the verb (שכר) is singular which does not fit with the previous verse. In addition, the second person singular also disagrees with the second person plural in v. 5a. For this disagreement, David Frankel argues that originally the subject was plural but the later scribes emended it into singular in order to harmonize this with the report of Numbers 22-24 (“The Deuteronomic Portrayal of Balaam,” *VT* 46 [1996]: 30-42). Whether or not this is the case, the third person singular subject can be simply understood that it refers to Balak, king of Moab.

120. Von Rad, *Deuteronomy*, 145, points out that v. 7 did not belong to original portion of this legal unit.

preson is rhetorically employed and achieves its rhetorical goal, that is, the audience's detachment from the prohibited nations and attachment to the allowed groups in the list of membership of Yahweh's assembly.

In sum, the arrangement shows the contrast between two groups of nations and the change of subjects put an emphasis on the allowed nations.¹²¹

XV. 23:10–15 Purity of the Military Camp

The main aim of this regulation is to maintain holiness in a military camp, so that Yahweh will be continually present within the camp. Yahweh's presence in a military camp is essential for the Israelites's military success. Thus, the main concern is how to ensure Yahweh's presence in the Israelites's military camp and guarantee their victory.

A. Rhetorical Structure: Elaboration with Examples

This legal unit is shaped into a triadic structure with an elaboration of the main command. The general information given in the main clause is specified with two examples which serve rhetorically to explain the general information. Because of these examples, the addressees can better understand what the main command means. The following chart shows this feature.

121. McConville points out "a gradual progression from Canaanite worshippers through prohibited foreigners to foreigners who may in time join the assembly of Yahweh" (*Deuteronomy*, 348). Although he does not mention the implication of this observation, this progression implicitly shows the emphasis lies upon the last groups, the allowed nations.

CIRCUMSTANCE

When you go out as an army against your enemies (v. 10a),

MAIN COMMAND

you shall be on your own guard against anything malicious (דבר רע) (v. 10b),

TWO EXAMPLES

nocturnal emission (vv. 11–12)

human excrement (vv. 13–14)

MOTIVATION

for Yahweh your God is walking among your army to save you . . . (v. 15)

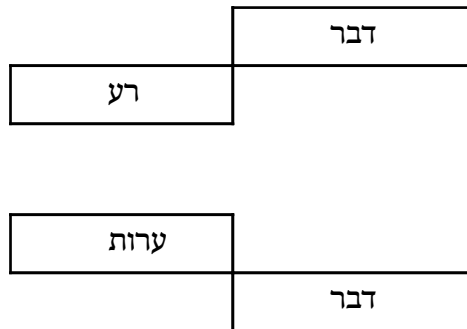
In the chart above, the main command is not specific; that is, the malicious thing (דבר רע) is not explicitly spelled out. It could be anything that meets the semantic scope of רע.¹²² So, the readers would question what the phrase דבר רע might mean. In order to answer the assumed question, the legist specifies the malicious thing (דבר רע) with two concrete examples: nocturnal emission (vv. 11–12)¹²³ and human excrement (vv. 13–14). These specified examples make it possible for readers to put the main command into practice.

122. As for the meaning, Mayes says that this phrase denotes “what is unfitting” (*Deuteronomy* 318). So, anything unfitting could be the subject of this regulation. Among the diverse meanings possible, Craigie (*Deuteronomy*, 299) argues that in this context this term means hygienic and ritual uncleanness. No moral aspect is assumed. Craigie’s view does not draw upon the phrase דבר רע itself, rather it reflects the two examples offered in the text. In addition, the same expression is found in 17:1 in which the phrase is used to indicate any animal which is not ritually pure for offerings. Thus, it can be said that the phrase דבר רע itself does not tell a specific case. The meaning of דבר רע should be decided on the basis of its literary context.

123. Craigie suggests that this could refer to urination at night which makes perfect sense with vv. 13–14 (*Deuteronomy*, 299). Yet, literally the first example means that what happens at night (McConville, *Deuteronomy*, 346; Nelson, *Deuteronomy*, 279).

B. *Inclusio* and Chiasmus

This regulation is framed by the phrases **דבר רע** and **ערוות דבר**. These phrases emphasize the main issue of this regulation: “something malicious” and “nakedness of things” should be avoided. These two phrases form a chiasmic pattern.



The term **דבר** brackets this regulation. The unspecified “thing” (**דבר**) is modified by two terms, **רע** and **ערוות**. The stylistic feature of these modifying terms is that the consonants of **רע** and **ערוות** are in the order of **ר – ע – ע – ר**. This order also is formed in a **ABBA** pattern. The rhythmic sound of this literary, stylistic feature draws the addressees’s attention to the indecent things to be avoided.

C. Holding Important Information until the End (vv. 13–14)¹²⁴

In the second example regarding human excrement, the legislator does not explicitly spell out what the issue is until the very end. Indeed this unit begins with an enigmatic term **יד**,

124. Gene R. Smillie points out that this is a rhetorical technique which the author of Isaiah 40–55 used. The author intentionally delays to disclose who is the suffering servant in the Servant songs till later (“Isaiah 42:1–4 in Its Rhetorical Context,” *BS* 162 [2005]: 50).

which generally means a “hand,” but here refers to a place (an area outside the camp). Except for the spatial term and other information regarding tools, the legist does not mention until the end what the place is set up for .

ויד תהיה לך מחוץ למחנה
ויצאת שמה חוץ
ויתד תהיה לך על-אזנך
והיה בשבתך חוץ
וחפרתה בה
ושבת וכסית את-¹²⁵צאתך

The legist saves the main issue for the end in order to increase the audience’s curiosity. This curiosity functions to make the audience pay attention to the law, and this strategy is effective to make the audience concentrate on what is being said and written.

In sum, the use of examples, chiasmic pattern, and holding the significant term until the last serves to underline the main issue.

XVI. 23:16–17 A Fugitive Slave

This regulation prohibits the Israelites from handing a fugitive slave back over to his or her master. This regulation is peculiar in two aspects. First, protecting a fugitive slave was not common in other nations. In the ancient Near Eastern world, a fugitive slave was customarily returned to his/her original master or mistress. Typically, the expectation is

125. The term **צאה** draws readers’s attention. Although its derivation is uncertain (cf. *HALOT*, **צָאָה**, III: 992), the term could have something to do with the verb **יצא**. This verb begins this regulation and reappears in a section pertaining the human excrement (v. 13b). This literary feature has also been recognized by scholars (McConville, *Deuteronomy*, 350; Nelson, *Deuteronomy*, 279).

that if one harbor a fugitive slave, one should be killed.¹²⁶ Second, not only does this regulation command that a fugitive slave be protected, it also commands that the fugitive slave be given an opportunity to choose where to live. They could live wherever they want. Indeed, the ways to deal with a fugitive slave are unique. In order to make this regulation appealing, the legislator not only arranges the commands in a rhetorical structure but also carefully chooses a keyword and a familiar concept to elevate the dignity of a fugitive slave.

A. Rhetorical Structure

This regulation is formed into command-only structure, in which three consecutive commands are listed. Two of them are proscriptions, and the third is a prescription. The prohibitions are directed at the Israelites; the prescription has a fugitive slave as its subject.

proscription

You shall not hand over a slave to (לא) his master who seeks refuge (יִצְדֵּק) with (אל) you from (מעמו) his master.

prescription

With you he shall live among you in any place . . .

proscription

You shall not oppress him.

126. LH viii 37-48; Roth, *Law Collections*, 84-85.

The chart above shows that two proscriptions addressed to the Israelites bracket a prescription addressed to the fugitive slave. This structure implicitly shows that the fugitive slave is to be perfectly supported and protected by the Israelites. Contents also support the favor to the fugitive slave that the structure implies. The proscriptions toward the Israelites are in favor of the fugitive slave. An Israelite should not return a fugitive slave to his owner nor oppress him. The prescription at the center of this regulation is also in favor of the fugitive slave. The fugitive slave has an opportunity to choose a place to live. Thus, the structure as well as the contents favor the fugitive slave.

B. Verbal association

1. נצל

The legist makes an analogy between the Israelites and Yahweh as well as a fugitive slave by using the verb נצל. This verb is used twice in the DC. In the regulation of the sanctity of a military camp (Deut 23:10–15), it is said that Yahweh is present in the Israelite military camp to *save* (נצל) the Israelites (v. 15).¹²⁷ In the law of a fugitive slave (Deut 23:16–17), the fugitive seeks salvation (יִנְצֵל) from the Israelites (v. 16). So, the Israelites are placed in the same position with both the fugitive slave and with Yahweh.

127. Braulik also points out this verbal connection between 23:10–15 and 23:16–17 (*Die deuteronomischen Gesetze*, 90). In addition to the root נצל, he points out another associated term בקרב.

Deut 23:15	Yahweh	saves	<i>Israel</i>
		נצל	
Deut 23:16	<i>Israel</i>	is supposed to <u>save</u>	a fugitive slave

As this chart above implicitly indicates, when it comes to fugitive slaves, the Israelites should play the role of Yahweh, protecting and caring for the slave, in a manner similar to Yahweh walking around in their military camp to *save* them. In sum, the legist chose the term נצל to make the addressees consider their proper roles toward a fugitive slave. As a consequence, the Israelite addressees would not ignore a fugitive slave but care for him just as Yahweh has cared for them.

2. במקום אשר יבחר

Another example of verbal association is the phrase במקום אשר יבחר (the place that *one* will choose). This phrase is employed to command the Israelites to allow a fugitive slave to choose where to live. This permission is not just to give the right to choose a dwelling place to the fugitive slave. In fact, the formula symbolically elevates the status of the fugitive slave.

In deuteronomic expressions, the verb בחר normally has Yahweh as its subject. It is Yahweh who will *choose* the place of worship: יהוה אלהיך/כם (Deut 12:5, 11, 14, 18, 21, 26; 14:23; 15:20; 16:2, 6, 11, 15; 17:8, 10; 26:2). It is Yahweh who will *choose* a king for Israel (17:15) and priests to serve Yahweh (18:5; 21:5). It is

Yahweh who *chose* the Israelites as Yahweh's people (14:2). Only in 23:17 is it a fugitive slave who *chooses* a place. Applying the verb בחר to a fugitive slave implies that his social position is elevated. A fugitive slave becomes a person who has a right to choose a dwelling place according to his own will.¹²⁸ He is no longer a fugitive slave but becomes a member of the Israelite community.

In sum, this regulation appeals to the addressees by its rhetorical structure, a form in which two proscriptions embrace a prescription, and by two terms, one of which implies how the Israelites should act toward a fugitive slave and the other of which implies the elevated position of a fugitive slave.

XVII. 23:18–19 Prohibition on Prostitution

This regulation prohibits any Israelite from being a male or female prostitute (קדש/קדשה);¹²⁹ it also prohibits them from bringing their earned money into the temple of

128. In fact the use of the formula serves to *identify* Yahweh with a fugitive slave. Yet, it should be also mentioned that even though the cultic centralization formula is used, the form is not identical because of the term שערִיד. This term is usually used in connection with the law of profane slaughter or with a local community, but not with a central place chosen by Yahweh. So, even though the phrase במקום אשר־יבחר functions to symbolically elevate the fugitive slave to a divine position, the use of שערִיד serves to limit the position of the slave.

129. The meaning of קדש/קדשה is debatable. Some scholars argue that the terms refer to cult prostitutes (Craigie, *Deuteronomy*, 301; Braulik, *Deuteronomium II 16,18–34,12*, 173). Braulik in particular points out that just as in the ancient Near Eastern there were cult prostitutes, so Israel had such an institution as attested in 1 Kgs 14:24; 15:12; 22:47; 2 Kgs 23:7; Hos 4:14. They functioned to support the temples financially (*ibid.*, 173).

However, some scholars do not agree with reading Deut 23:18 as referring to the institution of cult prostitution. They argue that even if such practice existed in ancient Near Eastern world, this fact should not be brought into texts which do not tell anything about cult prostitution (Riegner, *The Vanishing Hebrew*

Yahweh.¹³⁰ In order to persuade the addressees to accept the proscriptions, the legist uses rhetorical devices such as repetition and motivation, drawing on a major theological idea, Yahweh's abomination.

A. Paired Words

The legist arranges the legal elements with two sets of paired expressions: (1) a female prostitute (קדשה) and a male prostitute (קדש), and (2) the wage of a female prostitute (אתנן זונה) and the wage of a male prostitute (מחיר כלב).¹³¹

מבנות ישראל	קדשה	לא־תהיה	A
מבני ישראל	קדש	ולא־יהיה	A'
	אתנן זונה	לא־תביא	B

Harlot, 45). Especially Riegner concludes that the absence of textual evidence of cultic prostitution in the Mesopotamian religious system signals the absence of such an institution (*ibid.*, 25-47, esp., 46). Tigay also points out that even though cultic prostitution was practiced in the ancient Near Eastern world, the term prostitution itself is not appropriate because such a practice aimed to secure the land's fertility and welfare by invoking gods (*Deuteronomy*, 480-81). To him, קדש/קדשה refer not to a temple prostitute but to a street prostitute who made donations to a temple (*ibid.*, 215-16, 481). Riegner argues that at best the term קדשה could mean a goddess relating to a temple (*The Vanishing Hebrew Harlot*, 47).

130. Micah 1:7 visualizes the sin of Israel. The money from harlots were brought into the temple. This very action of collecting money from a harlot is strongly prohibited in Deut 23:18.

131. The exact meaning of this phrase is uncertain. Some argue that the term כלב is an epithet for a male prostitute (Tigay, *Deuteronomy*, 216; also see *ibid.*, 387 n.74; Biddle, *Deuteronomy*, 346). Others argue that the term refers to a "devoted follower of a god" (D. Winton Thomas, "Kelebh 'Dog': Its Origin and Some Usages of It in the Old Testament," *VT* 10 [1960]: 425-26). The former is more convincing because (1) כלב is in parallel with זונה which clearly means a female prostitute (Craigie, *Deuteronomy*, 302); (2) כלב is used along with a prostitute in 1 Kgs 22:38 (Tigay, *Deuteronomy*, 216, 387).

ומחיר כלב

B'

בית יהוה אלהיך

Not only does A corresponds to A' and B to B', but A also corresponds to B, and B to B' according to linear parallelism by keywords: קדשה in A corresponds to זונה in B, and קדש to כלב.¹³² The first paired terms קדשה and קדש are specified by the second paired term זונה and כלב. Moreover, the second paired terms introduce a new element, that is, money (מחיר and אתנן). The prohibition of the existence of קדש and קדשה in Israel is made more specific by the prohibition of bringing the earned money of זונה and כלב into Yahweh's house. This systematic and symmetric arrangement of the paired terms clearly indicates what this regulation aims to prohibit.

B. Repetition

Repetition of key words achieves a rhetorical effect. The terms “Israel” and “Yahweh your God” are repeated twice. The former appears at the end of two lines in v. 18. Any *kedeshah* (קדשה) or *kadesh* (קדש) should not be found among the sons and daughters of *Israel*. After that, in v. 19 the expression “Yahweh your God” appears twice: to the house of Yahweh your God (v. 19a) and the abomination of Yahweh your God (v. 19b). First,

132. Riegner disagrees with reading v. 18 and v. 19 together because they are syntactically irrelevant (*The Vanishing Hebrew Harlot*, 46). However, in a current form these two prohibitions are closely related. The phrase, גַּם־שִׁנְיָהֶם, at the end of v. 19 signals that the legislator put these two prohibitions together as one regulation (Nelson, *Deuteronomy*, 281). Most scholars interpret v. 18 in a connection with v. 19 (Craigie, *Deuteronomy*, 301-302; Tigay, *Deuteronomy*, 215-16; Biddle, *Deuteronomy*, 346).

the repetition itself draws readers's attention to these two expressions. Second, the two expressions drawing attention remind the addressees of their identity. The Israelites are defined in relation to Yahweh. Yahweh is *their* God. Their God wants them to keep God's house pure and avoids anything abominable. Thus, these terms might motivate the addressees to keep this regulation because of the recollection of their close relationship with Yahweh, their God.

C. Abomination of Yahweh

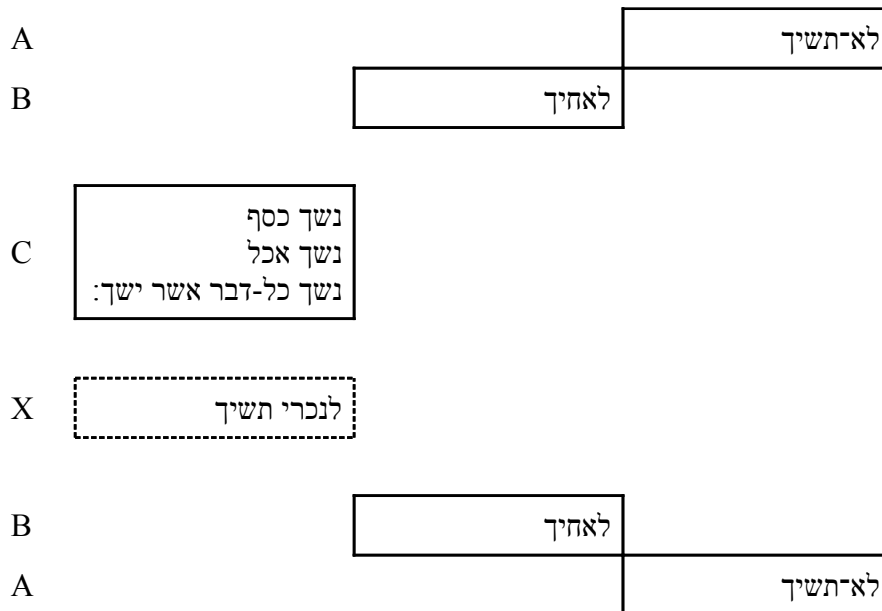
As mentioned in chapter 3. II. E. 2 and in chapter 4. VI (Deut 22:5), the notion of Yahweh's abomination functions to motivate the addressees to observe this regulation.

XVIII. 23:20–21 Prohibition against Taking Interest

This regulation prohibits the Israelites from gaining any interest from fellow Israelites. In order to appeal to the addressees persuasively, the legislator not only repeats the main command in a chiasmus, but also provides a motivation clause with a common theological idea: Yahweh's blessing.

A. Repetition and Chiasmus

First, the main proscription "do not take interest from your fellow Israelites" is repeated in the framework of a chiasmic structure of vv. 20–21a, for the purpose of its rhetorical effect on the addressees.



As this chart illustrates, the negated verb לא־תשיך brackets vv. 20–21a, and the object of the verb consists of the inner frame. In the center, the kinds of interest are introduced comprehensively. Within this chiasmic structure, repetition has its own rhetorical functions. In the outer frame, the proscription “Do not take interest from one’s neighbor,” is repeated verbatim so that it has emphasis and might be inculcated into the addressees. Likewise, the three repetitions of נשך in the center of the chiasmic structure serves to emphasize the prohibition on taking interest. No type of interest is allowed.

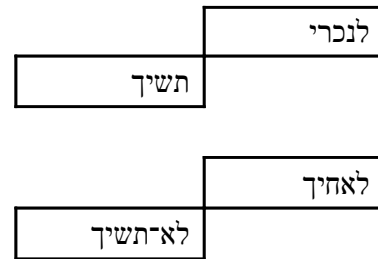
Yet, there is an abnormal element in this chiasmic structure, that is, the phrase לנכרי תשיך (feature X). Because it is an aberrant feature, it also attracts the addressees’s attention. This line is in fact intentionally formed to emphasize the main concept. Line X

forms an antithetic chiasmus with lines A and B (v. 20αα). At the same time, it forms an antithetic ABA'B' structure with the following lines B and A (v. 21aβ).

ANTITHETICAL CHIASMUS



ANTITHETICAL ABA'B'



The term נכרי corresponds to the opposite semantic scope of אה. Likewise, the negated verb in the first line is changed into the positive verb. This change happens one more time in the ABA'B' structure: לנכרי vs. לאחִיךָ and תשיך vs. לא־תשיך. By this double structural connection and its position at the center, permission to take interest from a foreigner is given attention. Moreover, it can be said that the idea that the addressees are allowed to take interest from a foreigner is given as a quasi-motivation of not taking interest from fellow Israelites.

B. Motivation with Yahweh's blessing

The second rhetorical strategy is to motivate the addressees by one of the main Deuteronomistic ideas: Yahweh's blessing. Verse 21b promises that Yahweh will bless all the work of the addressees. Concerning the command in vv. 20–21a, the addressees may think that if they do not take any interest, their chance of financial benefit will be reduced. As a response to this possible objection, the legislator reminds the addressees of the

promise of Yahweh's blessing. Yahweh's blessing will come upon them sufficient to compensate the supposed financial reduction.

In sum, the rhetorical structure in this regulation highlights the significant elements, and the motivational clause serves to enlighten the addressees to think that their possible financial risk will be compensated by Yahweh's blessing. Thus, the addressees could observe this regulation.

XIX. 23:22–24 Fulfillment of Vows

These regulations have two main instructions concerning vow. First instruction is that one should not delay in fulfilling one's vow if one vowed to Yahweh.¹³³ Second instruction is that one should not vow at all if one would not fulfill it. These two instructions are properly emphasized by a chiasmic structure. In particular, the second instruction is highlighted at the center of this structure. The first instruction is motivated by theological concepts.

A. Motivations

The motivational clause serves to move the addressees to observe the regulation in Deut 23:22. This regulation has a typical form of triadic structure. After setting up a situation, the legislator proclaims the main command, supporting it by motivational clauses.

133. There are two types of vows. The first type of vow is a promise to give something to a god on behalf of divine help (vow as gratitude for divine assistance). The second type of vow is a personal abstention from certain ways of living (vow of abstention) (Tigay, *Deuteronomy*, 218). Among these two types of vows, Deut 23:22–24 is likely to deal with the former since the issue pertains to the delay of fulfilling the vow and the divine request for what is vowed.

CONDITION

If you make a vow to Yahweh your God,

COMMAND

you shall not delay in fulfilling it.

MOTIVATION

Because Yahweh your God will surely require it from you,
And sin will be within you.¹³⁴

A similar regulation to this is found in Eccl 5:3a.¹³⁵ The first two sentences of both verses are almost identical.

Deut 23:22a	Eccl 5:3aα
כִּי-תִדַּר נִדַּר לַיהוָה אֱלֹהֶיךָ	כַּאֲשֶׁר תִּדַּר נִדַּר לַאֱלֹהִים
לֹא תֵאָחֵר לְשַׁלְּמוֹ	אֶל-תֵּאָחֵר לְשַׁלְּמוֹ

Except for divine appellation, conjunction, and particle, these two verses employ the same verbs, and even the syntactical composition is identical. Yet, these two verses are different in the supporting motivations.

134. The expression **היה ב- חטא** is an idiom to connote one's guilty status. This expression is found only in Deuteronomy (Deut 15:9; 21:22; 23:22, 23; 24:15). As for the translation of v. 22b (**והיה בך חטא**) two main suggestions are attested. First of all, it can be translated "it will be sin in you." LXX, KJV, ASV, and NAS follow this translation. However, it does not clarify what the pronoun "it" exactly refers to. It could refer to the idea that Yahweh searched for the vow or it could refer to the slowness of the vow's fulfillment. The other rendering of this verse takes the second person as a subject. Thus, it is translated as "you will be guilty of sin" (NIV, NRS, TNK, NAB; McConville, *Deuteronomy*, 345). However, this translation does not match the Hebrew text itself. The verb **היה** has third person singular as its subject not second person. Given the weaknesses of both translations, I prefer the translation, "Sin will be within you." The subject of the verb **היה** is **חטא**. And, the term **חטא** is emphasized by putting it in the subject of the sentence.

135. Scholars have pointed out the similarity of 23:22–24 with Eccl 5:3–7 which signals wisdom influence upon this regulation (Christensen, *Deuteronomy 21:10–34:12*, 555; Mays, *Deuteronomy*, 105, 321; McConville, *Deuteronomy*, 352). The thematic flow of these two texts is identical: to vow → not to postpone → don't vow → the significance of what comes out of mouth.

Deut 23:22	Eccl 5:3a
כי-תדר נדר ליהוה אלהיך לא תאחר לשלמו <u>כי־דרש ידרשנו יהוה אלהיך מעמך</u> <u>והיה בכ חטא:</u>	כאשר תדר נדר לאלהים אל־תאחר לשלמו <u>כי אין חפץ בכסילים . . .</u>

In Eccl 5:3a β , the audience is encouraged to keep its vows by the motivation that there is no pleasure in fools. However, the legist of Deut 23:22 motivates the audience to fulfill a vow on time by stating that (1) Yahweh will require what has been vowed and, (2) if the vow is not yet fulfilled, it will be regarded as a sin for the vower.

The first motivation lies in the term דרש. This term denotes both “to be concerned with” and “to require.”¹³⁶ Thus, when it is mentioned that Yahweh surely דרש what one has vowed to Yahweh, it means that Yahweh is deeply concerned with it and requires it from the vower. Deut 22:2b β , which is the nearest occurrence of the term, shows a similar usage. According to Deut 22:2, when the original owner of a lost animal *requires* (דרש) it, one should return it to the owner. Just as the possessor should return an animal to the original owner if the owner of the lost animal *requires* it, so one should fulfill one’s vow to Yahweh when Yahweh *requires* it.

136. HALOT, דרש, I: 233.

In addition to this meaning, the expression “-מעם + דרש” idiomatically means “to punish.” The same expression is found in Deut 18:19. the warning is given that Yahweh will seek from one who does not listen to what a prophet proclaims in the name of Yahweh. In this literary context, the idiomatic phrase means that Yahweh will punish that one.¹³⁷ The statement of Yahweh’s punishment upon one who delays in fulfilling his or her vow is likely to motivate the addressees to fulfill the vow they made.

The second motivation draws on the noun form of the root א-ט-ח. This term is used more often in Deuteronomy than in any other biblical books. Among the total 34 occurrences of the term in the Hebrew Bible, the term is found eight times in Deuteronomy.¹³⁸ Two features are worth mentioning. First, the status of אטח takes place in one’s relationship with the others, and God is on the side of the victim in the relationship. According to Deut 15:9 and 24:15, one becomes guilty when the others plead to God concerning something wrong which the one has done to the others. Although it is not explicitly mentioned, God, who listens to the plea of the victim, certainly will be on the side of the victim. Second, its punishment oftentimes relates to the death penalty (Deut 21:22, 22:26 and 24:16). In particular, Deut 24:16 explicitly

137. Tigay, *Deuteronomy*, 177.

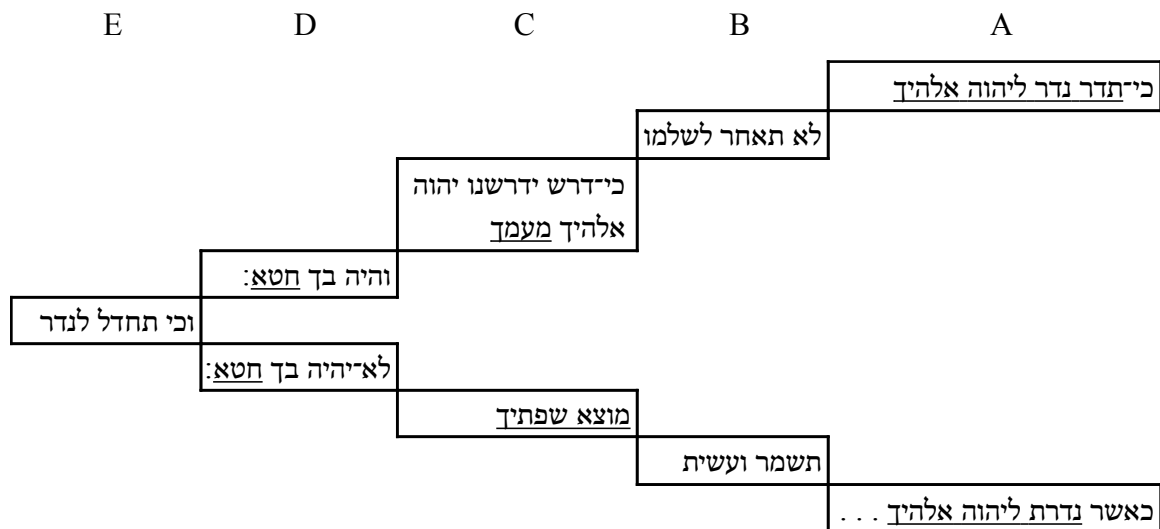
138. Deut 15:9; 19:15; 21:22; 22:26; 23:22, 23; 24:15, 16. This is the most frequent occurrence in the Hebrew Bible in comparison to other books. In Lev, Num, and Isa it is used four times; in Ps three times; in 2 Kgs and Lam twice; in Gen, Ezek, Hos, Eccl, Dan, and 2 Chr once (This statistic data is derived from Accordance 9).

relates the result of חטא to death. Thus, the expression “sin will be within you” (והיה בדך חטא) will ring a bell with the addressees that they should fulfill the vow in order not to commit a sin against Yahweh and to avoid a severe punishment.

In sum, Yahweh’s concern and request for the vow’s fulfillment and the alert that guilt will be upon the vower serve to make the addressees diligent in fulfilling their vows.

B. Chiasmus

The whole regulation of Deut 23:22–24 is formed into a chiasmic structure.¹³⁹ This chiasmic structure points out the center of this regulation, and the paired expressions created by this chiasmic structure emphasize the main points.



139. Nelson points out that Deut 23:22–24 is formed into approximately concentric structure (*Deuteronomy*, 282). However, in his scheme the column E, “if you do not make a vow,” is missing. Moreover, the column C in the chart above is combined with the column B. This merge can be plausible. Yet, the absence of column E leads him to miss a significant point.

According to this chiasmic structure several aspects are worth mentioning. First, each paired column emphasizes one idea by repeating a synonymous idea. In the outer frame (A) the theme of this regulation is manifested: making a vow to Yahweh. The next paired sentences (B) state the main command: do not delay in fulfilling the vow; do carefully what you uttered! The negative expression, not delaying the fulfillment of one's vow, is restated in a positive way: a careful observance of the vow. In column C, the terms מעמך and מוצא שפתיך are paired. Yahweh seeks only for what one utters through one's mouth. Column D repeats the term חטא which functions to motivate the addressees to observe this regulation.¹⁴⁰ Column E, the center of this regulation, states a situation in which one does not vow. This is indeed recommended because it is placed at the center. This condition is in contrast to the condition in column A: if one does vow to Yahweh. Whereas the whole regulation deals with a case in which one vows to Yahweh, the inner heart of this regulation tells one not to vow at all. Thus, this chiasmic structure shows that the law of making vows assumes two legal ideas. First, if one makes a vow, one should fulfill it. This is emphasized in the outer frame. Second, one should not vow at all, if one does not intend to fulfill the vow. This is emphasized at the center.

In sum, the chiasmic structure ably points out the main points, and the motivational clauses serve to move the addressees to observe the vow made to Yahweh.

140. See the discussion in chapter 4 XIX A.

XX. 23:25–26 Limitation on Foraging

The gist of this regulation is that the grapes in a vineyard and grains in a field – which include all the agricultural product of one’s neighbor – can be utilized by anyone (the audience)¹⁴¹ but cannot be stored for future use. This regal idea is rhetorically delivered in this regulation.

A. The Combination of Permission and Limitation

The main part is composed of permission and limitation. One may eat whatever one wants from a neighbor’s vineyard, but one may not use a vessel to collect it. In the same manner, one may gather ears of grain from the neighbor’s fields, but one may not use a sickle to gather them. This combination of permission and prohibition is a way to harmonize the benefits of both those who give and those who take.¹⁴² Emphasis is placed equally upon both parts. The permission part concerns the audience’s need; the prohibition concerns the owners’s property. To poor people, this regulation allows them to eat their fill. To the owner of a vineyard and a grain field, the regulation protects their property by prohibiting people from taking too much by using tools. By considering both

141. Tigay points out the halakahic view that this law should be applied only to those who are working in the field or vineyard (*Deuteronomy*, 219-20; *Mish.* BM 7:2). Yet, as Nelson points out, the audience of this law is not restricted to a certain group, but this law addresses the whole community (*Deuteronomy*, 282).

142. Brueggemann, *Deuteronomy*, 233.

parts, the legist successfully appeals not only to those who take freely but also to property owners so as to encourage them both to keep this regulation.

B. The Use of a Same Structure

This regulation is composed of two provisions with a same structure: no-motivation structure. The use of the same structure indicates the balance between the two parties.

PROVISION I		PROVISION II
כי תבא בכרם רעך	Condition	כי תבא בקמת רעך
ואכלת ענבים כנפשך שבעך	Permission	וקטפת מלילת בידך
ואל-כליך לא תתן:	Limitation	וחרמש לא תגוף על קמת רעך:

According to the chart, both provisions begin with a condition and offer a set of permission and limitation. By repeating this similar provision in the same structural pattern, the legist underlines the general legal idea of the right to consume someone's produce but not to do so to excess. Because of this repetition in structure, the legal idea, the respect of benefits of both the owner and the free-eaters, becomes clear and attracts the readers's attention. Moreover, the emphasis on the general legal idea makes it possible to apply this principle to other specific cases such as entering *other* agricultural fields. This means that this regulation is not exclusively applicable to only the above

mentioned two cases: vineyard and fields. This legal idea should control other specific cases too.

In sum, the repetitive pattern in similar legal cases serves to manifest a certain legal idea, and this legal idea can be applied to various specific cases which are not mentioned in the law.

XXI. 24:1–4 The Prohibition on the Remarriage with the Former Wife

It has been widely acknowledged that this law does not regulate the institution of divorce, although this regulation is the only legal case mentioning divorce.¹⁴³ Divorce was already an established custom in ancient Israel,¹⁴⁴ and the issue here is not whether or not it is acceptable. Rather, this regulation deals with a case that could happen after divorce. The main command in this regulation is that a husband cannot remarry his ex-wife after he had divorced her and she has been the wife of another man.¹⁴⁵ Should this happen,

143. See Pressler, *Family Laws*, 45; Nelson, *Deuteronomy*, 286; Driver, *Deuteronomy*, 269. The structure of this regulation shows that the main concern is not on the allowance of divorce. The topic of divorce appears as the main clause only when one reads v. 1bβ. Yet the same three steps of verbs function to depict a circumstance or condition in v. 3aβ. In vv.1bβ and 3aβ, identical expressions are used (וּכְתַב לָהּ (סֵפֶר כְּרִיתַת וּגְתַן בִּידָהּ וּשְׁלַחָהּ מִבֵּיתוֹ). This intentional arrangement of the same verbs signals that the divorcing procedure in v. 1 could also serve to demonstrate a condition of this regulation rather than the main issue.

144. Driver, *Deuteronomy*, 269; Craigie, *Deuteronomy*, 305.

145. Scholarly consensus holds that vv. 1–3 are the protasis and v. 4 is the apodosis (Pressler, *Family Laws*, 46; Craigie, *Deuteronomy*, 289; Mayes, *Deuteronomy*, 322). However, concerning the intention or rationale for this prohibition several different views have been suggested (Pressler, *Family Laws*, 45, 51-59). Some argue that this regulation intends to prevent a husband from divorcing so easily (Driver, *Deuteronomy*, 272; Craigie, *Deuteronomy*, 290; David Instone Brewer, “Deuteronomy 24:1–4 and the Origin of the Jewish Divorce Certificate,” *JJS* 49 [1998]: 230-43). Some argue that the regulation aims at

resistance from the first husband could be expected, for reunion would be regarded more common and natural in the ancient world.¹⁴⁶ In order to present the command more persuasively expecting such an objection from a former husband, the legist employs various rhetorical strategies.

A. Derivation from a Fixed Pattern

This regulation is shaped into a triadic structure. However, the length of each component is not equal. The conditional clauses or circumstantial clauses are three verses, but only one verse is allotted to two other elements. In addition to the difference in length, the placement of the command (v. 4aα) functions to draw the audience attention. The following chart (Deut 24:1–3) demonstrates how the command draws the reader’s attention.

protecting the second marriage (Reuven Yaron, “The Restoration of Marriage,” *JJS* 17 [1966]: 8). Some argue that the prohibition is made because of the woman’s adultery (Craigie, *Deuteronomy*, 289-90). Westbrook looks at this regulation from a financial perspective. According to him, this law intends to prevent her first husband from taking double advantage of the divorce and remarriage. He could take the first bride-price as well as the second bride-price (“The Prohibition on Restoration of Marriage in Deuteronomy 24:1-4” in *Studies in Bible* [ed. Sara Japhet; ScrHier 31; Jerusalem: The Hebrew University Press, 1986], 387-406; cf. Jan L. Verbruggen, “Of Muzzles and Oxen: Deuteronomy 25:4 and 1 Corinthians 9:9,” *JETS* 49 [2006]: 704-705). Wenham argues that remarriage in Deut 24:1–4 is an incestuous act because the first husband and his ex-wife became relatives and this relationship continues after divorce (“The Restoration of Marriage Reconsidered,” *JJS* 30 [1979]: 36-40).

What lies behind the main command is not the main concern of this dissertation. Rather, the focus is on how the main command is delivered in a persuasive way.

146. Yaron points out that the prohibition against the restoration of marriage is peculiar in the ancient world (“The Restoration of Marriage,” 4). Westbrook also supports this view with some examples from biblical texts as well as Mesopotamian legal codes (“The Prohibition,” 392-93). cf. Crüsemann, *The Torah*, 256.

	a first marriage (vv. 1–2)	a second marriage (v. 3)
Condition	If a man takes a wife ... he finds against her something indecent	if the other man hates her
The procedure of divorce	and he will write a certificate of divorce and he will give to her hand and he will send her away from his house	and he will write a certificate of divorce and he will give to her hand and he will send her away from his house ...
After divorce	and she will go out from his house and she will go and she will belong to another man	

Deut 24:1–3 depicts a woman’s two times of marriage. These marriages show a similar pattern: a condition, the procedure of divorce, and its result. Because of the use of similar pattern, the addressees would expect that the empty box in the chart above would be something equivalent to what the divorced woman did in the first divorce. However, that is not what the legislator did in this regulation. Rather, the legislator put the main command in the place, where the readers would not expect to see it, to draw the readers’s attention.

Moreover, the long conditional clauses delay the regulation itself, keeping the readers waiting for the “punchline” of the situation. The long conditional clauses that depict the legal situation in detail ends with one composite sentence, followed by two

motivational clauses. This arrangement serves to emphasize the command itself, and draws the readers's attention to these relatively short, condensed statements due to their brevity and placement.

B. Offering Reasons for the Prohibition

The legist offers three rationales for prohibiting the husband from remarrying his former wife: (1) she is defiled; (2) such a behavior is the abomination to Yahweh; (3) such a behavior will draw a sin upon the promised land. These three rationales would function to make the addressees accept this regulation because the combination of these three rationale serve as strong motivation to the addressees.

1. *huṭṭammā'āh*

The term *huṭṭammā'āh* gives a clue that the woman's defilement is made to her, not caused by her, and that the responsibility for this defilement lies on her first husband.

This first rationale appears right after the main proscription at the end of v. 4aα. The man cannot take her again to make her his wife after *huṭṭammā'āh*.¹⁴⁷ The precise connotation of this verb is disputed.¹⁴⁸ In general, it suggests that she is defiled, and the verb **חטט** is

147. This is a *huppa'al* form of **חטט**. The form is not common. Only three other examples are found in biblical Hebrew: Lev 13:55, 56; Isa 34:6, and the occurrences in Lev 13:55-56 reflect a repetition of the same verb. Thus, only two other verbs are attested in the Hebrew Bible (John H. Walton, "The Place of the *Hutqattēl* within the D-Stem Group and Its Implications in Deuteronomy 24:4," *HS* 32 [1991], 9).

148. The exact cause for her defilement is enigmatic, and it is disputed in scholarly debate (See McConville, *Deuteronomy*, 359).

connected to the connotation of adulterous behavior.¹⁴⁹ However, such connotation of sexual defilement cannot be supported by the text because the divorced woman could marry another man. There is no implication that the second marriage is viewed as an adulterous action.¹⁵⁰

Unlike the negative view of the woman, Walton focuses on the negative role of the first man. After considering the meaning of the D-stem, he concludes that the *hutpa'al* form gives a passive meaning to both a subject and an under-subject.¹⁵¹ Thus, he translates the term as “she had been made to declare herself to be unclean.”¹⁵² The implication of this translation is that the first husband cannot return his former wife because *he* previously forced his former wife to declare herself to be unclean. This action should be made in public and all the shame is poured upon her. This interpretation gives an insight into the responsibility of the first husband in making his wife defiled.

149. Craigie, *Deuteronomy*, 289-90; Pressler, *Family Laws*, 48. Although the status of טמאה can result from contacts with a corpse, or unclean animals, and from bodily emissions such as a childbirth, menstruation, and semen, these types of pollution can be cured by rituals or isolation for a certain period of time (For the list of such pollutions refer to Frymer-Kensky, “Pollution, Purification, and Purgation in Biblical Israel,” in *Studies in Bible and Feminist Criticism* [Philadelphia: The Jewish Publication Society, 2006], 334-35). However, the defiled status of the divorced woman seems to be permanent. Any way to restore her purity is not mention nor implied. Thus, this belongs to a pollution caused by wrongdoing.

150. Yaron and Westbrook rightly point out this problem (Yaron, “The Restoration of Marriage,” 6-7; Westbrook, “Prohibition,” 389).

151. Walton, “The Place of the *Hutqattēl*,” 10.

152. *Ibid.*, 11.

Although the legal text itself does not give any hint of this conjectured picture, the mode itself gives enough clues to discern what the legislator intends to deliver to the addressees. The verb טמא is used with a passive meaning.¹⁵³ The woman is not the active agent of her defilement. Rather, she is a receiver of the action of making one unclean.

The woman's passiveness becomes evident when one looks at a verb שלח, which modifies her former husband in v. 4a. Although the action "send" is not the only action that the husband is to take, this verb is singled out to describe her first husband. This verb directly explains that the former husband is the one who *sent away* (שלח) his wife, and this action made his wife sexually unclean. The text puts no blame on the side of the woman. Rather, the choice of verb שלח and the passive voice of טמא implicitly emphasize some fault on the side of the first man. Thus, his inability to take his former wife back is understandable.

2. Abomination of Yahweh

The second reason given is that such an action is repugnant before Yahweh (תועבה). This term repeatedly appears throughout the DC. We already saw this term in previous legal cases in 22:5 and 23:18–19, where it was also connected to sexual infractions.

153. Eve Levavi Feinstein, "Sexual Pollution in the Hebrew Bible," in *Bodies, Embodiment, and Theology of the Hebrew Bible* (ed. S. Tamar Kamionkowski and Wonil Kim; New York: T&T Clark, 2010), 132 n. 62; Pressler, *Family Laws*, 48–49 n. 9.

3. The Communal Responsibility to Preserve the Land Pure

The third rationale behind the proscription is that the Israelites should not bring any sin upon the land that Yahweh has given to them. This statement assumes that retaking a divorced woman after she had married another man will defile their living place. Even though the reason why such an action would bring sin upon the dwelling place is debatable, there is one clear rhetorical strategy employed by the legislator.

By suddenly changing the subject of the action verbs from the third person to the second person, the legislator explicitly connects the hearer to the consequences of the action. From the beginning of the unit until this last statement, all of the subjects of action verbs are in the third person: a man, a woman, another man. The audience is not directly involved in this case. It is a detached description of a situation that need not relate directly to the audience. However, at last it turns out that the effect of such an action bears directly upon the land in which the audience themselves are living, even though they have nothing to do with this case of divorce and remarriage. With this subtle rhetorical flourish, the legislator implicitly suggest that the audience shares the responsibility of keeping the land from sinful behaviors. Thus, the change of subject from the third person to the second person is rhetorically effective in making the audience to monitor to prevent such an action from happening.

In sum, the arrangement of legal elements places an emphasis on the main command, and the motivations move the addressees to observe the main command.

XXII. 24:5 One year Exemption from Military Service

This regulation is composed of a conditional clause and a series of commands (no-motivation structure). The conditional clause consists of one short sentence, while the commanding clauses are comprised of four: two are proscriptions, and the other two are prescriptions. The legal idea behind this regulation is clear: A newlywed has the duty and responsibility to make the new bride happy.¹⁵⁴

154. Braulick points out that this regulation aims for the happiness of a newly married woman. According to him, a death on the battlefield or a long absence can make marriage life vulnerable. Thus, such exemption is commanded (*Deuteronomium II 16,18–34,12*, 178). Unlike Braulick's view, several other positions have been suggested. First, some scholars read this regulation from the newlywed's perspective. McConville argues that this regulation intends to prevent a newly married man from being prematurely killed in a battle. Such a death means the end of the lineage of the man because there would be no chance to have a baby. So, the one year exemption is for having a child (*Deuteronomy*, 360). Christensen also points out that the one year of leave anticipates a baby (*Deuteronomy 21:10–34:12*, 567). Slightly differently, Mayes argues that this law's original concern for offspring is replaced by one's rejoicing in Yahweh's blessing which is a deuteronomic addition (*Deuteronomy*, 324). In his view, Yahweh's blessing in this regulation refers to the man's wife. So, Mayes's perspective is also on the side of a man. A newlywed man has a right to enjoy his new wife. However, this reading is not supported by MT because the verb שמח is used as *pi'el* which means "to make someone merry" or "to cause to be happy" (*HALOT*, שמח, III: 1335; cf. RSV and NRSV reads the verb as *qal* according to Targum and Syr; NIV, NAB, and NJPS read as *pi'el* according to MT). Moreover, the concern for offspring (McConville and Christensen's view) is not explicitly manifested in the text itself. The emphasis lies on the verb שמח which has nothing to do with offspring.

Second, Olson derives the meaning of this regulation from its connection with the Decalogue. He puts this law in the category of the "limit on stealing" (23:19–24:7 with 23:15–16 as a transitional block). In his view, the key term of this unit is נפש. Regarding 24:5 he argues that this regulation puts "limits on what a community can demand from newlyweds" (Olson, *The Death of Moses*, 107). However, this law is not about stealing nor is about limiting the power of a community. Instead, it is about married life. The repeated terms, לקח and אשה, which bracket 24:5 and form a chiasmic structure, emphasize a bridegroom's duty to make a new wife happy, indicating that this regulation has something to do with a newly married woman.

The rhetorical situation of this regulation is that there is a newly married couple but the husband is about to be summoned for war duty¹⁵⁵ or compulsory labor,¹⁵⁶ thus prompting a tension between a newly married couple and governmental offices, either military or administrative. Since the administrative or military officers would not want to exempt each and every man from their public duties, the regulation needs to be persuasive.¹⁵⁷ Although no other motivation is offered in this regulation, its location after Deut 24:1–4 serves to motivate the audience¹⁵⁸ to keep this regulation. In addition to the

Olson's reading blurs the law's emphasis on married life. Moreover, the key term נפש in Olson's view does not appear in 24:5.

Third, von Rad argues that the original exemption of a newly-married man from a military campaign resulted from an idea that a newlywed is under attack by demons. Thus, this man was eliminated from military service in order to prevent the whole military camp from being endangered (*Deuteronomy*, 132). However, this reading also misses the point that this law makes. Von Rad's emphasis on a social taboo concerning a newlywed does not fit into the last sentence "he shall make his wife happy that he married" (ושמח את-אשתו אשר-לקח).

Thus, as Braulik points out, this law concerns a newly married woman and her happiness.

155. The exemption of a newlywed from military service was practiced elsewhere in Syria-Palestine (CTA 14.II.100-102, quoted from Craigie, *Deuteronomy*, 306)

156. The term צבא means military service as well as compulsory labor (*HALOT*, III: 995; Nelson, *Deuteronomy*, 285).

157. This speculative situation can be supported by a report in 1 Kgs 15:22. According to this report, King Asa mustered all people for national labor without exemption (אין נקי). Asa's building project did not allow any exemption. Rashi observes that this national labor prevented a newlywed from having a one year labor exemption (quoted from Jeremy Schipper, "Deuteronomy 24:5 and King Asa's Foot Disease in 1 Kings 15:23b," *JBL* 128 [2009]: 648).

158. The implied addressees of this law are two levels of people. A first group of addressees can be explicitly assumed from the text: a man who has recently taken a wife. The conditional clause ("when a man takes a new wife") and the final command clause ("he shall make his wife happy") show that a newlywed is an addressee. A second group is governmental officers. As the rhetorical situation depicts, one year of exemption can be allowed by governmental officers.

macro level of structure, a chiasmic pattern within this regulation also emphasizes the main idea.

A. Rhetorical Placement

The placement of v. 5 right after vv. 1–4 functions to amplify a positive aspect of a married life.¹⁵⁹ The juxtaposition between vv. 1–4 and v. 5 is perceived by their beginning sentences: כִּי־יִקַּח אִישׁ אִשָּׁה (v. 1 and v. 5). Yet despite their identical beginning, the two regulations address quite different circumstances. In the former case, the wife does not find favor with her husband, and the husband finds something indecent about his wife. Their marriage ends in divorce. What is worse, the woman’s second marriage also ends in divorce or the death of her husband. The expressions, “do not find favor” (לֹא תִמְצָא חֵן), “something indecent” (עֲרוּת דָּבָר), and “he hates her” (שָׂנְאָה) draw a negative picture of the marital relationships. In contrast to vv. 1–4, the law in v. 5 draws a positive picture. One year of exemption from any duty required by a nation is commanded in order to make a new bride happy. Although how their marriage life unfolds is not mentioned, one thing certainly can be expected: their happy married life.¹⁶⁰ This positive picture

159. Craigie points out that 24:5 provides a positive balance to the negative aspects in 24:1–4 (*Deuteronomy*, 306). Yet, he does not ponder its rhetorical effect.

160. The verb שָׂמַח signals and makes readers anticipate happiness and joy in the house of a newly married couple. It is noteworthy that the term שָׂמַח is used to indicate the emotional status that the Israelites would have in the sanctuary. In Deut 12 and 16 all Israelites are to bring all kinds of offerings to the chosen place and rejoice in Yahweh’s blessing.

For the concrete sources of the happiness and joy in Deut 24:5, one might assume having a child and

emphasized by the negative picture in Deut 24:1–4 may appeal to the addressees, and move them to observe what is necessary for a happy married life: a newlywed’s one year of exemption from any public duty.

B. Chiasmus

The legist arranges key terms by using chiasmus, and this rhetorical pattern emphasizes the main point of this regulation. This rhetorical technique serves to inculcate desirable marriage conduct in the husband. The following chart shows the feature of chiasmus.



In the outer frame, the agent of an action (to take: לִקַּח) is a man. In the inner frame, the woman is the object of the man’s action. At the center, another action verb (to please, שָׂמַח) appears, which assumes a man as its subject and a wife as its object. Thus, this

the preservation of the man’s name (see McConville, *Deuteronomy*, 360; Christensen, *Deuteronomy 21:10–34:12*, 567). However, the focus lies on the new bride’s happiness. The husband should make his wife merry. As Schipper points out, the phrase “to make one’s wife happy” implies sexual relations (“Deuteronomy 24:5,” 648). He shows a clearer example in Prov 5:18–19 in which the verb שָׂמַח signals sexual pleasure (ibid., 648). Producing a child is a secondary result and only part of the happiness that the husband can bring to his wife.

chart shows that the action of marrying (לקח) should go with pleasing (שמח). The man who takes a woman as a wife has a responsibility to *please* her.

In sum, the juxtaposition of this regulation with a negative picture of a marriage life and the chiasmic pattern of this regulation serves to emphasize the main command.

XXIII. 24:6 Prohibition on Taking a Pledge

In the ancient world, taking a pledge to secure a loan was a normal procedure.¹⁶¹ This social system could cause debtors to lose their livelihoods or make them slaves.¹⁶² Against this custom, the DC prohibits from taking a hand mill and an upper millstone.¹⁶³

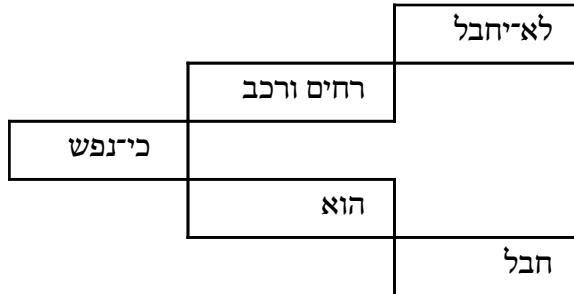
These two items are given as an example of a regulation attempting to protect a debtor

161. Westbrook, ed., *Ancient Near Eastern Law*, I: 215, 550, 609, II: 904-905, 951-53. More specifically, a slave can be taken as a pledge of a loan (Westbrook, ed., *Ancient Near Eastern Law*, I:531); a girl also can be taken as a pledge. In this case, she lives in her father's creditor's house [Roth, *Law Collections*, 173])

162. Westbrook, ed., *Ancient Near Eastern Law*, I: 41.

163. A millstone was a tool used in baking which was essential for one to live (Biddle, *Deuteronomy*, 356; Clement, "The Book of Deuteronomy," 468; Christensen, *Deuteronomy 21:10–34:12*, 572-73). The upper millstone was often taken by a creditor because of its effectiveness on the debtor. Without an upper millstone, a lower millstone was useless. Moreover, Jeffrey H. Tigay points out that the upper millstone was made of basalt which was not a popular resource because it was produced in the area around Lake Tiberias and in Transjordan, so that the Israelites were not able to easily find the resource nearby. ("Some Archaeological Notes on Deuteronomy," in *Pomegranates and golden bells: studies in biblical, Jewish, and Near Eastern ritual, law, and literature in honor of Jacob Milgrom* [eds. Christopher Wright, David P., David Noel Freedman, and Avi Hurvitz; Winona Lake: Eisenbrauns, 1995], 374–76).

from losing his/her means of living.¹⁶⁴ The chiasmic structure with נפש at the center emphasizes the significance to a debtor of the items taken as pledges.



The term חבל forms an outer frame, and the pledges are in the inner frame. At the center is the term נפש. Thus, this structural pattern reveals that this regulation concerns more than the pledge itself. The items the creditor takes away as a pledge are identified with נפש, the debtor's very life.¹⁶⁵

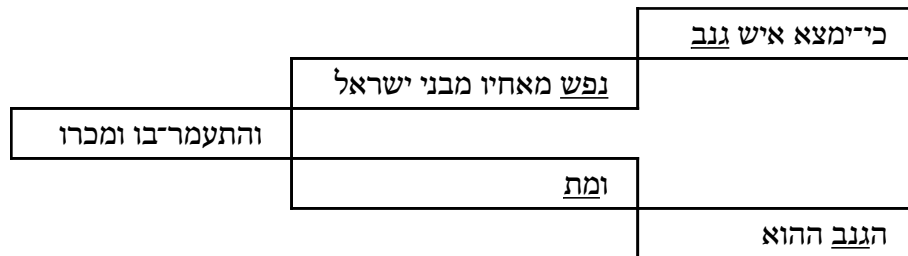
A creditor can easily take any pledge to secure his/her money. The creditor would not typically think much about what this action of taking pledges might mean to the debtor. Yet, by using the term נפש and placing it at the center of a chiasmic pattern the legislator alerts a creditor not to take a pledge because it is in fact a way of taking one's life.

164. As Tigay points out, halakhic exegesis includes within a hand mill tools for cooking such as pots, an oven, or a sieve, and draught animals and tools used for earning money (*Deuteronomy*, 224; for references, see 389 n. 30).

165. Tigay points out that in Mesopotamian, Egyptian, and post biblical literature, items necessary for one's living such as food-producing tools, farming tools, or food itself are often called "life" (*Deuteronomy*, 223-24). This fact highlights the significant implication that the original meaning of נפש carries. Since נפש has a meaning of breath which relates to life – without נפש one cannot live any more –, the term would be connected to the items for cooking and farming which are essential for one to live in his/her life.

XXIV. 24:7 Kidnapping

This law concerns a crime of kidnapping, which in the DC is considered to be a case of theft.¹⁶⁶ This regulation is arranged into chiasmus,¹⁶⁷ and the corresponding elements in each pair demonstrate the points.



In this structure, the term **גֹּבַב** forms the outer frame and indicates the main topic of this regulation: theft. The inner frame contrasts life (**נֶפֶשׁ**) and death (**מָת**). Along with the term **גֹּבַב** in the outer frame, the term **נֶפֶשׁ** shows that the issue at hand is not just theft in general but kidnapping specifically. And, we see by the term **מָת** that the punishment of kidnapping is the death penalty. At the center, the actions of the thief are specified: treating a victim as a slave¹⁶⁸ or selling him/her. These specified actions disclose the

166. Biddle, *Deuteronomy*, 356-57; Olson, *The Death of Moses*, 107-108; Braulik, *Deuteronomium II 16,18 – 34,12*, 179; Kaufman, “Structure,” 139-40.

167. This chiasmus does not include the *biarta* formula in v. 7bβ. Unlike the rendering above, Christensen, *Deuteronomy 21:10–34:12*, 572, finds a chiasmic structure including the *biarta* formula as follows: A (If a man is found stealing one of his brothers) - B (And he treats him as merchandise) - X (And he sells him) - B' (That thief shall die) - A' (Purge the evil from your midst). However, the content in the center is in parallel with the line B. Moreover, the corresponding parts do not show clearly their interrelationships (A - A'; B - B').

168. For the discussion of the meaning of *hitpa'el* form of עָמַר, see note 15 in chapter 4.

intention of the suspect and prove that the suspect's action of taking a person is indeed kidnapping.¹⁶⁹ In sum, the crucial points of this regulation are well indicated in the chiasmic pattern.

XXV. 24:8–9 Dealing with “a Scale Disease”

This regulation deals with a scale disease (הצרעת).¹⁷⁰ Yet the legist does not provide any specific manual for how to deal with it.¹⁷¹ Without specific instructions, the addressees would not pay attention to this regulation. Yet, the legist draws the addressees's attention to this issue by employing a common deuteronomic expression in a chiasmic structure and by appealing to a shared memory.

A. Chiasmus

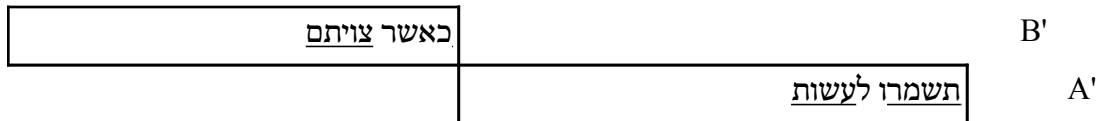
The main topic, צרעת, is introduced in a representative deuteronomic expression in v. 8, which is delivered in a chiasmic structure (ABB'A').

השמר בנגע־הצרעת לשמר מאד ולעשות	A
ככל אשר־יזרו אתכם הכהנים הלויים	B

169. Without the actions depicted at the center, the suspected person (איש גנב נפש) can defend him/herself by saying that he/she was just with this person who is supposedly kidnapped. So, the two actions function as evidence that the issue is in fact kidnapping.

170. As for the meaning of צרעת, three suggestions have been made: a stroke, a rash, and swelling. Jacob Milgrom rejects all of these three suggestions and argues that the term refers to a kind of disease. Based on LXX rendering, Milgrom regards the term as meaning a scale disease (*Leviticus 1–16: a New Translation with Introduction and Commentary* [AB 3; New York: Doubleday, 1991], 774-5).

171. This manual is given in Lev 13–14. Yet, the DC is silent on the specific information.



In the outer frame (A and A'), the deuteronomic idiom, “carefully observe” (עשה + שמר), is used. The specific case, צרעת, does not play a significant role in this expression. Even without the specific case, v. 8 can exhort the addressees to do what is commanded. Instead of צרעת, any topic can be inserted into this formulaic expression. Yet, the crucial point is that the legist placed this specific topic צרעת within the representative form of deuteronomic exhortation in order to achieve the addressees’s attention to the topic צרעת.

The center of this structure (B and B') points out the credibility of what is instructed concerning צרעת. Line B explicitly mentions that what the addressees should do concerning צרעת is instructed by the *levitical priests*, who are a group of religious leaders. They certainly obtain the addressees’s trust. Moreover, line B' shows that what is commanded by the levitical priests is controlled by a higher authority, appearing as a “I” speaker. In the literary context, this “I” speaker is certainly Moses. Moses showed the levitical priests the rules of צרעת, and the levitical priests taught them to the addressees. This relationship between the levitical priests and a higher authority represented by Moses makes the rules of צרעת, even though the specificity is not mention in Deut 24:8–

9, trustworthy not only because of the priesthood itself but also because of the fact that the priesthood is controlled by a higher authority.

In sum, the chiasmic structure highlights a deuteronomic exhortation and the trustworthiness of the rules of צרעת, and these highlighted points shed light on the issue of צרעת.

B. Historical memory

The concern of the legist in v. 9 is how to emphasize the authority of the “I” speaker in order to make the addressees observe what is commanded by the “I” speaker. In order to achieve this goal the legist takes advantage of a shared historical memory about Miriam.¹⁷²

In Num 12:1–15 Miriam is punished with a skin disease (צרעת) because she challenges Moses’s authority. Both Miriam and Aaron question Moses’s singular authority, for they each wanted to communicate with Yahweh, as Moses did. However, their desire results in Yahweh punishing Miriam with *a skin disease* and demonstrates that Moses has the highest authority through which Yahweh delivers Yahweh’s will.¹⁷³

The historical memory tells how important it is to respect the authority of a leader whom

172. In fact, this historical memory does not give a specific reason for the observance of the rules of צרעת. Rather, this memory functions to support the authority of Moses, appearing the “I” speaker in Deut 24:8.

173. This legal hierarchy is also shown in v. 8 as described in chapter 4. XXV. A.

Yahweh appointed. Thus, without presenting specific regulations concerning צרעת, the legist could urge the addressees to observe what an authoritative leader commands by relying upon a historical memory.

In sum, the legist uses a chiasmic structure, deuteronomic common expressions, and historical memory in order to draw the addressees's attention to the issue of צרעת.

XXVI. 24:10–13 The Law of Pledge

Deut 24:10–13 is tightly associated with Deut 24:6, and both deal with a pledge (חבל and עבט). Yet, while Deut 24:6 concerns specific items of pledge, specifically that of prohibiting a person from taking an upper millstone or hand mill, Deut 24:10–13 deals with an appropriate way to take pledges, assuming the system of pledge. This appropriate way is well explained by using the rhetorical technique of the alternation of proscription and prescription.

A. Alternation of Proscription and Prescription

This regulation has two sets of commands, and these commands are delivered through alternating proscription and prescription.¹⁷⁴ These alternations highlight the legal ideas of

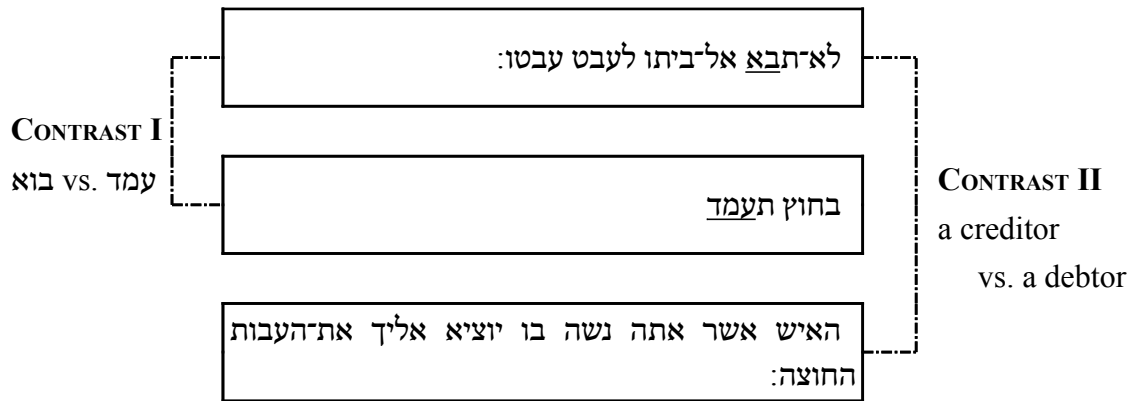
174. The legist arranges this regulation in a combination of no-motivation structure and triadic structure. The particles כִּי (v. 10) and אִם (v. 12) signal that this regulation is a combination of two sets of condition and commands. The motivational clause appears at the end of the second set of condition and commands.

No-Motivation Structure

Condition (כִּי)

(v. 10a)

this regulation more clearly. In the first set, the legist proclaims three commanding statements which contrast, on the one hand, the verb בוא with עמד, and on the other hand, a creditor with a debtor.



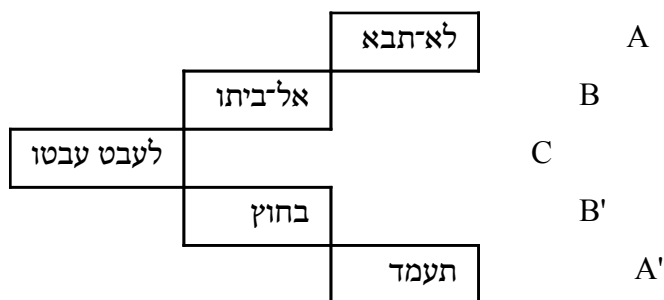
In the first and second commands, the verbs are contrasted. The creditor should not aggressively *come into* (בוא) the debtor's house to take a pledge. Rather, the creditor should statically *stay* (עמד) outside the house. This contrasting idea is more evidently shown within a chiasmic structure.

Commands to a Creditor	(vv. 10b–11a)
Commands to a Debtor	(v. 11b)

Triadic Structure

Condition (אם)	(v. 12a)
Commands to a Creditor	(vv. 12b–13aα)
Motivation (Result)	(v. 13aβ–13b)

Within this structure, the commanding lines in both sets feature the alternation of proscription and prescription.



According to this chiasmus, the verbal contrast between **בוא** and **עמד** is evident. Likewise, the spatial terms in lines B and B' contrast with each other: in a house vs. outside the house. Then, at the center is placed the issue of taking a pledge. So, this chiasmic structure also highlights the contrasting actions in taking a pledge.

Next, the first command and the last one are contrasted in terms of their subject: a creditor vs. a debtor. These two lines of commands have in common the term **עבט**. Around this shared term, the first command prohibits the *creditor* from coming into the debtor's house to take a pledge. Surprisingly, it is the *debtor* who brings out the pledge in the last command. This contrasting command indicates that it is a debtor's right to bring the pledge out. A creditor does not have right to retrieve the pledge from inside the debtor's house. As Craigie points out, this system allows a debtor to choose an item to use as a pledge and it can protect a debtor's privacy.¹⁷⁵

175. Craigie, *Deuteronomy*, 308.

In the second set, another contrast is made by the alternation of proscription and prescription. In this case, the contrasting idea lies in the verb: שכב vs. שוב.

לא תִּשְׁכַּב בְּעֵבֶט

הֲשִׁיב תְּשִׁיב לוֹ אֶת־הָעֵבוֹט כִּבָּא הַשֶּׁמֶשׁ

All the components of these two lines of command are the same except for the verbs which are contrasted. A creditor should not *sleep* with the pledge that the creditor took. Rather, the creditor should *return* it to the debtor when the sun has set.

In sum, the main commands are expressed through this rhetorical technique of alternation of proscription and prescription, which functions to highlight the legal idea and commands.

XXVII. 24:14–15 Timely Payment of Wages Due

The main idea of this law is that a wage should be paid daily and before sunset because the laborers are poor and needy. If the poor laborers cry out for the belated wages, it is a sin of the employers. In order to persuade the employers to observe this law, the following rhetorical techniques are used.

A. Specification with a Word Choice, Paired Words, and Alliteration

A specific depiction of a regulation helps the addressees picture exactly what this law is commanding so that the addressees can observe what the regulation commands them to

do. This regulation begins with a proscription that one should not defraud (עשק)¹⁷⁶ a laborer. The legist uses specific terms to clarify what this regulation intends to make the addressees do. If one compares Lev 19:13 with this regulation, the Deuteronomistic legist's technique of specification becomes clear:

Lev 19:13

לֹא־תַעֲשֶׂק אֶת־רֵעֶךָ וְלֹא תִגְזֹל לְאֶתְלִין פֶּעֶלֶת שְׂכִיר אֶתְךָ עַד־בֹּקֶר:

Deut 24:14

לֹא־תַעֲשֶׂק שְׂכִיר עֲנִי וְאֲבִיּוֹן מֵאֲחִיד אוֹ מִגֵּר אֲשֶׁר בְּאֶרֶץ בְּשַׁעֲרֶיךָ:

בְּיוֹמוֹ תִּתֵּן שְׂכָרוֹ וְלֹא־תִבּוֹא עָלָיו הַשֶּׁמֶשׁ

In Lev 19:13, the object of the verb עשק is only mentioned as “your neighbor.” In Deut 24:14, this general and broad category is made more specific, referring instead to “a laborer.” The term “a laborer” (שכיר) also appears in Lev 19:13. However, unlike Lev 19:13, in Deut 24:14 three sets of paired terms modify “the laborer.” First, the laborer is poor or needy (עני ואביון). Second, he is one of the fellow Israelites (אח) or of the resident aliens (גר). Third, if he is a resident alien, he is one living in the land (בארצך), the village (בשעריך). These three sets of paired words are also rhythmical and have an effect of alliteration, drawing the addressees's attention to them.

176. The term עשק has two meanings: to oppress and to exploit. While the former is general, the latter is specific. This term appears in Lev 5:21, 23 [Eng. 6:2, 4]; 19:13, denoting an action of defrauding (NRSV, NJPS). In Leviticus, this verb is placed not in a general category but in an exemplary, specific category (Milgrom, *Leviticus 1–16*, 337). Likewise, in Deut 24:14, the verb is used with a specific meaning (cf. Craigie, *Deuteronomy*, 293-94).

the first set	עני	guttural sound at the beginning
	אביון	
the second set	מאחיד	מ and ך
	מגרד	
the third set	בארצד	ב and ך
	בשעריד	

Furthermore, their semantic ranges draw the addressees's attention to the second set of paired words: from your fellow Israelites or from your resident aliens. The first and last paired words belong to similar semantic boundaries: people in financially weak positions (the first set); spatial boundary (the third set). Yet, the second paired words are semantically antithetical, belonging to a different group: the insiders vs. the outsiders. This difference effectively delivers the legislator's intention to emphasize the inclusiveness of this regulation.

In sum, the technique of specification by using sets of paired terms and the rhetorical device of alliteration function to draw the addressees's attention to this regulation. The proscription is modified by specified terms. This is a rhetorical technique to help the addressees understand the general proscription.

B. Motivation with Emotional appeal, Yahweh's Involvement, and the conviction of Guilt

The three ideas in the motivational clauses (vv. 15a β –15b) aim to appeal to the addressees.

For he is poor, with it he is carrying his life.
Do not let him cry against you to Yahweh!
It will be sin in you.

First, it appeals to the addressees's emotion. The daily wage is like a life to a poor laborer because the wage is his only income to live and provide for his family. The second motivational clause draws on Yahweh's judgment. This sentence reminds the Israelites of the possibility that the laborer who does not receive his daily wage can entreat Yahweh against his employer. Third, the last sentence manifests the idea that the result of the entreaty to Yahweh against this case is guilt on the part of the employer. Thus, the certain possibility of Yahweh's involvement in this case and the guilty statement will lead the addressees not to hold the wages of a laborer, but pay him on time.

XXVIII. 24:16 Individual Liability

The main idea of this law is to assert the individual's responsibility for his/her own behavior.¹⁷⁷ A person will be punished because of his/her own sin, but the person will not

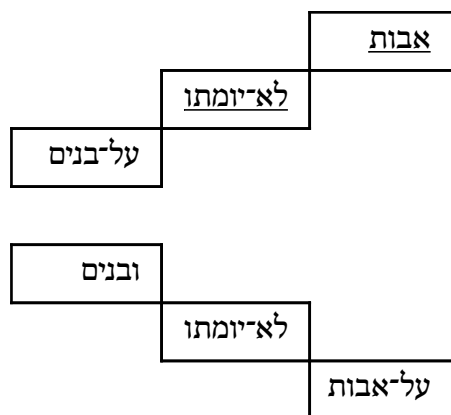
177. This regulation does not fit in certain reports in the Hebrew Bible: the punishment upon the whole household of Achan (Josh 7:24); Yahweh's punishment upon the whole household belonging to Korah

be punished because of an other's sin. This main idea is well delivered through a rhetorical technique of repetition and *inclusio*.

This regulation is composed of three consecutive commands (two proscriptions and one prescription). Within all three of these commanding clauses a verb מוֹת appears. The verb even appears in grammatically identical form (*hop'al. impf. 3per. pl.*).¹⁷⁸ This identical repetition of the verb emphasizes the main theme of this regulation: the death sentence. The legislator also emphasizes this theme by placing the verb at the beginning of the regulation. This placement of the verb is intentional because it breaks an expected chiasmus. If one changes the order of the first two words, the first two lines have a perfectchiastic structure.

(Num 16:32). Even within the Deuteronomy one can find discrepant cases: Yahweh's wrath upon three generations of one who hates Yahweh (Deut 5:9); the destruction of the whole city because of the enticement of the scoundrels (Deut 13:15). This contradiction has been already pointed out (Clements, "The Book of Deuteronomy," 470; McConville, *Deuteronomy*, 363). Some solve this contradiction by pointing out that Deut 24:16 concerns actual jurisprudence not divine punishment (McConville, *Deuteronomy*, 363; Nelson, *Deuteronomy*, 292; Tigay, *Deuteronomy*, 227). Similar observation is found in Baruch Halpern, "Jerusalem and the Lineages in the Seventh Century BCE: Kinship and the Rise of Individual Moral Liability," in *Law and Ideology in Monarchic Israel* (ed. Baruch Halpern and Deborah W. Hobson; JSOTSup 124; Sheffield: Sheffield Academic Press, 1991), 12. He points out that in ancient Israel individual punishments and collective punishments existed together. The former was applied to the case of infractions; the latter to the case of apostasy or foreign cultic practice. Yet later on at the start of the sixth century, individual responsibility was applied even to divine retribution (*ibid.*, 15). Others solve this problem by assuming that Israelite religious thought concerning responsibility for sin developed from collective liability to individual liability (Biddle, *Deuteronomy*, 363). Yet the early date of collective liability has been questioned (*ibid.*, 363).

178. Nelson points out that this three-fold repetition of the verb מוֹת signals "authorized, formal execution" (*Deuteronomy*, 292). The passive form of מוֹת refers to judicial execution (Tigay, *Deuteronomy*, 227).



In this supposed chiasmic structure, fathers and sons take a turn in the position of subject and causal proposition. This alternative use of the terms would deliver a meaning that fathers and sons will not be punished due to their familial relationship. However, the legist did not opt for this chiasmic structure because the emphasis is not placed on the relationship between a father and a son in legal jurisdiction, but on the feature of death itself. Thus, the legist put an emphasis on the term מוֹת by breaking a simple chiasmic structure and by placing the verb at the beginning.

This intentional placement also functions to bracket this whole regulation with the thematic verb מוֹת. This regulation begins with the negation of the verb מוֹת and ends with the verb מוֹת, which forms an inclusio.



By this position, it is clearly emphasized that one will not be punished . . . but will be punished. This regulation deals with an issue of when one is not to be killed and when one is to be killed.

In sum, the repetition of the thematic verb and its intentional placement ably conveys the theme of this regulation to the addressees.

XXIX. 24:17–18 Concerns for the Social Minorities

The legist in Deut 24:17–18¹⁷⁹ motivates the addressees not to pervert the legal cases of minorities by specifying a case and by appealing to the addressees’s shared historical memory.

A. Specification

The legist specifies the legal idea by two proscriptions. This technique of specification of an issue functions to deliver the legal idea more clearly to the addressees. The two proscriptions are as follows:

You shall not distort¹⁸⁰ the case of an alien or an orphan.

179. Some scholars consider this regulation and 24:19–22 as one unit based on their thematic similarity and the same motivational clause in vv. 18 and 22 (Carmichael, *The Law of Deuteronomy*, 223-25; Christensen, *Deuteronomy 21:10–34:12*, 593-98). I agree with the similarity between vv. 17–18 and vv. 19–22. However, their core ideas are slightly different. The former focuses on the preservation of legal right of the minorities (Braulik, *Deuteronomium II: 16,18–34,12*, 183-84); the latter on the communal responsibility for the provision for the minorities. So, Deut 24:17–18 will be dealt with separately.

180. The term נטה is found 9 times in Deut: three times meaning “to pervert” in connection with משפט (Deut 16:19; 24:17; and 27:19); six times meaning “stretched out” in connection with Yahweh’s arm (זרוע). The passive participle form of the verb נטה is used to express Yahweh’s saving action (Deut 4:34; 5:15;

And, you shall not take in pledge the garment of a widow. (Deut 24:17)

The first proscription not to pervert justice reminds the addressees of Deut 16:19, in which the same proscription “do not distort justice” was given as one of the qualities of a just judge. Yet, the term justice (משפט) is not specified. It does not have any elaboration. So, it refers to a judgement in general. All the cases of Israel should be judged justly. However, unlike the general judgment in 16:19, in Deut 24:17 the command is given to all of Israel,¹⁸¹ and the legist adds a specific group of people after the term משפט.¹⁸² So, it reads “You shall not distort the case of *the resident aliens* and *the orphans*. In comparison to Deut 16:19, in Deut 24:17 the agent of the proscriptive action expands, and the object of the case becomes specified.

		addressees	object (whose case)
16:19	לא־תטה משפט	judges	all Israel
24:17	לא־תטה משפט גר יתום	all Israel	the resident aliens and orphans
		expanded	specified

So, the legist in 24:17 calls for larger group of people with specified cases.

7:19; 9:29; 11:2; 26:8). While the first usage has a negative meaning in relation to a person, the second one has a positive meaning in relation to Yahweh. The negative aspect of נטה should not be performed.

181. According to Nelson, Deut 24:17 indicates that the duty, providing justice, assigned to kings, judges, and sages is now required of every citizen (*Deuteronomy*, 292).

182. Nelson indirectly contrasts Deut 16:19 with Deut 24:17. He states that while the former demands justice in general, the latter has a narrowed focus on specific groups (*Deuteronomy*, 218).

The second proscription “Do not take in pledge the garment of a widow” specifies the first proscription more. Taking a woman’s clothing as a pledge is presented as one specific example of a legal distortion. According to Deut 24:13, clothing should not be used as a means to push a debtor to pay back debts.¹⁸³ Even if it was taken in pledge, it should be returned before the sun sets. By placing this specific proscription right after the general command not to distort justice, the legist provides an example of the first proscription. By doing this, the specific prohibition of taking a woman’s garment in pledge is emphasized and draws addressees’s attention.

B. Motivation

The legist appeals to the addressees by recalling their shared memory as Israelites: their being slaves in Egypt and Yahweh’s saving them from Egypt. The memory reminds them of their past status and their relationship with Yahweh. This status is analogous with the three groups of vulnerable people. The Israelites and three minority groups do not belong to the privileged group in the community in which they live. The Israelites should have compassion to the minorities.

183. In ancient Mesopotamia, garments were expensive, and most of the population had only one garment. If this was the case, the person whose garment was taken as a pledge had nothing with which to cover him/herself at night. Moreover, a lack of clothing would be a threat to one’s dignity and modesty because it would lead one to be naked (Vogelzang and Bekkum, “Meaning and Symbolism of Clothing,” 267).

Likewise, that Yahweh delivered Israel from Egypt is analogous with what the Israelite addressees are supposed to do to the vulnerable people. Thus, the final sentence in the motivational clause justifies the commands not to distort legal cases of the resident aliens and the orphan nor to take a widow's garment as a pledge.

XXX. 24:19–22 Portions for the Social Minorities

Deut 24:19–22 is composed of three regulations that are thematically identical to each other: portions for the aliens, orphans, and widows.¹⁸⁴ This thematic similarity is also signaled by repeated particle, negation, and even one whole statement. The following chart shows the repeated elements.

	Prescriptive Statement	Proscription	Condition
Regulation 1 (v.19a)	לגר ליתום ולא למנה יהיה	לא ת-	כי ת-
Motivation 1 (v. 19b)	Yahweh's blessing		למען
Regulation 2 (v. 20)	לגר ליתום ולא למנה יהיה	לא ת-	כי ת-
Regulation 3 (v. 21)	לגר ליתום ולא למנה יהיה	לא ת-	כי ת-
Motivation 2 (v. 22)	slavery in Egypt I am commending		וזכרת כי על-כן

184. These three groups are representative of marginalized people in Deuteronomy (Nelson, *Deuteronomy*, 292).

All three regulations include a conditional clause, a commanding clause, and a prescriptive statement that provides a rationale. The conditional clause begins with כִּי; the commanding clause begins with לֹא; and the prescriptive statement is the same in every case. These repeated particle, negation, and prescriptive statement produce a rhythmic effect. The repeated כִּי signals the beginning of the situation; the repeated לֹא indicates the beginning of the command; and the main legal idea is addressed by the repeated, refrain-like statement: “It shall belong to the resident aliens, the orphans, and the widows.” Through this structural pattern, this composite regulation attempts to set aside resources on which to live for the aliens, orphans, and widows.

XXXI. 25:1–3 Solve Dispute in Court and Maintain one’s Dignity

There are two regulations in this legal unit. First, if there is a dispute between two persons, they should bring it to the legal institution (v. 1) without solving the case by themselves.¹⁸⁵ Second, in a case where flogging is the sentenced punishment, the number of lashes should not exceed forty times (vv. 2–3).¹⁸⁶ The first command pertains to a

185. There are different opinions regarding the beginning of a main clause. Some scholars argue that the main clause begins in v. 2b (Craigie, *Deuteronomy*, 312). Other scholars see that there are two main clauses. The first one begins in v. 1b (Mayes, *Deuteronomy*, 327), and the second one in v. 2b. The latter is more convincing. This regulation first commands that people bring a dispute to court when it occurs.

186. Craigie argues that this regulation was designed to avoid the abuse of corporal punishment.

general instruction to the addressees in a case of a dispute. The latter command concerns a specific case of punishment, flogging.¹⁸⁷

These two commands consider two different classes of addressees. The first command aims at common Israelites who would encounter legal disputes with their fellow Israelites in their daily life. The addressees might disagree with what Deuteronomy proclaims. Some of the Israelites might want to solve their daily disputes by themselves, especially those who are superior to their counterparts in terms of social rank and economic possessions.

The second class of addressees are judges who are responsible for making judgment and for stating legal verdicts. Some judges might want to punish a criminal more harshly according to personal preference. Assuming these possible resistances, the legislator uses several rhetorical devices to persuade the addressees to observe this regulation.

Corporal punishment is to be decided by official judges, and the judges supervise the procedure (*Deuteronomy*, 312).

187. The combination of these two regulations shows the common feature of Hebrew literature: from general to specific. This feature is also found in 24:1–4 in which the main issue moves from the process of divorce to the effect of divorce.

A. Three Consecutive Verbs with Judges as a Subject and the Use of Noun-Verb

In v. 1 it is commanded that one should bring a dispute to court. The possible rejection of this command could result from people's distrust of the system of jurisprudence. If people doubt that their case will be dealt with properly, they will be reluctant to bring their case to court. Thus, the legist lays out what judges will do in court, so that the common Israelites will trust the judges and bring their disputes to court. In v. 1b three verbs appear that have judges as their subject.¹⁸⁸

They will judge them (ושפטום)

They will justify the righteous (הצדיקו את־הצדיק).

They will condemn the guilty (הרשיעו את־הרשע).

These three consecutive verbs have two effects. First, it is clearly emphasized that judging a case and telling right from wrong is the work of judges. This duty should be and will be carried out by judges. Second, the legist uses two contrasting verbs (צדק vs. רשע) with the same root nouns (צדיק vs. רשע) as their objects, respectively. This consecutive use of a contrasting concept highlights that judges will do their duty properly. They will declare the righteous right, and the guilty guilty. Thus, the judges are

188. In fact, the three verbal sentences do not explicitly mention "judges." The verbs appear as third person plural verbs. However, we might assume that the judges are likely the subject because the term "judges" occurs right before these three verbs.

trustworthy. These two effects would serve to make the common Israelites bring their cases to court because they can trust in their judges, and also they know that judging a case is the proper sphere of judges.

B. Change in Addressees from Third Person to Second Person

The use of the second person singular at the end of this regulation (v. 3bβ) changes the addressees's stance from objective to subjective. Throughout this regulation the law is addressed by the third person plural. Using the third person makes the addressees look at this case objectively or makes the addressees think that this regulation is irrelevant to them. However, at the end of the regulation, the addressees are addressed directly in the second person: “*Your* brother may be humiliated before *your* eyes” (v. 3bβ). Moreover, the addressees are closely related to the criminal. The criminal in this case is not just an anonymous third person who has nothing to do with the addressees, but a fellow of the addressees who should be taken care of. This change in person serves to make this case appear more relevant to the addressees and thus induces them to observe the regulation.

XXXII. 25:4 Do not Muzzle an Ox That is Working

This regulation has been enigmatic to contemporary scholars. It has no parallel account in the legal text in the Hebrew Bible. What exactly this regulation intends to achieve in the

society¹⁸⁹ or why this law is located here is not clear.¹⁹⁰ Yet one thing is evident. A rhetorical technique is required in order to appeal to the addressees because it was customary to muzzle an ox while it was threshing grain.¹⁹¹ In this case, the legist employs the same vowel and a similar consonant in each word. This phonetic element may help the addressees remember or memorize this regulation.

189. Craigie argues that this law shows a concern for animals. They should be allowed to eat while working (*Deuteronomy*, 313). McConville presents a similar view. He states that “[t]he entitlement of the ox to have what it needs of the farmer’s produce for its health is analogous to the rights of the poor and the disadvantaged to consume what they need of another’s crops (23:25-26[26-27]; 24:19-22). The wholeness of the covenant society extends even to its livestock” (McConville, *Deuteronomy*, 368-69). Verbruggen disagrees with the humanitarian view of 25:4. According to him, the humanitarian view of Deut 25:4 does not fit into its literal context. Neither the previous law nor the following law has to do with the prohibition of muzzling an ox while it is threshing (Verbruggen, “Of Muzzles and Oxen,” 701-702). He argues that economic concern lies behind this law. He assumes that the ox is a rented or borrowed ox. So, if one does not allow the ox to eat while threshing, the ox will be weakened which means some property loss of the owner of the ox (*ibid.*, 705-706, 711). However, this view exaggerates the ox’s loss of strength. Even if the ox does not eat while threshing, the borrower can feed the ox after the work is done. Moreover, to what extent would the ox be weakened if the ox threshes without food? It is doubtful that it would cause significant damage to the ox.

190. Carmichael’s interpretation of 25:4 provides a possible answer to the question of its placement. According to Carmichael Deut 25:4 figuratively prepares 25:5–10. He makes two points. First, 25:4 and 25:5–10 are similar in that both texts include a problematic situation. In 25:4, an unmuzzled ox would cause a problem in harvesting grain. Likewise, there is a problem in a family in which a man died without producing an offspring. Second, the ox’s action of treading refers figuratively to sexual intercourse, and the grain is analogous to seed. Likewise, it is implied in 25:5–10 that there would be lots of wasted semen that failed to produce an offspring (*Law and Narrative in the Bible: The Evidence of the Deuteronomical Laws and the Decalogue* [Ithaca: Cornell University Press, 1985], 292-94). This interpretation helps to explain why 25:4 is placed before 25:5–10. The problem is that 25:4 does not seem to regard as problematic the unmuzzled ox’s consuming scattered grains while treading. In fact, the case is the opposite. It is assumed that the treading ox would consume some of the grain while working.

191. Carmichael argues that this law should be understood in a figurative sense not in a literal one, because this regulation is in contrast to the common practice that an ox is to be muzzled in treading. Otherwise, all of the grain would be consumed by the working ox. He further argues that the unusual command not to muzzle an ox while it is trampling draws the “hearer’s attention in order to direct it to another meaning” (*Law and Narrative in the Bible*, 292). He argues that “the intent of the rule is to have its recipient narrowly concentrate on the problem between the ox and the grain and then to have him realize his role in solving it” (*ibid.*, 294).

Deut 25:4 reads: לֹא־תַחֲסֶם שׁוֹר בְּדִישׁוֹ. The repetition of the vowel sound “o” in each word has a rhythmical function. While one may say that this vowel repetition is purely an accident with no rhetorical purpose, if one also considers the associated consonant sounds it becomes more evident that the legislator intentionally chose the terms to create such a phonetic effect. Except for the negative particle, the vowel “o” is used with consonants ס and שׁ, so that a similar syllable “so/šō” is created. Moreover, the terms חֲסַם and דִּישׁ/דִּישׁ are not common terms. These verbs are used only one time in the DC.¹⁹² Thus, one can assume that the legislator intentionally chose these two verbs to create a rhythmical effect. Moreover, it is possible to assume that the negative particle לֹא draws the addressees’s attention because it does not have the “s/š” sound but only the “o” sound. If this is the case, the legislator might have wanted to highlight the prohibitive aspect of this regulation because, as Carmichael argues, it would have been common practice in daily life to muzzle an ox while it was trampling grain. In order to present the opposite directive, the legislator might need to emphasize the negative particle itself, and this emphasis would be achieved by the similarity in vowel but difference in consonant.

192. The term חֲסַם occurs only once elsewhere in the Hebrew Bible (Ezek 39:11).

XXXIII. 25:5–10 Levirate Marriage

The custom of levirate marriage has an ancient origin and was common in many areas.¹⁹³

Although in ancient times the custom would have been practiced in a mandatory fashion (Gen 38), scholars have pointed out that levirate marriage in the DC is not legally enforced.¹⁹⁴ If this is the case, rhetorical appeal to the addressees was necessary. Moreover, the significance of this practice to keep a family's inherited property within the family boundary requires rhetorical strategy to make the addressees perform this practice.

This levirate legislation is composed of two parts: one main case (vv. 5–6) and one sub-case (7–10).¹⁹⁵ In the main case, the duty of a brother of a dead man without an heir is mentioned. He should take his sister-in-law as his wife in order to preserve his

193. Tigay, *Deuteronomy*, 483; Eryl W. Davies, "Inheritance Rights and the Hebrew Levirate Marriage: Part I," *VT* 31 (1981): 139; Dale W. Manor, "A Brief History of Levirate Marriage as It Relates to the Bible," *RQ* 27 (1984): 130-31, n. 7. By contrast, Dvora E. Weisberg argues that the practice of levirate marriage is not found outside the biblical text. She denies any written supports from ancient Near Eastern sources ("The Widow of Our Discontent: Levirate Marriage in the Bible and Ancient Israel," *JSOT* 28 [2004]: 403-404). However, at least a few sources from the ancient Near East are attested. Raymond Westbrook points out that Middle Assyrian Law A 30 and Hittite Law 193 attest to the institution of levirate marriage (*A History of Ancient Near Eastern Law*, I: 538, 637).

194. Nelson, *Deuteronomy*, 297; Clements, "The Book of Deuteronomy," 474; Biddle, *Deuteronomy*, 372. The development of levirate marriage has been pointed out. In Gen 38 the neglect of the levir's duty results in death, while no death penalty is found in Deuteronomy. In Gen 38 it is father who perform this custom, while in Deut 25 a decision to perform the levir's duty lies on the levir himself (Matlock, "Obeying," 304). Nelson explains that the reform feature in the DC made these changes (*Deuteronomy*, 297).

195. Braulik, *Deuteronomium II 16,18–34,12*, 186; Craigie, *Deuteronomy*, 314; Nelson, *Deuteronomy*, 298; Matlock, "Obeying," 305.

brother's name. The sub-case concerns a situation in which the brother-in-law does not want to fulfill the levirate marriage. In both cases rhetorical techniques are used to push for levirate marriage to be practiced among the audience's community.

The circumstantial clause in v. 5a depicts a household in which a married couple and a brother live together. This situation implies that the two brothers are the joint tenants of their ancestor's property.¹⁹⁶ In this situation, the living brother's interest in inheriting the dead brother's property under his own name threatens the execution of levirate marriage.¹⁹⁷ Since his deceased brother has no child,¹⁹⁸ he could inherit the entire property (Num 27:9). He may not be willing to divide the property with the bereaved woman.¹⁹⁹ Given this situation, the regulation finds a way to provide for the bereaved

196. Nelson, *Deuteronomy*, 299.

197. Tigay offers five possible reasons for the levir's refusal to take the bereaved woman as his wife: "he might not care for his brother's wife; he might feel that she had brought his brother bad luck; he might calculate that with his brother dead and heirless he could himself inherit a larger share of their father's estate; if already married, he might not want to create a rival for his present wife, or he might calculate that the expense of supporting an extra wife and a child who would not be his own would diminish the estate that he could leave for his own children" (*Deuteronomy*, 232). Among these reasons, the third and last ones are concerned with inheritance.

198. It has been pointed out that בן in v. 5a does not exclusively refer to a son, but rather to a child (Tigay, *Deuteronomy*, 231; Christensen, *Deuteronomy* 21:10–34:12, 608). Although Pressler (*Family Laws*, 64-65) prefers to see the term meaning exclusively a son, based on the term הַבְּכוֹר in v. 6 which consistently refers to a first-born son, it is more suitable not to see the term בן as gender specific because a daughter could inherit her dead father's property (Num 27:1–11).

199. *Ibid.*, 299.

woman.²⁰⁰ Thus, the main rhetorical strategy is made to persuade the brother of the dead to fulfill his levirate duty.²⁰¹

A. Chiasmus

The main commands in the first sub-unit are composed of negative and positive commands, and the positive command (v. 5b) is structured into a chiasmus. This chiastic pattern emphasizes the duty of the brother-in-law.²⁰²



200. Davies points out that in the cultures of the ancient Near East a bereaved woman had a right to inherit her dead husband's property. However, ancient Israel did not have such a provision for a childless widow. In Davies's view, levirate marriage was the only way for a childless widow to benefit from the property of her deceased husband ("Inheritance Rights: Part I," 138-39).

201. Weisberg argues that according to three biblical passages regarding levirate marriage, this institution caused anxiety to men, while women were fond of this institution ("The Widow of Our Discontent," 405-407). If this is the case, the legislator must have targeted men in order for the law of levirate marriage to be carried out.

202. Christensen points out the existence of chiastic pattern in Deut 25:5-10 through the terms **יבם**, "brother-in-law," **יבמה**, "sister-in-law," and **יבם**, "do the duty of a brother-in-law" (*Deuteronomy 21:10-34:12*, 606). Although his chiastic scheme shows well the contrasting idea in each parallel line and has a well positioned central line, this scheme does not reflect the two sub-units in Deut 25:5-10. Rather, in Christensen's chiastic scheme, the structural division is blurred.

The term **יבם**, whether a nominal form or a verbal form, frames this command.²⁰³ The main command begins with a subject, which is identified as a brother-in-law of a bereaved woman (**יבמה**). A verb which has the same root as a levir (**יבם**) appears at the end (**יבמה**). The middle part specifies what the brother-in-law should do by offering two different expressions. The brother-in-law should (1) go into his sister-in-law and (2) take her as his wife. These two sentences seem to deliver two sequential actions. Yet, in fact, the two sentences both present the single idea that the brother-in-law should take the bereaved woman as his wife. The meaning of these two actions are again explained by the verb **יבם** at the end of this command. All the three verbs in v. 5b indeed emphasize the marital duty of a levir toward the bereaved woman. Thus, the chiasmus in v. 5b, with one's general identity as a frame and one's specific duty at the center, functions to remind a brother-in-law three times of his duty toward the dead brother's wife. This repeated reminder may move the levir to fulfill his duty.²⁰⁴

203. Braulik focuses on the term **יבם**. Based on this term he argues that the main theme is levirate marriage which is signaled by the term's derivation from **יבם** (*Deuteronomium II* 16,18–34,12, 186). The emphasis on the term **יבם** is correct, yet the main theme is not about the system of levirate marriage. Rather, the main theme is the preservation of the dead person's property in his name.

204. Repeated lines in literature give a sense of significance to the reader (Joseph Hillis Miller, *Fiction and Repetition: Seven English Novels* [Cambridge: Harvard University Press, 1982], 2). If the brother-in-law hears or reads his duty as a levir repeatedly, he is likely to realize the significance of its custom and may perform it.

B. Word Choice

The last statement in the first unit (vv. 5–6) clarifies the reason for levirate marriage. The main purpose of levirate marriage is to maintain the name of an Israelite man who died without having an heir.²⁰⁵ The memory of a dead person can be maintained through his offspring.²⁰⁶ This reason for levirate marriage is offered rhetorically with a specific verb, *מחה*. Verse 6b states that the dead man's name should not be *wiped out* (*מחה*) among Israel. The audience of the DC encounter this verb again in Deut 25:17–19. According to Deut 25:17–19, the loss of one's name denotes Yahweh's punishment. Yahweh commanded the Israelites to *wipe out* (*מחה*) any trace of the people of Amalek. No memory of Amalek is to remain on the earth. The usage of the verb *מחה* in the context of Yahweh's punishment of Amalek rhetorically indicates that such a result of one's name being wiped out should not occur to the Israelites. In order to continue one's name throughout the coming generation, the levirate marriage should be performed. In sum, the legislator chose the verb *מחה* to show assertively the necessity of levirate marriage, and this word choice would function rhetorically to move the audience to observe levirate marriage if the explanation is related to him.

205. Tigay, *Deuteronomy*, 482; Clements, "The Book of Deuteronomy," 474.

206. Tigay points out that the ancient people thought that the dead person can contact the living through his name (*Deuteronomy*, 482). Thus, having an heir who will be called by his name is the only way to maintain the connection with the living after his death.

C. Honor and Shame System: Exposure of a Hidden Thought

Verses 7–10 deal with a case where levirate marriage is not carried out by the concerned brother-in-law. Even though in vv. 5–6 levirate marriage is encouraged by reminding the brother-in-law of his duty and of the significance of the custom, there could be people who do not want to observe this legislation. This rejection may relate to the levir's desire to take his dead brother's property.²⁰⁷ The legist considered this possible objection based on the levir's hidden intention and made sure such a hidden intention would not be accomplished, first by appealing to the notion of honor and shame,²⁰⁸ and then by ordering a certain legal procedure.²⁰⁹

207. E. W. Davies suggests that the dead man's brother can inherit the deceased brother's property by refusing to take his sister-in-law as his wife ("Inheritance Rights and the Hebrew Levirate Marriage: Part II," *VT* 31 [1981]: 263; cf. Phillips, *Deuteronomy*, 169). Based on Davies's suggestion, Victor H. Matthews assumes that bearing public humiliation and a pejorative title are more desirable than losing one's inheritance rights by fulfilling the duty of a levir ("Honor and Shame in Gender-Related Legal Situations in the Hebrew Bible," in *Gender and Law in the Hebrew Bible and the Ancient Near East* [ed. Bernard M. Levinson, Tikva Frymer-Kensky, and Victor H. Matthews; JSOTSup 262; Sheffield: Sheffield Academic Press, 1998], 102). The levirate law in Deut 25:7-10 aims precisely to avoid making such a possibility happen.

However, whether the levir can inherit his dead brother's property by refusing to perform his levirate duty is questionable. As some scholars has argued, the action of taking off his sandal in public signals the abandonment of his right of ownership of the land (Mays, *Deuteronomy*, 329). Moreover, Deut 25:5–10 does not intend to make levirate marriage ineffective. The language and the appeal to honor and shame system aims to maintain levirate law, and if not, to protect the bereaved woman. As Tigay points out, if the existence of one's name on earth makes it possible for the dead person to contact with the living (see n. 206 above), refusing the levirate duty would be considered seriously evil action. Such a refusal pertains to cut the last remaining possible connection of the dead person with the living.

208. Carmichael argues that the legist employed the sense of disgrace by using the image of sandal in order to effectuate the levirate marriage ("A Ceremonial Cruc: Removing a Man's Sandal as a Female Gesture of Contempt," *JBL* 96 [1977]: 336).

209. The honor and shame system did not have any compulsory, legal function, but certainly would

When a levir refuses to take his sister-in-law as his wife after his brother died, the bereaved woman appeals to the elders. When the levir publicly declines to fulfill his duty as a levir, the woman approaches him, takes off his shoes, spits on him, and proclaims that his name will be called a house of one whose shoes were taken off. This series of actions has two purposes in mind. First, these actions were commanded to make the levir feel humiliated. Second, these actions aimed to reveal the levir's hidden evil intention and to prevent the evil purpose from being achieved.

First of all, having one's shoes taken off, being spat at in public, and being called names certainly would make one feel humiliated.²¹⁰ Among the various suggestions for the meaning of taking off one's sandal²¹¹ Carmichael's suggestion well depicts the feeling

have affected one's decision. Since appealing to honor and shame belongs to a epideictic speech, this could motivate the addressees to adopt or avoid a certain type of action (Clements, "The Book of Deuteronomy," 475; David Arthur deSilva, "Despising Shame: The Social Function of the Rhetoric of Honor and Dishonor in the Epistle to the Hebrews" [PhD diss., Emory University, 1995], 51-52).

210. Tigay, *Deuteronomy*, 233; Biddle, *Deuteronomy*, 372; Nelson, *Deuteronomy*, 299. Nelson points out that taking off a sandal is also relevant to humiliating action because to be barefoot could be a sign of humiliation (*Deuteronomy*, 299).

211. Paul A. Kruger categorizes into four categories the scholarly suggestions for the meaning of taking off a sandal: (1) abandonment of the right of ownership of the land (Mayes, *Deuteronomy*, 329; Nelson, *Deuteronomy*, 300; Merrill, *Deuteronomy*, 328) (2) an act of humiliation (Nelson, *Deuteronomy*, 299; For more references, see Kruger, "The Removal of the Sandal in Deuteronomy XXV 9: "A Rite of Passage"?,² *VT* 46 [1996]: 539 n. 8) (3) sexual symbols (Carmichael, "A Ceremonial Crux," 321-36. Carmichael's view is based on Ludwig Levy, "Die Schuhsymbolik im jüdischen Ritus," *MGWJ* 62 [1918]: 182-83) (4) the change of the woman's status into a marriageable woman (Donald A. Leggett, *The Levirate and Goel Institutions in the Old Testament: With Special Attention to the Book of Ruth* [Cherry Hill: Mack Publishing, 1974], 57). Among these four suggestions, Kruger agrees with the fourth view that the ceremony signals the woman's release from the bond tied by her dead husband's family ("The Removal of the Sandal," 538). Although Kruger does not point this out, some scholars mix the first and last view. They argue that the levir abandons a right to the widow (Julian Morgenstern, "The Book of the Covenant. Part II," *HUCA* 7 [1930], 169; Roland de Vaux, *Ancient Israel: Its Life and Institutions*, 169; Gaster, *Myth*,

that the levir would have. According to Carmichael, the series of actions that the bereaved woman was supposed to do to her brother-in-law remind the readers of the case of Onan in Gen 38. The foot signals the male sexual organ, the sandal a woman's genitals, and her spitting on the face of her brother-in-law Onan's spilling of the semen on the ground.²¹² This analogy assumes that the brother-in-law's refusal to fulfill his levirate duty is so shameful an action to be punished just as Onan was struck to death by Yahweh. Carmichael understands that having one's sandal taken off in public is a humiliation because of such a sexual symbolism.²¹³ If this is the case, the levir who listened and read this regulation would be likely to observe the levirate marriage.

Second, even if the appeal to the social convention of honor and shame does not work, the ceremony depicted in vv. 9–10 has a second device to move the levir to fulfill

Legend, and Custom, 450), so that she is released from the levirate bond. In a similar fashion, Biddle considers it to mean a "ritual act of divorce" (*Deuteronomy*, 372).

212. Carmichael, "A Ceremonial Crux," 329. Jerome T. Walsh suggests that taking off the sandal actually means the exposure of the levir's genitals ("'You Shall Cut off Her... Palm?': A Reexamination of Deuteronomy 25:11–12," *JSS* 69 [2004]: 58). Yet, although it could be this, the symbolism does not fit. Feet may signify a man's sexual symbol but the sandal symbolizes a female genitals. It is the sandal that the woman takes off but not the feet. Moreover, in Deut 25:11–12, a woman who grabs another man's private parts is expected to be punished by amputation. Regarding this issue, Carmichael points out that the woman's sexual freedom to humiliate a man sexually, even if it is symbolic, is not applicable to other cases. Deut 25:11–12 shows the legislator's concern that "such a freedom in the case of levirate is absolutely intolerable in any other circumstances" ("A Ceremonial Crux," 332). Yet, in my view, Carmichael ignores the difference between the case in Deut 25:5–10 and Deut 25:11–12. In the former, the woman brought the case to the authorized institution, city elders; in the latter, the woman did not. The punishment upon the woman in the latter case would be caused by her dealing privately with the case rather than by her sexual immodesty, as Carmichael argues, which is only allowed in the case of levirate law.

213. *Ibid.*, 323.

his levir duty. The legist depicts the brother-in-law as a disingenuous person in vv. 7–10. The hidden motive of the brother’s refusal to perform the levirate duty is to possess the dead brother’s property,²¹⁴ and this inner intention is disguised in his speech. He does not explicitly state his intention. He simply says that “I do not want to marry her (לא הפצתי לקחתה).” However, the widow states that he does not want to establish his brother’s name (מאין יבמי להקים לאחיו שם בישראל). Establishing one’s name means to preserve one’s property under the person’s name.²¹⁵ The woman’s speech connects the brother’s intention to inheritance. The woman’s appeal to the elders in her city is depicted as one based on the purpose of preserving her deceased husband’s name. But the brother-in-law’s

214. Many commentators point out the economic concern rather than sexual desire lying behind the brother’s rejection of his sister-in-law. In general, Matthews points out that instructions concerning sexual behaviors are not so much related to the sexual relationships of individuals as the social and economic relationships between the households (“Honor and Shame,” 97). Specifically, he points out the personal interest of the levir in inheriting his dead brother’s property (ibid., 100). Likewise, Craigie points out that the intention of the brother-in-law is to take his deceased brother’s property. This intention is skillfully hidden in the brother-in-law’s speech. He only says that he does not want to marry her. Yet, in the widow’s speech, his refusal is in fact to reject building his deceased brother’s house; that is, he plots to possess the remaining property (Craigie, *Deuteronomy*, 315). Matlock also argues that the underlying reason for the brother’s refusal to take his sister-in-law is concerned with an economic issue: the newly born child would inherit the deceased’s inheritance and even part of the levir’s portion, too (“Obeying,” 307; cf. Clements, “The Book of Deuteronomy,” 474-75; Biddle, *Deuteronomy*, 372). Moreover, according to Lev 18:16 and 20:21, it is strongly prohibited to take one’s brother’s wife. Thus, this regulation is more concerned with economic matters than sexual desires (Braulik, *Deuteronomium II 16,18–34,12*, 186). Given the connection of the levirate law with Deut 5:21a, Matlock interprets Deut 5:21a as a prohibition to desire the wealth a wife would bring to the marriage through a dowry because a married woman already gives a financial contribution to her husband’s house through a dowry (“Obeying,” 304).

215. Davies points out that the word שם denotes one’s property because one’s child is not called by his dead father’s name although it is said that the child will establish his father’s name (“Inheritance Rights: Part I,” 141).

rejection is depicted as a simple personal preference.²¹⁶ The description successfully shows that the widow has the right intention, while the brother-in-law does not care for a social custom that is significant for maintaining the social system.

Not only is the brother depicted as a disingenuous person, but also the ceremony of taking off the brother's sandal prevents the brother's hidden intention from being fulfilled. The woman's action of taking off the brother's sandal also means the brother does not have any right to possess his dead brother's property.²¹⁷ So, even if the brother rejected taking his sister-in-law in order to take the whole property of his brother, the aim would not be accomplished because the result of the refusal to perform the levirate duty is the loss of a right over the dead brother's property and his sister-in-law. If this is the case, the brother would not reject taking his sister-in-law from the intention to possess his brother's property by himself because he knows that his plan would not work.

In sum, the chiasmic structure which emphasizes the marital duty of the brother-in-law, the reason for the levirate marriage, the appeal to the honor and shame system, and the blocking of a brother's evil intention together serve to move the audience to perform the levirate marriage when it is required.

216. In the relationship between a man and a woman, the term אהבה denotes affection and delight (G. J. Botterweck, אהבה, *TDOT* V: 95).

217. Mayes, *Deuteronomy*, 329; Nelson, *Deuteronomy*, 300; Merrill, *Deuteronomy*, 328.

XXXIV. 25:11–12 Improper Involvement in a Dispute

This regulation commands that a woman's hand be cut off if the woman seized another man's private parts to save her husband.²¹⁸ The addressees, especially women, may resist this decision. They might defend the woman by saying that the woman's actions were motivated by a good intention, that is, to save her husband. The legist employs several rhetorical techniques to silence such a possible rejection.²¹⁹

A. Rhetorical Structure

The narration of the law emphasizes the content of punishment, and this gives an affirmative tone to this punishment. This regulation is composed of a no-motivation structure. Although this regulation is composed of conditional clauses and commanding clauses, they are not evenly balanced. While only two commands are proclaimed in the commanding clauses, in the conditional clauses four consecutive actions are narrated. Two men *are fighting*; the wife of one man *is approaching to save* her husband; she *is stretching out* her hand; she *is seizing* another man's genitals. These actions are arranged

218. The rationale for the punishment is not clear. Some scholars point out that this law aims at protecting a man's reproductive ability (Thompson, *Deuteronomy*, 252).

219. Some scholars argue that this regulation is not intended to be enforced, but to deter such an action (P. Eddy Wilson, "Deuteronomy XXV 11–12: On for the Books," *VT* 47 [1997]: 234; McConville, *Deuteronomy*, 371). If this regulation aims to warn a woman not to seize another man's private parts, this warning should appear in a commanding clause not in a conditional clause. Yet, this regulation includes the woman's action in the conditional clauses and explains it in detail.

sequentially. The actions are chronological and descriptive. Among these conditional clauses, the punch line is placed at the last sentence. Other actions mentioned before this punch line play only a secondary role to explain the situation in which such a final action occurs. The following punishment is only relevant to the woman's final action—that of seizing another man's genitals. The previous three actions imply that her intention might be acceptable. However, her acceptable intention is not in line with the severity of what she did toward another man's genitals.²²⁰

In sum, the sequentially arranged conditional clauses put the emphasis only on the last part in which a woman grabbed another man's genitals. The rationale behind these four conditional clauses is that even though she intended to save her husband in a fight, if she grabs another man's genitals, such an action would not be acceptable.

220. The severity of the punishment is explained in two ways. First, based on Middle Assyrian Laws (MAL), some argue the possibility that the woman's seizing of a man's genitals results in emasculation of her victim (Craigie, *Deuteronomy*, 316; Eugene A. Merrill, *Deuteronomy*, 329; Eslinger, "The Case of an Immodest Lady Wrestler," 269-81). This means she made it impossible for the man to have a child (As for the relevant MAL, see Roth, *Law Collections*, 156-57; ANET, 181). Second, disagreeing with the real injury upon the man's genitals, some scholar point out the immodesty of the action itself (Pressler, *Family Laws*, 75-6, 99; Shalom M. Paul, "Biblical Analogues to Middle Assyrian Law," in *Religion and Law: Biblical-Judaic and Islamic Perspectives* [ed. E. B. Firmage, B.G. Weiss, and J. W. Welch; Winona Lake: Eisenbrauns, 1990], 338; Patrick, *Old Testament Law*, 138; Carmichael, "A Ceremonial Crux," 332; Weinfeld, *Deuteronomic School*, 292). By denying both explanations, Walsh attempts to read v. 12a in a different way. She reads v. 12a as "You shall shave [the hair of] her groin" ("A Reexamination of Deuteronomy 25:11-12," 48, 57). The rationale for the new translation begins with a supposition that in comparison with Exod 21:22 the punishment of Deut 25:12 is too harsh. The intentional attack on a woman is only fined in Exod 21:22, while a woman's intervention to save her husband results in mutilation (*ibid.*, 48).

In contrast to these conditional clauses, the commanding clauses are decisive and affirmative: You shall cut off her hand; Your eye shall have no pity. No explanation is offered. Even these two commanding clauses are not connected with a conjunction ו. The second command, “no pity on the woman,” follows directly the first command, “cut off the woman’s hand.” There is no room for question about the first command. The second command serves to seal the first command because of its swift occurrence. This literal style would function rhetorically to make the addressees accept the first command because the second command appears right after the first command. Before raising a question about the first command, the addressees would stay on the second command: that of showing no pity toward the woman. This arrangement emphasizes only the woman’s immodest action against another man and the punishment, not the reasonableness of her action.

B. Connection to Another Regulation

This regulation begins with a circumstantial clause, saying “if men fight together, a man against his brother.” This sentence certainly leads the addressees to the previously proclaimed law in 25:1: “If there is a dispute between men, they should appeal to court.” Since 25:1–3 focuses on a particular case of flogging, it does not mention what would be the result if one does not go to a court to resolve the dispute. One of the possible results is mentioned in 25:11–12. In 25:11–12, the woman’s seizing of another man’s private parts

is done to save her husband. Yet, in fact such an action violates the law in 25:1 because she does not appeal to court but attempts to solve the case by herself. Such an action would be regarded as a disrespect of the court.

In sum, the legist put an emphasis on the short, affirmative command and refers to a nearby law in order to make the severe punishment agreeable to the addressees.

XXXV. 25:13–16 Honest Weights and Measures

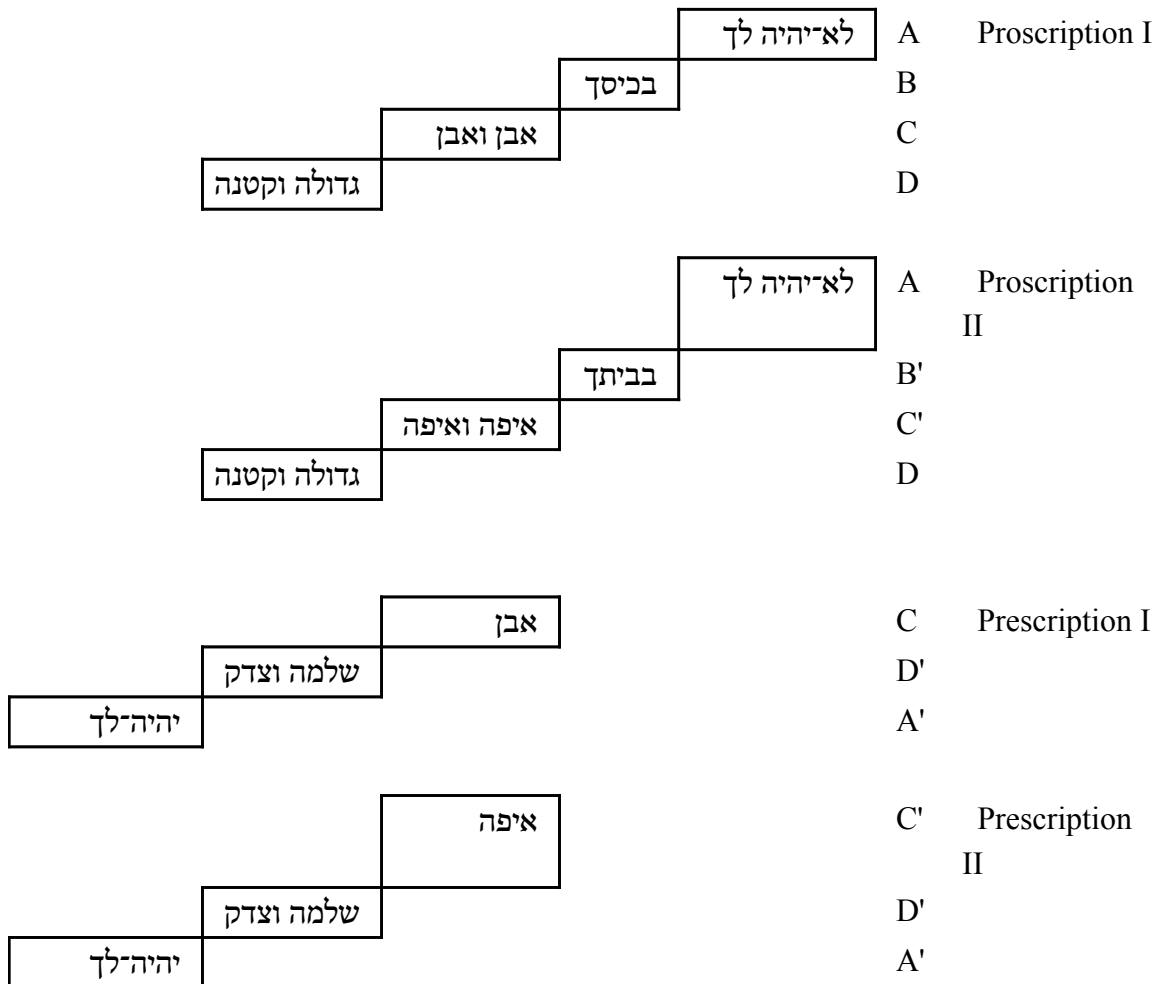
The concern of this regulation is maintaining honesty in one's commercial activities by the use of exact and just weights and measures.²²¹ This main command is delivered through a well arranged structure and the repeated expressions.

A. Repetition of Key Terms in a Paralleled Structure

This regulation repeats key terms twice in identical fashion: You shall not have . . . (לאִי־הִיָּה לְךָ); weight (אֲבָן); measure (אִיפָה); a large one and small one (גְּדוּלָה וְקִטְנָה); a full and a just (שְׁלֵמָה וְצֶדֶק). These repeated terms form parallel sentences.

221. Given the prophetic criticism of such a practice (Amos 8:5; Mic 6:10–12), the use of false weights was likely widespread in the monarchic period (cf. McConville, *Deuteronomy*, 372).

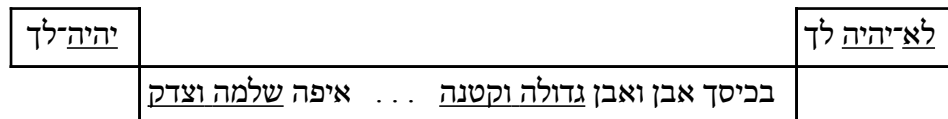
a positive verb	quality	weight & measurement	place	a negative verbs
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Proscription I is synonymously paralleled with proscription II. The components of proscription I have their counterpart at the same position in proscription II. The two proscriptions begin with the same phrase לא־יהיה לך and end with the same phrase גדולה וקטנה. Moreover, line B and its corresponding line B' introduce spatial information, and lines C and C' mention the tools of measurement. Likewise, prescription I is

synonymously paralleled with prescription II, and the word order is identical in each. The two prescriptions both end with the same phrase: *שלמה וצדק יהיה לך*. Their beginnings introduce the tools of measurement. By presenting a legal idea twice with quasi-identical statements and placing the same expression at the beginning or at the end, the legislator delivers the main idea to the addressees more clearly: Do not even possess any dishonest weights or measures, but have honest weights and measures.²²²

In addition to the repetition of the main ideas, this regulation takes advantage of the technique of contrast. It should be mentioned that the first two proscriptions are antithetically paralleled with the next two prescriptions. The main verb of the proscriptions is *היה* with the negation, and the main verb of the prescription is just *היה*. These two verbs together bracket the whole regulation.



This *inclusio* highlights the contrast between what should not be possessed and what should be possessed. Within this *inclusio*, the qualifying adverbs *גדולה וקטנה* and *שלמה*

222. It has been pointed out that this regulation prohibits people not only from using dishonest weights and measures but also from *possessing* such tools (Olson, *The Death of Moses*, 113; Tigay, *Deuteronomy*, 234; Nelson, *Deuteronomy*, 301). The spatial terms *בכיסך* and *בביתך* and the verb *היה* support this view.

וצדק specify the contrast in question. The unequaled balances are contrasted to the complete and right balances.

In sum, by repeating key words in parallel lines and by creating contrast among key words, the legist clearly delivers the main point of this regulation to the addressees.

B. Motivation with Deuteronomistic Theology

After proscribing and prescribing by several sets of paired terms, the legist motivates the addressees with a positive reward and a negative aspect of the aforementioned actions.²²³

The reward promised to those who keep this prescription and avoid the proscription is a *long life* in the promised land.²²⁴ The promise of a long life in the promised land must have been appealing to the addressees because this reward is directly related to their safety and secure in their dwelling places. Next, the action of having different weights and measures in one's bag or house is seen as an abominable action²²⁵ in the sight of

223. One more interesting structural feature of this regulation is that this regulation as a whole is composed of the alternation of negative and positive. The first two proscribing sentences are *negative*; the next two sentences are *positive* commands; the next clause led by *למון* pertains to a promise, so *positive*; the last clause led by *כי* states Yahweh's abomination, so it is *negative*. Thus, this regulation as a whole is structured in an ABBA structure.

224. This promise is also given to one who honors one's parents (Deut 5:16) and to one who saves a mother bird (Deut 22:6–7). The frequent use of this motivation implies its efficacy.

225. The indication of abomination to Yahweh is also used as a rationale in Prov 11:1; 20:10, 23 (Weinfeld, *Deuteronomy 1–11*, 63). The difference between Deut 25:13–16 and Prov 20:10, 23 is interesting. In Prov there is no such expression as “גדולה וקטנה” since the expressions *אבן ואבן* and *איפה ואיפה* themselves can deliver a deceitful denotation. The use of *גדולה וקטנה* in Deut 25:13–14 indicates the DC's attempt to pinpoint the feature of dishonesty.

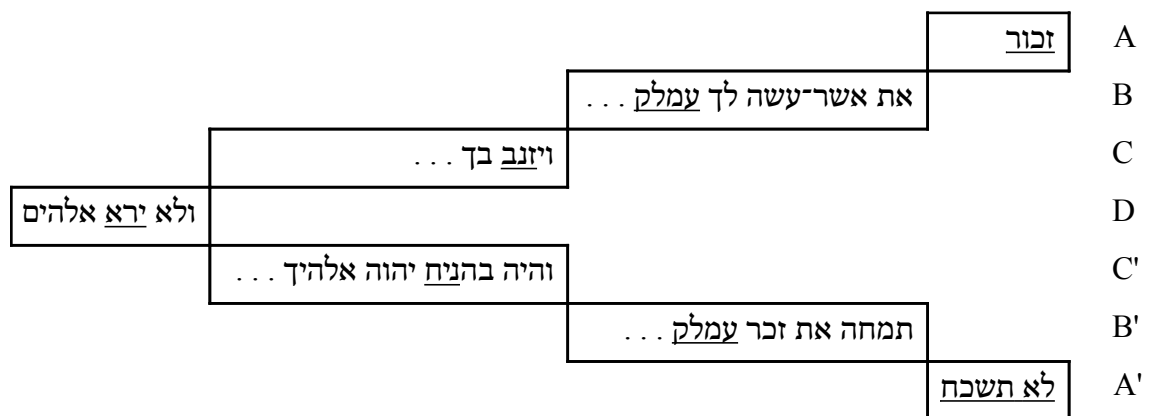
Yahweh.²²⁶ The idea of the abomination of Yahweh has been used several times for the purpose of motivating the addressees to observe the regulations under consideration. The use of this significant term certainly serves to motivate the addressees to do what is prescribed and to avoid what is proscribed.

XXXVI. 25:17–19 Wipe out Amalek

The main command of this regulation is to wipe out Amalek. This command is persuasively delivered because the reason for this command is given within a chiasmic structure and supported by a historical memory.

A. Chiasmus

This regulation shows a chiasmic structure as follows:



226. Wright points out that the use of dishonest weights and measures are abominable to Yahweh because it will lead to social destruction, making difficult the life of the poor (*Deuteronomy*, 267; cf. McConville, *Deuteronomy*, 372).

First, the motive of memory shapes the outer frame (A and A'): "remember" versus "do not forget." These thematic verbs point out that this regulation pertains to a memory. Second, in the next frame (B and B') the term עמלק appears. In these paired lines, the encounter between Israel and Amalek is mentioned. Line B reads, "what Amalek did to you." In B' it is commanded that the Israelites should annihilate Amalek. Based on this correspondence, it can be said that the Israelites should annihilate Amalek because of what Amalek did to them. Third, in the next inner frame (C and C'), what Amalek did to Israel is contrasted to what Yahweh did to Israel. While Amalek attacked the Israelites on the way out of Egypt, Yahweh gave rest to the Israelites from all the enemies and gave land to them. Finally, at the center of the structure, the relationship between Amalek and Yahweh is mentioned: Amalek does not fear God.

So, this chiasmic structure shows that this regulation pertains to what Israel should remember. The contents of the remembrance are mentioned inside the structure: what Amalek did to Israel and the duty of Israel to annihilate Amalek. Moreover, the reason for the total annihilation is given at the center: they do not fear God. This fearlessness not only explains Amalek's attack on Israel but also gives the reason for Israel wiping out Amalek.

B. Thematic Rationalization

As seen in the chiasmic structure, the theme of Amalek's not fearing Yahweh is placed at the center. This feature of Amalek gives a rationale for wiping out Amalek. The main command of this regulation to wipe out the memory of Amalek needs to be justified to the addressees, and Amalek's lack of fear is an appropriate justification of the annihilation. Exodus 17:14 indicates that Yahweh would blot out the memory of Amalek in the future, yet the Exodus narrative does not provide a clear reason for Yahweh's rage. The only reason presented is their attack on Israel. However, Deut 25:17–19 depicts Israel's war against Amalek in a different fashion. Amalek did not just attack Israel in the wilderness but attacked the stragglers in the rear (כל־הנחשלים אחר־יך). The immoral feature of this action is emphasized by the sentence ולא ירא אלהים. Amalek's attack on Israel's weakest part cannot be tolerated because such an action resulted from their failure to fear Yahweh.²²⁷

227. Weinfeld points out that the fear of Yahweh in Deut 25:18 connotes a general morality of human being. The deuteronomist blames Amalek not just for their attack on Israel but for their cruel, inhumane attack on the stragglers in the rear. This is given as the rationale for Yahweh's command to wipe out the memory of Amalek (*Deuteronomie School*, 274-75).

XXXVII. Summary

In chapter 4 we have investigated what kind of rhetorical structures and rhetorical devices the regulations in Deut 21:10–25:19 employ. Through the careful investigation, it has been proved that each regulation in Deut 21:10–25:19 delivers its legal ideas through carefully arranged rhetorical structure and rhetorical devices. The following two charts will summarize the observation we have made.

Chart 1. Rhetorical Structure

21:10–14	combination: no-motivation (vv. 10–13) + triadic (v. 14)
21:15–17	triadic
21:18–21	triadic
21:22–23	triadic
22:1–4	combination: command-only (vv. 1, 4) + no-motivation (vv. 2–3)
22:5	command-first
22:6–7	triadic
22:8	triadic
22:9	command-first
22:10	command-only
22:11	command-only
22:12	command-only
22:13–21	a set of triadic (vv. 13–19, vv. 20–21)
22:22–29	a set of triadic (v. 22, vv. 23–24, vv. 25–27, vv. 28–29)
22:23–24	triadic
22:25–27	triadic
22:28–29	triadic
23:1	command-only
23:2–9	combination: command-only (vv. 2–3) + command-first (vv. 4–7; 8–9)
23:10–15	triadic

23:16–17	command-only
23:18–19	command-first
23:20–21	command-first
23:22–24	combination: triadic (v. 22) + command-only (v. 23) + command-only (v. 24)
23:25–26	two sets of no-motivation
24:1–4	triadic
24:5	no-motivation
24:6	command-first
24:7	triadic
24:8–9	a set of command-only (v. 8, v. 9)
24:10–13	combination: no-motivation (vv. 10–11) + triadic (vv. 12–13)
24:14–15	command-first
24:16	command-only
24:17–18	command-first
24:19–22	three sets of triadic structure (v. 19; v. 20; vv. 21–22)
25:1–3	combination: no-motivation (v. 1) + triadic (vv. 2–3)
25:4	command-only
25:5–10	combination: triadic (vv. 5–6) + no-motivation (vv. 7–10)
25:11–12	no-motivation
25:13–16	command-first
25:17–19	motivation-first

First, based on the chart 1 above one can sum up the occurrences of each structure within Deut 21:10–25:19 as following.

	within its own structure	within combined structures
command-only	7 times	3 times
command-first	8 times	1 time
motivation-first	1 time	0 time
no-motivation	3 times	5 times
triadic	14 times	5 times

According to this table, triadic is the most common structure. Among the all forty regulations, triadic structure amounts to one-second of the all. Fourteen regulations are formed into triadic structure, and five regulations composed of more than one type of structure contain triadic structure. This is because the triadic structure is the most equipped structure that include all the necessary components to appeal to the audience with a certain legal idea. A conditional or temporal clause, commanding clause, and motivational clause appearing in triadic structure serve to move the audience to pay attention to the law and possibly observe it. The next common structures are command-only and command-first. These two structures occur in similar frequencies. They place to the front a command which usually conveys the main idea of the law. Then no-motivation structure comes next in frequency. This structure occurs more often within combined structure than by itself.²²⁸ This is because the motivation absent in its own structure can be expressed within another structure that is used together in one regulation. So one can conclude that no-motivation structure is more efficient when it is used with other type of structures. Finally, motivation-first structure is used less frequently. It is used only one

228. If one looks at the regulations in Deut 12:2–21:9, it is more obvious that no-motivation structure is used with other types of structure. No-motivation structure does not occur by itself. Yet it occurs 10 times among 13 regulations that employ combined structures (Deut 12:20 within 12:20–27; 14:24–26 within 14:22–27; 15:21–23 within 15:19–23; 17:2–4ba within 17:2–7; 17:14–17 within 17:14–20; 18:6–8 within 18:1–8; 19:16–18a within 19:15–21; 20:2–9 within 20:1–9; 20:10, 11–15 within 20:10–18; 20:20 within 20:19–20).

time in Deut 25:17–19 within 21:10–25:19.²²⁹ This would be because motivation-first structure has a risk to lose the audience’s attention at once if the motivation at the front does not meet the audience’s concern. The different frequency of each legal structure also evidences that the legist of the DC concerned the persuasive power that each rhetorical structure would contain in its structural features.

Next, chart 2 below shows the occurrences of each rhetorical device within Deut 21:10–25:19.

Chart 2. Rhetorical Devices

Rhetorical Devices		Occurrences
Repetition		21:15–17, 18–21; 22:1–4; 23:1, 18–19; 24:1–4, 19–22; 25:4, 13–16
Chiasmus		21:22–23; 22:6–7, 8; 23:10–15, 20–21, 22–24; 24:5, 6, 7, 8–9, 16; 25:5–10, 17–19
<i>Inclusio</i>		22:1–4; 24:16; 25:13–16
Alternation of Prescription and Proscription		22:1–4; 23:25–26; 24:10–13
Theological themes	fear of Yahweh	25:17–19
	abomination to Yahweh	22:5; 23:18–19; 24:1–4; 25:13–16
	purification of evil	21:21; 22:21, 24; 24:7
	historical memory	24:8–9, 17–18

Repetition and chiasmus are found throughout the legal units in Deut 21:10–25:19. Each of the five chapters (21, 22, 23, 24, 25) has these two rhetorical devices in at least one regulation. The frequency and distribution would imply that these rhetorical devices are

229. Within the DC outside Deut 21:10–25:19 motivation-first structure is used only one time (Deut 14:1–21).

efficient in delivering the legist's legal idea in a persuasive way. For example in Deut 21:18–21 the repetition of סורר ומורה (stubborn and rebellious one) in depicting a son brought to the city elders serves to make the audiences agree to the legal punishment upon the disobedient son. As for chiasmus Deut 25:17–19 offers a good example. The whole regulation is structured into chiasmus. Through chiasmus the legist delivers the following information efficiently: (1) this regulation pertains to what Israel should remember (outer frame); (2) what Amalek did to Israel and the duty of Israel to annihilate Amalek (inner frame); (3) Amalek's fearlessness of Yahweh as the reason for the total annihilation (center). This fearlessness not only explains Amalek's attack on Israel but also gives the reason for Israel wiping out Amalek.

Inclusio and alternation of prescription and proscription do not appear as much often as repetition and chiasmus. Yet these two rhetorical devices also function to deliver legal ideas efficiently and persuasively. In fact *inclusio* pertains to repetition because the same phrases or sentences appear both at the beginning and the end of a regulation. Thus the effect that repetition makes can be also achieved by *inclusio*. Yet because of the fixed places of the repeated expressions in *inclusio*, *inclusio* has additional function such as the mark of the boundary of a regulation and the indication of a main idea. For example, in Deut 22:1–4 the commanding clause “You shall not see . . . and ignore them” (לא תראה . . . וזהתעלמת), being repeated at the beginning and the end, marks the boundary of the law

and also delivers the main concern of the law: not to ignore one's neighbor's endangered property. As for the alternation of prescription and proscription this technique deliberately manifest what is allowed and what is prohibited. Within the scope allowed one hears what is prohibited. So one's action is limited and controlled. As the same fashion within the scope prohibited one hears what is allowed. So one can feel released. Thus this technique has the power to persuade one to agree to the legislator's legal ideas. One good example is Deut 23:25–26. First this law allows one to eat whatever one wants from a neighbor's vineyard and fields. Yet this permission works as long as one does not use a vessel to collect them, and a sickle to gather them. This permission and limitation concern both those who own vineyard or grain field and those who take from neighbor's property. By considering both parts, the legislator successfully appeals not only to those who take freely but also to property owners so as to encourage them both to keep this regulation.

The theological themes also spread out throughout Deut 21:10–25:19. Especially the ideas of abomination to Yahweh, of purification of evil, and of historical memory appear in some fixed expressions functioning like a refrain. So, the theological themes themselves also employ the rhetorical technique of repetition.

Based on these observations, we conclude that the DC is a rhetorically driven work which were written for the purpose of moving the addressees to carefully follow these

laws. The remaining question that is worth pursuing is about whether these rhetorical structures and devices were effective to the addressees, which is the main topic in the next chapter.

CHAPTER 5: Rhetorical Effectiveness of the Deuteronomic Code

“Wherever there is persuasion, there is rhetoric. And wherever there is ‘meaning,’ there is ‘persuasion.’”
Kenneth Burke¹

This chapter deals with the crucial question of the effectiveness of the DC. While it became clear through chapter 3 and 4 that the DC is full of rhetorical features, their specific effect upon the audience deserves further comment. Did the DC successfully address the exigences of each time period? To put it another way, did the rhetorical strategies effectively move the audience to observe the laws and rules? Since we do not have direct access to the historical audience who heard and read the DC, it would be at best conjectural to estimate the effectiveness of the DC’s rhetoric upon the historical audiences. This inquiry into the DC’s rhetorical effectiveness should thus be done with caution.

Yet, no matter how tentative the response to the question might be, we cannot ignore the significance of the question. Rhetoric is not a unilateral act but a communicative one. It presupposes an audience, and the rhetor modifies and adjusts the contents on the basis of the audience responses. All rhetorical speeches and writings aim

1. *A Rhetoric of Motives*, 172.

to have a certain type of influence upon the audience. Thus rhetorical analysis should consider the effectiveness of a rhetorical speech or writing, even if in some cases it is hard to measure that effectiveness.

Thomas Renz's discussions on the rhetorical effectiveness of the book of Ezekiel, offers a useful set of questions we can apply also to the DC: First, did the book properly address the exigences of the time of Ezekiel's ministry? Second, what happened after exile, the assumed date for the composition of the book? Third, whose interest does the book serve? Fourth, how was the material preserved beyond the rhetorical community?² Of these four questions, the first and last are especially relevant for understanding the rhetorical effectiveness of the DC.³ If the rhetoric of the DC addresses the exigences of the DC, one can suppose that the rhetoric would have an effect on the audience.⁴ The

2. Renz, *Rhetorical Function*, 229-47.

3. The second question is not relevant to the case of the DC since the date of composition of the DC is not fixed in the exilic period. Rather, its long period of composition stretched from the pre-monarchic to the post-exilic period. The third question is more relevant for investigating the identity of the authors of the DC, which I dealt with in Chapter 2.

4. See Friebel, *Jeremiah's and Ezekiel's Sign-Acts*, 465. He argues that "successful rhetoric is not measured by the results of whether the audience altered its position, but rather by the appropriateness of the message in addressing the exigences of the situation." Friebel concludes in his study of the sign-acts of Jeremiah and Ezekiel that such actions worked as effective rhetorical devices not because they drew positive responses from the audience but because they addressed the perceived exigences of the assumed audience (ibid, 466-67). Thus, according to Friebel's view, it can be said that knowing whether the DC addresses the exigences of the time when the DC was proclaimed and read is crucial to determine whether the DC's rhetoric was successful.

As for the significance of a fitting response to a rhetorical situation, see Bitzer, "Rhetorical Situation," 10-11; idem., "Functional Communication," 36-37; Alan Brinton, "Situation in the Theory of Rhetoric," *PR* 14 (1981): 238; Eugene E. White, "Rhetoric as Historical Configuration," in *Rhetoric in Transition: Studies in the Nature and Uses of Rhetoric* (University Park: Pennsylvania State University Press, 1980), 16-17.

audience would consider the DC because it deals with their needs and concerns. In addition, the preservation of the DC in the canon and its usage by later biblical texts may signal the acceptance of the DC by the audience. Whether or not they actually followed the DC is a next level with which this chapter does not deal. In what follows, I investigate first how the rhetorical strategies in the DC deal with the exigencies of their time period, and then I identify some examples which show the later usage of the DC.⁵

I. The Deuteronomic Code's Addresses to Exigences

A. Literary Audience

Chapter 2 pointed out that the exigencies of the literary audience were mainly twofold. One is how to take possession of the promised land successfully. The other is how to maintain the security of the possessed land. In fact, when the literary audiences are standing in the plain of Moab looking at the promised land, all their concerns are related to the land which they are about to enter and in which they will live their new life. Among many suggestions regarding the ways to take possession of land and to secure it, the issue of idolatry is indispensable to the life in the promised land after the entry into it.

5. In the discussion of legislations which are relevant to the exigencies of specific time periods, I will not deal with all legislations of the DC. In fact, it is not only impossible but also unfruitful to distinguish all the legislations into distinct time periods. Some of the DC can be applied to all time periods because of their universal features. Their legal ideals are not conditioned into specific time periods.

The text urges the literary audience to avoid the temptation to worship other gods under the influence of the Canaanites in the land.

The legists address these circumstances in several legislative texts. First of all, the legists state several times that the secure possession of the land depends on the audience's faithful observance to the laws and rules. Israel's possession of the promised land does not come true automatically. In Deut 16:20, the legists urge the audience to pursue justice and justice alone. The reason for pursuing justice is to take possession of the land successfully. Israel's possession of the land results from their pursuit of justice. Several verses outside of the DC mention that the observance of the laws and rules will guarantee entry into and residence in the promised land (Deut 4:1; 6:18; 8:1; 11:8). Moreover, the DC reminds the people that their observance of the laws and rules will result in their long life in the promised land (Deut 5:33). Deut 25:15 adds that using good and equal weights will likewise lead to the the observers's long life in the promised land.⁶

Next, the legists attempt to remove the audience's possible desire to worship other gods by pointing out the severe punishment that would follow. In Deut 13:2–19, three consecutive regulations deal with cases of enticing the Israelites into worship of other

6. The situation in which the literary audience is about to enter the land is emphasized in the DC. Several legislations begin with a phrase such as, "when you enter the land, possess it, and dwell in it" (17:14; 19:1; 21:1; 26:1 cf. 12:29). This opening clause indicates that the legists discern the literary audience's main concern of possessing the land.

gods. The legists strongly command the Israelites to kill anyone, whether a member of the religious authorities or a close family member, who entices Israel to worship other gods. The severity of such idolatry is evident in the ensuing merciless punishment. Even if the apostasy was caused by one's closest family member, the enticer should be killed.⁷

A similar warning against idol worship appears also in Deut 17:2–7. Again the punishment of an idol worshiper is death. In addition to those texts, Deut 12:29–30 uses conditional clauses to address the issue of worshipping other gods, explaining the process of conquest and settlement. By putting this information into a conditional clause, the legists imply that conquest and settlement are not the end of the life of Israel. Israel should not be satisfied with conquering the promised land and settling in it. Rather, the main clauses emphasize that the way one lives in the promised land is more significant than taking possession of the land itself. The main clauses warn the Israelites not to worship other gods after possessing the promised land. The logic is that the possessed land and Israel's life in it would be lost if the Israelites worship other gods and follow pagan cultic practices. Through this structural pattern, the legist strongly prohibits the audience from seeking other gods in the promised land (vv. 30–31). With these verses in

7. The intended effect of this severe punishment is stated in Deut 13:12. According to the verse, the effect of such a severe punishment is the deterrence of apostasy. Presumably anyone who hears the severe result of such an apostasy will not commit the same crime again.

the DC and more broadly in Deuteronomy, the legists address the exigences of the literary audience.

We can tentatively assume from two texts that the literary audience accepted the legists's call for obedience to the law. In Deut 26:16–19 the Israelites and Yahweh proclaim mutual commitment to each other.⁸ After Moses's statement of the general commands in a summary fashion (v. 16), the Israelites proclaim that they will observe the laws and rules (v. 17). As a response, Yahweh also affirms Israel's special relationship with Yahweh (vv. 18–19). This mutual affirmation clearly indicates that the Israelites in the plain of Moab accept what is proclaimed in Deut 12–26.

Moreover, Deut 27 portrays the Israelites who have been listening to Moses's speeches as determined to follow the instructions that Moses just finished delivering. They respond to Moses's final speech with a positive and determined voice: "Amen" (Deut 27:15–26).⁹ Although this covenantal ceremony on the mountain of Gerizim and Ebal is placed outside of the DC, in the context of the book one can read the twelve prohibitions as a kind of summary of the DC with the Israelites's willing acceptance of the curses being a signal of their acceptance of the laws in the DC.¹⁰

8. This unit is considered a part of the covenant renewal ceremony (Lohfink, "Dt. 26:17–19 und die Bundesformel," *ZKT* 91 [1969]: 517-53; Craigie, *Deuteronomy*, 309-10).

9. The ceremonial "Amen" response in the mountain of Gerizim and Ebal signals that the audiences listened to the command that Moses had delivered in chs. 12–26 and determined to observe the laws. Common English Bible (CEB) translates אמן "we agree!"

10. Mayes rightly points to the representative feature of the twelve prohibitions in the Israelite legal

B. Josianic Audience

In the middle of the eighth and seventh centuries, Judah was confronting a political and economic breakdown. Politically, the court administrators were not unified in their international policies. Some supported Assyria, others Egypt.¹¹ They were debating the potential risk of losing their homeland to Assyria.¹² This potential disaster appeared to occur when Assyria marched down to silence the rebellion led by King Hezekiah in 701.¹³ An Assyrian inscription depicts Judah's depleted condition: the loss of 46 fortified cities and 200,150 people captive.¹⁴ Economically, the disparity between rich and poor was increasing. Some wealthy landowners enlarged their territories by taking possession of land owned by those who had lost their financial ability to maintain it.¹⁵ The DC addresses these political and economic realities. Its major rhetorical aims include restoring economic balance among the people and promoting religious and political autonomy.

and moral life (*Deuteronomy*, 345-46).

11. The following historical reports reflect the vacillating international policy in Judah. In 720–719 Hezekiah fought on the side of the Assyrians against Egypt, while in 713–711 Judah was named in the list of rulers who rebelled against Assyria as the ally of Egypt (Miller and Hayes, *A History of Ancient Israel and Judah*, 405-406).

12. Although Judah attempted to achieve their political autonomy, while Assyria had a weakened influence upon Syrian-Palestine area in the late seventh century, this attempt itself signals Judah's concern for their security. Judah's concern for their security is also seen in Hezekiah's fortifying Jerusalem and his constructing the Siloam tunnel (Miller and Hayes, *A History of Ancient Israel and Judah*, 412).

13. *Ibid.*, 416.

14. *ANET*, 287-88; Miller and Hayes, *A History of Ancient Israel and Judah*, 418-22.

15. McNutt, *Reconstructing the Society*, 160.

In many places, the DC addresses the issue of economic disparity, offering various suggestions to correct the economic disparity and addressing the financial risk that the non-landowners were confronting. Certain regulations, such as the prohibition of moving a neighbor's territory marker (19:14), the prohibition of taking interest of any kind from lending (23:20–21), and the prohibition of delaying pay for labor (24:14–15), all aim to maintain economic balance among the Israelites. These regulations are proclaimed with a motivational clause. A person's inheritance should be preserved because that is what Yahweh has given to him (19:14b). Yahweh's blessing is promised to the one who does not take any interest from a fellow Israelites (23:21b). Paying wages on time will prevent a master from becoming a sinner; belated payment of wages will cause a laborer to appeal to Yahweh against his master (24:15b). All these motivations function to move the audience to observe the legislations carefully.

The DC also addresses Judah's concern for religious and political autonomy and for the unity of national policies regarding international relationships. The DC promotes the idea of cultic centralization¹⁶ as an attempt to unite the Israelites by a central worship

16. As McNutt points out, in the time of the Monarchs cultic centralization was not achieved. Rather, popular cult and women's cults prevailed (*Reconstructing the Society*, 176-77). This historical situation implies that in the time of Josiah, cultic centralization was not prominent but nonetheless necessary. This called for a strong rhetorical approach. The legists of the DC had to use rhetorical strategy to persuade their audience in the time of Josiah to accept the central shrine.

ceremony¹⁷ and to achieve political independence from Assyria.¹⁸ The concern of cultic centralization is properly addressed in various texts in chs. 12–16. For example, Deut 12 indicates that all of the sacrificial animals should be brought to the central shrine and consumed there. Deut 14:22–26 states that the tithes were not gathered as a tax but should be consumed by the community at the place that Yahweh will choose. A provision is even made for the eventuality that one lives far from the central shrine: one should change one's tithes into money and buy sacrificial animals at the central shrine (vv. 24–26). The traditional festivals should also be observed at the central shrine (16:1–17). Moreover, the judicial system is also reorganized according to the central court, which was established in the chosen place (17:8–13). All of these regulations would function to strengthen the religious center, which was made in order to achieve political autonomy from Assyria as well as to unite the nation under one cultic center.

Hoppe points out that Josiah's attempt to achieve political and religious autonomy through such things as cultic reforms was resisted and ultimately failed.¹⁹ However, the

17. Albetz points out the political dimension of cultic centralization. King Josiah and the officials attempted to bind the populations to the capital by allowing them only one central place of worship (*Israelite Religion*, I: 207).

18. The political independence from Assyria was connected with the removal of any religious customs borrowed from Assyria. This attempt to rejecting foreign cults led to a strong insist on cultic centralization (Roland de Vaux, *Ancient Israel: Its Life and Institutions* [trans. John McHugh; Grand Rapids: Eerdmans, 1997], 336–37; trans. of *Les Institutions de l'Ancien Testament* [Pari: Les Editions du Cerf, 1958]; Norman K. Gottwald, *The Hebrew Bible: A Socio-Literary Introduction* [Philadelphia: Fortress, 1985], 369).

19. Hoppe, "Jerusalem in the Deuteronomistic History," 109-110. While he denies the successful installation of cultic centralization in the time of Josiah, Hoppe in fact supports the exilic date of cultic

failure of Josiah's reform, even if it were, should not be regarded as the failure of the deuteronomic ideas. No matter how ineffective Josiah's reform was in its own time, the deuteronomic ideologies left considerable marks on the exilic and post-exilic Israelite religion.²⁰ Furthermore, biblical evidence, such as 2 Kgs 23:1–3, supports the argument that the regulation of cultic centralization was accepted in the time of King Josiah. We learn that King Josiah read the book of teaching (ספר התורה) and all the people entered into the covenant, meaning they agreed to observe the law. Although there is a scholarly debate on the identification of the book of law found in the time of Josiah, the majority of scholars take it for granted that the book must have referred to at least the legal portion of part of the book of Deuteronomy.²¹ If this is the case, it follows that cultic centralization commanded in the DC effectively affected King Josiah and the court officers to carry it out.

C. Exilic Audience

The pressing circumstance of the exilic period was a doubt about Israel's identity in its relationship with Yahweh. Due to the destruction of the Jerusalem temple and Israel's

centralization. According to Hoppe, the exiled saw what remained of the city of Jerusalem as a signal of the possibility of Israel's restoration. To the exilic audience, the existence of Jerusalem was seen as a hope of restoration (ibid., 109).

20. Rainer Albertz, *A History of Israelite Religion in the Old Testament Period: Volume II: From the exile to the Maccabees* (OTL; trans. John Bowden; Louisville: Westminster John Knox, 1994), 369-70.

21. See n. 63 in Chapter 2.

exile, Israel's traditional self-identification as Yahweh's chosen people was damaged and needed to be restored. Moreover, Yahweh's favor toward Israel no longer seemed operative. Given these circumstances, the DC addressed the issues and attempted to restore Israel's self-identity as Yahweh's chosen people and Yahweh's role as a savior. Thus, Deut 14:2 emphasizes Israel's special relationship with Yahweh. Not only is Israel said to be a people consecrated to Yahweh, the text also insists that Yahweh chose Israel as Yahweh's treasured people among the nations. These statements clearly show the legists's aim to address the exigences of the exilic period and to show that Yahweh had not turned his back on Israel, but still considered them a specially chosen people.

Moreover, the legists on several occasions mention Yahweh's role as a savior. They point out that Yahweh brought up the Israelites from Egypt (13:6, 11; 16:1) and that Yahweh will fight against Israel's enemies (20:4; cf. 3:22). Such reminiscences about Israel's past when Yahweh delivered Israel from Egypt would assume that Yahweh would likewise protect and deliver the exiled from Babylon. Similarly, Yahweh's promise to fight Israel's enemies for the sake of Israel would suggest that Yahweh will now fight for Israel against Babylon.

The DC shows the way in which such an analogy is effective. The DC's central message proclaims that the wholehearted obedience to Yahweh's instruction will lead the observers to life, and that Yahweh will bless those who carefully observe all the laws and

rules.²² This central message would make the exiled people hope for the desirable future and teach them how to realize such a future.

As Noth argues, the exilic audience might have accepted the Josianic version of the DC and edited the inherited text according to their circumstances.²³ The very act of redaction indicates that even as the editors appropriated the DC to serve the needs of the exilic community, the exiled also accepted the DC as authoritative.

D. Post-exilic Audience

At stake in this period is maintaining the identity of a “true Israel” as distinguished from the foreigners and the remnant.²⁴ Thus, Deuteronomy 14 presents a dietary law as a tool to distinguish the Israelites from other nations. Modern scholars do not fully understand why certain categories of animal were prohibited for consumption. Yet, one of the plausible reasons for this is simply to make Israel’s identity distinct from that of other nations.²⁵ Thus, this law served to address the issue of segregation in the time of Persian

22. Deut 26:16–18 concludes the DC with mutual agreement between Yahweh and the Israelites. The Israelites become Yahweh’s people by carefully observing Yahweh’s commands, and Yahweh promises blessings to those who observe the law.

23. Noth points out that although Josiah’s reform itself had little impact on his contemporary, it had an indirect influence. The Deuteronomistic historian in the exilic period adopted the DC and used it as a yardstick to judge the history of Israel from the time of Judges to that of Kings (*The Deuteronomistic History*, 123-24).

24. Römer, *The So-Called*, 170-72.

25. Mary Douglas rightly points out that dietary law may serve to distinguish one social group from the other (*Purity and Danger*, 45-48). McConville also points out that the dietary law shows Israel’s concern of distinction from its neighbors (*Deuteronomy*, 250; cf. Mayes, “Deuteronomy 14 and the Deuteronomic World View,” in *Studies in Deuteronomy: in Honour of C. J. Labuschagne on the Occasion*

Yehud. Deut 23:2–9 also deals with the issue of segregation. Sexual defects within the community of Israel may refer to the remnant, for the term ממוזר has a meaning of half-blood, which means a mixed offspring.²⁶ Because the remnant in Judah was genetically mixed with the new immigrants from other nations, the prohibition of the mixed blood from Yahweh’s assembly likely addressed the issue of segregation. Moreover, the prohibition of Ammonites and Moabites was also related to an effort to keep the returnee’s community pure in the post-exilic period.²⁷ Thus, these texts show that the DC addressed the post-exilic situation of the risk of losing the returnees’s self-identity as Yahweh’s true people.

II. Usages of the DC in the Texts outside the DC

In this section, we look at several exemplary cases which support the argument that the DC was used as an authoritative text by later authors or redactors. If this argument is found to be plausible, one can also assume that the DC was effective.

of His 65th Birthday [eds. Martínez, F. García et al; Leiden: Brill, 1994], 165). For other views regarding dietary law, see P. M. Venter, “The dietary regulations in Deuteronomy 14 within its literary context,” *HvTSt* 58 no 3 (2002): 1244-45. Among them, his own economic view is interesting. He argues that cud chewing animals are economic because they eat only grass which is of no direct use to humans; pigs should eat grain not grass, so that raising pigs is not economical (ibid., 1244). M. Harris also emphasizes the economic and ecological circumstances behind the dietary law (*Cultural Materialism: The Struggle for a Science of Culture* [New York: Random House, 1980], 192-94).

26. *HALOT*, II: 595.

27. Römer, *The So-Called*, 171.

The most remarkable indication of the acceptance of the DC is Josiah's reform. According to 2 Kgs 22–23, King Josiah, after listening to the scribe Shaphan reading the law book found in the temple, tore his garments and then did certain procedures including destroying all the local shrines and all other worship places as the DC commanded. Although there is a debate regarding the historicity of Josiah's reform or its connection with the DC, the majority of scholars agree that Josiah reformed Judah based on the core instruction of the DC such as cultic centralization.²⁸ The sequence of the events described in 2 Kgs 22:8–23:3 shows the deuteronomists's intention to show that on hearing the law book, Josiah was persuaded to observe the laws. First, Shaphan who received the law book reads it aloud in front of King Josiah (2 Kgs 22:8). Then Josiah *responds* to what he heard by ripping off his clothes (2 Kgs 22:11) and by inquiring of the prophetess Huldah concerning the meaning of the book. These actions are signs of Josiah's acceptance of the laws. Second, when King Josiah hears what the prophetess Huldah proclaims (2 Kgs 22:16–20), he *responds* by gathering all the people of Judah and making a covenant that he will observe all the laws written in the law book. Josiah's making a covenant is a strong sign that he accepted what he heard. Finally, as a *response* to King Josiah's public announcement of the covenant, the Israelites join the covenant (2 Kgs 23:3). This is an

28. de Vaux, *Ancient Israel*, 338; Weinfeld, "Deuteronomy's Theological Revolution," *BR* 12 (1996): 38.

indication that the people of Israel also accepted the law book found in the house of Yahweh.

Moreover, the Deuteronomists who wrote the Deuteronomistic history from the occupation (Joshua) to the loss of the land (2 Kings) used the law of Moses as the norm by which to judge the entire history of Israel.²⁹ The Deuteronomists regarded Jeroboam's building of the altars at Bethel and Dan as an act of apostasy in opposition to the cultic centralization in Deut 12.³⁰ The Deuteronomists's usage of the DC indicates that at least the Deuteronomists accepted the DC as an authoritative text by which to judge the past and provide the blueprint for the future.

In addition to these obvious examples, we can find several other examples that indicate the acceptance of the DC by later audience. First, the dietary law in Deut 14:1–21 has been transmitted into Jewish tradition and one finds it to have become the core religious custom (Acts 10:12–14). Moreover, in Ezek 4:14 the prophet Ezekiel does not eat any impure animals nor dead animals. These practices indicate that the dietary laws were accepted by later audiences.

29. Albertz, *Israel in Exile*, 287-302. Yet Albertz indicates that in order to judge their history the Deuteronomists chose only the law of cultic centralization and the prohibition of worshiping other gods and of pagan cultic practices. The social regulations in the DC were simply ignored by the Deuteronomists (ibid., 288).

30. Ibid., 296.

Second, Jer 34:8–22 shows that the law of release of Israelite slaves in Deut 15:12 had been practiced by or had at least appealed to the audience. Jer 34:8–9 reads that King Zedekiah made a covenant with those who lived in Jerusalem. This covenant concerns the release of slave (דרור). The details are similar to the laws in Deut 15:12. and indeed the texts have words in common.

Jer 34:9	לשלח איש את־עבדו ואיש את־שפחתו העברי והעבריה <u>חפשים</u> לבלתי עבד־בם ביהודי אחיהו איש
Deut 15:12	כִּי־ימכר לך אחיך העברי או העבריה ועבדך שש שנים ובשנה השביעת תשלחנו <u>חפשי</u> מעמך

As the underlined words in the above chart show, the key terms of slave laws in Deut 15:12 are also employed in Jer 34:9. According to Deut 15:12 the law receiver should send out (שלח) his fellow Israelites (אחים) from slavery without payment (חפשי) no matter whether it is a male Israelite (העברי) or a female Israelite (העבריה). Jer 34:8–9 records that this exact action was carried out by King Zedekiah. Moreover, what Zedekiah made with his people was an agreement that they will free their fellow Israelites from slavery. Thus, the law concerning the release of slaves effectively appealed to the audience.

Third, 2 Kgs 14:5–6 / 2 Chr 25:3–4 indicates that the law of individual liability in Deut 24:16 was practiced. 2 Kgs 14:5–6 / 2 Chr 25:3–4 reports a story of Amaziah king

of Judah. When Amaziah revenged his father's murder, Amaziah did not kill the murderers's sons because Deut 24:16 limits the liability of a prime crime to the criminal. 2 Kgs 14:6 / 2 Chr 25:4 repeats Deut 24:16 almost verbatim as the reason why King Amaziah did not extend the liability to the criminal's descendants. This repetition of the legal statement by later authors indicates the acceptance of this legal idea.

Fourth, Josh 8:29 and 10:26 show exemplary cases where the legal command to bury a corpse hung on a tree before sunset (Deut 21:22–23) is practiced. When Israel defeated Ai and hanged the king of Ai on a tree, Joshua commanded the people to retrieve the corpse before sunset (Josh 8:29). Likewise, when Israel defeated five kings who had attacked Gibeon and hanged the five kings, Joshua again commanded the people to retrieve the corpse before sunset (Josh 10:26). Although Joshua does not mention Deut 21:22–23 directly, his command to retrieve the corpse from a tree before sunset exactly reflects Deut 21:22–23. The fact that the later Deuteronomistic historians redacted the war reports against Ai and the five Amorites kings and made Joshua look like he observed the law of a corpse hung on a tree indicates the acceptance of this law at least by the Deuteronomists.³¹

31. Nelson points out the redactional work of the Deuteronomists on Josh 8:29 and 10:27 (*Joshua* [OTL; Louisville: Westminster John Knox, 1997], 111, 138).

Fifth, the accounts of Nehemiah show Deuteronomy's influence.³² Nehemiah 8:1–12 reports an occasion in which the law book of Moses was read before the assembly of the returnees. One particular aspect in this public gathering indicates the DC's influence: the tradition of joy before Yahweh (Nehemiah 8:9–12). When the law book is read and interpreted before the peoples, they cry out (8:9). When Nehemiah sees the people cry, he stops them from crying and encourages them to rejoice (8:10). Nehemiah's encouragement to show joy before Yahweh reflects the teaching of Deuteronomy. Deut 12 commands the people to bring sacred offerings to the chosen place and *eat* them with *joy* (12:7, 12, 18). This commandment to show joy before Yahweh in bringing offerings is characteristic of the DC.³³ Moreover, the people's response to the exhortation to rejoice is closer to the commandments in Deut 12. Nehemiah 8:12 reads that the people went to eat (אכל), drink, send portions, and make great joy (שמחה). These joyful actions by the returnees imply the DC's influence on the cultic tradition in the post-exilic period.

Another example of the DC's influence on people in the book of Nehemiah appears in the people's oaths in Nehemiah 10:29–40, especially in vv. 30–32. According to Nehemiah 10:1 the returnees make a covenant that they will observe all the

32. Rae-Yong Kim, "Deuteronomy in Ezra-Nehemiah" *KPJT* 42 (2011): 9-26. For the relevant scholarly work see *ibid.*, 11-12.

33. In addition to the verses in Deut 12, Deut 16:11 and 14 also mention the necessity that people who come up to Yahweh's chosen place should rejoice. Only Lev 23:40 outside the DC mentions the attitude of joy before Yahweh in the context of feasts.

commandments and rules and laws (v. 30). Nehemiah 10:31 in particular indicates that the returnees swear that they will release all the debts. Although the text does not tell us on what legal basis they make their decisions, the phrase **משא כל־יֵד** used in Nehemiah 10:31 is almost identical with the phrase **משה ידו** in Deut 15:2, which commands the release of all debts.

One more example comes from Nehemiah 13:1–3. This text reports that the returnees sent away the Ammonites and Moabites living among them. This action was taken after the returnees had listened to the law book of Moses. One can assume that what they heard was Deut 23:4–7 because this text prohibits the Ammonites and Moabites from entering Yahweh’s assembly and the reasons for the prohibition are identified with Nehemiah 13:2.³⁴

III. Conclusion

This chapter insisted for the effectiveness of the DC in two aspects. First, the DC addresses the exigences of each time period relevant to the composition of the DC. For the literary audience, the DC addresses the issue of possessing the promised land and how to maintain the possessed land. For the Josianic audience, the DC suggests how to solve the economic breakdown as well as the political instability. For the exilic audience,

34. Ibid., 21-22; Ralph W. Klein, “The Book of Ezra & Nehemiah: Introduction, Commentary, and Reflections,” *NIB* III: 842; Römer, *The So-Called*, 171.

the DC reassures that the Israelites are Yahweh's chosen people and that Yahweh will fight for them. For the post-exilic audience, the DC touches the issue of who is true Israel.

Second, the DC was utilized by later biblical authors which indicates that the DC had some effect on the audience not only contemporary but also coming. The Josianic reform in 2 Kgs 22–23, the Deuteronomists's use of the DC as a norm for judging the history of Israel, several examples in the Deuteronomistic history, and Nehemiah's reform reported in the book of Nehemiah all indicate later usage of the DC. Thus, we can conclude that the DC was effective rhetorically not only because it addressed the exigences of the times in which it was written and read, but also because biblical texts outside of the DC indicate later biblical authors referred to the DC.

CHAPTER 6: Conclusion

Although there is a scholarly consensus that the book of Deuteronomy is full of rhetorical features, the Deuteronomic Code (DC) has not been fully investigated from a rhetorical perspective. Yet since the DC comprises a major part of Deuteronomy, it is surprising that its rhetorical features have not gained more attention. The study of the rhetorical features within the DC reveals that the DC, like the rest of Deuteronomy, is written and organized through rhetorical structures and devices. Through this study one can conclude that the book of Deuteronomy as a whole—the legal components as well as the exhortations—is a rhetorical book.¹

The rhetorical structures and devices in the DC serve a pedagogical function. The whole DC was arranged according to chiasmic structure and verbal and topical association, to aid the audiences in understanding and remembering the proclaimed laws. As mentioned in Chapter 3 I. A. 2., the whole DC is structured into chiasmus (ABCC'B'A'). Within this chiasmic structure a thematic movement flows forward and then backward. The urge to observe the laws and rules in section A turn to the proper relationship

1. This dissertation does not deal with a question about which one came first, the legal components or the exhorting parts. Whether the rhetoric of the DC influenced the frame (exhortations and historical memory) is not inquired in this dissertation. This question can remain for the future study. This dissertation primarily aimed to show that the DC is also rhetorically driven (As for the meaning of “rhetorically driven” see pages 86).

between Yahweh and Israel in section B, and then the social authorities are appointed to maintain justice in the Israelite society in C. These themes flow back from the civil laws emphasizing the issue of justice (C') to the proper response of Israel to Yahweh after their entering into the promised land (B'), and then to the final urge to observe the laws and rules (A'). The repeated ideas in reverse function to remind the readers of the first set of ideas and to help them understand the laws.

In addition to the chiasmic structure in the macro level, we saw that the individual laws were written according to several rhetorical structures: command-only structure, command-first structure, motivation-first structure, no-motivation structure, triadic structure, and combined structure.² All these structures are employed in order to maximize the effect of the laws on the audiences. First, the command-only structure employs only command. Yet by listing a series of commands and using relative clauses, the legists efficiently deliver the points to the audiences and urge them to observe the laws proclaimed. Second the command-first structure does not have conditional clauses but only commands and motivations. This type of structure is used for the purpose to lead the audience directly to the point or to conclude what is mentioned before. Without specifying the situation or condition the laws in proper can reach the audience with generalized points. Moreover, its usage at the end of a large legal unit serves to re-

2. The particular examples of each structure are summarized in the conclusion of chapter 4.

emphasize what is mentioned in the large legal unit. Third, motivation-first structure has a motivational clause to the front. Since it comes first the motivational clause draws readers's attention. Moreover, when the motivation fits well with the readers's experience and their point of view, the following commanding clause is more likely to appeal to the readers. Forth, no-motivation structure is employed. This structure does not have a motivation clause. Even if a motivational clause is not used, several other elements such as length difference between conditional clauses and commanding clauses, words and expressions implying motivational cues, and literary contexts function to motivate audience to observe the regulation. Fifth, triadic structure has all three elements such as conditions, commands, and motivations. These three elements all together function to appeal to the audiences that they positively change their attitude to the proclaimed laws. The triadic structure draws the audience's attention through its conditional or temporal clause, delivers the gist of the regulation through its commanding clause, and provides a rationale through its motivational clause. Finally, combined structure is attested.³ This combination is made for the purpose to enhance rhetorical effects. For example, Deut 16:18–20 is composed of one command-only structure (v. 18) with two command-first structures (v. 19 and v. 20). The main topic is given in command-only structure and then

3. There is no restriction in combining one type of structure with another type of structure. Any type of structure can be combined with another one.

the main topic is specified and emphasized by the following two command-first structures. Moreover, the motivational clauses in the two command-first structures serve to give the rationale for the pursuit of justice. These specified topics and concrete motivations would function to maximize rhetorical effect on the audience.

In addition to these rhetorical structures, the legists used rhetorical devices to emphasize the points they intended to make and to achieve their rhetorical goal.⁴ First, we saw that the legists repeated key words, seminal phrases, and even whole sentences. Repeating these words and sentences, the legists can emphasize the main ideas of the proclaimed laws and draw the audience's attention to the main ideas. Second, we saw that the legists alternated between proscription and prescription. This technique of alternation makes a clear boundary between what is allowed and what is prohibited. This sharp distinction may help the audience to do what is legislated and to avoid what is prohibited. Third, the common rhetorical features chiasmus and *inclusio* are found in various legal units of the DC. The chiasmus emphasizes the center or outer frame. *Inclusio* ties together a legal unit. Moreover, the repeated sentences at the beginning and end deliver the main point with added emphasis. Finally, the legists of the DC motivated the audience by appealing to major theological concepts such as fear of Yahweh, Yahweh's abomination, the purification of evil, and Israel's slavery experience and liberation. All

4. As for the specific examples of each rhetorical device, see the chart in the conclusion of chapter 4.

these themes remind the audience to consider seriously the proclaimed laws because the themes were so essential to Israel's identity as Yahweh's chosen people. The themes highlight the relationship between the law and the identity of the audience as Yahweh's chosen people. From this investigation on rhetorical structures and devices it can certainly be said that the DC is rhetorical. It is rhetorical in terms that the DC was not randomly collected but intentionally organized and full of literary devices.

In addition to the conclusion that the DC is rhetorical, we concluded in chapter 5 that the DC was effective in that the DC touched the exigences at issues and that it was used by later authors. First, the DC addresses the issues that different audiences of the DC would confront. For the literary audience, the DC shows the way to possess the promised land and to live long in the land. For the Josianic audience, the DC addresses the economic breakdown as well as the political instability. For the exilic audience, the DC proclaims that the Israelites are Yahweh's chosen people and that Yahweh will fight for them. For the post-exilic audience, the DC deals with the issue of true Israel. Second, some biblical texts composed later than the DC indicate that the DC was utilized by later biblical authors. The Josianic reform in 2 Kgs 22–23, the Deuteronomists's use of the DC as a norm for judging the history of Israel, several examples in the Deuteronomistic history, and Nehemiah's reform reported in the book of Nehemiah all indicate later usage of the DC. Indeed, the DC, given as laws of Yahweh that guarantee the security and

blessings to the people of Yahweh, was rhetorically delivered and it had effects on the audience.

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